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CS/HB 1A

2007 Legislature

1 A bill to be entitled

2 An act relating to hurricane preparedness and insurance;  
3 amending s. 163.01, F.S., relating to the Florida  
4 Interlocal Cooperation Act; redefining the term "public  
5 agency" to include certain legal or administrative  
6 entities; authorizing such entities to finance the  
7 provision of property coverage contracts for or from local  
8 government property insurance pools or property coverage  
9 contracts; providing a definition; authorizing certain  
10 hospitals to jointly issue bonds to finance windstorm  
11 coverages and claims; granting authority to individual  
12 hospitals and teaching hospitals to jointly issue bond  
13 anticipation notes; authorizing validation of bonds issued  
14 to certain hospital entities; specifying that a hospital's  
15 immunity caps are not waived through issuance of bonds to  
16 pay windstorm coverage or claims; amending s. 215.555,  
17 F.S., relating to the Florida Hurricane Catastrophe Fund;  
18 revising certain provisions of the reimbursement contracts  
19 for insurers; deleting a rapid cash buildup requirement  
20 from a reimbursement premium formula factor; expanding the  
21 State Board of Administration's reinsurance procurement  
22 powers and duties for certain purposes; providing for  
23 temporary emergency options for additional coverage and  
24 for temporary increase in coverage limit options;  
25 providing legislative findings and intent; providing for  
26 application of certain provisions; providing additional  
27 definitions; providing for a reimbursement contract  
28 addendum for certain insurers; providing requirements and

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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29 | procedures under the addendum; providing for certain  
30 | reimbursement premiums for such insurers; providing for  
31 | calculation of such premiums; providing for effect on  
32 | claims-paying capacity of fund; requiring insurers  
33 | electing optional coverages offered by the Florida  
34 | Hurricane Catastrophe Fund to make rate filings that  
35 | reflect savings or reduction in loss exposure; requiring  
36 | that the Office of Insurance Regulation specify, by order,  
37 | the dates on which such filings must be made; requiring  
38 | certain insurers to make additional rate filings;  
39 | specifying rate filing requirements; amending s. 215.5586,  
40 | F.S.; revising criteria for wind certification and  
41 | hurricane mitigation inspectors; requiring a level 2  
42 | background check for wind certification and hurricane  
43 | mitigation inspectors; authorizing the Department of  
44 | Financial Services to conduct criminal records checks of  
45 | inspectors; requiring payment of fingerprint processing  
46 | fees; revising certain financial wind certification and  
47 | mitigation grant criteria and use provisions; providing  
48 | additional uses for grant funding for certain homeowners;  
49 | authorizing the department to contract with not-for-profit  
50 | corporations to conduct the Florida Comprehensive  
51 | Hurricane Damage Mitigation Program and enhance awareness  
52 | of the benefits of mitigation; requiring the department to  
53 | develop and maintain a list of wind certification and  
54 | hurricane mitigation inspectors; amending s. 215.5595,  
55 | F.S.; including manufactured housing insurers in the  
56 | Insurance Capital Build-Up Incentive Program; providing

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57 | manufactured housing insurer program contribution  
58 | requirements; providing surplus requirements; prioritizing  
59 | funding for manufactured housing insurers; providing  
60 | premium to surplus ratio requirements for certain  
61 | manufactured housing insurers; creating s. 395.106, F.S.;  
62 | authorizing certain hospitals and hospital systems to pool  
63 | and spread windstorm property exposure risk among members;  
64 | providing criteria for participation; providing  
65 | definitions; subjecting alliances not in compliance with  
66 | risk-pooling requirements to the Insurance Code; excluding  
67 | an alliance meeting provision requirements from  
68 | participation in or coverage by an insurance guaranty  
69 | association established by ch. 631, F.S.; amending s.  
70 | 553.73, F.S.; prohibiting the Florida Building Commission  
71 | from modifying certain foundation codes relating to wind  
72 | resistance or the prevention of water intrusion unless the  
73 | modification enhances such provisions; amending s.  
74 | 553.775, F.S., relating to interpretations of the Florida  
75 | Building Code; conforming a cross-reference; requiring  
76 | jurisdictions having authority to enforce the Florida  
77 | Building Code to require wind-borne-debris protection  
78 | according to specified requirements; requiring that the  
79 | Florida Building Commission amend the Florida Building  
80 | Code to reflect the requirements of the act and eliminate  
81 | certain less stringent requirements; providing an  
82 | exception; requiring the commission to develop voluntary  
83 | guidelines for increasing the hurricane resistance of  
84 | buildings; requiring that the guidelines be included in

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85 | the commission's report to the 2008 Legislature; amending  
86 | s. 624.407, F.S., relating to capitalization requirements  
87 | for insurers writing property insurance; specifying  
88 | certain minimum surplus amounts; prohibiting insurers  
89 | writing private passenger automobile insurance from  
90 | writing such insurance under certain circumstances;  
91 | amending s. 624.462, F.S.; revising requirements for the  
92 | establishment of a commercial self-insurance fund by a  
93 | not-for-profit group; amending s. 624.4622, F.S.;  
94 | authorizing local government self-insurance funds to  
95 | insure or self-insure real or personal property against  
96 | loss or damage; creating s. 624.4625, F.S.; authorizing  
97 | two or more corporations not for profit to form a self-  
98 | insurance fund for certain purposes; providing specific  
99 | requirements; providing a definition; providing  
100 | limitations; providing for application of certain  
101 | provisions to certain premiums, contributions, and  
102 | assessments; providing for payment of insurance premium  
103 | tax at a reduced rate by corporation not-for-profit self-  
104 | insurance funds; subjecting a corporation not for profit  
105 | self-insurance fund to certain group self-insurance fund  
106 | provisions under certain circumstances; amending s.  
107 | 624.610, F.S.; prescribing responsibilities of the  
108 | Commissioner of Insurance Regulation relating to allowing  
109 | credit for reinsurance; amending s. 626.2815, F.S.;  
110 | requiring continuing education for certain agents and  
111 | customer representatives on the subject of premium  
112 | discounts for hurricane mitigation options; amending s.

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113 627.0613, F.S.; providing additional duties of the  
114 consumer advocate; amending s. 627.062, F.S.; requiring  
115 that an insurer make a "file and use" filing under certain  
116 circumstances; deleting provisions exempting certain rate  
117 filings from review by the Office of Insurance Regulation;  
118 requiring certain rate filings to account for certain  
119 mitigation measures; requiring the chief executive  
120 officer, chief financial officer, or chief actuary of a  
121 property insurer to certify the information contained in a  
122 rate filing; providing penalties for knowingly making a  
123 false certification; authorizing the Financial Services  
124 Commission to adopt rules; amending s. 627.0629, F.S.;  
125 providing legislative intent relating to savings to  
126 customers for windstorm mitigation efforts; providing for  
127 reductions in deductibles for mitigation measures;  
128 creating s. 627.0655, F.S.; authorizing insurers to  
129 provide certain premium discounts under certain  
130 circumstances; amending s. 627.351, F.S., relating to the  
131 Citizens Property Insurance Corporation; deleting  
132 provisions that deny certain nonhomestead property  
133 eligibility for coverage by the corporation; including  
134 commercial nonresidential policies into an account of the  
135 corporation; authorizing the corporation to issue  
136 multiperil coverage and continue to offer wind-only  
137 coverage in the high-risk account after a specified date;  
138 deleting provisions authorizing the Office of Insurance  
139 Regulation to remove territory from the area eligible for  
140 wind-only and quota share coverage; requiring the board of

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141 |       governors of the corporation to levy an assessment against  
142 |       nonhomestead property policyholders if certain deficits  
143 |       occur after a specified date; restricting the eligibility  
144 |       of a risk for a policy issued by the corporation under  
145 |       certain circumstances; authorizing the plan of operation  
146 |       to establish limits of coverage and to require commercial  
147 |       property to meet specified hurricane-mitigation features;  
148 |       requiring that the corporation annually file recommended  
149 |       rates; requiring that the office issue a final order  
150 |       establishing the rates within a specified period;  
151 |       prohibiting the corporation from pursuing administrative  
152 |       or judicial review of such order; deleting provisions  
153 |       specifying circumstances under which a rate is deemed  
154 |       inadequate; deleting legislative intent concerning rate  
155 |       adequacy in the residual market; deleting provisions  
156 |       providing requirements for personal lines residential  
157 |       policies and residential wind-only policies; deleting an  
158 |       exemption provided for coverage provided by the  
159 |       corporation in Monroe County under certain circumstances;  
160 |       deleting a requirement that the corporation certify to the  
161 |       office that its rates comply with certain requirements;  
162 |       deleting a requirement for a notice to policyholders and  
163 |       applicants; rescinding certain rate filings by the  
164 |       corporation which took effect January 1, 2007; reinstating  
165 |       certain rates in effect on December 31, 2006; clarifying  
166 |       the effect of a policy that is taken out, assumed, or  
167 |       removed from the corporation; providing legislative intent  
168 |       that commercial nonresidential property insurance be made

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169 available from Citizens Property Insurance Corporation;  
 170 requiring that Citizens Property Insurance Corporation  
 171 adopt a plan providing for the transition of such coverage  
 172 from the Property and Casualty Joint Underwriting  
 173 Association to Citizens; providing requirements for the  
 174 plan; amending s. 627.3515, F.S.; requiring Citizens  
 175 Property Insurance Corporation to develop a business plan,  
 176 which must be approved by the commission; providing that  
 177 an insurer is not liable and there is no cause of action  
 178 against an insurer acting within the scope of its  
 179 authority; amending s. 627.4035, F.S.; requiring insurers  
 180 to provide certain premium payment plan options to  
 181 policyholders; requiring prior approval of such plans by  
 182 the office; amending s. 627.4133, F.S.; increasing a  
 183 period of notice for nonrenewals, cancellations, and  
 184 terminations; requiring residential property insurers to  
 185 return excess profits to policyholders except as directed  
 186 by the Office of Insurance Regulation; providing a formula  
 187 for determining excess profits; transferring, renumbering,  
 188 and amending s. 627.4261, F.S.; requiring insurers to pay  
 189 or deny certain claims within a time certain; providing an  
 190 exception; providing penalties; amending s. 627.701, F.S.;  
 191 requiring insurers to provide insureds options for certain  
 192 deductibles, credits, or rate differentials; creating s.  
 193 627.7018, F.S.; providing a prohibition and requirements  
 194 for insurers in denying coverage; amending s. 627.706,  
 195 F.S., relating to sinkhole insurance; defining the term  
 196 "catastrophic ground cover collapse"; requiring property

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197 | insurers to provide coverage for catastrophic ground cover  
198 | collapse; allowing property insurers to charge an  
199 | appropriate additional premium for coverage for sinkhole  
200 | loss; specifying the date on which coverage for  
201 | catastrophic ground cover collapse may take effect;  
202 | requiring insurers offering policies that exclude coverage  
203 | for sinkhole losses to provide notice to policyholders;  
204 | amending s. 627.711, F.S.; requiring certain notices to  
205 | specify combinations of discounts, credits, rate  
206 | differentials, and reductions in deductibles; requiring  
207 | the Financial Services Commission to develop uniform  
208 | mitigation verification inspection forms; providing duties  
209 | of the commission; creating s. 627.712, F.S.; requiring  
210 | insurers issuing residential property insurance to provide  
211 | hurricane or windstorm coverage; authorizing a  
212 | policyholder to make a written rejection of such coverage  
213 | by signing a statement acknowledging the lack of insurance  
214 | or providing a statement from the mortgageholder or  
215 | lienholder; requiring insurers issuing residential  
216 | property insurance to make available an exclusion of  
217 | coverage for contents; providing for the policyholder to  
218 | make a written rejection of such coverage; requiring that  
219 | the insurer keep documentation of such statements;  
220 | requiring the Financial Services Commission to adopt  
221 | rules; creating s. 627.713, F.S.; authorizing the office  
222 | to require property insurers to report data regarding  
223 | hurricane claims and underwriting costs; amending s.  
224 | 627.7277, F.S.; requiring certain information to be



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225 included in notices of renewal premium; providing for  
 226 rules; amending s. 631.57, F.S.; revising criteria and  
 227 requirements for levy of emergency assessments by the  
 228 Florida Insurance Guaranty Association; revising  
 229 characterizations of emergency assessments; providing  
 230 legislative intent; amending s. 718.111, F.S.; providing  
 231 for windstorm insurance for condominium associations;  
 232 creating the Task Force on Citizens Property Insurance  
 233 Claims Handling and Resolution; providing for  
 234 administration of the task force; providing for  
 235 membership; providing for reimbursement of expenses but no  
 236 compensation; providing purpose and intent; requiring the  
 237 task force to address certain issues; requiring reports  
 238 and recommendations; providing additional responsibilities  
 239 of the task force; providing for expiration of the task  
 240 force; creating the Windstorm Mitigation Study Committee  
 241 for the purpose of analyzing solutions and programs that  
 242 could address the state's need to mitigate the effects of  
 243 windstorms on structures; providing for membership and  
 244 qualifications; providing that the members are entitled to  
 245 reimbursement for expenses incurred in connection with  
 246 their duties; providing for reimbursement of travel  
 247 expenses; requiring the Department of Financial Services,  
 248 the Office of Insurance Regulation, the Citizens Property  
 249 Insurance Corporation, and other state agencies to supply  
 250 information, assistance, and facilities to the committee;  
 251 requiring the department to provide staff assistance;  
 252 specifying duties of the committee; requiring the

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253 committee to report to the Governor, the Legislature, the  
254 Chief Financial Officer, and the Commissioner of Insurance  
255 Regulation by a specified date; providing for expiration  
256 of the committee; requiring the Financial Services  
257 Commission to adopt a uniform home grading scale for  
258 certain purposes; providing criteria; requiring the  
259 Department of Community Affairs to implement the 2006  
260 Disaster Recovery Program for the purpose of assisting  
261 local governments in hardening low-income housing against  
262 the effects of hurricanes; specifying that the act does  
263 not create an entitlement or obligate the state; providing  
264 for program administration; specifying the entities that  
265 are eligible to apply for funding; providing for the use  
266 of funds under the program; prohibiting insurers writing  
267 private passenger automobile insurance from writing such  
268 insurance under certain circumstances; expressing the  
269 intent of the Legislature to create a grant program to  
270 assist low-income persons in purchasing property  
271 insurance; repealing s. 627.0629(6), F.S., relating to  
272 certain limitations on writing residential property  
273 insurance; providing appropriations; providing for  
274 severability; providing effective dates.

275 WHEREAS, homeowners in the State of Florida are  
276 struggling under increased insurance costs and increased  
277 housing prices as a result of damage caused by hurricanes  
278 and tropical storms, and

279 WHEREAS, this increase in the cost of property  
280 insurance for the state's residents demands immediate

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281 attention, and

282 WHEREAS, the affordability of property insurance  
 283 creates financial burdens for Florida's residents and  
 284 financial crises for some property owners, and

285 WHEREAS, in addition to affordability, the  
 286 availability and stability of property insurance rates are  
 287 critical issues to the residents of this state, and

288 WHEREAS, because there is no single, quick, or easy  
 289 solution to the current crisis, a comprehensive and  
 290 creative approach is required, and

291 WHEREAS, property insurance is so interwoven with  
 292 other forms of insurance, through business, regulation,  
 293 advocacy, purchasing, and other interactions, that the  
 294 viability of the insurance market in Florida is at risk,  
 295 and

296 WHEREAS, expanding coverage offered by the Florida  
 297 Hurricane Catastrophe Fund can help to address this  
 298 crisis, and

299 WHEREAS, taking steps to control or reduce the  
 300 premiums charged by Citizens Property Insurance  
 301 Corporation can help to address this crisis, and

302 WHEREAS, strengthening the Florida Building Code and  
 303 providing for voluntary guidelines in addition to the  
 304 requirements of the code can help to address this crisis,  
 305 and

306 WHEREAS, sinkhole coverage is a critical part of the  
 307 crisis in certain areas of the state and must be addressed  
 308 as part of any comprehensive solution, and

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309           WHEREAS, requiring property insurers to offer  
 310 additional deductibles and exclusions that apply at the  
 311 option of the property owner can help to address this  
 312 crisis, and

313           WHEREAS, authorizing various groups of public and  
 314 private entities to enter into forms of self-insurance or  
 315 guaranty groups can help to address this crisis, and

316           WHEREAS, strengthening the processes for establishing  
 317 property insurance rates can help to address this crisis,  
 318 and

319           WHEREAS, the role of consumer advocacy is a critical  
 320 part of addressing this crisis and consumer advocacy for  
 321 property insurance is a critical, if not the predominant,  
 322 part of consumer advocacy regarding insurance, and

323           WHEREAS, promoting, through financial and regulatory  
 324 methods, the ability of property insurers and reinsurers  
 325 to do business in Florida can help to address this crisis,  
 326 and

327           WHEREAS, promoting, through financial and regulatory  
 328 incentives for property owners, the strengthening of  
 329 property to withstand the effects of windstorm damage can  
 330 help to address this crisis, NOW, THEREFORE,

331

332 Be It Enacted by the Legislature of the State of Florida:

333

334           Section 1. Paragraph (b) of subsection (3) and paragraph  
 335 (e) of subsection (7) of section 163.01, Florida Statutes, are  
 336 amended, and paragraph (h) is added to subsection (7) of that

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337 section, to read:

338 163.01 Florida Interlocal Cooperation Act of 1969.--

339 (3) As used in this section:

340 (b) "Public agency" means a political subdivision, agency,  
341 or officer of this state or of any state of the United States,  
342 including, but not limited to, state government, county, city,  
343 school district, single and multipurpose special district,  
344 single and multipurpose public authority, metropolitan or  
345 consolidated government, a separate legal entity or  
346 administrative entity created under subsection (7), an  
347 independently elected county officer, any agency of the United  
348 States Government, a federally recognized Native American tribe,  
349 and any similar entity of any other state of the United States.

350 (7)

351 (e)1. Notwithstanding the provisions of paragraph (c), any  
352 separate legal entity, created pursuant to the provisions of  
353 this section and controlled by counties or municipalities of  
354 this state, the membership of which consists or is to consist  
355 only of public agencies of this state, may, for the purpose of  
356 financing the provision or acquisition of liability or property  
357 coverage contracts for or from one or more local government  
358 liability or property pools to provide liability or property  
359 coverage for counties, municipalities, or other public agencies  
360 of this state, exercise all powers in connection with the  
361 authorization, issuance, and sale of bonds. All of the  
362 privileges, benefits, powers, and terms of s. 125.01 relating to  
363 counties and s. 166.021 relating to municipalities shall be  
364 fully applicable to such entity and such entity shall be

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365 considered a unit of local government for all of the privileges,  
366 benefits, powers, and terms of part I of chapter 159. Bonds  
367 issued by such entity shall be deemed issued on behalf of  
368 counties, municipalities, or public agencies which enter into  
369 loan agreements with such entity as provided in this paragraph.  
370 Proceeds of bonds issued by such entity may be loaned to  
371 counties, municipalities, or other public agencies of this  
372 state, whether or not such counties, municipalities, or other  
373 public agencies are also members of the entity issuing the  
374 bonds, and such counties, municipalities, or other public  
375 agencies may in turn deposit such loan proceeds with a separate  
376 local government liability or property pool for purposes of  
377 providing or acquiring liability or property coverage contracts.

378 2. Counties or municipalities of this state are authorized  
379 pursuant to this section, in addition to the authority provided  
380 by s. 125.01, part II of chapter 166, and other applicable law,  
381 to issue bonds for the purpose of acquiring liability coverage  
382 contracts from a local government liability pool. Any individual  
383 county or municipality may, by entering into interlocal  
384 agreements with other counties, municipalities, or public  
385 agencies of this state, issue bonds on behalf of itself and  
386 other counties, municipalities, or other public agencies, for  
387 purposes of acquiring a liability coverage contract or contracts  
388 from a local government liability pool. Counties,  
389 municipalities, or other public agencies are also authorized to  
390 enter into loan agreements with any entity created pursuant to  
391 subparagraph 1., or with any county or municipality issuing  
392 bonds pursuant to this subparagraph, for the purpose of

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393 obtaining bond proceeds with which to acquire liability coverage  
394 contracts from a local government liability pool. No county,  
395 municipality, or other public agency shall at any time have more  
396 than one loan agreement outstanding for the purpose of obtaining  
397 bond proceeds with which to acquire liability coverage contracts  
398 from a local government liability pool. Obligations of any  
399 county, municipality, or other public agency of this state  
400 pursuant to a loan agreement as described above may be validated  
401 as provided in chapter 75. Prior to the issuance of any bonds  
402 pursuant to subparagraph 1. or this subparagraph for the purpose  
403 of acquiring liability coverage contracts from a local  
404 government liability pool, the reciprocal insurer or the manager  
405 of any self-insurance program shall demonstrate to the  
406 satisfaction of the Office of Insurance Regulation of the  
407 Financial Services Commission that excess liability coverage for  
408 counties, municipalities, or other public agencies is reasonably  
409 unobtainable in the amounts provided by such pool or that the  
410 liability coverage obtained through acquiring contracts from a  
411 local government liability pool, after taking into account costs  
412 of issuance of bonds and any other administrative fees, is less  
413 expensive to counties, municipalities, or special districts than  
414 similar commercial coverage then reasonably available.

415 3. Any entity created pursuant to this section or any  
416 county or municipality may also issue bond anticipation notes,  
417 as provided by s. 215.431, in connection with the authorization,  
418 issuance, and sale of such bonds. In addition, the governing  
419 body of such legal entity or the governing body of such county  
420 or municipality may also authorize bonds to be issued and sold

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421 from time to time and may delegate, to such officer, official,  
422 or agent of such legal entity as the governing body of such  
423 legal entity may select, the power to determine the time; manner  
424 of sale, public or private; maturities; rate or rates of  
425 interest, which may be fixed or may vary at such time or times  
426 and in accordance with a specified formula or method of  
427 determination; and other terms and conditions as may be deemed  
428 appropriate by the officer, official, or agent so designated by  
429 the governing body of such legal entity. However, the amounts  
430 and maturities of such bonds and the interest rate or rates of  
431 such bonds shall be within the limits prescribed by the  
432 governing body of such legal entity and its resolution  
433 delegating to such officer, official, or agent the power to  
434 authorize the issuance and sale of such bonds. Any series of  
435 bonds issued pursuant to this paragraph for liability coverage  
436 shall mature no later than 7 years following the date of  
437 issuance ~~thereof~~. A series of bonds issued pursuant to this  
438 paragraph for property coverage shall mature no later than 30  
439 years following the date of issuance.

440 4. Bonds issued pursuant to subparagraph 1. may be  
441 validated as provided in chapter 75. The complaint in any  
442 action to validate such bonds shall be filed only in the Circuit  
443 Court for Leon County. The notice required to be published by  
444 s. 75.06 shall be published in Leon County and in each county  
445 which is an owner of the entity issuing the bonds, or in which a  
446 member of the entity is located, and the complaint and order of  
447 the circuit court shall be served only on the State Attorney of  
448 the Second Judicial Circuit and on the state attorney of each



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449 circuit in each county or municipality which is an owner of the  
 450 entity issuing the bonds or in which a member of the entity is  
 451 located.

452 5. Bonds issued pursuant to subparagraph 2. may be  
 453 validated as provided in chapter 75. The complaint in any action  
 454 to validate such bonds shall be filed in the circuit court of  
 455 the county or municipality which will issue the bonds. The  
 456 notice required to be published by s. 75.06 shall be published  
 457 only in the county where the complaint is filed, and the  
 458 complaint and order of the circuit court shall be served only on  
 459 the state attorney of the circuit in the county or municipality  
 460 which will issue the bonds.

461 6. The participation by any county, municipality, or other  
 462 public agency of this state in a local government liability pool  
 463 shall not be deemed a waiver of immunity to the extent of  
 464 liability coverage, nor shall any contract entered regarding  
 465 such a local government liability pool be required to contain  
 466 any provision for waiver.

