

1 A bill to be entitled
2 An act relating to property and casualty insurance;
3 amending s. 624.407, F.S.; revising the amount of surplus
4 funds required for domestic insurers applying for a
5 certificate of authority after a certain date; amending s.
6 624.408, F.S.; revising the minimum surplus that must be
7 maintained by certain insurers; authorizing the Office of
8 Insurance Regulation to reduce the surplus requirement
9 under specified circumstances; amending s. 624.4095, F.S.;
10 excluding certain premiums for federal multiple-peril crop
11 insurance from calculations for an insurer's gross writing
12 ratio; requiring insurers to disclose the gross written
13 premiums for federal multiple-peril crop insurance in a
14 financial statement; amending s. 624.424; revising the
15 frequency that an insurer may use the same accountant or
16 partner to prepare an annual audited financial report;
17 amending s. 626.854, F.S.; providing limitations on the
18 amount of compensation that may be received by a public
19 adjuster for a reopened or supplemental claim; providing
20 statements that may be considered deceptive or misleading
21 if made in any public adjuster's advertisement or
22 solicitation; providing a definition for the term "written
23 advertisement"; requiring that a disclaimer be included in
24 any public adjuster's written advertisement; providing
25 requirements for such disclaimer; requiring certain
26 persons who act on behalf of an insurer to provide notice
27 to the insurer, claimant, public adjuster, or legal
28 representative for an onsite inspection of the insured

29 | property; authorizing the insured or claimant to deny
30 | access to the property if notice is not provided;
31 | requiring the public adjuster to ensure prompt notice of
32 | certain property loss claims; providing that an insurer be
33 | allowed to interview the insured directly about the loss
34 | claim; prohibiting the insurer from obstructing or
35 | preventing the public adjuster from communicating with the
36 | insured; requiring that the insurer communicate with the
37 | public adjuster in an effort to reach an agreement as to
38 | the scope of the covered loss under the insurance policy;
39 | prohibiting a public adjuster from restricting or
40 | preventing persons acting on behalf of the insured from
41 | having reasonable access to the insured or the insured's
42 | property; prohibiting a public adjuster from restricting
43 | or preventing the insured's adjuster from having
44 | reasonable access to or inspecting the insured's property;
45 | authorizing the insured's adjuster to be present for the
46 | inspection; prohibiting a licensed contractor or
47 | subcontractor from adjusting a claim on behalf of an
48 | insured if such contractor or subcontractor is not a
49 | licensed public adjuster; providing an exception; amending
50 | s. 626.8651, F.S.; requiring that a public adjuster
51 | apprentice complete a minimum number of hours of
52 | continuing education to qualify for licensure; amending s.
53 | 626.8796, F.S.; providing requirements for a public
54 | adjuster contract; creating s. 626.70132, F.S.; requiring
55 | that notice of a claim, supplemental claim, or reopened
56 | claim be given to the insurer within a specified period

57 | after a windstorm or hurricane occurs; providing a
58 | definition for the terms "supplemental claim" or "reopened
59 | claim"; providing applicability; amending s. 627.0613,
60 | F.S.; deleting the duty of the consumer advocate to
61 | prepare an annual report card for each authorized personal
62 | residential property insurer; amending s. 627.062, F.S.;
63 | requiring that the office issue an approval rather than a
64 | notice of intent to approve following its approval of a
65 | file and use filing; deleting an obsolete provision;
66 | prohibiting the Office of Insurance Regulation from,
67 | directly or indirectly, impeding the right of an insurer
68 | to acquire policyholders, advertise or appoint agents, or
69 | regulate agent commissions; revising the information that
70 | must be included in a rate filing relating to certain
71 | reinsurance or financing products; deleting a provision
72 | that prohibited an insurer from making certain rate
73 | filings within a certain period of time after a rate
74 | increase; deleting a provision prohibiting an insurer from
75 | filing for a rate increase within 6 months after it makes
76 | certain rate filings; deleting obsolete provisions
77 | relating to legislation enacted during the 2003 Special
78 | Session D of the Legislature; amending s. 627.0629, F.S.;
79 | providing legislative intent that insurers provide
80 | consumers with accurate pricing signals for alterations in
81 | order to minimize losses, but that mitigation discounts
82 | not result in a loss of income for the insurer; requiring
83 | rate filings for residential property insurance to include
84 | actuarially reasonable debits that provide proper pricing;

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85 providing for an increase in base rates if mitigation
86 discounts exceed the aggregate reduction in expected
87 losses; deleting obsolete provisions; deleting a
88 requirement that the Office of Insurance Regulation
89 propose a method for establishing discounts, debits,
90 credits, and other rate differentials for hurricane
91 mitigation by a certain date; requiring the Financial
92 Services Commission to adopt rules relating to such debits
93 by a certain date; deleting a provision that prohibits an
94 insurer from including an expense or profit load in the
95 cost of reinsurance to replace the Temporary Increase in
96 Coverage Limits; conforming provisions to changes made by
97 the act; amending s. 627.351, F.S.; renaming the "high-
98 risk account" as the "coastal account"; revising the
99 conditions under which the Citizens policyholder surcharge
100 may be imposed; providing that members of the Citizens
101 Property Insurance Corporation Board of Governors are not
102 prohibited from practicing in a certain profession if not
103 prohibited by law or ordinance; prohibiting board members
104 from voting on certain measures; changing the date on
105 which the boundaries of high-risk areas eligible for
106 certain wind-only coverages will be reduced if certain
107 circumstances exist; amending s. 627.3511, F.S.;
108 conforming provisions to changes made by the act; amending
109 s. 627.4133, F.S.; reducing the amount of time before a
110 policy nonrenewal, cancellation, or termination is allowed
111 to take effect after notification of an insured; deleting
112 a prior notification period applicable to the nonrenewal,

113 | cancellation, or termination of certain policies in effect
 114 | for a specified duration; authorizing an insurer to cancel
 115 | policies after 45 days' notice if the Office of Insurance
 116 | Regulation determines that the cancellation of policies is
 117 | necessary to protect the interests of the public or
 118 | policyholders; authorizing the Office of Insurance
 119 | Regulation to place an insurer under administrative
 120 | supervision or appoint a receiver upon the consent of the
 121 | insurer under certain circumstances; creating s.
 122 | 627.43141, F.S.; providing definitions; requiring the
 123 | delivery of a "Notice of Change in Policy Terms" under
 124 | certain circumstances; specifying requirements for such
 125 | notice; specifying actions constituting proof of notice;
 126 | authorizing policy renewals to contain a change in policy
 127 | terms; providing that receipt of payment by an insurer is
 128 | deemed acceptance of new policy terms by an insured;
 129 | providing that the original policy remains in effect until
 130 | the occurrence of specified events if an insurer fails to
 131 | provide notice; providing intent; amending s. 627.7011,
 132 | F.S.; requiring that an insurer pay the actual cash value
 133 | of an insured loss for a dwelling, less any applicable
 134 | deductible, under certain circumstances; requiring that a
 135 | policyholder enter into a contract for the performance of
 136 | building and structural repairs in order to receive
 137 | payment; requiring that an insurer pay certain remaining
 138 | amounts; restricting insurers and contractors from
 139 | requiring advance payments for certain repairs and
 140 | expenses; providing an exception to requiring advance

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141 payments; requiring an insurer to pay the replacement
142 costs if a total loss occurs; allowing an insurer to limit
143 its initial payment for losses to personal property;
144 authorizing an insurer to require an insured to provide
145 receipts for the purchase of property financed with
146 certain actual cash value payments; requiring an insurer
147 to use the receipts in a specified manner and as part of a
148 continuing process; requiring notice of the process in the
149 insurance contract; amending s. 627.70131, F.S.;
150 specifying application of certain time periods to initial
151 or supplemental property insurance claim notices and
152 payments; providing legislative findings with respect to
153 2005 statutory changes relating to sinkhole insurance
154 coverage and statutory changes in this act; amending s.
155 627.706, F.S.; authorizing an insurer to limit coverage
156 for catastrophic ground cover collapse to the principal
157 building and to have discretion to provide additional
158 coverage; allowing the deductible to include costs
159 relating to an investigation of whether sinkhole activity
160 is present; revising definitions; defining the term
161 "structural damage"; placing a 2-year statute of repose on
162 claims for sinkhole coverage; amending s. 627.7061, F.S.;
163 conforming provisions to changes made by the act;
164 repealing s. 627.7065, F.S., relating to the establishment
165 of a sinkhole database; amending s. 627.707, F.S.;
166 revising provisions relating to the investigation of
167 sinkholes by insurers; deleting a requirement that the
168 insurer provide a policyholder with a statement regarding

169 testing for sinkhole activity; providing a time limitation
170 for demanding sinkhole testing by a policyholder and
171 entering into a contract for repairs; requiring all
172 repairs to be completed within a certain time; providing
173 exceptions; prohibiting rebates to policyholders from
174 persons performing repairs; voiding coverage if a rebate
175 is received; requiring policyholders to refund rebates
176 from persons performing repairs to insurers; providing a
177 criminal penalty on a policyholder for accepting rebates
178 from persons performing repairs; limiting a policyholder's
179 liability for reimbursement of the costs related to
180 certain analyses and services; amending s. 627.7073, F.S.;
181 revising provisions relating to inspection reports;
182 providing that the presumption that the report is correct
183 shifts the burden of proof; requiring an insurer to file a
184 neutral evaluator's report and other specific information;
185 requiring the policyholder to file certain reports as a
186 precondition to accepting payment; requiring certain
187 filing and recording costs to be borne by a policyholder;
188 specifying that a policyholder's recording of a report
189 does not legally affect title or create certain causes of
190 action relating to real property; requiring a seller of
191 real property to provide a buyer with a copy of any
192 inspection reports and certifications; amending s.
193 627.7074, F.S.; revising provisions relating to neutral
194 evaluation; requiring evaluation in order to make certain
195 determinations; requiring that the neutral evaluator be
196 allowed access to structures being evaluated; providing

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197 grounds for disqualifying an evaluator; allowing the
 198 Department of Financial Services to appoint an evaluator
 199 if the parties cannot come to agreement; revising the
 200 timeframes for scheduling a neutral evaluation conference;
 201 authorizing an evaluator to enlist another evaluator or
 202 other professionals; providing a time certain for issuing
 203 a report; providing that certain information is
 204 confidential; revising provisions relating to compliance
 205 with the evaluator's recommendations; providing that the
 206 evaluator is an agent of the department for the purposes
 207 of immunity from suit; requiring the department to adopt
 208 rules; amending s. 627.712, F.S.; conforming provisions to
 209 changes made by the act; providing legislative intent;
 210 providing severability; providing effective dates.

211
 212 Be It Enacted by the Legislature of the State of Florida:

213
 214 Section 1. Section 624.407, Florida Statutes, is amended
 215 to read:

216 624.407 Surplus Capital funds required; new insurers.—

217 (1) To receive authority to transact any one kind or
 218 combinations of kinds of insurance, as defined in part V of this
 219 chapter, an insurer applying for its original certificate of
 220 authority in this state after November 10, 1993, ~~the effective~~
 221 ~~date of this section~~ shall possess surplus funds as to
 222 policyholders at least not less than the greater of:

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

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

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

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

233 (e) Notwithstanding paragraph (a) or paragraph (d), for a
 234 domestic insurer that transacts residential property insurance
 235 and is:

236 1. Not a wholly owned subsidiary of an insurer domiciled
 237 in any other state on or before July 1, 2011, and until June 30,
 238 2016, \$5 million; on or after July 1, 2016, and until June 30,
 239 2021, \$10 million; and on or after July 1, 2021, \$15 million.

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

244 (3) Notwithstanding subsections (1) and (2), a new insurer
 245 may not be required, ~~but no insurer shall be required under this~~
 246 ~~subsection~~ to have surplus as to policyholders greater than \$100
 247 million.

248 (4) ~~(2)~~ The requirements of this section shall be based
 249 upon all the kinds of insurance actually transacted or to be
 250 transacted by the insurer in any and all areas in which it
 251 operates, whether or not only a portion of such kinds of
 252 insurance are ~~to be~~ transacted in this state.

253 (5)~~(3)~~ As to surplus funds as to policyholders required
 254 for qualification to transact one or more kinds of insurance,
 255 domestic mutual insurers are governed by chapter 628, and
 256 domestic reciprocal insurers are governed by chapter 629.

257 (6)~~(4)~~ For the purposes of this section, liabilities do
 258 ~~shall~~ not include liabilities required under s. 625.041(4). For
 259 purposes of computing minimum surplus funds as to policyholders
 260 pursuant to s. 625.305(1), liabilities ~~shall~~ include liabilities
 261 required under s. 625.041(4).

262 (7)~~(5)~~ The provisions of this section, as amended by
 263 chapter 89-360, Laws of Florida ~~this act~~, ~~shall~~ apply only to
 264 insurers applying for a certificate of authority on or after
 265 October 1, 1989 ~~the effective date of this act~~.

266 Section 2. Section 624.408, Florida Statutes, is amended
 267 to read:

268 624.408 Surplus funds ~~as to policyholders~~ required;
 269 current new and existing insurers.—

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

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

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

279 (c)~~3.~~ For life and health insurers, 4 percent of the
 280 insurer's total liabilities plus 6 percent of the insurer's

281 liabilities relative to health insurance. ~~or~~

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

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

288 ~~(f)(b)~~ For residential any property insurers not and
 289 casualty insurer holding a certificate of authority before July
 290 1, 2011 on December 1, 1993, \$15 million. ~~the~~

291 (g) For residential property insurers holding a
 292 certificate of authority before July 1, 2011, and until June 30,
 293 2016, \$5 million; on or after July 1, 2016, and until June 30,
 294 2021, \$10 million; on or after July 1, 2021, \$15 million. The
 295 office may reduce this surplus requirement if the insurer is not
 296 writing new business, has premiums in force of less than \$1
 297 million per year in residential property insurance, or is a
 298 mutual insurance company. ~~following amounts apply instead of the~~
 299 ~~\$4 million required by subparagraph (a)5.:~~

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

302 ~~2. On December 31, 2002, and until December 30, 2003,~~
 303 ~~\$3.25 million.~~

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

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

307 (2) For purposes of this section, liabilities do ~~shall~~ not
 308 include liabilities required under s. 625.041(4). For purposes

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309 of computing minimum surplus as to policyholders pursuant to s.
 310 625.305(1), liabilities ~~shall~~ include liabilities required under
 311 s. 625.041(4).

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

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

317 Section 3. Subsection (7) is added to section 624.4095,
 318 Florida Statutes, to read:

319 624.4095 Premiums written; restrictions.—

320 (7) For the purposes of this section and ss. 624.407 and
 321 624.408, with respect to capital and surplus requirements, gross
 322 written premiums for federal multiple-peril crop insurance which
 323 are ceded to the Federal Crop Insurance Corporation or
 324 authorized reinsurers may not be included in the calculation of
 325 an insurer's gross writing ratio. The liabilities for ceded
 326 reinsurance premiums payable for federal multiple-peril crop
 327 insurance ceded to the Federal Crop Insurance Corporation and
 328 authorized reinsurers shall be netted against the asset for
 329 amounts recoverable from reinsurers. Each insurer that writes
 330 other insurance products together with federal multiple-peril
 331 crop insurance must disclose in the notes to its annual and
 332 quarterly financial statements, or in a supplement to those
 333 statements, the gross written premiums for federal multiple-
 334 peril crop insurance.

335 Section 4. Paragraph (d) of subsection (8) of section
 336 624.424, Florida Statutes, is amended to read:

337 624.424 Annual statement and other information.—
 338 (8)
 339 (d) An insurer may not use the same accountant or partner
 340 of an accounting firm responsible for preparing the report
 341 required by this subsection for more than 5 7 consecutive years.
 342 Following this period, the insurer may not use such accountant
 343 or partner for a period of 5 2 years, but may use another
 344 accountant or partner of the same firm. An insurer may request
 345 the office to waive this prohibition based upon an unusual
 346 hardship to the insurer and a determination that the accountant
 347 is exercising independent judgment that is not unduly influenced
 348 by the insurer considering such factors as the number of
 349 partners, expertise of the partners or the number of insurance
 350 clients of the accounting firm; the premium volume of the
 351 insurer; and the number of jurisdictions in which the insurer
 352 transacts business.

353 Section 5. Effective June 1, 2011, subsection (11) of
 354 section 626.854, Florida Statutes, is amended to read:

355 626.854 "Public adjuster" defined; prohibitions.—The
 356 Legislature finds that it is necessary for the protection of the
 357 public to regulate public insurance adjusters and to prevent the
 358 unauthorized practice of law.

359 (11) (a) If a public adjuster enters into a contract with
 360 an insured or claimant to reopen a claim or ~~to~~ file a
 361 supplemental claim that seeks additional payments for a claim
 362 that has been previously paid in part or in full or settled by
 363 the insurer, the public adjuster may not charge, agree to, or
 364 accept any compensation, payment, commission, fee, or other

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365 thing of value based on a previous settlement or previous claim
 366 payments by the insurer for the same cause of loss. The charge,
 367 compensation, payment, commission, fee, or other thing of value
 368 must ~~may~~ be based only on the claim payments or settlement
 369 obtained through the work of the public adjuster after entering
 370 into the contract with the insured or claimant. Compensation for
 371 the reopened or supplemental claim may not exceed 20 percent of
 372 the reopened or supplemental claim payment. The contracts
 373 described in this paragraph are not subject to the limitations
 374 in paragraph (b).

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

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

384 2. Twenty percent of the amount of ~~all other~~ insurance
 385 claim payments made by the insurer for claims that are not based
 386 on events that are the subject of a declaration of a state of
 387 emergency by the Governor.

388
 389 The provisions of subsections (5)-(13) apply only to residential
 390 property insurance policies and condominium association policies
 391 as defined in s. 718.111(11).

392 Section 6. Effective January 1, 2012, section 626.854,

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393 Florida Statutes, as amended by this act, is amended to read:

394 626.854 "Public adjuster" defined; prohibitions.—The
 395 Legislature finds that it is necessary for the protection of the
 396 public to regulate public insurance adjusters and to prevent the
 397 unauthorized practice of law.

398 (1) A "public adjuster" is any person, except a duly
 399 licensed attorney at law as exempted under ~~hereinafter in s.~~
 400 626.860 ~~provided~~, who, for money, commission, or any other thing
 401 of value, prepares, completes, or files an insurance claim form
 402 for an insured or third-party claimant or who, for money,
 403 commission, or any other thing of value, acts ~~or aids in any~~
 404 ~~manner~~ on behalf of, or aids an insured or third-party claimant
 405 in negotiating for or effecting the settlement of a claim or
 406 claims for loss or damage covered by an insurance contract or
 407 who advertises for employment as an adjuster of such claims. The
 408 term, ~~and~~ also includes any person who, for money, commission,
 409 or any other thing of value, solicits, investigates, or adjusts
 410 such claims on behalf of a ~~any such~~ public adjuster.

411 (2) This definition does not apply to:

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

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

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

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

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

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

436 (7) An insured or claimant may cancel a public adjuster's
437 contract to adjust a claim without penalty or obligation within
438 3 business days after the date on which the contract is executed
439 or within 3 business days after the date on which the insured or
440 claimant has notified the insurer of the claim, by phone or in
441 writing, whichever is later. The public adjuster's contract must
442 ~~shall~~ disclose to the insured or claimant his or her right to
443 cancel the contract and advise the insured or claimant that
444 notice of cancellation must be submitted in writing and sent by
445 certified mail, return receipt requested, or other form of
446 mailing that ~~which~~ provides proof thereof, to the public
447 adjuster at the address specified in the contract; provided,
448 during any state of emergency as declared by the Governor and

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449 | for ~~a period of~~ 1 year after the date of loss, the insured or
450 | claimant has ~~shall have~~ 5 business days after the date on which
451 | the contract is executed to cancel a public adjuster's contract.

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

458 | (a) The following statements, made in any public
459 | adjuster's advertisement or solicitation, are considered
460 | deceptive or misleading:

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

464 | 2. A statement or representation that invites an insured
465 | policyholder to submit a claim by offering monetary or other
466 | valuable inducement.

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

470 | 4. A statement or representation, or use of a logo or
471 | shield, that implies or could mistakenly be construed to imply
472 | that the solicitation was issued or distributed by a
473 | governmental agency or is sanctioned or endorsed by a
474 | governmental agency.

475 | (b) For purposes of this paragraph, the term "written
476 | advertisement" includes only newspapers, magazines, flyers, and

477 bulk mailers. The following disclaimer, which is not required to
 478 be printed on standard size business cards, must be added in
 479 bold print and capital letters in typeface no smaller than the
 480 typeface of the body of the text to all written advertisements
 481 by a public adjuster:

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

486
 487 (9) A public adjuster, a public adjuster apprentice, or
 488 any person or entity acting on behalf of a public adjuster or
 489 public adjuster apprentice may not give or offer to give a
 490 monetary loan or advance to a client or prospective client.

491 (10) A public adjuster, public adjuster apprentice, or any
 492 individual or entity acting on behalf of a public adjuster or
 493 public adjuster apprentice may not give or offer to give,
 494 directly or indirectly, any article of merchandise having a
 495 value in excess of \$25 to any individual for the purpose of
 496 advertising or as an inducement to entering into a contract with
 497 a public adjuster.

