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1 A bill to be entitled
2 An act relating to property and casualty insurance;
3 amending s. 95.11, F.S.; specifying a statute of
4 limitation for a breach of a property insurance
5 contract runs from the date of loss; amending s.
6 215.555, F.S.; revising the definition of "losses,"
7 relating to the Florida Hurricane Catastrophe Fund, to
8 include and exclude certain losses; providing
9 applicability; amending s. 215.5595, F.S.; authorizing
10 an insurer to renegotiate the terms a surplus note
11 issued before a certain date; providing limitations;
12 amending s. 624.407, F.S.; revising the amount of
13 surplus funds required for domestic insurers applying
14 for a certificate of authority; amending s. 624.408,
15 F.S.; revising the minimum surplus that must be
16 maintained by certain insurers; authorizing the Office
17 of Insurance Regulation to reduce the surplus
18 requirement under specified circumstances; amending s.
19 626.854, F.S.; providing limitations on the amount of
20 compensation that may be received by a public adjuster
21 for a reopened or supplemental claim; providing
22 limitations on the amount of compensation that may be
23 received by a public adjuster for a claim; applying
24 specified provisions regulating the conduct of public
25 adjusters to condominium unit owners rather than to
26 condominium associations as is currently required;
27 providing statements that may be considered deceptive
28 or misleading if made in any public adjuster's
29 advertisement or solicitation; providing a definition

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30 for the term "written advertisement"; requiring that a
31 disclaimer be included in any public adjuster's
32 written advertisement; providing requirements for such
33 disclaimer; requiring certain persons who act on
34 behalf of an insurer to provide notice to the insurer,
35 claimant, public adjuster, or legal representative for
36 an onsite inspection of the insured property;
37 authorizing the insured or claimant to deny access to
38 the property if notice is not provided; requiring the
39 public adjuster to ensure prompt notice of certain
40 property loss claims; providing that an insurer be
41 allowed to interview the insured directly about the
42 loss claim; prohibiting the insurer from obstructing
43 or preventing the public adjuster from communicating
44 with the insured; requiring that the insurer
45 communicate with the public adjuster in an effort to
46 reach an agreement as to the scope of the covered loss
47 under the insurance policy; prohibiting a public
48 adjuster from restricting or preventing persons acting
49 on behalf of the insured from having reasonable access
50 to the insured or the insured's property; prohibiting
51 a public adjuster from restricting or preventing the
52 insured's adjuster from having reasonable access to or
53 inspecting the insured's property; authorizing the
54 insured's adjuster to be present for the inspection;
55 prohibiting a licensed contractor or subcontractor
56 from adjusting a claim on behalf of an insured if such
57 contractor or subcontractor is not a licensed public
58 adjuster; providing an exception; amending s.

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59 626.8796, F.S.; providing requirements for a public
60 adjuster contract; creating s. 626.70132, F.S.;
61 requiring that notice of a claim, supplemental claim,
62 or reopened claim be given to the insurer within a
63 specified period after a windstorm or hurricane
64 occurs; providing a definition for the terms
65 "supplemental claim" or "reopened claim"; providing
66 applicability; repealing s. 627.0613(4), F.S.,
67 relating to the requirement that the consumer advocate
68 for the Chief Financial Officer prepare an annual
69 report card for each personal residential property
70 insurer; amending s. 627.062, F.S.; extending the
71 expiration date for making a "file and use" filing;
72 prohibiting the Office of Insurance Regulation from,
73 directly or indirectly, impeding the right of an
74 insurer to acquire policyholders, advertise or appoint
75 agents, or regulate agent commissions; revising the
76 information that must be included in a rate filing
77 relating to certain reinsurance or financing products;
78 deleting a provision that prohibited an insurer from
79 making certain rate filings within a certain period of
80 time after a rate increase; deleting a provision
81 prohibiting an insurer from filing for a rate increase
82 within 6 months after it makes certain rate filings;
83 deleting obsolete provisions relating to legislation
84 enacted during the 2003 Special Session D of the
85 Legislature; providing for the submission of
86 additional or supplementary information pursuant to a
87 rate filing; revising provisions relating to the

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88 certifications that are required to be made under oath
89 by certain officers or actuaries of an insurer
90 regarding information that must accompany a rate
91 filing; amending s. 627.06281, F.S.; providing
92 limitations on fees charged for use of the public
93 hurricane model; amending s. 627.0629, F.S.; deleting
94 obsolete provisions; deleting a requirement that the
95 Office of Insurance Regulation propose a method for
96 establishing discounts, debits, credits, and other
97 rate differentials for hurricane mitigation by a
98 certain date; conforming provisions to changes made by
99 the act; amending s. 627.351, F.S.; limiting an
100 adjuster's fee for a claim against the corporation;
101 renaming the "high-risk account" as the "coastal
102 account"; revising the conditions under which the
103 Citizens policyholder surcharge may be imposed;
104 providing that members of the Citizens Property
105 Insurance Corporation Board of Governors are not
106 prohibited from practicing in a certain profession if
107 not prohibited by law or ordinance; requiring the
108 corporation to commission a consultant to prepare a
109 report on outsourcing various functions and to submit
110 such report to the Financial Services Commission by a
111 certain date; limiting coverage for damage from
112 sinkholes after a certain date; requiring the
113 policyholders to sign a statement acknowledging that
114 they may be assessed surcharges to cover corporate
115 deficits; prohibiting board members from voting on
116 certain measures; exempting sinkhole coverage from the

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117 corporation's annual rate increase requirements;
118 deleting a requirement that the board provide an
119 annual report to the Legislature relating to certain
120 coverages; deleting a requirement that the board
121 reduce the boundaries of certain high-risk areas
122 eligible for wind-only coverages under certain
123 circumstances; amending s. 627.3511, F.S.; conforming
124 provisions to changes made by the act; amending s.
125 627.4133, F.S.; revising the requirements for
126 providing an insured with notice of nonrenewal,
127 cancellation, or termination of personal lines or
128 commercial residential property insurance; authorizing
129 an insurer to cancel policies after 45 days' notice if
130 the Office of Insurance Regulation determines that the
131 cancellation of policies is necessary to protect the
132 interests of the public or policyholders; authorizing
133 the Office of Insurance Regulation to place an insurer
134 under administrative supervision or appoint a receiver
135 upon the consent of the insurer under certain
136 circumstances; providing criteria and notice
137 requirements relating to the nonrenewal of policy
138 covering both a home and motor vehicle; creating s.
139 627.43141, F.S.; providing definitions; requiring the
140 delivery of a "Notice of Change in Policy Terms" under
141 certain circumstances; specifying requirements for
142 such notice; specifying actions constituting proof of
143 notice; authorizing policy renewals to contain a
144 change in policy terms; providing that receipt of
145 payment by an insurer is deemed acceptance of new

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146 policy terms by an insured; providing that the
147 original policy remains in effect until the occurrence
148 of specified events if an insurer fails to provide
149 notice; providing intent; amending s. 627.7011, F.S.;
150 requiring the insurer to pay the actual cash value of
151 an insured loss for a dwelling, less any applicable
152 deductible; requiring the insurer to offer coverage
153 under which the insurer is obligated to pay
154 replacement costs; authorizing the insurer to offer
155 coverage that limits the initial payment for personal
156 property to the actual cash value of the property to
157 be replaced and to require the insured to provide
158 receipts for purchases; requiring the insurer to
159 provide notice of this process before the policy is
160 bound; requiring certain premium credits or discounts
161 for such coverage; prohibiting an insurer from
162 requiring the insured to advance payment; amending s.
163 627.70131, F.S.; specifying application of certain
164 time periods to initial or supplemental property
165 insurance claim notices and payments; providing
166 legislative findings with respect to 2005 statutory
167 changes relating to sinkhole insurance coverage and
168 statutory changes in this act; amending s. 627.706,
169 F.S.; authorizing an insurer to limit coverage for
170 catastrophic ground cover collapse to the principal
171 building; authorizing an insurer to require an
172 inspection before issuance of sinkhole loss coverage;
173 revising definitions; defining the term "structural
174 damage"; placing a 2-year statute of repose on claims

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175 for sinkhole coverage; amending s. 627.7061, F.S.;
176 conforming provisions to changes made by the act;
177 repealing s. 627.7065, F.S., relating to the
178 establishment of a sinkhole database; amending s.
179 627.707, F.S.; revising provisions relating to the
180 investigation of sinkholes by insurers; providing a
181 time limitation for demanding sinkhole testing by a
182 policyholder and entering into a contract for repairs;
183 requiring the insurer to provide repairs in accordance
184 with the insurer's engineer's recommendations or
185 tender the policy limits to the policyholder;
186 requiring all repairs to be completed within a certain
187 time; providing exceptions; providing criminal
188 penalties for a person performing repairs who offers a
189 rebate; amending s. 627.7073, F.S.; revising
190 provisions relating to inspection reports; revising
191 the reports that an insurer must file with the clerk
192 of the court; requiring the policyholder to file
193 certain reports as a precondition to accepting
194 payment; requiring the professional engineer
195 responsible for monitoring sinkhole repairs to issue a
196 report and certification to the property owner and
197 file such report with the court; providing that the
198 act does not create liability for an insurer based on
199 a representation or certification by the engineer;
200 amending s. 627.7074, F.S.; revising provisions
201 relating to neutral evaluation; requiring evaluation
202 in order to make certain determinations; requiring
203 that the neutral evaluator be allowed access to

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204 structures being evaluated; providing grounds for
205 disqualifying an evaluator; allowing the Department of
206 Financial Services to appoint an evaluator if the
207 parties cannot come to agreement; revising the
208 timeframes for scheduling a neutral evaluation
209 conference; authorizing an evaluator to enlist another
210 evaluator or other professionals; providing a time
211 certain for issuing a report; requiring admission of
212 certain information relating to the neutral evaluation
213 into evidence; revising provisions relating to
214 compliance with the evaluator's recommendations;
215 providing that the evaluator is an agent of the
216 department for the purposes of immunity from suit;
217 requiring the department to adopt rules; amending s.
218 627.711, F.S.; revising the requirement that the
219 insurer pay for verification of a uniform mitigation
220 verification form that the insurer requires; amending
221 s. 627.712, F.S.; conforming provisions to changes
222 made by the act; amending s. 631.54, F.S.; revising
223 the definition of the term "covered claim" for
224 purposes of the Florida Insurance Guaranty Association
225 Act; providing for applicability; providing
226 severability; providing effective dates.

227
228 Be It Enacted by the Legislature of the State of Florida:

229
230 Section 1. Subsection (2) of section 95.11, Florida
231 Statutes, is amended to read:

232 95.11 Limitations other than for the recovery of real

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233 property.—Actions other than for recovery of real property shall
234 be commenced as follows:

235 (2) WITHIN FIVE YEARS.—

236 (a) An action on a judgment or decree of any court, not of
237 record, of this state or any court of the United States, any
238 other state or territory in the United States, or a foreign
239 country.

240 (b) A legal or equitable action on a contract, obligation,
241 or liability founded on a written instrument, except for an
242 action to enforce a claim against a payment bond, which shall be
243 governed by the applicable provisions of ss. 255.05(10) and
244 713.23(1) (e).

245 (c) An action to foreclose a mortgage.

246 (d) An action alleging a willful violation of s. 448.110.

247 (e) Notwithstanding paragraph (b), an action for breach of
248 a property insurance contract, with the period running from the
249 date of loss.

250 Section 2. Effective June 1, 2011, paragraph (d) of
251 subsection (2) of section 215.555, Florida Statutes, is amended
252 to read:

253 215.555 Florida Hurricane Catastrophe Fund.—

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

255 (d) "Losses" means all ~~direct~~ incurred losses under covered
256 policies, including ~~which shall include losses for~~ additional
257 living expenses not to exceed 40 percent of the insured value of
258 a residential structure or its contents and amounts paid as fees
259 on behalf of or inuring to the benefit of a policyholder ~~shall~~
260 ~~exclude loss adjustment expenses.~~ The term "Losses" does not
261 include:

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262 1. Losses for fair rental value, loss of rent or rental
263 income, or business interruption losses;

264 2. Losses under liability coverages;

265 3. Property losses that are proximately caused by any peril
266 other than a covered event, including, but not limited to, fire,
267 theft, flood or rising water, or windstorm that does not
268 constitute a covered event;

269 4. Amounts paid as the result of a voluntary expansion of
270 coverage by the insurer, including, but not limited to, a waiver
271 of an applicable deductible;

272 5. Amounts paid to reimburse a policyholder for condominium
273 association or homeowners' association loss assessments or under
274 similar coverages for contractual liabilities;

275 6. Amounts paid as bad faith awards, punitive damage
276 awards, or other court-imposed fines, sanctions, or penalties;

277 7. Amounts in excess of the coverage limits under the
278 covered policy; or

279 8. Allocated or unallocated loss adjustment expenses.

280 Section 3. The amendment to s. 215.555, Florida Statutes,
281 made by this act applies first to the Florida Hurricane
282 Catastrophe Fund reimbursement contract that takes effect June
283 1, 2011.

284 Section 4. Subsection (12) is added to section 215.5595,
285 Florida Statutes, to read:

286 215.5595 Insurance Capital Build-Up Incentive Program.—

287 (12) The insurer may request that the board renegotiate the
288 terms of any surplus note issued under this section before
289 January 1, 2011. The request must be submitted to the board by
290 January 1, 2012. If the insurer agrees to accelerate the payment

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291 period of the note by at least 5 years, the board must agree to
292 exempt the insurer from the premium-to-surplus ratios required
293 under paragraph (2) (d). If the insurer agrees to an acceleration
294 of the payment period for less than 5 years, the board may,
295 after consultation with the Office of Insurance Regulation,
296 agree to an appropriate revision of the premium-to-surplus
297 ratios required under paragraph (2) (d) for the remaining term of
298 the note if the revised ratios are not lower than a minimum
299 writing ratio of net premium to surplus of at least 1 to 1 and,
300 alternatively, a minimum writing ratio of gross premium to
301 surplus of at least 3 to 1.

302 Section 5. Section 624.407, Florida Statutes, is amended to
303 read:

304 624.407 Surplus ~~Capital funds~~ required; new insurers.-

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

311 (a) ~~Five million dollars~~ For a property and casualty
312 insurer, \$5 million, or \$2.5 million for any other insurer;

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

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

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

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320 or

321 (e) Notwithstanding paragraph (a) or paragraph (d), for a
322 domestic insurer that transacts residential property insurance
323 and is:

324 1. Not a wholly owned subsidiary of an insurer domiciled in
325 any other state, \$15 million.

326 2. however, a domestic insurer that transacts residential
327 property insurance and is A wholly owned subsidiary of an
328 insurer domiciled in any other state, shall possess surplus as
329 to policyholders of at least \$50 million.

330 (2) Notwithstanding subsection (1), a new insurer may not
331 be required, but no insurer shall be required under this
332 subsection to have surplus as to policyholders greater than \$100
333 million.

334 (3)(2) The requirements of this section shall be based upon
335 all the kinds of insurance actually transacted or to be
336 transacted by the insurer in any and all areas in which it
337 operates, whether or not only a portion of such kinds of
338 insurance are to be transacted in this state.

339 (4)(3) As to surplus as to policyholders required for
340 qualification to transact one or more kinds of insurance,
341 domestic mutual insurers are governed by chapter 628, and
342 domestic reciprocal insurers are governed by chapter 629.

343 (5)(4) For the purposes of this section, liabilities do
344 shall not include liabilities required under s. 625.041(4). For
345 purposes of computing minimum surplus as to policyholders
346 pursuant to s. 625.305(1), liabilities shall include liabilities
347 required under s. 625.041(4).

348 (5) The provisions of this section, as amended by this act,

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349 shall apply only to insurers applying for a certificate of
350 authority on or after the effective date of this act.

351 Section 6. Section 624.408, Florida Statutes, is amended to
352 read:

353 624.408 Surplus ~~as to policyholders~~ required; current new
354 ~~and existing~~ insurers.—

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

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

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

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

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

370 (e)5. For property and casualty insurers, \$4 million,
371 except for property and casualty insurers authorized to
372 underwrite any line of residential property insurance.

373 (f)(b) For residential any property insurers not and
374 ~~casualty insurer~~ holding a certificate of authority before July
375 1, 2011 ~~on December 1, 1993,~~ \$15 million. ~~the~~

376 (g) For residential property insurers holding a certificate
377 of authority before July 1, 2011, and until June 30, 2016, \$5

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378 million; on or after July 1, 2016, and until June 30, 2021, \$10
379 million; on or after July 1, 2021, \$15 million.

380
381 The office may reduce the surplus requirement in paragraphs (f)
382 and (g) if the insurer is not writing new business, has premiums
383 in force of less than \$1 million per year in residential
384 property insurance, or is a mutual insurance company. following
385 amounts apply instead of the \$4 million required by subparagraph
386 (a)5.:

387 1. On December 31, 2001, and until December 30, 2002, \$3
388 million.

389 2. On December 31, 2002, and until December 30, 2003, \$3.25
390 million.

391 3. On December 31, 2003, and until December 30, 2004, \$3.6
392 million.

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

394 (2) For purposes of this section, liabilities do ~~shall~~ not
395 include liabilities required under s. 625.041(4). For purposes
396 of computing minimum surplus as to policyholders pursuant to s.
397 625.305(1), liabilities ~~shall~~ include liabilities required under
398 s. 625.041(4).

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

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

404 Section 7. Effective June 1, 2011, section 626.854, Florida
405 Statutes, is amended to read:

406 626.854 "Public adjuster" defined; prohibitions.—The

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407 Legislature finds that it is necessary for the protection of the
408 public to regulate public insurance adjusters and to prevent the
409 unauthorized practice of law.

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

423 (2) This definition does not apply to:

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

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

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

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

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

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

448 (7) An insured or claimant may cancel a public adjuster's
449 contract to adjust a claim without penalty or obligation within
450 3 business days after the date on which the contract is executed
451 or within 3 business days after the date on which the insured or
452 claimant has notified the insurer of the claim, by phone or in
453 writing, whichever is later. The public adjuster's contract
454 shall disclose to the insured or claimant his or her right to
455 cancel the contract and advise the insured or claimant that
456 notice of cancellation must be submitted in writing and sent by
457 certified mail, return receipt requested, or other form of
458 mailing which provides proof thereof, to the public adjuster at
459 the address specified in the contract; provided, during any
460 state of emergency as declared by the Governor and for a period
461 of 1 year after the date of loss, the insured or claimant shall
462 have 5 business days after the date on which the contract is
463 executed to cancel a public adjuster's contract.

464 (8) It is an unfair and deceptive insurance trade practice

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465 pursuant to s. 626.9541 for a public adjuster or any other
466 person to circulate or disseminate any advertisement,
467 announcement, or statement containing any assertion,
468 representation, or statement with respect to the business of
469 insurance which is untrue, deceptive, or misleading.

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

474 (10) A public adjuster, public adjuster apprentice, or any
475 individual or entity acting on behalf of a public adjuster or
476 public adjuster apprentice may not give or offer to give,
477 directly or indirectly, any article of merchandise having a
478 value in excess of \$25 to any individual for the purpose of
479 advertising or as an inducement to entering into a contract with
480 a public adjuster.

481 (11) (a) If a public adjuster enters into a contract with an
482 insured or claimant to reopen a claim or ~~to~~ file a supplemental
483 claim that seeks additional payments for a claim that has been
484 previously paid in part or in full or settled by the insurer,
485 the public adjuster may not charge, agree to, or accept any
486 compensation, payment, commission, fee, or other thing of value
487 based on a previous settlement or previous claim payments by the
488 insurer for the same cause of loss. The charge, compensation,
489 payment, commission, fee, or other thing of value may be based
490 only on the claim payments or settlement obtained through the
491 work of the public adjuster after entering into the contract
492 with the insured or claimant. Compensation for the reopened or
493 supplemental claim may not exceed 20 percent of the reopened or

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494 supplemental claim payment. The contracts described in this
495 paragraph are not subject to the limitations in paragraph (b).

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

499 1. Ten percent of the amount of insurance claim payments
500 made by the insurer for claims based on events that are the
501 subject of a declaration of a state of emergency by the
502 Governor. This provision applies to claims made during the
503 period of 1 year after the declaration of emergency. After that
504 1-year period, 20 percent of the amount of insurance claim
505 payments made by the insurer.

506 2. Twenty percent of the amount of ~~all other~~ insurance
507 claim payments made by the insurer for claims that are not based
508 on events that are the subject of a declaration of a state of
509 emergency by the Governor.

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

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

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523 public adjuster may not compensate any person, except for
524 another public adjuster, whether directly or indirectly, for the
525 principal purpose of referring business to the public adjuster.
526

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

530 Section 8. Effective January 1, 2012, section 626.854,
531 Florida Statutes, as amended by this act, is amended to read:

532 626.854 "Public adjuster" defined; prohibitions.—The
533 Legislature finds that it is necessary for the protection of the
534 public to regulate public insurance adjusters and to prevent the
535 unauthorized practice of law.

536 (1) A "public adjuster" is any person, except a duly
537 licensed attorney at law as exempted under hereinafter in s.
538 626.860 ~~provided~~, who, for money, commission, or any other thing
539 of value, prepares, completes, or files an insurance claim form
540 for an insured or third-party claimant or who, for money,
541 commission, or any other thing of value, acts ~~or aids in any~~
542 ~~manner~~ on behalf of, or aids an insured or third-party claimant
543 in negotiating for or effecting the settlement of a claim or
544 claims for loss or damage covered by an insurance contract or
545 who advertises for employment as an adjuster of such claims. The
546 term, ~~and~~ also includes any person who, for money, commission,
547 or any other thing of value, solicits, investigates, or adjusts
548 such claims on behalf of a ~~any such~~ public adjuster.

549 (2) This definition does not apply to:

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

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552 patient.

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

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

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

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

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

574 (7) An insured or claimant may cancel a public adjuster's
575 contract to adjust a claim without penalty or obligation within
576 3 business days after the date on which the contract is executed
577 or within 3 business days after the date on which the insured or
578 claimant has notified the insurer of the claim, by phone or in
579 writing, whichever is later. The public adjuster's contract must
580 ~~shall~~ disclose to the insured or claimant his or her right to

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581 cancel the contract and advise the insured or claimant that
582 notice of cancellation must be submitted in writing and sent by
583 certified mail, return receipt requested, or other form of
584 mailing that ~~which~~ provides proof thereof, to the public
585 adjuster at the address specified in the contract; provided,
586 during any state of emergency as declared by the Governor and
587 for ~~a period of~~ 1 year after the date of loss, the insured or
588 claimant has ~~shall have~~ 5 business days after the date on which
589 the contract is executed to cancel a public adjuster's contract.

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

596 (a) The following statements, made in any public adjuster's
597 advertisement or solicitation, are considered deceptive or
598 misleading:

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

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

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

608 4. A statement or representation, or use of a logo or
609 shield, that implies or could mistakenly be construed to imply

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610 that the solicitation was issued or distributed by a
611 governmental agency or is sanctioned or endorsed by a
612 governmental agency.

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

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

624

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

629 (10) A public adjuster, public adjuster apprentice, or any
630 individual or entity acting on behalf of a public adjuster or
631 public adjuster apprentice may not give or offer to give,
632 directly or indirectly, any article of merchandise having a
633 value in excess of \$25 to any individual for the purpose of
634 advertising or as an inducement to entering into a contract with
635 a public adjuster.