467 (h)1. Notwithstanding the provisions of paragraph (c), any  
 468 separate legal entity consisting of an alliance, as defined in  
 469 s. 395.106(2)(a), created pursuant to this paragraph and  
 470 controlled by and whose members consist of eligible entities  
 471 comprised of special districts created pursuant to a special act  
 472 and having the authority to own or operate one or more hospitals  
 473 licensed in this state or hospitals licensed in this state that  
 474 are owned, operated, or funded by a county or municipality, for  
 475 the purpose of providing property insurance coverage as defined  
 476 in s. 395.106(2)(c), for such eligible entities, may exercise

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477 all powers under this subsection in connection with borrowing  
 478 funds for such purposes, including, without limitation, the  
 479 authorization, issuance, and sale of bonds, notes, or other  
 480 obligations of indebtedness. Borrowed funds, including, but not  
 481 limited to, bonds issued by such alliance shall be deemed issued  
 482 on behalf of such eligible entities that enter into loan  
 483 agreements with such separate legal entity as provided in this  
 484 paragraph.

485 2. Any such separate legal entity shall have all the  
 486 powers that are provided by the interlocal agreement under which  
 487 the entity is created or that are necessary to finance, operate,  
 488 or manage the alliance's property insurance coverage program.  
 489 Proceeds of bonds, notes, or other obligations issued by such an  
 490 entity may be loaned to any one or more eligible entities. Such  
 491 eligible entities are authorized to enter into loan agreements  
 492 with any separate legal entity created pursuant to this  
 493 paragraph for the purpose of obtaining moneys with which to  
 494 finance property insurance coverage or claims. Obligations of  
 495 any eligible entity pursuant to a loan agreement as described in  
 496 this paragraph may be validated as provided in chapter 75.

497 3. Any bonds, notes, or other obligations to be issued or  
 498 incurred by a separate legal entity created pursuant to this  
 499 paragraph shall be authorized by resolution of the governing  
 500 body of such entity and bear the date or dates; mature at the  
 501 time or times, not exceeding 30 years from their respective  
 502 dates; bear interest at the rate or rates, which may be fixed or  
 503 vary at such time or times and in accordance with a specified  
 504 formula or method of determination; be payable at the time or

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505 times; be in the denomination; be in the form; carry the  
506 registration privileges; be executed in the manner; be payable  
507 from the sources and in the medium of payment and at the place;  
508 and be subject to redemption, including redemption prior to  
509 maturity, as the resolution may provide. The bonds, notes, or  
510 other obligations may be sold at public or private sale for such  
511 price as the governing body of the separate legal entity shall  
512 determine. The bonds may be secured by such credit enhancement,  
513 if any, as the governing body of the separate legal entity deems  
514 appropriate. The bonds may be secured by an indenture of trust  
515 or trust agreement. In addition, the governing body of the  
516 separate legal entity may delegate, to such officer or official  
517 of such entity as the governing body may select, the power to  
518 determine the time; manner of sale, public or private;  
519 maturities; rate or rates of interest, which may be fixed or may  
520 vary at such time or times and in accordance with a specified  
521 formula or method of determination; and other terms and  
522 conditions as may be deemed appropriate by the officer or  
523 official so designated by the governing body of such separate  
524 legal entity. However, the amounts and maturities of such bonds,  
525 the interest rate or rates, and the purchase price of such bonds  
526 shall be within the limits prescribed by the governing body of  
527 such separate legal entity in its resolution delegating to such  
528 officer or official the power to authorize the issuance and sale  
529 of such bonds.

530 4. Bonds issued pursuant to this paragraph may be  
531 validated as provided in chapter 75. The complaint in any action  
532 to validate such bonds shall be filed only in the Circuit Court

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533 for Leon County. The notice required to be published by s. 75.06  
534 shall be published in Leon County and in each county in which an  
535 eligible entity that is a member of an alliance is located. The  
536 complaint and order of the circuit court shall be served only on  
537 the state attorney of the Second Judicial Circuit and on the  
538 state attorney of each circuit in each county in which an  
539 eligible entity receiving bond proceeds is located.

540 5. The accomplishment of the authorized purposes of a  
541 separate legal entity created under this paragraph is deemed in  
542 all respects for the benefit, increase of the commerce and  
543 prosperity, and improvement of the health and living conditions  
544 of the people of this state. Inasmuch as the separate legal  
545 entity performs essential public functions in accomplishing its  
546 purposes, the separate legal entity is not required to pay any  
547 taxes or assessments of any kind upon any property acquired or  
548 used by the entity for such purposes or upon any revenues at any  
549 time received by the entity. The bonds, notes, and other  
550 obligations of such separate legal entity, the transfer of and  
551 income from such bonds, notes, and other obligations, including  
552 any profits made on the sale of such bonds, notes, and other  
553 obligations, are at all times free from taxation of any kind of  
554 the state or by any political subdivision or other agency or  
555 instrumentality if the state. The exemption granted in this  
556 paragraph does not apply to any tax imposed by chapter 220 on  
557 interest, income, or profits on debt obligations owned by  
558 corporations.

559 6. The participation by any eligible entity in an alliance  
560 or a separate legal entity created pursuant to this paragraph

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561 may not be deemed a waiver of immunity to the extent of  
 562 liability or any other coverage and a contract entered regarding  
 563 such alliance is not required to contain any provision for  
 564 waiver.

565 Section 2. Paragraphs (b), (c), and (d) of subsection (4),  
 566 paragraph (b) of subsection (5), and paragraph (a) of subsection  
 567 (7) of section 215.555, Florida Statutes, are amended, and  
 568 subsections (16) and (17) are added to that section, to read:

569 215.555 Florida Hurricane Catastrophe Fund.--

570 (4) REIMBURSEMENT CONTRACTS.--

571 (b)1. The contract shall contain a promise by the board to  
 572 reimburse the insurer for 45 percent, 75 percent, or 90 percent  
 573 of its losses from each covered event in excess of the insurer's  
 574 retention, plus 5 percent of the reimbursed losses to cover loss  
 575 adjustment expenses.

576 2. The insurer must elect one of the percentage coverage  
 577 levels specified in this paragraph and may, upon renewal of a  
 578 reimbursement contract, elect a lower percentage coverage level  
 579 if no revenue bonds issued under subsection (6) after a covered  
 580 event are outstanding, or elect a higher percentage coverage  
 581 level, regardless of whether or not revenue bonds are  
 582 outstanding. All members of an insurer group must elect the same  
 583 percentage coverage level. Any joint underwriting association,  
 584 risk apportionment plan, or other entity created under s.  
 585 627.351 must elect the 90-percent coverage level.

586 3. The contract shall provide that reimbursement amounts  
 587 shall not be reduced by reinsurance paid or payable to the  
 588 insurer from other sources.

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589 4. Notwithstanding any other provision contained in this  
590 section, the board shall make available to insurers that  
591 participated in 2006, insurers qualifying as limited  
592 apportionment companies under s. 627.351(6)(c) which began  
593 writing property insurance in 2007, and insurers that were  
594 approved to participate in 2006 or that are approved in 2007 for  
595 the Insurance Capital Build-Up Incentive Program pursuant to s.  
596 215.5595, a contract or contract addendum that provides an  
597 additional amount of reimbursement coverage of up to \$10  
598 million. The premium to be charged for this additional  
599 reimbursement coverage shall be 50 percent of the additional  
600 reimbursement coverage provided, which shall include one prepaid  
601 reinstatement. The minimum retention level that an eligible  
602 participating insurer must retain associated with this  
603 additional coverage layer is 30 percent of the insurer's surplus  
604 as of December ~~March~~ 31, 2006. This coverage shall be in  
605 addition to all other coverage that may be provided under this  
606 section. The coverage provided by the fund under this subsection  
607 shall be in addition to the claims-paying capacity as defined in  
608 subparagraph (c)1., but only with respect to those insurers that  
609 select the additional coverage option and meet the requirements  
610 of this subsection. The claims-paying capacity with respect to  
611 all other participating insurers and limited apportionment  
612 companies that do not select the additional coverage option  
613 shall be limited to their reimbursement premium's proportionate  
614 share of the actual claims-paying capacity otherwise defined in  
615 subparagraph (c)1. and as provided for under the terms of the  
616 reimbursement contract. Coverage provided in the reimbursement

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617 | contract ~~for participating insurers~~ will not be affected by the  
618 | additional premiums paid by participating insurers ~~limited~~  
619 | ~~apportionment companies~~ exercising the additional coverage  
620 | option allowed in this subparagraph. This subparagraph expires  
621 | on May 31, 2008 ~~2007~~.

622 | (c)1. The contract shall also provide that the obligation  
623 | of the board with respect to all contracts covering a particular  
624 | contract year shall not exceed the actual claims-paying capacity  
625 | of the fund up to a limit of \$15 billion for that contract year  
626 | adjusted based upon the reported exposure from the prior  
627 | contract year to reflect the percentage growth in exposure to  
628 | the fund for covered policies since 2003, provided the dollar  
629 | growth in the limit may not increase in any year by an amount  
630 | greater than the dollar growth of the balance of the fund as of  
631 | December 31, less any premiums or interest attributable to  
632 | optional coverage, as defined by rule which occurred over the  
633 | prior calendar year.

634 | 2. In May before the start of the upcoming contract year  
635 | and in October during the contract year, the board shall publish  
636 | in the Florida Administrative Weekly a statement of the fund's  
637 | estimated borrowing capacity and the projected balance of the  
638 | fund as of December 31. After the end of each calendar year, the  
639 | board shall notify insurers of the estimated borrowing capacity  
640 | and the balance of the fund as of December 31 to provide  
641 | insurers with data necessary to assist them in determining their  
642 | retention and projected payout from the fund for loss  
643 | reimbursement purposes. In conjunction with the development of  
644 | the premium formula, as provided for in subsection (5), the

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645 board shall publish factors or multiples that assist insurers in  
 646 determining their retention and projected payout for the next  
 647 contract year. For all regulatory and reinsurance purposes, an  
 648 insurer may calculate its projected payout from the fund as its  
 649 share of the total fund premium for the current contract year  
 650 multiplied by the sum of the projected balance of the fund as of  
 651 December 31 and the estimated borrowing capacity for that  
 652 contract year as reported under this subparagraph.

653 (d)1. For purposes of determining potential liability and  
 654 to aid in the sound administration of the fund, the contract  
 655 shall require each insurer to report such insurer's losses from  
 656 each covered event on an interim basis, as directed by the  
 657 board. The contract shall require the insurer to report to the  
 658 board no later than December 31 of each year, and quarterly  
 659 thereafter, its reimbursable losses from covered events for the  
 660 year. The contract shall require the board to determine and pay,  
 661 as soon as practicable after receiving these reports of  
 662 reimbursable losses, the initial amount of reimbursement due and  
 663 adjustments to this amount based on later loss information. The  
 664 adjustments to reimbursement amounts shall require the board to  
 665 pay, or the insurer to return, amounts reflecting the most  
 666 recent calculation of losses.

667 2. In determining reimbursements pursuant to this  
 668 subsection, the contract shall provide that the board shall-

669 ~~a. Next~~ pay to each insurer such insurer's projected  
 670 payout, which is the amount of reimbursement it is owed, up to  
 671 an amount equal to the insurer's share of the actual premium  
 672 paid for that contract year, multiplied by the actual claims-



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673 paying capacity available for that contract year, ~~provided,~~  
674 ~~entities created pursuant to s. 627.351 shall be further~~  
675 ~~reimbursed in accordance with sub-subparagraph b.~~

676 ~~b. Thereafter, establish the prorated reimbursement level~~  
677 ~~at the highest level for which any remaining fund balance or~~  
678 ~~bond proceeds are sufficient to reimburse entities created~~  
679 ~~pursuant to s. 627.351 based on reimbursable losses exceeding~~  
680 ~~the amounts payable pursuant to sub-subparagraph a. for the~~  
681 ~~current contract year.~~

682 (5) REIMBURSEMENT PREMIUMS.--

683 (b) The State Board of Administration shall select an  
684 independent consultant to develop a formula for determining the  
685 actuarially indicated premium to be paid to the fund. The  
686 formula shall specify, for each zip code or other limited  
687 geographical area, the amount of premium to be paid by an  
688 insurer for each \$1,000 of insured value under covered policies  
689 in that zip code or other area. In establishing premiums, the  
690 board shall consider the coverage elected under paragraph (4) (b)  
691 and any factors that tend to enhance the actuarial  
692 sophistication of ratemaking for the fund, including  
693 deductibles, type of construction, type of coverage provided,  
694 relative concentration of risks, and other such factors deemed  
695 by the board to be appropriate. The formula may provide for a  
696 procedure to determine the premiums to be paid by new insurers  
697 that begin writing covered policies after the beginning of a  
698 contract year, taking into consideration when the insurer starts  
699 writing covered policies, the potential exposure of the insurer,  
700 the potential exposure of the fund, the administrative costs to

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701 the insurer and to the fund, and any other factors deemed  
702 appropriate by the board. ~~The formula shall include a factor of~~  
703 ~~25 percent of the fund's actuarially indicated premium in order~~  
704 ~~to provide for more rapid cash buildup in the fund.~~ The formula  
705 must be approved by unanimous vote of the board. The board may,  
706 at any time, revise the formula pursuant to the procedure  
707 provided in this paragraph.

708 (7) ADDITIONAL POWERS AND DUTIES.--

709 (a) The board may procure reinsurance from reinsurers  
710 acceptable to the Office of Insurance Regulation for the purpose  
711 of maximizing the capacity of the fund and may enter into  
712 capital market transactions, including, but not limited to,  
713 industry loss warranties, catastrophe bonds, side-car  
714 arrangements, or financial contracts permissible for the board's  
715 usage under s. 215.47(10) and (11), consistent with prudent  
716 management of the fund.

717 (16) TEMPORARY EMERGENCY OPTIONS FOR ADDITIONAL COVERAGE.--

718 (a) Findings and intent.--

719 1. The Legislature finds that:

720 a. Because of temporary disruptions in the market for  
721 catastrophic reinsurance, many property insurers were unable to  
722 procure reinsurance for the 2006 hurricane season with an  
723 attachment point below the insurers' respective Florida  
724 Hurricane Catastrophe Fund attachment points, were unable to  
725 procure sufficient amounts of such reinsurance, or were able to  
726 procure such reinsurance only by incurring substantially higher  
727 costs than in prior years.

728 b. The reinsurance market problems were responsible, at

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729 least in part, for substantial premium increases to many  
730 consumers and increases in the number of policies issued by the  
731 Citizens Property Insurance Corporation.

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

734 2. It is the intent of the Legislature to create a  
735 temporary emergency program, applicable to the 2007, 2008, and  
736 2009 hurricane seasons, to address these market disruptions and  
737 enable insurers, at their option, to procure additional coverage  
738 from the Florida Hurricane Catastrophe Fund.

739 (b) Applicability of other provisions of this section.--  
740 All provisions of this section and the rules adopted under this  
741 section apply to the program created by this subsection unless  
742 specifically superseded by this subsection.

743 (c) Optional coverage.--For the contract year commencing  
744 June 1, 2007, and ending May 31, 2008, the contract year  
745 commencing June 1, 2008, and ending May 31, 2009, and the  
746 contract year commencing June 1, 2009, and ending May 31, 2010,  
747 the board shall offer for each of such years the optional  
748 coverage as provided in this subsection.

749 (d) Additional definitions.--As used in this subsection,  
750 the term:

751 1. "TEACO options" means the temporary emergency  
752 additional coverage options created under this subsection.

753 2. "TEACO insurer" means an insurer that has opted to  
754 obtain coverage under the TEACO options in addition to the  
755 coverage provided to the insurer under its reimbursement  
756 contract.

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757 3. "TEACO reimbursement premium" means the premium charged  
758 by the fund for coverage provided under the TEACO options.

759 4. "TEACO retention" means the amount of losses below  
760 which a TEACO insurer is not entitled to reimbursement from the  
761 fund under the TEACO option selected. A TEACO insurer's  
762 retention options shall be calculated as follows:

763 a. The board shall calculate and report to each TEACO  
764 insurer the TEACO retention multiples. There shall be three  
765 TEACO retention multiples for defining coverage. Each multiple  
766 shall be calculated by dividing \$3 billion, \$4 billion, or \$5  
767 billion by the total estimated TEACO reimbursement premium  
768 assuming all insurers selected that option. Total estimated  
769 TEACO reimbursement premium for purposes of the calculation  
770 under this sub-subparagraph shall be calculated using the  
771 assumption that all insurers have selected a specific TEACO  
772 retention multiple option and have selected the 90-percent  
773 coverage level.

774 b. The TEACO retention multiples as determined under sub-  
775 subparagraph a. shall be adjusted to reflect the coverage level  
776 electd by the insurer. For insurers electing the 90-percent  
777 coverage level, the adjusted retention multiple is 100 percent  
778 of the amount determined under sub-subparagraph a. For insurers  
779 electing the 75-percent coverage level, the retention multiple  
780 is 120 percent of the amount determined under sub-subparagraph  
781 a. For insurers electing the 45-percent coverage level, the  
782 adjusted retention multiple is 200 percent of the amount  
783 determined under sub-subparagraph a.

784 c. An insurer shall determine its provisional TEACO

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785 retention by multiplying its provisional TEACO reimbursement  
 786 premium by the applicable adjusted TEACO retention multiple and  
 787 shall determine its actual TEACO retention by multiplying its  
 788 actual TEACO reimbursement premium by the applicable adjusted  
 789 TEACO retention multiple.

790 d. For TEACO insurers who experience multiple covered  
 791 events causing loss during the contract year, the insurer's full  
 792 TEACO retention shall be applied to each of the covered events  
 793 causing the two largest losses for that insurer. For other  
 794 covered events resulting in losses, the TEACO option does not  
 795 apply and the insurer's retention shall be one-third of the full  
 796 retention as calculated under paragraph (2) (e).

797 5. "TEACO addendum" means an addendum to the reimbursement  
 798 contract reflecting the obligations of the fund and TEACO  
 799 insurers under the program created by this subsection.

800 (e) TEACO addendum.--

801 1. The TEACO addendum shall provide for reimbursement of  
 802 TEACO insurers for covered events occurring during the contract  
 803 year, in exchange for the TEACO reimbursement premium paid into  
 804 the fund under paragraph (f). Any insurer writing covered  
 805 policies has the option of choosing to accept the TEACO addendum  
 806 for any of the three contract years that the coverage is  
 807 offered.

808 2. The TEACO addendum shall contain a promise by the board  
 809 to reimburse the TEACO insurer for 45 percent, 75 percent, or 90  
 810 percent of its losses from each covered event in excess of the  
 811 insurer's TEACO retention, plus 5 percent of the reimbursed  
 812 losses to cover loss adjustment expenses. The percentage shall

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813 be the same as the coverage level selected by the insurer under  
814 paragraph (4) (b).

815 3. The TEACO addendum shall provide that reimbursement  
816 amounts shall not be reduced by reinsurance paid or payable to  
817 the insurer from other sources.

818 4. The TEACO addendum shall also provide that the  
819 obligation of the board with respect to all TEACO addenda shall  
820 not exceed an amount equal to two times the difference between  
821 the industry retention level calculated under paragraph (2) (e)  
822 and the \$3 billion, \$4 billion, or \$5 billion industry TEACO  
823 retention level options actually selected, but in no event may  
824 the board's obligation exceed the actual claims-paying capacity  
825 of the fund plus the additional capacity created in paragraph  
826 (g). If the actual claims-paying capacity and the additional  
827 capacity created under paragraph (g) fall short of the board's  
828 obligations under the reimbursement contract, each insurer's  
829 share of the fund's capacity shall be pro rated based on the  
830 premium an insurer pays for its normal reimbursement coverage  
831 and the premium paid for its optional TEACO coverage as each  
832 such premium bears to the total premiums paid to the fund times  
833 the available capacity.

834 5. The priorities, schedule, and method of reimbursements  
835 under the TEACO addendum shall be the same as provided under  
836 subsection (4).

837 6. A TEACO insurer's maximum reimbursement under the TEACO  
838 addendum shall be calculated by multiplying the insurer's share  
839 of the estimated total TEACO reimbursement premium as calculated  
840 under sub-subparagraph (d)4.a. by an amount equal to two times

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841 the difference between the industry retention level calculated  
842 under paragraph (2)(e) and the \$3 billion, \$4 billion, or \$5  
843 billion industry TEACO retention level specified in sub-  
844 subparagraph (d)4.a. as selected by the TEACO insurer.

845 (f) TEACO reimbursement premiums.--

846 1. Each TEACO insurer shall pay to the fund, in the manner  
847 and at the time provided in the reimbursement contract for  
848 payment of reimbursement premiums, a TEACO reimbursement premium  
849 calculated as specified in this paragraph.

850 2. The TEACO reimbursement premiums shall be calculated  
851 based on the assumption that, if all insurers entering into  
852 reimbursement contracts under subsection (4) also accepted the  
853 TEACO option:

854 a. The industry TEACO reimbursement premium associated  
855 with the \$3 billion retention option would be equal to 85  
856 percent of the difference between the industry retention level  
857 calculated under paragraph (2)(e) and the \$3 billion industry  
858 TEACO retention level.

859 b. The TEACO reimbursement premium associated with the \$4  
860 billion retention option would be equal to 80 percent of the  
861 difference between the industry retention level calculated under  
862 paragraph (2)(e) and the \$4 billion industry TEACO retention  
863 level.

864 c. The TEACO premium associated with the \$5 billion  
865 retention option would be equal to 75 percent of the difference  
866 between the industry retention level calculated under paragraph  
867 (2)(e) and the \$5 billion industry TEACO retention level.

868 3. Each insurer's TEACO premium shall be calculated based

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869 on its share of the total TEACO reimbursement premiums based on  
870 its coverage selection under the TEACO addendum.

871 (g) Effect on claims-paying capacity of the fund.--For the  
872 contract term commencing June 1, 2007, the contract year  
873 commencing June 1, 2008, and the contract term beginning June 1,  
874 2009, the program created by this subsection shall increase the  
875 claims-paying capacity of the fund as provided in subparagraph  
876 (4)(c)1. by an amount equal to two times the difference between  
877 the industry retention level calculated under paragraph (2)(e)  
878 and the \$3 billion industry TEACO retention level specified in  
879 sub-subparagraph (d)4.a. The additional capacity shall apply  
880 only to the additional coverage provided by the TEACO option and  
881 shall not otherwise affect any insurer's reimbursement from the  
882 fund.

883 (17) TEMPORARY INCREASE IN COVERAGE LIMIT OPTIONS.--

884 (a) Findings and intent.--

885 1. The Legislature finds that:

886 a. Because of temporary disruptions in the market for  
887 catastrophic reinsurance, many property insurers were unable to  
888 procure sufficient amounts of reinsurance for the 2006 hurricane  
889 season or were able to procure such reinsurance only by  
890 incurring substantially higher costs than in prior years.

891 b. The reinsurance market problems were responsible, at  
892 least in part, for substantial premium increases to many  
893 consumers and increases in the number of policies issued by  
894 Citizens Property Insurance Corporation.

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



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897        2. It is the intent of the Legislature to create options  
898 for insurers to purchase a temporary increased coverage limit  
899 above the statutorily determined limit in subparagraph (4)(c)1.,  
900 applicable for the 2007, 2008, and 2009 hurricane seasons, to  
901 address market disruptions and enable insurers, at their option,  
902 to procure additional coverage from the Florida Hurricane  
903 Catastrophe Fund.

904        (b) Applicability of other provisions of this section.--  
905 All provisions of this section and the rules adopted under this  
906 section apply to the coverage created by this subsection unless  
907 specifically superseded by provisions in this subsection.

908        (c) Optional coverage.--For the contract year commencing  
909 June 1, 2007, and ending May 31, 2008, the contract year  
910 commencing June 1, 2008, and ending May 31, 2009, the contract  
911 year commencing June 1, 2009, and ending May 31, 2010, the board  
912 shall offer, for each of such years, the optional coverage as  
913 provided in this subsection.