498 (11) (a) If a public adjuster enters into a contract with
 499 an insured or claimant to reopen a claim or file a supplemental
 500 claim that seeks additional payments for a claim that has been
 501 previously paid in part or in full or settled by the insurer,
 502 the public adjuster may not charge, agree to, or accept any
 503 compensation, payment, commission, fee, or other thing of value
 504 based on a previous settlement or previous claim payments by the

505 insurer for the same cause of loss. The charge, compensation,
 506 payment, commission, fee, or other thing of value must be based
 507 only on the claim payments or settlement obtained through the
 508 work of the public adjuster after entering into the contract
 509 with the insured or claimant. Compensation for the reopened or
 510 supplemental claim may not exceed 20 percent of the reopened or
 511 supplemental claim payment. The contracts described in this
 512 paragraph are not subject to the limitations in paragraph (b).

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

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

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

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

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

542 (14) A company employee adjuster, independent adjuster,
543 attorney, investigator, or other persons acting on behalf of an
544 insurer that needs access to an insured or claimant or to the
545 insured property that is the subject of a claim must provide at
546 least 48 hours' notice to the insured or claimant, public
547 adjuster, or legal representative before scheduling a meeting
548 with the claimant or an onsite inspection of the insured
549 property. The insured or claimant may deny access to the
550 property if the notice has not been provided. The insured or
551 claimant may waive the 48-hour notice.

552 (15) A public adjuster must ensure prompt notice of
553 property loss claims submitted to an insurer by or through a
554 public adjuster or on which a public adjuster represents the
555 insured at the time the claim or notice of loss is submitted to
556 the insurer. The public adjuster must ensure that notice is
557 given to the insurer, the public adjuster's contract is provided
558 to the insurer, the property is available for inspection of the
559 loss or damage by the insurer, and the insurer is given an
560 opportunity to interview the insured directly about the loss and

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561 claim. The insurer must be allowed to obtain necessary
562 information to investigate and respond to the claim.

563 (a) The insurer may not exclude the public adjuster from
564 its in-person meetings with the insured. The insurer shall meet
565 or communicate with the public adjuster in an effort to reach
566 agreement as to the scope of the covered loss under the
567 insurance policy. This section does not impair the terms and
568 conditions of the insurance policy in effect at the time the
569 claim is filed.

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

576 (c) A public adjuster may not act or fail to reasonably
577 act in any manner that obstructs or prevents an insurer or
578 insurer's adjuster from timely conducting an inspection of any
579 part of the insured property for which there is a claim for loss
580 or damage. The public adjuster representing the insured may be
581 present for the insurer's inspection, but if the unavailability
582 of the public adjuster otherwise delays the insurer's timely
583 inspection of the property, the public adjuster or the insured
584 must allow the insurer to have access to the property without
585 the participation or presence of the public adjuster or insured
586 in order to facilitate the insurer's prompt inspection of the
587 loss or damage.

588 (16) A licensed contractor under part I of chapter 489, or

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589 a subcontractor, may not adjust a claim on behalf of an insured
 590 unless licensed and compliant as a public adjuster under this
 591 chapter. However, the contractor may discuss or explain a bid
 592 for construction or repair of covered property with the
 593 residential property owner who has suffered loss or damage
 594 covered by a property insurance policy, or the insurer of such
 595 property, if the contractor is doing so for the usual and
 596 customary fees applicable to the work to be performed as stated
 597 in the contract between the contractor and the insured.

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

601 Section 7. Effective January 1, 2012, subsection (6) of
 602 section 626.8651, Florida Statutes, is amended to read:

603 626.8651 Public adjuster apprentice license;
 604 qualifications.-

605 (6) To qualify for licensure as a public adjuster, a
 606 public adjuster apprentice ~~shall~~ must complete: ~~at~~

607 (a) A minimum of 100 hours of employment per month for 12
 608 months of employment under the supervision of a licensed and
 609 appointed all-lines public adjuster ~~in order to qualify for~~
 610 licensure as a public adjuster. The department may adopt rules
 611 that establish standards for such employment requirements.

612 (b) A minimum of 8 hours of continuing education specific
 613 to the practice of a public adjuster, 2 hours of which must
 614 relate to ethics. The continuing education must be designed to
 615 inform the licensee about the current insurance laws of this
 616 state for the purpose of enabling him or her to engage in

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617 business as an insurance adjuster fairly and without injury to
 618 the public and to adjust all claims in accordance with the
 619 insurance contract and the laws of this state.

620 Section 8. Effective January 1, 2012, section 626.8796,
 621 Florida Statutes, is amended to read:

622 626.8796 Public adjuster contracts; fraud statement.—

623 (1) All contracts for public adjuster services must be in
 624 writing and ~~must~~ prominently display the following statement on
 625 the contract: "Pursuant to s. 817.234, Florida Statutes, any
 626 person who, with the intent to injure, defraud, or deceive an
 627 ~~any~~ insurer or insured, prepares, presents, or causes to be
 628 presented a proof of loss or estimate of cost or repair of
 629 damaged property in support of a claim under an insurance policy
 630 knowing that the proof of loss or estimate of claim or repairs
 631 contains ~~any~~ false, incomplete, or misleading information
 632 concerning any fact or thing material to the claim commits a
 633 felony of the third degree, punishable as provided in s.
 634 775.082, s. 775.083, or s. 775.084, Florida Statutes."

635 (2) A public adjuster contract must contain the full name,
 636 permanent business address, and license number of the public
 637 adjuster; the full name of the public adjusting firm; and the
 638 insured's full name and street address, together with a brief
 639 description of the loss. The contract must state the percentage
 640 of compensation for the public adjuster's services; the type of
 641 claim, including an emergency claim, nonemergency claim, or
 642 supplemental claim; the signatures of the public adjuster and
 643 all named insureds; and the signature date. If all of the named
 644 insureds' signatures are not available, the public adjuster must

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645 submit an affidavit signed by the available named insureds
646 attesting that they have authority to enter into the contract
647 and settle all claim issues on behalf of the named insureds. An
648 unaltered copy of the executed contract must be remitted to the
649 insurer within 30 days after execution.

650 Section 9. Effective June 1, 2011, section 626.70132,
651 Florida Statutes, is created to read:

652 626.70132 Notice of windstorm or hurricane claim.—A claim,
653 supplemental claim, or reopened claim under an insurance policy
654 that provides personal lines residential coverage, as defined in
655 s. 627.4025, for loss or damage caused by the peril of windstorm
656 or hurricane is barred unless notice of the claim, supplemental
657 claim, or reopened claim was given to the insurer in accordance
658 with the terms of the policy within 3 years after the hurricane
659 first made landfall or the windstorm caused the covered damage.
660 For purposes of this section, the term "supplemental claim" or
661 "reopened claim" means any additional claim for recovery from
662 the insurer for losses from the same hurricane or windstorm
663 which the insurer has previously adjusted pursuant to the
664 initial claim. This section does not affect any applicable
665 limitation on civil actions provided in s. 95.11 for claims,
666 supplemental claims, or reopened claims timely filed under this
667 section.

668 Section 10. Subsections (4) and (5) of section 627.0613,
669 Florida Statutes, are amended to read:

670 627.0613 Consumer advocate.—The Chief Financial Officer
671 must appoint a consumer advocate who must represent the general
672 public of the state before the department and the office. The

673 consumer advocate must report directly to the Chief Financial
 674 Officer, but is not otherwise under the authority of the
 675 department or of any employee of the department. The consumer
 676 advocate has such powers as are necessary to carry out the
 677 duties of the office of consumer advocate, including, but not
 678 limited to, the powers to:

679 ~~(4) Prepare an annual report card for each authorized~~
 680 ~~personal residential property insurer, on a form and using a~~
 681 ~~letter-grade scale developed by the commission by rule, which~~
 682 ~~grades each insurer based on the following factors:~~

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

686 ~~(b) The disposition of all complaints received by the~~
 687 ~~department.~~

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

690 ~~(d) Any other factors the commission identifies as~~
 691 ~~assisting policyholders in making informed choices about~~
 692 ~~homeowner's insurance.~~

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

696 Section 11. Section 627.062, Florida Statutes, is amended
 697 to read:

698 627.062 Rate standards.—

699 (1) The rates for all classes of insurance to which the
 700 provisions of this part are applicable may ~~shall~~ not be

701 excessive, inadequate, or unfairly discriminatory.

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

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

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

728 2. If the filing is not made in accordance with ~~the~~

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729 ~~provisions of~~ subparagraph 1., such filing must ~~shall~~ be made as
730 soon as practicable, but within ~~no later than~~ 30 days after the
731 effective date, and is ~~shall be~~ considered a "use and file"
732 filing. An insurer making a "use and file" filing is potentially
733 subject to an order by the office to return to policyholders
734 those portions of rates found to be excessive, as provided in
735 paragraph (h).

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

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

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

750 2. Past and prospective expenses.

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

753 4. Investment income reasonably expected by the insurer,
754 consistent with the insurer's investment practices, from
755 investable premiums anticipated in the filing, plus any other
756 expected income from currently invested assets representing the

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757 amount expected on unearned premium reserves and loss reserves.
758 The commission may adopt rules using reasonable techniques of
759 actuarial science and economics to specify the manner in which
760 insurers ~~shall~~ calculate investment income attributable to ~~such~~
761 classes of insurance written in this state and the manner in
762 which ~~such~~ investment income is ~~shall be~~ used to calculate
763 insurance rates. Such manner must ~~shall~~ contemplate allowances
764 for an underwriting profit factor and full consideration of
765 investment income which produce a reasonable rate of return;
766 however, investment income from invested surplus may not be
767 considered.

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

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

773 7. The adequacy of loss reserves.

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

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

781 10. Conflagration and catastrophe hazards, if applicable.

782 11. Projected hurricane losses, if applicable, which must
783 be estimated using a model or method found to be acceptable or
784 reliable by the Florida Commission on Hurricane Loss Projection

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785 Methodology, and as further provided in s. 627.0628.

786 12. A reasonable margin for underwriting profit and
787 contingencies.

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

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

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

796 (d) If conflagration or catastrophe hazards are considered
797 ~~given consideration~~ by an insurer in its rates or rating plan,
798 including surcharges and discounts, the insurer shall establish
799 a reserve for that portion of the premium allocated to such
800 hazard and ~~shall~~ maintain the premium in a catastrophe reserve.
801 ~~Any~~ Removal of such premiums from the reserve for purposes other
802 than paying claims associated with a catastrophe or purchasing
803 reinsurance for catastrophes must be approved by ~~shall be~~
804 ~~subject to approval of~~ the office. Any ceding commission
805 received by an insurer purchasing reinsurance for catastrophes
806 must ~~shall~~ be placed in the catastrophe reserve.

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

811 1. Rates shall be deemed excessive if they are likely to
812 produce a profit from Florida business which ~~that~~ is

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813 | unreasonably high in relation to the risk involved in the class
814 | of business or if expenses are unreasonably high in relation to
815 | services rendered.

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

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

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

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

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

839 | (f) In reviewing a rate filing, the office may require the
840 | insurer to provide at the insurer's expense all information

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841 necessary to evaluate the condition of the company and the
842 reasonableness of the filing according to the criteria
843 enumerated in this section.

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

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869 | withdraws the notification, the insurer may ~~shall~~ not alter the
 870 | rate except to conform to ~~with~~ the office's notice until the
 871 | earlier of 120 days after the date the notification was provided
 872 | or 180 days after the date of implementing ~~the implementation of~~
 873 | the rate. The office ~~may~~, subject to chapter 120, may disapprove
 874 | without the 60-day notification any rate increase filed by an
 875 | insurer within the prohibited time period or during the time
 876 | that the legality of the increased rate is being contested.

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

892 | (i) Except as otherwise specifically provided in this
 893 | chapter, the office may ~~shall~~ not, directly or indirectly:

894 | 1. Prohibit any insurer, including any residual market
 895 | plan or joint underwriting association, from paying acquisition
 896 | costs based on the full amount of premium, as defined in s.

897 627.403, applicable to any policy, or prohibit any such insurer
 898 from including the full amount of acquisition costs in a rate
 899 filing; or-

900 2. Impede, abridge, or otherwise compromise an insurer's
 901 right to acquire policyholders, advertise, or appoint agents,
 902 including the calculation, manner, or amount of such agent
 903 commissions, if any.

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

907 (k)1. An insurer may make a separate filing limited solely
 908 to an adjustment of its rates for reinsurance or financing costs
 909 incurred in the purchase of reinsurance or financing products to
 910 replace or finance the payment of the amount covered by the
 911 Temporary Increase in Coverage Limits (TICL) portion of the
 912 Florida Hurricane Catastrophe Fund including replacement
 913 reinsurance for the TICL reductions made pursuant to s.
 914 215.555(17)(e); the actual cost paid due to the application of
 915 the TICL premium factor pursuant to s. 215.555(17)(f); and the
 916 actual cost paid due to the application of the cash build-up
 917 factor pursuant to s. 215.555(5)(b) if the insurer:

918 a. Elects to purchase financing products such as a
 919 liquidity instrument or line of credit, in which case the cost
 920 included in ~~the~~ filing for the liquidity instrument or line of
 921 credit may not result in a premium increase exceeding 3 percent
 922 for any individual policyholder. All costs contained in the
 923 filing may not result in an overall premium increase of more
 924 than 10 percent for any individual policyholder.

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925 b. An insurer that makes a separate filing relating to
926 reinsurance or financing products must include ~~Includes in the~~
927 ~~filing~~ a copy of all of its reinsurance, liquidity instrument,
928 or line of credit contracts; proof of the billing or payment for
929 the contracts; and the calculation upon which the proposed rate
930 change is based demonstrating ~~demonstrates~~ that the costs meet
931 the criteria of this section ~~and are not loaded for expenses or~~
932 ~~profit for the insurer making the filing.~~

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

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

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

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

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

948 3. An insurer that elects to implement a rate change under
949 this paragraph must file its rate filing with the office at
950 least 45 days before the effective date of the rate change.
951 After an insurer submits a complete filing that meets all of the
952 requirements of this paragraph, the office has 45 days after the

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953 | date of the filing to review the rate filing and determine if
 954 | the rate is excessive, inadequate, or unfairly discriminatory.

955 |
 956 | The provisions of this subsection do ~~shall~~ not apply to workers'
 957 | compensation, and employer's liability insurance, and ~~to~~ motor
 958 | vehicle insurance.

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

971 | (b) Individual risk rates and modifications to existing
 972 | approved forms are not subject to this part or part II, except
 973 | for paragraph (a) and ss. 627.402, 627.403, 627.4035, 627.404,
 974 | 627.405, 627.406, 627.407, 627.4085, 627.409, 627.4132,
 975 | 627.4133, 627.415, 627.416, 627.417, 627.419, 627.425, 627.426,
 976 | 627.4265, 627.427, and 627.428, but are subject to all other
 977 | applicable provisions of this code and rules adopted thereunder.

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

980 | (d)1. The following categories or kinds of insurance and

981 types of commercial lines risks are not subject to paragraph
 982 (2) (a) or paragraph (2) (f):

- 983 a. Excess or umbrella.
- 984 b. Surety and fidelity.
- 985 c. Boiler and machinery and leakage and fire extinguishing
 986 equipment.
- 987 d. Errors and omissions.
- 988 e. Directors and officers, employment practices, and
 989 management liability.
- 990 f. Intellectual property and patent infringement
 991 liability.
- 992 g. Advertising injury and Internet liability insurance.
- 993 h. Property risks rated under a highly protected risks
 994 rating plan.
- 995 i. Any other commercial lines categories or kinds of
 996 insurance or types of commercial lines risks that the office
 997 determines should not be subject to paragraph (2) (a) or
 998 paragraph (2) (f) because of the existence of a competitive
 999 market for such insurance, similarity of such insurance to other
 1000 categories or kinds of insurance not subject to paragraph (2) (a)
 1001 or paragraph (2) (f), or to improve the general operational
 1002 efficiency of the office.

1003 2. Insurers or rating organizations shall establish and
 1004 use rates, rating schedules, or rating manuals to allow the
 1005 insurer a reasonable rate of return on insurance and risks
 1006 described in subparagraph 1. which are written in this state.

1007 3. An insurer must notify the office of any changes to
 1008 rates for insurance and risks described in subparagraph 1.

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1009 within ~~no later than~~ 30 days after the effective date of the
 1010 change. The notice must include the name of the insurer, the
 1011 type or kind of insurance subject to rate change, total premium
 1012 written during the immediately preceding year by the insurer for
 1013 the type or kind of insurance subject to the rate change, and
 1014 the average statewide percentage change in rates. Underwriting
 1015 files, premiums, losses, and expense statistics with regard to
 1016 such insurance and risks ~~described in subparagraph 1.~~ written by
 1017 an insurer must ~~shall~~ be maintained by the insurer and subject
 1018 to examination by the office. Upon examination, the office
 1019 ~~shall~~, in accordance with generally accepted and reasonable
 1020 actuarial techniques, shall consider the rate factors in
 1021 paragraphs (2) (b), (c), and (d) and the standards in paragraph
 1022 (2) (e) to determine if the rate is excessive, inadequate, or
 1023 unfairly discriminatory.

1024 4. A rating organization must notify the office of any
 1025 changes to loss cost for insurance and risks described in
 1026 subparagraph 1. within ~~no later than~~ 30 days after the effective
 1027 date of the change. The notice must include the name of the
 1028 rating organization, the type or kind of insurance subject to a
 1029 loss cost change, loss costs during the immediately preceding
 1030 year for the type or kind of insurance subject to the loss cost
 1031 change, and the average statewide percentage change in loss
 1032 cost. Loss and exposure statistics with regard to risks
 1033 applicable to loss costs for a rating organization not subject
 1034 to paragraph (2) (a) or paragraph (2) (f) must ~~shall~~ be maintained
 1035 by the rating organization and are subject to examination by the
 1036 office. Upon examination, the office ~~shall~~, in accordance with

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1037 generally accepted and reasonable actuarial techniques, shall
 1038 consider the rate factors in paragraphs (2)(b)-(d) and the
 1039 standards in paragraph (2)(e) to determine if the rate is
 1040 excessive, inadequate, or unfairly discriminatory.

1041 5. In reviewing a rate, the office may require the insurer
 1042 to provide, at the insurer's expense, all information necessary
 1043 to evaluate the condition of the company and the reasonableness
 1044 of the rate according to the applicable criteria described in
 1045 this section.

1046 (4) The establishment of any rate, rating classification,
 1047 rating plan or schedule, or variation thereof in violation of
 1048 part IX of chapter 626 is also in violation of this section. ~~In
 1049 order to enhance the ability of consumers to compare premiums
 1050 and to increase the accuracy and usefulness of rate-comparison
 1051 information provided by the office to the public, the office
 1052 shall develop a proposed standard rating territory plan to be
 1053 used by all authorized property and casualty insurers for
 1054 residential property insurance. In adopting the proposed plan,
 1055 the office may consider geographical characteristics relevant to
 1056 risk, county lines, major roadways, existing rating territories
 1057 used by a significant segment of the market, and other relevant
 1058 factors. Such plan shall be submitted to the President of the
 1059 Senate and the Speaker of the House of Representatives by
 1060 January 15, 2006. The plan may not be implemented unless
 1061 authorized by further act of the Legislature.~~

1062 (5) With respect to a rate filing involving coverage of
 1063 the type for which the insurer is required to pay a
 1064 reimbursement premium to the Florida Hurricane Catastrophe Fund,

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1065 the insurer may fully recoup in its property insurance premiums
 1066 any reimbursement premiums paid to the ~~Florida Hurricane~~
 1067 ~~Catastrophe~~ fund, together with reasonable costs of other
 1068 reinsurance; however, ~~but~~ except as otherwise provided in this
 1069 section, the insurer may not recoup reinsurance costs that
 1070 duplicate coverage provided by the ~~Florida Hurricane Catastrophe~~
 1071 fund. An insurer may not recoup more than 1 year of
 1072 reimbursement premium at a time. Any under-recoupment from the
 1073 prior year may be added to the following year's reimbursement
 1074 premium, and any over-recoupment must ~~shall~~ be subtracted from
 1075 the following year's reimbursement premium.

1076 (6) (a) If an insurer requests an administrative hearing
 1077 pursuant to s. 120.57 related to a rate filing under this
 1078 section, the director of the Division of Administrative Hearings
 1079 shall expedite the hearing and assign an administrative law
 1080 judge who shall commence the hearing within 30 days after the
 1081 receipt of the formal request and ~~shall~~ enter a recommended
 1082 order within 30 days after the hearing or within 30 days after
 1083 receipt of the hearing transcript by the administrative law
 1084 judge, whichever is later. Each party shall have ~~be allowed~~ 10
 1085 days in which to submit written exceptions to the recommended
 1086 order. The office shall enter a final order within 30 days after
 1087 the entry of the recommended order. The provisions of this
 1088 paragraph may be waived upon stipulation of all parties.