636 (11) (a) If a public adjuster enters into a contract with an
637 insured or claimant to reopen a claim or file a supplemental
638 claim that seeks additional payments for a claim that has been

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639 previously paid in part or in full or settled by the insurer,
640 the public adjuster may not charge, agree to, or accept any
641 compensation, payment, commission, fee, or other thing of value
642 based on a previous settlement or previous claim payments by the
643 insurer for the same cause of loss. The charge, compensation,
644 payment, commission, fee, or other thing of value must be based
645 only on the claim payments or settlement obtained through the
646 work of the public adjuster after entering into the contract
647 with the insured or claimant. Compensation for the reopened or
648 supplemental claim may not exceed 20 percent of the reopened or
649 supplemental claim payment. The contracts described in this
650 paragraph are not subject to the limitations in paragraph (b).

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

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

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

664 (12) Each public adjuster must ~~shall~~ provide to the
665 claimant or insured a written estimate of the loss to assist in
666 the submission of a proof of loss or any other claim for payment
667 of insurance proceeds. The public adjuster shall retain such

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668 written estimate for at least 5 years and shall make the ~~such~~
669 estimate available to the claimant or insured, the insurer, and
670 the department upon request.

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

680 (14) A company employee adjuster, independent adjuster,
681 attorney, investigator, or other persons acting on behalf of an
682 insurer that needs access to an insured or claimant or to the
683 insured property that is the subject of a claim must provide at
684 least 48 hours' notice to the insured or claimant, public
685 adjuster, or legal representative before scheduling a meeting
686 with the claimant or an onsite inspection of the insured
687 property. The insured or claimant may deny access to the
688 property if the notice has not been provided. The insured or
689 claimant may waive the 48-hour notice.

690 (15) A public adjuster must ensure prompt notice of
691 property loss claims submitted to an insurer by or through a
692 public adjuster or on which a public adjuster represents the
693 insured at the time the claim or notice of loss is submitted to
694 the insurer. The public adjuster must ensure that notice is
695 given to the insurer, the public adjuster's contract is provided
696 to the insurer, the property is available for inspection of the

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697 loss or damage by the insurer, and the insurer is given an
698 opportunity to interview the insured directly about the loss and
699 claim. The insurer must be allowed to obtain necessary
700 information to investigate and respond to the claim.

701 (a) The insurer may not exclude the public adjuster from
702 its in-person meetings with the insured. The insurer shall meet
703 or communicate with the public adjuster in an effort to reach
704 agreement as to the scope of the covered loss under the
705 insurance policy. This section does not impair the terms and
706 conditions of the insurance policy in effect at the time the
707 claim is filed.

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

714 (c) A public adjuster may not act or fail to reasonably act
715 in any manner that obstructs or prevents an insurer or insurer's
716 adjuster from timely conducting an inspection of any part of the
717 insured property for which there is a claim for loss or damage.
718 The public adjuster representing the insured may be present for
719 the insurer's inspection, but if the unavailability of the
720 public adjuster otherwise delays the insurer's timely inspection
721 of the property, the public adjuster or the insured must allow
722 the insurer to have access to the property without the
723 participation or presence of the public adjuster or insured in
724 order to facilitate the insurer's prompt inspection of the loss
725 or damage.

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726 (16) A licensed contractor under part I of chapter 489, or
727 a subcontractor, may not adjust a claim on behalf of an insured
728 unless licensed and compliant as a public adjuster under this
729 chapter. However, the contractor may discuss or explain a bid
730 for construction or repair of covered property with the
731 residential property owner who has suffered loss or damage
732 covered by a property insurance policy, or the insurer of such
733 property, if the contractor is doing so for the usual and
734 customary fees applicable to the work to be performed as stated
735 in the contract between the contractor and the insured.

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

739 Section 9. Effective January 1, 2012, section 626.8796,
740 Florida Statutes, is amended to read:

741 626.8796 Public adjuster contracts; fraud statement.-

742 (1) All contracts for public adjuster services must be in
743 writing and ~~must~~ prominently display the following statement on
744 the contract: "Pursuant to s. 817.234, Florida Statutes, any
745 person who, with the intent to injure, defraud, or deceive an
746 ~~any~~ insurer or insured, prepares, presents, or causes to be
747 presented a proof of loss or estimate of cost or repair of
748 damaged property in support of a claim under an insurance policy
749 knowing that the proof of loss or estimate of claim or repairs
750 contains ~~any~~ false, incomplete, or misleading information
751 concerning any fact or thing material to the claim commits a
752 felony of the third degree, punishable as provided in s.
753 775.082, s. 775.083, or s. 775.084, Florida Statutes."

754 (2) A public adjuster contract relating to a property and

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755 casualty claim must contain the full name, permanent business
756 address, and license number of the public adjuster; the full
757 name of the public adjusting firm; and the insured's full name
758 and street address, together with a brief description of the
759 loss. The contract must state the percentage of compensation for
760 the public adjuster's services; the type of claim, including an
761 emergency claim, nonemergency claim, or supplemental claim; the
762 signatures of the public adjuster and all named insureds; and
763 the signature date. If all of the named insureds signatures are
764 not available, the public adjuster must submit an affidavit
765 signed by the available named insureds attesting that they have
766 authority to enter into the contract and settle all claim issues
767 on behalf of the named insureds. An unaltered copy of the
768 executed contract must be remitted to the insurer within 30 days
769 after execution.

770 Section 10. Effective June 1, 2011, section 626.70132,
771 Florida Statutes, is created to read:

772 626.70132 Notice of windstorm or hurricane claim.—A claim,
773 supplemental claim, or reopened claim under an insurance policy
774 that provides property insurance, as defined in s. 624.604, for
775 loss or damage caused by the peril of windstorm or hurricane is
776 barred unless notice of the claim, supplemental claim, or
777 reopened claim was given to the insurer in accordance with the
778 terms of the policy within 3 years after the hurricane first
779 made landfall or the windstorm caused the covered damage. For
780 purposes of this section, the term "supplemental claim" or
781 "reopened claim" means any additional claim for recovery from
782 the insurer for losses from the same hurricane or windstorm
783 which the insurer has previously adjusted pursuant to the

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784 initial claim. This section does not affect any applicable
785 limitation on civil actions provided in s. 95.11 for claims,
786 supplemental claims, or reopened claims timely filed under this
787 section.

788 Section 11. Subsection (4) of section 627.0613, Florida
789 Statutes, is repealed.

790 Section 12. Section 627.062, Florida Statutes, is amended
791 to read:

792 627.062 Rate standards.—

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

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

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

805 1. If the filing is made at least 90 days before the
806 proposed effective date and ~~the filing~~ is not implemented during
807 the office's review of the filing and any proceeding and
808 judicial review, ~~then~~ such filing is ~~shall~~ be considered a "file
809 and use" filing. In such case, the office shall finalize its
810 review by issuance of a notice of intent to approve or a notice
811 of intent to disapprove within 90 days after receipt of the
812 filing. The notice of intent to approve and the notice of intent

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813 to disapprove constitute agency action for purposes of the
814 Administrative Procedure Act. Requests for supporting
815 information, requests for mathematical or mechanical
816 corrections, or notification to the insurer by the office of its
817 preliminary findings does ~~shall~~ not toll the 90-day period
818 during any such proceedings and subsequent judicial review. The
819 rate shall be deemed approved if the office does not issue a
820 notice of intent to approve or a notice of intent to disapprove
821 within 90 days after receipt of the filing.

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

830 3. For all property insurance filings made or submitted
831 after January 25, 2007, but before May 1, 2012 ~~December 31,~~
832 ~~2010~~, an insurer seeking a rate that is greater than the rate
833 most recently approved by the office shall make a "file and use"
834 filing. For purposes of this subparagraph, motor vehicle
835 collision and comprehensive coverages are not considered ~~to be~~
836 property coverages.

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

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

844 2. Past and prospective expenses.

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

847 4. Investment income reasonably expected by the insurer,
848 consistent with the insurer's investment practices, from
849 investable premiums anticipated in the filing, plus any other
850 expected income from currently invested assets representing the
851 amount expected on unearned premium reserves and loss reserves.
852 The commission may adopt rules using reasonable techniques of
853 actuarial science and economics to specify the manner in which
854 insurers ~~shall~~ calculate investment income attributable to ~~such~~
855 classes of insurance written in this state and the manner in
856 which ~~such~~ investment income is ~~shall be~~ used to calculate
857 insurance rates. Such manner must ~~shall~~ contemplate allowances
858 for an underwriting profit factor and full consideration of
859 investment income which produce a reasonable rate of return;
860 however, investment income from invested surplus may not be
861 considered.

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

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

867 7. The adequacy of loss reserves.

868 8. The cost of reinsurance. The office may ~~shall~~ not
869 disapprove a rate as excessive solely due to the insurer having
870 obtained catastrophic reinsurance to cover the insurer's

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871 estimated 250-year probable maximum loss or any lower level of
872 loss.

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

875 10. Conflagration and catastrophe hazards, if applicable.

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

880 12. A reasonable margin for underwriting profit and
881 contingencies.

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

883 14. Other relevant factors that affect ~~which impact upon~~
884 the frequency or severity of claims or ~~upon~~ expenses.

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

890 (d) If conflagration or catastrophe hazards are considered
891 ~~given consideration~~ by an insurer in its rates or rating plan,
892 including surcharges and discounts, the insurer shall establish
893 a reserve for that portion of the premium allocated to such
894 hazard and ~~shall~~ maintain the premium in a catastrophe reserve.
895 ~~Any~~ Removal of such premiums from the reserve for purposes other
896 than paying claims associated with a catastrophe or purchasing
897 reinsurance for catastrophes must be approved by ~~shall be~~
898 ~~subject to approval of~~ the office. Any ceding commission
899 received by an insurer purchasing reinsurance for catastrophes

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900 must ~~shall~~ be placed in the catastrophe reserve.

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

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

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

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

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

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

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

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929 risk or group of risks if the application of premium discounts,
930 credits, or surcharges among such risks does not bear a
931 reasonable relationship to the expected loss and expense
932 experience among the various risks.

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

938 (g) The office may at any time review a rate, rating
939 schedule, rating manual, or rate change; the pertinent records
940 of the insurer; and market conditions. If the office finds on a
941 preliminary basis that a rate may be excessive, inadequate, or
942 unfairly discriminatory, the office shall initiate proceedings
943 to disapprove the rate and shall so notify the insurer. However,
944 the office may not disapprove as excessive any rate for which it
945 has given final approval or which has been deemed approved for a
946 ~~period of~~ 1 year after the effective date of the filing unless
947 the office finds that a material misrepresentation or material
948 error was made by the insurer or was contained in the filing.
949 Upon being ~~so~~ notified, the insurer or rating organization
950 shall, within 60 days, file with the office all information that
951 ~~which,~~ in the belief of the insurer or organization, proves the
952 reasonableness, adequacy, and fairness of the rate or rate
953 change. The office shall issue a notice of intent to approve or
954 a notice of intent to disapprove pursuant to ~~the procedures of~~
955 paragraph (a) within 90 days after receipt of the insurer's
956 initial response. In such instances and in any administrative
957 proceeding relating to the legality of the rate, the insurer or

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958 rating organization shall carry the burden of proof by a
959 preponderance of the evidence to show that the rate is not
960 excessive, inadequate, or unfairly discriminatory. After the
961 office notifies an insurer that a rate may be excessive,
962 inadequate, or unfairly discriminatory, unless the office
963 withdraws the notification, the insurer may ~~shall~~ not alter the
964 rate except to conform to ~~with~~ the office's notice until the
965 earlier of 120 days after the date the notification was provided
966 or 180 days after the date of implementing ~~the implementation of~~
967 the rate. The office ~~may~~, subject to chapter 120, may disapprove
968 without the 60-day notification any rate increase filed by an
969 insurer within the prohibited time period or during the time
970 that the legality of the increased rate is being contested.

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

986 (i) Except as otherwise specifically provided in this

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987 chapter, for property and casualty insurance the office may
988 ~~shall not~~ directly or indirectly:

989 1. Prohibit any insurer, including any residual market plan
990 or joint underwriting association, from paying acquisition costs
991 based on the full amount of premium, as defined in s. 627.403,
992 applicable to any policy, or prohibit any such insurer from
993 including the full amount of acquisition costs in a rate filing;
994 or-

995 2. Impede, abridge, or otherwise compromise an insurer's
996 right to acquire policyholders, advertise, or appoint agents,
997 including the calculation, manner, or amount of such agent
998 commissions, if any.

999 (j) With respect to residential property insurance rate
1000 filings, the rate filing must account for mitigation measures
1001 undertaken by policyholders to reduce hurricane losses.

1002 (k)1. A residential property ~~An~~ insurer may make a separate
1003 filing limited solely to an adjustment of its rates for
1004 reinsurance, the cost of financing products used as a
1005 replacement for reinsurance, or ~~or~~ financing costs incurred in the
1006 purchase of reinsurance, or financing products to replace or
1007 ~~finance the payment of the amount covered by the Temporary~~
1008 ~~Increase in Coverage Limits (TICL) portion of the Florida~~
1009 ~~Hurricane Catastrophe Fund including replacement reinsurance for~~
1010 ~~the TICL reductions made pursuant to s. 215.555(17)(e); the~~
1011 ~~actual cost paid due to the application of the TICL premium~~
1012 ~~factor pursuant to s. 215.555(17)(f); and the actual cost paid~~
1013 ~~due to the application of the cash build-up factor pursuant to~~
1014 ~~s. 215.555(5)(b) if the insurer:~~

1015 a. Elects to purchase financing products such as a

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1016 liquidity instrument or line of credit, in which case the cost
1017 included in ~~the~~ filing for the liquidity instrument or line of
1018 credit may not result in a premium increase exceeding 3 percent
1019 for any individual policyholder. All costs contained in the
1020 filing may not result in an overall premium increase of more
1021 than 15 ~~10~~ percent for any individual policyholder.

1022 b. Includes in the filing a copy of all of its reinsurance,
1023 liquidity instrument, or line of credit contracts; proof of the
1024 billing or payment for the contracts; and the calculation upon
1025 which the proposed rate change is based demonstrating
1026 ~~demonstrates~~ that the costs meet the criteria of this section
1027 and ~~are not loaded for expenses or profit for the insurer making~~
1028 ~~the filing.~~

1029 ~~e. Includes no other changes to its rates in the filing.~~

1030 d. ~~Has not implemented a rate increase within the 6 months~~
1031 ~~immediately preceding the filing.~~

1032 e. ~~Does not file for a rate increase under any other~~
1033 ~~paragraph within 6 months after making a filing under this~~
1034 ~~paragraph.~~

1035 2.f. An insurer that purchases reinsurance or financing
1036 products from an affiliated company may make a separate filing
1037 ~~in compliance with this paragraph does so~~ only if the costs for
1038 such reinsurance or financing products are charged at or below
1039 charges made for comparable coverage by nonaffiliated reinsurers
1040 or financial entities making such coverage or financing products
1041 available in this state.

1042 3.2. An insurer may ~~only~~ make only one filing per ~~in any~~
1043 12-month period under this paragraph.

1044 4.3. An insurer that elects to implement a rate change

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1045 under this paragraph must file its rate filing with the office
1046 at least 45 days before the effective date of the rate change.
1047 After an insurer submits a complete filing that meets all of the
1048 requirements of this paragraph, the office has 45 days after the
1049 date of the filing to review the rate filing and determine if
1050 the rate is excessive, inadequate, or unfairly discriminatory.

1051
1052 The provisions of this subsection do ~~shall~~ not apply to workers'
1053 compensation, and employer's liability insurance, and ~~to~~ motor
1054 vehicle insurance.

1055 (3) (a) For individual risks that are not rated in
1056 accordance with the insurer's rates, rating schedules, rating
1057 manuals, and underwriting rules filed with the office and that
1058 ~~which~~ have been submitted to the insurer for individual rating,
1059 the insurer must maintain documentation on each risk subject to
1060 individual risk rating. The documentation must identify the
1061 named insured and specify the characteristics and classification
1062 of the risk supporting the reason for the risk being
1063 individually risk rated, including any modifications to existing
1064 approved forms to be used on the risk. The insurer must maintain
1065 these records for ~~a period of~~ at least 5 years after the
1066 effective date of the policy.

1067 (b) Individual risk rates and modifications to existing
1068 approved forms are not subject to this part or part II, except
1069 for paragraph (a) and ss. 627.402, 627.403, 627.4035, 627.404,
1070 627.405, 627.406, 627.407, 627.4085, 627.409, 627.4132,
1071 627.4133, 627.415, 627.416, 627.417, 627.419, 627.425, 627.426,
1072 627.4265, 627.427, and 627.428, but are subject to all other
1073 applicable provisions of this code and rules adopted thereunder.

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1074 (c) This subsection does not apply to private passenger
1075 motor vehicle insurance.

1076 (d)1. The following categories or kinds of insurance and
1077 types of commercial lines risks are not subject to paragraph
1078 (2) (a) or paragraph (2) (f):

1079 a. Excess or umbrella.

1080 b. Surety and fidelity.

1081 c. Boiler and machinery and leakage and fire extinguishing
1082 equipment.

1083 d. Errors and omissions.

1084 e. Directors and officers, employment practices, and
1085 management liability.

1086 f. Intellectual property and patent infringement liability.

1087 g. Advertising injury and Internet liability insurance.

1088 h. Property risks rated under a highly protected risks
1089 rating plan.

1090 i. Any other commercial lines categories or kinds of
1091 insurance or types of commercial lines risks that the office
1092 determines should not be subject to paragraph (2) (a) or
1093 paragraph (2) (f) because of the existence of a competitive
1094 market for such insurance, similarity of such insurance to other
1095 categories or kinds of insurance not subject to paragraph (2) (a)
1096 or paragraph (2) (f), or to improve the general operational
1097 efficiency of the office.

1098 2. Insurers or rating organizations shall establish and use
1099 rates, rating schedules, or rating manuals to allow the insurer
1100 a reasonable rate of return on insurance and risks described in
1101 subparagraph 1. which are written in this state.

1102 3. An insurer must notify the office of any changes to

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1103 rates for insurance and risks described in subparagraph 1.
1104 within ~~no later than~~ 30 days after the effective date of the
1105 change. The notice must include the name of the insurer, the
1106 type or kind of insurance subject to rate change, total premium
1107 written during the immediately preceding year by the insurer for
1108 the type or kind of insurance subject to the rate change, and
1109 the average statewide percentage change in rates. Underwriting
1110 files, premiums, losses, and expense statistics with regard to
1111 such insurance and risks ~~described in subparagraph 1.~~ written by
1112 an insurer must ~~shall~~ be maintained by the insurer and subject
1113 to examination by the office. Upon examination, the office
1114 ~~shall~~, in accordance with generally accepted and reasonable
1115 actuarial techniques, shall consider the rate factors in
1116 paragraphs (2) (b), (c), and (d) and the standards in paragraph
1117 (2) (e) to determine if the rate is excessive, inadequate, or
1118 unfairly discriminatory.

1119 4. A rating organization must notify the office of any
1120 changes to loss cost for insurance and risks described in
1121 subparagraph 1. within ~~no later than~~ 30 days after the effective
1122 date of the change. The notice must include the name of the
1123 rating organization, the type or kind of insurance subject to a
1124 loss cost change, loss costs during the immediately preceding
1125 year for the type or kind of insurance subject to the loss cost
1126 change, and the average statewide percentage change in loss
1127 cost. Loss and exposure statistics with regard to risks
1128 applicable to loss costs for a rating organization not subject
1129 to paragraph (2) (a) or paragraph (2) (f) must ~~shall~~ be maintained
1130 by the rating organization and are subject to examination by the
1131 office. Upon examination, the office ~~shall~~, in accordance with

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1132 generally accepted and reasonable actuarial techniques, shall
1133 consider the rate factors in paragraphs (2)(b)-(d) and the
1134 standards in paragraph (2)(e) to determine if the rate is
1135 excessive, inadequate, or unfairly discriminatory.

1136 5. In reviewing a rate, the office may require the insurer
1137 to provide, at the insurer's expense, all information necessary
1138 to evaluate the condition of the company and the reasonableness
1139 of the rate according to the applicable criteria described in
1140 this section.

1141 (4) The establishment of any rate, rating classification,
1142 rating plan or schedule, or variation thereof in violation of
1143 part IX of chapter 626 is also in violation of this section. ~~In~~
1144 ~~order to enhance the ability of consumers to compare premiums~~
1145 ~~and to increase the accuracy and usefulness of rate comparison~~
1146 ~~information provided by the office to the public, the office~~
1147 ~~shall develop a proposed standard rating territory plan to be~~
1148 ~~used by all authorized property and casualty insurers for~~
1149 ~~residential property insurance. In adopting the proposed plan,~~
1150 ~~the office may consider geographical characteristics relevant to~~
1151 ~~risk, county lines, major roadways, existing rating territories~~
1152 ~~used by a significant segment of the market, and other relevant~~
1153 ~~factors. Such plan shall be submitted to the President of the~~
1154 ~~Senate and the Speaker of the House of Representatives by~~
1155 ~~January 15, 2006. The plan may not be implemented unless~~
1156 ~~authorized by further act of the Legislature.~~

1157 (5) With respect to a rate filing involving coverage of the
1158 type for which the insurer is required to pay a reimbursement
1159 premium to the Florida Hurricane Catastrophe Fund, the insurer
1160 may fully recoup in its property insurance premiums any

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1161 reimbursement premiums paid to the ~~Florida Hurricane Catastrophe~~
1162 fund, together with reasonable costs of other reinsurance;
1163 however, ~~but~~ except as otherwise provided in this section, the
1164 insurer may not recoup reinsurance costs that duplicate coverage
1165 provided by the ~~Florida Hurricane Catastrophe~~ fund. An insurer
1166 may not recoup more than 1 year of reimbursement premium at a
1167 time. Any under-recoupment from the prior year may be added to
1168 the following year's reimbursement premium, and any over-
1169 recoupment must ~~shall~~ be subtracted from the following year's
1170 reimbursement premium.

1171 (6) (a) If an insurer requests an administrative hearing
1172 pursuant to s. 120.57 related to a rate filing under this
1173 section, the director of the Division of Administrative Hearings
1174 shall expedite the hearing and assign an administrative law
1175 judge who shall commence the hearing within 30 days after the
1176 receipt of the formal request and ~~shall~~ enter a recommended
1177 order within 30 days after the hearing or within 30 days after
1178 receipt of the hearing transcript by the administrative law
1179 judge, whichever is later. Each party shall have ~~be allowed~~ 10
1180 days in which to submit written exceptions to the recommended
1181 order. The office shall enter a final order within 30 days after
1182 the entry of the recommended order. The provisions of this
1183 paragraph may be waived upon stipulation of all parties.

1184 (b) Upon entry of a final order, the insurer may request a
1185 expedited appellate review pursuant to the Florida Rules of
1186 Appellate Procedure. It is the intent of the Legislature that
1187 the First District Court of Appeal grant an insurer's request
1188 for an expedited appellate review.