914        (d) Additional definitions.--As used in this subsection,  
915 the term:

916        1. "FHCF" means Florida Hurricane Catastrophe Fund.

917        2. "FHCF reimbursement premium" means the premium paid by  
918 an insurer for its coverage as a mandatory participant in the  
919 FHCF, but does not include additional premiums for optional  
920 coverages.

921        3. "Payout multiple" means the number or multiple created  
922 by dividing the statutorily defined claims-paying capacity as  
923 determined in subparagraph (4)(c)1. by the aggregate  
924 reimbursement premiums paid by all insurers estimated or

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925 projected as of calendar year-end.

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

927 5. "TICL options" means the temporary increase in coverage  
928 options created under this subsection.

929 6. "TICL insurer" means an insurer that has opted to  
930 obtain coverage under the TICL options addendum in addition to  
931 the coverage provided to the insurer under its FHCF  
932 reimbursement contract.

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

935 8. "TICL coverage multiple" means the coverage multiple  
936 when multiplied by an insurer's reimbursement premium that  
937 defines the temporary increase in coverage limit.

938 9. "TICL coverage" means the coverage for an insurer's  
939 losses above the insurer's statutorily determined claims-paying  
940 capacity based on the claims-paying limit in subparagraph  
941 (4)(c)1., which an insurer selects as its temporary increase in  
942 coverage from the fund under the TICL options selected. A TICL  
943 insurer's increased coverage limit options shall be calculated  
944 as follows:

945 a. The board shall calculate and report to each TICL  
946 insurer the TICL coverage multiples based on twelve options for  
947 increasing the insurer's FHCF coverage limit. Each TICL coverage  
948 multiple shall be calculated by dividing \$1 billion, \$2 billion,  
949 \$3 billion, \$4 billion, \$5 billion, \$6 billion, \$7 billion, \$8  
950 billion, \$9 billion, \$10 billion, \$11 billion, or \$12 billion by  
951 the total estimated aggregate FHCF reimbursement premiums for  
952 the 2007-2008 contract year, the 2008-2009 contract year, and

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953 the 2009-2010 contract year.

954 b. The TICL insurer's increased coverage shall be the FHCF  
955 reimbursement premium multiplied by the TICL coverage multiple.  
956 In order to determine an insurer's total limit of coverage, an  
957 insurer shall add its TICL coverage multiple to its payout  
958 multiple. The total shall represent a number that, when  
959 multiplied by an insurer's FHCF reimbursement premium for a  
960 given reimbursement contract year, defines an insurer's total  
961 limit of FHCF reimbursement coverage for that reimbursement  
962 contract year.

963 10. "TICL options addendum" means an addendum to the  
964 reimbursement contract reflecting the obligations of the fund  
965 and insurers selecting an option to increase an insurer's FHCF  
966 coverage limit.

967 (e) TICL options addendum.--

968 1. The TICL options addendum shall provide for  
969 reimbursement of TICL insurers for covered events occurring  
970 between June 1, 2007, May 31, 2008, and between June 1, 2008,  
971 and May 31, 2009, or between June 1, 2009, and May 31, 2010, in  
972 exchange for the TICL reimbursement premium paid into the fund  
973 under paragraph (e). Any insurer writing covered policies has  
974 the option of selecting an increased limit of coverage under the  
975 TICL options addendum and shall select such coverage at the time  
976 that it executes the FHCF reimbursement contract.

977 2. The TICL addendum shall contain a promise by the board  
978 to reimburse the TICL insurer for 45 percent, 75 percent, or 90  
979 percent of its losses from each covered event in excess of the  
980 insurer's retention, plus 5 percent of the reimbursed losses to

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981 cover loss adjustment expenses. The percentage shall be the same  
982 as the coverage level selected by the insurer under paragraph  
983 (4) (b).

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

987 4. The priorities, schedule, and method of reimbursements  
988 under the TICL addendum shall be the same as provided under  
989 subsection (4).

990 (f) TICL reimbursement premiums.--Each TICL insurer shall  
991 pay to the fund, in the manner and at the time provided in the  
992 reimbursement contract for payment of reimbursement premiums, a  
993 TICL reimbursement premium determined as specified in subsection  
994 (5).

995 (g) Effect on claims-paying capacity of the fund.--For the  
996 contract terms commencing June 1, 2007, June 1, 2008, and June  
997 1, 2009, the program created by this subsection shall increase  
998 the claims-paying capacity of the fund as provided in  
999 subparagraph (4) (c) 1. by an amount not to exceed \$12 billion  
1000 dollars and shall depend on the TICL coverage options selected  
1001 and the number of insurers that select the TICL optional  
1002 coverage. The additional capacity shall apply only to the  
1003 additional coverage provided under the TICL options and shall  
1004 not otherwise affect any insurer's reimbursement from the fund  
1005 if the insurer chooses not to select the temporary option to  
1006 increase its limit of coverage under the FHCF.

1007 (h) Increasing the claims-paying capacity of the fund.--  
1008 For the contract years commencing June 1, 2007, June 1, 2008,

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1009 and June 1, 2009, the board may increase the claims-paying  
 1010 capacity of the fund as provided in paragraph (g) by an amount  
 1011 not to exceed \$4 billion in four \$1 billion options and shall  
 1012 depend on the TICL coverage options selected and the number of  
 1013 insurers that select the TICL optional coverage. Each insurer's  
 1014 TICL premium shall be calculated based upon the additional limit  
 1015 of increased coverage that the insurer selects. Such limit is  
 1016 determined by multiplying the TICL multiple associated with one  
 1017 of the four options times the insurer's FHCF reimbursement  
 1018 premium. The reimbursement premium associated with the  
 1019 additional coverage provided in this paragraph shall be  
 1020 determined as specified in subsection (5).

1021 Section 3. (1) Every residential property insurer must  
 1022 make a rate filing with the Office of Insurance Regulation,  
 1023 pursuant to the "file and use" provisions of s. 627.062(2)(a)1.,  
 1024 Florida Statutes, which reflects the savings or reduction in  
 1025 loss exposure to the insurer due to the provisions of section 2  
 1026 of this act. An insurer may not obtain a rate increase due to  
 1027 the election of coverage options from the Florida Hurricane  
 1028 Catastrophe Fund pursuant to s. 215.555(4), (16), or (17),  
 1029 Florida Statutes.

1030 (2) The office shall specify, by order, the date or dates  
 1031 on which the rate filings required by this section must be made  
 1032 and be effective in order to provide rate relief to  
 1033 policyholders as soon as practicable.

1034 (3) By March 15, 2007, the Office of Insurance Regulation  
 1035 shall calculate a presumed factor or factors to be used in the  
 1036 rate filings required by this section to reflect the impact to

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1037 rates of the changes made by section 2 of this act and this  
 1038 section.

1039 (4) In determining the presumed factor, the Office of  
 1040 Insurance Regulation shall use generally accepted actuarial  
 1041 techniques and standards in determining the expected impact on  
 1042 losses, expenses, and investment income of insurers.

1043 (5) The office may contract with an appropriate vendor to  
 1044 advise the office in determining the presumed factor or factors.

1045 (6) Each residential property insurer shall reflect a rate  
 1046 change that takes into account the presumed factor determined  
 1047 under subsection (3) for any policy written or renewed on or  
 1048 after June 1, 2007. Such factor must be taken into account for  
 1049 the coverage options offered pursuant to s. 215.555(4), (16),  
 1050 and (17), Florida Statutes, for an insurer eligible to elect  
 1051 such optional coverage, whether or not the insurer purchases  
 1052 that coverage. Any additional cost for private reinsurance or  
 1053 loss exposure that duplicates such coverage options may not be  
 1054 factored in the rate, whether or not such coverage options are  
 1055 purchased.

1056 (7) The sum of \$250,000 in nonrecurring funds is  
 1057 appropriated from the Insurance Regulatory Trust Fund in the  
 1058 Department of Financial Services to the Office of Insurance  
 1059 Regulation for the 2006-2007 fiscal year for the purpose of  
 1060 implementing this section.

1061 Section 4. Paragraph (b) of subsection (1) and subsection  
 1062 (2) of section 215.5586, Florida Statutes, are amended, and  
 1063 subsections (7) and (8) are added to that section, to read:

1064 215.5586 Florida Comprehensive Hurricane Damage Mitigation

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1065 Program.--There is established within the Department of  
 1066 Financial Services the Florida Comprehensive Hurricane Damage  
 1067 Mitigation Program. This section does not create an entitlement  
 1068 for property owners or obligate the state in any way to fund the  
 1069 inspection or retrofitting of residential property in this  
 1070 state. Implementation of this program is subject to annual  
 1071 legislative appropriations. The program shall be administered by  
 1072 an individual with prior executive experience in the private  
 1073 sector in the areas of insurance, business, or construction. The  
 1074 program shall develop and implement a comprehensive and  
 1075 coordinated approach for hurricane damage mitigation that shall  
 1076 include the following:

1077 (1) WIND CERTIFICATION AND HURRICANE MITIGATION  
 1078 INSPECTIONS.--

1079 (b) To qualify for selection by the department as a  
 1080 provider of wind certification and hurricane mitigation  
 1081 inspections, the entity shall, at a minimum:

1082 1. Use wind certification and hurricane mitigation  
 1083 inspectors who:

1084 a. Have prior experience in residential construction or  
 1085 inspection and have received specialized training in hurricane  
 1086 mitigation procedures.

1087 b. Have undergone drug testing and level 2 background  
 1088 checks pursuant to s. 435.04. The department is authorized to  
 1089 conduct criminal record checks of inspectors. Inspectors must  
 1090 submit a set of the fingerprints to the department for state and  
 1091 national criminal history checks and must pay the fingerprint  
 1092 processing fee set forth in s. 624.501. The fingerprints shall

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1093 be sent by the department to the Department of Law Enforcement  
 1094 and forwarded to the Federal Bureau of Investigation for  
 1095 processing. The results shall be returned to the department for  
 1096 screening. The fingerprints shall be taken by a law enforcement  
 1097 agency, designated examination center, or other department-  
 1098 approved entity. Wind certification and hurricane mitigation  
 1099 inspectors participating in the program on the effective date of  
 1100 this act shall have until June 1, 2007, to meet the requirements  
 1101 for a criminal record check.

1102 c. Have been certified, in a manner satisfactory to the  
 1103 department, to conduct the inspections.

1104 2. Provide a quality assurance program including a  
 1105 reinspection component.

1106 (2) GRANTS.--Financial grants shall be used to encourage  
 1107 single-family, site-built, owner-occupied, residential property  
 1108 owners to retrofit their properties to make them less vulnerable  
 1109 to hurricane damage.

1110 (a) To be eligible for a grant, a residential property  
 1111 must:

1112 1. Have been granted a homestead exemption under chapter  
 1113 196.

1114 2. Be a dwelling with an insured value of \$500,000 or  
 1115 less. Homeowners who are low-income persons, as defined in s.  
 1116 420.0004(10), are exempt from this requirement.

1117 3. Have undergone an acceptable wind certification and  
 1118 hurricane mitigation inspection, if the property is an existing  
 1119 structure.

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1121 A residential property which is part of a multifamily  
 1122 residential unit may receive a grant only if all homeowners  
 1123 participate and the total number of units does not exceed four.

1124 (b) All grants must be matched on a dollar-for-dollar  
 1125 basis for a total of \$10,000 for the mitigation project with the  
 1126 state's contribution not to exceed \$5,000.

1127 (c) The program shall create a process in which mitigation  
 1128 contractors agree to participate and seek reimbursement from the  
 1129 state and homeowners select from a list of participating  
 1130 contractors. All mitigation must be based upon the securing of  
 1131 all required local permits and inspections. Mitigation projects  
 1132 are subject to random reinspection of up to at least 10 percent  
 1133 of all projects.

1134 (d) Matching fund grants shall also be made available to  
 1135 local governments and nonprofit entities for projects that will  
 1136 reduce hurricane damage to single-family, site-built, owner-  
 1137 occupied, residential property.

1138 (e) Grants may be used for the following improvements:

- 1139 1. Roof deck attachment~~\_.†~~
- 1140 2. Secondary water barrier~~\_.†~~
- 1141 3. Roof covering~~\_.†~~
- 1142 4. Brace gable ends~~\_.†~~
- 1143 5. Reinforce roof-to-wall connections~~\_.†~~
- 1144 6. Opening protection~~\_.†~~ and
- 1145 7. Exterior doors, including garage doors.

1146 (f) Grants may be used on a previously inspected existing  
 1147 structure or on a rebuild. A rebuild is defined as a site-built,  
 1148 single-family dwelling under construction to replace a home that

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1149 was destroyed or significantly damaged by a hurricane and deemed  
 1150 unlivable by a regulatory authority. The homeowner must have had  
 1151 a homestead exemption prior to the hurricane and maintained the  
 1152 homestead exemption.

1153 (g) ~~(f)~~ Low-income homeowners, as defined in s.  
 1154 420.0004(10) ~~(9)~~, who otherwise meet the requirements of  
 1155 paragraphs (a), ~~and~~ (c), (e), and (f) are eligible for a grant  
 1156 of up to \$5,000 and are not required to provide a matching  
 1157 amount to receive the grant. Additionally, for low-income  
 1158 homeowners, grant funding may be used for repair to existing  
 1159 structures leading to any of the mitigation improvements  
 1160 provided in paragraph (e), limited to 20 percent of the grant  
 1161 value. ~~Such grants shall be used to retrofit single family,~~  
 1162 ~~site built, owner occupied, residential properties in order to~~  
 1163 ~~make them less vulnerable to hurricane damage.~~

1164 (7) CONTRACTS WITH NOT-FOR-PROFIT CORPORATIONS.--The  
 1165 Department of Financial Services is authorized to contract with  
 1166 not-for-profit corporations to conduct all or portions of the  
 1167 program and to increase the awareness of the benefits of  
 1168 mitigation among homeowners in this state. The department shall  
 1169 consider the not-for-profit corporation's ability to raise funds  
 1170 from the private sector to provide for mitigation grants, as  
 1171 well as administrative capabilities for conducting other  
 1172 business related to the program.

1173 (8) WIND CERTIFICATION AND HURRICANE MITIGATION INSPECTOR  
 1174 LIST.--The department shall develop and maintain as a public  
 1175 record a current list of wind certification and hurricane  
 1176 mitigation inspectors authorized to conduct wind certification

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1177 and hurricane mitigation inspections pursuant to this section.

1178 Section 5. Paragraphs (a), (c), and (g) of subsection (2)  
 1179 of section 215.5595, Florida Statutes, are amended, and  
 1180 paragraph (i) is added to that subsection, to read:

1181 215.5595 Insurance Capital Build-Up Incentive Program.--

1182 (2) The purpose of this section is to provide surplus  
 1183 notes to new or existing authorized residential property  
 1184 insurers under the Insurance Capital Build-Up Incentive Program  
 1185 administered by the State Board of Administration, under the  
 1186 following conditions:

1187 (a) The amount of the surplus note for any insurer or  
 1188 insurer group, other than an insurer writing only manufactured  
 1189 housing policies, may not exceed \$25 million or 20 percent of  
 1190 the total amount of funds available under the program, whichever  
 1191 is greater. The amount of the surplus note for any insurer or  
 1192 insurer group writing residential property insurance covering  
 1193 only manufactured housing may not exceed \$7 million.

1194 (c) The insurer's surplus, new capital, and the surplus  
 1195 note must total at least \$50 million, except for insurers  
 1196 writing residential property insurance covering only  
 1197 manufactured housing. The insurer's surplus, new capital, and  
 1198 the surplus note must total at least \$14 million for insurers  
 1199 writing only residential property insurance covering  
 1200 manufactured housing policies as provided in paragraph (a).

1201 (g) The total amount of funds available for the program is  
 1202 limited to the amount appropriated by the Legislature for this  
 1203 purpose. If the amount of surplus notes requested by insurers  
 1204 exceeds the amount of funds available, the board may prioritize

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1205 insurers that are eligible and approved, with priority for  
 1206 funding given to insurers writing only manufactured housing  
 1207 policies, regardless of the date of application, based on the  
 1208 financial strength of the insurer, the viability of its proposed  
 1209 business plan for writing additional residential property  
 1210 insurance in the state, and the effect on competition in the  
 1211 residential property insurance market.

1212 (i) Notwithstanding paragraph (d), a newly formed  
 1213 manufactured housing insurer that is eligible for a surplus note  
 1214 under this section shall meet the premium to surplus ratio  
 1215 provisions of s. 624.4095.

1216 Section 6. Section 395.106, Florida Statutes, is created  
 1217 to read:

1218 395.106 Risk pooling by certain hospitals and hospital  
 1219 systems.--

1220 (1) Notwithstanding any other provision of law, any two or  
 1221 more hospitals licensed in this state and located in this state  
 1222 may form an alliance for the purpose of pooling and spreading  
 1223 liabilities of its members relative to property exposure or  
 1224 securing such property insurance coverage for the benefit of its  
 1225 members, provided an alliance that is created:

1226 (a) Has annual premiums in excess of \$3 million.

1227 (b) Maintains a continuing program of premium calculation  
 1228 and evaluation and reserve evaluation to protect the financial  
 1229 stability of the alliance in an amount and manner determined by  
 1230 consultants using catastrophic (CAT) modeling criteria or other  
 1231 risk-estimating methodologies, including those used by qualified  
 1232 and independent actuaries.

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1233       (c) Causes to be prepared annually a fiscal year-end  
 1234 financial statement based upon generally accepted accounting  
 1235 principles and audited by an independent certified public  
 1236 accountant within 6 months after the end of the fiscal year.

1237       (d) Has a governing body comprised entirely of member  
 1238 entities whose representatives on such governing body are  
 1239 specified by the organizational documents of the alliance.

1240       (2) For purposes of this section, the term:

1241       (a) "Alliance" means a corporation, association, limited  
 1242 liability company, or partnership or any other legal entity  
 1243 formed by a group of eligible entities.

1244       (b) "Property coverage" means property coverage provided  
 1245 by self-insurance or insurance for real or personal property of  
 1246 every kind and every interest in such property against loss or  
 1247 damage from any hazard or cause and against any loss  
 1248 consequential to such loss or damage.

1249       (3) An alliance that meets the requirements of this  
 1250 section is not subject to any provision of the Insurance Code.

1251       (4) An alliance that meets the requirements of this  
 1252 section is not an insurer for purposes of participation in or  
 1253 coverage by the Florida Insurance Guaranty Association  
 1254 established in part II of chapter 631. Alliance self-insured  
 1255 coverage is not subject to insurance premium tax, and any such  
 1256 alliance formed pursuant to this section may not be assessed for  
 1257 purposes of s. 627.351 or s. 215.555.

1258       Section 7. Section 553.73, Florida Statutes, is amended to  
 1259 read:

1260       553.73 Florida Building Code.--

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1261 (1) (a) The commission shall adopt, by rule pursuant to ss.  
 1262 120.536(1) and 120.54, the Florida Building Code which shall  
 1263 contain or incorporate by reference all laws and rules which  
 1264 pertain to and govern the design, construction, erection,  
 1265 alteration, modification, repair, and demolition of public and  
 1266 private buildings, structures, and facilities and enforcement of  
 1267 such laws and rules, except as otherwise provided in this  
 1268 section.

1269 (b) The technical portions of the Florida Accessibility  
 1270 Code for Building Construction shall be contained in their  
 1271 entirety in the Florida Building Code. The civil rights portions  
 1272 and the technical portions of the accessibility laws of this  
 1273 state shall remain as currently provided by law. Any revision or  
 1274 amendments to the Florida Accessibility Code for Building  
 1275 Construction pursuant to part II shall be considered adopted by  
 1276 the commission as part of the Florida Building Code. Neither the  
 1277 commission nor any local government shall revise or amend any  
 1278 standard of the Florida Accessibility Code for Building  
 1279 Construction except as provided for in part II.

1280 (c) The Florida Fire Prevention Code and the Life Safety  
 1281 Code shall be referenced in the Florida Building Code, but shall  
 1282 be adopted, modified, revised, or amended, interpreted, and  
 1283 maintained by the Department of Financial Services by rule  
 1284 adopted pursuant to ss. 120.536(1) and 120.54. The Florida  
 1285 Building Commission may not adopt a fire prevention or  
 1286 lifesafety code, and nothing in the Florida Building Code shall  
 1287 affect the statutory powers, duties, and responsibilities of any  
 1288 fire official or the Department of Financial Services.

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1289 (d) Conflicting requirements between the Florida Building  
 1290 Code and the Florida Fire Prevention Code and Life Safety Code  
 1291 of the state established pursuant to ss. 633.022 and 633.025  
 1292 shall be resolved by agreement between the commission and the  
 1293 State Fire Marshal in favor of the requirement that offers the  
 1294 greatest degree of lifesafety or alternatives that would provide  
 1295 an equivalent degree of lifesafety and an equivalent method of  
 1296 construction. If the commission and State Fire Marshal are  
 1297 unable to agree on a resolution, the question shall be referred  
 1298 to a mediator, mutually agreeable to both parties, to resolve  
 1299 the conflict in favor of the provision that offers the greatest  
 1300 lifesafety, or alternatives that would provide an equivalent  
 1301 degree of lifesafety and an equivalent method of construction.

1302 (e) Subject to the provisions of this act, responsibility  
 1303 for enforcement, interpretation, and regulation of the Florida  
 1304 Building Code shall be vested in a specified local board or  
 1305 agency, and the words "local government" and "local governing  
 1306 body" as used in this part shall be construed to refer  
 1307 exclusively to such local board or agency.

1308 (2) The Florida Building Code shall contain provisions or  
 1309 requirements for public and private buildings, structures, and  
 1310 facilities relative to structural, mechanical, electrical,  
 1311 plumbing, energy, and gas systems, existing buildings,  
 1312 historical buildings, manufactured buildings, elevators, coastal  
 1313 construction, lodging facilities, food sales and food service  
 1314 facilities, health care facilities, including assisted living  
 1315 facilities, adult day care facilities, hospice residential and  
 1316 inpatient facilities and units, and facilities for the control

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1317 of radiation hazards, public or private educational facilities,  
1318 swimming pools, and correctional facilities and enforcement of  
1319 and compliance with such provisions or requirements. Further,  
1320 the Florida Building Code must provide for uniform  
1321 implementation of ss. 515.25, 515.27, and 515.29 by including  
1322 standards and criteria for residential swimming pool barriers,  
1323 pool covers, latching devices, door and window exit alarms, and  
1324 other equipment required therein, which are consistent with the  
1325 intent of s. 515.23. Technical provisions to be contained within  
1326 the Florida Building Code are restricted to requirements related  
1327 to the types of materials used and construction methods and  
1328 standards employed in order to meet criteria specified in the  
1329 Florida Building Code. Provisions relating to the personnel,  
1330 supervision or training of personnel, or any other professional  
1331 qualification requirements relating to contractors or their  
1332 workforce may not be included within the Florida Building Code,  
1333 and subsections (4), (5), (6), ~~and (7)~~, and (8) are not to be  
1334 construed to allow the inclusion of such provisions within the  
1335 Florida Building Code by amendment. This restriction applies to  
1336 both initial development and amendment of the Florida Building  
1337 Code.

1338 (3) The commission shall select from available national or  
1339 international model building codes, or other available building  
1340 codes and standards currently recognized by the laws of this  
1341 state, to form the foundation for the Florida Building Code. The  
1342 commission may modify the selected model codes and standards as  
1343 needed to accommodate the specific needs of this state.  
1344 Standards or criteria referenced by the selected model codes



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1345 shall be similarly incorporated by reference. If a referenced  
 1346 standard or criterion requires amplification or modification to  
 1347 be appropriate for use in this state, only the amplification or  
 1348 modification shall be specifically set forth in the Florida  
 1349 Building Code. The Florida Building Commission may approve  
 1350 technical amendments to the code, subject to the requirements of  
 1351 subsections (7) and (8), after the amendments have been subject  
 1352 to the following conditions:

1353 (a) The proposed amendment has been published on the  
 1354 commission's website for a minimum of 45 days and all the  
 1355 associated documentation has been made available to any  
 1356 interested party before any consideration by any Technical  
 1357 Advisory Committee;

1358 (b) In order for a Technical Advisory Committee to make a  
 1359 favorable recommendation to the commission, the proposal must  
 1360 receive a three-fourths vote of the members present at the  
 1361 Technical Advisory Committee meeting and at least half of the  
 1362 regular members must be present in order to conduct a meeting;

1363 (c) After Technical Advisory Committee consideration and a  
 1364 recommendation for approval of any proposed amendment, the  
 1365 proposal must be published on the commission's website for not  
 1366 less than 45 days before any consideration by the commission;  
 1367 and

1368 (d) Any proposal may be modified by the commission based  
 1369 on public testimony and evidence from a public hearing held in  
 1370 accordance with chapter 120.