1089 (b) Upon entry of a final order, the insurer may request a
 1090 expedited appellate review pursuant to the Florida Rules of
 1091 Appellate Procedure. It is the intent of the Legislature that
 1092 the First District Court of Appeal grant an insurer's request

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1093 | for an expedited appellate review.

1094 | (7)~~(a)~~ The provisions of this subsection apply only ~~with~~
 1095 | ~~respect~~ to rates for medical malpractice insurance and ~~shall~~
 1096 | control to the extent of any conflict with other provisions of
 1097 | this section.

1098 | (a)~~(b)~~ Any portion of a judgment entered or settlement
 1099 | paid as a result of a statutory or common-law bad faith action
 1100 | and any portion of a judgment entered which awards punitive
 1101 | damages against an insurer may not be included in the insurer's
 1102 | rate base, and ~~shall not be~~ used to justify a rate or rate
 1103 | change. Any common-law bad faith action identified as such, any
 1104 | portion of a settlement entered as a result of a statutory or
 1105 | common-law action, or any portion of a settlement wherein an
 1106 | insurer agrees to pay specific punitive damages may not be used
 1107 | to justify a rate or rate change. The portion of the taxable
 1108 | costs and attorney's fees which is identified as being related
 1109 | to the bad faith and punitive damages ~~in these judgments and~~
 1110 | ~~settlements~~ may not be included in the insurer's rate base and
 1111 | used ~~may not be utilized~~ to justify a rate or rate change.

1112 | (b)~~(e)~~ Upon reviewing a rate filing and determining
 1113 | whether the rate is excessive, inadequate, or unfairly
 1114 | discriminatory, the office shall consider, in accordance with
 1115 | generally accepted and reasonable actuarial techniques, past and
 1116 | present prospective loss experience, ~~either~~ using loss
 1117 | experience solely for this state or giving greater credibility
 1118 | to this state's loss data after applying actuarially sound
 1119 | methods of assigning credibility to such data.

1120 | (c)~~(d)~~ Rates shall be deemed excessive if, among other

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1121 standards established by this section, the rate structure
 1122 provides for replenishment of reserves or surpluses from
 1123 premiums when the replenishment is attributable to investment
 1124 losses.

1125 (d)~~(e)~~ The insurer must apply a discount or surcharge
 1126 based on the health care provider's loss experience or ~~shall~~
 1127 establish an alternative method giving due consideration to the
 1128 provider's loss experience. The insurer must include in the
 1129 filing a copy of the surcharge or discount schedule or a
 1130 description of the alternative method used, and ~~must~~ provide a
 1131 copy ~~of such schedule or description~~, as approved by the office,
 1132 to policyholders at the time of renewal and to prospective
 1133 policyholders at the time of application for coverage.

1134 (e)~~(f)~~ Each medical malpractice insurer must make a rate
 1135 filing under this section, sworn to by at least two executive
 1136 officers of the insurer, at least once each calendar year.

1137 ~~(8)(a)1. No later than 60 days after the effective date of~~
 1138 ~~medical malpractice legislation enacted during the 2003 Special~~
 1139 ~~Session D of the Florida Legislature, the office shall calculate~~
 1140 ~~a presumed factor that reflects the impact that the changes~~
 1141 ~~contained in such legislation will have on rates for medical~~
 1142 ~~malpractice insurance and shall issue a notice informing all~~
 1143 ~~insurers writing medical malpractice coverage of such presumed~~
 1144 ~~factor. In determining the presumed factor, the office shall use~~
 1145 ~~generally accepted actuarial techniques and standards provided~~
 1146 ~~in this section in determining the expected impact on losses,~~
 1147 ~~expenses, and investment income of the insurer. To the extent~~
 1148 ~~that the operation of a provision of medical malpractice~~

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1149 ~~legislation enacted during the 2003 Special Session D of the~~
1150 ~~Florida Legislature is stayed pending a constitutional~~
1151 ~~challenge, the impact of that provision shall not be included in~~
1152 ~~the calculation of a presumed factor under this subparagraph.~~

1153 ~~2. No later than 60 days after the office issues its~~
1154 ~~notice of the presumed rate change factor under subparagraph 1.,~~
1155 ~~each insurer writing medical malpractice coverage in this state~~
1156 ~~shall submit to the office a rate filing for medical malpractice~~
1157 ~~insurance, which will take effect no later than January 1, 2004,~~
1158 ~~and apply retroactively to policies issued or renewed on or~~
1159 ~~after the effective date of medical malpractice legislation~~
1160 ~~enacted during the 2003 Special Session D of the Florida~~
1161 ~~Legislature. Except as authorized under paragraph (b), the~~
1162 ~~filing shall reflect an overall rate reduction at least as great~~
1163 ~~as the presumed factor determined under subparagraph 1. With~~
1164 ~~respect to policies issued on or after the effective date of~~
1165 ~~such legislation and prior to the effective date of the rate~~
1166 ~~filing required by this subsection, the office shall order the~~
1167 ~~insurer to make a refund of the amount that was charged in~~
1168 ~~excess of the rate that is approved.~~

1169 ~~(b) Any insurer or rating organization that contends that~~
1170 ~~the rate provided for in paragraph (a) is excessive, inadequate,~~
1171 ~~or unfairly discriminatory shall separately state in its filing~~
1172 ~~the rate it contends is appropriate and shall state with~~
1173 ~~specificity the factors or data that it contends should be~~
1174 ~~considered in order to produce such appropriate rate. The~~
1175 ~~insurer or rating organization shall be permitted to use all of~~
1176 ~~the generally accepted actuarial techniques provided in this~~

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1177 ~~section in making any filing pursuant to this subsection. The~~
 1178 ~~office shall review each such exception and approve or~~
 1179 ~~disapprove it prior to use. It shall be the insurer's burden to~~
 1180 ~~actuarially justify any deviations from the rates required to be~~
 1181 ~~filed under paragraph (a). The insurer making a filing under~~
 1182 ~~this paragraph shall include in the filing the expected impact~~
 1183 ~~of medical malpractice legislation enacted during the 2003~~
 1184 ~~Special Session D of the Florida Legislature on losses,~~
 1185 ~~expenses, and rates.~~

1186 ~~(c) If any provision of medical malpractice legislation~~
 1187 ~~enacted during the 2003 Special Session D of the Florida~~
 1188 ~~Legislature is held invalid by a court of competent~~
 1189 ~~jurisdiction, the office shall permit an adjustment of all~~
 1190 ~~medical malpractice rates filed under this section to reflect~~
 1191 ~~the impact of such holding on such rates so as to ensure that~~
 1192 ~~the rates are not excessive, inadequate, or unfairly~~
 1193 ~~discriminatory.~~

1194 ~~(d) Rates approved on or before July 1, 2003, for medical~~
 1195 ~~malpractice insurance shall remain in effect until the effective~~
 1196 ~~date of a new rate filing approved under this subsection.~~

1197 ~~(e) The calculation and notice by the office of the~~
 1198 ~~presumed factor pursuant to paragraph (a) is not an order or~~
 1199 ~~rule that is subject to chapter 120. If the office enters into a~~
 1200 ~~contract with an independent consultant to assist the office in~~
 1201 ~~calculating the presumed factor, such contract shall not be~~
 1202 ~~subject to the competitive solicitation requirements of s.~~
 1203 ~~287.057.~~

1204 (8)~~(9)~~ (a) The chief executive officer or chief financial

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1205 officer of a property insurer and the chief actuary of a
 1206 property insurer must certify under oath and subject to the
 1207 penalty of perjury, on a form approved by the commission, the
 1208 following information, which must accompany a rate filing:
 1209 1. The signing officer and actuary have reviewed the rate
 1210 filing;
 1211 2. Based on the signing officer's and actuary's knowledge,
 1212 the rate filing does not contain any untrue statement of a
 1213 material fact or omit to state a material fact necessary ~~in~~
 1214 ~~order~~ to make the statements made, in light of the circumstances
 1215 under which such statements were made, not misleading;
 1216 3. Based on the signing officer's and actuary's knowledge,
 1217 the information and other factors described in paragraph (2) (b),
 1218 including, but not limited to, investment income, fairly present
 1219 in all material respects the basis of the rate filing for the
 1220 periods presented in the filing; and
 1221 4. Based on the signing officer's and actuary's knowledge,
 1222 the rate filing reflects all premium savings that are reasonably
 1223 expected to result from legislative enactments and are in
 1224 accordance with generally accepted and reasonable actuarial
 1225 techniques.
 1226 (b) A signing officer or actuary who knowingly makes
 1227 ~~making~~ a false certification under this subsection commits a
 1228 violation of s. 626.9541(1)(e) and is subject to the penalties
 1229 under s. 626.9521.
 1230 (c) Failure to provide such certification by the officer
 1231 and actuary shall result in the rate filing being disapproved
 1232 without prejudice to be refiled.

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1233 (d) A certification made pursuant to paragraph (a) is not
 1234 rendered false if, after making the subject rate filing, the
 1235 insurer provides the office with additional or supplementary
 1236 information pursuant to a formal or informal request from the
 1237 office.

1238 ~~(e)-(d)~~ The commission may adopt rules and forms pursuant
 1239 to ~~ss. 120.536(1) and 120.54~~ to administer this subsection.

1240 ~~(9)-(10)~~ The burden is on the office to establish that
 1241 rates are excessive for personal lines residential coverage with
 1242 a dwelling replacement cost of \$1 million or more or for a
 1243 single condominium unit with a combined dwelling and contents
 1244 replacement cost of \$1 million or more. Upon request of the
 1245 office, the insurer shall provide ~~to the office~~ such loss and
 1246 expense information as the office reasonably needs to meet this
 1247 burden.

1248 ~~(10)-(11)~~ Any interest paid pursuant to s. 627.70131(5) may
 1249 not be included in the insurer's rate base and may not be used
 1250 to justify a rate or rate change.

1251 Section 12. Subsections (1) and (5) and paragraph (b) of
 1252 subsection (8) of section 627.0629, Florida Statutes, are
 1253 amended to read:

1254 627.0629 Residential property insurance; rate filings.—

1255 (1)~~(a)~~ It is the intent of the Legislature that insurers
 1256 ~~must~~ provide the most accurate pricing signals available in
 1257 order ~~savings~~ to encourage consumers to ~~who~~ install or implement
 1258 windstorm damage mitigation techniques, alterations, or
 1259 solutions to their properties to prevent windstorm losses. It is
 1260 also the intent of the Legislature that implementation of

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1261 mitigation discounts not result in a loss of income to the
 1262 insurers granting the discounts, so that the aggregate of such
 1263 discounts not exceed the aggregate of the expected reduction in
 1264 loss attributable to the mitigation efforts for which discounts
 1265 are granted. A rate filing for residential property insurance
 1266 must include actuarially reasonable discounts, credits, debits,
 1267 or other rate differentials, or appropriate reductions in
 1268 deductibles, which provide the proper pricing for all
 1269 properties. The rate filing must take into account the presence
 1270 or absence of ~~on which~~ fixtures or construction techniques
 1271 demonstrated to reduce the amount of loss in a windstorm which
 1272 have been installed or implemented. The fixtures or construction
 1273 techniques must ~~shall~~ include, but not be limited to, fixtures
 1274 or construction techniques that ~~which~~ enhance roof strength,
 1275 roof covering performance, roof-to-wall strength, wall-to-floor-
 1276 to-foundation strength, opening protection, and window, door,
 1277 and skylight strength. Credits, debits, discounts, or other rate
 1278 differentials, or appropriate reductions or increases in
 1279 deductibles, which recognize the presence or absence of ~~for~~
 1280 fixtures and construction techniques that ~~which~~ meet the minimum
 1281 requirements of the Florida Building Code must be included in
 1282 the rate filing. If an insurer demonstrates that the aggregate
 1283 of its mitigation discounts results in a reduction to revenue
 1284 which exceeds the reduction of the aggregate loss that is
 1285 expected to result from the mitigation, the insurer may recover
 1286 the lost revenue through an increase in its base rates. ~~All~~
 1287 ~~insurance companies must make a rate filing which includes the~~
 1288 ~~credits, discounts, or other rate differentials or reductions in~~

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1289 ~~deductibles by February 28, 2003. By July 1, 2007, the office~~
1290 ~~shall reevaluate the discounts, credits, other rate~~
1291 ~~differentials, and appropriate reductions in deductibles for~~
1292 ~~fixtures and construction techniques that meet the minimum~~
1293 ~~requirements of the Florida Building Code, based upon actual~~
1294 ~~experience or any other loss relativity studies available to the~~
1295 ~~office. The office shall determine the discounts, credits,~~
1296 debits, other rate differentials, and appropriate reductions or
1297 increases in deductibles that reflect the full actuarial value
1298 of such revaluation, which may be used by insurers in rate
1299 filings.

1300 ~~(b) By February 1, 2011, the Office of Insurance~~
1301 ~~Regulation, in consultation with the Department of Financial~~
1302 ~~Services and the Department of Community Affairs, shall develop~~
1303 ~~and make publicly available a proposed method for insurers to~~
1304 ~~establish discounts, credits, or other rate differentials for~~
1305 ~~hurricane mitigation measures which directly correlate to the~~
1306 ~~numerical rating assigned to a structure pursuant to the uniform~~
1307 ~~home grading scale adopted by the Financial Services Commission~~
1308 ~~pursuant to s. 215.55865, including any proposed changes to the~~
1309 ~~uniform home grading scale. By October 1, 2011, the commission~~
1310 ~~shall adopt rules requiring insurers to make rate filings for~~
1311 ~~residential property insurance which revise insurers' discounts,~~
1312 ~~credits, or other rate differentials for hurricane mitigation~~
1313 ~~measures so that such rate differentials correlate directly to~~
1314 ~~the uniform home grading scale. The rules may include such~~
1315 ~~changes to the uniform home grading scale as the commission~~
1316 ~~determines are necessary, and may specify the minimum required~~

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1317 ~~discounts, credits, or other rate differentials. Such rate~~
 1318 ~~differentials must be consistent with generally accepted~~
 1319 ~~actuarial principles and wind-loss mitigation studies. The rules~~
 1320 ~~shall allow a period of at least 2 years after the effective~~
 1321 ~~date of the revised mitigation discounts, credits, or other rate~~
 1322 ~~differentials for a property owner to obtain an inspection or~~
 1323 ~~otherwise qualify for the revised credit, during which time the~~
 1324 ~~insurer shall continue to apply the mitigation credit that was~~
 1325 ~~applied immediately prior to the effective date of the revised~~
 1326 ~~credit. Discounts, credits, and other rate differentials~~
 1327 ~~established for rate filings under this paragraph shall~~
 1328 ~~supersede, after adoption, the discounts, credits, and other~~
 1329 ~~rate differentials included in rate filings under paragraph (a).~~

1330 (5) In order to provide an appropriate transition period,
 1331 an insurer may, ~~in its sole discretion,~~ implement an approved
 1332 rate filing for residential property insurance over a period of
 1333 years. Such ~~An insurer electing to phase in its rate filing~~ must
 1334 provide an informational notice to the office setting out its
 1335 schedule for implementation of the phased-in rate filing. The ~~An~~
 1336 insurer may include in its rate the actual cost of private
 1337 market reinsurance that corresponds to available coverage of the
 1338 Temporary Increase in Coverage Limits, TICL, from the Florida
 1339 Hurricane Catastrophe Fund. The insurer may also include the
 1340 cost of reinsurance to replace the TICL reduction implemented
 1341 pursuant to s. 215.555(17)(d)9. However, this cost ~~for~~
 1342 ~~reinsurance~~ may not ~~include any expense or profit load or result~~
 1343 in a total annual base rate increase in excess of 10 percent.

1344 (8) EVALUATION OF RESIDENTIAL PROPERTY STRUCTURAL

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1345 SOUNDNESS.—

1346 (b) To the extent ~~that~~ funds are provided for this purpose
 1347 in the General Appropriations Act, ~~the Legislature hereby~~
 1348 ~~authorizes~~ the establishment of a program to be administered by
 1349 the Citizens Property Insurance Corporation for homeowners
 1350 insured in the coastal ~~high-risk~~ account is authorized.

1351 Section 13. Paragraphs (b), (c), (d), (v), and (y) of
 1352 subsection (6) of section 627.351, Florida Statutes, are amended
 1353 to read:

1354 627.351 Insurance risk apportionment plans.—

1355 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

1356 (b)1. All insurers authorized to write one or more subject
 1357 lines of business in this state are subject to assessment by the
 1358 corporation and, for the purposes of this subsection, are
 1359 referred to collectively as "assessable insurers." Insurers
 1360 writing one or more subject lines of business in this state
 1361 pursuant to part VIII of chapter 626 are not assessable
 1362 insurers, but insureds who procure one or more subject lines of
 1363 business in this state pursuant to part VIII of chapter 626 are
 1364 subject to assessment by the corporation and are referred to
 1365 collectively as "assessable insureds." An ~~authorized~~ insurer's
 1366 assessment liability begins ~~shall begin~~ on the first day of the
 1367 calendar year following the year in which the insurer was issued
 1368 a certificate of authority to transact insurance for subject
 1369 lines of business in this state and terminates ~~shall terminate~~ 1
 1370 year after the end of the first calendar year during which the
 1371 insurer no longer holds a certificate of authority to transact
 1372 insurance for subject lines of business in this state.

1373 2.a. All revenues, assets, liabilities, losses, and
 1374 expenses of the corporation shall be divided into three separate
 1375 accounts as follows:

1376 (I) A personal lines account for personal residential
 1377 policies issued by the corporation, or issued by the Residential
 1378 Property and Casualty Joint Underwriting Association and renewed
 1379 by the corporation, which provides ~~that provide~~ comprehensive,
 1380 multiperil coverage on risks that are not located in areas
 1381 eligible for coverage by ~~in~~ the Florida Windstorm Underwriting
 1382 Association as those areas were defined on January 1, 2002, and
 1383 for ~~such~~ policies that do not provide coverage for the peril of
 1384 wind on risks that are located in such areas;

1385 (II) A commercial lines account for commercial residential
 1386 and commercial nonresidential policies issued by the
 1387 corporation, or issued by the Residential Property and Casualty
 1388 Joint Underwriting Association and renewed by the corporation, which provides ~~that provide~~ coverage for basic property perils
 1389 on risks that are not located in areas eligible for coverage by
 1390 ~~in~~ the Florida Windstorm Underwriting Association as those areas
 1391 were defined on January 1, 2002, and for ~~such~~ policies that do
 1392 not provide coverage for the peril of wind on risks that are
 1393 located in such areas; and

1395 (III) A coastal ~~high-risk~~ account for personal residential
 1396 policies and commercial residential and commercial
 1397 nonresidential property policies issued by the corporation, or
 1398 transferred to the corporation, which provides ~~that provide~~
 1399 coverage for the peril of wind on risks that are located in
 1400 areas eligible for coverage by ~~in~~ the Florida Windstorm

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1401 Underwriting Association as those areas were defined on January
1402 1, 2002. The corporation may offer policies that provide
1403 multiperil coverage and the corporation shall continue to offer
1404 policies that provide coverage only for the peril of wind for
1405 risks located in areas eligible for coverage in the coastal
1406 ~~high-risk~~ account. In issuing multiperil coverage, the
1407 corporation may use its approved policy forms and rates for the
1408 personal lines account. An applicant or insured who is eligible
1409 to purchase a multiperil policy from the corporation may
1410 purchase a multiperil policy from an authorized insurer without
1411 prejudice to the applicant's or insured's eligibility to
1412 prospectively purchase a policy that provides coverage only for
1413 the peril of wind from the corporation. An applicant or insured
1414 who is eligible for a corporation policy that provides coverage
1415 only for the peril of wind may elect to purchase or retain such
1416 policy and also purchase or retain coverage excluding wind from
1417 an authorized insurer without prejudice to the applicant's or
1418 insured's eligibility to prospectively purchase a policy that
1419 provides multiperil coverage from the corporation. It is the
1420 goal of the Legislature that there ~~would~~ be an overall average
1421 savings of 10 percent or more for a policyholder who currently
1422 has a wind-only policy with the corporation, and an ex-wind
1423 policy with a voluntary insurer or the corporation, and who ~~then~~
1424 obtains a multiperil policy from the corporation. It is the
1425 intent of the Legislature that the offer of multiperil coverage
1426 in the coastal ~~high-risk~~ account be made and implemented in a
1427 manner that does not adversely affect the tax-exempt status of
1428 the corporation or creditworthiness of or security for currently

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1429 outstanding financing obligations or credit facilities of the
1430 coastal ~~high-risk~~ account, the personal lines account, or the
1431 commercial lines account. The coastal ~~high-risk~~ account must
1432 also include quota share primary insurance under subparagraph
1433 (c)2. The area eligible for coverage under the coastal ~~high-risk~~
1434 account also includes the area within Port Canaveral, which is
1435 bordered on the south by the City of Cape Canaveral, bordered on
1436 the west by the Banana River, and bordered on the north by
1437 Federal Government property.