1189 (7) ~~(a)~~ The provisions of this subsection apply only ~~with~~

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1190 ~~respect~~ to rates for medical malpractice insurance and ~~shall~~
1191 control to the extent of any conflict with other provisions of
1192 this section.

1193 (a)~~(b)~~ Any portion of a judgment entered or settlement paid
1194 as a result of a statutory or common-law bad faith action and
1195 any portion of a judgment entered which awards punitive damages
1196 against an insurer may not be included in the insurer's rate
1197 base, and ~~shall not be~~ used to justify a rate or rate change.
1198 Any common-law bad faith action identified as such, any portion
1199 of a settlement entered as a result of a statutory or common-law
1200 action, or any portion of a settlement wherein an insurer agrees
1201 to pay specific punitive damages may not be used to justify a
1202 rate or rate change. The portion of the taxable costs and
1203 attorney's fees which is identified as being related to the bad
1204 faith and punitive damages ~~in these judgments and settlements~~
1205 may not be included in the insurer's rate base and used ~~may not~~
1206 ~~be utilized~~ to justify a rate or rate change.

1207 (b)~~(c)~~ Upon reviewing a rate filing and determining whether
1208 the rate is excessive, inadequate, or unfairly discriminatory,
1209 the office shall consider, in accordance with generally accepted
1210 and reasonable actuarial techniques, past and present
1211 prospective loss experience, ~~either~~ using loss experience solely
1212 for this state or giving greater credibility to this state's
1213 loss data after applying actuarially sound methods of assigning
1214 credibility to such data.

1215 (c)~~(d)~~ Rates shall be deemed excessive if, among other
1216 standards established by this section, the rate structure
1217 provides for replenishment of reserves or surpluses from
1218 premiums when the replenishment is attributable to investment

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1219 losses.

1220 (d)~~(e)~~ The insurer must apply a discount or surcharge based
1221 on the health care provider's loss experience or shall establish
1222 an alternative method giving due consideration to the provider's
1223 loss experience. The insurer must include in the filing a copy
1224 of the surcharge or discount schedule or a description of the
1225 alternative method used, and ~~must~~ provide a copy of such
1226 ~~schedule or description~~, as approved by the office, to
1227 policyholders at the time of renewal and to prospective
1228 policyholders at the time of application for coverage.

1229 (e)~~(f)~~ Each medical malpractice insurer must make a rate
1230 filing under this section, sworn to by at least two executive
1231 officers of the insurer, at least once each calendar year.

1232 ~~(8)(a)1. No later than 60 days after the effective date of~~
1233 ~~medical malpractice legislation enacted during the 2003 Special~~
1234 ~~Session D of the Florida Legislature, the office shall calculate~~
1235 ~~a presumed factor that reflects the impact that the changes~~
1236 ~~contained in such legislation will have on rates for medical~~
1237 ~~malpractice insurance and shall issue a notice informing all~~
1238 ~~insurers writing medical malpractice coverage of such presumed~~
1239 ~~factor. In determining the presumed factor, the office shall use~~
1240 ~~generally accepted actuarial techniques and standards provided~~
1241 ~~in this section in determining the expected impact on losses,~~
1242 ~~expenses, and investment income of the insurer. To the extent~~
1243 ~~that the operation of a provision of medical malpractice~~
1244 ~~legislation enacted during the 2003 Special Session D of the~~
1245 ~~Florida Legislature is stayed pending a constitutional~~
1246 ~~challenge, the impact of that provision shall not be included in~~
1247 ~~the calculation of a presumed factor under this subparagraph.~~

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1248 ~~2. No later than 60 days after the office issues its notice~~
1249 ~~of the presumed rate change factor under subparagraph 1., each~~
1250 ~~insurer writing medical malpractice coverage in this state shall~~
1251 ~~submit to the office a rate filing for medical malpractice~~
1252 ~~insurance, which will take effect no later than January 1, 2004,~~
1253 ~~and apply retroactively to policies issued or renewed on or~~
1254 ~~after the effective date of medical malpractice legislation~~
1255 ~~enacted during the 2003 Special Session D of the Florida~~
1256 ~~Legislature. Except as authorized under paragraph (b), the~~
1257 ~~filing shall reflect an overall rate reduction at least as great~~
1258 ~~as the presumed factor determined under subparagraph 1. With~~
1259 ~~respect to policies issued on or after the effective date of~~
1260 ~~such legislation and prior to the effective date of the rate~~
1261 ~~filing required by this subsection, the office shall order the~~
1262 ~~insurer to make a refund of the amount that was charged in~~
1263 ~~excess of the rate that is approved.~~

1264 ~~(b) Any insurer or rating organization that contends that~~
1265 ~~the rate provided for in paragraph (a) is excessive, inadequate,~~
1266 ~~or unfairly discriminatory shall separately state in its filing~~
1267 ~~the rate it contends is appropriate and shall state with~~
1268 ~~specificity the factors or data that it contends should be~~
1269 ~~considered in order to produce such appropriate rate. The~~
1270 ~~insurer or rating organization shall be permitted to use all of~~
1271 ~~the generally accepted actuarial techniques provided in this~~
1272 ~~section in making any filing pursuant to this subsection. The~~
1273 ~~office shall review each such exception and approve or~~
1274 ~~disapprove it prior to use. It shall be the insurer's burden to~~
1275 ~~actuarially justify any deviations from the rates required to be~~
1276 ~~filed under paragraph (a). The insurer making a filing under~~

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1277 ~~this paragraph shall include in the filing the expected impact~~
1278 ~~of medical malpractice legislation enacted during the 2003~~
1279 ~~Special Session D of the Florida Legislature on losses,~~
1280 ~~expenses, and rates.~~

1281 ~~(c) If any provision of medical malpractice legislation~~
1282 ~~enacted during the 2003 Special Session D of the Florida~~
1283 ~~Legislature is held invalid by a court of competent~~
1284 ~~jurisdiction, the office shall permit an adjustment of all~~
1285 ~~medical malpractice rates filed under this section to reflect~~
1286 ~~the impact of such holding on such rates so as to ensure that~~
1287 ~~the rates are not excessive, inadequate, or unfairly~~
1288 ~~discriminatory.~~

1289 ~~(d) Rates approved on or before July 1, 2003, for medical~~
1290 ~~malpractice insurance shall remain in effect until the effective~~
1291 ~~date of a new rate filing approved under this subsection.~~

1292 ~~(e) The calculation and notice by the office of the~~
1293 ~~presumed factor pursuant to paragraph (a) is not an order or~~
1294 ~~rule that is subject to chapter 120. If the office enters into a~~
1295 ~~contract with an independent consultant to assist the office in~~
1296 ~~calculating the presumed factor, such contract shall not be~~
1297 ~~subject to the competitive solicitation requirements of s.~~
1298 ~~287.057.~~

1299 (8) ~~(9)~~ (a) The chief executive officer or chief financial
1300 officer of a property insurer and the chief actuary of a
1301 property insurer must certify under oath and subject to the
1302 penalty of perjury, on a form approved by the commission, the
1303 following information, which must accompany a rate filing:

1304 1. The signing officer and actuary have reviewed the rate
1305 filing;

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1306 2. Based on the signing officer's and actuary's knowledge,
1307 the rate filing does not contain any untrue statement of a
1308 material fact or omit to state a material fact necessary ~~in~~
1309 ~~order~~ to make the statements made, in light of the circumstances
1310 under which such statements were made, not misleading;

1311 3. Based on the signing officer's and actuary's knowledge,
1312 the information and other factors described in paragraph (2) (b),
1313 including, but not limited to, investment income, fairly present
1314 in all material respects the basis of the rate filing for the
1315 periods presented in the filing; and

1316 4. Based on the signing officer's and actuary's knowledge,
1317 the rate filing reflects all premium savings that are reasonably
1318 expected to result from legislative enactments and are in
1319 accordance with generally accepted and reasonable actuarial
1320 techniques.

1321 (b) A signing officer or actuary who knowingly makes ~~making~~
1322 a false certification under this subsection commits a violation
1323 of s. 626.9541(1) (e) and is subject to the penalties under s.
1324 626.9521.

1325 (c) Failure to provide such certification by the officer
1326 and actuary shall result in the rate filing being disapproved
1327 without prejudice to be refiled.

1328 (d) The certification made pursuant to paragraph (a) is not
1329 rendered false if, after making the subject rate filing, the
1330 insurer provides the office with additional or supplementary
1331 information pursuant to a formal or informal request from the
1332 office. However, the actuary who is primarily responsible for
1333 preparing and submitting such information must certify the
1334 information in accordance with the certification required under

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1335 paragraph (a) and the penalties in paragraph (b), except that
1336 the chief executive officer, chief financial officer, or chief
1337 actuary need not certify the additional or supplementary
1338 information.

1339 ~~(e)-(d)~~ The commission may adopt rules and forms pursuant to
1340 ~~ss. 120.536(1) and 120.54~~ to administer this subsection.

1341 ~~(9)-(10)~~ The burden is on the office to establish that rates
1342 are excessive for personal lines residential coverage with a
1343 dwelling replacement cost of \$1 million or more or for a single
1344 condominium unit with a combined dwelling and contents
1345 replacement cost of \$1 million or more. Upon request of the
1346 office, the insurer shall provide ~~to the office~~ such loss and
1347 expense information as the office reasonably needs to meet this
1348 burden.

1349 ~~(10)-(11)~~ Any interest paid pursuant to s. 627.70131(5) may
1350 not be included in the insurer's rate base and may not be used
1351 to justify a rate or rate change.

1352 Section 13. Paragraph (b) of subsection (3) of section
1353 627.06281, Florida Statutes, is amended to read:

1354 627.06281 Public hurricane loss projection model; reporting
1355 of data by insurers.-

1356 (3)

1357 (b) The fees charged for private sector access and use of
1358 the model shall be the reasonable costs associated with the
1359 operation and maintenance of the model by the office. Such fees
1360 do not apply to access and use of the model by the office. By
1361 ~~January 1, 2009, The office shall establish by rule a fee~~
1362 ~~schedule for access to and the use of the model. The fee~~
1363 ~~schedule must be reasonably calculated to cover only the actual~~

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1364 ~~costs of providing access to and the use of the model.~~

1365 Section 14. Subsections (1) and (5) of section 627.0629,
1366 Florida Statutes, are amended to read:

1367 627.0629 Residential property insurance; rate filings.—

1368 (1) ~~(a)~~ It is the intent of the Legislature that insurers
1369 ~~must~~ provide savings to consumers who install or implement
1370 windstorm damage mitigation techniques, alterations, or
1371 solutions to their properties to prevent windstorm losses. A
1372 rate filing for residential property insurance must include
1373 actuarially reasonable discounts, credits, or other rate
1374 differentials, or appropriate reductions in deductibles, for
1375 properties on which fixtures or construction techniques
1376 demonstrated to reduce the amount of loss in a windstorm have
1377 been installed or implemented. The fixtures or construction
1378 techniques must ~~shall~~ include, but are not ~~be~~ limited to,
1379 fixtures or construction techniques that ~~which~~ enhance roof
1380 strength, roof covering performance, roof-to-wall strength,
1381 wall-to-floor-to-foundation strength, opening protection, and
1382 window, door, and skylight strength. Credits, discounts, or
1383 other rate differentials, or appropriate reductions in
1384 deductibles, for fixtures and construction techniques that ~~which~~
1385 meet the minimum requirements of the Florida Building Code must
1386 be included in the rate filing. ~~All insurance companies must~~
1387 ~~make a rate filing which includes the credits, discounts, or~~
1388 ~~other rate differentials or reductions in deductibles by~~
1389 ~~February 28, 2003. By July 1, 2007, the office shall reevaluate~~
1390 ~~the discounts, credits, other rate differentials, and~~
1391 ~~appropriate reductions in deductibles for fixtures and~~
1392 ~~construction techniques that meet the minimum requirements of~~

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1393 ~~the Florida Building Code, based upon actual experience or any~~
1394 ~~other loss relativity studies available to the office. The~~
1395 ~~office shall determine the discounts, credits, other rate~~
1396 ~~differentials, and appropriate reductions in deductibles that~~
1397 ~~reflect the full actuarial value of such revaluation, which may~~
1398 ~~be used by insurers in rate filings.~~

1399 ~~(b) By February 1, 2011, the Office of Insurance~~
1400 ~~Regulation, in consultation with the Department of Financial~~
1401 ~~Services and the Department of Community Affairs, shall develop~~
1402 ~~and make publicly available a proposed method for insurers to~~
1403 ~~establish discounts, credits, or other rate differentials for~~
1404 ~~hurricane mitigation measures which directly correlate to the~~
1405 ~~numerical rating assigned to a structure pursuant to the uniform~~
1406 ~~home grading scale adopted by the Financial Services Commission~~
1407 ~~pursuant to s. 215.55865, including any proposed changes to the~~
1408 ~~uniform home grading scale. By October 1, 2011, the commission~~
1409 ~~shall adopt rules requiring insurers to make rate filings for~~
1410 ~~residential property insurance which revise insurers' discounts,~~
1411 ~~credits, or other rate differentials for hurricane mitigation~~
1412 ~~measures so that such rate differentials correlate directly to~~
1413 ~~the uniform home grading scale. The rules may include such~~
1414 ~~changes to the uniform home grading scale as the commission~~
1415 ~~determines are necessary, and may specify the minimum required~~
1416 ~~discounts, credits, or other rate differentials. Such rate~~
1417 ~~differentials must be consistent with generally accepted~~
1418 ~~actuarial principles and wind loss mitigation studies. The rules~~
1419 ~~shall allow a period of at least 2 years after the effective~~
1420 ~~date of the revised mitigation discounts, credits, or other rate~~
1421 ~~differentials for a property owner to obtain an inspection or~~

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1422 otherwise qualify for the revised credit, during which time the
 1423 insurer shall continue to apply the mitigation credit that was
 1424 applied immediately prior to the effective date of the revised
 1425 credit. Discounts, credits, and other rate differentials
 1426 established for rate filings under this paragraph shall
 1427 supersede, after adoption, the discounts, credits, and other
 1428 rate differentials included in rate filings under paragraph (a).

1429 (5) In order to provide an appropriate transition period,
 1430 an insurer may, ~~in its sole discretion,~~ implement an approved
 1431 rate filing for residential property insurance over a period of
 1432 years. Such ~~An insurer electing to phase in its rate filing~~ must
 1433 provide an informational notice to the office setting out its
 1434 schedule for implementation of the phased-in rate filing. The ~~An~~
 1435 insurer may include in its rate the actual cost of private
 1436 market reinsurance that corresponds to available coverage of the
 1437 Temporary Increase in Coverage Limits, TICL, from the Florida
 1438 Hurricane Catastrophe Fund. The insurer may also include the
 1439 cost of reinsurance to replace the TICL reduction implemented
 1440 pursuant to s. 215.555(17)(d)9. However, this cost for
 1441 reinsurance may not include any expense or profit load or result
 1442 in a total annual base rate increase in excess of 10 percent.

1443 Section 15. Paragraphs (a), (b), (c), (d), (n), (v), and
 1444 (y) of subsection (6) of section 627.351, Florida Statutes, are
 1445 amended to read:

1446 627.351 Insurance risk apportionment plans.—

1447 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

1448 (a) ~~1. It is~~ The public purpose of this subsection is to
 1449 ensure that there is ~~the existence of~~ an orderly market for
 1450 property insurance for residents ~~Floridians~~ and ~~Florida~~

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1451 businesses of this state.

1452 1. The Legislature finds that private insurers are
1453 unwilling or unable to provide affordable property insurance
1454 coverage in this state to the extent sought and needed. The
1455 absence of affordable property insurance threatens the public
1456 health, safety, and welfare and likewise threatens the economic
1457 health of the state. The state therefore has a compelling public
1458 interest and a public purpose to assist in assuring that
1459 property in the state is insured and that it is insured at
1460 affordable rates so as to facilitate the remediation,
1461 reconstruction, and replacement of damaged or destroyed property
1462 in order to reduce or avoid the negative effects otherwise
1463 resulting to the public health, safety, and welfare, to the
1464 economy of the state, and to the revenues of the state and local
1465 governments which are needed to provide for the public welfare.
1466 It is necessary, therefore, to provide affordable property
1467 insurance to applicants who are in good faith entitled to
1468 procure insurance through the voluntary market but are unable to
1469 do so. The Legislature intends, therefore, ~~by this subsection~~
1470 that affordable property insurance be provided and that it
1471 continue to be provided, as long as necessary, through Citizens
1472 Property Insurance Corporation, a government entity that is an
1473 integral part of the state, and that is not a private insurance
1474 company. To that end, the Citizens Property Insurance
1475 corporation shall strive to increase the availability of
1476 affordable property insurance in this state, while achieving
1477 efficiencies and economies, and while providing service to
1478 policyholders, applicants, and agents which is no less than the
1479 quality generally provided in the voluntary market, for the

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1480 achievement of the foregoing public purposes. Because it is
1481 essential for this government entity to have the maximum
1482 financial resources to pay claims following a catastrophic
1483 hurricane, it is the intent of the Legislature that the ~~Citizens~~
1484 ~~Property Insurance~~ corporation continue to be an integral part
1485 of the state and that the income of the corporation be exempt
1486 from federal income taxation and that interest on the debt
1487 obligations issued by the corporation be exempt from federal
1488 income taxation.

1489 2. The Residential Property and Casualty Joint Underwriting
1490 Association originally created by this statute shall be known~~7~~
1491 ~~as of July 1, 2002,~~ as the Citizens Property Insurance
1492 Corporation. The corporation shall provide insurance for
1493 residential and commercial property, for applicants who are ~~in~~
1494 ~~good faith~~ entitled, but, in good faith, are unable~~7~~ to procure
1495 insurance through the voluntary market. The corporation shall
1496 operate pursuant to a plan of operation approved by order of the
1497 Financial Services Commission. The plan is subject to continuous
1498 review by the commission. The commission may, by order, withdraw
1499 approval of all or part of a plan if the commission determines
1500 that conditions have changed since approval was granted and that
1501 the purposes of the plan require changes in the plan. ~~The~~
1502 ~~corporation shall continue to operate pursuant to the plan of~~
1503 ~~operation approved by the Office of Insurance Regulation until~~
1504 ~~October 1, 2006.~~ For the purposes of this subsection,
1505 residential coverage includes both personal lines residential
1506 coverage, which consists of the type of coverage provided by
1507 homeowner's, mobile home owner's, dwelling, tenant's,
1508 condominium unit owner's, and similar policies;7 and commercial

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1509 lines residential coverage, which consists of the type of
1510 coverage provided by condominium association, apartment
1511 building, and similar policies.

1512 3. Effective January 1, 2009, a personal lines residential
1513 structure that has a dwelling replacement cost of \$2 million or
1514 more, or a single condominium unit that has a combined dwelling
1515 and contents ~~content~~ replacement cost of \$2 million or more is
1516 not eligible for coverage by the corporation. Such dwellings
1517 insured by the corporation on December 31, 2008, may continue to
1518 be covered by the corporation until the end of the policy term.
1519 However, such dwellings ~~that are insured by the corporation and~~
1520 ~~become ineligible for coverage due to the provisions of this~~
1521 ~~subparagraph~~ may reapply and obtain coverage if the property
1522 owner provides the corporation with a sworn affidavit from one
1523 or more insurance agents, on a form provided by the corporation,
1524 stating that the agents have made their best efforts to obtain
1525 coverage and that the property has been rejected for coverage by
1526 at least one authorized insurer and at least three surplus lines
1527 insurers. If such conditions are met, the dwelling may be
1528 insured by the corporation for up to 3 years, after which time
1529 the dwelling is ineligible for coverage. The office shall
1530 approve the method used by the corporation for valuing the
1531 dwelling replacement cost for the purposes of this subparagraph.
1532 If a policyholder is insured by the corporation prior to being
1533 determined to be ineligible pursuant to this subparagraph and
1534 such policyholder files a lawsuit challenging the determination,
1535 the policyholder may remain insured by the corporation until the
1536 conclusion of the litigation.

1537 4. It is the intent of the Legislature that policyholders,

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1538 applicants, and agents of the corporation receive service and
1539 treatment of the highest possible level but never less than that
1540 generally provided in the voluntary market. It is also ~~is~~
1541 intended that the corporation be held to service standards no
1542 less than those applied to insurers in the voluntary market by
1543 the office with respect to responsiveness, timeliness, customer
1544 courtesy, and overall dealings with policyholders, applicants,
1545 or agents of the corporation.

1546 5. Effective January 1, 2009, a personal lines residential
1547 structure that is located in the "wind-borne debris region," as
1548 defined in s. 1609.2, International Building Code (2006), and
1549 that has an insured value on the structure of \$750,000 or more
1550 is not eligible for coverage by the corporation unless the
1551 structure has opening protections as required under the Florida
1552 Building Code for a newly constructed residential structure in
1553 that area. A residential structure shall be deemed to comply
1554 with ~~the requirements of~~ this subparagraph if it has shutters or
1555 opening protections on all openings and if such opening
1556 protections complied with the Florida Building Code at the time
1557 they were installed.

1558 6. For any claim filed under any policy of the corporation,
1559 a public adjuster may not charge, agree to, or accept any
1560 compensation, payment, commission, fee, or other thing of value
1561 greater than 10 percent of the additional amount actually paid
1562 over the amount that was originally offered by the corporation
1563 for any one claim.

1564 (b)1. All insurers authorized to write one or more subject
1565 lines of business in this state are subject to assessment by the
1566 corporation and, for the purposes of this subsection, are

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1567 referred to collectively as "assessable insurers." Insurers
1568 writing one or more subject lines of business in this state
1569 pursuant to part VIII of chapter 626 are not assessable
1570 insurers, but insureds who procure one or more subject lines of
1571 business in this state pursuant to part VIII of chapter 626 are
1572 subject to assessment by the corporation and are referred to
1573 collectively as "assessable insureds." An ~~authorized~~ insurer's
1574 assessment liability begins ~~shall begin~~ on the first day of the
1575 calendar year following the year in which the insurer was issued
1576 a certificate of authority to transact insurance for subject
1577 lines of business in this state and terminates ~~shall terminate~~ 1
1578 year after the end of the first calendar year during which the
1579 insurer no longer holds a certificate of authority to transact
1580 insurance for subject lines of business in this state.