1371  
 1372 The commission shall incorporate within sections of the Florida

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1373 Building Code provisions which address regional and local  
 1374 concerns and variations. The commission shall make every effort  
 1375 to minimize conflicts between the Florida Building Code, the  
 1376 Florida Fire Prevention Code, and the Life Safety Code.

1377 (4) (a) All entities authorized to enforce the Florida  
 1378 Building Code pursuant to s. 553.80 shall comply with applicable  
 1379 standards for issuance of mandatory certificates of occupancy,  
 1380 minimum types of inspections, and procedures for plans review  
 1381 and inspections as established by the commission by rule. Local  
 1382 governments may adopt amendments to the administrative  
 1383 provisions of the Florida Building Code, subject to the  
 1384 limitations of this paragraph. Local amendments shall be more  
 1385 stringent than the minimum standards described herein and shall  
 1386 be transmitted to the commission within 30 days after enactment.

1387 The local government shall make such amendments available to  
 1388 the general public in a usable format. The State Fire Marshal  
 1389 is responsible for establishing the standards and procedures  
 1390 required in this paragraph for governmental entities with  
 1391 respect to applying the Florida Fire Prevention Code and the  
 1392 Life Safety Code.

1393 (b) Local governments may, subject to the limitations of  
 1394 this section, adopt amendments to the technical provisions of  
 1395 the Florida Building Code which apply solely within the  
 1396 jurisdiction of such government and which provide for more  
 1397 stringent requirements than those specified in the Florida  
 1398 Building Code, not more than once every 6 months. A local  
 1399 government may adopt technical amendments that address local  
 1400 needs if:

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1401           1. The local governing body determines, following a public  
 1402 hearing which has been advertised in a newspaper of general  
 1403 circulation at least 10 days before the hearing, that there is a  
 1404 need to strengthen the requirements of the Florida Building  
 1405 Code. The determination must be based upon a review of local  
 1406 conditions by the local governing body, which review  
 1407 demonstrates by evidence or data that the geographical  
 1408 jurisdiction governed by the local governing body exhibits a  
 1409 local need to strengthen the Florida Building Code beyond the  
 1410 needs or regional variation addressed by the Florida Building  
 1411 Code, that the local need is addressed by the proposed local  
 1412 amendment, and that the amendment is no more stringent than  
 1413 necessary to address the local need.

1414           2. Such additional requirements are not discriminatory  
 1415 against materials, products, or construction techniques of  
 1416 demonstrated capabilities.

1417           3. Such additional requirements may not introduce a new  
 1418 subject not addressed in the Florida Building Code.

1419           4. The enforcing agency shall make readily available, in a  
 1420 usable format, all amendments adopted pursuant to this section.

1421           5. Any amendment to the Florida Building Code shall be  
 1422 transmitted within 30 days by the adopting local government to  
 1423 the commission. The commission shall maintain copies of all  
 1424 such amendments in a format that is usable and obtainable by the  
 1425 public. Local technical amendments shall not become effective  
 1426 until 30 days after the amendment has been received and  
 1427 published by the commission.

1428           6. Any amendment to the Florida Building Code adopted by a

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1429 local government pursuant to this paragraph shall be effective  
1430 only until the adoption by the commission of the new edition of  
1431 the Florida Building Code every third year. At such time, the  
1432 commission shall review such amendment for consistency with the  
1433 criteria in paragraph (8) (a) ~~(7) (a)~~ and adopt such amendment as  
1434 part of the Florida Building Code or rescind the amendment. The  
1435 commission shall immediately notify the respective local  
1436 government of the rescission of any amendment. After receiving  
1437 such notice, the respective local government may readopt the  
1438 rescinded amendment pursuant to the provisions of this  
1439 paragraph.

1440 7. Each county and municipality desiring to make local  
1441 technical amendments to the Florida Building Code shall by  
1442 interlocal agreement establish a countywide compliance review  
1443 board to review any amendment to the Florida Building Code,  
1444 adopted by a local government within the county pursuant to this  
1445 paragraph, that is challenged by any substantially affected  
1446 party for purposes of determining the amendment's compliance  
1447 with this paragraph. If challenged, the local technical  
1448 amendments shall not become effective until time for filing an  
1449 appeal pursuant to subparagraph 8. has expired or, if there is  
1450 an appeal, until the commission issues its final order  
1451 determining the adopted amendment is in compliance with this  
1452 subsection.

1453 8. If the compliance review board determines such  
1454 amendment is not in compliance with this paragraph, the  
1455 compliance review board shall notify such local government of  
1456 the noncompliance and that the amendment is invalid and

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1457 unenforceable until the local government corrects the amendment  
1458 to bring it into compliance. The local government may appeal the  
1459 decision of the compliance review board to the commission. If  
1460 the compliance review board determines such amendment to be in  
1461 compliance with this paragraph, any substantially affected party  
1462 may appeal such determination to the commission. Any such appeal  
1463 shall be filed with the commission within 14 days of the board's  
1464 written determination. The commission shall promptly refer the  
1465 appeal to the Division of Administrative Hearings for the  
1466 assignment of an administrative law judge. The administrative  
1467 law judge shall conduct the required hearing within 30 days, and  
1468 shall enter a recommended order within 30 days of the conclusion  
1469 of such hearing. The commission shall enter a final order within  
1470 30 days thereafter. The provisions of chapter 120 and the  
1471 uniform rules of procedure shall apply to such proceedings. The  
1472 local government adopting the amendment that is subject to  
1473 challenge has the burden of proving that the amendment complies  
1474 with this paragraph in proceedings before the compliance review  
1475 board and the commission, as applicable. Actions of the  
1476 commission are subject to judicial review pursuant to s. 120.68.  
1477 The compliance review board shall determine whether its  
1478 decisions apply to a respective local jurisdiction or apply  
1479 countywide.

1480 9. An amendment adopted under this paragraph shall include  
1481 a fiscal impact statement which documents the costs and benefits  
1482 of the proposed amendment. Criteria for the fiscal impact  
1483 statement shall include the impact to local government relative  
1484 to enforcement, the impact to property and building owners, as

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1485 well as to industry, relative to the cost of compliance. The  
1486 fiscal impact statement may not be used as a basis for  
1487 challenging the amendment for compliance.

1488 10. In addition to subparagraphs 7. and 9., the  
1489 commission may review any amendments adopted pursuant to this  
1490 subsection and make nonbinding recommendations related to  
1491 compliance of such amendments with this subsection.

1492 (c) Any amendment adopted by a local enforcing agency  
1493 pursuant to this subsection shall not apply to state or school  
1494 district owned buildings, manufactured buildings or factory-  
1495 built school buildings approved by the commission, or prototype  
1496 buildings approved pursuant to s. 553.77(3). The respective  
1497 responsible entities shall consider the physical performance  
1498 parameters substantiating such amendments when designing,  
1499 specifying, and constructing such exempt buildings.

1500 (5) The initial adoption of, and any subsequent update or  
1501 amendment to, the Florida Building Code by the commission is  
1502 deemed adopted for use statewide without adoptions by local  
1503 government. For a building permit for which an application is  
1504 submitted prior to the effective date of the Florida Building  
1505 Code, the state minimum building code in effect in the  
1506 permitting jurisdiction on the date of the application governs  
1507 the permitted work for the life of the permit and any extension  
1508 granted to the permit.

1509 (6) (a) The commission, by rule adopted pursuant to ss.  
1510 120.536(1) and 120.54, shall update the Florida Building Code  
1511 every 3 years. When updating the Florida Building Code, the  
1512 commission shall select the most current version of the

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1513 International Building Code, the International Fuel Gas Code,  
1514 the International Mechanical Code, the International Plumbing  
1515 Code, and the International Residential Code, all of which are  
1516 adopted by the International Code Council, and the National  
1517 Electrical Code, which is adopted by the National Fire  
1518 Protection Association, to form the foundation codes of the  
1519 updated Florida Building Code, if the version has been adopted  
1520 by the applicable model code entity and made available to the  
1521 public at least 6 months prior to its selection by the  
1522 commission.

1523 (b) Codes regarding noise contour lines shall be reviewed  
1524 annually, and the most current federal guidelines shall be  
1525 adopted.

1526 (c) The commission may modify any portion of the  
1527 foundation codes only as needed to accommodate the specific  
1528 needs of this state, maintaining Florida-specific amendments  
1529 previously adopted by the commission and not addressed by the  
1530 updated foundation code. Standards or criteria referenced by the  
1531 codes shall be incorporated by reference. If a referenced  
1532 standard or criterion requires amplification or modification to  
1533 be appropriate for use in this state, only the amplification or  
1534 modification shall be set forth in the Florida Building Code.  
1535 The commission may approve technical amendments to the updated  
1536 Florida Building Code after the amendments have been subject to  
1537 the conditions set forth in paragraphs (3) (a) - (d). Amendments to  
1538 the foundation codes which are adopted in accordance with this  
1539 subsection shall be clearly marked in printed versions of the  
1540 Florida Building Code so that the fact that the provisions are

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1541 Florida-specific amendments to the foundation codes is readily  
 1542 apparent.

1543 (d) The commission shall further consider the commission's  
 1544 own interpretations, declaratory statements, appellate  
 1545 decisions, and approved statewide and local technical amendments  
 1546 and shall incorporate such interpretations, statements,  
 1547 decisions, and amendments into the updated Florida Building Code  
 1548 only to the extent that they are needed to modify the foundation  
 1549 codes to accommodate the specific needs of the state. A change  
 1550 made by an institute or standards organization to any standard  
 1551 or criterion that is adopted by reference in the Florida  
 1552 Building Code does not become effective statewide until it has  
 1553 been adopted by the commission. Furthermore, the edition of the  
 1554 Florida Building Code which is in effect on the date of  
 1555 application for any permit authorized by the code governs the  
 1556 permitted work for the life of the permit and any extension  
 1557 granted to the permit.

1558 (e) A rule updating the Florida Building Code in  
 1559 accordance with this subsection shall take effect no sooner than  
 1560 6 months after publication of the updated code. Any amendment to  
 1561 the Florida Building Code which is adopted upon a finding by the  
 1562 commission that the amendment is necessary to protect the public  
 1563 from immediate threat of harm takes effect immediately.

1564 (f) Provisions of the foundation codes, including those  
 1565 contained in referenced standards and criteria, relating to wind  
 1566 resistance or the prevention of water intrusion may not be  
 1567 modified to diminish those construction requirements; however,  
 1568 the commission may, subject to conditions in this subsection,



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1569 modify the provisions to enhance those construction  
 1570 requirements.

1571 (7) ~~(f)~~ Upon the conclusion of a triennial update to the  
 1572 Florida Building Code, notwithstanding the provisions of ~~this~~  
 1573 ~~subsection or~~ subsection (3) or subsection (6), the commission  
 1574 may address issues identified in this subsection ~~paragraph~~ by  
 1575 amending the code pursuant only to the rule adoption procedures  
 1576 contained in chapter 120. Provisions of the Florida Building  
 1577 Code, including those contained in referenced standards and  
 1578 criteria, relating to wind resistance or the prevention of water  
 1579 intrusion may not be amended pursuant to this subsection to  
 1580 diminish those construction requirements; however, the  
 1581 commission may, subject to conditions in this subsection, amend  
 1582 the provisions to enhance those construction requirements.

1583 Following the approval of any amendments to the Florida Building  
 1584 Code by the commission and publication of the amendments on the  
 1585 commission's website, authorities having jurisdiction to enforce  
 1586 the Florida Building Code may enforce the amendments. The  
 1587 commission may approve amendments that are needed to address:

1588 (a) ~~1.~~ Conflicts within the updated code;

1589 (b) ~~2.~~ Conflicts between the updated code and the Florida  
 1590 Fire Prevention Code adopted pursuant to chapter 633;

1591 (c) ~~3.~~ The omission of previously adopted Florida-specific  
 1592 amendments to the updated code if such omission is not supported  
 1593 by a specific recommendation of a technical advisory committee  
 1594 or particular action by the commission; or

1595 (d) ~~4.~~ Unintended results from the integration of  
 1596 previously adopted Florida-specific amendments with the model

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1597 code.

1598        ~~(8)~~(7)(a) The commission may approve technical amendments

1599 to the Florida Building Code once each year for statewide or

1600 regional application upon a finding that the amendment:

1601            1. Is needed in order to accommodate the specific needs of

1602 this state.

1603            2. Has a reasonable and substantial connection with the

1604 health, safety, and welfare of the general public.

1605            3. Strengthens or improves the Florida Building Code, or

1606 in the case of innovation or new technology, will provide

1607 equivalent or better products or methods or systems of

1608 construction.

1609            4. Does not discriminate against materials, products,

1610 methods, or systems of construction of demonstrated

1611 capabilities.

1612            5. Does not degrade the effectiveness of the Florida

1613 Building Code.

1614

1615 Furthermore, the Florida Building Commission may approve

1616 technical amendments to the code once each year to incorporate

1617 into the Florida Building Code its own interpretations of the

1618 code which are embodied in its opinions, final orders,

1619 declaratory statements, and interpretations of hearing officer

1620 panels under s. 553.775(3)(c), but shall do so only to the

1621 extent that incorporation of interpretations is needed to modify

1622 the foundation codes to accommodate the specific needs of this

1623 state. Amendments approved under this paragraph shall be adopted

1624 by rule pursuant to ss. 120.536(1) and 120.54, after the

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1625 amendments have been subjected to the provisions of subsection  
1626 (3).

1627 (b) A proposed amendment shall include a fiscal impact  
1628 statement which documents the costs and benefits of the proposed  
1629 amendment. Criteria for the fiscal impact statement shall be  
1630 established by rule by the commission and shall include the  
1631 impact to local government relative to enforcement, the impact  
1632 to property and building owners, as well as to industry,  
1633 relative to the cost of compliance.

1634 (c) The commission may not approve any proposed amendment  
1635 that does not accurately and completely address all requirements  
1636 for amendment which are set forth in this section. The  
1637 commission shall require all proposed amendments and information  
1638 submitted with proposed amendments to be reviewed by commission  
1639 staff prior to consideration by any technical advisory  
1640 committee. These reviews shall be for sufficiency only and are  
1641 not intended to be qualitative in nature. Staff members shall  
1642 reject any proposed amendment that fails to include a fiscal  
1643 impact statement. Proposed amendments rejected by members of the  
1644 staff may not be considered by the commission or any technical  
1645 advisory committee.

1646 (d) Provisions of the Florida Building Code, including  
1647 those contained in referenced standards and criteria, relating  
1648 to wind resistance or the prevention of water intrusion may not  
1649 be amended pursuant to this subsection to diminish those  
1650 construction requirements; however, the commission may, subject  
1651 to conditions in this subsection, amend the provisions to  
1652 enhance those construction requirements.

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1653            (9)~~(8)~~ The following buildings, structures, and facilities  
 1654 are exempt from the Florida Building Code as provided by law,  
 1655 and any further exemptions shall be as determined by the  
 1656 Legislature and provided by law:

1657            (a) Buildings and structures specifically regulated and  
 1658 preempted by the Federal Government.

1659            (b) Railroads and ancillary facilities associated with the  
 1660 railroad.

1661            (c) Nonresidential farm buildings on farms.

1662            (d) Temporary buildings or sheds used exclusively for  
 1663 construction purposes.

1664            (e) Mobile or modular structures used as temporary  
 1665 offices, except that the provisions of part II relating to  
 1666 accessibility by persons with disabilities shall apply to such  
 1667 mobile or modular structures.

1668            (f) Those structures or facilities of electric utilities,  
 1669 as defined in s. 366.02, which are directly involved in the  
 1670 generation, transmission, or distribution of electricity.

1671            (g) Temporary sets, assemblies, or structures used in  
 1672 commercial motion picture or television production, or any  
 1673 sound-recording equipment used in such production, on or off the  
 1674 premises.

1675            (h) Storage sheds that are not designed for human  
 1676 habitation and that have a floor area of 720 square feet or less  
 1677 are not required to comply with the mandatory wind-borne-debris-  
 1678 impact standards of the Florida Building Code.

1679            (i) Chickees constructed by the Miccosukee Tribe of  
 1680 Indians of Florida or the Seminole Tribe of Florida. As used in

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1681 this paragraph, the term "chickee" means an open-sided wooden  
 1682 hut that has a thatched roof of palm or palmetto or other  
 1683 traditional materials, and that does not incorporate any  
 1684 electrical, plumbing, or other nonwood features.

1685  
 1686 With the exception of paragraphs (a), (b), (c), and (f), in  
 1687 order to preserve the health, safety, and welfare of the public,  
 1688 the Florida Building Commission may, by rule adopted pursuant to  
 1689 chapter 120, provide for exceptions to the broad categories of  
 1690 buildings exempted in this section, including exceptions for  
 1691 application of specific sections of the code or standards  
 1692 adopted therein. The Department of Agriculture and Consumer  
 1693 Services shall have exclusive authority to adopt by rule,  
 1694 pursuant to chapter 120, exceptions to nonresidential farm  
 1695 buildings exempted in paragraph (c) when reasonably necessary to  
 1696 preserve public health, safety, and welfare. The exceptions must  
 1697 be based upon specific criteria, such as under-roof floor area,  
 1698 aggregate electrical service capacity, HVAC system capacity, or  
 1699 other building requirements. Further, the commission may  
 1700 recommend to the Legislature additional categories of buildings,  
 1701 structures, or facilities which should be exempted from the  
 1702 Florida Building Code, to be provided by law.

1703 (10)~~(9)~~(a) In the event of a conflict between the Florida  
 1704 Building Code and the Florida Fire Prevention Code and the Life  
 1705 Safety Code as applied to a specific project, the conflict shall  
 1706 be resolved by agreement between the local building code  
 1707 enforcement official and the local fire code enforcement  
 1708 official in favor of the requirement of the code which offers

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1709 the greatest degree of lifesafety or alternatives which would  
1710 provide an equivalent degree of lifesafety and an equivalent  
1711 method of construction.

1712 (b) Any decision made by the local fire official and the  
1713 local building official may be appealed to a local  
1714 administrative board designated by the municipality, county, or  
1715 special district having firesafety responsibilities. If the  
1716 decision of the local fire official and the local building  
1717 official is to apply the provisions of either the Florida  
1718 Building Code or the Florida Fire Prevention Code and the Life  
1719 Safety Code, the board may not alter the decision unless the  
1720 board determines that the application of such code is not  
1721 reasonable. If the decision of the local fire official and the  
1722 local building official is to adopt an alternative to the codes,  
1723 the local administrative board shall give due regard to the  
1724 decision rendered by the local officials and may modify that  
1725 decision if the administrative board adopts a better  
1726 alternative, taking into consideration all relevant  
1727 circumstances. In any case in which the local administrative  
1728 board adopts alternatives to the decision rendered by the local  
1729 fire official and the local building official, such alternatives  
1730 shall provide an equivalent degree of lifesafety and an  
1731 equivalent method of construction as the decision rendered by  
1732 the local officials.

1733 (c) If the local building official and the local fire  
1734 official are unable to agree on a resolution of the conflict  
1735 between the Florida Building Code and the Florida Fire  
1736 Prevention Code and the Life Safety Code, the local

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1737 administrative board shall resolve the conflict in favor of the  
 1738 code which offers the greatest degree of lifesafety or  
 1739 alternatives which would provide an equivalent degree of  
 1740 lifesafety and an equivalent method of construction.

1741 (d) All decisions of the local administrative board, or if  
 1742 none exists, the decisions of the local building official and  
 1743 the local fire official, are subject to review by a joint  
 1744 committee composed of members of the Florida Building Commission  
 1745 and the Fire Code Advisory Council. If the joint committee is  
 1746 unable to resolve conflicts between the codes as applied to a  
 1747 specific project, the matter shall be resolved pursuant to the  
 1748 provisions of paragraph (1) (d).

1749 (e) The local administrative board shall, to the greatest  
 1750 extent possible, be composed of members with expertise in  
 1751 building construction and firesafety standards.

1752 (f) All decisions of the local building official and local  
 1753 fire official and all decisions of the administrative board  
 1754 shall be in writing and shall be binding upon all persons but  
 1755 shall not limit the authority of the State Fire Marshal or the  
 1756 Florida Building Commission pursuant to paragraph (1) (d) and ss.  
 1757 663.01 and 633.161. Decisions of general application shall be  
 1758 indexed by building and fire code sections and shall be  
 1759 available for inspection during normal business hours.

1760 (11)~~(10)~~ Except within coastal building zones as defined  
 1761 in s. 161.54, specification standards developed by nationally  
 1762 recognized code promulgation organizations to determine  
 1763 compliance with engineering criteria of the Florida Building  
 1764 Code for wind load design shall not apply to one or two family

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1765 dwellings which are two stories or less in height unless  
 1766 approved by the commission for use or unless expressly made  
 1767 subject to said standards and criteria by local ordinance  
 1768 adopted in accordance with the provisions of subsection (4).

1769 (12)~~(11)~~ The Florida Building Code does not apply to, and  
 1770 no code enforcement action shall be brought with respect to,  
 1771 zoning requirements, land use requirements, and owner  
 1772 specifications or programmatic requirements which do not pertain  
 1773 to and govern the design, construction, erection, alteration,  
 1774 modification, repair, or demolition of public or private  
 1775 buildings, structures, or facilities or to programmatic  
 1776 requirements that do not pertain to enforcement of the Florida  
 1777 Building Code. Additionally, a local code enforcement agency  
 1778 may not administer or enforce the Florida Building Code to  
 1779 prevent the siting of any publicly owned facility, including,  
 1780 but not limited to, correctional facilities, juvenile justice  
 1781 facilities, or state universities, community colleges, or public  
 1782 education facilities, as provided by law.

1783 Section 8. Subsection (2) of section 553.775, Florida  
 1784 Statutes, is amended to read:

1785 553.775 Interpretations.--

1786 (2) Local enforcement agencies, local building officials,  
 1787 state agencies, and the commission shall interpret provisions of  
 1788 the Florida Building Code in a manner that is consistent with  
 1789 declaratory statements and interpretations entered by the  
 1790 commission, except that conflicts between the Florida Fire  
 1791 Prevention Code and the Florida Building Code shall be resolved  
 1792 in accordance with s. 553.73(10)(c) and (d) ~~s. 553.73(9)(e) and~~



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1793 ~~(d).~~

1794       Section 9. Upon the effective date of this act, each  
 1795 jurisdiction having authority to enforce the Florida Building  
 1796 Code shall, at a minimum, require wind-borne-debris protection  
 1797 in accordance with s. 1609.1, International Building Code (2006)  
 1798 and the International Residential Code (2006) within the "wind-  
 1799 borne-debris region" as that term is defined in s. 1609.2,  
 1800 International Building Code (2006), and s. R301.2, International  
 1801 Residential Code (2006).

1802       Section 10. (1) The Florida Building Commission shall  
 1803 amend the Florida Building Code to reflect the application of  
 1804 provisions identified in section 9 of this act, and to eliminate  
 1805 all exceptions that provide less stringent requirements. The  
 1806 amendments by the commission shall apply throughout the state  
 1807 with the exception of the High Velocity Hurricane Zone, which  
 1808 shall be governed as currently provided within the Florida  
 1809 Building Code. The commission shall fulfill these obligations  
 1810 before July 1, 2007, pursuant only to the provisions of chapter  
 1811 120, Florida Statutes.