1438 b. The three separate accounts must be maintained as long
1439 as financing obligations entered into by the Florida Windstorm
1440 Underwriting Association or Residential Property and Casualty
1441 Joint Underwriting Association are outstanding, in accordance
1442 with the terms of the corresponding financing documents. If ~~When~~
1443 the financing obligations are no longer outstanding, ~~in~~
1444 ~~accordance with the terms of the corresponding financing~~
1445 ~~documents,~~ the corporation may use a single account for all
1446 revenues, assets, liabilities, losses, and expenses of the
1447 corporation. Consistent with ~~the requirement of~~ this
1448 subparagraph and prudent investment policies that minimize the
1449 cost of carrying debt, the board shall exercise its best efforts
1450 to retire existing debt or ~~to~~ obtain the approval of necessary
1451 parties to amend the terms of existing debt, so as to structure
1452 the most efficient plan to consolidate the three separate
1453 accounts into a single account.

1454 c. Creditors of the Residential Property and Casualty
1455 Joint Underwriting Association and ~~of~~ the accounts specified in
1456 sub-sub-subparagraphs a.(I) and (II) may have a claim against,

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1457 and recourse to, those ~~the~~ accounts ~~referred to in sub-sub-~~
 1458 ~~subparagraphs a.(I) and (II) and shall have~~ no claim against, or
 1459 recourse to, the account referred to in sub-sub-subparagraph
 1460 a.(III). Creditors of the Florida Windstorm Underwriting
 1461 Association ~~shall~~ have a claim against, and recourse to, the
 1462 account referred to in sub-sub-subparagraph a.(III) and ~~shall~~
 1463 ~~have~~ no claim against, or recourse to, the accounts referred to
 1464 in sub-sub-subparagraphs a.(I) and (II).

1465 d. Revenues, assets, liabilities, losses, and expenses not
 1466 attributable to particular accounts shall be prorated among the
 1467 accounts.

1468 e. The Legislature finds that the revenues of the
 1469 corporation are revenues that are necessary to meet the
 1470 requirements set forth in documents authorizing the issuance of
 1471 bonds under this subsection.

1472 f. No part of the income of the corporation may inure to
 1473 the benefit of any private person.

1474 3. With respect to a deficit in an account:

1475 a. After accounting for the ~~Citizens~~ policyholder
 1476 surcharge imposed under sub-subparagraph h. i., if ~~when~~ the
 1477 remaining projected deficit incurred in a particular calendar
 1478 year:

1479 (I) Is not greater than 6 percent of the aggregate
 1480 statewide direct written premium for the subject lines of
 1481 business for the prior calendar year, the entire deficit shall
 1482 be recovered through regular assessments of assessable insurers
 1483 under paragraph (q) and assessable insureds.

1484 (II) ~~b.~~ ~~After accounting for the Citizens policyholder~~

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1485 ~~surcharge imposed under sub-subparagraph i., when the remaining~~
 1486 ~~projected deficit incurred in a particular calendar year Exceeds~~
 1487 6 percent of the aggregate statewide direct written premium for
 1488 the subject lines of business for the prior calendar year, the
 1489 corporation shall levy regular assessments on assessable
 1490 insurers under paragraph (q) and on assessable insureds in an
 1491 amount equal to the greater of 6 percent of the deficit or 6
 1492 percent of the aggregate statewide direct written premium for
 1493 the subject lines of business for the prior calendar year. Any
 1494 remaining deficit shall be recovered through emergency
 1495 assessments under sub-subparagraph c. ~~d.~~

1496 ~~b.e.~~ Each assessable insurer's share of the amount being
 1497 assessed under sub-subparagraph a. must ~~or sub-subparagraph b.~~
 1498 ~~shall~~ be in the proportion that the assessable insurer's direct
 1499 written premium for the subject lines of business for the year
 1500 preceding the assessment bears to the aggregate statewide direct
 1501 written premium for the subject lines of business for that year.
 1502 The applicable assessment percentage ~~applicable to each~~
 1503 ~~assessable insured~~ is the ratio of the amount being assessed
 1504 under sub-subparagraph a. ~~or sub-subparagraph b.~~ to the
 1505 aggregate statewide direct written premium for the subject lines
 1506 of business for the prior year. Assessments levied by the
 1507 corporation on assessable insurers under sub-subparagraphs a.
 1508 and b. must ~~shall~~ be paid as required by the corporation's plan
 1509 of operation and paragraph (q) . ~~Assessments levied by the~~
 1510 ~~corporation on assessable insureds under sub-subparagraphs a.~~
 1511 ~~and b. shall be~~ collected by the surplus lines agent at the time
 1512 the surplus lines agent collects the surplus lines tax required

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1513 | by s. 626.932, and ~~shall be~~ paid to the Florida Surplus Lines
 1514 | Service Office at the time the surplus lines agent pays the
 1515 | surplus lines tax to that ~~the Florida Surplus Lines Service~~
 1516 | office. Upon receipt of regular assessments from surplus lines
 1517 | agents, the Florida Surplus Lines Service Office shall transfer
 1518 | the assessments directly to the corporation as determined by the
 1519 | corporation.

1520 | ~~c.d.~~ Upon a determination by the board of governors that a
 1521 | deficit in an account exceeds the amount that will be recovered
 1522 | through regular assessments under sub-subparagraph a. ~~or sub-~~
 1523 | ~~subparagraph b.~~, plus the amount that is expected to be
 1524 | recovered through surcharges under sub-subparagraph h. i., ~~as to~~
 1525 | ~~the remaining projected deficit~~ the board ~~shall levy~~, after
 1526 | verification by the office, shall levy emergency assessments,
 1527 | for as many years as necessary to cover the deficits, to be
 1528 | collected by assessable insurers and the corporation and
 1529 | collected from assessable insureds upon issuance or renewal of
 1530 | policies for subject lines of business, excluding National Flood
 1531 | Insurance policies. The amount ~~of the emergency assessment~~
 1532 | collected in a particular year must ~~shall~~ be a uniform
 1533 | percentage of that year's direct written premium for subject
 1534 | lines of business and all accounts of the corporation, excluding
 1535 | National Flood Insurance Program policy premiums, as annually
 1536 | determined by the board and verified by the office. The office
 1537 | shall verify the arithmetic calculations involved in the board's
 1538 | determination within 30 days after receipt of the information on
 1539 | which the determination was based. Notwithstanding any other
 1540 | provision of law, the corporation and each assessable insurer

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1541 that writes subject lines of business shall collect emergency
 1542 assessments from its policyholders without such obligation being
 1543 affected by any credit, limitation, exemption, or deferment.
 1544 Emergency assessments levied by the corporation on assessable
 1545 insureds shall be collected by the surplus lines agent at the
 1546 time the surplus lines agent collects the surplus lines tax
 1547 required by s. 626.932 and ~~shall be~~ paid to the Florida Surplus
 1548 Lines Service Office at the time the surplus lines agent pays
 1549 the surplus lines tax to that ~~the Florida Surplus Lines Service~~
 1550 office. The emergency assessments ~~se~~ collected shall be
 1551 transferred directly to the corporation on a periodic basis as
 1552 determined by the corporation and ~~shall be~~ held by the
 1553 corporation solely in the applicable account. The aggregate
 1554 amount of emergency assessments levied for an account under this
 1555 sub-subparagraph in any calendar year may, ~~at the discretion of~~
 1556 ~~the board of governors,~~ be less than but ~~may~~ not exceed the
 1557 greater of 10 percent of the amount needed to cover the deficit,
 1558 plus interest, fees, commissions, required reserves, and other
 1559 costs associated with financing ~~of~~ the original deficit, or 10
 1560 percent of the aggregate statewide direct written premium for
 1561 subject lines of business and ~~for~~ all accounts of the
 1562 corporation for the prior year, plus interest, fees,
 1563 commissions, required reserves, and other costs associated with
 1564 financing the deficit.

1565 d.e. The corporation may pledge the proceeds of
 1566 assessments, projected recoveries from the Florida Hurricane
 1567 Catastrophe Fund, other insurance and reinsurance recoverables,
 1568 policyholder surcharges and other surcharges, and other funds

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1569 available to the corporation as the source of revenue for and to
1570 secure bonds issued under paragraph (q), bonds or other
1571 indebtedness issued under subparagraph (c)3., or lines of credit
1572 or other financing mechanisms issued or created under this
1573 subsection, or to retire any other debt incurred as a result of
1574 deficits or events giving rise to deficits, or in any other way
1575 that the board determines will efficiently recover such
1576 deficits. The purpose of the lines of credit or other financing
1577 mechanisms is to provide additional resources to assist the
1578 corporation in covering claims and expenses attributable to a
1579 catastrophe. As used in this subsection, the term "assessments"
1580 includes regular assessments under sub-subparagraph a., ~~sub-~~
1581 ~~subparagraph b.~~, or subparagraph (q)1. and emergency assessments
1582 under sub-subparagraph d. Emergency assessments collected under
1583 sub-subparagraph d. are not part of an insurer's rates, are not
1584 premium, and are not subject to premium tax, fees, or
1585 commissions; however, failure to pay the emergency assessment
1586 shall be treated as failure to pay premium. The emergency
1587 assessments under sub-subparagraph c. ~~d.~~ shall continue as long
1588 as any bonds issued or other indebtedness incurred with respect
1589 to a deficit for which the assessment was imposed remain
1590 outstanding, unless adequate provision has been made for the
1591 payment of such bonds or other indebtedness pursuant to the
1592 documents governing such bonds or ~~other~~ indebtedness.

1593 e.f. As used in this subsection for purposes of any
1594 deficit incurred on or after January 25, 2007, the term "subject
1595 lines of business" means insurance written by assessable
1596 insurers or procured by assessable insureds for all property and

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1597 | casualty lines of business in this state, but not including
 1598 | workers' compensation or medical malpractice. As used in this
 1599 | ~~the~~ sub-subparagraph, the term "property and casualty lines of
 1600 | business" includes all lines of business identified on Form 2,
 1601 | Exhibit of Premiums and Losses, in the annual statement required
 1602 | of authorized insurers under ~~by~~ s. 624.424 and any rule adopted
 1603 | under this section, except for those lines identified as
 1604 | accident and health insurance and except for policies written
 1605 | under the National Flood Insurance Program or the Federal Crop
 1606 | Insurance Program. For purposes of this sub-subparagraph, the
 1607 | term "workers' compensation" includes both workers' compensation
 1608 | insurance and excess workers' compensation insurance.

1609 | f.g. The Florida Surplus Lines Service Office shall
 1610 | determine annually the aggregate statewide written premium in
 1611 | subject lines of business procured by assessable insureds and
 1612 | ~~shall~~ report that information to the corporation in a form and
 1613 | at a time the corporation specifies to ensure that the
 1614 | corporation can meet the requirements of this subsection and the
 1615 | corporation's financing obligations.

1616 | g.h. The Florida Surplus Lines Service Office shall verify
 1617 | the proper application by surplus lines agents of assessment
 1618 | percentages for regular assessments and emergency assessments
 1619 | levied under this subparagraph on assessable insureds and ~~shall~~
 1620 | assist the corporation in ensuring the accurate, timely
 1621 | collection and payment of assessments by surplus lines agents as
 1622 | required by the corporation.

1623 | h.i. If a deficit is incurred in any account in 2008 or
 1624 | thereafter, the board of governors shall levy a ~~Citizens~~

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1625 policyholder surcharge against all policyholders of the
 1626 corporation. ~~for a 12-month period, which~~

1627 (I) The surcharge shall be levied ~~collected at the time of~~
 1628 ~~issuance or renewal of a policy,~~ as a uniform percentage of the
 1629 premium for the policy of up to 15 percent of such premium,
 1630 which funds shall be used to offset the deficit.

1631 (II) The surcharge is payable upon cancellation or
 1632 termination of the policy, upon renewal of the policy, or upon
 1633 issuance of a new policy by the corporation within the first 12
 1634 months after the date of the levy or the period of time
 1635 necessary to fully collect the surcharge amount.

1636 (III) The corporation may not levy any regular assessments
 1637 under paragraph (q) pursuant to sub-subparagraph a. or sub-
 1638 subparagraph b. with respect to a particular year's deficit
 1639 until the corporation has first levied the full amount of the
 1640 surcharge authorized by this sub-subparagraph.

1641 (IV) The surcharge is ~~Citizens policyholder surcharges~~
 1642 ~~under this sub-subparagraph~~ are not considered premium and is
 1643 ~~are~~ not subject to commissions, fees, or premium taxes. However,
 1644 failure to pay the surcharge ~~such surcharges~~ shall be treated as
 1645 failure to pay premium.

1646 ~~i.j.~~ If the amount of any assessments or surcharges
 1647 collected from corporation policyholders, assessable insurers or
 1648 their policyholders, or assessable insureds exceeds the amount
 1649 of the deficits, such excess amounts shall be remitted to and
 1650 retained by the corporation in a reserve to be used by the
 1651 corporation, as determined by the board of governors and
 1652 approved by the office, to pay claims or reduce any past,

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1653 present, or future plan-year deficits or to reduce outstanding
1654 debt.

1655 (c) The corporation's plan of operation ~~of the~~
1656 ~~corporation~~:

1657 1. Must provide for adoption of residential property and
1658 casualty insurance policy forms and commercial residential and
1659 nonresidential property insurance forms, which ~~forms~~ must be
1660 approved by the office before ~~prior to~~ use. The corporation
1661 shall adopt the following policy forms:

1662 a. Standard personal lines policy forms that are
1663 comprehensive multiperil policies providing full coverage of a
1664 residential property equivalent to the coverage provided in the
1665 private insurance market under an HO-3, HO-4, or HO-6 policy.

1666 b. Basic personal lines policy forms that are policies
1667 similar to an HO-8 policy or a dwelling fire policy that provide
1668 coverage meeting the requirements of the secondary mortgage
1669 market, but which ~~coverage~~ is more limited than the coverage
1670 under a standard policy.

1671 c. Commercial lines residential and nonresidential policy
1672 forms that are generally similar to the basic perils of full
1673 coverage obtainable for commercial residential structures and
1674 commercial nonresidential structures in the admitted voluntary
1675 market.

1676 d. Personal lines and commercial lines residential
1677 property insurance forms that cover the peril of wind only. The
1678 forms are applicable only to residential properties located in
1679 areas eligible for coverage under the coastal ~~high-risk~~ account
1680 referred to in sub-subparagraph (b)2.a.

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1681 e. Commercial lines nonresidential property insurance
1682 forms that cover the peril of wind only. The forms are
1683 applicable only to nonresidential properties located in areas
1684 eligible for coverage under the coastal ~~high-risk~~ account
1685 referred to in sub-subparagraph (b)2.a.

1686 f. The corporation may adopt variations of the policy
1687 forms listed in sub-subparagraphs a.-e. which ~~that~~ contain more
1688 restrictive coverage.

1689 ~~2.a.~~ Must provide that the corporation adopt a program in
1690 which the corporation and authorized insurers enter into quota
1691 share primary insurance agreements for hurricane coverage, as
1692 defined in s. 627.4025(2) (a), for eligible risks, and adopt
1693 property insurance forms for eligible risks which cover the
1694 peril of wind only.

1695 a. As used in this subsection, the term:

1696 (I) "Quota share primary insurance" means an arrangement
1697 in which the primary hurricane coverage of an eligible risk is
1698 provided in specified percentages by the corporation and an
1699 authorized insurer. The corporation and authorized insurer are
1700 each solely responsible for a specified percentage of hurricane
1701 coverage of an eligible risk as set forth in a quota share
1702 primary insurance agreement between the corporation and an
1703 authorized insurer and the insurance contract. The
1704 responsibility of the corporation or authorized insurer to pay
1705 its specified percentage of hurricane losses of an eligible
1706 risk, as set forth in the ~~quota share primary insurance~~
1707 agreement, may not be altered by the inability of the other
1708 party ~~to the agreement~~ to pay its specified percentage of

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1709 ~~hurricane~~ losses. Eligible risks that are provided hurricane
1710 coverage through a quota share primary insurance arrangement
1711 must be provided policy forms that set forth the obligations of
1712 the corporation and authorized insurer under the arrangement,
1713 clearly specify the percentages of quota share primary insurance
1714 provided by the corporation and authorized insurer, and
1715 conspicuously and clearly state that ~~neither~~ the authorized
1716 insurer and ~~nor~~ the corporation may not be held responsible
1717 beyond their ~~its~~ specified percentage of coverage of hurricane
1718 losses.

1719 (II) "Eligible risks" means personal lines residential and
1720 commercial lines residential risks that meet the underwriting
1721 criteria of the corporation and are located in areas that were
1722 eligible for coverage by the Florida Windstorm Underwriting
1723 Association on January 1, 2002.

1724 b. The corporation may enter into quota share primary
1725 insurance agreements with authorized insurers at corporation
1726 coverage levels of 90 percent and 50 percent.

1727 c. If the corporation determines that additional coverage
1728 levels are necessary to maximize participation in quota share
1729 primary insurance agreements by authorized insurers, the
1730 corporation may establish additional coverage levels. However,
1731 the corporation's quota share primary insurance coverage level
1732 may not exceed 90 percent.

1733 d. Any quota share primary insurance agreement entered
1734 into between an authorized insurer and the corporation must
1735 provide for a uniform specified percentage of coverage of
1736 hurricane losses, by county or territory as set forth by the

1737 corporation board, for all eligible risks of the authorized
 1738 insurer covered under the ~~quota share primary insurance~~
 1739 agreement.

1740 e. Any quota share primary insurance agreement entered
 1741 into between an authorized insurer and the corporation is
 1742 subject to review and approval by the office. However, such
 1743 agreement shall be authorized only as to insurance contracts
 1744 entered into between an authorized insurer and an insured who is
 1745 already insured by the corporation for wind coverage.

1746 f. For all eligible risks covered under quota share
 1747 primary insurance agreements, the exposure and coverage levels
 1748 for both the corporation and authorized insurers shall be
 1749 reported by the corporation to the Florida Hurricane Catastrophe
 1750 Fund. For all policies of eligible risks covered under such
 1751 ~~quota share primary insurance~~ agreements, the corporation and
 1752 the authorized insurer must ~~shall~~ maintain complete and accurate
 1753 records for the purpose of exposure and loss reimbursement
 1754 audits as required by ~~Florida Hurricane Catastrophe~~ fund rules.
 1755 The corporation and the authorized insurer shall each maintain
 1756 duplicate copies of policy declaration pages and supporting
 1757 claims documents.

1758 g. The corporation board shall establish in its plan of
 1759 operation standards for quota share agreements which ensure that
 1760 there is no discriminatory application among insurers as to the
 1761 terms of the ~~quota share~~ agreements, pricing of the ~~quota share~~
 1762 agreements, incentive provisions if any, and consideration paid
 1763 for servicing policies or adjusting claims.

1764 h. The quota share primary insurance agreement between the

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1765 corporation and an authorized insurer must set forth the
1766 specific terms under which coverage is provided, including, but
1767 not limited to, the sale and servicing of policies issued under
1768 the agreement by the insurance agent of the authorized insurer
1769 producing the business, the reporting of information concerning
1770 eligible risks, the payment of premium to the corporation, and
1771 arrangements for the adjustment and payment of hurricane claims
1772 incurred on eligible risks by the claims adjuster and personnel
1773 of the authorized insurer. Entering into a quota sharing
1774 insurance agreement between the corporation and an authorized
1775 insurer is ~~shall be~~ voluntary and at the discretion of the
1776 authorized insurer.

1777 3. May provide that the corporation may employ or
1778 otherwise contract with individuals or other entities to provide
1779 administrative or professional services that may be appropriate
1780 to effectuate the plan. The corporation may ~~shall have the power~~
1781 ~~to~~ borrow funds, by issuing bonds or by incurring other
1782 indebtedness, and shall have other powers reasonably necessary
1783 to effectuate the requirements of this subsection, including,
1784 without limitation, the power to issue bonds and incur other
1785 indebtedness in order to refinance outstanding bonds or other
1786 indebtedness. The corporation ~~may, but is not required to,~~ seek
1787 judicial validation of its bonds or other indebtedness under
1788 chapter 75. The corporation may issue bonds or incur other
1789 indebtedness, or have bonds issued on its behalf by a unit of
1790 local government pursuant to subparagraph (q)2.7 in the absence
1791 of a hurricane or other weather-related event, upon a
1792 determination by the corporation, subject to approval by the

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1793 office, that such action would enable it to efficiently meet the
 1794 financial obligations of the corporation and that such
 1795 financings are reasonably necessary to effectuate the
 1796 requirements of this subsection. The corporation may ~~is~~
 1797 ~~authorized to~~ take all actions needed to facilitate tax-free
 1798 status for ~~any~~ such bonds or indebtedness, including formation
 1799 of trusts or other affiliated entities. The corporation may
 1800 ~~shall have the authority to~~ pledge assessments, projected
 1801 recoveries from the Florida Hurricane Catastrophe Fund, other
 1802 reinsurance recoverables, market equalization and other
 1803 surcharges, and other funds available to the corporation as
 1804 security for bonds or other indebtedness. In recognition of s.
 1805 10, Art. I of the State Constitution, prohibiting the impairment
 1806 of obligations of contracts, it is the intent of the Legislature
 1807 that no action be taken whose purpose is to impair any bond
 1808 indenture or financing agreement or any revenue source committed
 1809 by contract to such bond or other indebtedness.

1810 4.~~a.~~ Must require that the corporation operate subject to
 1811 the supervision and approval of a board of governors consisting
 1812 of eight individuals who are residents of this state, from
 1813 different geographical areas of this state.