1581 2.a. All revenues, assets, liabilities, losses, and
1582 expenses of the corporation shall be divided into three separate
1583 accounts as follows:

1584 (I) A personal lines account for personal residential
1585 policies issued by the corporation, or issued by the Residential
1586 Property and Casualty Joint Underwriting Association and renewed
1587 by the corporation, which provides ~~that provide~~ comprehensive,
1588 multiperil coverage on risks that are not located in areas
1589 eligible for coverage by ~~in~~ the Florida Windstorm Underwriting
1590 Association as those areas were defined on January 1, 2002, and
1591 for ~~such~~ policies that do not provide coverage for the peril of
1592 wind on risks that are located in such areas;

1593 (II) A commercial lines account for commercial residential
1594 and commercial nonresidential policies issued by the
1595 corporation, or issued by the Residential Property and Casualty

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1596 Joint Underwriting Association and renewed by the corporation,
1597 which provides ~~that provide~~ coverage for basic property perils
1598 on risks that are not located in areas eligible for coverage by
1599 ~~in~~ the Florida Windstorm Underwriting Association as those areas
1600 were defined on January 1, 2002, and for ~~such~~ policies that do
1601 not provide coverage for the peril of wind on risks that are
1602 located in such areas; and

1603 (III) A coastal ~~high-risk~~ account for personal residential
1604 policies and commercial residential and commercial
1605 nonresidential property policies issued by the corporation, or
1606 transferred to the corporation, which provides ~~that provide~~
1607 coverage for the peril of wind on risks that are located in
1608 areas eligible for coverage by ~~in~~ the Florida Windstorm
1609 Underwriting Association as those areas were defined on January
1610 1, 2002. The corporation may offer policies that provide
1611 multiperil coverage and the corporation shall continue to offer
1612 policies that provide coverage only for the peril of wind for
1613 risks located in areas eligible for coverage in the coastal
1614 ~~high-risk~~ account. In issuing multiperil coverage, the
1615 corporation may use its approved policy forms and rates for the
1616 personal lines account. An applicant or insured who is eligible
1617 to purchase a multiperil policy from the corporation may
1618 purchase a multiperil policy from an authorized insurer without
1619 prejudice to the applicant's or insured's eligibility to
1620 prospectively purchase a policy that provides coverage only for
1621 the peril of wind from the corporation. An applicant or insured
1622 who is eligible for a corporation policy that provides coverage
1623 only for the peril of wind may elect to purchase or retain such
1624 policy and also purchase or retain coverage excluding wind from

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1625 an authorized insurer without prejudice to the applicant's or
1626 insured's eligibility to prospectively purchase a policy that
1627 provides multiperil coverage from the corporation. It is the
1628 goal of the Legislature that there ~~would~~ be an overall average
1629 savings of 10 percent or more for a policyholder who currently
1630 has a wind-only policy with the corporation, and an ex-wind
1631 policy with a voluntary insurer or the corporation, and who ~~then~~
1632 obtains a multiperil policy from the corporation. It is the
1633 intent of the Legislature that the offer of multiperil coverage
1634 in the coastal ~~high-risk~~ account be made and implemented in a
1635 manner that does not adversely affect the tax-exempt status of
1636 the corporation or creditworthiness of or security for currently
1637 outstanding financing obligations or credit facilities of the
1638 coastal ~~high-risk~~ account, the personal lines account, or the
1639 commercial lines account. The coastal ~~high-risk~~ account must
1640 also include quota share primary insurance under subparagraph
1641 (c)2. The area eligible for coverage under the coastal ~~high-risk~~
1642 account also includes the area within Port Canaveral, which is
1643 bordered on the south by the City of Cape Canaveral, bordered on
1644 the west by the Banana River, and bordered on the north by
1645 Federal Government property.

1646 b. The three separate accounts must be maintained as long
1647 as financing obligations entered into by the Florida Windstorm
1648 Underwriting Association or Residential Property and Casualty
1649 Joint Underwriting Association are outstanding, in accordance
1650 with the terms of the corresponding financing documents. If ~~When~~
1651 the financing obligations are no longer outstanding, ~~in~~
1652 ~~accordance with the terms of the corresponding financing~~
1653 ~~documents,~~ the corporation may use a single account for all

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1654 revenues, assets, liabilities, losses, and expenses of the
1655 corporation. Consistent with ~~the requirement of~~ this
1656 subparagraph and prudent investment policies that minimize the
1657 cost of carrying debt, the board shall exercise its best efforts
1658 to retire existing debt or ~~to~~ obtain the approval of necessary
1659 parties to amend the terms of existing debt, so as to structure
1660 the most efficient plan to consolidate the three separate
1661 accounts into a single account.

1662 c. Creditors of the Residential Property and Casualty Joint
1663 Underwriting Association and ~~of~~ the accounts specified in sub-
1664 sub-subparagraphs a.(I) and (II) may have a claim against, and
1665 recourse to, those ~~the~~ accounts ~~referred to in sub-sub-~~
1666 ~~subparagraphs a.(I) and (II) and shall have~~ no claim against, or
1667 recourse to, the account referred to in sub-sub-subparagraph
1668 a.(III). Creditors of the Florida Windstorm Underwriting
1669 Association ~~shall~~ have a claim against, and recourse to, the
1670 account referred to in sub-sub-subparagraph a.(III) and ~~shall~~
1671 ~~have~~ no claim against, or recourse to, the accounts referred to
1672 in sub-sub-subparagraphs a.(I) and (II).

1673 d. Revenues, assets, liabilities, losses, and expenses not
1674 attributable to particular accounts shall be prorated among the
1675 accounts.

1676 e. The Legislature finds that the revenues of the
1677 corporation are revenues that are necessary to meet the
1678 requirements set forth in documents authorizing the issuance of
1679 bonds under this subsection.

1680 f. No part of the income of the corporation may inure to
1681 the benefit of any private person.

1682 3. With respect to a deficit in an account:

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1683 a. After accounting for the Citizens policyholder surcharge
1684 imposed under sub-subparagraph h. i., if ~~when~~ the remaining
1685 projected deficit incurred in a particular calendar year:

1686 (I) Is not greater than 6 percent of the aggregate
1687 statewide direct written premium for the subject lines of
1688 business for the prior calendar year, the entire deficit shall
1689 be recovered through regular assessments of assessable insurers
1690 under paragraph (q) and assessable insureds.

1691 (II)~~b.~~ ~~After accounting for the Citizens policyholder~~
1692 ~~surcharge imposed under sub-subparagraph i., when the remaining~~
1693 ~~projected deficit incurred in a particular calendar year Exceeds~~
1694 6 percent of the aggregate statewide direct written premium for
1695 the subject lines of business for the prior calendar year, the
1696 corporation shall levy regular assessments on assessable
1697 insurers under paragraph (q) and on assessable insureds in an
1698 amount equal to the greater of 6 percent of the deficit or 6
1699 percent of the aggregate statewide direct written premium for
1700 the subject lines of business for the prior calendar year. Any
1701 remaining deficit shall be recovered through emergency
1702 assessments under sub-subparagraph c. d.

1703 b.e. Each assessable insurer's share of the amount being
1704 assessed under sub-subparagraph a. must ~~or sub-subparagraph b.~~
1705 ~~shall~~ be in the proportion that the assessable insurer's direct
1706 written premium for the subject lines of business for the year
1707 preceding the assessment bears to the aggregate statewide direct
1708 written premium for the subject lines of business for that year.
1709 The assessment percentage applicable to each assessable insured
1710 is the ratio of the amount being assessed under sub-subparagraph
1711 a. ~~or sub-subparagraph b.~~ to the aggregate statewide direct

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1712 written premium for the subject lines of business for the prior
1713 year. Assessments levied by the corporation on assessable
1714 insurers under sub-subparagraph a. ~~must sub-subparagraphs a. and~~
1715 ~~b. shall~~ be paid as required by the corporation's plan of
1716 operation and paragraph (q). Assessments levied by the
1717 corporation on assessable insureds under sub-subparagraph a.
1718 ~~sub-subparagraphs a. and b.~~ shall be collected by the surplus
1719 lines agent at the time the surplus lines agent collects the
1720 surplus lines tax required by s. 626.932, and ~~shall be~~ paid to
1721 the Florida Surplus Lines Service Office at the time the surplus
1722 lines agent pays the surplus lines tax to that ~~the Florida~~
1723 ~~Surplus Lines Service~~ office. Upon receipt of regular
1724 assessments from surplus lines agents, the Florida Surplus Lines
1725 Service Office shall transfer the assessments directly to the
1726 corporation as determined by the corporation.

1727 ~~c.d.~~ Upon a determination by the board of governors that a
1728 deficit in an account exceeds the amount that will be recovered
1729 through regular assessments under sub-subparagraph a. ~~or sub-~~
1730 ~~subparagraph b.,~~ plus the amount that is expected to be
1731 recovered through surcharges under sub-subparagraph h. i., ~~as to~~
1732 ~~the remaining projected deficit~~ the board ~~shall levy,~~ after
1733 verification by the office, shall levy emergency assessments,
1734 for as many years as necessary to cover the deficits, to be
1735 collected by assessable insurers and the corporation and
1736 collected from assessable insureds upon issuance or renewal of
1737 policies for subject lines of business, excluding National Flood
1738 Insurance policies. The amount ~~of the emergency assessment~~
1739 collected in a particular year must ~~shall~~ be a uniform
1740 percentage of that year's direct written premium for subject

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1741 lines of business and all accounts of the corporation, excluding
1742 National Flood Insurance Program policy premiums, as annually
1743 determined by the board and verified by the office. The office
1744 shall verify the arithmetic calculations involved in the board's
1745 determination within 30 days after receipt of the information on
1746 which the determination was based. Notwithstanding any other
1747 provision of law, the corporation and each assessable insurer
1748 that writes subject lines of business shall collect emergency
1749 assessments from its policyholders without such obligation being
1750 affected by any credit, limitation, exemption, or deferment.
1751 Emergency assessments levied by the corporation on assessable
1752 insureds shall be collected by the surplus lines agent at the
1753 time the surplus lines agent collects the surplus lines tax
1754 required by s. 626.932 and ~~shall be~~ paid to the Florida Surplus
1755 Lines Service Office at the time the surplus lines agent pays
1756 the surplus lines tax to that ~~the Florida Surplus Lines Service~~
1757 office. The emergency assessments ~~so~~ collected shall be
1758 transferred directly to the corporation on a periodic basis as
1759 determined by the corporation and ~~shall be~~ held by the
1760 corporation solely in the applicable account. The aggregate
1761 amount of emergency assessments levied for an account under this
1762 sub-subparagraph in any calendar year may, ~~at the discretion of~~
1763 ~~the board of governors,~~ be less than but ~~may~~ not exceed the
1764 greater of 10 percent of the amount needed to cover the deficit,
1765 plus interest, fees, commissions, required reserves, and other
1766 costs associated with financing ~~of~~ the original deficit, or 10
1767 percent of the aggregate statewide direct written premium for
1768 subject lines of business and ~~for~~ all accounts of the
1769 corporation for the prior year, plus interest, fees,

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1770 commissions, required reserves, and other costs associated with
1771 financing the deficit.

1772 d.e. The corporation may pledge the proceeds of
1773 assessments, projected recoveries from the Florida Hurricane
1774 Catastrophe Fund, other insurance and reinsurance recoverables,
1775 policyholder surcharges and other surcharges, and other funds
1776 available to the corporation as the source of revenue for and to
1777 secure bonds issued under paragraph (q), bonds or other
1778 indebtedness issued under subparagraph (c)3., or lines of credit
1779 or other financing mechanisms issued or created under this
1780 subsection, or to retire any other debt incurred as a result of
1781 deficits or events giving rise to deficits, or in any other way
1782 that the board determines will efficiently recover such
1783 deficits. The purpose of the lines of credit or other financing
1784 mechanisms is to provide additional resources to assist the
1785 corporation in covering claims and expenses attributable to a
1786 catastrophe. As used in this subsection, the term "assessments"
1787 includes regular assessments under sub-subparagraph a. ~~sub-~~
1788 ~~subparagraph b.~~ or subparagraph (q)1. and emergency assessments
1789 under sub-subparagraph d. Emergency assessments collected under
1790 sub-subparagraph d. are not part of an insurer's rates, are not
1791 premium, and are not subject to premium tax, fees, or
1792 commissions; however, failure to pay the emergency assessment
1793 shall be treated as failure to pay premium. The emergency
1794 assessments under sub-subparagraph c. ~~d.~~ shall continue as long
1795 as any bonds issued or other indebtedness incurred with respect
1796 to a deficit for which the assessment was imposed remain
1797 outstanding, unless adequate provision has been made for the
1798 payment of such bonds or other indebtedness pursuant to the

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1799 documents governing such bonds or ~~other~~ indebtedness.

1800 e.f. As used in this subsection for purposes of any deficit
1801 incurred on or after January 25, 2007, the term "subject lines
1802 of business" means insurance written by assessable insurers or
1803 procured by assessable insureds for all property and casualty
1804 lines of business in this state, but not including workers'
1805 compensation or medical malpractice. As used in this ~~the~~ sub-
1806 subparagraph, the term "property and casualty lines of business"
1807 includes all lines of business identified on Form 2, Exhibit of
1808 Premiums and Losses, in the annual statement required of
1809 authorized insurers under ~~by~~ s. 624.424 and any rule adopted
1810 under this section, except for those lines identified as
1811 accident and health insurance and except for policies written
1812 under the National Flood Insurance Program or the Federal Crop
1813 Insurance Program. For purposes of this sub-subparagraph, the
1814 term "workers' compensation" includes both workers' compensation
1815 insurance and excess workers' compensation insurance.

1816 f.g. The Florida Surplus Lines Service Office shall
1817 determine annually the aggregate statewide written premium in
1818 subject lines of business procured by assessable insureds and
1819 ~~shall~~ report that information to the corporation in a form and
1820 at a time the corporation specifies to ensure that the
1821 corporation can meet the requirements of this subsection and the
1822 corporation's financing obligations.

1823 g.h. The Florida Surplus Lines Service Office shall verify
1824 the proper application by surplus lines agents of assessment
1825 percentages for regular assessments and emergency assessments
1826 levied under this subparagraph on assessable insureds and ~~shall~~
1827 assist the corporation in ensuring the accurate, timely

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1828 collection and payment of assessments by surplus lines agents as
1829 required by the corporation.

1830 ~~h.i.~~ If a deficit is incurred in any account in 2008 or
1831 thereafter, the board of governors shall levy a Citizens
1832 policyholder surcharge against all policyholders of the
1833 corporation. ~~for a 12-month period, which~~

1834 (I) The surcharge shall be levied ~~collected at the time of~~
1835 ~~issuance or renewal of a policy,~~ as a uniform percentage of the
1836 premium for the policy of up to 15 percent of such premium,
1837 which funds shall be used to offset the deficit.

1838 (II) The surcharge is payable upon cancellation or
1839 termination of the policy, upon renewal of the policy, or upon
1840 issuance of a new policy by the corporation within the first 12
1841 months after the date of the levy or the period of time
1842 necessary to fully collect the surcharge amount.

1843 (III) The corporation may not levy any regular assessments
1844 under paragraph (q) pursuant to sub-subparagraph a. or sub-
1845 subparagraph b. with respect to a particular year's deficit
1846 until the corporation has first levied the full amount of the
1847 surcharge authorized by this sub-subparagraph.

1848 (IV) The surcharge is ~~Citizens policyholder surcharges~~
1849 ~~under this sub-subparagraph~~ are not considered premium and is
1850 ~~are~~ not subject to commissions, fees, or premium taxes. However,
1851 failure to pay the surcharge ~~such surcharges~~ shall be treated as
1852 failure to pay premium.

1853 ~~i.j.~~ If the amount of any assessments or surcharges
1854 collected from corporation policyholders, assessable insurers or
1855 their policyholders, or assessable insureds exceeds the amount
1856 of the deficits, such excess amounts shall be remitted to and

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1857 retained by the corporation in a reserve to be used by the
1858 corporation, as determined by the board of governors and
1859 approved by the office, to pay claims or reduce any past,
1860 present, or future plan-year deficits or to reduce outstanding
1861 debt.

1862 (c) The corporation's plan of operation ~~of the corporation~~:

1863 1. Must provide for adoption of residential property and
1864 casualty insurance policy forms and commercial residential and
1865 nonresidential property insurance forms, which ~~forms~~ must be
1866 approved by the office before ~~prior to~~ use. The corporation
1867 shall adopt the following policy forms:

1868 a. Standard personal lines policy forms that are
1869 comprehensive multiperil policies providing full coverage of a
1870 residential property equivalent to the coverage provided in the
1871 private insurance market under an HO-3, HO-4, or HO-6 policy.

1872 b. Basic personal lines policy forms that are policies
1873 similar to an HO-8 policy or a dwelling fire policy that provide
1874 coverage meeting the requirements of the secondary mortgage
1875 market, but which ~~coverage~~ is more limited than the coverage
1876 under a standard policy.

1877 c. Commercial lines residential and nonresidential policy
1878 forms that are generally similar to the basic perils of full
1879 coverage obtainable for commercial residential structures and
1880 commercial nonresidential structures in the admitted voluntary
1881 market.

1882 d. Personal lines and commercial lines residential property
1883 insurance forms that cover the peril of wind only. The forms are
1884 applicable only to residential properties located in areas
1885 eligible for coverage under the coastal ~~high-risk~~ account

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1886 referred to in sub-subparagraph (b)2.a.

1887 e. Commercial lines nonresidential property insurance forms
1888 that cover the peril of wind only. The forms are applicable only
1889 to nonresidential properties located in areas eligible for
1890 coverage under the coastal ~~high-risk~~ account referred to in sub-
1891 subparagraph (b)2.a.

1892 f. The corporation may adopt variations of the policy forms
1893 listed in sub-subparagraphs a.-e. which ~~that~~ contain more
1894 restrictive coverage.

1895 ~~2.a.~~ Must provide that the corporation adopt a program in
1896 which the corporation and authorized insurers enter into quota
1897 share primary insurance agreements for hurricane coverage, as
1898 defined in s. 627.4025(2) (a), for eligible risks, and adopt
1899 property insurance forms for eligible risks which cover the
1900 peril of wind only.

1901 a. As used in this subsection, the term:

1902 (I) "Quota share primary insurance" means an arrangement in
1903 which the primary hurricane coverage of an eligible risk is
1904 provided in specified percentages by the corporation and an
1905 authorized insurer. The corporation and authorized insurer are
1906 each solely responsible for a specified percentage of hurricane
1907 coverage of an eligible risk as set forth in a quota share
1908 primary insurance agreement between the corporation and an
1909 authorized insurer and the insurance contract. The
1910 responsibility of the corporation or authorized insurer to pay
1911 its specified percentage of hurricane losses of an eligible
1912 risk, as set forth in the ~~quota share primary insurance~~
1913 agreement, may not be altered by the inability of the other
1914 party ~~to the agreement~~ to pay its specified percentage of

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1915 ~~hurricane~~ losses. Eligible risks that are provided hurricane
1916 coverage through a quota share primary insurance arrangement
1917 must be provided policy forms that set forth the obligations of
1918 the corporation and authorized insurer under the arrangement,
1919 clearly specify the percentages of quota share primary insurance
1920 provided by the corporation and authorized insurer, and
1921 conspicuously and clearly state that ~~neither~~ the authorized
1922 insurer and ~~nor~~ the corporation may not be held responsible
1923 beyond their ~~its~~ specified percentage of coverage of hurricane
1924 losses.

1925 (II) "Eligible risks" means personal lines residential and
1926 commercial lines residential risks that meet the underwriting
1927 criteria of the corporation and are located in areas that were
1928 eligible for coverage by the Florida Windstorm Underwriting
1929 Association on January 1, 2002.

1930 b. The corporation may enter into quota share primary
1931 insurance agreements with authorized insurers at corporation
1932 coverage levels of 90 percent and 50 percent.

1933 c. If the corporation determines that additional coverage
1934 levels are necessary to maximize participation in quota share
1935 primary insurance agreements by authorized insurers, the
1936 corporation may establish additional coverage levels. However,
1937 the corporation's quota share primary insurance coverage level
1938 may not exceed 90 percent.

1939 d. Any quota share primary insurance agreement entered into
1940 between an authorized insurer and the corporation must provide
1941 for a uniform specified percentage of coverage of hurricane
1942 losses, by county or territory as set forth by the corporation
1943 board, for all eligible risks of the authorized insurer covered

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1944 under the ~~quota share primary insurance~~ agreement.

1945 e. Any quota share primary insurance agreement entered into
1946 between an authorized insurer and the corporation is subject to
1947 review and approval by the office. However, such agreement shall
1948 be authorized only as to insurance contracts entered into
1949 between an authorized insurer and an insured who is already
1950 insured by the corporation for wind coverage.

1951 f. For all eligible risks covered under quota share primary
1952 insurance agreements, the exposure and coverage levels for both
1953 the corporation and authorized insurers shall be reported by the
1954 corporation to the Florida Hurricane Catastrophe Fund. For all
1955 policies of eligible risks covered under such ~~quota share~~
1956 ~~primary insurance~~ agreements, the corporation and the authorized
1957 insurer must ~~shall~~ maintain complete and accurate records for
1958 the purpose of exposure and loss reimbursement audits as
1959 required by ~~Florida Hurricane Catastrophe~~ fund rules. The
1960 corporation and the authorized insurer shall each maintain
1961 duplicate copies of policy declaration pages and supporting
1962 claims documents.

1963 g. The corporation board shall establish in its plan of
1964 operation standards for quota share agreements which ensure that
1965 there is no discriminatory application among insurers as to the
1966 terms of the ~~quota share~~ agreements, pricing of the ~~quota share~~
1967 agreements, incentive provisions if any, and consideration paid
1968 for servicing policies or adjusting claims.

1969 h. The quota share primary insurance agreement between the
1970 corporation and an authorized insurer must set forth the
1971 specific terms under which coverage is provided, including, but
1972 not limited to, the sale and servicing of policies issued under

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1973 the agreement by the insurance agent of the authorized insurer
1974 producing the business, the reporting of information concerning
1975 eligible risks, the payment of premium to the corporation, and
1976 arrangements for the adjustment and payment of hurricane claims
1977 incurred on eligible risks by the claims adjuster and personnel
1978 of the authorized insurer. Entering into a quota sharing
1979 insurance agreement between the corporation and an authorized
1980 insurer is ~~shall be~~ voluntary and at the discretion of the
1981 authorized insurer.

1982 3.a. May provide that the corporation may employ or
1983 otherwise contract with individuals or other entities to provide
1984 administrative or professional services that may be appropriate
1985 to effectuate the plan. The corporation may ~~shall have the power~~
1986 ~~to~~ borrow funds, by issuing bonds or by incurring other
1987 indebtedness, and shall have other powers reasonably necessary
1988 to effectuate the requirements of this subsection, including,
1989 without limitation, the power to issue bonds and incur other
1990 indebtedness in order to refinance outstanding bonds or other
1991 indebtedness. The corporation ~~may, but is not required to,~~ seek
1992 judicial validation of its bonds or other indebtedness under
1993 chapter 75. The corporation may issue bonds or incur other
1994 indebtedness, or have bonds issued on its behalf by a unit of
1995 local government pursuant to subparagraph (q)2.~~7~~ in the absence
1996 of a hurricane or other weather-related event, upon a
1997 determination by the corporation, subject to approval by the
1998 office, that such action would enable it to efficiently meet the
1999 financial obligations of the corporation and that such
2000 financings are reasonably necessary to effectuate the
2001 requirements of this subsection. The corporation may ~~is~~

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2002 ~~authorized to~~ take all actions needed to facilitate tax-free
2003 status for ~~any~~ such bonds or indebtedness, including formation
2004 of trusts or other affiliated entities. The corporation may
2005 ~~shall have the authority to~~ pledge assessments, projected
2006 recoveries from the Florida Hurricane Catastrophe Fund, other
2007 reinsurance recoverables, market equalization and other
2008 surcharges, and other funds available to the corporation as
2009 security for bonds or other indebtedness. In recognition of s.
2010 10, Art. I of the State Constitution, prohibiting the impairment
2011 of obligations of contracts, it is the intent of the Legislature
2012 that no action be taken whose purpose is to impair any bond
2013 indenture or financing agreement or any revenue source committed
2014 by contract to such bond or other indebtedness.