1812       (2) The Florida Building Commission shall develop  
 1813 voluntary "Code Plus" guidelines for increasing the hurricane  
 1814 resistance of buildings. The guidelines may be modeled on the  
 1815 requirements for the High Velocity Hurricane Zone and must  
 1816 identify products, systems, and methods of construction that the  
 1817 commission anticipates could result in stronger construction.  
 1818 The commission shall include these guidelines in its report to  
 1819 the 2008 Legislature.

1820       Section 11. Subsection (1) of section 624.407, Florida

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1821 Statutes, is amended to read:

1822 624.407 Capital funds required; new insurers.--

1823 (1) To receive authority to transact any one kind or  
 1824 combinations of kinds of insurance, as defined in part V of this  
 1825 chapter, an insurer applying for its original certificate of  
 1826 authority in this state after the effective date of this section  
 1827 shall possess surplus as to policyholders not less than the  
 1828 greater of:

1829 (a) Five million dollars for a property and casualty  
 1830 insurer, or \$2.5 million for any other insurer;

1831 (b) For life insurers, 4 percent of the insurer's total  
 1832 liabilities;

1833 (c) For life and health insurers, 4 percent of the  
 1834 insurer's total liabilities, plus 6 percent of the insurer's  
 1835 liabilities relative to health insurance; or

1836 (d) For all insurers other than life insurers and life and  
 1837 health insurers, 10 percent of the insurer's total liabilities;

1838  
 1839 however, a domestic insurer that transacts residential property  
 1840 insurance and is a wholly owned subsidiary of an insurer  
 1841 authorized to do business in any other state shall possess  
 1842 surplus as to policyholders of at least \$50 million, but no  
 1843 insurer shall be required under this subsection to have surplus  
 1844 as to policyholders greater than \$100 million.

1845 Section 12. Paragraph (a) of subsection (2) of section  
 1846 624.462, Florida Statutes, is amended to read:

1847 624.462 Commercial self-insurance funds.--

1848 (2) As used in ss. 624.460-624.488, "commercial self-

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1849 insurance fund" or "fund" means a group of members, operating  
 1850 individually and collectively through a trust or corporation,  
 1851 that must be:

1852 (a) Established by:

1853 1. A not-for-profit trade association, industry  
 1854 association, or professional association of employers or  
 1855 professionals which has a constitution or bylaws, which is  
 1856 incorporated under the laws of this state, and which has been  
 1857 organized for purposes other than that of obtaining or providing  
 1858 insurance and operated in good faith for a continuous period of  
 1859 1 year;

1860 2. A self-insurance trust fund organized pursuant to s.  
 1861 627.357 and maintained in good faith for a continuous period of  
 1862 1 year for purposes other than that of obtaining or providing  
 1863 insurance pursuant to this section. Each member of a commercial  
 1864 self-insurance trust fund established pursuant to this  
 1865 subsection must maintain membership in the self-insurance trust  
 1866 fund organized pursuant to s. 627.357;

1867 3. A group of 10 or more health care providers, as defined  
 1868 in s. 627.351(4)(h), for purposes of providing medical  
 1869 malpractice coverage; or

1870 4. A not-for-profit group comprised of one or more  
 1871 community ~~no less than 10 condominium~~ associations responsible  
 1872 for operating at least 50 residential parcels or units created  
 1873 and operating under chapter 718, chapter 719, chapter 720,  
 1874 chapter 721, or chapter 723 as defined in s. 718.103(2), which  
 1875 ~~is incorporated under the laws of this state,~~ which restricts  
 1876 its membership to community ~~condominium~~ associations only, and

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1877 | which has been organized and maintained in good faith for the  
 1878 | purpose of pooling and spreading the liabilities of its group  
 1879 | members relating to property or casualty risk or surety a  
 1880 | ~~continuous period of 1 year for purposes other than that of~~  
 1881 | ~~obtaining or providing~~ insurance.

1882 |         Section 13. Subsection (1) of section 624.4622, Florida  
 1883 | Statutes, is amended to read:

1884 |             624.4622 Local government self-insurance funds.--

1885 |         (1) Any two or more local governmental entities may enter  
 1886 | into interlocal agreements for the purpose of securing the  
 1887 | payment of benefits under chapter 440, or insuring or self-  
 1888 | insuring real or personal property of every kind and every  
 1889 | interest in such property against loss or damage from any hazard  
 1890 | or cause and against any loss consequential to such loss or  
 1891 | damage, provided the local government self-insurance fund that  
 1892 | is created must:

1893 |             (a) Have annual normal premiums in excess of \$5 million;

1894 |             (b) Maintain a continuing program of excess insurance  
 1895 | coverage and reserve evaluation to protect the financial  
 1896 | stability of the fund in an amount and manner determined by a  
 1897 | qualified and independent actuary;

1898 |             (c) Submit annually an audited fiscal year-end financial  
 1899 | statement by an independent certified public accountant within 6  
 1900 | months after the end of the fiscal year to the office; and

1901 |             (d) Have a governing body which is comprised entirely of  
 1902 | local elected officials.

1903 |         Section 14. Section 624.4625, Florida Statutes, is created  
 1904 | to read:

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1905           624.4625 Corporation not-for-profit self-insurance funds.--  
 1906           (1) Notwithstanding any other provision of law, any two or  
 1907 more corporations not for profit located in and organized under  
 1908 the laws of this state may form a self-insurance fund for the  
 1909 purpose of pooling and spreading liabilities of its group  
 1910 members in any one or combination of property or casualty risk,  
 1911 provided the corporation not for profit self-insurance fund that  
 1912 is created:  
 1913           (a) Has annual normal premiums in excess of \$5 million.  
 1914           (b) Requires for qualification that each participating  
 1915 member receive at least 75 percent of its revenues from local,  
 1916 state, or federal governmental sources or a combination of such  
 1917 sources.  
 1918           (c) Uses a qualified actuary to determine rates using  
 1919 accepted actuarial principles and annually submits to the office  
 1920 a certification by the actuary that the rates are actuarially  
 1921 sound and are not inadequate, as defined in s. 627.062.  
 1922           (d) Uses a qualified actuary to establish reserves for loss  
 1923 and loss adjustment expenses and annually submits to the office  
 1924 a certification by the actuary that the loss and loss adjustment  
 1925 expense reserves are adequate. If the actuary determines that  
 1926 reserves are not adequate, the fund shall file with the office a  
 1927 remedial plan for increasing the reserves or otherwise  
 1928 addressing the financial condition of the fund, subject to a  
 1929 determination by the office that the fund will operate on an  
 1930 actuarially sound basis and the fund does not pose a significant  
 1931 risk of insolvency.  
 1932           (e) Maintains a continuing program of excess insurance

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1933 coverage and reserve evaluation to protect the financial  
 1934 stability of the fund in an amount and manner determined by a  
 1935 qualified actuary. At a minimum, this program must:  
 1936 1. Purchase excess insurance from authorized insurance  
 1937 carriers.  
 1938 2. Retain a per-loss occurrence that does not exceed  
 1939 \$350,000.  
 1940 (f) Submits to the office annually an audited fiscal year-  
 1941 end financial statement by an independent certified public  
 1942 accountant within 6 months after the end of the fiscal year.  
 1943 (g) Has a governing body that is comprised entirely of  
 1944 officials from corporations not for profit that are members of  
 1945 the corporation not-for-profit self-insurance fund.  
 1946 (h) Uses knowledgeable persons or business entities to  
 1947 administer or service the fund in the areas of claims  
 1948 administration, claims adjusting, underwriting, risk management,  
 1949 loss control, policy administration, financial audit, and legal  
 1950 areas. Such persons must meet all applicable requirements of law  
 1951 for state licensure and must have at least 5 years' experience  
 1952 with commercial self-insurance funds formed under s. 624.462,  
 1953 self-insurance funds formed under s. 624.4622, or domestic  
 1954 insurers.  
 1955 (i) Submits to the office copies of contracts used for its  
 1956 members that clearly establish the liability of each member for  
 1957 the obligations of the fund.  
 1958 (j) Annually submits to the office a certification by the  
 1959 governing body of the fund that, to the best of its knowledge,  
 1960 the requirements of this section are met.

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1961           (2) As used in this section, the term "qualified actuary"  
1962 means an actuary that is a member of the Casualty Actuarial  
1963 Society or the American Academy of Actuaries.

1964           (3) A corporation not-for-profit self-insurance fund that  
1965 meets the requirements of this section is not:

1966           (a) An insurer for purposes of participation in or  
1967 coverage by any insurance guaranty association established by  
1968 chapter 631; or

1969           (b) Subject to s. 624.4621 and is not required to file any  
1970 report with the department under s. 440.38(2)(b) that is  
1971 uniquely required of group self-insurer funds qualified under s.  
1972 624.4621.

1973           (4) Premiums, contributions, and assessments received by a  
1974 corporation not-for-profit self-insurance fund are subject to  
1975 ss. 624.509(1) and (2) and 624.5092, except that the tax rate  
1976 shall be 1.6 percent of the gross amount of such premiums,  
1977 contributions, and assessments.

1978           (5) If any of the requirements of subsection (1) are not  
1979 met, a corporation not-for-profit self-insurance fund is subject  
1980 to the requirements of s. 624.4621 if the fund provides only  
1981 workers' compensation coverage or is subject to the requirements  
1982 of ss. 624.460-624.488 if the fund provides coverage for other  
1983 property, casualty, or surety risks.

1984           Section 15. Subsection (3) of section 624.610, Florida  
1985 Statutes, is amended to read:

1986           624.610 Reinsurance.--

1987           (3)(a) Credit must be allowed when the reinsurance is  
1988 ceded to an assuming insurer that is authorized to transact

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1989 | insurance or reinsurance in this state.

1990 |       (b)1. Credit must be allowed when the reinsurance is ceded

1991 | to an assuming insurer that is accredited as a reinsurer in this

1992 | state. An accredited reinsurer is one that:

1993 |       a. Files with the office evidence of its submission to

1994 | this state's jurisdiction;

1995 |       b. Submits to this state's authority to examine its books

1996 | and records;

1997 |       c. Is licensed or authorized to transact insurance or

1998 | reinsurance in at least one state or, in the case of a United

1999 | States branch of an alien assuming insurer, is entered through,

2000 | licensed, or authorized to transact insurance or reinsurance in

2001 | at least one state;

2002 |       d. Files annually with the office a copy of its annual

2003 | statement filed with the insurance department of its state of

2004 | domicile any quarterly statements if required by its state of

2005 | domicile or such quarterly statements if specifically requested

2006 | by the office, and a copy of its most recent audited financial

2007 | statement; and

2008 |       (I) Maintains a surplus as regards policyholders in an

2009 | amount not less than \$20 million and whose accreditation has not

2010 | been denied by the office within 90 days after its submission;

2011 | or

2012 |       (II) Maintains a surplus as regards policyholders in an

2013 | amount not less than \$20 million and whose accreditation has

2014 | been approved by the office.

2015 |       2. The office may deny or revoke an assuming insurer's

2016 | accreditation if the assuming insurer does not submit the



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2017 required documentation pursuant to subparagraph 1., if the  
 2018 assuming insurer fails to meet all of the standards required of  
 2019 an accredited reinsurer, or if the assuming insurer's  
 2020 accreditation would be hazardous to the policyholders of this  
 2021 state. In determining whether to deny or revoke accreditation,  
 2022 the office may consider the qualifications of the assuming  
 2023 insurer with respect to all the following subjects:

- 2024 a. Its financial stability;
- 2025 b. The lawfulness and quality of its investments;
- 2026 c. The competency, character, and integrity of its  
 2027 management;
- 2028 d. The competency, character, and integrity of persons who  
 2029 own or have a controlling interest in the assuming insurer; and
- 2030 e. Whether claims under its contracts are promptly and  
 2031 fairly adjusted and are promptly and fairly paid in accordance  
 2032 with the law and the terms of the contracts.

2033 3. Credit must not be allowed a ceding insurer if the  
 2034 assuming insurer's accreditation has been revoked by the office  
 2035 after notice and the opportunity for a hearing.

2036 4. The actual costs and expenses incurred by the office to  
 2037 review a reinsurer's request for accreditation and subsequent  
 2038 reviews must be charged to and collected from the requesting  
 2039 reinsurer. If the reinsurer fails to pay the actual costs and  
 2040 expenses promptly when due, the office may refuse to accredit  
 2041 the reinsurer or may revoke the reinsurer's accreditation.

2042 (c)1. Credit must be allowed when the reinsurance is ceded  
 2043 to an assuming insurer that maintains a trust fund in a  
 2044 qualified United States financial institution, as defined in

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2045 paragraph (5)(b), for the payment of the valid claims of its  
 2046 United States ceding insurers and their assigns and successors  
 2047 in interest. To enable the office to determine the sufficiency  
 2048 of the trust fund, the assuming insurer shall report annually to  
 2049 the office information substantially the same as that required  
 2050 to be reported on the NAIC Annual Statement form by authorized  
 2051 insurers. The assuming insurer shall submit to examination of  
 2052 its books and records by the office and bear the expense of  
 2053 examination.

2054 2.a. Credit for reinsurance must not be granted under this  
 2055 subsection unless the form of the trust and any amendments to  
 2056 the trust have been approved by:

2057 (I) The insurance regulator of the state in which the  
 2058 trust is domiciled; or

2059 (II) The insurance regulator of another state who,  
 2060 pursuant to the terms of the trust instrument, has accepted  
 2061 principal regulatory oversight of the trust.

2062 b. The form of the trust and any trust amendments must be  
 2063 filed with the insurance regulator of every state in which the  
 2064 ceding insurer beneficiaries of the trust are domiciled. The  
 2065 trust instrument must provide that contested claims are valid  
 2066 and enforceable upon the final order of any court of competent  
 2067 jurisdiction in the United States. The trust must vest legal  
 2068 title to its assets in its trustees for the benefit of the  
 2069 assuming insurer's United States ceding insurers and their  
 2070 assigns and successors in interest. The trust and the assuming  
 2071 insurer are subject to examination as determined by the  
 2072 insurance regulator.

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2073 c. The trust remains in effect for as long as the assuming  
 2074 insurer has outstanding obligations due under the reinsurance  
 2075 agreements subject to the trust. No later than February 28 of  
 2076 each year, the trustee of the trust shall report to the  
 2077 insurance regulator in writing the balance of the trust and list  
 2078 the trust's investments at the preceding year end, and shall  
 2079 certify that the trust will not expire prior to the following  
 2080 December 31.

2081 3. The following requirements apply to the following  
 2082 categories of assuming insurer:

2083 a. The trust fund for a single assuming insurer consists  
 2084 of funds in trust in an amount not less than the assuming  
 2085 insurer's liabilities attributable to reinsurance ceded by  
 2086 United States ceding insurers, and, in addition, the assuming  
 2087 insurer shall maintain a trusteed surplus of not less than \$20  
 2088 million. Not less than 50 percent of the funds in the trust  
 2089 covering the assuming insurer's liabilities attributable to  
 2090 reinsurance ceded by United States ceding insurers and trusteed  
 2091 surplus shall consist of assets of a quality substantially  
 2092 similar to that required in part II of chapter 625. Clean,  
 2093 irrevocable, unconditional, and evergreen letters of credit,  
 2094 issued or confirmed by a qualified United States financial  
 2095 institution, as defined in paragraph (5)(a), effective no later  
 2096 than December 31 of the year for which the filing is made and in  
 2097 the possession of the trust on or before the filing date of its  
 2098 annual statement, may be used to fund the remainder of the trust  
 2099 and trusteed surplus.

2100 b.(I) In the case of a group including incorporated and

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2101 individual unincorporated underwriters:

2102 (A) For reinsurance ceded under reinsurance agreements  
2103 with an inception, amendment, or renewal date on or after August  
2104 1, 1995, the trust consists of a trustee account in an amount  
2105 not less than the group's several liabilities attributable to  
2106 business ceded by United States domiciled ceding insurers to any  
2107 member of the group;

2108 (B) For reinsurance ceded under reinsurance agreements  
2109 with an inception date on or before July 31, 1995, and not  
2110 amended or renewed after that date, notwithstanding the other  
2111 provisions of this section, the trust consists of a trustee  
2112 account in an amount not less than the group's several insurance  
2113 and reinsurance liabilities attributable to business written in  
2114 the United States; and

2115 (C) In addition to these trusts, the group shall maintain  
2116 in trust a trustee surplus of which \$100 million must be held  
2117 jointly for the benefit of the United States domiciled ceding  
2118 insurers of any member of the group for all years of account.

2119 (II) The incorporated members of the group must not be  
2120 engaged in any business other than underwriting of a member of  
2121 the group, and are subject to the same level of regulation and  
2122 solvency control by the group's domiciliary regulator as the  
2123 unincorporated members.

2124 (III) Within 90 days after its financial statements are  
2125 due to be filed with the group's domiciliary regulator, the  
2126 group shall provide to the insurance regulator an annual  
2127 certification by the group's domiciliary regulator of the  
2128 solvency of each underwriter member or, if a certification is

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2129 unavailable, financial statements, prepared by independent  
 2130 public accountants, of each underwriter member of the group.

2131 (d) Credit must be allowed when the reinsurance is ceded  
 2132 to an assuming insurer not meeting the requirements of paragraph  
 2133 (a), paragraph (b), or paragraph (c), but only as to the  
 2134 insurance of risks located in jurisdictions in which the  
 2135 reinsurance is required to be purchased by a particular entity  
 2136 by applicable law or regulation of that jurisdiction.

2137 (e) If the reinsurance is ceded to an assuming insurer not  
 2138 meeting the requirements of paragraph (a), paragraph (b),  
 2139 paragraph (c), or paragraph (d), the commissioner may allow  
 2140 credit, but only if the assuming insurer holds surplus in excess  
 2141 of \$100 million and has a secure financial strength rating from  
 2142 at least two nationally recognized statistical rating  
 2143 organizations deemed acceptable by the commissioner. In  
 2144 determining whether credit should be allowed, the commissioner  
 2145 shall consider the following:

2146 1. The domiciliary regulatory jurisdiction of the assuming  
 2147 insurer.

2148 2. The structure and authority of the domiciliary  
 2149 regulator with regard to solvency regulation requirements and  
 2150 the financial surveillance of the reinsurer.

2151 3. The substance of financial and operating standards for  
 2152 reinsurers in the domiciliary jurisdiction.

2153 4. The form and substance of financial reports required to  
 2154 be filed by the reinsurers in the domiciliary jurisdiction or  
 2155 other public financial statements filed in accordance with  
 2156 generally accepted accounting principles.

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2157           5. The domiciliary regulator's willingness to cooperate  
2158 with United States regulators in general and the office in  
2159 particular.

2160           6. The history of performance by reinsurers in the  
2161 domiciliary jurisdiction.

2162           7. Any documented evidence of substantial problems with  
2163 the enforcement of valid United States judgments in the  
2164 domiciliary jurisdiction.

2165           8. Any other matters deemed relevant by the commissioner.  
2166 The commissioner shall give appropriate consideration to insurer  
2167 group ratings that may have been issued. The commissioner may,  
2168 in lieu of granting full credit under this subsection, reduce  
2169 the amount required to be held in trust under paragraph (c).

2170           (f)~~(e)~~ If the assuming insurer is not authorized or  
2171 accredited to transact insurance or reinsurance in this state  
2172 pursuant to paragraph (a) or paragraph (b), the credit permitted  
2173 by paragraph (c) or paragraph (d) must not be allowed unless the  
2174 assuming insurer agrees in the reinsurance agreements:

2175           1.a. That in the event of the failure of the assuming  
2176 insurer to perform its obligations under the terms of the  
2177 reinsurance agreement, the assuming insurer, at the request of  
2178 the ceding insurer, shall submit to the jurisdiction of any  
2179 court of competent jurisdiction in any state of the United  
2180 States, will comply with all requirements necessary to give the  
2181 court jurisdiction, and will abide by the final decision of the  
2182 court or of any appellate court in the event of an appeal; and

2183           b. To designate the Chief Financial Officer, pursuant to  
2184 s. 48.151, or a designated attorney as its true and lawful

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2185 attorney upon whom may be served any lawful process in any  
 2186 action, suit, or proceeding instituted by or on behalf of the  
 2187 ceding company.

2188 2. This paragraph is not intended to conflict with or  
 2189 override the obligation of the parties to a reinsurance  
 2190 agreement to arbitrate their disputes, if this obligation is  
 2191 created in the agreement.

2192 (g) ~~(f)~~ If the assuming insurer does not meet the  
 2193 requirements of paragraph (a) or paragraph (b), the credit  
 2194 permitted by paragraph (c) or paragraph (d) is not allowed  
 2195 unless the assuming insurer agrees in the trust agreements, in  
 2196 substance, to the following conditions:

2197 1. Notwithstanding any other provisions in the trust  
 2198 instrument, if the trust fund is inadequate because it contains  
 2199 an amount less than the amount required by paragraph (c), or if  
 2200 the grantor of the trust has been declared insolvent or placed  
 2201 into receivership, rehabilitation, liquidation, or similar  
 2202 proceedings under the laws of its state or country of domicile,  
 2203 the trustee shall comply with an order of the insurance  
 2204 regulator with regulatory oversight over the trust or with an  
 2205 order of a United States court of competent jurisdiction  
 2206 directing the trustee to transfer to the insurance regulator  
 2207 with regulatory oversight all of the assets of the trust fund.

2208 2. The assets must be distributed by and claims must be  
 2209 filed with and valued by the insurance regulator with regulatory  
 2210 oversight in accordance with the laws of the state in which the  
 2211 trust is domiciled which are applicable to the liquidation of  
 2212 domestic insurance companies.

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2213           3. If the insurance regulator with regulatory oversight  
 2214 determines that the assets of the trust fund or any part thereof  
 2215 are not necessary to satisfy the claims of the United States  
 2216 ceding insurers of the grantor of the trust, the assets or part  
 2217 thereof must be returned by the insurance regulator with  
 2218 regulatory oversight to the trustee for distribution in  
 2219 accordance with the trust agreement.

2220           4. The grantor shall waive any right otherwise available  
 2221 to it under United States law which is inconsistent with this  
 2222 provision.

2223           Section 16. Paragraph (a) of subsection (3) of section  
 2224 626.2815, Florida Statutes, is amended to read:

2225           626.2815 Continuing education required; application;  
 2226 exceptions; requirements; penalties.--

2227           (3) (a) Each person subject to the provisions of this  
 2228 section must, except as set forth in paragraphs (b), (c), and  
 2229 (d), complete a minimum of 24 hours of continuing education  
 2230 courses every 2 years in basic or higher-level courses  
 2231 prescribed by this section or in other courses approved by the  
 2232 department. Each person subject to the provisions of this  
 2233 section must complete, as part of his or her required number of  
 2234 continuing education hours, 3 hours of continuing education,  
 2235 approved by the department, every 2 years on the subject matter  
 2236 of ethics. Each licensed general lines agent and customer  
 2237 representative subject to this section must complete, as part of  
 2238 his or her required number of continuing education hours, 1 hour  
 2239 of continuing education, approved by the department, every 2  
 2240 years on the subject matter of premium discounts available on



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2241 property insurance policies based on various hurricane  
 2242 mitigation options and the means for obtaining the discounts.

2243 Section 17. Section 627.0613, Florida Statutes, is amended  
 2244 to read:

2245 627.0613 Consumer advocate.--The Chief Financial Officer  
 2246 must appoint a consumer advocate who must represent the general  
 2247 public of the state before the department and the office. The  
 2248 consumer advocate must report directly to the Chief Financial  
 2249 Officer, but is not otherwise under the authority of the  
 2250 department or of any employee of the department. The consumer  
 2251 advocate has such powers as are necessary to carry out the  
 2252 duties of the office of consumer advocate, including, but not  
 2253 limited to, the powers to:

2254 (1) Recommend to the department or office, by petition,  
 2255 the commencement of any proceeding or action; appear in any  
 2256 proceeding or action before the department or office; or appear  
 2257 in any proceeding before the Division of Administrative Hearings  
 2258 or arbitration panel specified in s. 627.062(6) relating to  
 2259 subject matter under the jurisdiction of the department or  
 2260 office.