1814 a. The Governor, the Chief Financial Officer, the
 1815 President of the Senate, and the Speaker of the House of
 1816 Representatives shall each appoint two members of the board. At
 1817 least one of the two members appointed by each appointing
 1818 officer must have demonstrated expertise in insurance, and is
 1819 deemed to be within the scope of the exemption provided in s.
 1820 112.313(7)(b). The Chief Financial Officer shall designate one

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1821 of the appointees as chair. All board members serve at the
1822 pleasure of the appointing officer. All members of the board ~~of~~
1823 ~~governors~~ are subject to removal at will by the officers who
1824 appointed them. All board members, including the chair, must be
1825 appointed to serve for 3-year terms beginning annually on a date
1826 designated by the plan. However, for the first term beginning on
1827 or after July 1, 2009, each appointing officer shall appoint one
1828 member of the board for a 2-year term and one member for a 3-
1829 year term. A ~~Any~~ board vacancy shall be filled for the unexpired
1830 term by the appointing officer. The Chief Financial Officer
1831 shall appoint a technical advisory group to provide information
1832 and advice to the board ~~of governors~~ in connection with the
1833 board's duties under this subsection. The executive director and
1834 senior managers of the corporation shall be engaged by the board
1835 and serve at the pleasure of the board. Any executive director
1836 appointed on or after July 1, 2006, is subject to confirmation
1837 by the Senate. The executive director is responsible for
1838 employing other staff as the corporation may require, subject to
1839 review and concurrence by the board.

1840 b. The board shall create a Market Accountability Advisory
1841 Committee to assist the corporation in developing awareness of
1842 its rates and its customer and agent service levels in
1843 relationship to the voluntary market insurers writing similar
1844 coverage.

1845 (I) The members of the advisory committee ~~shall~~ consist of
1846 the following 11 persons, one of whom must be elected chair by
1847 the members of the committee: four representatives, one
1848 appointed by the Florida Association of Insurance Agents, one by

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1849 the Florida Association of Insurance and Financial Advisors, one
 1850 by the Professional Insurance Agents of Florida, and one by the
 1851 Latin American Association of Insurance Agencies; three
 1852 representatives appointed by the insurers with the three highest
 1853 voluntary market share of residential property insurance
 1854 business in the state; one representative from the Office of
 1855 Insurance Regulation; one consumer appointed by the board who is
 1856 insured by the corporation at the time of appointment to the
 1857 committee; one representative appointed by the Florida
 1858 Association of Realtors; and one representative appointed by the
 1859 Florida Bankers Association. All members shall be appointed to
 1860 ~~must serve for~~ 3-year terms and may serve for consecutive terms.

1861 (II) The committee shall report to the corporation at each
 1862 board meeting on insurance market issues which may include rates
 1863 and rate competition with the voluntary market; service,
 1864 including policy issuance, claims processing, and general
 1865 responsiveness to policyholders, applicants, and agents; and
 1866 matters relating to depopulation.

1867 5. Must provide a procedure for determining the
 1868 eligibility of a risk for coverage, as follows:

1869 a. Subject to ~~the provisions of~~ s. 627.3517, with respect
 1870 to personal lines residential risks, if the risk is offered
 1871 coverage from an authorized insurer at the insurer's approved
 1872 rate under ~~either~~ a standard policy including wind coverage or,
 1873 if consistent with the insurer's underwriting rules as filed
 1874 with the office, a basic policy including wind coverage, for a
 1875 new application to the corporation for coverage, the risk is not
 1876 eligible for any policy issued by the corporation unless the

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1877 premium for coverage from the authorized insurer is more than 15
 1878 percent greater than the premium for comparable coverage from
 1879 the corporation. If the risk is not able to obtain ~~any~~ such
 1880 offer, the risk is eligible for ~~either~~ a standard policy
 1881 including wind coverage or a basic policy including wind
 1882 coverage issued by the corporation; however, if the risk could
 1883 not be insured under a standard policy including wind coverage
 1884 regardless of market conditions, the risk is ~~shall be~~ eligible
 1885 for a basic policy including wind coverage unless rejected under
 1886 subparagraph 8. However, ~~with regard to~~ a policyholder of the
 1887 corporation or a policyholder removed from the corporation
 1888 through an assumption agreement until the end of the assumption
 1889 period, ~~the policyholder~~ remains eligible for coverage from the
 1890 corporation regardless of any offer of coverage from an
 1891 authorized insurer or surplus lines insurer. The corporation
 1892 shall determine the type of policy to be provided on the basis
 1893 of objective standards specified in the underwriting manual and
 1894 based on generally accepted underwriting practices.

1895 (I) If the risk accepts an offer of coverage through the
 1896 market assistance plan or ~~an offer of coverage~~ through a
 1897 mechanism established by the corporation before a policy is
 1898 issued to the risk by the corporation or during the first 30
 1899 days of coverage by the corporation, and the producing agent who
 1900 submitted the application to the plan or to the corporation is
 1901 not currently appointed by the insurer, the insurer shall:

1902 (A) Pay to the producing agent of record of the policy ~~r~~
 1903 for the first year, an amount that is the greater of the
 1904 insurer's usual and customary commission for the type of policy

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1905 written or a fee equal to the usual and customary commission of
 1906 the corporation; or

1907 (B) Offer to allow the producing agent of record of the
 1908 policy to continue servicing the policy for at least ~~a period of~~
 1909 ~~not less than~~ 1 year and offer to pay the agent the greater of
 1910 the insurer's or the corporation's usual and customary
 1911 commission for the type of policy written.

1912
 1913 If the producing agent is unwilling or unable to accept
 1914 appointment, the new insurer shall pay the agent in accordance
 1915 with sub-sub-sub-subparagraph (A).

1916 (II) If ~~When~~ the corporation enters into a contractual
 1917 agreement for a take-out plan, the producing agent of record of
 1918 the corporation policy is entitled to retain any unearned
 1919 commission on the policy, and the insurer shall:

1920 (A) Pay to the producing agent of record ~~of the~~
 1921 ~~corporation policy~~, for the first year, an amount that is the
 1922 greater of the insurer's usual and customary commission for the
 1923 type of policy written or a fee equal to the usual and customary
 1924 commission of the corporation; or

1925 (B) Offer to allow the producing agent of record ~~of the~~
 1926 ~~corporation policy~~ to continue servicing the policy for at least
 1927 ~~a period of not less than~~ 1 year and offer to pay the agent the
 1928 greater of the insurer's or the corporation's usual and
 1929 customary commission for the type of policy written.

1930
 1931 If the producing agent is unwilling or unable to accept
 1932 appointment, the new insurer shall pay the agent in accordance

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1933 with sub-sub-sub-subparagraph (A).

1934 b. With respect to commercial lines residential risks, for
 1935 a new application to the corporation for coverage, if the risk
 1936 is offered coverage under a policy including wind coverage from
 1937 an authorized insurer at its approved rate, the risk is not
 1938 eligible for a ~~any~~ policy issued by the corporation unless the
 1939 premium for coverage from the authorized insurer is more than 15
 1940 percent greater than the premium for comparable coverage from
 1941 the corporation. If the risk is not able to obtain any such
 1942 offer, the risk is eligible for a policy including wind coverage
 1943 issued by the corporation. However, ~~with regard to~~ a
 1944 policyholder of the corporation or a policyholder removed from
 1945 the corporation through an assumption agreement until the end of
 1946 the assumption period, ~~the policyholder~~ remains eligible for
 1947 coverage from the corporation regardless of an ~~any~~ offer of
 1948 coverage from an authorized insurer or surplus lines insurer.

1949 (I) If the risk accepts an offer of coverage through the
 1950 market assistance plan or ~~an offer of coverage~~ through a
 1951 mechanism established by the corporation before a policy is
 1952 issued to the risk by the corporation or during the first 30
 1953 days of coverage by the corporation, and the producing agent who
 1954 submitted the application to the plan or the corporation is not
 1955 currently appointed by the insurer, the insurer shall:

1956 (A) Pay to the producing agent of record of the policy,
 1957 for the first year, an amount that is the greater of the
 1958 insurer's usual and customary commission for the type of policy
 1959 written or a fee equal to the usual and customary commission of
 1960 the corporation; or

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1961 (B) Offer to allow the producing agent of record of the
 1962 policy to continue servicing the policy for at least ~~a period of~~
 1963 ~~not less than~~ 1 year and offer to pay the agent the greater of
 1964 the insurer's or the corporation's usual and customary
 1965 commission for the type of policy written.

1966
 1967 If the producing agent is unwilling or unable to accept
 1968 appointment, the new insurer shall pay the agent in accordance
 1969 with sub-sub-sub-subparagraph (A).

1970 (II) If ~~When~~ the corporation enters into a contractual
 1971 agreement for a take-out plan, the producing agent of record of
 1972 the corporation policy is entitled to retain any unearned
 1973 commission on the policy, and the insurer shall:

1974 (A) Pay to the producing agent of record ~~of the~~
 1975 ~~corporation~~ policy, for the first year, an amount that is the
 1976 greater of the insurer's usual and customary commission for the
 1977 type of policy written or a fee equal to the usual and customary
 1978 commission of the corporation; or

1979 (B) Offer to allow the producing agent of record ~~of the~~
 1980 ~~corporation~~ policy to continue servicing the policy for at least
 1981 ~~a period of not less than~~ 1 year and offer to pay the agent the
 1982 greater of the insurer's or the corporation's usual and
 1983 customary commission for the type of policy written.

1984
 1985 If the producing agent is unwilling or unable to accept
 1986 appointment, the new insurer shall pay the agent in accordance
 1987 with sub-sub-sub-subparagraph (A).

1988 c. For purposes of determining comparable coverage under

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1989 sub-subparagraphs a. and b., the comparison must ~~shall~~ be based
 1990 on those forms and coverages that are reasonably comparable. The
 1991 corporation may rely on a determination of comparable coverage
 1992 and premium made by the producing agent who submits the
 1993 application to the corporation, made in the agent's capacity as
 1994 the corporation's agent. A comparison may be made solely of the
 1995 premium with respect to the main building or structure only on
 1996 the following basis: the same coverage A or other building
 1997 limits; the same percentage hurricane deductible that applies on
 1998 an annual basis or that applies to each hurricane for commercial
 1999 residential property; the same percentage of ordinance and law
 2000 coverage, if the same limit is offered by both the corporation
 2001 and the authorized insurer; the same mitigation credits, to the
 2002 extent the same types of credits are offered both by the
 2003 corporation and the authorized insurer; the same method for loss
 2004 payment, such as replacement cost or actual cash value, if the
 2005 same method is offered both by the corporation and the
 2006 authorized insurer in accordance with underwriting rules; and
 2007 any other form or coverage that is reasonably comparable as
 2008 determined by the board. If an application is submitted to the
 2009 corporation for wind-only coverage in the coastal ~~high-risk~~
 2010 account, the premium for the corporation's wind-only policy plus
 2011 the premium for the ex-wind policy that is offered by an
 2012 authorized insurer to the applicant must ~~shall~~ be compared to
 2013 the premium for multiperil coverage offered by an authorized
 2014 insurer, subject to the standards for comparison specified in
 2015 this subparagraph. If the corporation or the applicant requests
 2016 from the authorized insurer a breakdown of the premium of the

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2017 offer by types of coverage so that a comparison may be made by
 2018 the corporation or its agent and the authorized insurer refuses
 2019 or is unable to provide such information, the corporation may
 2020 treat the offer as not being an offer of coverage from an
 2021 authorized insurer at the insurer's approved rate.

2022 6. Must include rules for classifications of risks and
 2023 rates ~~therefor~~.

2024 7. Must provide that if premium and investment income for
 2025 an account attributable to a particular calendar year are in
 2026 excess of projected losses and expenses for the account
 2027 attributable to that year, such excess shall be held in surplus
 2028 in the account. Such surplus must ~~shall~~ be available to defray
 2029 deficits in that account as to future years and ~~shall be~~ used
 2030 for that purpose before ~~prior to~~ assessing assessable insurers
 2031 and assessable insureds as to any calendar year.

2032 8. Must provide objective criteria and procedures to be
 2033 uniformly applied to ~~for~~ all applicants in determining whether
 2034 an individual risk is so hazardous as to be uninsurable. In
 2035 making this determination and in establishing the criteria and
 2036 procedures, the following must ~~shall~~ be considered:

2037 a. Whether the likelihood of a loss for the individual
 2038 risk is substantially higher than for other risks of the same
 2039 class; and

2040 b. Whether the uncertainty associated with the individual
 2041 risk is such that an appropriate premium cannot be determined.

2042

2043 The acceptance or rejection of a risk by the corporation shall
 2044 be construed as the private placement of insurance, and the

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2045 provisions of chapter 120 do ~~shall~~ not apply.

2046 9. Must provide that the corporation ~~shall~~ make its best
 2047 efforts to procure catastrophe reinsurance at reasonable rates,
 2048 to cover its projected 100-year probable maximum loss as
 2049 determined by the board of governors.

2050 10. The policies issued by the corporation must provide
 2051 that, if the corporation or the market assistance plan obtains
 2052 an offer from an authorized insurer to cover the risk at its
 2053 approved rates, the risk is no longer eligible for renewal
 2054 through the corporation, except as otherwise provided in this
 2055 subsection.

2056 11. Corporation policies and applications must include a
 2057 notice that the corporation policy could, under this section, be
 2058 replaced with a policy issued by an authorized insurer which
 2059 ~~that~~ does not provide coverage identical to the coverage
 2060 provided by the corporation. The notice must ~~shall~~ also specify
 2061 that acceptance of corporation coverage creates a conclusive
 2062 presumption that the applicant or policyholder is aware of this
 2063 potential.

2064 12. May establish, subject to approval by the office,
 2065 different eligibility requirements and operational procedures
 2066 for any line or type of coverage for any specified county or
 2067 area if the board determines that such changes ~~to the~~
 2068 ~~eligibility requirements and operational procedures~~ are
 2069 justified due to the voluntary market being sufficiently stable
 2070 and competitive in such area or for such line or type of
 2071 coverage and that consumers who, in good faith, are unable to
 2072 obtain insurance through the voluntary market through ordinary

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2073 | methods ~~would~~ continue to have access to coverage from the
 2074 | corporation. If ~~When~~ coverage is sought in connection with a
 2075 | real property transfer, the ~~such~~ requirements and procedures may
 2076 | ~~shall~~ not provide ~~for~~ an effective date of coverage later than
 2077 | the date of the closing of the transfer as established by the
 2078 | transferor, the transferee, and, if applicable, the lender.

2079 | 13. Must provide that, with respect to the coastal high-
 2080 | ~~risk~~ account, any assessable insurer with a surplus as to
 2081 | policyholders of \$25 million or less writing 25 percent or more
 2082 | of its total countrywide property insurance premiums in this
 2083 | state may petition the office, within the first 90 days of each
 2084 | calendar year, to qualify as a limited apportionment company. A
 2085 | regular assessment levied by the corporation on a limited
 2086 | apportionment company for a deficit incurred by the corporation
 2087 | for the coastal high-risk account ~~in 2006 or thereafter~~ may be
 2088 | paid to the corporation on a monthly basis as the assessments
 2089 | are collected by the limited apportionment company from its
 2090 | insureds pursuant to s. 627.3512, but the regular assessment
 2091 | must be paid in full within 12 months after being levied by the
 2092 | corporation. A limited apportionment company shall collect from
 2093 | its policyholders any emergency assessment imposed under sub-
 2094 | subparagraph (b)3.d. The plan must ~~shall~~ provide that, if the
 2095 | office determines that any regular assessment will result in an
 2096 | impairment of the surplus of a limited apportionment company,
 2097 | the office may direct that all or part of such assessment be
 2098 | deferred as provided in subparagraph (q)4. However, ~~there shall~~
 2099 | ~~be no limitation or deferment of~~ an emergency assessment to be
 2100 | collected from policyholders under sub-subparagraph (b)3.d. may

2101 not be limited or deferred.

2102 14. Must provide that the corporation appoint as its
 2103 licensed agents only those agents who also hold an appointment
 2104 as defined in s. 626.015(3) with an insurer who at the time of
 2105 the agent's initial appointment by the corporation is authorized
 2106 to write and is actually writing personal lines residential
 2107 property coverage, commercial residential property coverage, or
 2108 commercial nonresidential property coverage within the state.

2109 15. Must provide, ~~by July 1, 2007,~~ a premium payment plan
 2110 option to its policyholders which, ~~allows~~ at a minimum, allows
 2111 for quarterly and semiannual payment of premiums. A monthly
 2112 payment plan may, but is not required to, be offered.

2113 16. Must limit coverage on mobile homes or manufactured
 2114 homes built before ~~prior to~~ 1994 to actual cash value of the
 2115 dwelling rather than replacement costs of the dwelling.

2116 17. May provide such limits of coverage as the board
 2117 determines, consistent with the requirements of this subsection.

2118 18. May require commercial property to meet specified
 2119 hurricane mitigation construction features as a condition of
 2120 eligibility for coverage.

2121 (d)1. All prospective employees for senior management
 2122 positions, as defined by the plan of operation, are subject to
 2123 background checks as a prerequisite for employment. The office
 2124 shall conduct the background checks ~~on such prospective~~
 2125 ~~employees~~ pursuant to ss. 624.34, 624.404(3), and 628.261.

2126 2. On or before July 1 of each year, employees of the
 2127 corporation must ~~are required to~~ sign and submit a statement
 2128 attesting that they do not have a conflict of interest, as

2129 defined in part III of chapter 112. As a condition of
 2130 employment, all prospective employees must ~~are required to~~ sign
 2131 and submit to the corporation a conflict-of-interest statement.

2132 3. Senior managers and members of the board of governors
 2133 are subject to ~~the provisions of~~ part III of chapter 112,
 2134 including, but not limited to, the code of ethics and public
 2135 disclosure and reporting of financial interests, pursuant to s.
 2136 112.3145. Notwithstanding s. 112.3143(2), a board member may not
 2137 vote on any measure that would inure to his or her special
 2138 private gain or loss; that he or she knows would inure to the
 2139 special private gain or loss of any principal by whom he or she
 2140 is retained or to the parent organization or subsidiary of a
 2141 corporate principal by which he or she is retained, other than
 2142 an agency as defined in s. 112.312; or that he or she knows
 2143 would inure to the special private gain or loss of a relative or
 2144 business associate of the public officer. Before the vote is
 2145 taken, such member shall publicly state to the assembly the
 2146 nature of his or her interest in the matter from which he or she
 2147 is abstaining from voting and, within 15 days after the vote
 2148 occurs, disclose the nature of his or her interest as a public
 2149 record in a memorandum filed with the person responsible for
 2150 recording the minutes of the meeting, who shall incorporate the
 2151 memorandum in the minutes. Senior managers and board members are
 2152 also required to file such disclosures with the Commission on
 2153 Ethics and the Office of Insurance Regulation. The executive
 2154 director of the corporation or his or her designee shall notify
 2155 each existing and newly appointed ~~and existing appointed~~ member
 2156 of the board of governors and senior managers of their duty to

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2157 | comply with the reporting requirements of part III of chapter
2158 | 112. At least quarterly, the executive director or his or her
2159 | designee shall submit to the Commission on Ethics a list of
2160 | names of the senior managers and members of the board of
2161 | governors who are subject to the public disclosure requirements
2162 | under s. 112.3145.

2163 | 4. Notwithstanding s. 112.3148 or s. 112.3149, or any
2164 | other provision of law, an employee or board member may not
2165 | knowingly accept, directly or indirectly, any gift or
2166 | expenditure from a person or entity, or an employee or
2167 | representative of such person or entity, which ~~that~~ has a
2168 | contractual relationship with the corporation or who is under
2169 | consideration for a contract. An employee or board member who
2170 | fails to comply with subparagraph 3. or this subparagraph is
2171 | subject to penalties provided under ss. 112.317 and 112.3173.

2172 | 5. Any senior manager of the corporation who is employed
2173 | on or after January 1, 2007, regardless of the date of hire, who
2174 | subsequently retires or terminates employment is prohibited from
2175 | representing another person or entity before the corporation for
2176 | 2 years after retirement or termination of employment from the
2177 | corporation.

2178 | 6. Any senior manager of the corporation who is employed
2179 | on or after January 1, 2007, regardless of the date of hire, who
2180 | subsequently retires or terminates employment is prohibited from
2181 | having any employment or contractual relationship for 2 years
2182 | with an insurer that has entered into a take-out bonus agreement
2183 | with the corporation.

2184 | (v)1. Effective July 1, 2002, policies of the Residential

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2185 Property and Casualty Joint Underwriting Association ~~shall~~
2186 become policies of the corporation. All obligations, rights,
2187 assets and liabilities of the ~~Residential Property and Casualty~~
2188 ~~Joint Underwriting~~ association, including bonds, note and debt
2189 obligations, and the financing documents pertaining to them
2190 become those of the corporation as of July 1, 2002. The
2191 corporation is not required to issue endorsements or
2192 certificates of assumption to insureds during the remaining term
2193 of in-force transferred policies.