2015 b. To ensure that the corporation is operating in an
2016 efficient and economic manner while providing quality service to
2017 policyholders, applicants, and agents, the board shall
2018 commission an independent third-party consultant having
2019 expertise in insurance company management or insurance company
2020 management consulting to prepare a report and make
2021 recommendations on the relative costs and benefits of
2022 outsourcing various policy issuance and service functions to
2023 private servicing carriers or entities performing similar
2024 functions in the private market for a fee, rather than
2025 performing such functions in house. In making such
2026 recommendations, the consultant shall consider how other
2027 residual markets, both in this state and around the country,
2028 outsource appropriate functions or use servicing carriers to
2029 better match expenses with revenues that fluctuate based on a
2030 widely varying policy count. The report must be completed by

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2031 July 1, 2012. Upon receiving the report, the board shall develop
2032 a plan to implement the report and submit the plan for review,
2033 modification, and approval to the Financial Services Commission.
2034 Upon the commission's approval of the plan, the board shall
2035 begin implementing the plan by January 1, 2013.

2036 4.a. Must require that the corporation operate subject to
2037 the supervision and approval of a board of governors consisting
2038 of eight individuals who are residents of this state, from
2039 different geographical areas of this state.

2040 a. The Governor, the Chief Financial Officer, the President
2041 of the Senate, and the Speaker of the House of Representatives
2042 shall each appoint two members of the board. At least one of the
2043 two members appointed by each appointing officer must have
2044 demonstrated expertise in insurance, and is deemed to be within
2045 the scope of the exemption provided in s. 112.313(7)(b). The
2046 Chief Financial Officer shall designate one of the appointees as
2047 chair. All board members serve at the pleasure of the appointing
2048 officer. All members of the board ~~of governors~~ are subject to
2049 removal at will by the officers who appointed them. All board
2050 members, including the chair, must be appointed to serve for 3-
2051 year terms beginning annually on a date designated by the plan.
2052 However, for the first term beginning on or after July 1, 2009,
2053 each appointing officer shall appoint one member of the board
2054 for a 2-year term and one member for a 3-year term. A ~~Any~~ board
2055 vacancy shall be filled for the unexpired term by the appointing
2056 officer. The Chief Financial Officer shall appoint a technical
2057 advisory group to provide information and advice to the board ~~of~~
2058 ~~governors~~ in connection with the board's duties under this
2059 subsection. The executive director and senior managers of the

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2060 corporation shall be engaged by the board and serve at the
2061 pleasure of the board. Any executive director appointed on or
2062 after July 1, 2006, is subject to confirmation by the Senate.
2063 The executive director is responsible for employing other staff
2064 as the corporation may require, subject to review and
2065 concurrence by the board.

2066 b. The board shall create a Market Accountability Advisory
2067 Committee to assist the corporation in developing awareness of
2068 its rates and its customer and agent service levels in
2069 relationship to the voluntary market insurers writing similar
2070 coverage.

2071 (I) The members of the advisory committee ~~shall~~ consist of
2072 the following 11 persons, one of whom must be elected chair by
2073 the members of the committee: four representatives, one
2074 appointed by the Florida Association of Insurance Agents, one by
2075 the Florida Association of Insurance and Financial Advisors, one
2076 by the Professional Insurance Agents of Florida, and one by the
2077 Latin American Association of Insurance Agencies; three
2078 representatives appointed by the insurers with the three highest
2079 voluntary market share of residential property insurance
2080 business in the state; one representative from the Office of
2081 Insurance Regulation; one consumer appointed by the board who is
2082 insured by the corporation at the time of appointment to the
2083 committee; one representative appointed by the Florida
2084 Association of Realtors; and one representative appointed by the
2085 Florida Bankers Association. All members shall be appointed to
2086 ~~must serve for~~ 3-year terms and may serve for consecutive terms.

2087 (II) The committee shall report to the corporation at each
2088 board meeting on insurance market issues which may include rates

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2089 and rate competition with the voluntary market; service,
2090 including policy issuance, claims processing, and general
2091 responsiveness to policyholders, applicants, and agents; and
2092 matters relating to depopulation.

2093 5. Must provide a procedure for determining the eligibility
2094 of a risk for coverage, as follows:

2095 a. Subject to ~~the provisions of~~ s. 627.3517, with respect
2096 to personal lines residential risks, if the risk is offered
2097 coverage from an authorized insurer at the insurer's approved
2098 rate under ~~either~~ a standard policy including wind coverage or,
2099 if consistent with the insurer's underwriting rules as filed
2100 with the office, a basic policy including wind coverage, for a
2101 new application to the corporation for coverage, the risk is not
2102 eligible for any policy issued by the corporation unless the
2103 premium for coverage from the authorized insurer is more than 15
2104 percent greater than the premium for comparable coverage from
2105 the corporation. If the risk is not able to obtain ~~any~~ such
2106 offer, the risk is eligible for ~~either~~ a standard policy
2107 including wind coverage or a basic policy including wind
2108 coverage issued by the corporation; however, if the risk could
2109 not be insured under a standard policy including wind coverage
2110 regardless of market conditions, the risk is ~~shall be~~ eligible
2111 for a basic policy including wind coverage unless rejected under
2112 subparagraph 8. However, ~~with regard to~~ a policyholder of the
2113 corporation or a policyholder removed from the corporation
2114 through an assumption agreement until the end of the assumption
2115 period, ~~the policyholder~~ remains eligible for coverage from the
2116 corporation regardless of any offer of coverage from an
2117 authorized insurer or surplus lines insurer. The corporation

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2118 shall determine the type of policy to be provided on the basis
2119 of objective standards specified in the underwriting manual and
2120 based on generally accepted underwriting practices.

2121 (I) If the risk accepts an offer of coverage through the
2122 market assistance plan or ~~an offer of coverage~~ through a
2123 mechanism established by the corporation before a policy is
2124 issued to the risk by the corporation or during the first 30
2125 days of coverage by the corporation, and the producing agent who
2126 submitted the application to the plan or to the corporation is
2127 not currently appointed by the insurer, the insurer shall:

2128 (A) Pay to the producing agent of record of the policy~~r~~ for
2129 the first year, an amount that is the greater of the insurer's
2130 usual and customary commission for the type of policy written or
2131 a fee equal to the usual and customary commission of the
2132 corporation; or

2133 (B) Offer to allow the producing agent of record of the
2134 policy to continue servicing the policy for at least ~~a period of~~
2135 ~~not less than~~ 1 year and offer to pay the agent the greater of
2136 the insurer's or the corporation's usual and customary
2137 commission for the type of policy written.

2138
2139 If the producing agent is unwilling or unable to accept
2140 appointment, the new insurer shall pay the agent in accordance
2141 with sub-sub-sub-subparagraph (A).

2142 (II) If ~~When~~ the corporation enters into a contractual
2143 agreement for a take-out plan, the producing agent of record of
2144 the corporation policy is entitled to retain any unearned
2145 commission on the policy, and the insurer shall:

2146 (A) Pay to the producing agent of record ~~of the corporation~~

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2147 ~~policy~~, for the first year, an amount that is the greater of the
2148 insurer's usual and customary commission for the type of policy
2149 written or a fee equal to the usual and customary commission of
2150 the corporation; or

2151 (B) Offer to allow the producing agent of record ~~of the~~
2152 ~~corporation policy~~ to continue servicing the policy for at least
2153 ~~a period of not less than~~ 1 year and offer to pay the agent the
2154 greater of the insurer's or the corporation's usual and
2155 customary commission for the type of policy written.

2156

2157 If the producing agent is unwilling or unable to accept
2158 appointment, the new insurer shall pay the agent in accordance
2159 with sub-sub-sub-paragraph (A).

2160 b. With respect to commercial lines residential risks, for
2161 a new application to the corporation for coverage, if the risk
2162 is offered coverage under a policy including wind coverage from
2163 an authorized insurer at its approved rate, the risk is not
2164 eligible for a ~~any~~ policy issued by the corporation unless the
2165 premium for coverage from the authorized insurer is more than 15
2166 percent greater than the premium for comparable coverage from
2167 the corporation. If the risk is not able to obtain any such
2168 offer, the risk is eligible for a policy including wind coverage
2169 issued by the corporation. However, ~~with regard to~~ a
2170 policyholder of the corporation or a policyholder removed from
2171 the corporation through an assumption agreement until the end of
2172 the assumption period, ~~the policyholder~~ remains eligible for
2173 coverage from the corporation regardless of an ~~any~~ offer of
2174 coverage from an authorized insurer or surplus lines insurer.

2175 (I) If the risk accepts an offer of coverage through the

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2176 market assistance plan or ~~an offer of coverage~~ through a
2177 mechanism established by the corporation before a policy is
2178 issued to the risk by the corporation or during the first 30
2179 days of coverage by the corporation, and the producing agent who
2180 submitted the application to the plan or the corporation is not
2181 currently appointed by the insurer, the insurer shall:

2182 (A) Pay to the producing agent of record of the policy, for
2183 the first year, an amount that is the greater of the insurer's
2184 usual and customary commission for the type of policy written or
2185 a fee equal to the usual and customary commission of the
2186 corporation; or

2187 (B) Offer to allow the producing agent of record of the
2188 policy to continue servicing the policy for at least ~~a period of~~
2189 ~~not less than~~ 1 year and offer to pay the agent the greater of
2190 the insurer's or the corporation's usual and customary
2191 commission for the type of policy written.

2192

2193 If the producing agent is unwilling or unable to accept
2194 appointment, the new insurer shall pay the agent in accordance
2195 with sub-sub-sub-subparagraph (A).

2196 (II) If ~~When~~ the corporation enters into a contractual
2197 agreement for a take-out plan, the producing agent of record of
2198 the corporation policy is entitled to retain any unearned
2199 commission on the policy, and the insurer shall:

2200 (A) Pay to the producing agent of record ~~of the corporation~~
2201 policy, for the first year, an amount that is the greater of the
2202 insurer's usual and customary commission for the type of policy
2203 written or a fee equal to the usual and customary commission of
2204 the corporation; or

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2205 (B) Offer to allow the producing agent of record ~~of the~~
2206 ~~corporation policy~~ to continue servicing the policy for at least
2207 ~~a period of not less than~~ 1 year and offer to pay the agent the
2208 greater of the insurer's or the corporation's usual and
2209 customary commission for the type of policy written.

2210
2211 If the producing agent is unwilling or unable to accept
2212 appointment, the new insurer shall pay the agent in accordance
2213 with sub-sub-sub-subparagraph (A).

2214 c. For purposes of determining comparable coverage under
2215 sub-subparagraphs a. and b., the comparison must ~~shall~~ be based
2216 on those forms and coverages that are reasonably comparable. The
2217 corporation may rely on a determination of comparable coverage
2218 and premium made by the producing agent who submits the
2219 application to the corporation, made in the agent's capacity as
2220 the corporation's agent. A comparison may be made solely of the
2221 premium with respect to the main building or structure only on
2222 the following basis: the same coverage A or other building
2223 limits; the same percentage hurricane deductible that applies on
2224 an annual basis or that applies to each hurricane for commercial
2225 residential property; the same percentage of ordinance and law
2226 coverage, if the same limit is offered by both the corporation
2227 and the authorized insurer; the same mitigation credits, to the
2228 extent the same types of credits are offered both by the
2229 corporation and the authorized insurer; the same method for loss
2230 payment, such as replacement cost or actual cash value, if the
2231 same method is offered both by the corporation and the
2232 authorized insurer in accordance with underwriting rules; and
2233 any other form or coverage that is reasonably comparable as

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2234 determined by the board. If an application is submitted to the
2235 corporation for wind-only coverage in the coastal ~~high-risk~~
2236 account, the premium for the corporation's wind-only policy plus
2237 the premium for the ex-wind policy that is offered by an
2238 authorized insurer to the applicant must ~~shall~~ be compared to
2239 the premium for multiperil coverage offered by an authorized
2240 insurer, subject to the standards for comparison specified in
2241 this subparagraph. If the corporation or the applicant requests
2242 from the authorized insurer a breakdown of the premium of the
2243 offer by types of coverage so that a comparison may be made by
2244 the corporation or its agent and the authorized insurer refuses
2245 or is unable to provide such information, the corporation may
2246 treat the offer as not being an offer of coverage from an
2247 authorized insurer at the insurer's approved rate.

2248 6. Must include rules for classifications of risks and
2249 rates ~~therefor~~.

2250 7. Must provide that if premium and investment income for
2251 an account attributable to a particular calendar year are in
2252 excess of projected losses and expenses for the account
2253 attributable to that year, such excess shall be held in surplus
2254 in the account. Such surplus must ~~shall~~ be available to defray
2255 deficits in that account as to future years and ~~shall be~~ used
2256 for that purpose before ~~prior to~~ assessing assessable insurers
2257 and assessable insureds as to any calendar year.

2258 8. Must provide objective criteria and procedures to be
2259 uniformly applied to ~~for~~ all applicants in determining whether
2260 an individual risk is so hazardous as to be uninsurable. In
2261 making this determination and in establishing the criteria and
2262 procedures, the following must ~~shall~~ be considered:

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2263 a. Whether the likelihood of a loss for the individual risk
2264 is substantially higher than for other risks of the same class;
2265 and

2266 b. Whether the uncertainty associated with the individual
2267 risk is such that an appropriate premium cannot be determined.

2268
2269 The acceptance or rejection of a risk by the corporation shall
2270 be construed as the private placement of insurance, and the
2271 provisions of chapter 120 do ~~shall~~ not apply.

2272 9. Must provide that the corporation ~~shall~~ make its best
2273 efforts to procure catastrophe reinsurance at reasonable rates,
2274 to cover its projected 100-year probable maximum loss as
2275 determined by the board of governors.

2276 10. The policies issued by the corporation must provide
2277 that, if the corporation or the market assistance plan obtains
2278 an offer from an authorized insurer to cover the risk at its
2279 approved rates, the risk is no longer eligible for renewal
2280 through the corporation, except as otherwise provided in this
2281 subsection.

2282 11. Corporation policies and applications must include a
2283 notice that the corporation policy could, under this section, be
2284 replaced with a policy issued by an authorized insurer which
2285 ~~that~~ does not provide coverage identical to the coverage
2286 provided by the corporation. The notice must ~~shall~~ also specify
2287 that acceptance of corporation coverage creates a conclusive
2288 presumption that the applicant or policyholder is aware of this
2289 potential.

2290 12. May establish, subject to approval by the office,
2291 different eligibility requirements and operational procedures

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2292 for any line or type of coverage for any specified county or
2293 area if the board determines that such changes ~~to the~~
2294 ~~eligibility requirements and operational procedures~~ are
2295 justified due to the voluntary market being sufficiently stable
2296 and competitive in such area or for such line or type of
2297 coverage and that consumers who, in good faith, are unable to
2298 obtain insurance through the voluntary market through ordinary
2299 methods ~~would~~ continue to have access to coverage from the
2300 corporation. If ~~When~~ coverage is sought in connection with a
2301 real property transfer, the ~~such~~ requirements and procedures may
2302 ~~shall~~ not provide ~~for~~ an effective date of coverage later than
2303 the date of the closing of the transfer as established by the
2304 transferor, the transferee, and, if applicable, the lender.

2305 13. Must provide that, with respect to the coastal high-
2306 ~~risk~~ account, any assessable insurer with a surplus as to
2307 policyholders of \$25 million or less writing 25 percent or more
2308 of its total countrywide property insurance premiums in this
2309 state may petition the office, within the first 90 days of each
2310 calendar year, to qualify as a limited apportionment company. A
2311 regular assessment levied by the corporation on a limited
2312 apportionment company for a deficit incurred by the corporation
2313 for the coastal high-risk account ~~in 2006 or thereafter~~ may be
2314 paid to the corporation on a monthly basis as the assessments
2315 are collected by the limited apportionment company from its
2316 insureds pursuant to s. 627.3512, but the regular assessment
2317 must be paid in full within 12 months after being levied by the
2318 corporation. A limited apportionment company shall collect from
2319 its policyholders any emergency assessment imposed under sub-
2320 subparagraph (b)3.d. The plan must ~~shall~~ provide that, if the

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2321 office determines that any regular assessment will result in an
2322 impairment of the surplus of a limited apportionment company,
2323 the office may direct that all or part of such assessment be
2324 deferred as provided in subparagraph (q)4. However, ~~there shall~~
2325 ~~be no limitation or deferment of~~ an emergency assessment to be
2326 collected from policyholders under sub-subparagraph (b)3.d. may
2327 not be limited or deferred.

2328 14. Must provide that the corporation appoint as its
2329 licensed agents only those agents who also hold an appointment
2330 as defined in s. 626.015(3) with an insurer who at the time of
2331 the agent's initial appointment by the corporation is authorized
2332 to write and is actually writing personal lines residential
2333 property coverage, commercial residential property coverage, or
2334 commercial nonresidential property coverage within the state.

2335 15. Must provide, ~~by July 1, 2007,~~ a premium payment plan
2336 option to its policyholders which, ~~allows~~ at a minimum, allows
2337 for quarterly and semiannual payment of premiums. A monthly
2338 payment plan may, but is not required to, be offered.

2339 16. Must limit coverage on mobile homes or manufactured
2340 homes built before ~~prior to~~ 1994 to actual cash value of the
2341 dwelling rather than replacement costs of the dwelling.

2342 17. May provide such limits of coverage as the board
2343 determines, consistent with the requirements of this subsection.

2344 18. May require commercial property to meet specified
2345 hurricane mitigation construction features as a condition of
2346 eligibility for coverage.

2347 19. Must provide that new or renewal policies issued by the
2348 corporation on or after January 1, 2012, which cover sinkhole
2349 loss do not include coverage for any loss to appurtenant

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2350 structures, driveways, sidewalks, decks, or patios that are
2351 directly or indirectly caused by sinkhole activity. The
2352 corporation shall exclude such coverage using a notice of
2353 coverage change, which may be included with the policy renewal,
2354 and not by issuance of a notice of nonrenewal of the excluded
2355 coverage upon renewal of the current policy.

2356 20. As of January 1, 2012, must require that the agent
2357 obtain from an applicant for coverage from the corporation an
2358 acknowledgement signed by the applicant, which includes, at a
2359 minimum, the following statement:

2360
2361 ACKNOWLEDGEMENT OF POTENTIAL SURCHARGE
2362 AND ASSESSMENT LIABILITY:
2363

2364 1. AS A POLICYHOLDER OF CITIZENS PROPERTY
2365 INSURANCE CORPORATION, I UNDERSTAND THAT IF THE
2366 CORPORATION SUSTAINS A DEFICIT AS A RESULT OF
2367 HURRICANE LOSSES OR FOR ANY OTHER REASON, MY POLICY
2368 COULD BE SUBJECT TO SURCHARGES, WHICH WILL BE DUE AND
2369 PAYABLE UPON RENEWAL, CANCELLATION, OR TERMINATION OF
2370 THE POLICY, AND THAT THE SURCHARGES COULD BE AS HIGH
2371 AS 45 PERCENT OF MY PREMIUM, OR A DIFFERENT AMOUNT AS
2372 IMPOSED BY THE FLORIDA LEGISLATURE.

2373 2. I ALSO UNDERSTAND THAT I MAY BE SUBJECT TO
2374 EMERGENCY ASSESSMENTS TO THE SAME EXTENT AS
2375 POLICYHOLDERS OF OTHER INSURANCE COMPANIES, OR A
2376 DIFFERENT AMOUNT AS IMPOSED BY THE FLORIDA
2377 LEGISLATURE.

2378 3. I ALSO UNDERSTAND THAT CITIZENS PROPERTY

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2379 INSURANCE CORPORATION IS NOT SUPPORTED BY THE FULL
2380 FAITH AND CREDIT OF THE STATE OF FLORIDA.

2381
2382 a. The corporation shall maintain, in electronic format or
2383 otherwise, a copy of the applicant's signed acknowledgement and
2384 provide a copy of the statement to the policyholder as part of
2385 the first renewal after the effective date of this subparagraph.

2386 b. The signed acknowledgement form creates a conclusive
2387 presumption that the policyholder understood and accepted his or
2388 her potential surcharge and assessment liability as a
2389 policyholder of the corporation.

2390 (d)1. All prospective employees for senior management
2391 positions, as defined by the plan of operation, are subject to
2392 background checks as a prerequisite for employment. The office
2393 shall conduct the background checks ~~on such prospective~~
2394 ~~employees~~ pursuant to ss. 624.34, 624.404(3), and 628.261.

2395 2. On or before July 1 of each year, employees of the
2396 corporation must ~~are required to~~ sign and submit a statement
2397 attesting that they do not have a conflict of interest, as
2398 defined in part III of chapter 112. As a condition of
2399 employment, all prospective employees must ~~are required to~~ sign
2400 and submit to the corporation a conflict-of-interest statement.

2401 3. Senior managers and members of the board of governors
2402 are subject to ~~the provisions of~~ part III of chapter 112,
2403 including, but not limited to, the code of ethics and public
2404 disclosure and reporting of financial interests, pursuant to s.
2405 112.3145. Notwithstanding s. 112.3143(2), a board member may not
2406 vote on any measure that would inure to his or her special
2407 private gain or loss; that he or she knows would inure to the

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2408 special private gain or loss of any principal by whom he or she
2409 is retained or to the parent organization or subsidiary of a
2410 corporate principal by which he or she is retained, other than
2411 an agency as defined in s. 112.312; or that he or she knows
2412 would inure to the special private gain or loss of a relative or
2413 business associate of the public officer. Before the vote is
2414 taken, such member shall publicly state to the assembly the
2415 nature of his or her interest in the matter from which he or she
2416 is abstaining from voting and, within 15 days after the vote
2417 occurs, disclose the nature of his or her interest as a public
2418 record in a memorandum filed with the person responsible for
2419 recording the minutes of the meeting, who shall incorporate the
2420 memorandum in the minutes. Senior managers and board members are
2421 also required to file such disclosures with the Commission on
2422 Ethics and the Office of Insurance Regulation. The executive
2423 director of the corporation or his or her designee shall notify
2424 each existing and newly appointed ~~and existing appointed~~ member
2425 of the board of governors and senior managers of their duty to
2426 comply with the reporting requirements of part III of chapter
2427 112. At least quarterly, the executive director or his or her
2428 designee shall submit to the Commission on Ethics a list of
2429 names of the senior managers and members of the board of
2430 governors who are subject to the public disclosure requirements
2431 under s. 112.3145.

2432 4. Notwithstanding s. 112.3148 or s. 112.3149, or any other
2433 provision of law, an employee or board member may not knowingly
2434 accept, directly or indirectly, any gift or expenditure from a
2435 person or entity, or an employee or representative of such
2436 person or entity, which ~~that~~ has a contractual relationship with

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2437 the corporation or who is under consideration for a contract. An
2438 employee or board member who fails to comply with subparagraph
2439 3. or this subparagraph is subject to penalties provided under
2440 ss. 112.317 and 112.3173.