2261 (2) Have access to and use of all files, records, and data  
 2262 of the department or office.

2263 (3) Examine rate and form filings submitted to the office,  
 2264 hire consultants as necessary to aid in the review process, and  
 2265 recommend to the department or office any position deemed by the  
 2266 consumer advocate to be in the public interest.

2267 (4) Prepare an annual report card for each authorized  
 2268 property insurer, on a form and using a letter-grade scale

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2269 developed by the commission by rule, which grades each insurer  
 2270 based on the following factors:

2271 1. The number and nature of consumer complaints received  
 2272 by the department against the insurer.

2273 2. The disposition of all complaints received by the  
 2274 department.

2275 3. The average length of time for payment of claims by the  
 2276 insurer.

2277 4. Any other factors the commission identifies as  
 2278 assisting policyholders in making informed choices about  
 2279 homeowner's insurance.

2280 ~~(5)-(4)~~ Prepare an annual budget for presentation to the  
 2281 Legislature by the department, which budget must be adequate to  
 2282 carry out the duties of the office of consumer advocate.

2283 Section 18. Subsection (2) and paragraph (a) of subsection  
 2284 (6) of section 627.062, Florida Statutes, are amended, present  
 2285 subsection (9) of that section is redesignated as subsection  
 2286 (10), and a new subsection (9) is added to that section, to  
 2287 read:

2288 627.062 Rate standards.--

2289 (2) As to all such classes of insurance:

2290 (a) Insurers or rating organizations shall establish and  
 2291 use rates, rating schedules, or rating manuals to allow the  
 2292 insurer a reasonable rate of return on such classes of insurance  
 2293 written in this state. A copy of rates, rating schedules,  
 2294 rating manuals, premium credits or discount schedules, and  
 2295 surcharge schedules, and changes thereto, shall be filed with  
 2296 the office under one of the following procedures except as

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2297 provided in subparagraph 3.:

2298       1. If the filing is made at least 90 days before the  
2299 proposed effective date and the filing is not implemented during  
2300 the office's review of the filing and any proceeding and  
2301 judicial review, then such filing shall be considered a "file  
2302 and use" filing. In such case, the office shall finalize its  
2303 review by issuance of a notice of intent to approve or a notice  
2304 of intent to disapprove within 90 days after receipt of the  
2305 filing. The notice of intent to approve and the notice of intent  
2306 to disapprove constitute agency action for purposes of the  
2307 Administrative Procedure Act. Requests for supporting  
2308 information, requests for mathematical or mechanical  
2309 corrections, or notification to the insurer by the office of its  
2310 preliminary findings shall not toll the 90-day period during any  
2311 such proceedings and subsequent judicial review. The rate shall  
2312 be deemed approved if the office does not issue a notice of  
2313 intent to approve or a notice of intent to disapprove within 90  
2314 days after receipt of the filing.

2315       2. If the filing is not made in accordance with the  
2316 provisions of subparagraph 1., such filing shall be made as soon  
2317 as practicable, but no later than 30 days after the effective  
2318 date, and shall be considered a "use and file" filing. An  
2319 insurer making a "use and file" filing is potentially subject to  
2320 an order by the office to return to policyholders portions of  
2321 rates found to be excessive, as provided in paragraph (h).

2322       3. For all filings made on or before December 31, 2008, an  
2323 insurer seeking a rate that is greater than the rate most  
2324 recently approved by the office shall make a "file and use"

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2325 filing.

2326 (b) Upon receiving a rate filing, the office shall review  
 2327 the rate filing to determine if a rate is excessive, inadequate,  
 2328 or unfairly discriminatory. In making that determination, the  
 2329 office shall, in accordance with generally accepted and  
 2330 reasonable actuarial techniques, consider the following factors:

2331 1. Past and prospective loss experience within and without  
 2332 this state.

2333 2. Past and prospective expenses.

2334 3. The degree of competition among insurers for the risk  
 2335 insured.

2336 4. Investment income reasonably expected by the insurer,  
 2337 consistent with the insurer's investment practices, from  
 2338 investable premiums anticipated in the filing, plus any other  
 2339 expected income from currently invested assets representing the  
 2340 amount expected on unearned premium reserves and loss reserves.

2341 The commission may adopt rules utilizing reasonable techniques  
 2342 of actuarial science and economics to specify the manner in  
 2343 which insurers shall calculate investment income attributable to  
 2344 such classes of insurance written in this state and the manner  
 2345 in which such investment income shall be used in the calculation  
 2346 of insurance rates. Such manner shall contemplate allowances  
 2347 for an underwriting profit factor and full consideration of  
 2348 investment income which produce a reasonable rate of return;  
 2349 however, investment income from invested surplus shall not be  
 2350 considered.

2351 5. The reasonableness of the judgment reflected in the  
 2352 filing.

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2353           6. Dividends, savings, or unabsorbed premium deposits  
2354 allowed or returned to Florida policyholders, members, or  
2355 subscribers.

2356           7. The adequacy of loss reserves.

2357           8. The cost of reinsurance.

2358           9. Trend factors, including trends in actual losses per  
2359 insured unit for the insurer making the filing.

2360           10. Conflagration and catastrophe hazards, if applicable.

2361           11. A reasonable margin for underwriting profit and  
2362 contingencies. For that portion of the rate covering the risk of  
2363 hurricanes and other catastrophic losses for which the insurer  
2364 has not purchased reinsurance and has exposed its capital and  
2365 surplus to such risk, the office must approve a rating factor  
2366 that provides the insurer a reasonable rate of return that is  
2367 commensurate with such risk.

2368           12. The cost of medical services, if applicable.

2369           13. Other relevant factors which impact upon the frequency  
2370 or severity of claims or upon expenses.

2371           (c) In the case of fire insurance rates, consideration  
2372 shall be given to the availability of water supplies and the  
2373 experience of the fire insurance business during a period of not  
2374 less than the most recent 5-year period for which such  
2375 experience is available.

2376           (d) If conflagration or catastrophe hazards are given  
2377 consideration by an insurer in its rates or rating plan,  
2378 including surcharges and discounts, the insurer shall establish  
2379 a reserve for that portion of the premium allocated to such  
2380 hazard and shall maintain the premium in a catastrophe reserve.

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2381 Any removal of such premiums from the reserve for purposes other  
 2382 than paying claims associated with a catastrophe or purchasing  
 2383 reinsurance for catastrophes shall be subject to approval of the  
 2384 office. Any ceding commission received by an insurer purchasing  
 2385 reinsurance for catastrophes shall be placed in the catastrophe  
 2386 reserve.

2387 (e) After consideration of the rate factors provided in  
 2388 paragraphs (b), (c), and (d), a rate may be found by the office  
 2389 to be excessive, inadequate, or unfairly discriminatory based  
 2390 upon the following standards:

2391 1. Rates shall be deemed excessive if they are likely to  
 2392 produce a profit from Florida business that is unreasonably high  
 2393 in relation to the risk involved in the class of business or if  
 2394 expenses are unreasonably high in relation to services rendered.

2395 2. Rates shall be deemed excessive if, among other things,  
 2396 the rate structure established by a stock insurance company  
 2397 provides for replenishment of surpluses from premiums, when the  
 2398 replenishment is attributable to investment losses.

2399 3. Rates shall be deemed inadequate if they are clearly  
 2400 insufficient, together with the investment income attributable  
 2401 to them, to sustain projected losses and expenses in the class  
 2402 of business to which they apply.

2403 4. A rating plan, including discounts, credits, or  
 2404 surcharges, shall be deemed unfairly discriminatory if it fails  
 2405 to clearly and equitably reflect consideration of the  
 2406 policyholder's participation in a risk management program  
 2407 adopted pursuant to s. 627.0625.

2408 5. A rate shall be deemed inadequate as to the premium

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2409 | charged to a risk or group of risks if discounts or credits are  
 2410 | allowed which exceed a reasonable reflection of expense savings  
 2411 | and reasonably expected loss experience from the risk or group  
 2412 | of risks.

2413 |         6. A rate shall be deemed unfairly discriminatory as to a  
 2414 | risk or group of risks if the application of premium discounts,  
 2415 | credits, or surcharges among such risks does not bear a  
 2416 | reasonable relationship to the expected loss and expense  
 2417 | experience among the various risks.

2418 |         (f) In reviewing a rate filing, the office may require the  
 2419 | insurer to provide at the insurer's expense all information  
 2420 | necessary to evaluate the condition of the company and the  
 2421 | reasonableness of the filing according to the criteria  
 2422 | enumerated in this section.

2423 |         (g) The office may at any time review a rate, rating  
 2424 | schedule, rating manual, or rate change; the pertinent records  
 2425 | of the insurer; and market conditions. If the office finds on a  
 2426 | preliminary basis that a rate may be excessive, inadequate, or  
 2427 | unfairly discriminatory, the office shall initiate proceedings  
 2428 | to disapprove the rate and shall so notify the insurer. However,  
 2429 | the office may not disapprove as excessive any rate for which it  
 2430 | has given final approval or which has been deemed approved for a  
 2431 | period of 1 year after the effective date of the filing unless  
 2432 | the office finds that a material misrepresentation or material  
 2433 | error was made by the insurer or was contained in the filing.  
 2434 | Upon being so notified, the insurer or rating organization  
 2435 | shall, within 60 days, file with the office all information  
 2436 | which, in the belief of the insurer or organization, proves the

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2437 | reasonableness, adequacy, and fairness of the rate or rate  
 2438 | change. The office shall issue a notice of intent to approve or  
 2439 | a notice of intent to disapprove pursuant to the procedures of  
 2440 | paragraph (a) within 90 days after receipt of the insurer's  
 2441 | initial response. In such instances and in any administrative  
 2442 | proceeding relating to the legality of the rate, the insurer or  
 2443 | rating organization shall carry the burden of proof by a  
 2444 | preponderance of the evidence to show that the rate is not  
 2445 | excessive, inadequate, or unfairly discriminatory. After the  
 2446 | office notifies an insurer that a rate may be excessive,  
 2447 | inadequate, or unfairly discriminatory, unless the office  
 2448 | withdraws the notification, the insurer shall not alter the rate  
 2449 | except to conform with the office's notice until the earlier of  
 2450 | 120 days after the date the notification was provided or 180  
 2451 | days after the date of the implementation of the rate. The  
 2452 | office may, subject to chapter 120, disapprove without the 60-  
 2453 | day notification any rate increase filed by an insurer within  
 2454 | the prohibited time period or during the time that the legality  
 2455 | of the increased rate is being contested.

2456 |         (h) In the event the office finds that a rate or rate  
 2457 | change is excessive, inadequate, or unfairly discriminatory, the  
 2458 | office shall issue an order of disapproval specifying that a new  
 2459 | rate or rate schedule which responds to the findings of the  
 2460 | office be filed by the insurer. The office shall further order,  
 2461 | for any "use and file" filing made in accordance with  
 2462 | subparagraph (a)2., that premiums charged each policyholder  
 2463 | constituting the portion of the rate above that which was  
 2464 | actuarially justified be returned to such policyholder in the



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2465 form of a credit or refund. If the office finds that an  
 2466 insurer's rate or rate change is inadequate, the new rate or  
 2467 rate schedule filed with the office in response to such a  
 2468 finding shall be applicable only to new or renewal business of  
 2469 the insurer written on or after the effective date of the  
 2470 responsive filing.

2471 (i) Except as otherwise specifically provided in this  
 2472 chapter, the office shall not prohibit any insurer, including  
 2473 any residual market plan or joint underwriting association, from  
 2474 paying acquisition costs based on the full amount of premium, as  
 2475 defined in s. 627.403, applicable to any policy, or prohibit any  
 2476 such insurer from including the full amount of acquisition costs  
 2477 in a rate filing.

2478 (j) With respect to residential property insurance rate  
 2479 filings, the rate filing must account for mitigation measures  
 2480 undertaken by policyholders to reduce hurricane losses.

2481 ~~(j) Effective July 1, 2007, notwithstanding any other~~  
 2482 ~~provision of this section:~~

2483 ~~1. With respect to any residential property insurance~~  
 2484 ~~subject to regulation under this section for any area for which~~  
 2485 ~~the office determines a reasonable degree of competition exists,~~  
 2486 ~~a rate filing, including, but not limited to, any rate changes,~~  
 2487 ~~rating factors, territories, classification, discounts, and~~  
 2488 ~~credits, with respect to any policy form, including endorsements~~  
 2489 ~~issued with the form, that results in an overall average~~  
 2490 ~~statewide premium increase or decrease of no more than 5 percent~~  
 2491 ~~above or below the premium that would result from the insurer's~~  
 2492 ~~rates then in effect shall not be subject to a determination by~~

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2493 ~~the office that the rate is excessive or unfairly discriminatory~~  
 2494 ~~except as provided in subparagraph 3., or any other provision of~~  
 2495 ~~law, provided all changes specified in the filing do not result~~  
 2496 ~~in an overall premium increase of more than 10 percent for any~~  
 2497 ~~one territory, for reasons related solely to the rate change. As~~  
 2498 ~~used in this subparagraph, the term "insurer's rates then in~~  
 2499 ~~effect" includes only rates that have been lawfully in effect~~  
 2500 ~~under this section or rates that have been determined to be~~  
 2501 ~~lawful through administrative proceedings or judicial~~  
 2502 ~~proceedings.~~

2503 ~~2. An insurer may not make filings under this paragraph~~  
 2504 ~~with respect to any policy form, including endorsements issued~~  
 2505 ~~with the form, if the overall premium changes resulting from~~  
 2506 ~~such filings exceed the amounts specified in this paragraph in~~  
 2507 ~~any 12-month period. An insurer may proceed under other~~  
 2508 ~~provisions of this section or other provisions of law if the~~  
 2509 ~~insurer seeks to exceed the premium or rate limitations of this~~  
 2510 ~~paragraph.~~

2511 ~~3. This paragraph does not affect the authority of the~~  
 2512 ~~office to disapprove a rate as inadequate or to disapprove a~~  
 2513 ~~filing for the unlawful use of unfairly discriminatory rating~~  
 2514 ~~factors that are prohibited by the laws of this state. An~~  
 2515 ~~insurer electing to implement a rate change under this paragraph~~  
 2516 ~~shall submit a filing to the office at least 40 days prior to~~  
 2517 ~~the effective date of the rate change. The office shall have 30~~  
 2518 ~~days after the filing's submission to review the filing and~~  
 2519 ~~determine if the rate is inadequate or uses unfairly~~  
 2520 ~~discriminatory rating factors. Absent a finding by the office~~

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2521 ~~within such 30 day period that the rate is inadequate or that~~  
2522 ~~the insurer has used unfairly discriminatory rating factors, the~~  
2523 ~~filing is deemed approved. If the office finds during the 30 day~~  
2524 ~~period that the filing will result in inadequate premiums or~~  
2525 ~~otherwise endanger the insurer's solvency, the office shall~~  
2526 ~~suspend the rate decrease. If the insurer is implementing an~~  
2527 ~~overall rate increase, the results of which continue to produce~~  
2528 ~~an inadequate rate, such increase shall proceed pending~~  
2529 ~~additional action by the office to ensure the adequacy of the~~  
2530 ~~rate.~~

2531 ~~4. This paragraph does not apply to rate filings for any~~  
2532 ~~insurance other than residential property insurance.~~

2533  
2534 The provisions of this subsection shall not apply to workers'  
2535 compensation and employer's liability insurance and to motor  
2536 vehicle insurance.

2537  
2538 The provisions of this subsection shall not apply to workers'  
2539 compensation and employer's liability insurance and to motor  
2540 vehicle insurance.

2541 (6) (a) After any action with respect to a rate filing that  
2542 constitutes agency action for purposes of the Administrative  
2543 Procedure Act, except for a rate filing for medical malpractice,  
2544 an insurer may, in lieu of demanding a hearing under s. 120.57,  
2545 require arbitration of the rate filing. However, the arbitration  
2546 option provision in this subsection does not apply to a rate  
2547 filing that is made on or after the effective date of this act  
2548 until January 1, 2009. Arbitration shall be conducted by a board

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2549 of arbitrators consisting of an arbitrator selected by the  
2550 office, an arbitrator selected by the insurer, and an arbitrator  
2551 selected jointly by the other two arbitrators. Each arbitrator  
2552 must be certified by the American Arbitration Association. A  
2553 decision is valid only upon the affirmative vote of at least two  
2554 of the arbitrators. No arbitrator may be an employee of any  
2555 insurance regulator or regulatory body or of any insurer,  
2556 regardless of whether or not the employing insurer does business  
2557 in this state. The office and the insurer must treat the  
2558 decision of the arbitrators as the final approval of a rate  
2559 filing. Costs of arbitration shall be paid by the insurer.

2560 (9) (a) Effective March 1, 2007, the chief executive  
2561 officer or chief financial officer of a property insurer and the  
2562 chief actuary of a property insurer must certify under oath and  
2563 subject to the penalty of perjury, on a form approved by the  
2564 commission, the following information, which must accompany a  
2565 rate filing:

2566 1. The signing officer and actuary have reviewed the rate  
2567 filing;

2568 2. Based on the signing officer's and actuary's knowledge,  
2569 the rate filing does not contain any untrue statement of a  
2570 material fact or omit to state a material fact necessary in  
2571 order to make the statements made, in light of the circumstances  
2572 under which such statements were made, not misleading;

2573 3. Based on the signing officer's and actuary's knowledge,  
2574 the information and other factors described in s. 627.062(2)(b),  
2575 including, but not limited to, investment income, fairly present  
2576 in all material respects the basis of the rate filing for the

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2577 periods presented in the filing; and

2578 4. Based on the signing officer's and actuary's knowledge,  
2579 the rate filing reflects all premium savings that are reasonably  
2580 expected to result from legislative enactments and are in  
2581 accordance with generally accepted and reasonable actuarial  
2582 techniques.

2583 (b) A signing officer or actuary knowingly making a false  
2584 certification under this subsection commits a violation of s.  
2585 626.9541(1)(e) and is subject to the penalties under s.  
2586 626.9521.

2587 (c) Failure to provide such certification by the officer  
2588 and actuary shall result in the rate filing being disapproved  
2589 without prejudice to be refiled.

2590 (d) The commission may adopt rules and forms pursuant to  
2591 ss. 120.536(1) and 120.54 to administer this subsection.

2592 Section 19. Subsection (1) of section 627.0629, Florida  
2593 Statutes, is amended to read:

2594 627.0629 Residential property insurance; rate filings.--

2595 (1) It is the intent of the Legislature that insurers must  
2596 provide savings to consumers who install or implement windstorm  
2597 damage mitigation techniques, alterations, or solutions to their  
2598 properties to prevent windstorm losses. ~~Effective June 1, 2002,~~

2599 A rate filing for residential property insurance must include  
2600 actuarially reasonable discounts, credits, or other rate  
2601 differentials, or appropriate reductions in deductibles, for  
2602 properties on which fixtures or construction techniques  
2603 demonstrated to reduce the amount of loss in a windstorm have  
2604 been installed or implemented. The fixtures or construction

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2605 techniques shall include, but not be limited to, fixtures or  
2606 construction techniques which enhance roof strength, roof  
2607 covering performance, roof-to-wall strength, wall-to-floor-to-  
2608 foundation strength, opening protection, and window, door, and  
2609 skylight strength. Credits, discounts, or other rate  
2610 differentials, or appropriate reductions in deductibles, for  
2611 fixtures and construction techniques which meet the minimum  
2612 requirements of the Florida Building Code must be included in  
2613 the rate filing. All insurance companies must make a rate filing  
2614 which includes the credits, discounts, or other rate  
2615 differentials or reductions in deductibles by February 28, 2003.  
2616 By July 1, 2007, the office shall reevaluate the discounts,  
2617 credits, other rate differentials, and appropriate reductions in  
2618 deductibles for fixtures and construction techniques that meet  
2619 the minimum requirements of the Florida Building Code, based  
2620 upon actual experience or any other loss relativity studies  
2621 available to the office. The office shall determine the  
2622 discounts, credits, other rate differentials, and appropriate  
2623 reductions in deductibles that reflect the full actuarial value  
2624 of such revaluation, which may be used by insurers in rate  
2625 filings.

2626 Section 20. Section 627.0655, Florida Statutes, is created  
2627 to read:

2628 627.0655 Policyholder loss or expense-related premium  
2629 discounts.--An insurer or person authorized to engage in the  
2630 business of insurance in this state may include, in the premium  
2631 charged an insured for any policy, contract, or certificate of  
2632 insurance, a discount based on the fact that another policy,

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2633 contract, or certificate of any type has been purchased by the  
2634 insured.

2635 Section 21. Paragraphs (a), (b), (c), (m), (p), and (s) of  
2636 subsection (6) of section 627.351, Florida Statutes, are  
2637 amended, and paragraph (ee) is added to that subsection, to  
2638 read:

2639 627.351 Insurance risk apportionment plans.--

2640 (6) CITIZENS PROPERTY INSURANCE CORPORATION.--

2641 (a)1. The Legislature finds that actual and threatened  
2642 catastrophic losses to property in this state from hurricanes  
2643 have caused insurers to be unwilling or unable to provide  
2644 property insurance coverage to the extent sought and needed. It  
2645 is in the public interest and a public purpose to assist in  
2646 assuring that property in the state is insured so as to  
2647 facilitate the remediation, reconstruction, and replacement of  
2648 damaged or destroyed property in order to reduce or avoid the  
2649 negative effects otherwise resulting to the public health,  
2650 safety, and welfare; to the economy of the state; and to the  
2651 revenues of the state and local governments needed to provide  
2652 for the public welfare. It is necessary, therefore, to provide  
2653 property insurance to applicants who are in good faith entitled  
2654 to procure insurance through the voluntary market but are unable  
2655 to do so. The Legislature intends by this subsection that  
2656 property insurance be provided and that it continues, as long as  
2657 necessary, through an entity organized to achieve efficiencies  
2658 and economies, while providing service to policyholders,  
2659 applicants, and agents that is no less than the quality  
2660 generally provided in the voluntary market, all toward the

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2661 achievement of the foregoing public purposes. Because it is  
 2662 essential for the corporation to have the maximum financial  
 2663 resources to pay claims following a catastrophic hurricane, it  
 2664 is the intent of the Legislature that the income of the  
 2665 corporation be exempt from federal income taxation and that  
 2666 interest on the debt obligations issued by the corporation be  
 2667 exempt from federal income taxation.

2668         2. The Residential Property and Casualty Joint  
 2669 Underwriting Association originally created by this statute  
 2670 shall be known, as of July 1, 2002, as the Citizens Property  
 2671 Insurance Corporation. The corporation shall provide insurance  
 2672 for residential and commercial property, for applicants who are  
 2673 in good faith entitled, but are unable, to procure insurance  
 2674 through the voluntary market. The corporation shall operate  
 2675 pursuant to a plan of operation approved by order of the  
 2676 Financial Services Commission. The plan is subject to continuous  
 2677 review by the commission. The commission may, by order, withdraw  
 2678 approval of all or part of a plan if the commission determines  
 2679 that conditions have changed since approval was granted and that  
 2680 the purposes of the plan require changes in the plan. The  
 2681 corporation shall continue to operate pursuant to the plan of  
 2682 operation approved by the Office of Insurance Regulation until  
 2683 October 1, 2006. For the purposes of this subsection,  
 2684 residential coverage includes both personal lines residential  
 2685 coverage, which consists of the type of coverage provided by  
 2686 homeowner's, mobile home owner's, dwelling, tenant's,  
 2687 condominium unit owner's, and similar policies, and commercial  
 2688 lines residential coverage, which consists of the type of



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2689 coverage provided by condominium association, apartment  
 2690 building, and similar policies.