2194 2. Effective July 1, 2002, policies of the Florida
2195 Windstorm Underwriting Association are transferred to the
2196 corporation and ~~shall~~ become policies of the corporation. All
2197 obligations, rights, assets, and liabilities of the ~~Florida~~
2198 ~~Windstorm Underwriting~~ association, including bonds, note and
2199 debt obligations, and the financing documents pertaining to them
2200 are transferred to and assumed by the corporation on July 1,
2201 2002. The corporation is not required to issue endorsements or
2202 certificates of assumption to insureds during the remaining term
2203 of in-force transferred policies.

2204 3. The Florida Windstorm Underwriting Association and the
2205 Residential Property and Casualty Joint Underwriting Association
2206 shall take all actions necessary ~~as may be proper~~ to further
2207 evidence the transfers and ~~shall~~ provide the documents and
2208 instruments of further assurance as may reasonably be requested
2209 by the corporation for that purpose. The corporation shall
2210 execute assumptions and instruments as the trustees or other
2211 parties to the financing documents of the Florida Windstorm
2212 Underwriting Association or the Residential Property and

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2213 Casualty Joint Underwriting Association may reasonably request
 2214 to further evidence the transfers and assumptions, which
 2215 transfers and assumptions, however, are effective on the date
 2216 provided under this paragraph whether or not, and regardless of
 2217 the date on which, the assumptions or instruments are executed
 2218 by the corporation. Subject to the relevant financing documents
 2219 pertaining to their outstanding bonds, notes, indebtedness, or
 2220 other financing obligations, the moneys, investments,
 2221 receivables, choses in action, and other intangibles of the
 2222 Florida Windstorm Underwriting Association shall be credited to
 2223 the coastal ~~high-risk~~ account of the corporation, and those of
 2224 the personal lines residential coverage account and the
 2225 commercial lines residential coverage account of the Residential
 2226 Property and Casualty Joint Underwriting Association shall be
 2227 credited to the personal lines account and the commercial lines
 2228 account, respectively, of the corporation.

2229 4. Effective July 1, 2002, a new applicant for property
 2230 insurance coverage who would otherwise have been eligible for
 2231 coverage in the Florida Windstorm Underwriting Association is
 2232 eligible for coverage from the corporation as provided in this
 2233 subsection.

2234 5. The transfer of all policies, obligations, rights,
 2235 assets, and liabilities from the Florida Windstorm Underwriting
 2236 Association to the corporation and the renaming of the
 2237 Residential Property and Casualty Joint Underwriting Association
 2238 as the corporation does not ~~shall in no way~~ affect the coverage
 2239 with respect to covered policies as defined in s. 215.555(2)(c)
 2240 provided to these entities by the Florida Hurricane Catastrophe

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2241 Fund. The coverage provided by the ~~Florida Hurricane Catastrophe~~
 2242 fund to the Florida Windstorm Underwriting Association based on
 2243 its exposures as of June 30, 2002, and each June 30 thereafter
 2244 shall be redesignated as coverage for the coastal high-risk
 2245 account of the corporation. Notwithstanding any other provision
 2246 of law, the coverage provided by the ~~Florida Hurricane~~
 2247 ~~Catastrophe~~ fund to the Residential Property and Casualty Joint
 2248 Underwriting Association based on its exposures as of June 30,
 2249 2002, and each June 30 thereafter shall be transferred to the
 2250 personal lines account and the commercial lines account of the
 2251 corporation. Notwithstanding any other provision of law, the
 2252 coastal high-risk account shall be treated, for all Florida
 2253 Hurricane Catastrophe Fund purposes, as if it were a separate
 2254 participating insurer with its own exposures, reimbursement
 2255 premium, and loss reimbursement. Likewise, the personal lines
 2256 and commercial lines accounts shall be viewed together, for all
 2257 ~~Florida Hurricane Catastrophe~~ fund purposes, as if the two
 2258 accounts were one and represent a single, separate participating
 2259 insurer with its own exposures, reimbursement premium, and loss
 2260 reimbursement. The coverage provided by the ~~Florida Hurricane~~
 2261 ~~Catastrophe~~ fund to the corporation shall constitute and operate
 2262 as a full transfer of coverage from the Florida Windstorm
 2263 Underwriting Association and Residential Property and Casualty
 2264 Joint Underwriting to the corporation.

2265 (y) It is the intent of the Legislature that the
 2266 amendments to this subsection enacted in 2002 should, over time,
 2267 reduce the probable maximum windstorm losses in the residual
 2268 markets and ~~should reduce~~ the potential assessments to be levied

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2269 on property insurers and policyholders statewide. In furtherance
 2270 of this intent:

2271 1. The board shall, on or before February 1 of each year,
 2272 provide a report to the President of the Senate and the Speaker
 2273 of the House of Representatives showing the reduction or
 2274 increase in the 100-year probable maximum loss attributable to
 2275 wind-only coverages and the quota share program under this
 2276 subsection combined, as compared to the benchmark 100-year
 2277 probable maximum loss of the Florida Windstorm Underwriting
 2278 Association. For purposes of this paragraph, the benchmark 100-
 2279 year probable maximum loss of the Florida Windstorm Underwriting
 2280 Association is ~~shall be~~ the calculation dated February 2001 and
 2281 based on November 30, 2000, exposures. In order to ensure
 2282 comparability of data, the board shall use the same methods for
 2283 calculating its probable maximum loss as were used to calculate
 2284 the benchmark probable maximum loss.

2285 2. Beginning December 1, 2013 ~~2010~~, if the report under
 2286 subparagraph 1. for any year indicates that the 100-year
 2287 probable maximum loss attributable to wind-only coverages and
 2288 the quota share program combined does not reflect a reduction of
 2289 at least 25 percent from the benchmark, the board shall reduce
 2290 the boundaries of the high-risk area eligible for wind-only
 2291 coverages ~~under this subsection~~ in a manner calculated to reduce
 2292 the ~~such~~ probable maximum loss to an amount at least 25 percent
 2293 below the benchmark.

2294 3. Beginning February 1, 2015, if the report under
 2295 subparagraph 1. for any year indicates that the 100-year
 2296 probable maximum loss attributable to wind-only coverages and

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2297 the quota share program combined does not reflect a reduction of
 2298 at least 50 percent from the benchmark, the boundaries of the
 2299 high-risk area eligible for wind-only coverages ~~under this~~
 2300 ~~subsection~~ shall be reduced by the elimination of any area that
 2301 is not seaward of a line 1,000 feet inland from the Intracoastal
 2302 Waterway.

2303 Section 14. Paragraph (a) of subsection (5) of section
 2304 627.3511, Florida Statutes, is amended to read:

2305 627.3511 Depopulation of Citizens Property Insurance
 2306 Corporation.—

2307 (5) APPLICABILITY.—

2308 (a) The take-out bonus provided by subsection (2) and the
 2309 exemption from assessment provided by paragraph (3)(a) apply
 2310 only if the corporation policy is replaced by ~~either~~ a standard
 2311 policy including wind coverage or, if consistent with the
 2312 insurer's underwriting rules ~~as~~ filed with the office, a basic
 2313 policy including wind coverage; however, for ~~with respect to~~
 2314 risks located in areas where coverage through the coastal ~~high-~~
 2315 ~~risk~~ account of the corporation is available, the replacement
 2316 policy need not provide wind coverage. The insurer must renew
 2317 the replacement policy at approved rates on substantially
 2318 similar terms for four additional 1-year terms, unless canceled
 2319 or not renewed by the policyholder. If an insurer assumes the
 2320 corporation's obligations for a policy, it must issue a
 2321 replacement policy for a 1-year term upon expiration of the
 2322 corporation policy and must renew the replacement policy at
 2323 approved rates on substantially similar terms for four
 2324 additional 1-year terms, unless canceled or not renewed by the

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2325 policyholder. For each replacement policy canceled or nonrenewed
 2326 by the insurer for any reason during the 5-year coverage period
 2327 ~~required by this paragraph~~, the insurer must remove from the
 2328 corporation one additional policy covering a risk similar to the
 2329 risk covered by the canceled or nonrenewed policy. In addition
 2330 ~~to these requirements~~, the corporation must place the bonus
 2331 moneys in escrow for ~~a period of~~ 5 years; such moneys may be
 2332 released from escrow only to pay claims. If the policy is
 2333 canceled or nonrenewed before the end of the 5-year period, the
 2334 amount of the take-out bonus must be prorated for the time
 2335 period the policy was insured. A take-out bonus provided by
 2336 subsection (2) or subsection (6) is ~~shall not be considered~~
 2337 premium income for purposes of taxes and assessments under the
 2338 Florida Insurance Code and ~~shall~~ remain the property of the
 2339 corporation, subject to the prior security interest of the
 2340 insurer under the escrow agreement until it is released from
 2341 escrow; ~~and~~ after it is released from escrow it is ~~shall be~~
 2342 considered an asset of the insurer and credited to the insurer's
 2343 capital and surplus.

2344 Section 15. Paragraph (b) of subsection (2) of section
 2345 627.4133, Florida Statutes, is amended to read:

2346 627.4133 Notice of cancellation, nonrenewal, or renewal
 2347 premium.—

2348 (2) With respect to any personal lines or commercial
 2349 residential property insurance policy, including, but not
 2350 limited to, any homeowner's, mobile home owner's, farmowner's,
 2351 condominium association, condominium unit owner's, apartment
 2352 building, or other policy covering a residential structure or

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2353 | its contents:

2354 | (b) The insurer shall give the named insured written
 2355 | notice of nonrenewal, cancellation, or termination at least 90
 2356 | ~~100~~ days before ~~prior to~~ the effective date of the nonrenewal,
 2357 | cancellation, or termination. ~~However, the insurer shall give at~~
 2358 | ~~least 100 days' written notice, or written notice by June 1,~~
 2359 | ~~whichever is earlier, for any nonrenewal, cancellation, or~~
 2360 | ~~termination that would be effective between June 1 and November~~
 2361 | ~~30. The notice must include the reason or reasons for the~~
 2362 | ~~nonrenewal, cancellation, or termination, except that:~~

2363 | ~~1. The insurer shall give the named insured written notice~~
 2364 | ~~of nonrenewal, cancellation, or termination at least 180 days~~
 2365 | ~~prior to the effective date of the nonrenewal, cancellation, or~~
 2366 | ~~termination for a named insured whose residential structure has~~
 2367 | ~~been insured by that insurer or an affiliated insurer for at~~
 2368 | ~~least a 5-year period immediately prior to the date of the~~
 2369 | ~~written notice.~~

2370 | ~~1.2.~~ 1.2. ~~If when~~ cancellation is for nonpayment of premium, at
 2371 | least 10 days' written notice of cancellation accompanied by the
 2372 | reason therefor must ~~shall~~ be given. As used in this
 2373 | subparagraph, the term "nonpayment of premium" means failure of
 2374 | the named insured to discharge when due ~~any of~~ her or his
 2375 | obligations in connection with the payment of premiums on a
 2376 | policy or any installment of such premium, whether the premium
 2377 | is payable directly to the insurer or its agent or indirectly
 2378 | under any premium finance plan or extension of credit, or
 2379 | failure to maintain membership in an organization if such
 2380 | membership is a condition precedent to insurance coverage. The

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2381 term ~~"Nonpayment of premium"~~ also means the failure of a
 2382 financial institution to honor an insurance applicant's check
 2383 after delivery to a licensed agent for payment of a premium,
 2384 even if the agent has previously delivered or transferred the
 2385 premium to the insurer. If a dishonored check represents the
 2386 initial premium payment, the contract and all contractual
 2387 obligations are ~~shall be~~ void ab initio unless the nonpayment is
 2388 cured within the earlier of 5 days after actual notice by
 2389 certified mail is received by the applicant or 15 days after
 2390 notice is sent to the applicant by certified mail or registered
 2391 mail, and if the contract is void, any premium received by the
 2392 insurer from a third party must ~~shall~~ be refunded to that party
 2393 in full.

2394 ~~2.3.~~ 2.3. ~~If~~ When such cancellation or termination occurs
 2395 during the first 90 days ~~during which~~ the insurance is in force
 2396 and the insurance is canceled or terminated for reasons other
 2397 than nonpayment of premium, at least 20 days' written notice of
 2398 cancellation or termination accompanied by the reason therefor
 2399 must ~~shall~~ be given unless ~~except where~~ there has been a
 2400 material misstatement or misrepresentation or failure to comply
 2401 with the underwriting requirements established by the insurer.

2402 ~~3.4.~~ 3.4. The requirement for providing written notice ~~of~~
 2403 ~~nonrenewal~~ by June 1 of any nonrenewal that would be effective
 2404 between June 1 and November 30 does not apply to the following
 2405 situations, but the insurer remains subject to the requirement
 2406 to provide such notice at least 100 days before ~~prior to~~ the
 2407 effective date of nonrenewal:

2408 a. A policy that is nonrenewed due to a revision in the

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2409 coverage for sinkhole losses and catastrophic ground cover
 2410 collapse pursuant to s. 627.706, ~~as amended by s. 30, chapter~~
 2411 ~~2007-1, Laws of Florida.~~

2412 b. A policy that is nonrenewed by Citizens Property
 2413 Insurance Corporation, pursuant to s. 627.351(6), for a policy
 2414 that has been assumed by an authorized insurer offering
 2415 replacement ~~or renewal~~ coverage to the policyholder is exempt
 2416 from the notice requirements of paragraph (a) and this
 2417 paragraph. In such cases, the corporation must give the named
 2418 insured written notice of nonrenewal at least 45 days before the
 2419 effective date of the nonrenewal.

2420
 2421 After the policy has been in effect for 90 days, the policy may
 2422 ~~shall~~ not be canceled by the insurer unless ~~except when~~ there
 2423 has been a material misstatement, a nonpayment of premium, a
 2424 failure to comply with underwriting requirements established by
 2425 the insurer within 90 days after ~~of~~ the date of effectuation of
 2426 coverage, or a substantial change in the risk covered by the
 2427 policy or if ~~when~~ the cancellation is for all insureds under
 2428 such policies for a given class of insureds. This paragraph does
 2429 not apply to individually rated risks having a policy term of
 2430 less than 90 days.

2431 4. Notwithstanding any other provision of law, an insurer
 2432 may cancel or nonrenew a property insurance policy after at
 2433 least 45 days' notice if the office finds that the early
 2434 cancellation of some or all of the insurer's policies is
 2435 necessary to protect the best interests of the public or
 2436 policyholders and the office approves the insurer's plan for

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2437 early cancellation or nonrenewal of some or all of its policies.
 2438 The office may base such finding upon the financial condition of
 2439 the insurer, lack of adequate reinsurance coverage for hurricane
 2440 risk, or other relevant factors. The office may condition its
 2441 finding on the consent of the insurer to be placed under
 2442 administrative supervision pursuant to s. 624.81 or to the
 2443 appointment of a receiver under chapter 631.

2444 Section 16. Section 627.43141, Florida Statutes, is
 2445 created to read:

2446 627.43141 Notice of change in policy terms.—

2447 (1) As used in this section, the term:

2448 (a) "Change in policy terms" means the modification,
 2449 addition, or deletion of any term, coverage, duty, or condition
 2450 from the previous policy. The correction of typographical or
 2451 scrivener's errors or the application of mandated legislative
 2452 changes is not a change in policy terms.

2453 (b) "Policy" means a written contract of personal lines
 2454 property and casualty insurance or a written agreement for
 2455 insurance, or the certificate of such insurance, by whatever
 2456 name called, and includes all clauses, riders, endorsements, and
 2457 papers that are a part of such policy. The term does not include
 2458 a binder as defined in s. 627.420 unless the duration of the
 2459 binder period exceeds 60 days.

2460 (c) "Renewal" means the issuance and delivery by an
 2461 insurer of a policy superseding at the end of the policy period
 2462 a policy previously issued and delivered by the same insurer or
 2463 the issuance and delivery of a certificate or notice extending
 2464 the term of a policy beyond its policy period or term. Any

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2465 policy that has a policy period or term of less than 6 months or
 2466 that does not have a fixed expiration date shall, for purposes
 2467 of this section, be considered as written for successive policy
 2468 periods or terms of 6 months.

2469 (2) A renewal policy may contain a change in policy terms.
 2470 If a renewal policy does contains such change, the insurer must
 2471 give the named insured written notice of the change, which must
 2472 be enclosed along with the written notice of renewal premium
 2473 required by ss. 627.4133 and 627.728. Such notice shall be
 2474 entitled "Notice of Change in Policy Terms."

2475 (3) Although not required, proof of mailing or registered
 2476 mailing through the United States Postal Service of the Notice
 2477 of Change in Policy Terms to the named insured at the address
 2478 shown in the policy is sufficient proof of notice.

2479 (4) Receipt of the premium payment for the renewal policy
 2480 by the insurer is deemed to be acceptance of the new policy
 2481 terms by the named insured.

2482 (5) If an insurer fails to provide the notice required in
 2483 subsection (2), the original policy terms remain in effect until
 2484 the next renewal and the proper service of the notice, or until
 2485 the effective date of replacement coverage obtained by the named
 2486 insured, whichever occurs first.

2487 (6) The intent of this section is to:

2488 (a) Allow an insurer to make a change in policy terms
 2489 without nonrenewing those policyholders that the insurer wishes
 2490 to continue insuring.

2491 (b) Alleviate concern and confusion to the policyholder
 2492 caused by the required policy nonrenewal for the limited issue

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2493 if an insurer intends to renew the insurance policy, but the new
 2494 policy contains a change in policy terms.

2495 (c) Encourage policyholders to discuss their coverages
 2496 with their insurance agents.

2497 Section 17. Section 627.7011, Florida Statutes, is amended
 2498 to read:

2499 627.7011 Homeowners' policies; offer of replacement cost
 2500 coverage and law and ordinance coverage.—

2501 (1) Before ~~Prior to~~ issuing or renewing a homeowner's
 2502 insurance policy ~~on or after October 1, 2005, or prior to the~~
 2503 ~~first renewal of a homeowner's insurance policy on or after~~
 2504 ~~October 1, 2005,~~ the insurer must offer each of the following:

2505 (a) A policy or endorsement providing that any loss that
 2506 ~~which~~ is repaired or replaced will be adjusted on the basis of
 2507 replacement costs to the dwelling not exceeding policy limits ~~as~~
 2508 ~~to the dwelling,~~ rather than actual cash value, but not
 2509 including costs necessary to meet applicable laws and ordinances
 2510 regulating the construction, use, or repair of any property or
 2511 requiring the tearing down of any property, including the costs
 2512 of removing debris.

2513 (b) A policy or endorsement providing that, subject to
 2514 other policy provisions, any loss that ~~which~~ is repaired or
 2515 replaced at any location will be adjusted on the basis of
 2516 replacement costs to the dwelling not exceeding policy limits ~~as~~
 2517 ~~to the dwelling,~~ rather than actual cash value, and also
 2518 including costs necessary to meet applicable laws and ordinances
 2519 regulating the construction, use, or repair of any property or
 2520 requiring the tearing down of any property, including the costs

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2521 of removing debris. ~~+~~ However, ~~such~~ additional costs necessary to
 2522 meet applicable laws and ordinances may be limited to ~~either~~ 25
 2523 percent or 50 percent of the dwelling limit, as selected by the
 2524 policyholder, and such coverage applies ~~shall apply~~ only to
 2525 repairs of the damaged portion of the structure unless the total
 2526 damage to the structure exceeds 50 percent of the replacement
 2527 cost of the structure.

2528
 2529 An insurer is not required to make the offers required by this
 2530 subsection with respect to the issuance or renewal of a
 2531 homeowner's policy that contains the provisions specified in
 2532 paragraph (b) for law and ordinance coverage limited to 25
 2533 percent of the dwelling limit, except that the insurer must
 2534 offer the law and ordinance coverage limited to 50 percent of
 2535 the dwelling limit. This subsection does not prohibit the offer
 2536 of a guaranteed replacement cost policy.

2537 (2) Unless the insurer obtains the policyholder's written
 2538 refusal of the policies or endorsements specified in subsection
 2539 (1), any policy covering the dwelling is deemed to include the
 2540 law and ordinance coverage limited to 25 percent of the dwelling
 2541 limit. The rejection or selection of alternative coverage shall
 2542 be made on a form approved by the office. The form must ~~shall~~
 2543 fully advise the applicant of the nature of the coverage being
 2544 rejected. If this form is signed by a named insured, it is ~~will~~
 2545 ~~be~~ conclusively presumed that there was an informed, knowing
 2546 rejection of the coverage or election of the alternative
 2547 coverage on behalf of all insureds. Unless the policyholder
 2548 requests in writing the coverage specified in this section, it

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2549 need not be provided in or supplemental to any other policy that
 2550 renews, insures, extends, changes, supersedes, or replaces an
 2551 existing policy ~~if when~~ the policyholder has rejected the
 2552 coverage specified in this section or has selected alternative
 2553 coverage. The insurer must provide the ~~such~~ policyholder with
 2554 notice of the availability of such coverage in a form approved
 2555 by the office at least once every 3 years. The failure to
 2556 provide such notice constitutes a violation of this code, but
 2557 does not affect the coverage provided under the policy.