2441 5. Any senior manager of the corporation who is employed on
2442 or after January 1, 2007, regardless of the date of hire, who
2443 subsequently retires or terminates employment is prohibited from
2444 representing another person or entity before the corporation for
2445 2 years after retirement or termination of employment from the
2446 corporation.

2447 6. Any senior manager of the corporation who is employed on
2448 or after January 1, 2007, regardless of the date of hire, who
2449 subsequently retires or terminates employment is prohibited from
2450 having any employment or contractual relationship for 2 years
2451 with an insurer that has entered into a take-out bonus agreement
2452 with the corporation.

2453 (n)1. Rates for coverage provided by the corporation must
2454 ~~shall~~ be actuarially sound and subject to ~~the requirements of s.~~
2455 627.062, except as otherwise provided in this paragraph. The
2456 corporation shall file its recommended rates with the office at
2457 least annually. The corporation shall provide any additional
2458 information regarding the rates which the office requires. The
2459 office shall consider the recommendations of the board and issue
2460 a final order establishing the rates for the corporation within
2461 45 days after the recommended rates are filed. The corporation
2462 may not pursue an administrative challenge or judicial review of
2463 the final order of the office.

2464 2. In addition to the rates otherwise determined pursuant
2465 to this paragraph, the corporation shall impose and collect an

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2466 amount equal to the premium tax provided ~~for~~ in s. 624.509 to
2467 augment the financial resources of the corporation.

2468 3. After the public hurricane loss-projection model under
2469 s. 627.06281 has been found to be accurate and reliable by the
2470 Florida Commission on Hurricane Loss Projection Methodology, the
2471 ~~that~~ model shall serve as the minimum benchmark for determining
2472 the windstorm portion of the corporation's rates. This
2473 subparagraph does not require or allow the corporation to adopt
2474 rates lower than the rates otherwise required or allowed by this
2475 paragraph.

2476 4. The rate filings for the corporation which were approved
2477 by the office and ~~which~~ took effect January 1, 2007, are
2478 rescinded, except for those rates that were lowered. As soon as
2479 possible, the corporation shall begin using the lower rates that
2480 were in effect on December 31, 2006, and ~~shall~~ provide refunds
2481 to policyholders who ~~have~~ paid higher rates as a result of that
2482 rate filing. The rates in effect on December 31, 2006, ~~shall~~
2483 remain in effect for the 2007 and 2008 calendar years except for
2484 any rate change that results in a lower rate. The next rate
2485 change that may increase rates shall take effect pursuant to a
2486 new rate filing recommended by the corporation and established
2487 by the office, subject to ~~the requirements of~~ this paragraph.

2488 5. Beginning on July 15, 2009, and annually ~~each year~~
2489 thereafter, the corporation must make a recommended actuarially
2490 sound rate filing for each personal and commercial line of
2491 business it writes, to be effective no earlier than January 1,
2492 2010.

2493 6. Beginning on or after January 1, 2010, and
2494 notwithstanding the board's recommended rates and the office's

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2495 final order regarding the corporation's filed rates under
2496 subparagraph 1., the corporation shall annually implement a rate
2497 increase ~~each year~~ which, except for sinkhole coverage, does not
2498 exceed 10 percent for any single policy issued by the
2499 corporation, excluding coverage changes and surcharges.

2500 7. The corporation may also implement an increase to
2501 reflect the effect on the corporation of the cash buildup factor
2502 pursuant to s. 215.555(5)(b).

2503 8. The corporation's implementation of rates as prescribed
2504 in subparagraph 6. shall cease for any line of business written
2505 by the corporation upon the corporation's implementation of
2506 actuarially sound rates. Thereafter, the corporation shall
2507 annually make a recommended actuarially sound rate filing for
2508 each commercial and personal line of business the corporation
2509 writes.

2510 (v)1. Effective July 1, 2002, policies of the Residential
2511 Property and Casualty Joint Underwriting Association ~~shall~~
2512 become policies of the corporation. All obligations, rights,
2513 assets and liabilities of the ~~Residential Property and Casualty~~
2514 ~~Joint Underwriting~~ association, including bonds, note and debt
2515 obligations, and the financing documents pertaining to them
2516 become those of the corporation as of July 1, 2002. The
2517 corporation is not required to issue endorsements or
2518 certificates of assumption to insureds during the remaining term
2519 of in-force transferred policies.

2520 2. Effective July 1, 2002, policies of the Florida
2521 Windstorm Underwriting Association are transferred to the
2522 corporation and ~~shall~~ become policies of the corporation. All
2523 obligations, rights, assets, and liabilities of the ~~Florida~~

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2524 ~~Windstorm Underwriting~~ association, including bonds, note and
2525 debt obligations, and the financing documents pertaining to them
2526 are transferred to and assumed by the corporation on July 1,
2527 2002. The corporation is not required to issue endorsements or
2528 certificates of assumption to insureds during the remaining term
2529 of in-force transferred policies.

2530 3. The Florida Windstorm Underwriting Association and the
2531 Residential Property and Casualty Joint Underwriting Association
2532 shall take all actions necessary ~~as may be proper~~ to further
2533 evidence the transfers and ~~shall~~ provide the documents and
2534 instruments of further assurance as may reasonably be requested
2535 by the corporation for that purpose. The corporation shall
2536 execute assumptions and instruments as the trustees or other
2537 parties to the financing documents of the Florida Windstorm
2538 Underwriting Association or the Residential Property and
2539 Casualty Joint Underwriting Association may reasonably request
2540 to further evidence the transfers and assumptions, which
2541 transfers and assumptions, however, are effective on the date
2542 provided under this paragraph whether or not, and regardless of
2543 the date on which, the assumptions or instruments are executed
2544 by the corporation. Subject to the relevant financing documents
2545 pertaining to their outstanding bonds, notes, indebtedness, or
2546 other financing obligations, the moneys, investments,
2547 receivables, choses in action, and other intangibles of the
2548 Florida Windstorm Underwriting Association shall be credited to
2549 the coastal ~~high-risk~~ account of the corporation, and those of
2550 the personal lines residential coverage account and the
2551 commercial lines residential coverage account of the Residential
2552 Property and Casualty Joint Underwriting Association shall be

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2553 credited to the personal lines account and the commercial lines
2554 account, respectively, of the corporation.

2555 4. Effective July 1, 2002, a new applicant for property
2556 insurance coverage who would otherwise have been eligible for
2557 coverage in the Florida Windstorm Underwriting Association is
2558 eligible for coverage from the corporation as provided in this
2559 subsection.

2560 5. The transfer of all policies, obligations, rights,
2561 assets, and liabilities from the Florida Windstorm Underwriting
2562 Association to the corporation and the renaming of the
2563 Residential Property and Casualty Joint Underwriting Association
2564 as the corporation does not ~~shall in no way~~ affect the coverage
2565 with respect to covered policies as defined in s. 215.555(2)(c)
2566 provided to these entities by the Florida Hurricane Catastrophe
2567 Fund. The coverage provided by the ~~Florida Hurricane Catastrophe~~
2568 fund to the Florida Windstorm Underwriting Association based on
2569 its exposures as of June 30, 2002, and each June 30 thereafter
2570 shall be redesignated as coverage for the coastal high-risk
2571 account of the corporation. Notwithstanding any other provision
2572 of law, the coverage provided by the ~~Florida Hurricane~~
2573 ~~Catastrophe~~ fund to the Residential Property and Casualty Joint
2574 Underwriting Association based on its exposures as of June 30,
2575 2002, and each June 30 thereafter shall be transferred to the
2576 personal lines account and the commercial lines account of the
2577 corporation. Notwithstanding any other provision of law, the
2578 coastal high-risk account shall be treated, for all Florida
2579 Hurricane Catastrophe Fund purposes, as if it were a separate
2580 participating insurer with its own exposures, reimbursement
2581 premium, and loss reimbursement. Likewise, the personal lines

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2582 and commercial lines accounts shall be viewed together, for all
2583 ~~Florida Hurricane Catastrophe~~ fund purposes, as if the two
2584 accounts were one and represent a single, separate participating
2585 insurer with its own exposures, reimbursement premium, and loss
2586 reimbursement. The coverage provided by the ~~Florida Hurricane~~
2587 ~~Catastrophe~~ fund to the corporation shall constitute and operate
2588 as a full transfer of coverage from the Florida Windstorm
2589 Underwriting Association and Residential Property and Casualty
2590 Joint Underwriting to the corporation.

2591 (y) It is the intent of the Legislature that the amendments
2592 to this subsection enacted in 2002 should, over time, reduce the
2593 probable maximum windstorm losses in the residual markets and
2594 ~~should reduce~~ the potential assessments to be levied on property
2595 insurers and policyholders statewide. ~~In furtherance of this~~
2596 ~~intent:~~

2597 ~~1. the board shall, on or before February 1 of each year,~~
2598 ~~provide a report to the President of the Senate and the Speaker~~
2599 ~~of the House of Representatives showing the reduction or~~
2600 ~~increase in the 100-year probable maximum loss attributable to~~
2601 ~~wind-only coverages and the quota share program under this~~
2602 ~~subsection combined, as compared to the benchmark 100-year~~
2603 ~~probable maximum loss of the Florida Windstorm Underwriting~~
2604 ~~Association. For purposes of this paragraph, the benchmark 100-~~
2605 ~~year probable maximum loss of the Florida Windstorm Underwriting~~
2606 ~~Association shall be the calculation dated February 2001 and~~
2607 ~~based on November 30, 2000, exposures. In order to ensure~~
2608 ~~comparability of data, the board shall use the same methods for~~
2609 ~~calculating its probable maximum loss as were used to calculate~~
2610 ~~the benchmark probable maximum loss.~~

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2611 ~~2. Beginning December 1, 2010, if the report under~~
2612 ~~subparagraph 1. for any year indicates that the 100-year~~
2613 ~~probable maximum loss attributable to wind-only coverages and~~
2614 ~~the quota share program combined does not reflect a reduction of~~
2615 ~~at least 25 percent from the benchmark, the board shall reduce~~
2616 ~~the boundaries of the high-risk area eligible for wind-only~~
2617 ~~coverages under this subsection in a manner calculated to reduce~~
2618 ~~such probable maximum loss to an amount at least 25 percent~~
2619 ~~below the benchmark.~~

2620 ~~3. Beginning February 1, 2015, if the report under~~
2621 ~~subparagraph 1. for any year indicates that the 100-year~~
2622 ~~probable maximum loss attributable to wind-only coverages and~~
2623 ~~the quota share program combined does not reflect a reduction of~~
2624 ~~at least 50 percent from the benchmark, the boundaries of the~~
2625 ~~high-risk area eligible for wind-only coverages under this~~
2626 ~~subsection shall be reduced by the elimination of any area that~~
2627 ~~is not seaward of a line 1,000 feet inland from the Intracoastal~~
2628 ~~Waterway.~~

2629 Section 16. Paragraph (a) of subsection (5) of section
2630 627.3511, Florida Statutes, is amended to read:

2631 627.3511 Depopulation of Citizens Property Insurance
2632 Corporation.—

2633 (5) APPLICABILITY.—

2634 (a) The take-out bonus provided by subsection (2) and the
2635 exemption from assessment provided by paragraph (3)(a) apply
2636 only if the corporation policy is replaced by ~~either~~ a standard
2637 policy including wind coverage or, if consistent with the
2638 insurer's underwriting rules ~~as~~ filed with the office, a basic
2639 policy including wind coverage; however, for ~~with respect to~~

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2640 risks located in areas where coverage through the coastal high-
2641 ~~risk~~ account of the corporation is available, the replacement
2642 policy need not provide wind coverage. The insurer must renew
2643 the replacement policy at approved rates on substantially
2644 similar terms for four additional 1-year terms, unless canceled
2645 or not renewed by the policyholder. If an insurer assumes the
2646 corporation's obligations for a policy, it must issue a
2647 replacement policy for a 1-year term upon expiration of the
2648 corporation policy and must renew the replacement policy at
2649 approved rates on substantially similar terms for four
2650 additional 1-year terms, unless canceled or not renewed by the
2651 policyholder. For each replacement policy canceled or nonrenewed
2652 by the insurer for any reason during the 5-year coverage period
2653 ~~required by this paragraph~~, the insurer must remove from the
2654 corporation one additional policy covering a risk similar to the
2655 risk covered by the canceled or nonrenewed policy. In addition
2656 ~~to these requirements~~, the corporation must place the bonus
2657 moneys in escrow for ~~a period of~~ 5 years; such moneys may be
2658 released from escrow only to pay claims. If the policy is
2659 canceled or nonrenewed before the end of the 5-year period, the
2660 amount of the take-out bonus must be prorated for the time
2661 period the policy was insured. A take-out bonus provided by
2662 subsection (2) or subsection (6) is ~~shall not be considered~~
2663 premium income for purposes of taxes and assessments under the
2664 Florida Insurance Code and ~~shall~~ remain the property of the
2665 corporation, subject to the prior security interest of the
2666 insurer under the escrow agreement until it is released from
2667 escrow; ~~and~~ after it is released from escrow it is ~~shall be~~
2668 considered an asset of the insurer and credited to the insurer's

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2669 capital and surplus.

2670 Section 17. Paragraph (b) of subsection (2) of section
2671 627.4133, Florida Statutes, is amended to read:

2672 627.4133 Notice of cancellation, nonrenewal, or renewal
2673 premium.—

2674 (2) With respect to any personal lines or commercial
2675 residential property insurance policy, including, but not
2676 limited to, any homeowner's, mobile home owner's, farmowner's,
2677 condominium association, condominium unit owner's, apartment
2678 building, or other policy covering a residential structure or
2679 its contents:

2680 (b) The insurer shall give the named insured written notice
2681 of nonrenewal, cancellation, or termination at least 100 days
2682 before ~~prior to~~ the effective date of the nonrenewal,
2683 cancellation, or termination. However, the insurer shall give at
2684 least 100 days' written notice, or written notice by June 1,
2685 whichever is earlier, for any nonrenewal, cancellation, or
2686 termination that would be effective between June 1 and November
2687 30. The notice must include the reason or reasons for the
2688 nonrenewal, cancellation, or termination, except that:

2689 1. The insurer shall give the named insured written notice
2690 of nonrenewal, cancellation, or termination at least 120 ~~180~~
2691 days prior to the effective date of the nonrenewal,
2692 cancellation, or termination for a named insured whose
2693 residential structure has been insured by that insurer or an
2694 affiliated insurer for at least a 5-year period immediately
2695 prior to the date of the written notice.

2696 2. If ~~When~~ cancellation is for nonpayment of premium, at
2697 least 10 days' written notice of cancellation accompanied by the

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2698 reason therefor must ~~shall~~ be given. As used in this
2699 subparagraph, the term "nonpayment of premium" means failure of
2700 the named insured to discharge when due ~~any~~ of her or his
2701 obligations in connection with the payment of premiums on a
2702 policy or any installment of such premium, whether the premium
2703 is payable directly to the insurer or its agent or indirectly
2704 under any premium finance plan or extension of credit, or
2705 failure to maintain membership in an organization if such
2706 membership is a condition precedent to insurance coverage. The
2707 term "Nonpayment of premium" also means the failure of a
2708 financial institution to honor an insurance applicant's check
2709 after delivery to a licensed agent for payment of a premium,
2710 even if the agent has previously delivered or transferred the
2711 premium to the insurer. If a dishonored check represents the
2712 initial premium payment, the contract and all contractual
2713 obligations are ~~shall be~~ void ab initio unless the nonpayment is
2714 cured within the earlier of 5 days after actual notice by
2715 certified mail is received by the applicant or 15 days after
2716 notice is sent to the applicant by certified mail or registered
2717 mail, and if the contract is void, any premium received by the
2718 insurer from a third party must ~~shall~~ be refunded to that party
2719 in full.

2720 3. If ~~When~~ such cancellation or termination occurs during
2721 the first 90 days ~~during which~~ the insurance is in force and the
2722 insurance is canceled or terminated for reasons other than
2723 nonpayment of premium, at least 20 days' written notice of
2724 cancellation or termination accompanied by the reason therefor
2725 must ~~shall~~ be given unless ~~except where~~ there has been a
2726 material misstatement or misrepresentation or failure to comply

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2727 with the underwriting requirements established by the insurer.

2728 4. The requirement for providing written notice ~~of~~
2729 ~~nonrenewal~~ by June 1 of any nonrenewal that would be effective
2730 between June 1 and November 30 does not apply to the following
2731 situations, but the insurer remains subject to the requirement
2732 to provide such notice at least 100 days before ~~prior to~~ the
2733 effective date of nonrenewal:

2734 a. A policy that is nonrenewed due to a revision in the
2735 coverage for sinkhole losses and catastrophic ground cover
2736 collapse pursuant to s. 627.706, ~~as amended by s. 30, chapter~~
2737 ~~2007-1, Laws of Florida.~~

2738 b. A policy that is nonrenewed by Citizens Property
2739 Insurance Corporation, pursuant to s. 627.351(6), for a policy
2740 that has been assumed by an authorized insurer offering
2741 replacement ~~or renewal~~ coverage to the policyholder is exempt
2742 from the notice requirements of paragraph (a) and this
2743 paragraph. In such cases, the corporation must give the named
2744 insured written notice of nonrenewal at least 45 days before the
2745 effective date of the nonrenewal.

2746
2747 After the policy has been in effect for 90 days, the policy may
2748 ~~shall~~ not be canceled by the insurer unless ~~except when~~ there
2749 has been a material misstatement, a nonpayment of premium, a
2750 failure to comply with underwriting requirements established by
2751 the insurer within 90 days after ~~of~~ the date of effectuation of
2752 coverage, or a substantial change in the risk covered by the
2753 policy or if ~~when~~ the cancellation is for all insureds under
2754 such policies for a given class of insureds. This paragraph does
2755 not apply to individually rated risks having a policy term of

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2756 less than 90 days.

2757 5. Notwithstanding any other provision of law, an insurer
2758 may cancel or nonrenew a property insurance policy after at
2759 least 45 days' notice if the office finds that the early
2760 cancellation of some or all of the insurer's policies is
2761 necessary to protect the best interests of the public or
2762 policyholders and the office approves the insurer's plan for
2763 early cancellation or nonrenewal of some or all of its policies.
2764 The office may base such finding upon the financial condition of
2765 the insurer, lack of adequate reinsurance coverage for hurricane
2766 risk, or other relevant factors. The office may condition its
2767 finding on the consent of the insurer to be placed under
2768 administrative supervision pursuant to s. 624.81 or to the
2769 appointment of a receiver under chapter 631.

2770 6. A policy covering both a home and motor vehicle may be
2771 nonrenewed for any reason applicable to either the property or
2772 motor vehicle insurance after providing 90 days' notice.

2773 Section 18. Section 627.43141, Florida Statutes, is created
2774 to read:

2775 627.43141 Notice of change in policy terms.-

2776 (1) As used in this section, the term:

2777 (a) "Change in policy terms" means the modification,
2778 addition, or deletion of any term, coverage, duty, or condition
2779 from the previous policy. The correction of typographical or
2780 scrivener's errors or the application of mandated legislative
2781 changes is not a change in policy terms.

2782 (b) "Policy" means a written contract of property and
2783 casualty insurance or written agreement for such insurance, by
2784 whatever name called, and includes all clauses, riders,

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2785 endorsements, and papers that are a part of such policy. The
2786 term does not include a binder as defined in s. 627.420 unless
2787 the duration of the binder period exceeds 60 days.

2788 (c) "Renewal" means the issuance and delivery by an insurer
2789 of a policy superseding at the end of the policy period a policy
2790 previously issued and delivered by the same insurer or the
2791 issuance and delivery of a certificate or notice extending the
2792 term of a policy beyond its policy period or term. Any policy
2793 that has a policy period or term of less than 6 months or that
2794 does not have a fixed expiration date shall, for purposes of
2795 this section, be considered as written for successive policy
2796 periods or terms of 6 months.

2797 (2) A renewal policy may contain a change in policy terms.
2798 If a renewal policy does contain such change, the insurer must
2799 give the named insured written notice of the change, which must
2800 be enclosed along with the written notice of renewal premium
2801 required by ss. 627.4133 and 627.728. Such notice shall be
2802 entitled "Notice of Change in Policy Terms."

2803 (3) Although not required, proof of mailing or registered
2804 mailing through the United States Postal Service of the Notice
2805 of Change in Policy Terms to the named insured at the address
2806 shown in the policy is sufficient proof of notice.

2807 (4) Receipt of the premium payment for the renewal policy
2808 by the insurer is deemed to be acceptance of the new policy
2809 terms by the named insured.

2810 (5) If an insurer fails to provide the notice required in
2811 subsection (2), the original policy terms remain in effect until
2812 the next renewal and the proper service of the notice, or until
2813 the effective date of replacement coverage obtained by the named

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2814 insured, whichever occurs first.

2815 (6) The intent of this section is to:

2816 (a) Allow an insurer to make a change in policy terms
2817 without nonrenewing those policyholders that the insurer wishes
2818 to continue insuring.

2819 (b) Alleviate concern and confusion to the policyholder
2820 caused by the required policy nonrenewal for the limited issue
2821 if an insurer intends to renew the insurance policy, but the new
2822 policy contains a change in policy terms.

2823 (c) Encourage policyholders to discuss their coverages with
2824 their insurance agents.

2825 Section 19. Section 627.7011, Florida Statutes, is amended
2826 to read:

2827 627.7011 Homeowners' policies; offer of replacement cost
2828 coverage and law and ordinance coverage.—

2829 (1) ~~Prior to issuing a homeowner's insurance policy on or~~
2830 ~~after October 1, 2005, or prior to the first renewal of a~~
2831 ~~homeowner's insurance policy on or after October 1, 2005, the~~
2832 insurer must offer each of the following:

2833 (a) A policy or endorsement providing that any loss that
2834 ~~which~~ is repaired or replaced will be adjusted on the basis of
2835 replacement costs to the dwelling not exceeding policy limits ~~as~~
2836 ~~to the dwelling~~, rather than actual cash value, but not
2837 including costs necessary to meet applicable laws and ordinances
2838 regulating the construction, use, or repair of any property or
2839 requiring the tearing down of any property, including the costs
2840 of removing debris.

2841 (b) A policy or endorsement providing that, subject to
2842 other policy provisions, any loss that ~~which~~ is repaired or

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2843 replaced at any location will be adjusted on the basis of
2844 replacement costs to the dwelling not exceeding policy limits ~~as~~
2845 ~~to the dwelling~~, rather than actual cash value, and also
2846 including costs necessary to meet applicable laws and ordinances
2847 regulating the construction, use, or repair of any property or
2848 requiring the tearing down of any property, including the costs
2849 of removing debris. ~~However, such~~ additional costs necessary to
2850 meet applicable laws and ordinances may be limited to ~~either~~ 25
2851 percent or 50 percent of the dwelling limit, as selected by the
2852 policyholder, and such coverage applies ~~shall apply~~ only to
2853 repairs of the damaged portion of the structure unless the total
2854 damage to the structure exceeds 50 percent of the replacement
2855 cost of the structure.

2856
2857 An insurer is not required to make the offers required by this
2858 subsection with respect to the issuance or renewal of a
2859 homeowner's policy that contains the provisions specified in
2860 paragraph (b) for law and ordinance coverage limited to 25
2861 percent of the dwelling limit, except that the insurer must
2862 offer the law and ordinance coverage limited to 50 percent of
2863 the dwelling limit. This subsection does not prohibit the offer
2864 of a guaranteed replacement cost policy.