2691 3. For the purposes of this subsection, the term  
 2692 "homestead property" means:

2693 a. Property that has been granted a homestead exemption  
 2694 under chapter 196;

2695 b. Property for which the owner has a current, written  
 2696 lease with a renter for a term of at least 7 months and for  
 2697 which the dwelling is insured by the corporation for \$200,000 or  
 2698 less;

2699 c. An owner-occupied mobile home or manufactured home, as  
 2700 defined in s. 320.01, which is permanently affixed to real  
 2701 property, is owned by a Florida resident, and has been granted a  
 2702 homestead exemption under chapter 196 or, if the owner does not  
 2703 own the real property, the owner certifies that the mobile home  
 2704 or manufactured home is his or her principal place of  
 2705 residence;-

2706 d. Tenant's coverage;

2707 e. Commercial lines residential property; or

2708 f. Any county, district, or municipal hospital; a hospital  
 2709 licensed by any not-for-profit corporation qualified under s.  
 2710 501(c)(3) of the United States Internal Revenue Code; or a  
 2711 continuing care retirement community that is certified under  
 2712 chapter 651 and that receives an exemption from ad valorem taxes  
 2713 under chapter 196.

2714 4. For the purposes of this subsection, the term  
 2715 "nonhomestead property" means property that is not homestead  
 2716 property.

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2717           5. Effective July 1, 2008, a personal lines residential  
2718 structure that has a dwelling replacement cost of \$1 million or  
2719 more, or a single condominium unit that has a combined dwelling  
2720 and content replacement cost of \$1 million or more is not  
2721 eligible for coverage by the corporation. Such dwellings insured  
2722 by the corporation on June 30, 2008, may continue to be covered  
2723 by the corporation until the end of the policy term. However,  
2724 such dwellings that are insured by the corporation and become  
2725 ineligible for coverage due to the provisions of this  
2726 subparagraph may reapply and obtain coverage in the high-risk  
2727 account and be considered "nonhomestead property" if the  
2728 property owner provides the corporation with a sworn affidavit  
2729 from one or more insurance agents, on a form provided by the  
2730 corporation, stating that the agents have made their best  
2731 efforts to obtain coverage and that the property has been  
2732 rejected for coverage by at least one authorized insurer and at  
2733 least three surplus lines insurers. If such conditions are met,  
2734 the dwelling may be insured by the corporation for up to 3  
2735 years, after which time the dwelling is ineligible for coverage.  
2736 The office shall approve the method used by the corporation for  
2737 valuing the dwelling replacement cost for the purposes of this  
2738 subparagraph. If a policyholder is insured by the corporation  
2739 prior to being determined to be ineligible pursuant to this  
2740 subparagraph and such policyholder files a lawsuit challenging  
2741 the determination, the policyholder may remain insured by the  
2742 corporation until the conclusion of the litigation.

2743           6. For properties constructed on or after January 1, 2009,  
2744 the corporation may not insure any property located within 2,500

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2745 feet landward of the coastal construction control line created  
2746 pursuant to s. 161.053 unless the property meets the  
2747 requirements of the code-plus building standards developed by  
2748 the Florida Building Commission.

2749 ~~6. Effective March 1, 2007, nonhomestead property is not~~  
2750 ~~eligible for coverage by the corporation and is not eligible for~~  
2751 ~~renewal of such coverage unless the property owner provides the~~  
2752 ~~corporation with a sworn affidavit from one or more insurance~~  
2753 ~~agents, on a form provided by the corporation, stating that the~~  
2754 ~~agents have made their best efforts to obtain coverage and that~~  
2755 ~~the property has been rejected for coverage by at least one~~  
2756 ~~authorized insurer and at least three surplus lines insurers.~~

2757 7. It is the intent of the Legislature that policyholders,  
2758 applicants, and agents of the corporation receive service and  
2759 treatment of the highest possible level but never less than that  
2760 generally provided in the voluntary market. It also is intended  
2761 that the corporation be held to service standards no less than  
2762 those applied to insurers in the voluntary market by the office  
2763 with respect to responsiveness, timeliness, customer courtesy,  
2764 and overall dealings with policyholders, applicants, or agents  
2765 of the corporation.

2766 (b)1. All insurers authorized to write one or more subject  
2767 lines of business in this state are subject to assessment by the  
2768 corporation and, for the purposes of this subsection, are  
2769 referred to collectively as "assessable insurers." Insurers  
2770 writing one or more subject lines of business in this state  
2771 pursuant to part VIII of chapter 626 are not assessable  
2772 insurers, but insureds who procure one or more subject lines of

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2773 business in this state pursuant to part VIII of chapter 626 are  
 2774 subject to assessment by the corporation and are referred to  
 2775 collectively as "assessable insureds." An authorized insurer's  
 2776 assessment liability shall begin on the first day of the  
 2777 calendar year following the year in which the insurer was issued  
 2778 a certificate of authority to transact insurance for subject  
 2779 lines of business in this state and shall terminate 1 year after  
 2780 the end of the first calendar year during which the insurer no  
 2781 longer holds a certificate of authority to transact insurance  
 2782 for subject lines of business in this state.

2783 2.a. All revenues, assets, liabilities, losses, and  
 2784 expenses of the corporation shall be divided into three separate  
 2785 accounts as follows:

2786 (I) A personal lines account for personal residential  
 2787 policies issued by the corporation or issued by the Residential  
 2788 Property and Casualty Joint Underwriting Association and renewed  
 2789 by the corporation that provide comprehensive, multiperil  
 2790 coverage on risks that are not located in areas eligible for  
 2791 coverage in the Florida Windstorm Underwriting Association as  
 2792 those areas were defined on January 1, 2002, and for such  
 2793 policies that do not provide coverage for the peril of wind on  
 2794 risks that are located in such areas;

2795 (II) A commercial lines account for commercial residential  
 2796 and commercial nonresidential policies issued by the corporation  
 2797 or issued by the Residential Property and Casualty Joint  
 2798 Underwriting Association and renewed by the corporation that  
 2799 provide coverage for basic property perils on risks that are not  
 2800 located in areas eligible for coverage in the Florida Windstorm

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2801 Underwriting Association as those areas were defined on January  
 2802 1, 2002, and for such policies that do not provide coverage for  
 2803 the peril of wind on risks that are located in such areas; and  
 2804 (III) A high-risk account for personal residential  
 2805 policies and commercial residential and commercial  
 2806 nonresidential property policies issued by the corporation or  
 2807 transferred to the corporation that provide coverage for the  
 2808 peril of wind on risks that are located in areas eligible for  
 2809 coverage in the Florida Windstorm Underwriting Association as  
 2810 those areas were defined on January 1, 2002. Subject to the  
 2811 approval of a business plan by the Financial Services Commission  
 2812 and Legislative Budget Commission as provided in this sub-sub-  
 2813 subparagraph, but no earlier than March 31, 2007, the  
 2814 corporation may offer policies that provide multiperil coverage  
 2815 and the corporation shall continue to offer policies that  
 2816 provide coverage only for the peril of wind for risks located in  
 2817 areas eligible for coverage in the high-risk account. In issuing  
 2818 multiperil coverage, the corporation may use its approved policy  
 2819 forms and rates for the personal lines account. An applicant or  
 2820 insured who is eligible to purchase a multiperil policy from the  
 2821 corporation may purchase a multiperil policy from an authorized  
 2822 insurer without prejudice to the applicant's or insured's  
 2823 eligibility to prospectively purchase a policy that provides  
 2824 coverage only for the peril of wind from the corporation. An  
 2825 applicant or insured who is eligible for a corporation policy  
 2826 that provides coverage only for the peril of wind may elect to  
 2827 purchase or retain such policy and also purchase or retain  
 2828 coverage excluding wind from an authorized insurer without

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2829 prejudice to the applicant's or insured's eligibility to  
 2830 prospectively purchase a policy that provides multiperil  
 2831 coverage from the corporation. It is the goal of the Legislature  
 2832 that there would be an overall average savings of 10 percent or  
 2833 more for a policyholder who currently has a wind-only policy  
 2834 with the corporation, and an ex-wind policy with a voluntary  
 2835 insurer or the corporation, and who then obtains a multiperil  
 2836 policy from the corporation. It is the intent of the Legislature  
 2837 that the offer of multiperil coverage in the high-risk account  
 2838 be made and implemented in a manner that does not adversely  
 2839 affect the tax-exempt status of the corporation or  
 2840 creditworthiness of or security for currently outstanding  
 2841 financing obligations or credit facilities of the high-risk  
 2842 account, the personal lines account, or the commercial lines  
 2843 account. By March 1, 2007, the corporation shall prepare and  
 2844 submit for approval by the Financial Services Commission and  
 2845 Legislative Budget Commission a report detailing the  
 2846 corporation's business plan for issuing multiperil coverage in  
 2847 the high-risk account. The business plan shall be approved or  
 2848 disapproved within 30 days after receipt, as submitted or  
 2849 modified and resubmitted by the corporation. The business plan  
 2850 must include: the impact of such multiperil coverage on the  
 2851 corporation's financial resources, the impact of such multiperil  
 2852 coverage on the corporation's tax-exempt status, the manner in  
 2853 which the corporation plans to implement the processing of  
 2854 applications and policy forms for new and existing  
 2855 policyholders, the impact of such multiperil coverage on the  
 2856 corporation's ability to deliver customer service at the high

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2857 level required by this subsection, the ability of the  
 2858 corporation to process claims, the ability of the corporation to  
 2859 quote and issue policies, the impact of such multiperil coverage  
 2860 on the corporation's agents, the impact of such multiperil  
 2861 coverage on the corporation's existing policyholders, and the  
 2862 impact of such multiperil coverage on rates and premium. The  
 2863 high-risk account must also include quota share primary  
 2864 insurance under subparagraph (c)2. The area eligible for  
 2865 coverage under the high-risk account also includes the area  
 2866 within Port Canaveral, which is bordered on the south by the  
 2867 City of Cape Canaveral, bordered on the west by the Banana  
 2868 River, and bordered on the north by Federal Government property.  
 2869 ~~The office may remove territory from the area eligible for wind-~~  
 2870 ~~only and quota share coverage if, after a public hearing, the~~  
 2871 ~~office finds that authorized insurers in the voluntary market~~  
 2872 ~~are willing and able to write sufficient amounts of personal and~~  
 2873 ~~commercial residential coverage for all perils in the territory,~~  
 2874 ~~including coverage for the peril of wind, such that risks~~  
 2875 ~~covered by wind only policies in the removed territory could be~~  
 2876 ~~issued a policy by the corporation in either the personal lines~~  
 2877 ~~or commercial lines account without a significant increase in~~  
 2878 ~~the corporation's probable maximum loss in such account. Removal~~  
 2879 ~~of territory from the area eligible for wind only or quota share~~  
 2880 ~~coverage does not alter the assignment of wind coverage written~~  
 2881 ~~in such areas to the high risk account.~~

2882       b. The three separate accounts must be maintained as long  
 2883 as financing obligations entered into by the Florida Windstorm  
 2884 Underwriting Association or Residential Property and Casualty

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2885 Joint Underwriting Association are outstanding, in accordance  
 2886 with the terms of the corresponding financing documents. When  
 2887 the financing obligations are no longer outstanding, in  
 2888 accordance with the terms of the corresponding financing  
 2889 documents, the corporation may use a single account for all  
 2890 revenues, assets, liabilities, losses, and expenses of the  
 2891 corporation. Consistent with the requirement of this  
 2892 subparagraph and prudent investment policies that minimize the  
 2893 cost of carrying debt, the board shall exercise its best efforts  
 2894 to retire existing debt or to obtain approval of necessary  
 2895 parties to amend the terms of existing debt, so as to structure  
 2896 the most efficient plan to consolidate the three separate  
 2897 accounts into a single account. By February 1, 2007, the board  
 2898 shall submit a report to the Financial Services Commission, the  
 2899 President of the Senate, and the Speaker of the House of  
 2900 Representatives which includes an analysis of consolidating the  
 2901 accounts, the actions the board has taken to minimize the cost  
 2902 of carrying debt, and its recommendations for executing the most  
 2903 efficient plan.

2904 c. Creditors of the Residential Property and Casualty  
 2905 Joint Underwriting Association shall have a claim against, and  
 2906 recourse to, the accounts referred to in sub-sub-subparagraphs  
 2907 a.(I) and (II) and shall have no claim against, or recourse to,  
 2908 the account referred to in sub-sub-subparagraph a.(III).  
 2909 Creditors of the Florida Windstorm Underwriting Association  
 2910 shall have a claim against, and recourse to, the account  
 2911 referred to in sub-sub-subparagraph a.(III) and shall have no  
 2912 claim against, or recourse to, the accounts referred to in sub-



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2913 sub-subparagraphs a.(I) and (II).

2914 d. Revenues, assets, liabilities, losses, and expenses not  
 2915 attributable to particular accounts shall be prorated among the  
 2916 accounts.

2917 e. The Legislature finds that the revenues of the  
 2918 corporation are revenues that are necessary to meet the  
 2919 requirements set forth in documents authorizing the issuance of  
 2920 bonds under this subsection.

2921 f. No part of the income of the corporation may inure to  
 2922 the benefit of any private person.

2923 3. With respect to a deficit in an account:

2924 a. When the deficit incurred in a particular calendar year  
 2925 is not greater than 10 percent of the aggregate statewide direct  
 2926 written premium for the subject lines of business for the prior  
 2927 calendar year, the entire deficit shall be recovered through  
 2928 regular assessments of assessable insurers under paragraph (p)  
 2929 and assessable insureds.

2930 b. When the deficit incurred in a particular calendar year  
 2931 exceeds 10 percent of the aggregate statewide direct written  
 2932 premium for the subject lines of business for the prior calendar  
 2933 year, the corporation shall levy regular assessments on  
 2934 assessable insurers under paragraph (p) and on assessable  
 2935 insureds in an amount equal to the greater of 10 percent of the  
 2936 deficit or 10 percent of the aggregate statewide direct written  
 2937 premium for the subject lines of business for the prior calendar  
 2938 year. Any remaining deficit shall be recovered through emergency  
 2939 assessments under sub-subparagraph d.

2940 c. Each assessable insurer's share of the amount being

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2941 assessed under sub-subparagraph a. or sub-subparagraph b. shall  
 2942 be in the proportion that the assessable insurer's direct  
 2943 written premium for the subject lines of business for the year  
 2944 preceding the assessment bears to the aggregate statewide direct  
 2945 written premium for the subject lines of business for that year.  
 2946 The assessment percentage applicable to each assessable insured  
 2947 is the ratio of the amount being assessed under sub-subparagraph  
 2948 a. or sub-subparagraph b. to the aggregate statewide direct  
 2949 written premium for the subject lines of business for the prior  
 2950 year. Assessments levied by the corporation on assessable  
 2951 insurers under sub-subparagraphs a. and b. shall be paid as  
 2952 required by the corporation's plan of operation and paragraph  
 2953 (p). Notwithstanding any other provision of this subsection, the  
 2954 aggregate amount of a regular assessment for a deficit incurred  
 2955 in a particular calendar year shall be reduced by the estimated  
 2956 amount to be received by the corporation from the Citizens  
 2957 policyholder surcharge under subparagraph (c)11. and the amount  
 2958 collected or estimated to be collected from the assessment on  
 2959 Citizens policyholders pursuant to sub-subparagraph i.  
 2960 Assessments levied by the corporation on assessable insureds  
 2961 under sub-subparagraphs a. and b. shall be collected by the  
 2962 surplus lines agent at the time the surplus lines agent collects  
 2963 the surplus lines tax required by s. 626.932 and shall be paid  
 2964 to the Florida Surplus Lines Service Office at the time the  
 2965 surplus lines agent pays the surplus lines tax to the Florida  
 2966 Surplus Lines Service Office. Upon receipt of regular  
 2967 assessments from surplus lines agents, the Florida Surplus Lines  
 2968 Service Office shall transfer the assessments directly to the

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2969 corporation as determined by the corporation.  
 2970         d. Upon a determination by the board of governors that a  
 2971 deficit in an account exceeds the amount that will be recovered  
 2972 through regular assessments under sub-subparagraph a. or sub-  
 2973 subparagraph b., the board shall levy, after verification by the  
 2974 office, emergency assessments, for as many years as necessary to  
 2975 cover the deficits, to be collected by assessable insurers and  
 2976 the corporation and collected from assessable insureds upon  
 2977 issuance or renewal of policies for subject lines of business,  
 2978 excluding National Flood Insurance policies. The amount of the  
 2979 emergency assessment collected in a particular year shall be a  
 2980 uniform percentage of that year's direct written premium for  
 2981 subject lines of business and all accounts of the corporation,  
 2982 excluding National Flood Insurance Program policy premiums, as  
 2983 annually determined by the board and verified by the office. The  
 2984 office shall verify the arithmetic calculations involved in the  
 2985 board's determination within 30 days after receipt of the  
 2986 information on which the determination was based.  
 2987 Notwithstanding any other provision of law, the corporation and  
 2988 each assessable insurer that writes subject lines of business  
 2989 shall collect emergency assessments from its policyholders  
 2990 without such obligation being affected by any credit,  
 2991 limitation, exemption, or deferment. Emergency assessments  
 2992 levied by the corporation on assessable insureds shall be  
 2993 collected by the surplus lines agent at the time the surplus  
 2994 lines agent collects the surplus lines tax required by s.  
 2995 626.932 and shall be paid to the Florida Surplus Lines Service  
 2996 Office at the time the surplus lines agent pays the surplus

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2997 | lines tax to the Florida Surplus Lines Service Office. The  
 2998 | emergency assessments so collected shall be transferred directly  
 2999 | to the corporation on a periodic basis as determined by the  
 3000 | corporation and shall be held by the corporation solely in the  
 3001 | applicable account. The aggregate amount of emergency  
 3002 | assessments levied for an account under this sub-subparagraph in  
 3003 | any calendar year may not exceed the greater of 10 percent of  
 3004 | the amount needed to cover the original deficit, plus interest,  
 3005 | fees, commissions, required reserves, and other costs associated  
 3006 | with financing of the original deficit, or 10 percent of the  
 3007 | aggregate statewide direct written premium for subject lines of  
 3008 | business and for all accounts of the corporation for the prior  
 3009 | year, plus interest, fees, commissions, required reserves, and  
 3010 | other costs associated with financing the original deficit.

3011 |       e. The corporation may pledge the proceeds of assessments,  
 3012 | projected recoveries from the Florida Hurricane Catastrophe  
 3013 | Fund, other insurance and reinsurance recoverables, policyholder  
 3014 | surcharges and other surcharges, and other funds available to  
 3015 | the corporation as the source of revenue for and to secure bonds  
 3016 | issued under paragraph (p), bonds or other indebtedness issued  
 3017 | under subparagraph (c)3., or lines of credit or other financing  
 3018 | mechanisms issued or created under this subsection, or to retire  
 3019 | any other debt incurred as a result of deficits or events giving  
 3020 | rise to deficits, or in any other way that the board determines  
 3021 | will efficiently recover such deficits. The purpose of the lines  
 3022 | of credit or other financing mechanisms is to provide additional  
 3023 | resources to assist the corporation in covering claims and  
 3024 | expenses attributable to a catastrophe. As used in this

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3025 subsection, the term "assessments" includes regular assessments  
 3026 under sub-subparagraph a., sub-subparagraph b., or subparagraph  
 3027 (p)1. and emergency assessments under sub-subparagraph d.  
 3028 Emergency assessments collected under sub-subparagraph d. are  
 3029 not part of an insurer's rates, are not premium, and are not  
 3030 subject to premium tax, fees, or commissions; however, failure  
 3031 to pay the emergency assessment shall be treated as failure to  
 3032 pay premium. The emergency assessments under sub-subparagraph d.  
 3033 shall continue as long as any bonds issued or other indebtedness  
 3034 incurred with respect to a deficit for which the assessment was  
 3035 imposed remain outstanding, unless adequate provision has been  
 3036 made for the payment of such bonds or other indebtedness  
 3037 pursuant to the documents governing such bonds or other  
 3038 indebtedness.

3039 f. As used in this subsection, the term "subject lines of  
 3040 business" means insurance written by assessable insurers or  
 3041 procured by assessable insureds for all property and casualty  
 3042 lines of business in this state, but not including workers'  
 3043 compensation or medical malpractice. As used in the sub-  
 3044 subparagraph, the term "property and casualty lines of business"  
 3045 includes all lines of business identified on Form 2, Exhibit of  
 3046 Premiums and Losses, in the annual statement required of  
 3047 authorized insurers by s. 624.424 and any rule adopted under  
 3048 this section, except for those lines identified as accident and  
 3049 health insurance and except for policies written under the  
 3050 National Flood Insurance program or the Federal Crop Insurance  
 3051 Program. For purposes of this sub-subparagraph, the term  
 3052 "workers' compensation" includes both workers' compensation

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3053 ~~insurance and excess workers' compensation insurance. on real or~~  
 3054 ~~personal property, as defined in s. 624.604, including insurance~~  
 3055 ~~for fire, industrial fire, allied lines, farmowners multiperil,~~  
 3056 ~~homeowners multiperil, commercial multiperil, and mobile homes,~~  
 3057 ~~and including liability coverage on all such insurance, but~~  
 3058 ~~excluding inland marine as defined in s. 624.607(3) and~~  
 3059 ~~excluding vehicle insurance as defined in s. 624.605(1) other~~  
 3060 ~~than insurance on mobile homes used as permanent dwellings.~~

3061 g. The Florida Surplus Lines Service Office shall  
 3062 determine annually the aggregate statewide written premium in  
 3063 subject lines of business procured by assessable insureds and  
 3064 shall report that information to the corporation in a form and  
 3065 at a time the corporation specifies to ensure that the  
 3066 corporation can meet the requirements of this subsection and the  
 3067 corporation's financing obligations.

3068 h. The Florida Surplus Lines Service Office shall verify  
 3069 the proper application by surplus lines agents of assessment  
 3070 percentages for regular assessments and emergency assessments  
 3071 levied under this subparagraph on assessable insureds and shall  
 3072 assist the corporation in ensuring the accurate, timely  
 3073 collection and payment of assessments by surplus lines agents as  
 3074 required by the corporation.

3075 i. If a deficit is incurred in any account in 2008 or  
 3076 thereafter, the board of governors shall levy an immediate  
 3077 assessment against the premium of each nonhomestead property  
 3078 policyholder in all accounts of the corporation, as a uniform  
 3079 percentage of the premium of the policy of up to 10 percent of  
 3080 such premium, which funds shall be used to offset the deficit.

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3081 If this assessment is insufficient to eliminate the deficit, the  
 3082 board of governors shall levy an additional assessment against  
 3083 all policyholders of the corporation, which shall be collected  
 3084 at the time of issuance or renewal of a policy, as a uniform  
 3085 percentage of the premium for the policy of up to 10 percent of  
 3086 such premium, which funds shall be used to further offset the  
 3087 deficit.

3088 j. The board of governors shall maintain separate  
 3089 accounting records that consolidate data for nonhomestead  
 3090 properties, including, but not limited to, number of policies,  
 3091 insured values, premiums written, and losses. The board of  
 3092 governors shall annually report to the office and the  
 3093 Legislature a summary of such data.

3094 (c) The plan of operation of the corporation:

3095 1. Must provide for adoption of residential property and  
 3096 casualty insurance policy forms and commercial residential and  
 3097 nonresidential property insurance forms, which forms must be  
 3098 approved by the office prior to use. The corporation shall adopt  
 3099 the following policy forms:

3100 a. Standard personal lines policy forms that are  
 3101 comprehensive multiperil policies providing full coverage of a  
 3102 residential property equivalent to the coverage provided in the  
 3103 private insurance market under an HO-3, HO-4, or HO-6 policy.

3104 b. Basic personal lines policy forms that are policies  
 3105 similar to an HO-8 policy or a dwelling fire policy that provide  
 3106 coverage meeting the requirements of the secondary mortgage  
 3107 market, but which coverage is more limited than the coverage  
 3108 under a standard policy.