2558 (3) (a) If ~~in the event of~~ a loss occurs for which a
 2559 dwelling ~~or personal property~~ is insured on the basis of
 2560 replacement costs, the insurer shall initially pay at least the
 2561 actual cash value of the insured loss, less any applicable
 2562 deductible. In order to receive payment from an insurer under
 2563 this paragraph, a policyholder must enter into a contract for
 2564 the performance of building and structural repairs. The insurer
 2565 shall pay any remaining amounts necessary to perform such
 2566 repairs as work is performed and expenses are incurred. Other
 2567 than incidental expenses to mitigate further damage, the insurer
 2568 or any contractor or subcontractor may not require the
 2569 policyholder to advance payment for such repairs or expenses.
 2570 The insurer may waive the requirement for a contract under this
 2571 paragraph. If a total loss for a dwelling occurs, the insurer
 2572 shall pay the replacement cost coverage without reservation or
 2573 holdback of any depreciation in value, ~~whether or not the~~
 2574 ~~insured replaces or repairs the dwelling or property.~~

2575 (b) If a loss occurs for which personal property is
 2576 insured on the basis of replacement costs, the insurer may limit

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2577 an initial payment to the actual cash value of the personal
 2578 property to be replaced. An insurer may require that an insured
 2579 provide the receipts from the purchase of property financed by
 2580 the initial actual cash value payment mandated under this
 2581 paragraph, and the insurer shall use such receipts to make the
 2582 next payment requested by the insured for the replacement of
 2583 insured personal property. The insurer shall continue this
 2584 process until the insured remits all receipts up to the policy
 2585 limits for replacement costs. The insurer must provide clear
 2586 notice of this process in the insurance contract. The insurer
 2587 may not require the policyholder to advance payment for the
 2588 replaced property.

2589 (4) A ~~Any~~ homeowner's insurance policy ~~issued or renewed~~
 2590 ~~on or after October 1, 2005,~~ must include in bold type no
 2591 smaller than 18 points the following statement:

2592
 2593 "LAW AND ORDINANCE COVERAGE IS AN IMPORTANT COVERAGE
 2594 THAT YOU MAY WISH TO PURCHASE. YOU MAY ALSO NEED TO
 2595 CONSIDER THE PURCHASE OF FLOOD INSURANCE FROM THE
 2596 NATIONAL FLOOD INSURANCE PROGRAM. WITHOUT THIS
 2597 COVERAGE, YOU MAY HAVE UNCOVERED LOSSES. PLEASE
 2598 DISCUSS THESE COVERAGES WITH YOUR INSURANCE AGENT."
 2599

2600 The intent of this subsection is to encourage policyholders to
 2601 purchase sufficient coverage to protect them in case events
 2602 excluded from the standard homeowners policy, such as law and
 2603 ordinance enforcement and flood, combine with covered events to
 2604 produce damage or loss to the insured property. The intent is

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2605 also to encourage policyholders to discuss these issues with
 2606 their insurance agent.

2607 (5) ~~Nothing in~~ This section does not: ~~shall be construed~~
 2608 ~~to~~

2609 (a) Apply to policies not considered to be "homeowners"
 2610 policies," as that term is commonly understood in the insurance
 2611 industry. ~~This section specifically does not~~

2612 (b) Apply to mobile home policies. ~~Nothing in this section~~

2613 (c) ~~Limit shall be construed as limiting~~ the ability of an
 2614 ~~any~~ insurer to reject or nonrenew any insured or applicant on
 2615 the grounds that the structure does not meet underwriting
 2616 criteria applicable to replacement cost or law and ordinance
 2617 policies or for other lawful reasons.

2618 (d) ~~(6) This section does not~~ Prohibit an insurer from
 2619 limiting its liability under a policy or endorsement providing
 2620 that loss will be adjusted on the basis of replacement costs to
 2621 the lesser of:

2622 1. ~~(a)~~ The limit of liability shown on the policy
 2623 declarations page;

2624 2. ~~(b)~~ The reasonable and necessary cost to repair the
 2625 damaged, destroyed, or stolen covered property; or

2626 3. ~~(c)~~ The reasonable and necessary cost to replace the
 2627 damaged, destroyed, or stolen covered property.

2628 (e) ~~(7) This section does not~~ Prohibit an insurer from
 2629 exercising its right to repair damaged property in compliance
 2630 with its policy and s. 627.702(7).

2631 Section 18. Paragraph (a) of subsection (5) of section
 2632 627.70131, Florida Statutes, is amended to read:

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2633 627.70131 Insurer's duty to acknowledge communications
 2634 regarding claims; investigation.-

2635 (5) (a) Within 90 days after an insurer receives notice of
 2636 an initial, reopened, or supplemental a property insurance claim
 2637 from a policyholder, the insurer shall pay or deny such claim or
 2638 a portion of the claim unless the failure to pay ~~such claim or a~~
 2639 ~~portion of the claim~~ is caused by factors beyond the control of
 2640 the insurer which reasonably prevent such payment. Any payment
 2641 of an initial or supplemental a claim or portion of such a claim
 2642 made paid 90 days after the insurer receives notice of the
 2643 claim, or made paid more than 15 days after there are no longer
 2644 factors beyond the control of the insurer which reasonably
 2645 prevented such payment, whichever is later, bears ~~shall bear~~
 2646 interest at the rate set forth in s. 55.03. Interest begins to
 2647 accrue from the date the insurer receives notice of the claim.
 2648 The provisions of this subsection may not be waived, voided, or
 2649 nullified by the terms of the insurance policy. If there is a
 2650 right to prejudgment interest, the insured shall select whether
 2651 to receive prejudgment interest or interest under this
 2652 subsection. Interest is payable when the claim or portion of the
 2653 claim is paid. Failure to comply with this subsection
 2654 constitutes a violation of this code. However, failure to comply
 2655 with this subsection does ~~shall~~ not form the sole basis for a
 2656 private cause of action.

2657 Section 19. The Legislature finds and declares:

2658 (1) There is a compelling state interest in maintaining a
 2659 viable and orderly private-sector market for property insurance
 2660 in this state. The lack of a viable and orderly property market

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2661 reduces the availability of property insurance coverage to state
2662 residents, increases the cost of property insurance, and
2663 increases the state's reliance on a residual property insurance
2664 market and its potential for imposing assessments on
2665 policyholders throughout the state.

2666 (2) In 2005, the Legislature revised ss. 627.706-627.7074,
2667 Florida Statutes, to adopt certain geological or technical
2668 terms; to increase reliance on objective, scientific testing
2669 requirements; and generally to reduce the number of sinkhole
2670 claims and related disputes arising under prior law. The
2671 Legislature determined that since the enactment of these
2672 statutory revisions, both private-sector insurers and Citizens
2673 Property Insurance Corporation have, nevertheless, continued to
2674 experience high claims frequency and severity for sinkhole
2675 insurance claims. In addition, many properties remain unrepaired
2676 even after loss payments, which reduces the local property tax
2677 base and adversely affects the real estate market. Therefore,
2678 the Legislature finds that losses associated with sinkhole
2679 claims adversely affect the public health, safety, and welfare
2680 of this state and its citizens.

2681 (3) Pursuant to sections 19 through 24 of this act,
2682 technical or scientific definitions adopted in the 2005
2683 legislation are clarified to implement and advance the
2684 Legislature's intended reduction of sinkhole claims and
2685 disputes. The legal presumption intended by the Legislature is
2686 clarified to reduce disputes and litigation associated with the
2687 technical reviews associated with sinkhole claims. Certain other
2688 revisions to ss. 627.706-627.7074, Florida Statutes, are enacted

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2689 to advance legislative intent to rely on scientific or technical
 2690 determinations relating to sinkholes and sinkhole claims, reduce
 2691 the number and cost of disputes relating to sinkhole claims, and
 2692 ensure that repairs are made commensurate with the scientific
 2693 and technical determinations and insurance claims payments.

2694 Section 20. Section 627.706, Florida Statutes, is
 2695 reordered and amended to read:

2696 627.706 Sinkhole insurance; catastrophic ground cover
 2697 collapse; definitions.—

2698 (1) Every insurer authorized to transact residential
 2699 property insurance, as described in s. 627.4025, in this state
 2700 must ~~shall~~ provide coverage for a catastrophic ground cover
 2701 collapse. However, the insurer may restrict such coverage to the
 2702 principal building, as defined in the applicable policy. The
 2703 insurer may ~~and shall~~ make available, for an appropriate
 2704 additional premium, coverage for sinkhole losses on any
 2705 structure, including the contents of personal property contained
 2706 therein, to the extent provided in the form to which the
 2707 coverage attaches. A policy for residential property insurance
 2708 may include a deductible amount applicable to sinkhole losses,
 2709 including any expenses incurred by an insurer investigating
 2710 whether sinkhole activity is present. The deductible may be
 2711 equal to 1 percent, 2 percent, 5 percent, or 10 percent of the
 2712 policy dwelling limits, with appropriate premium discounts
 2713 offered with each deductible amount.

2714 (2) As used in ss. 627.706-627.7074, and as used in
 2715 connection with any policy providing coverage for a catastrophic
 2716 ground cover collapse or for sinkhole losses, the term:

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- 2717 (a) "Catastrophic ground cover collapse" means geological
 2718 activity that results in all the following:
 2719 1. The abrupt collapse of the ground cover;
 2720 2. A depression in the ground cover clearly visible to the
 2721 naked eye;
 2722 3. Structural damage to the covered building, including
 2723 the foundation; and
 2724 4. The insured structure being condemned and ordered to be
 2725 vacated by the governmental agency authorized by law to issue
 2726 such an order for that structure.

2727
 2728 Contents coverage applies if there is a loss resulting from a
 2729 catastrophic ground cover collapse. ~~Structural~~ Damage consisting
 2730 merely of the settling or cracking of a foundation, structure,
 2731 or building does not constitute a loss resulting from a
 2732 catastrophic ground cover collapse.

2733 (b) "Neutral evaluation" means the alternative dispute
 2734 resolution provided in s. 627.7074.

2735 (c) "Neutral evaluator" means a professional engineer or a
 2736 professional geologist who has completed a course of study in
 2737 alternative dispute resolution designed or approved by the
 2738 department for use in the neutral evaluation process and who is
 2739 determined to be fair and impartial.

2740 (f) ~~(b)~~ "Sinkhole" means a landform created by subsidence
 2741 of soil, sediment, or rock as underlying strata are dissolved by
 2742 groundwater. A sinkhole forms ~~may form~~ by collapse into
 2743 subterranean voids created by dissolution of limestone or
 2744 dolostone or by subsidence as these strata are dissolved.

2745 (h)~~(e)~~ "Sinkhole loss" means structural damage to the
 2746 covered building, including the foundation, caused by sinkhole
 2747 activity. Contents coverage and additional living expenses ~~shall~~
 2748 apply only if there is structural damage to the covered building
 2749 caused by sinkhole activity.

2750 (g)~~(d)~~ "Sinkhole activity" means settlement or systematic
 2751 weakening of the earth supporting ~~such~~ property only if the ~~when~~
 2752 ~~such~~ settlement or systematic weakening results from
 2753 contemporary movement or raveling of soils, sediments, or rock
 2754 materials into subterranean voids created by the effect of water
 2755 on a limestone or similar rock formation.

2756 (d)~~(e)~~ "Professional engineer" means a person, as defined
 2757 in s. 471.005, who has a bachelor's degree or higher in
 2758 engineering and has successfully completed at least five courses
 2759 in any combination of the following: geotechnical engineering,
 2760 structural engineering, soil mechanics, foundations, or geology
 2761 ~~with a specialty in the geotechnical engineering field. A~~
 2762 professional engineer must also have ~~geotechnical~~ experience and
 2763 expertise in the identification of sinkhole activity as well as
 2764 other potential causes of structural damage ~~to the structure.~~

2765 (e)~~(f)~~ "Professional geologist" means a person, as defined
 2766 in ~~by~~ s. 492.102, who has a bachelor's degree or higher in
 2767 geology or related earth science and ~~with expertise in the~~
 2768 ~~geology of Florida. A professional geologist must have~~
 2769 ~~geological~~ experience and expertise in the identification of
 2770 sinkhole activity as well as other potential geologic causes of
 2771 structural damage ~~to the structure.~~

2772 (i) "Structural damage" means:

2773 | 1. A covered building that suffers foundation movement
 2774 | outside an acceptable variance under the applicable building
 2775 | code;

2776 | 2. Damage to a covered building, including the foundation,
 2777 | which prevents the primary structural members or primary
 2778 | structural systems from supporting the loads and forces they
 2779 | were designed to support; and

2780 | 3. As may be further defined by the applicable policy.

2781 | ~~(3) On or before June 1, 2007, Every insurer authorized to~~
 2782 | ~~transact property insurance in this state shall make a proper~~
 2783 | ~~filing with the office for the purpose of extending the~~
 2784 | ~~appropriate forms of property insurance to include coverage for~~
 2785 | ~~eatastrophic ground cover collapse or for sinkhole losses.~~
 2786 | ~~coverage for catastrophic ground cover collapse may not go into~~
 2787 | ~~effect until the effective date provided for in the filing~~
 2788 | ~~approved by the office.~~

2789 | (3)~~(4)~~ Insurers offering policies that exclude coverage
 2790 | for sinkhole losses must ~~shall~~ inform policyholders in bold type
 2791 | of not less than 14 points as follows: "YOUR POLICY PROVIDES
 2792 | COVERAGE FOR A CATASTROPHIC GROUND COVER COLLAPSE THAT RESULTS
 2793 | IN THE PROPERTY BEING CONDEMNED AND UNINHABITABLE. OTHERWISE,
 2794 | YOUR POLICY DOES NOT PROVIDE COVERAGE FOR SINKHOLE LOSSES. ~~YOU~~
 2795 | ~~MAY PURCHASE ADDITIONAL COVERAGE FOR SINKHOLE LOSSES FOR AN~~
 2796 | ~~ADDITIONAL PREMIUM."~~

2797 | (4)~~(5)~~ An insurer offering sinkhole coverage to
 2798 | policyholders before or after the adoption of s. 30, chapter
 2799 | 2007-1, Laws of Florida, may nonrenew the policies of
 2800 | policyholders maintaining sinkhole coverage ~~in Pasco County or~~

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2801 ~~Hernando County,~~ at the option of the insurer, and provide an
 2802 offer of coverage that ~~to such policyholders which~~ includes
 2803 catastrophic ground cover collapse and excludes sinkhole
 2804 coverage. Insurers acting in accordance with this subsection are
 2805 subject to the following requirements:

2806 (a) Policyholders must be notified that a nonrenewal is
 2807 for purposes of removing sinkhole coverage, and that the
 2808 policyholder is ~~still~~ being offered a policy that provides
 2809 coverage for catastrophic ground cover collapse.

2810 (b) Policyholders must be provided an actuarially
 2811 reasonable premium credit or discount for the removal of
 2812 sinkhole coverage and provision of only catastrophic ground
 2813 cover collapse.

2814 (c) Subject to the provisions of this subsection and the
 2815 insurer's approved underwriting or insurability guidelines, the
 2816 insurer may ~~shall~~ provide each policyholder with the opportunity
 2817 to purchase an endorsement to his or her policy providing
 2818 sinkhole coverage and may require an inspection of the property
 2819 before issuance of a sinkhole coverage endorsement.

2820 (d) Section 624.4305 does not apply to nonrenewal notices
 2821 issued pursuant to this subsection.

2822 (5) Any claim, including, but not limited to, initial,
 2823 supplemental, and reopened claims under an insurance policy that
 2824 provides sinkhole coverage is barred unless notice of the claim
 2825 was given to the insurer in accordance with the terms of the
 2826 policy within 2 years after the policyholder knew or reasonably
 2827 should have known about the sinkhole loss.

2828 Section 21. Section 627.7061, Florida Statutes, is amended

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2829 to read:

2830 627.7061 Coverage inquiries.—Inquiries about coverage on a
 2831 property insurance contract are not claim activity, unless an
 2832 actual claim is filed by the policyholder which ~~insured that~~
 2833 results in a company investigation of the claim.

2834 Section 22. Section 627.7065, Florida Statutes, is
 2835 repealed.

2836 Section 23. Section 627.707, Florida Statutes, is amended
 2837 to read:

2838 627.707 ~~Standards for~~ Investigation of sinkhole claims by
 2839 policyholders insurers; insurer payment; nonrenewals.—Upon
 2840 receipt of a claim for a sinkhole loss to a covered building, an
 2841 insurer must meet the following standards in investigating a
 2842 claim:

2843 (1) The insurer must inspect ~~make an inspection of the~~
 2844 policyholder's insured's premises to determine if there is
 2845 structural ~~has been physical~~ damage that ~~to the structure which~~
 2846 may be the result of sinkhole activity.

2847 (2) If the insurer confirms that structural damage exists
 2848 but is unable to identify a valid cause of such damage or
 2849 discovers that such damage is consistent with sinkhole loss
 2850 ~~Following the insurer's initial inspection,~~ the insurer shall
 2851 engage a professional engineer or a professional geologist to
 2852 conduct testing as provided in s. 627.7072 to determine the
 2853 cause of the loss within a reasonable professional probability
 2854 and issue a report as provided in s. 627.7073, only if sinkhole
 2855 loss is covered under the policy. Except as provided in
 2856 subsection (6), the fees and costs of the professional engineer

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2857 or professional geologist shall be paid by the insurer.†

2858 ~~(a) The insurer is unable to identify a valid cause of the~~

2859 ~~damage or discovers damage to the structure which is consistent~~

2860 ~~with sinkhole loss; or~~

2861 ~~(b) The policyholder demands testing in accordance with~~

2862 ~~this section or s. 627.7072.~~

2863 (3) Following the initial inspection of the policyholder's

2864 ~~insured~~ premises, the insurer shall provide written notice to

2865 the policyholder disclosing the following information:

2866 (a) What the insurer has determined to be the cause of

2867 damage, if the insurer has made such a determination.

2868 (b) A statement of the circumstances under which the

2869 insurer is required to engage a professional engineer or a

2870 professional geologist to verify or eliminate sinkhole loss and

2871 to engage a professional engineer to make recommendations

2872 regarding land and building stabilization and foundation repair.

2873 ~~(c) A statement regarding the right of the policyholder to~~

2874 ~~request testing by a professional engineer or a professional~~

2875 ~~geologist and the circumstances under which the policyholder may~~

2876 ~~demand certain testing.~~

2877 (4) If the insurer determines that there is no sinkhole

2878 loss, the insurer may deny the claim. If coverage for sinkhole

2879 loss is available and †~~If the insurer denies the claim on such~~

2880 basis, without performing testing under s. 627.7072, the

2881 policyholder may demand testing by the insurer ~~under s.~~

2882 ~~627.7072.~~ The policyholder's demand for testing must be

2883 communicated to the insurer in writing within 60 days after the

2884 policyholder's receipt of the insurer's denial of the claim.

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2885 (5) ~~(a) Subject to paragraph (b),~~ If a sinkhole loss is
 2886 verified, the insurer shall pay to stabilize the land and
 2887 building and repair the foundation in accordance with the
 2888 recommendations of the professional engineer retained pursuant
 2889 to subsection (2), as provided under s. 627.7073, and in
 2890 ~~consultation~~ with notice to the policyholder, subject to the
 2891 coverage and terms of the policy. The insurer shall pay for
 2892 other repairs to the structure and contents in accordance with
 2893 the terms of the policy.

2894 ~~(a)(b)~~ The insurer may limit its total claims payment to
 2895 the actual cash value of the sinkhole loss, which does not
 2896 include ~~including~~ underpinning or grouting or any other repair
 2897 technique performed below the existing foundation of the
 2898 building, until the policyholder enters into a contract for the
 2899 performance of building stabilization or foundation repairs in
 2900 the insurer's report issued pursuant to s. 627.7073.

2901 (b) In order to prevent additional damage to the building
 2902 or structure, the policyholder must enter into a contract for
 2903 the performance of building stabilization or foundation repairs
 2904 within 90 days after the insurance company confirms coverage for
 2905 the sinkhole loss and notifies the policyholder of such
 2906 confirmation. This time period is tolled if either party invokes
 2907 the neutral evaluation process.

2908 (c) After the policyholder enters into the contract for
 2909 the performance of building stabilization or foundation repairs,
 2910 the insurer shall pay the amounts necessary to begin and perform
 2911 such repairs as the work is performed and the expenses are
 2912 incurred. The insurer may not require the policyholder to

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2913 advance payment for such repairs. If repair covered by a
 2914 personal lines residential property insurance policy has begun
 2915 and the professional engineer selected or approved by the
 2916 insurer determines that the repair cannot be completed within
 2917 the policy limits, the insurer must ~~either~~ complete the
 2918 professional engineer's recommended repair or tender the policy
 2919 limits to the policyholder without a reduction for the repair
 2920 expenses incurred.

2921 (d) The stabilization and all other repairs to the
 2922 structure and contents must be completed within 12 months after
 2923 entering into the contract for repairs described in paragraph

2924 (b) unless:

2925 1. There is a mutual agreement between the insurer and the
 2926 policyholder;

2927 2. The claim is involved with the neutral evaluation
 2928 process;

2929 3. The claim is in litigation; or

2930 4. The claim is under appraisal.