2865 (2) Unless the insurer obtains the policyholder's written
2866 refusal of the policies or endorsements specified in subsection
2867 (1), any policy covering the dwelling is deemed to include the
2868 law and ordinance coverage limited to 25 percent of the dwelling
2869 limit. The rejection or selection of alternative coverage shall
2870 be made on a form approved by the office. The form must ~~shall~~
2871 fully advise the applicant of the nature of the coverage being

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2872 rejected. If this form is signed by a named insured, it is ~~will~~
2873 ~~be~~ conclusively presumed that there was an informed, knowing
2874 rejection of the coverage or election of the alternative
2875 coverage on behalf of all insureds. Unless the policyholder
2876 requests in writing the coverage specified in this section, it
2877 need not be provided in or supplemental to any other policy that
2878 renews, insures, extends, changes, supersedes, or replaces an
2879 existing policy if ~~when~~ the policyholder has rejected the
2880 coverage specified in this section or has selected alternative
2881 coverage. The insurer must provide the ~~such~~ policyholder with
2882 notice of the availability of such coverage in a form approved
2883 by the office at least once every 3 years. The failure to
2884 provide such notice constitutes a violation of this code, but
2885 does not affect the coverage provided under the policy.

2886 (3) In the event of a loss for which a dwelling or personal
2887 property is insured on the basis of replacement costs:

2888 (a) For a dwelling, the insurer must initially pay at least
2889 the actual cash value of the insured loss, less any applicable
2890 deductible. The insurer shall pay any remaining amounts
2891 necessary to perform such repairs as work is performed and
2892 expenses are incurred. If a total loss of a dwelling occurs, the
2893 insurer shall pay the replacement cost coverage without
2894 reservation or holdback of any depreciation in value, pursuant
2895 to s. 627.702.

2896 (b) For personal property:

2897 1. The insurer must offer coverage under which the insurer
2898 is obligated to pay the replacement cost without reservation or
2899 holdback for any depreciation in value, whether or not the
2900 insured replaces the property.

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2901 2. The insurer may also offer coverage under which the
2902 insurer may limit the initial payment to the actual cash value
2903 of the personal property to be replaced, require the insured to
2904 provide receipts for the purchase of the property financed by
2905 the initial payment, use such receipts to make the next payment
2906 requested by the insured for the replacement of insured
2907 property, and continue this process until the insured remits all
2908 receipts up to the policy limits for replacement costs. The
2909 insurer must provide clear notice of this process before the
2910 policy is bound. A policyholder must be provided an actuarially
2911 reasonable premium credit or discount for this coverage. The
2912 insurer may not require the policyholder to advance payment for
2913 the replaced property, the insurer shall pay the replacement
2914 cost without reservation or holdback of any depreciation in
2915 value, whether or not the insured replaces or repairs the
2916 dwelling or property.

2917 (4) ~~A~~ Any homeowner's insurance policy ~~issued or renewed on~~
2918 ~~or after October 1, 2005,~~ must include in bold type no smaller
2919 than 18 points the following statement:

2920 "LAWS AND ORDINANCE COVERAGE IS AN IMPORTANT COVERAGE
2921 THAT YOU MAY WISH TO PURCHASE. YOU MAY ALSO NEED TO
2922 CONSIDER THE PURCHASE OF FLOOD INSURANCE FROM THE
2923 NATIONAL FLOOD INSURANCE PROGRAM. WITHOUT THIS
2924 COVERAGE, YOU MAY HAVE UNCOVERED LOSSES. PLEASE
2925 DISCUSS THESE COVERAGES WITH YOUR INSURANCE AGENT."

2926
2927 The intent of this subsection is to encourage policyholders to
2928 purchase sufficient coverage to protect them in case events
2929 excluded from the standard homeowners policy, such as law and

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2930 ordinance enforcement and flood, combine with covered events to
2931 produce damage or loss to the insured property. The intent is
2932 also to encourage policyholders to discuss these issues with
2933 their insurance agent.

2934 ~~(5) Nothing in This section does not: shall be construed to~~

2935 (a) Apply to policies not considered to be "homeowners'
2936 policies," as that term is commonly understood in the insurance
2937 industry. ~~This section specifically does not~~

2938 (b) Apply to mobile home policies. ~~Nothing in this section~~

2939 (c) Limit ~~shall be construed as limiting~~ the ability of an
2940 ~~any~~ insurer to reject or nonrenew any insured or applicant on
2941 the grounds that the structure does not meet underwriting
2942 criteria applicable to replacement cost or law and ordinance
2943 policies or for other lawful reasons.

2944 (d) ~~(6)~~ ~~This section does not~~ Prohibit an insurer from
2945 limiting its liability under a policy or endorsement providing
2946 that loss will be adjusted on the basis of replacement costs to
2947 the lesser of:

2948 1. ~~(a)~~ The limit of liability shown on the policy
2949 declarations page;

2950 2. ~~(b)~~ The reasonable and necessary cost to repair the
2951 damaged, destroyed, or stolen covered property; or

2952 3. ~~(c)~~ The reasonable and necessary cost to replace the
2953 damaged, destroyed, or stolen covered property.

2954 (e) ~~(7)~~ ~~This section does not~~ Prohibit an insurer from
2955 exercising its right to repair damaged property in compliance
2956 with its policy and s. 627.702(7).

2957 Section 20. Paragraph (a) of subsection (5) of section
2958 627.70131, Florida Statutes, is amended to read:

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2959 627.70131 Insurer's duty to acknowledge communications
2960 regarding claims; investigation.-

2961 (5) (a) Within 90 days after an insurer receives notice of
2962 an initial, reopened, or supplemental a property insurance claim
2963 from a policyholder, the insurer shall pay or deny such claim or
2964 a portion of the claim unless the failure to pay ~~such claim or a~~
2965 ~~portion of the claim~~ is caused by factors beyond the control of
2966 the insurer which reasonably prevent such payment. Any payment
2967 of an initial or supplemental a claim or portion of such a claim
2968 made paid 90 days after the insurer receives notice of the
2969 claim, or made paid more than 15 days after there are no longer
2970 factors beyond the control of the insurer which reasonably
2971 prevented such payment, whichever is later, bears ~~shall bear~~
2972 interest at the rate set forth in s. 55.03. Interest begins to
2973 accrue from the date the insurer receives notice of the claim.
2974 The provisions of this subsection may not be waived, voided, or
2975 nullified by the terms of the insurance policy. If there is a
2976 right to prejudgment interest, the insured shall select whether
2977 to receive prejudgment interest or interest under this
2978 subsection. Interest is payable when the claim or portion of the
2979 claim is paid. Failure to comply with this subsection
2980 constitutes a violation of this code. However, failure to comply
2981 with this subsection does ~~shall~~ not form the sole basis for a
2982 private cause of action.

2983 Section 21. The Legislature finds and declares:

2984 (1) There is a compelling state interest in maintaining a
2985 viable and orderly private-sector market for property insurance
2986 in this state. The lack of a viable and orderly property market
2987 reduces the availability of property insurance coverage to state

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2988 residents, increases the cost of property insurance, and
2989 increases the state's reliance on a residual property insurance
2990 market and its potential for imposing assessments on
2991 policyholders throughout the state.

2992 (2) In 2005, the Legislature revised ss. 627.706-627.7074,
2993 Florida Statutes, to adopt certain geological or technical
2994 terms; to increase reliance on objective, scientific testing
2995 requirements; and generally to reduce the number of sinkhole
2996 claims and related disputes arising under prior law. The
2997 Legislature determined that since the enactment of these
2998 statutory revisions, both private-sector insurers and Citizens
2999 Property Insurance Corporation have, nevertheless, continued to
3000 experience high claims frequency and severity for sinkhole
3001 insurance claims. In addition, many properties remain unrepaired
3002 even after loss payments, which reduces the local property tax
3003 base and adversely affects the real estate market. Therefore,
3004 the Legislature finds that losses associated with sinkhole
3005 claims adversely affect the public health, safety, and welfare
3006 of this state and its citizens.

3007 (3) Pursuant to sections 22 through 27 of this act,
3008 technical or scientific definitions adopted in the 2005
3009 legislation are clarified to implement and advance the
3010 Legislature's intended reduction of sinkhole claims and
3011 disputes. Certain other revisions to ss. 627.706-627.7074,
3012 Florida Statutes, are enacted to advance legislative intent to
3013 rely on scientific or technical determinations relating to
3014 sinkholes and sinkhole claims, reduce the number and cost of
3015 disputes relating to sinkhole claims, and ensure that repairs
3016 are made commensurate with the scientific and technical

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3017 determinations and insurance claims payments.

3018 Section 22. Section 627.706, Florida Statutes, is reordered
3019 and amended to read:

3020 627.706 Sinkhole insurance; catastrophic ground cover
3021 collapse; definitions.—

3022 (1) (a) Every insurer authorized to transact property
3023 insurance in this state must ~~shall~~ provide coverage for a
3024 catastrophic ground cover collapse.

3025 (b) The insurer ~~and~~ shall make available, for an
3026 appropriate additional premium, coverage for sinkhole losses on
3027 any structure, including the contents of personal property
3028 contained therein, to the extent provided in the form to which
3029 the coverage attaches. The insurer may require an inspection of
3030 the property before issuance of sinkhole loss coverage. A policy
3031 for residential property insurance may include a deductible
3032 amount applicable to sinkhole losses equal to 1 percent, 2
3033 percent, 5 percent, or 10 percent of the policy dwelling limits,
3034 with appropriate premium discounts offered with each deductible
3035 amount.

3036 (c) The insurer may restrict catastrophic ground cover
3037 collapse and sinkhole loss coverage to the principal building,
3038 as defined in the applicable policy.

3039 (2) As used in ss. 627.706-627.7074, and as used in
3040 connection with any policy providing coverage for a catastrophic
3041 ground cover collapse or for sinkhole losses, the term:

3042 (a) "Catastrophic ground cover collapse" means geological
3043 activity that results in all the following:

- 3044 1. The abrupt collapse of the ground cover;
- 3045 2. A depression in the ground cover clearly visible to the

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3046 naked eye;

3047 3. Structural damage to the covered building, including the
3048 foundation; and

3049 4. The insured structure being condemned and ordered to be
3050 vacated by the governmental agency authorized by law to issue
3051 such an order for that structure.

3052

3053 Contents coverage applies if there is a loss resulting from a
3054 catastrophic ground cover collapse. ~~Structural~~ Damage consisting
3055 merely of the settling or cracking of a foundation, structure,
3056 or building does not constitute a loss resulting from a
3057 catastrophic ground cover collapse.

3058 (b) "Neutral evaluation" means the alternative dispute
3059 resolution provided in s. 627.7074.

3060 (c) "Neutral evaluator" means a professional engineer or a
3061 professional geologist who has completed a course of study in
3062 alternative dispute resolution designed or approved by the
3063 department for use in the neutral evaluation process and who is
3064 determined by the department to be fair and impartial.

3065 (h) ~~(b)~~ "Sinkhole" means a landform created by subsidence of
3066 soil, sediment, or rock as underlying strata are dissolved by
3067 groundwater. A sinkhole forms ~~may form~~ by collapse into
3068 subterranean voids created by dissolution of limestone or
3069 dolostone or by subsidence as these strata are dissolved.

3070 (j) ~~(e)~~ "Sinkhole loss" means structural damage to the
3071 covered building, including the foundation, caused by sinkhole
3072 activity. Contents coverage and additional living expenses ~~shall~~
3073 apply only if there is structural damage to the covered building
3074 caused by sinkhole activity.

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3075 (i)~~(d)~~ "Sinkhole activity" means settlement or systematic
3076 weakening of the earth supporting the covered building ~~such~~
3077 ~~property~~ only if the ~~when such~~ settlement or systematic
3078 weakening results from contemporaneous movement or raveling of
3079 soils, sediments, or rock materials into subterranean voids
3080 created by the effect of water on a limestone or similar rock
3081 formation.

3082 (f)~~(e)~~ "Professional engineer" means a person, as defined
3083 in s. 471.005, who has a bachelor's degree or higher in
3084 engineering ~~with a specialty in the geotechnical engineering~~
3085 ~~field~~. A professional engineer must also have ~~geotechnical~~
3086 experience and expertise in the identification of sinkhole
3087 activity as well as other potential causes of structural damage
3088 ~~to the structure~~.

3089 (g)~~(f)~~ "Professional geologist" means a person, as defined
3090 in ~~by~~ s. 492.102, who has a bachelor's degree or higher in
3091 geology or related earth science and ~~with expertise in the~~
3092 ~~geology of Florida~~. A professional geologist ~~must have~~
3093 ~~geological~~ experience and expertise in the identification of
3094 sinkhole activity as well as other potential geologic causes of
3095 structural damage ~~to the structure~~.

3096 (k) "Structural damage" means a covered building,
3097 regardless of the date of its construction, has experienced the
3098 following:

3099 1. Interior floor displacement or deflection in excess of
3100 acceptable variances as defined in ACI 117-90 or the Florida
3101 Building Code, which results in settlement related damage to the
3102 interior such that the interior building structure or members
3103 become unfit for service or represents a safety hazard as

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3104 defined within the Florida Building Code;

3105 2. Foundation displacement or deflection in excess of
3106 acceptable variances as defined in ACI 318-95 or the Florida
3107 Building Code, which results in settlement related damage to the
3108 primary structural members or primary structural systems that
3109 prevents those members or systems from supporting the loads and
3110 forces they were designed to support to the extent that stresses
3111 in those primary structural members or primary structural
3112 systems exceeds one and one-third the nominal strength allowed
3113 under the Florida Building Code for new buildings of similar
3114 structure, purpose, or location;

3115 3. Damage that results in listing, leaning, or buckling of
3116 the exterior load bearing walls or other vertical primary
3117 structural members to such an extent that a plumb line passing
3118 through the center of gravity does not fall inside the middle
3119 one-third of the base as defined within the Florida Building
3120 Code;

3121 4. Damage that results in the building, or any portion of
3122 the building containing primary structural members or primary
3123 structural systems, being significantly likely to imminently
3124 collapse because of the movement or instability of the ground
3125 within the influence zone of the supporting ground within the
3126 sheer plane necessary for the purpose of supporting such
3127 building as defined within the Florida Building Code; or

3128 5. Damage occurring on or after October 15, 2005, that
3129 qualifies as "substantial structural damage" as defined in the
3130 Florida Building Code.

3131 (d) "Primary structural member" means a structural element
3132 designed to provide support and stability for the vertical or

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3133 lateral loads of the overall structure.

3134 (e) "Primary structural system" means an assemblage of
3135 primary structural members.

3136 ~~(3) On or before June 1, 2007, Every insurer authorized to~~
3137 ~~transact property insurance in this state shall make a proper~~
3138 ~~filing with the office for the purpose of extending the~~
3139 ~~appropriate forms of property insurance to include coverage for~~
3140 ~~catastrophic ground cover collapse or for sinkhole losses.~~
3141 ~~coverage for catastrophic ground cover collapse may not go into~~
3142 ~~effect until the effective date provided for in the filing~~
3143 ~~approved by the office.~~

3144 (3)~~(4)~~ Insurers offering policies that exclude coverage for
3145 sinkhole losses must ~~shall~~ inform policyholders in bold type of
3146 not less than 14 points as follows: "YOUR POLICY PROVIDES
3147 COVERAGE FOR A CATASTROPHIC GROUND COVER COLLAPSE THAT RESULTS
3148 IN THE PROPERTY BEING CONDEMNED AND UNINHABITABLE. OTHERWISE,
3149 YOUR POLICY DOES NOT PROVIDE COVERAGE FOR SINKHOLE LOSSES. YOU
3150 MAY PURCHASE ADDITIONAL COVERAGE FOR SINKHOLE LOSSES FOR AN
3151 ADDITIONAL PREMIUM."

3152 (4)~~(5)~~ An insurer offering sinkhole coverage to
3153 policyholders before or after the adoption of s. 30, chapter
3154 2007-1, Laws of Florida, may nonrenew the policies of
3155 policyholders maintaining sinkhole coverage ~~in Pasco County or~~
3156 ~~Hernando County,~~ at the option of the insurer, and provide an
3157 offer of coverage that ~~to such policyholders which~~ includes
3158 catastrophic ground cover collapse and excludes sinkhole
3159 coverage. Insurers acting in accordance with this subsection are
3160 subject to the following requirements:

3161 (a) Policyholders must be notified that a nonrenewal is for

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3162 purposes of removing sinkhole coverage, and that the
3163 policyholder is ~~still~~ being offered a policy that provides
3164 coverage for catastrophic ground cover collapse.

3165 (b) Policyholders must be provided an actuarially
3166 reasonable premium credit or discount for the removal of
3167 sinkhole coverage and provision of only catastrophic ground
3168 cover collapse.

3169 (c) Subject to the provisions of this subsection and the
3170 insurer's approved underwriting or insurability guidelines, the
3171 insurer shall provide each policyholder with the opportunity to
3172 purchase an endorsement to his or her policy providing sinkhole
3173 coverage and may require an inspection of the property before
3174 issuance of a sinkhole coverage endorsement.

3175 (d) Section 624.4305 does not apply to nonrenewal notices
3176 issued pursuant to this subsection.

3177 (5) Any claim, including, but not limited to, initial,
3178 supplemental, and reopened claims under an insurance policy that
3179 provides sinkhole coverage is barred unless notice of the claim
3180 was given to the insurer in accordance with the terms of the
3181 policy within 2 years after the policyholder knew or reasonably
3182 should have known about the sinkhole loss.

3183 Section 23. Section 627.7061, Florida Statutes, is amended
3184 to read:

3185 627.7061 Coverage inquiries.—Inquiries about coverage on a
3186 property insurance contract are not claim activity, unless an
3187 actual claim is filed by the policyholder which ~~insured that~~
3188 results in a company investigation of the claim.

3189 Section 24. Section 627.7065, Florida Statutes, is
3190 repealed.

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3191 Section 25. Section 627.707, Florida Statutes, is amended
3192 to read:

3193 627.707 ~~Standards for~~ Investigation of sinkhole claims ~~by~~
3194 ~~insurers; insurer payment; nonrenewals.~~—Upon receipt of a claim
3195 for a sinkhole loss to a covered building, an insurer must meet
3196 the following standards in investigating a claim:

3197 (1) The insurer must inspect ~~make an inspection of the~~
3198 policyholder's insured's premises to determine if there is
3199 structural ~~has been physical~~ damage that ~~to the structure which~~
3200 may be the result of sinkhole activity.

3201 (2) If the insurer confirms that structural damage exists
3202 but is unable to identify a valid cause of such damage or
3203 discovers that such damage is consistent with sinkhole loss
3204 ~~Following the insurer's initial inspection~~, the insurer shall
3205 engage a professional engineer or a professional geologist to
3206 conduct testing as provided in s. 627.7072 to determine the
3207 cause of the loss within a reasonable professional probability
3208 and issue a report as provided in s. 627.7073, only if sinkhole
3209 loss is covered under the policy. Except as provided in
3210 subsections (4) and (6), the fees and costs of the professional
3211 engineer or professional geologist shall be paid by the
3212 insurer.÷

3213 ~~(a) The insurer is unable to identify a valid cause of the~~
3214 ~~damage or discovers damage to the structure which is consistent~~
3215 ~~with sinkhole loss; or~~

3216 ~~(b) The policyholder demands testing in accordance with~~
3217 ~~this section or s. 627.7072.~~

3218 (3) Following the initial inspection of the policyholder's
3219 ~~insured~~ premises, the insurer shall provide written notice to

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3220 the policyholder disclosing the following information:

3221 (a) What the insurer has determined to be the cause of
3222 damage, if the insurer has made such a determination.

3223 (b) A statement of the circumstances under which the
3224 insurer is required to engage a professional engineer or a
3225 professional geologist to verify or eliminate sinkhole loss and
3226 to engage a professional engineer to make recommendations
3227 regarding land and building stabilization and foundation repair.

3228 (c) A statement regarding the right of the policyholder to
3229 request testing by a professional engineer or a professional
3230 geologist, ~~and~~ the circumstances under which the policyholder
3231 may demand certain testing, and the circumstances under which
3232 the policyholder may incur costs associated with testing.

3233 (4) (a) If the insurer determines that there is no sinkhole
3234 loss, the insurer may deny the claim.

3235 (b) If coverage for sinkhole loss is available and ~~if~~ the
3236 insurer denies the claim, without performing testing under s.
3237 627.7072, the policyholder may demand testing by the insurer
3238 under s. 627.7072.

3239 1. The policyholder's demand for testing must be
3240 communicated to the insurer in writing within 60 days after the
3241 policyholder's receipt of the insurer's denial of the claim.

3242 2. The policyholder shall pay 50 percent of the actual
3243 costs of the analyses and services provided under ss. 627.7072
3244 and 627.7073 or \$2,500, whichever is less.

3245 3. The insurer shall reimburse the policyholder for the
3246 costs if the insurer's engineer or geologist provides written
3247 certification pursuant to s. 627.7073 that there is sinkhole
3248 loss.

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3249 (5) ~~(a) Subject to paragraph (b),~~ If a sinkhole loss is
3250 verified, the insurer shall pay to stabilize the land and
3251 building and repair the foundation in accordance with the
3252 recommendations of the professional engineer retained pursuant
3253 to subsection (2), as provided under s. 627.7073, and in
3254 ~~consultation~~ with notice to the policyholder, subject to the
3255 coverage and terms of the policy. The insurer shall pay for
3256 other repairs to the structure and contents in accordance with
3257 the terms of the policy. If a covered building suffers a
3258 sinkhole loss or a catastrophic ground cover collapse, the
3259 insured must repair such damage or loss in accordance with the
3260 insurer's professional engineer's recommended repairs. However,
3261 if the insurer's professional engineer determines that the
3262 repair cannot be completed within policy limits, the insurer
3263 must pay to complete the repairs recommended by the insurer's
3264 professional engineer or tender the policy limits to the
3265 policyholder.

3266 ~~(a)(b)~~ The insurer may limit its total claims payment to
3267 the actual cash value of the sinkhole loss, which does not
3268 include ~~including~~ underpinning or grouting or any other repair
3269 technique performed below the existing foundation of the
3270 building, until the policyholder enters into a contract for the
3271 performance of building stabilization or foundation repairs in
3272 accordance with the recommendations set forth in the insurer's
3273 report issued pursuant to s. 627.7073.

3274 (b) In order to prevent additional damage to the building
3275 or structure, the policyholder must enter into a contract for
3276 the performance of building stabilization and foundation repairs
3277 within 90 days after the insurance company confirms coverage for

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3278 the sinkhole loss and notifies the policyholder of such
3279 confirmation. This time period is tolled if either party invokes
3280 the neutral evaluation process, and begins again 10 days after
3281 the conclusion of the neutral evaluation process.

3282 (c) After the policyholder enters into the contract for the
3283 performance of building stabilization and foundation repairs,
3284 the insurer shall pay the amounts necessary to begin and perform
3285 such repairs as the work is performed and the expenses are
3286 incurred. The insurer may not require the policyholder to
3287 advance payment for such repairs. If repair covered by a
3288 personal lines residential property insurance policy has begun
3289 and the professional engineer selected or approved by the
3290 insurer determines that the repair cannot be completed within
3291 the policy limits, the insurer must ~~either~~ complete the
3292 professional engineer's recommended repair or tender the policy
3293 limits to the policyholder without a reduction for the repair
3294 expenses incurred.

3295 (d) The stabilization and all other repairs to the
3296 structure and contents must be completed within 12 months after
3297 entering into the contract for repairs described in paragraph
3298 (b) unless:

3299 1. There is a mutual agreement between the insurer and the
3300 policyholder;

3301 2. The claim is involved with the neutral evaluation
3302 process;

3303 3. The claim is in litigation; or

3304 4. The claim is under appraisal or mediation.

3305 (e) ~~(e)~~ Upon the insurer's obtaining the written approval of
3306 ~~the policyholder and~~ any lienholder, the insurer may make

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3307 payment directly to the persons selected by the policyholder to
3308 perform the land and building stabilization and foundation
3309 repairs. The decision by the insurer to make payment to such
3310 persons does not hold the insurer liable for the work performed.
3311 The policyholder may not accept a rebate from any person
3312 performing the repairs specified in this section. If a
3313 policyholder does receive a rebate, coverage is void and the
3314 policyholder must refund the amount of the rebate to the
3315 insurer. Any person making the repairs specified in this section
3316 who offers a rebate commits insurance fraud punishable as a
3317 third degree felony as provided in s. 775.082, s. 775.083, or s.
3318 775.084.

3319 ~~(6) Except as provided in subsection (7), the fees and~~
3320 ~~costs of the professional engineer or the professional geologist~~
3321 ~~shall be paid by the insurer.~~

3322 (6)~~(7)~~ If the insurer obtains, pursuant to s. 627.7073,
3323 written certification that there is no sinkhole loss or that the
3324 cause of the damage was not sinkhole activity, and if the
3325 policyholder has submitted the sinkhole claim without good faith
3326 grounds for submitting such claim, the policyholder shall
3327 reimburse the insurer for 50 percent of the actual costs of the
3328 analyses and services provided under ss. 627.7072 and 627.7073;
3329 however, a policyholder is not required to reimburse an insurer
3330 more than \$2,500 with respect to any claim. A policyholder is
3331 required to pay reimbursement under this subsection only if the
3332 policyholder requested the analysis and services provided under
3333 ss. 627.7072 and 627.7073 and the insurer, before ~~prior to~~
3334 ordering the analysis under s. 627.7072, informs the
3335 policyholder in writing of the policyholder's potential

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3336 liability for reimbursement and gives the policyholder the
3337 opportunity to withdraw the claim.

3338 (7)(8) An ~~Ne~~ insurer may not shall nonrenew any policy of
3339 property insurance on the basis of filing of claims for sinkhole
3340 ~~partial~~ loss if caused by sinkhole damage or clay shrinkage as
3341 ~~long as~~ the total of such payments does not equal or exceed the
3342 ~~current~~ policy limits of coverage for the policy in effect on
3343 the date of loss, for property damage to the covered building,
3344 as set forth on the declarations page, or if and provided the
3345 policyholder insured has repaired the structure in accordance
3346 with the engineering recommendations made pursuant to subsection
3347 (2) upon which any payment or policy proceeds were based. If the
3348 insurer pays such limits, it may nonrenew the policy.

3349 (8)(9) The insurer may engage a professional structural
3350 engineer to make recommendations as to the repair of the
3351 structure.

3352 Section 26. Section 627.7073, Florida Statutes, is amended
3353 to read:

3354 627.7073 Sinkhole reports.—

3355 (1) Upon completion of testing as provided in s. 627.7072,
3356 the professional engineer or professional geologist shall issue
3357 a report and certification to the insurer and the policyholder
3358 as provided in this section.

3359 (a) Sinkhole loss is verified if, based upon tests
3360 performed in accordance with s. 627.7072, a professional
3361 engineer or a professional geologist issues a written report and
3362 certification stating:

3363 1. That structural damage to the covered building has been
3364 identified within a reasonable professional probability.

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3365 ~~2.1.~~ That the cause of the ~~actual physical and~~ structural
3366 damage is sinkhole activity within a reasonable professional
3367 probability.

3368 ~~3.2.~~ That the analyses conducted were of sufficient scope
3369 to identify sinkhole activity as the cause of damage within a
3370 reasonable professional probability.

3371 ~~4.3.~~ A description of the tests performed.

3372 ~~5.4.~~ A recommendation by the professional engineer of
3373 methods for stabilizing the land and building and for making
3374 repairs to the foundation.

3375 (b) If there is no structural damage or if sinkhole
3376 activity is eliminated as the cause of such damage to the
3377 covered building structure, the professional engineer or
3378 professional geologist shall issue a written report and
3379 certification to the policyholder and the insurer stating:

3380 1. That there is no structural damage or the cause of such
3381 ~~the~~ damage is not sinkhole activity within a reasonable
3382 professional probability.

3383 2. That the analyses and tests conducted were of sufficient
3384 scope to eliminate sinkhole activity as the cause of the
3385 structural damage within a reasonable professional probability.

3386 3. A statement of the cause of the structural damage within
3387 a reasonable professional probability.

3388 4. A description of the tests performed.

3389 (c) The respective findings, opinions, and recommendations
3390 of the insurer's professional engineer or professional geologist
3391 as to the cause of distress to the property and the findings,
3392 opinions, and recommendations of the insurer's professional
3393 engineer as to land and building stabilization and foundation

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3394 repair set forth by s. 627.7072 shall be presumed correct.

3395 (2)~~(a)~~ An ~~Any~~ insurer that has paid a claim for a sinkhole
3396 loss shall file a copy of the report and certification, prepared
3397 pursuant to subsection (1), including the legal description of
3398 the real property and the name of the property owner, the
3399 neutral evaluator's report, if any, which indicates that
3400 sinkhole activity caused the damage claimed, a copy of the
3401 certification indicating that stabilization has been completed,
3402 if applicable, and the amount of the payment, with the county
3403 clerk of court, who shall record the report and certification.
3404 The insurer shall bear the cost of filing and recording one or
3405 more reports and certifications ~~the report and certification~~.
3406 There shall be no cause of action or liability against an
3407 insurer for compliance with this section.

3408 (a) The recording of the report and certification does not:

- 3409 1. Constitute a lien, encumbrance, or restriction on the
3410 title to the real property or constitute a defect in the title
3411 to the real property;
- 3412 2. Create any cause of action or liability against any
3413 grantor of the real property for breach of any warranty of good
3414 title or warranty against encumbrances; or
- 3415 3. Create any cause of action or liability against any
3416 title insurer that insures the title to the real property.

3417 (b) As a precondition to accepting payment for a sinkhole
3418 loss, the policyholder must file a copy of any sinkhole report
3419 regarding the insured property which was prepared on behalf or
3420 at the request of the policyholder. The policyholder shall bear
3421 the cost of filing and recording the sinkhole report. The
3422 recording of the report does not:

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3423 1. Constitute a lien, encumbrance, or restriction on the
3424 title to the real property or constitute a defect in the title
3425 to the real property;

3426 2. Create any cause of action or liability against any
3427 grantor of the real property for breach of any warranty of good
3428 title or warranty against encumbrances; or

3429 3. Create any cause of action or liability against a title
3430 insurer that insures the title to the real property.

3431 (c) ~~(b)~~ The seller of real property upon which a sinkhole
3432 claim has been made by the seller and paid by the insurer must
3433 ~~shall~~ disclose to the buyer of such property, before the
3434 closing, that a claim has been paid and whether or not the full
3435 amount of the proceeds were used to repair the sinkhole damage.

3436 (3) Upon completion of any building stabilization or
3437 foundation repairs for a verified sinkhole loss, the
3438 professional engineer responsible for monitoring the repairs
3439 shall issue a report to the property owner which specifies what
3440 repairs have been performed and certifies within a reasonable
3441 degree of professional probability that such repairs have been
3442 properly performed. The professional engineer issuing the report
3443 shall file a copy of the report and certification, which
3444 includes a legal description of the real property and the name
3445 of the property owner, with the county clerk of the court, who
3446 shall record the report and certification. This subsection does
3447 not create liability for an insurer based on any representation
3448 or certification by a professional engineer related to the
3449 stabilization or foundation repairs for the verified sinkhole
3450 loss.

3451 Section 27. Section 627.7074, Florida Statutes, is amended

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3452 to read:

3453 627.7074 Alternative procedure for resolution of disputed
3454 sinkhole insurance claims.—

3455 ~~(1) As used in this section, the term:~~

3456 ~~(a) "Neutral evaluation" means the alternative dispute
3457 resolution provided for in this section.~~

3458 ~~(b) "Neutral evaluator" means a professional engineer or a
3459 professional geologist who has completed a course of study in
3460 alternative dispute resolution designed or approved by the
3461 department for use in the neutral evaluation process, who is
3462 determined to be fair and impartial.~~

3463 (1)(2)(a) The department shall:

3464 (a) Certify and maintain a list of persons who are neutral
3465 evaluators.

3466 ~~(b) The department shall~~ Prepare a consumer information
3467 pamphlet for distribution by insurers to policyholders which
3468 clearly describes the neutral evaluation process and includes
3469 information ~~and forms~~ necessary for the policyholder to request
3470 a neutral evaluation.

3471 (2) Neutral evaluation is available to either party if a
3472 sinkhole report has been issued pursuant to s. 627.7073. At a
3473 minimum, neutral evaluation must determine:

3474 (a) Causation;

3475 (b) All methods of stabilization and repair both above and
3476 below ground;

3477 (c) The costs for stabilization and all repairs; and

3478 (d) Information necessary to carry out subsection (12).

3479 (3) Following the receipt of the report provided under s.
3480 627.7073 or the denial of a claim for a sinkhole loss, the

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3481 insurer shall notify the policyholder of his or her right to
3482 participate in the neutral evaluation program under this
3483 section. Neutral evaluation supersedes the alternative dispute
3484 resolution process under s. 627.7015, but does not invalidate
3485 the appraisal clause of the insurance policy. The insurer shall
3486 provide to the policyholder the consumer information pamphlet
3487 prepared by the department pursuant to subsection (1)
3488 electronically or by United States mail ~~paragraph (2)(b)~~.

3489 (4) Neutral evaluation is nonbinding, but mandatory if
3490 requested by either party. A request for neutral evaluation may
3491 be filed with the department by the policyholder or the insurer
3492 on a form approved by the department. The request for neutral
3493 evaluation must state the reason for the request and must
3494 include an explanation of all the issues in dispute at the time
3495 of the request. Filing a request for neutral evaluation tolls
3496 the applicable time requirements for filing suit for ~~a period of~~
3497 60 days following the conclusion of the neutral evaluation
3498 process or the time prescribed in s. 95.11, whichever is later.

3499 (5) Neutral evaluation shall be conducted as an informal
3500 process in which formal rules of evidence and procedure need not
3501 be observed. A party to neutral evaluation is not required to
3502 attend neutral evaluation if a representative of the party
3503 attends and has the authority to make a binding decision on
3504 behalf of the party. All parties shall participate in the
3505 evaluation in good faith. The neutral evaluator must be allowed
3506 reasonable access to the interior and exterior of insured
3507 structures to be evaluated or for which a claim has been made.
3508 Any reports initiated by the policyholder, or an agent of the
3509 policyholder, confirming a sinkhole loss or disputing another

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3510 sinkhole report regarding insured structures must be provided to
3511 the neutral evaluator before the evaluator's physical inspection
3512 of the insured property.

3513 (6) The insurer shall pay reasonable ~~the~~ costs associated
3514 with the neutral evaluation. However, if a party chooses to hire
3515 a court reporter or stenographer to contemporaneously record and
3516 document the neutral evaluation, that party must bear such
3517 costs.

3518 (7) Upon receipt of a request for neutral evaluation, the
3519 department shall provide the parties a list of certified neutral
3520 evaluators. ~~The parties shall mutually select a neutral~~
3521 ~~evaluator from the list and promptly inform the department. If~~
3522 ~~the parties cannot agree to a neutral evaluator within 10~~
3523 ~~business days,~~ The department shall allow the parties to submit
3524 requests to disqualify evaluators on the list for cause.

3525 (a) The department shall disqualify neutral evaluators for
3526 cause based only on any of the following grounds:

3527 1. A familial relationship exists between the neutral
3528 evaluator and either party or a representative of either party
3529 within the third degree.

3530 2. The proposed neutral evaluator has, in a professional
3531 capacity, previously represented either party or a
3532 representative of either party, in the same or a substantially
3533 related matter.

3534 3. The proposed neutral evaluator has, in a professional
3535 capacity, represented another person in the same or a
3536 substantially related matter and that person's interests are
3537 materially adverse to the interests of the parties. The term
3538 "substantially related matter" means participation by the

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3539 neutral evaluator on the same claim, property, or adjacent
3540 property.

3541 4. The proposed neutral evaluator has, within the preceding
3542 5 years, worked as an employer or employee of any party to the
3543 case.

3544 (b) The parties shall appoint a neutral evaluator from the
3545 department list and promptly inform the department. If the
3546 parties cannot agree to a neutral evaluator within 14 business
3547 days, the department shall appoint a neutral evaluator from the
3548 list of certified neutral evaluators. The department shall allow
3549 each party to disqualify two neutral evaluators without cause.
3550 Upon selection or appointment, the department shall promptly
3551 refer the request to the neutral evaluator.

3552 (c) Within 14 5 business days after the referral, the
3553 neutral evaluator shall notify the policyholder and the insurer
3554 of the date, time, and place of the neutral evaluation
3555 conference. The conference may be held by telephone, if feasible
3556 and desirable. The neutral evaluator shall make reasonable
3557 efforts to hold the neutral evaluation conference shall be held
3558 within 90 45 days after the receipt of the request by the
3559 department. Failure of the neutral evaluator to hold the
3560 conference within 90 days does not invalidate either party's
3561 right to neutral evaluation or to a neutral evaluation
3562 conference held outside this timeframe.

3563 ~~(8) The department shall adopt rules of procedure for the~~
3564 ~~neutral evaluation process.~~

3565 (8)(9) For policyholders not represented by an attorney, a
3566 consumer affairs specialist of the department or an employee
3567 designated as the primary contact for consumers on issues

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3568 relating to sinkholes under s. 20.121 shall be available for
3569 consultation to the extent that he or she may lawfully do so.

3570 (9)~~(10)~~ Evidence of an offer to settle a claim during the
3571 neutral evaluation process, as well as any relevant conduct or
3572 statements made in negotiations concerning the offer to settle a
3573 claim, is inadmissible to prove liability or absence of
3574 liability for the claim or its value, except as provided in
3575 subsection (14) ~~(13)~~.

3576 (10)~~(11)~~ Regardless of when noticed, any court proceeding
3577 related to the subject matter of the neutral evaluation shall be
3578 stayed pending completion of the neutral evaluation and for 5
3579 days after the filing of the neutral evaluator's report with the
3580 court.

3581 (11) If, based upon his or her professional training and
3582 credentials, a neutral evaluator is qualified to determine only
3583 disputes relating to causation or method of repair, the
3584 department shall allow the neutral evaluator to enlist the
3585 assistance of another professional from the neutral evaluators
3586 list not previously stricken, who, based upon his or her
3587 professional training and credentials, is able to provide an
3588 opinion as to other disputed issues. A professional who would be
3589 disqualified for any reason listed in subsection (7) must be
3590 disqualified. The neutral evaluator may also use the services of
3591 professional engineers and professional geologists who are not
3592 certified as neutral evaluators, as well as licensed building
3593 contractors, in order to ensure that all items in dispute are
3594 addressed and the neutral evaluation can be completed. Any
3595 professional engineer, professional geologist, or licensed
3596 building contractor retained may be disqualified for any of the

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3597 reasons listed in subsection (7). The neutral evaluator may
3598 request the entity that performed the investigation pursuant to
3599 s. 627.7072 perform such additional and reasonable testing as
3600 deemed necessary in the professional opinion of the neutral
3601 evaluator.

3602 (12) ~~At For matters that are not resolved by the parties at~~
3603 the conclusion of the neutral evaluation, the neutral evaluator
3604 shall prepare a report describing all matters that are the
3605 subject of the neutral evaluation, including whether, stating
3606 ~~that~~ in his or her opinion, the sinkhole loss has been verified
3607 or eliminated within a reasonable degree of professional
3608 probability and, if verified, whether the sinkhole activity
3609 caused structural damage to the covered building, and if so, the
3610 need for and estimated costs of stabilizing the land and any
3611 covered ~~structures or~~ buildings and other appropriate
3612 remediation or necessary building structural repairs due to the
3613 sinkhole loss. The evaluator's report shall be sent to all
3614 parties ~~in attendance at the neutral evaluation~~ and to the
3615 department, within 14 days after completing the neutral
3616 evaluation conference.

3617 (13) The recommendation of the neutral evaluator is not
3618 binding on any party, and the parties retain access to the
3619 court. The neutral evaluator's written recommendation, oral
3620 testimony, and full report shall be admitted ~~is admissible~~ in
3621 any ~~subsequent~~ action, litigation, or proceeding relating to the
3622 claim or to the cause of action giving rise to the claim.

3623 (14) If the neutral evaluator ~~first~~ verifies the existence
3624 of a sinkhole that caused structural damage and, ~~second,~~
3625 recommends the need for and estimates costs of stabilizing the

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3626 land and any covered ~~structures or~~ buildings and other
3627 appropriate remediation or building ~~structural~~ repairs, which
3628 ~~costs~~ exceed the amount that the insurer has offered to pay the
3629 policyholder, the insurer is liable to the policyholder for up
3630 to \$2,500 in attorney's fees for the attorney's participation in
3631 the neutral evaluation process. For purposes of this subsection,
3632 the term "offer to pay" means a written offer signed by the
3633 insurer or its legal representative and delivered to the
3634 policyholder within 10 days after the insurer receives notice
3635 that a request for neutral evaluation has been made under this
3636 section.

3637 (15) If the insurer timely agrees in writing to comply and
3638 timely complies with the recommendation of the neutral
3639 evaluator, but the policyholder declines to resolve the matter
3640 in accordance with the recommendation of the neutral evaluator
3641 pursuant to this section:

3642 (a) The insurer is not liable for extracontractual damages
3643 related to a claim for a sinkhole loss but only as related to
3644 the issues determined by the neutral evaluation process. This
3645 section does not affect or impair claims for extracontractual
3646 damages unrelated to the issues determined by the neutral
3647 evaluation process contained in this section; and

3648 (b) The actions of the insurer are not a confession of
3649 judgment or admission of liability, and the insurer is not
3650 liable for attorney's fees under s. 627.428 or other provisions
3651 of the insurance code unless the policyholder obtains a judgment
3652 that is more favorable than the recommendation of the neutral
3653 evaluator.

3654 (16) If the insurer agrees to comply with the neutral

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3655 evaluator's report, payments shall be made in accordance with
3656 the terms and conditions of the applicable insurance policy
3657 pursuant to s. 627.707(5).

3658 (17) Neutral evaluators are deemed to be agents of the
3659 department and have immunity from suit as provided in s. 44.107.

3660 (18) The department shall adopt rules of procedure for the
3661 neutral evaluation process.

3662 Section 28. Subsection (8) of section 627.711, Florida
3663 Statutes, is amended to read:

3664 627.711 Notice of premium discounts for hurricane loss
3665 mitigation; uniform mitigation verification inspection form.—

3666 (8) At its expense, the insurer may require that a any
3667 uniform mitigation verification form provided by a policyholder,
3668 a policyholder's agent, or an authorized mitigation inspector or
3669 inspection company be independently verified by an inspector, an
3670 inspection company, or an independent third-party quality
3671 assurance provider which possesses ~~does possess~~ a quality
3672 assurance program before ~~prior to~~ accepting the uniform
3673 mitigation verification form as valid.

3674 Section 29. Subsection (1) of section 627.712, Florida
3675 Statutes, is amended to read:

3676 627.712 Residential windstorm coverage required;
3677 availability of exclusions for windstorm or contents.—

3678 (1) An insurer issuing a residential property insurance
3679 policy must provide windstorm coverage. Except as provided in
3680 paragraph (2)(c), this section does not apply ~~with respect~~ to
3681 risks that are eligible for wind-only coverage from Citizens
3682 Property Insurance Corporation under s. 627.351(6), and ~~with~~
3683 ~~respect to~~ risks that are not eligible for coverage from

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3684 Citizens Property Insurance Corporation under s. 627.351(6) (a)3.
3685 or 5. A risk ineligible for ~~Citizens~~ coverage by the corporation
3686 under s. 627.351(6) (a)3. or 5. is exempt from ~~the requirements~~
3687 ~~of~~ this section only if the risk is located within the
3688 boundaries of the coastal ~~high-risk~~ account of the corporation.

3689 Section 30. Subsection (3) of section 631.54, Florida
3690 Statutes, is amended to read:

3691 631.54 Definitions.—As used in this part:

3692 (3) "Covered claim" means an unpaid claim, including one of
3693 unearned premiums, which arises out of, and is within the
3694 coverage, and not in excess of, the applicable limits of an
3695 insurance policy to which this part applies, issued by an
3696 insurer, if such insurer becomes an insolvent insurer and the
3697 claimant or insured is a resident of this state at the time of
3698 the insured event or the property from which the claim arises is
3699 permanently located in this state. For entities other than
3700 individuals, the residence of a claimant, insured, or
3701 policyholder is the state in which the entity's principal place
3702 of business is located at the time of the insured event. The
3703 term does ~~"Covered claim"~~ shall not include:

3704 (a) Any amount due any reinsurer, insurer, insurance pool,
3705 or underwriting association, sought directly or indirectly
3706 through a third party, as subrogation, contribution,
3707 indemnification, or otherwise; ~~or~~

3708 (b) Any claim that would otherwise be a covered claim under
3709 this part that has been rejected by any other state guaranty
3710 fund on the grounds that an insured's net worth is greater than
3711 that allowed under that state's guaranty law. Member insurers
3712 shall have no right of subrogation, contribution,

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3713 indemnification, or otherwise, sought directly or indirectly
3714 through a third party, against the insured of any insolvent
3715 member; or

3716 (c) Any amount payable for a sinkhole loss other than
3717 testing deemed appropriate by the association or payable for the
3718 actual repair of the loss, except that the association may not
3719 pay for attorney's fees or public adjuster's fees in connection
3720 with a sinkhole loss or pay the policyholder. The association
3721 may pay for actual repairs to the property, but is not liable
3722 for amounts in excess of policy limits.

3723 Section 31. If any provision of this act, or the
3724 application thereof to any person or circumstance is held
3725 invalid, such invalidity shall not affect other provisions or
3726 applications of this act which can be given effect without the
3727 invalid provision or application. It is the express intent of
3728 the Legislature to enact multiple important, but independent,
3729 reforms to Florida law relating to sinkhole insurance coverage
3730 and related claims. The Legislature further intends that the
3731 multiple reforms in the act could and should be enforced if one
3732 or more provisions are held invalid. To this end, the provisions
3733 of this act are declared to be severable.

3734 Section 32. Except as otherwise expressly provided in this
3735 act, this act shall take effect upon becoming a law.