2931 (e)-(e) Upon the insurer's obtaining the written approval
 2932 of ~~the policyholder and~~ any lienholder, the insurer may make
 2933 payment directly to the persons selected by the policyholder to
 2934 perform the land and building stabilization and foundation
 2935 repairs. The decision by the insurer to make payment to such
 2936 persons does not hold the insurer liable for the work performed.

2937 The policyholder may not accept a rebate from any person
 2938 performing the repairs specified in this section. If a
 2939 policyholder does receive a rebate, coverage is void and the
 2940 policyholder must refund the amount of the rebate to the

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2941 insurer. Any person making the repairs specified in this section
 2942 who offers a rebate, or any policyholder who accepts a rebate
 2943 for such repairs, commits insurance fraud, a felony of the third
 2944 degree punishable as provided in s. 775.082, s. 775.083, or s.
 2945 775.084.

2946 ~~(6) Except as provided in subsection (7), the fees and~~
 2947 ~~costs of the professional engineer or the professional geologist~~
 2948 ~~shall be paid by the insurer.~~

2949 (6)~~(7)~~ If the insurer obtains, pursuant to s. 627.7073,
 2950 written certification that there is no sinkhole loss ~~or that the~~
 2951 ~~cause of the damage was not sinkhole activity, and if the~~
 2952 ~~policyholder has submitted the sinkhole claim without good faith~~
 2953 ~~grounds for submitting such claim, the policyholder shall~~
 2954 reimburse the insurer for 50 percent of the actual costs of the
 2955 analyses and services provided under ss. 627.7072 and 627.7073;
 2956 however, a policyholder is not required to reimburse an insurer
 2957 more than the deductible or \$2,500, whichever is greater, with
 2958 respect to any claim. A policyholder is required to pay
 2959 reimbursement under this subsection only if the policyholder
 2960 requested the analysis and services provided under ss. 627.7072
 2961 and 627.7073 and the insurer, before ~~prior to~~ ordering the
 2962 analysis under s. 627.7072, informs the policyholder in writing
 2963 of the policyholder's potential liability for reimbursement and
 2964 gives the policyholder the opportunity to withdraw the claim.

2965 ~~(7)~~~~(8)~~ An ~~no~~ insurer may not ~~shall~~ nonrenew any policy of
 2966 property insurance on the basis of filing of claims for partial
 2967 loss caused by sinkhole damage or clay shrinkage if ~~as long as~~
 2968 the total of such payments does not equal or exceed the ~~current~~

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2969 | policy limits of coverage for the policy in effect on the date
 2970 | of loss, for property damage to the covered building, as set
 2971 | forth on the declarations page, or if ~~and provided~~ the
 2972 | policyholder insured has repaired the structure in accordance
 2973 | with the engineering recommendations made pursuant to subsection
 2974 | (2) upon which any payment or policy proceeds were based. If the
 2975 | insurer pays such limits, it may nonrenew the policy.

2976 | (8)~~(9)~~ The insurer may engage a professional structural
 2977 | engineer to make recommendations as to the repair of the
 2978 | structure.

2979 | Section 24. Section 627.7073, Florida Statutes, is amended
 2980 | to read:

2981 | 627.7073 Sinkhole reports.—

2982 | (1) Upon completion of testing as provided in s. 627.7072,
 2983 | the professional engineer or professional geologist shall issue
 2984 | a report and certification to the insurer and the policyholder
 2985 | as provided in this section.

2986 | (a) Sinkhole loss is verified if, based upon tests
 2987 | performed in accordance with s. 627.7072, a professional
 2988 | engineer or a professional geologist issues a written report and
 2989 | certification stating:

2990 | 1. That structural damage to the covered building has been
 2991 | identified within a reasonable professional probability.

2992 | 2.1. ~~That the cause of the actual physical and structural~~
 2993 | ~~damage is sinkhole activity within a reasonable professional~~
 2994 | ~~probability.~~

2995 | 3.2. ~~That the analyses conducted were of sufficient scope~~
 2996 | ~~to identify sinkhole activity as the cause of damage within a~~

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2997 reasonable professional probability.

2998 ~~4.3.~~ A description of the tests performed.

2999 ~~5.4.~~ A recommendation by the professional engineer of
 3000 methods for stabilizing the land and building and for making
 3001 repairs to the foundation.

3002 (b) If there is no structural damage or if sinkhole
 3003 activity is eliminated as the cause of such damage to the
 3004 covered building structure, the professional engineer or
 3005 professional geologist shall issue a written report and
 3006 certification to the policyholder and the insurer stating:

3007 1. That there is no structural damage or the cause of such
 3008 ~~the~~ damage is not sinkhole activity within a reasonable
 3009 professional probability.

3010 2. That the analyses and tests conducted were of
 3011 sufficient scope to eliminate sinkhole activity as the cause of
 3012 the structural damage within a reasonable professional
 3013 probability.

3014 3. A statement of the cause of the structural damage
 3015 within a reasonable professional probability.

3016 4. A description of the tests performed.

3017 (c) The respective findings, opinions, and recommendations
 3018 of the professional engineer or professional geologist as to the
 3019 cause of distress to the property and the findings, opinions,
 3020 and recommendations of the insurer's professional engineer as to
 3021 land and building stabilization and foundation repair set forth
 3022 by s. 627.7072 shall be presumed correct, which presumption
 3023 shifts the burden of proof in accordance with s. 90.302(2). The
 3024 presumption of correctness is based upon public policy concerns

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3025 regarding the affordability of sinkhole coverage, consistency in
 3026 claims handling, and a reduction in the number of disputed
 3027 sinkhole claims.

3028 (2)~~(a)~~ Any insurer that has paid a claim for a sinkhole
 3029 loss shall file a copy of the report and certification, prepared
 3030 pursuant to subsection (1), including the legal description of
 3031 the real property and the name of the property owner, the
 3032 neutral evaluator's report, if any, that indicates that sinkhole
 3033 activity caused the damage claimed, a copy of the certification
 3034 indicating that stabilization has been completed, if applicable,
 3035 and the amount of the payment, with the county clerk of court,
 3036 who shall record the report and certification. The insurer shall
 3037 bear the cost of filing and recording one or more reports and
 3038 certifications ~~the report and certification~~. There shall be no
 3039 cause of action or liability against an insurer for compliance
 3040 with this section.

3041 (a) The recording of the report and certification does
 3042 not:

3043 1. Constitute a lien, encumbrance, or restriction on the
 3044 title to the real property or constitute a defect in the title
 3045 to the real property;

3046 2. Create any cause of action or liability against any
 3047 grantor of the real property for breach of any warranty of good
 3048 title or warranty against encumbrances; or

3049 3. Create any cause of action or liability against any
 3050 title insurer that insures the title to the real property.

3051 (b) As a precondition to accepting payment for a sinkhole
 3052 loss, the policyholder must file a copy of any report prepared

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3053 on behalf or at the request of the policyholder regarding the
 3054 insured property. The policyholder shall bear the cost of filing
 3055 and recording such sinkhole report. The recording of the report
 3056 does not:

3057 1. Constitute a lien, encumbrance, or restriction on the
 3058 title to the real property or constitute a defect in the title
 3059 to the real property;

3060 2. Create any cause of action or liability against any
 3061 grantor of the real property for breach of any warranty of good
 3062 title or warranty against encumbrances; or

3063 3. Create any cause of action or liability against any
 3064 title insurer that insures the title to the real property.

3065 (c)-(b) The seller of real property upon which a sinkhole
 3066 claim has been made by the seller and paid by the insurer must
 3067 shall disclose to the buyer of such property, before the
 3068 closing, that a claim has been paid, the amount of the payment,
 3069 and whether or not the full amount of the proceeds were used to
 3070 repair the sinkhole damage.

3071 Section 25. Section 627.7074, Florida Statutes, is amended
 3072 to read:

3073 627.7074 Alternative procedure for resolution of disputed
 3074 sinkhole insurance claims.—

3075 ~~(1) As used in this section, the term:~~

3076 ~~(a) "Neutral evaluation" means the alternative dispute~~
 3077 ~~resolution provided for in this section.~~

3078 ~~(b) "Neutral evaluator" means a professional engineer or a~~
 3079 ~~professional geologist who has completed a course of study in~~
 3080 ~~alternative dispute resolution designed or approved by the~~

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3081 ~~department for use in the neutral evaluation process, who is~~
 3082 ~~determined to be fair and impartial.~~

3083 (1)(2)(a) The department shall:

3084 (a) Certify and maintain a list of persons who are neutral
 3085 evaluators.

3086 ~~The department shall~~ Prepare a consumer information
 3087 pamphlet for distribution by insurers to policyholders which
 3088 clearly describes the neutral evaluation process and includes
 3089 information ~~and forms~~ necessary for the policyholder to request
 3090 a neutral evaluation.

3091 (2) Neutral evaluation is available to either party if a
 3092 sinkhole report has been issued pursuant to s. 627.7073. At a
 3093 minimum, neutral evaluation must determine:

3094 (a) Causation;

3095 (b) All methods of stabilization and repair both above and
 3096 below ground;

3097 (c) The costs for stabilization and all repairs; and

3098 (d) Information necessary to carry out subsection (12).

3099 (3) Following the receipt of the report provided under s.
 3100 627.7073 or the denial of a claim for a sinkhole loss, the
 3101 insurer shall notify the policyholder of his or her right to
 3102 participate in the neutral evaluation program under this
 3103 section. Neutral evaluation supersedes the alternative dispute
 3104 resolution process under s. 627.7015, but does not invalidate
 3105 the appraisal clause of the insurance policy. The insurer shall
 3106 provide to the policyholder the consumer information pamphlet
 3107 prepared by the department pursuant to subsection (1)
 3108 electronically or by United States mail ~~paragraph (2)(b).~~

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3109 (4) Neutral evaluation is nonbinding, but mandatory if
3110 requested by either party. A request for neutral evaluation may
3111 be filed with the department by the policyholder or the insurer
3112 on a form approved by the department. The request for neutral
3113 evaluation must state the reason for the request and must
3114 include an explanation of all the issues in dispute at the time
3115 of the request. Filing a request for neutral evaluation tolls
3116 the applicable time requirements for filing suit for ~~a period of~~
3117 60 days following the conclusion of the neutral evaluation
3118 process or the time prescribed in s. 95.11, whichever is later.

3119 (5) Neutral evaluation shall be conducted as an informal
3120 process in which formal rules of evidence and procedure need not
3121 be observed. A party to neutral evaluation is not required to
3122 attend neutral evaluation if a representative of the party
3123 attends and has the authority to make a binding decision on
3124 behalf of the party. All parties shall participate in the
3125 evaluation in good faith. The neutral evaluator must be allowed
3126 reasonable access to the interior and exterior of insured
3127 structures to be evaluated or for which a claim has been made.
3128 Any reports initiated by the policyholder, or an agent of the
3129 policyholder, confirming a sinkhole loss or disputing another
3130 sinkhole report regarding insured structures must be provided to
3131 the neutral evaluator before the evaluator's physical inspection
3132 of the insured property.

3133 (6) The insurer shall pay reasonable ~~the~~ costs associated
3134 with the neutral evaluation. However, if a party chooses to hire
3135 a court reporter or stenographer to contemporaneously record and
3136 document the neutral evaluation, that party must bear such

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3137 costs.

3138 (7) Upon receipt of a request for neutral evaluation, the
 3139 department shall provide the parties a list of certified neutral
 3140 evaluators. ~~The parties shall mutually select a neutral~~
 3141 ~~evaluator from the list and promptly inform the department. If~~
 3142 ~~the parties cannot agree to a neutral evaluator within 10~~
 3143 ~~business days,~~ The department shall allow the parties to submit
 3144 requests to disqualify evaluators on the list for cause.

3145 (a) The department shall disqualify neutral evaluators for
 3146 cause based only on any of the following grounds:

3147 1. A familial relationship exists between the neutral
 3148 evaluator and either party or a representative of either party
 3149 within the third degree.

3150 2. The proposed neutral evaluator has, in a professional
 3151 capacity, previously represented either party or a
 3152 representative of either party, in the same or a substantially
 3153 related matter.

3154 3. The proposed neutral evaluator has, in a professional
 3155 capacity, represented another person in the same or a
 3156 substantially related matter and that person's interests are
 3157 materially adverse to the interests of the parties. The term
 3158 "substantially related matter" means participation by the
 3159 neutral evaluator on the same claim, property, or adjacent
 3160 property.

3161 4. The proposed neutral evaluator has, within the
 3162 preceding 5 years, worked as an employer or employee of any
 3163 party to the case.

3164 (b) The parties shall appoint a neutral evaluator from the

3165 department list and promptly inform the department. If the
 3166 parties cannot agree to a neutral evaluator within 14 days, the
 3167 department shall appoint a neutral evaluator from the list of
 3168 certified neutral evaluators. The department shall allow each
 3169 party to disqualify two neutral evaluators without cause. Upon
 3170 selection or appointment, the department shall promptly refer
 3171 the request to the neutral evaluator.

3172 (c) Within 14 ~~5~~ business days after the referral, the
 3173 neutral evaluator shall notify the policyholder and the insurer
 3174 of the date, time, and place of the neutral evaluation
 3175 conference. The conference may be held by telephone, if feasible
 3176 and desirable. The neutral evaluator shall make reasonable
 3177 efforts to hold the neutral evaluation conference shall be held
 3178 within 90 ~~45~~ days after the receipt of the request by the
 3179 department. Failure of the neutral evaluator to hold the
 3180 conference within 90 days does not invalidate either party's
 3181 right to neutral evaluation or to a neutral evaluation
 3182 conference held outside this timeframe.

3183 ~~(8) The department shall adopt rules of procedure for the~~
 3184 ~~neutral evaluation process.~~

3185 ~~(8)-(9)~~ For policyholders not represented by an attorney, a
 3186 consumer affairs specialist of the department or an employee
 3187 designated as the primary contact for consumers on issues
 3188 relating to sinkholes under s. 20.121 shall be available for
 3189 consultation to the extent that he or she may lawfully do so.

3190 ~~(9)-(10)~~ Evidence of an offer to settle a claim during the
 3191 neutral evaluation process, as well as any relevant conduct or
 3192 statements made in negotiations concerning the offer to settle a

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3193 claim, is inadmissible to prove liability or absence of
3194 liability for the claim or its value, except as provided in
3195 subsection (14) ~~(13)~~.

3196 (10) ~~(11)~~ Regardless of when noticed, any court proceeding
3197 related to the subject matter of the neutral evaluation shall be
3198 stayed pending completion of the neutral evaluation and for 5
3199 days after the filing of the neutral evaluator's report with the
3200 court.

3201 (11) If, based upon his or her professional training and
3202 credentials, a neutral evaluator is qualified to determine only
3203 disputes relating to causation or method of repair, the
3204 department shall allow the neutral evaluator to enlist the
3205 assistance of another professional from the neutral evaluators
3206 list not previously stricken, who, based upon his or her
3207 professional training and credentials, is able to provide an
3208 opinion as to other disputed issues. A professional who would be
3209 disqualified for any reason listed in subsection (7) must be
3210 disqualified. The neutral evaluator may also use the services of
3211 professional engineers and professional geologists who are not
3212 certified as neutral evaluators, as well as licensed building
3213 contractors, in order to ensure that all items in dispute are
3214 addressed and the neutral evaluation can be completed. Any
3215 professional engineer, professional geologist, or licensed
3216 building contractor retained may be disqualified for any of the
3217 reasons listed in subsection (7). The neutral evaluator may
3218 request the entity that performed the investigation pursuant to
3219 s. 627.7072 perform such additional and reasonable testing as
3220 deemed necessary in the professional opinion of the neutral

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3221 evaluator.

3222 (12) ~~At For matters that are not resolved by the parties~~
3223 ~~at~~ the conclusion of the neutral evaluation, the neutral
3224 evaluator shall prepare a report describing all matters that are
3225 the subject of the neutral evaluation, including whether,
3226 ~~stating that~~ in his or her opinion, the sinkhole loss has been
3227 verified or eliminated within a reasonable degree of
3228 professional probability and, if verified, whether the sinkhole
3229 activity caused structural damage to the covered building, and
3230 if so, the need for and estimated costs of stabilizing the land
3231 and any covered ~~structures or~~ buildings and other appropriate
3232 remediation or necessary building structural repairs due to the
3233 sinkhole loss. The evaluator's report shall be sent to all
3234 parties ~~in attendance at the neutral evaluation~~ and to the
3235 department, within 14 days after completing the neutral
3236 evaluation conference.

3237 (13) The recommendation of the neutral evaluator is not
3238 binding on any party, and the parties retain access to the
3239 court. The neutral evaluator's written recommendation, oral
3240 testimony, and full report shall be admitted ~~is admissible~~ in
3241 any ~~subsequent~~ action, litigation, or proceeding relating to the
3242 claim or to the cause of action giving rise to the claim.
3243 However, oral or written statements or nonverbal conduct
3244 intended to make an assertion made by a party or neutral
3245 evaluator during the course of neutral evaluation, other than
3246 those statements or conduct expressly required to be admitted by
3247 this subsection, are confidential and may not be disclosed to a
3248 person other than a party to neutral evaluation or a party's

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3249 counsel.

3250 (14) If the neutral evaluator ~~first~~ verifies the existence
 3251 of a sinkhole that caused structural damage and ~~second,~~
 3252 recommends the need for and estimates costs of stabilizing the
 3253 land and any covered ~~structures or~~ buildings and other
 3254 appropriate remediation or building structural repairs, which
 3255 ~~costs~~ exceed the amount that the insurer estimates as necessary
 3256 to stabilize and repair, and the insurer refuses to comply with
 3257 the neutral evaluator's findings and recommendations ~~has offered~~
 3258 ~~to pay the policyholder,~~ the insurer is liable to the
 3259 policyholder for up to \$2,500 in attorney's fees for the
 3260 attorney's participation in the neutral evaluation process. ~~For~~
 3261 ~~purposes of this subsection, the term "offer to pay" means a~~
 3262 ~~written offer signed by the insurer or its legal representative~~
 3263 ~~and delivered to the policyholder within 10 days after the~~
 3264 ~~insurer receives notice that a request for neutral evaluation~~
 3265 ~~has been made under this section.~~

3266 (15) If the insurer timely agrees in writing to comply and
 3267 timely complies with the recommendation of the neutral
 3268 evaluator, but the policyholder declines to resolve the matter
 3269 in accordance with the recommendation of the neutral evaluator
 3270 pursuant to this section:

3271 (a) The insurer is not liable for extracontractual damages
 3272 related to a claim for a sinkhole loss but only as related to
 3273 the issues determined by the neutral evaluation process. This
 3274 section does not affect or impair claims for extracontractual
 3275 damages unrelated to the issues determined by the neutral
 3276 evaluation process contained in this section; and

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3277 (b) The actions of the insurer are not a confession of
 3278 judgment or admission of liability, and the insurer is not
 3279 liable for attorney's fees under s. 627.428 or other provisions
 3280 of the insurance code unless the policyholder obtains a judgment
 3281 that is more favorable than the recommendation of the neutral
 3282 evaluator.

3283 (16) If the insurer agrees to comply with the neutral
 3284 evaluator's report, payments shall be made in accordance with
 3285 the terms and conditions of the applicable insurance policy
 3286 pursuant to s. 627.707(5).

3287 (17) Neutral evaluators are deemed to be agents of the
 3288 department and have immunity from suit as provided in s. 44.107.

3289 (18) The department shall adopt rules of procedure for the
 3290 neutral evaluation process.

3291 Section 26. Subsection (1) of section 627.712, Florida
 3292 Statutes, is amended to read:

3293 627.712 Residential windstorm coverage required;
 3294 availability of exclusions for windstorm or contents.—

3295 (1) An insurer issuing a residential property insurance
 3296 policy must provide windstorm coverage. Except as provided in
 3297 paragraph (2)(c), this section does not apply ~~with respect~~ to
 3298 risks that are eligible for wind-only coverage from Citizens
 3299 Property Insurance Corporation under s. 627.351(6), and ~~with~~
 3300 ~~respect to~~ risks that are not eligible for coverage from
 3301 Citizens Property Insurance Corporation under s. 627.351(6)(a)3.
 3302 or 5. A risk ineligible for ~~Citizens~~ coverage by the corporation
 3303 under s. 627.351(6)(a)3. or 5. is exempt from ~~the requirements~~
 3304 ~~of~~ this section only if the risk is located within the

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3305 boundaries of the coastal ~~high-risk~~ account of the corporation.

3306 Section 27. If any provision of this act, or the
3307 application thereof to any person or circumstance is held
3308 invalid, such invalidity shall not affect other provisions or
3309 applications of this act which can be given effect without the
3310 invalid provision or application. It is the express intent of
3311 the Legislature to enact multiple important, but independent,
3312 reforms to Florida law relating to sinkhole insurance coverage
3313 and related claims. The Legislature further intends that the
3314 multiple reforms in the act could and should be enforced if one
3315 or more provisions are held invalid. To this end, the provisions
3316 of this act are declared to be severable.

3317 Section 28. Except as otherwise expressly provided in this
3318 act and except for this section, which shall take effect June 1,
3319 2011, this act shall take effect July 1, 2011.