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3109 c. Commercial lines residential and nonresidential policy  
 3110 forms that are generally similar to the basic perils of full  
 3111 coverage obtainable for commercial residential structures and  
 3112 commercial nonresidential structures in the admitted voluntary  
 3113 market.

3114 d. Personal lines and commercial lines residential  
 3115 property insurance forms that cover the peril of wind only. The  
 3116 forms are applicable only to residential properties located in  
 3117 areas eligible for coverage under the high-risk account referred  
 3118 to in sub-subparagraph (b)2.a.

3119 e. Commercial lines nonresidential property insurance  
 3120 forms that cover the peril of wind only. The forms are  
 3121 applicable only to nonresidential properties located in areas  
 3122 eligible for coverage under the high-risk account referred to in  
 3123 sub-subparagraph (b)2.a.

3124 f. The corporation may adopt variations of the policy  
 3125 forms listed in sub-subparagraphs a.-e. that contain more  
 3126 restrictive coverage.

3127 2.a. Must provide that the corporation adopt a program in  
 3128 which the corporation and authorized insurers enter into quota  
 3129 share primary insurance agreements for hurricane coverage, as  
 3130 defined in s. 627.4025(2)(a), for eligible risks, and adopt  
 3131 property insurance forms for eligible risks which cover the  
 3132 peril of wind only. As used in this subsection, the term:

3133 (I) "Quota share primary insurance" means an arrangement  
 3134 in which the primary hurricane coverage of an eligible risk is  
 3135 provided in specified percentages by the corporation and an  
 3136 authorized insurer. The corporation and authorized insurer are



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3137 each solely responsible for a specified percentage of hurricane  
3138 coverage of an eligible risk as set forth in a quota share  
3139 primary insurance agreement between the corporation and an  
3140 authorized insurer and the insurance contract. The  
3141 responsibility of the corporation or authorized insurer to pay  
3142 its specified percentage of hurricane losses of an eligible  
3143 risk, as set forth in the quota share primary insurance  
3144 agreement, may not be altered by the inability of the other  
3145 party to the agreement to pay its specified percentage of  
3146 hurricane losses. Eligible risks that are provided hurricane  
3147 coverage through a quota share primary insurance arrangement  
3148 must be provided policy forms that set forth the obligations of  
3149 the corporation and authorized insurer under the arrangement,  
3150 clearly specify the percentages of quota share primary insurance  
3151 provided by the corporation and authorized insurer, and  
3152 conspicuously and clearly state that neither the authorized  
3153 insurer nor the corporation may be held responsible beyond its  
3154 specified percentage of coverage of hurricane losses.

3155 (II) "Eligible risks" means personal lines residential and  
3156 commercial lines residential risks that meet the underwriting  
3157 criteria of the corporation and are located in areas that were  
3158 eligible for coverage by the Florida Windstorm Underwriting  
3159 Association on January 1, 2002.

3160 b. The corporation may enter into quota share primary  
3161 insurance agreements with authorized insurers at corporation  
3162 coverage levels of 90 percent and 50 percent.

3163 c. If the corporation determines that additional coverage  
3164 levels are necessary to maximize participation in quota share

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3165 primary insurance agreements by authorized insurers, the  
3166 corporation may establish additional coverage levels. However,  
3167 the corporation's quota share primary insurance coverage level  
3168 may not exceed 90 percent.

3169 d. Any quota share primary insurance agreement entered  
3170 into between an authorized insurer and the corporation must  
3171 provide for a uniform specified percentage of coverage of  
3172 hurricane losses, by county or territory as set forth by the  
3173 corporation board, for all eligible risks of the authorized  
3174 insurer covered under the quota share primary insurance  
3175 agreement.

3176 e. Any quota share primary insurance agreement entered  
3177 into between an authorized insurer and the corporation is  
3178 subject to review and approval by the office. However, such  
3179 agreement shall be authorized only as to insurance contracts  
3180 entered into between an authorized insurer and an insured who is  
3181 already insured by the corporation for wind coverage.

3182 f. For all eligible risks covered under quota share  
3183 primary insurance agreements, the exposure and coverage levels  
3184 for both the corporation and authorized insurers shall be  
3185 reported by the corporation to the Florida Hurricane Catastrophe  
3186 Fund. For all policies of eligible risks covered under quota  
3187 share primary insurance agreements, the corporation and the  
3188 authorized insurer shall maintain complete and accurate records  
3189 for the purpose of exposure and loss reimbursement audits as  
3190 required by Florida Hurricane Catastrophe Fund rules. The  
3191 corporation and the authorized insurer shall each maintain  
3192 duplicate copies of policy declaration pages and supporting

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3193 | claims documents.

3194 |         g. The corporation board shall establish in its plan of  
 3195 | operation standards for quota share agreements which ensure that  
 3196 | there is no discriminatory application among insurers as to the  
 3197 | terms of quota share agreements, pricing of quota share  
 3198 | agreements, incentive provisions if any, and consideration paid  
 3199 | for servicing policies or adjusting claims.

3200 |         h. The quota share primary insurance agreement between the  
 3201 | corporation and an authorized insurer must set forth the  
 3202 | specific terms under which coverage is provided, including, but  
 3203 | not limited to, the sale and servicing of policies issued under  
 3204 | the agreement by the insurance agent of the authorized insurer  
 3205 | producing the business, the reporting of information concerning  
 3206 | eligible risks, the payment of premium to the corporation, and  
 3207 | arrangements for the adjustment and payment of hurricane claims  
 3208 | incurred on eligible risks by the claims adjuster and personnel  
 3209 | of the authorized insurer. Entering into a quota sharing  
 3210 | insurance agreement between the corporation and an authorized  
 3211 | insurer shall be voluntary and at the discretion of the  
 3212 | authorized insurer.

3213 |         3. May provide that the corporation may employ or  
 3214 | otherwise contract with individuals or other entities to provide  
 3215 | administrative or professional services that may be appropriate  
 3216 | to effectuate the plan. The corporation shall have the power to  
 3217 | borrow funds, by issuing bonds or by incurring other  
 3218 | indebtedness, and shall have other powers reasonably necessary  
 3219 | to effectuate the requirements of this subsection, including,  
 3220 | without limitation, the power to issue bonds and incur other

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3221 indebtedness in order to refinance outstanding bonds or other  
 3222 indebtedness. The corporation may, but is not required to, seek  
 3223 judicial validation of its bonds or other indebtedness under  
 3224 chapter 75. The corporation may issue bonds or incur other  
 3225 indebtedness, or have bonds issued on its behalf by a unit of  
 3226 local government pursuant to subparagraph (g)2., in the absence  
 3227 of a hurricane or other weather-related event, upon a  
 3228 determination by the corporation, subject to approval by the  
 3229 office, that such action would enable it to efficiently meet the  
 3230 financial obligations of the corporation and that such  
 3231 financings are reasonably necessary to effectuate the  
 3232 requirements of this subsection. The corporation is authorized  
 3233 to take all actions needed to facilitate tax-free status for any  
 3234 such bonds or indebtedness, including formation of trusts or  
 3235 other affiliated entities. The corporation shall have the  
 3236 authority to pledge assessments, projected recoveries from the  
 3237 Florida Hurricane Catastrophe Fund, other reinsurance  
 3238 recoverables, market equalization and other surcharges, and  
 3239 other funds available to the corporation as security for bonds  
 3240 or other indebtedness. In recognition of s. 10, Art. I of the  
 3241 State Constitution, prohibiting the impairment of obligations of  
 3242 contracts, it is the intent of the Legislature that no action be  
 3243 taken whose purpose is to impair any bond indenture or financing  
 3244 agreement or any revenue source committed by contract to such  
 3245 bond or other indebtedness.

3246       4.a. Must require that the corporation operate subject to  
 3247 the supervision and approval of a board of governors consisting  
 3248 of eight individuals who are residents of this state, from

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3249 different geographical areas of this state. The Governor, the  
 3250 Chief Financial Officer, the President of the Senate, and the  
 3251 Speaker of the House of Representatives shall each appoint two  
 3252 members of the board. At least one of the two members appointed  
 3253 by each appointing officer must have demonstrated expertise in  
 3254 insurance. The Chief Financial Officer shall designate one of  
 3255 the appointees as chair. All board members serve at the pleasure  
 3256 of the appointing officer. All members of the board of governors  
 3257 are subject to removal at will by the officers who appointed  
 3258 them. All board members, including the chair, must be appointed  
 3259 to serve for 3-year terms beginning annually on a date  
 3260 designated by the plan. Any board vacancy shall be filled for  
 3261 the unexpired term by the appointing officer. The Chief  
 3262 Financial Officer shall appoint a technical advisory group to  
 3263 provide information and advice to the board of governors in  
 3264 connection with the board's duties under this subsection. The  
 3265 executive director and senior managers of the corporation shall  
 3266 be engaged by the board and serve at the pleasure of the board.  
 3267 Any executive director appointed on or after July 1, 2006, is  
 3268 subject to confirmation by the Senate. The executive director is  
 3269 responsible for employing other staff as the corporation may  
 3270 require, subject to review and concurrence by the board.

3271       b. The board shall create a Market Accountability Advisory  
 3272 Committee to assist the corporation in developing awareness of  
 3273 its rates and its customer and agent service levels in  
 3274 relationship to the voluntary market insurers writing similar  
 3275 coverage. The members of the advisory committee shall consist of  
 3276 the following 11 persons, one of whom must be elected chair by

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3277 the members of the committee: four representatives, one  
 3278 appointed by the Florida Association of Insurance Agents, one by  
 3279 the Florida Association of Insurance and Financial Advisors, one  
 3280 by the Professional Insurance Agents of Florida, and one by the  
 3281 Latin American Association of Insurance Agencies; three  
 3282 representatives appointed by the insurers with the three highest  
 3283 voluntary market share of residential property insurance  
 3284 business in the state; one representative from the Office of  
 3285 Insurance Regulation; one consumer appointed by the board who is  
 3286 insured by the corporation at the time of appointment to the  
 3287 committee; one representative appointed by the Florida  
 3288 Association of Realtors; and one representative appointed by the  
 3289 Florida Bankers Association. All members must serve for 3-year  
 3290 terms and may serve for consecutive terms. The committee shall  
 3291 report to the corporation at each board meeting on insurance  
 3292 market issues which may include rates and rate competition with  
 3293 the voluntary market; service, including policy issuance, claims  
 3294 processing, and general responsiveness to policyholders,  
 3295 applicants, and agents; and matters relating to depopulation.

3296 5. Must provide a procedure for determining the  
 3297 eligibility of a risk for coverage, as follows:

3298 a. Subject to the provisions of s. 627.3517, with respect  
 3299 to personal lines residential risks, if the risk is offered  
 3300 coverage from an authorized insurer at the insurer's approved  
 3301 rate under either a standard policy including wind coverage or,  
 3302 if consistent with the insurer's underwriting rules as filed  
 3303 with the office, a basic policy including wind coverage, for a  
 3304 new application to the corporation for coverage, the risk is not

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3305 eligible for any policy issued by the corporation unless the  
 3306 premium for coverage from the authorized insurer is more than 25  
 3307 percent greater than the premium for comparable coverage from  
 3308 the corporation. If the risk is not able to obtain any such  
 3309 offer, the risk is eligible for either a standard policy  
 3310 including wind coverage or a basic policy including wind  
 3311 coverage issued by the corporation; however, if the risk could  
 3312 not be insured under a standard policy including wind coverage  
 3313 regardless of market conditions, the risk shall be eligible for  
 3314 a basic policy including wind coverage unless rejected under  
 3315 subparagraph 8. However, with regard to a policyholder of the  
 3316 corporation, the policyholder remains eligible for coverage from  
 3317 the corporation regardless of any offer of coverage from an  
 3318 authorized insurer or surplus lines insurer. The corporation  
 3319 shall determine the type of policy to be provided on the basis  
 3320 of objective standards specified in the underwriting manual and  
 3321 based on generally accepted underwriting practices.

3322 (I) If the risk accepts an offer of coverage through the  
 3323 market assistance plan or an offer of coverage through a  
 3324 mechanism established by the corporation before a policy is  
 3325 issued to the risk by the corporation or during the first 30  
 3326 days of coverage by the corporation, and the producing agent who  
 3327 submitted the application to the plan or to the corporation is  
 3328 not currently appointed by the insurer, the insurer shall:

3329 (A) Pay to the producing agent of record of the policy,  
 3330 for the first year, an amount that is the greater of the  
 3331 insurer's usual and customary commission for the type of policy  
 3332 written or a fee equal to the usual and customary commission of

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3333 the corporation; or

3334 (B) Offer to allow the producing agent of record of the  
 3335 policy to continue servicing the policy for a period of not less  
 3336 than 1 year and offer to pay the agent the greater of the  
 3337 insurer's or the corporation's usual and customary commission  
 3338 for the type of policy written.

3339  
 3340 If the producing agent is unwilling or unable to accept  
 3341 appointment, the new insurer shall pay the agent in accordance  
 3342 with sub-sub-sub-subparagraph (A).

3343 (II) When the corporation enters into a contractual  
 3344 agreement for a take-out plan, the producing agent of record of  
 3345 the corporation policy is entitled to retain any unearned  
 3346 commission on the policy, and the insurer shall:

3347 (A) Pay to the producing agent of record of the  
 3348 corporation policy, for the first year, an amount that is the  
 3349 greater of the insurer's usual and customary commission for the  
 3350 type of policy written or a fee equal to the usual and customary  
 3351 commission of the corporation; or

3352 (B) Offer to allow the producing agent of record of the  
 3353 corporation policy to continue servicing the policy for a period  
 3354 of not less than 1 year and offer to pay the agent the greater  
 3355 of the insurer's or the corporation's usual and customary  
 3356 commission for the type of policy written.

3357  
 3358 If the producing agent is unwilling or unable to accept  
 3359 appointment, the new insurer shall pay the agent in accordance  
 3360 with sub-sub-sub-subparagraph (A).



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3361           b. With respect to commercial lines residential risks, for  
 3362 a new application to the corporation for coverage, if the risk  
 3363 is offered coverage under a policy including wind coverage from  
 3364 an authorized insurer at its approved rate, the risk is not  
 3365 eligible for any policy issued by the corporation unless the  
 3366 premium for coverage from the authorized insurer is more than 25  
 3367 percent greater than the premium for comparable coverage from  
 3368 the corporation. If the risk is not able to obtain any such  
 3369 offer, the risk is eligible for a policy including wind coverage  
 3370 issued by the corporation. However, with regard to a  
 3371 policyholder of the corporation, the policyholder remains  
 3372 eligible for coverage from the corporation regardless of any  
 3373 offer of coverage from an authorized insurer or surplus lines  
 3374 insurer.

3375           (I) If the risk accepts an offer of coverage through the  
 3376 market assistance plan or an offer of coverage through a  
 3377 mechanism established by the corporation before a policy is  
 3378 issued to the risk by the corporation or during the first 30  
 3379 days of coverage by the corporation, and the producing agent who  
 3380 submitted the application to the plan or the corporation is not  
 3381 currently appointed by the insurer, the insurer shall:

3382           (A) Pay to the producing agent of record of the policy,  
 3383 for the first year, an amount that is the greater of the  
 3384 insurer's usual and customary commission for the type of policy  
 3385 written or a fee equal to the usual and customary commission of  
 3386 the corporation; or

3387           (B) Offer to allow the producing agent of record of the  
 3388 policy to continue servicing the policy for a period of not less

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3389 than 1 year and offer to pay the agent the greater of the  
 3390 insurer's or the corporation's usual and customary commission  
 3391 for the type of policy written.

3392  
 3393 If the producing agent is unwilling or unable to accept  
 3394 appointment, the new insurer shall pay the agent in accordance  
 3395 with sub-sub-sub-subparagraph (A).

3396 (II) When the corporation enters into a contractual  
 3397 agreement for a take-out plan, the producing agent of record of  
 3398 the corporation policy is entitled to retain any unearned  
 3399 commission on the policy, and the insurer shall:

3400 (A) Pay to the producing agent of record of the  
 3401 corporation policy, for the first year, an amount that is the  
 3402 greater of the insurer's usual and customary commission for the  
 3403 type of policy written or a fee equal to the usual and customary  
 3404 commission of the corporation; or

3405 (B) Offer to allow the producing agent of record of the  
 3406 corporation policy to continue servicing the policy for a period  
 3407 of not less than 1 year and offer to pay the agent the greater  
 3408 of the insurer's or the corporation's usual and customary  
 3409 commission for the type of policy written.

3410  
 3411 If the producing agent is unwilling or unable to accept  
 3412 appointment, the new insurer shall pay the agent in accordance  
 3413 with sub-sub-sub-subparagraph (A).

3414 6. Must provide by July 1, 2007, that an application for  
 3415 coverage for a new policy is subject to a waiting period of 10  
 3416 days before coverage is effective, during which time the

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3417 corporation shall make such application available for review by  
 3418 general lines agents and authorized property and casualty  
 3419 insurers. The board shall ~~may~~ approve an exception ~~exceptions~~  
 3420 that allows ~~allow~~ for coverage to be effective before the end of  
 3421 the 10-day waiting period, for coverage issued in conjunction  
 3422 with a real estate closing. The board may approve, ~~and for~~ such  
 3423 other exceptions as the board determines are necessary to  
 3424 prevent lapses in coverage.

3425         7. Must include rules for classifications of risks and  
 3426 rates therefor.

3427         8. Must provide that if premium and investment income for  
 3428 an account attributable to a particular calendar year are in  
 3429 excess of projected losses and expenses for the account  
 3430 attributable to that year, such excess shall be held in surplus  
 3431 in the account. Such surplus shall be available to defray  
 3432 deficits in that account as to future years and shall be used  
 3433 for that purpose prior to assessing assessable insurers and  
 3434 assessable insureds as to any calendar year.

3435         9. Must provide objective criteria and procedures to be  
 3436 uniformly applied for all applicants in determining whether an  
 3437 individual risk is so hazardous as to be uninsurable. In making  
 3438 this determination and in establishing the criteria and  
 3439 procedures, the following shall be considered:

3440             a. Whether the likelihood of a loss for the individual  
 3441 risk is substantially higher than for other risks of the same  
 3442 class; and

3443             b. Whether the uncertainty associated with the individual  
 3444 risk is such that an appropriate premium cannot be determined.

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3445  
3446 The acceptance or rejection of a risk by the corporation shall  
3447 be construed as the private placement of insurance, and the  
3448 provisions of chapter 120 shall not apply.

3449       10. Must provide that the corporation shall make its best  
3450 efforts to procure catastrophe reinsurance at reasonable rates,  
3451 to cover its projected 100-year probable maximum loss as  
3452 determined by the board of governors.

3453       11. Must provide that in the event of regular deficit  
3454 assessments under sub-subparagraph (b)3.a. or sub-subparagraph  
3455 (b)3.b., in the personal lines account, the commercial lines  
3456 residential account, or the high-risk account, the corporation  
3457 shall levy upon corporation policyholders in its next rate  
3458 filing, or by a separate rate filing solely for this purpose, a  
3459 Citizens policyholder surcharge arising from a regular  
3460 assessment in such account in a percentage equal to the total  
3461 amount of such regular assessments divided by the aggregate  
3462 statewide direct written premium for subject lines of business  
3463 for the prior calendar year. For purposes of calculating the  
3464 Citizens policyholder surcharge to be levied under this  
3465 subparagraph, the total amount of the regular assessment to  
3466 which this surcharge is related shall be determined as set forth  
3467 in subparagraph (b)3., without deducting the estimated Citizens  
3468 policyholder surcharge. Citizens policyholder surcharges under  
3469 this subparagraph are not considered premium and are not subject  
3470 to commissions, fees, or premium taxes; however, failure to pay  
3471 a market equalization surcharge shall be treated as failure to  
3472 pay premium.

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3473           12. The policies issued by the corporation must provide  
3474 that, if the corporation or the market assistance plan obtains  
3475 an offer from an authorized insurer to cover the risk at its  
3476 approved rates, the risk is no longer eligible for renewal  
3477 through the corporation, except as otherwise provided in this  
3478 subsection.

3479           13. Corporation policies and applications must include a  
3480 notice that the corporation policy could, under this section, be  
3481 replaced with a policy issued by an authorized insurer that does  
3482 not provide coverage identical to the coverage provided by the  
3483 corporation. The notice shall also specify that acceptance of  
3484 corporation coverage creates a conclusive presumption that the  
3485 applicant or policyholder is aware of this potential.

3486           14. May establish, subject to approval by the office,  
3487 different eligibility requirements and operational procedures  
3488 for any line or type of coverage for any specified county or  
3489 area if the board determines that such changes to the  
3490 eligibility requirements and operational procedures are  
3491 justified due to the voluntary market being sufficiently stable  
3492 and competitive in such area or for such line or type of  
3493 coverage and that consumers who, in good faith, are unable to  
3494 obtain insurance through the voluntary market through ordinary  
3495 methods would continue to have access to coverage from the  
3496 corporation. When coverage is sought in connection with a real  
3497 property transfer, such requirements and procedures shall not  
3498 provide for an effective date of coverage later than the date of  
3499 the closing of the transfer as established by the transferor,  
3500 the transferee, and, if applicable, the lender.

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3501           15. Must provide that, with respect to the high-risk  
3502 account, any assessable insurer with a surplus as to  
3503 policyholders of \$25 million or less writing 25 percent or more  
3504 of its total countrywide property insurance premiums in this  
3505 state may petition the office, within the first 90 days of each  
3506 calendar year, to qualify as a limited apportionment company. A  
3507 regular assessment levied by the corporation on a limited  
3508 apportionment company for a deficit incurred by the corporation  
3509 for the high-risk account in 2006 or thereafter may be paid to  
3510 the corporation on a monthly basis as the assessments are  
3511 collected by the limited apportionment company from its insureds  
3512 pursuant to s. 627.3512, but the regular assessment must be paid  
3513 in full within 12 months after being levied by the corporation.  
3514 A limited apportionment company shall collect from its  
3515 policyholders any emergency assessment imposed under sub-  
3516 subparagraph (b)3.d. The plan shall provide that, if the office  
3517 determines that any regular assessment will result in an  
3518 impairment of the surplus of a limited apportionment company,  
3519 the office may direct that all or part of such assessment be  
3520 deferred as provided in subparagraph (g)4. However, there shall  
3521 be no limitation or deferment of an emergency assessment to be  
3522 collected from policyholders under sub-subparagraph (b)3.d.

3523           16. Must provide that the corporation appoint as its  
3524 licensed agents only those agents who also hold an appointment  
3525 as defined in s. 626.015(3) with an insurer who at the time of  
3526 the agent's initial appointment by the corporation is authorized  
3527 to write and is actually writing personal lines residential  
3528 property coverage, commercial residential property coverage, or

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3529 commercial nonresidential property coverage within the state.

3530         17. Must provide, by July 1, 2007, a premium payment plan  
3531 option to its policyholders which allows for quarterly and  
3532 semiannual payment of premiums.

3533         18. Must provide, effective June 1, 2007, that the  
3534 corporation contract with each insurer providing the non-wind  
3535 coverage for risks insured by the corporation in the high-risk  
3536 account, requiring that the insurer provide claims adjusting  
3537 services for the wind coverage provided by the corporation for  
3538 such risks. An insurer is required to enter into this contract  
3539 as a condition of providing non-wind coverage for a risk that is  
3540 insured by the corporation in the high-risk account unless the  
3541 board finds, after a hearing, that the insurer is not capable of  
3542 providing adjusting services at an acceptable level of quality  
3543 to corporation policyholders. The terms and conditions of such  
3544 contracts must be substantially the same as the contracts that  
3545 the corporation executed with insurers under the "adjust-your-  
3546 own" program in 2006, except as may be mutually agreed to by the  
3547 parties and except for such changes that the board determines  
3548 are necessary to ensure that claims are adjusted appropriately.  
3549 The corporation shall provide a process for neutral arbitration  
3550 of any dispute between the corporation and the insurer regarding  
3551 the terms of the contract. The corporation shall review and  
3552 monitor the performance of insurers under these contracts.

3553         19. Must limit coverage on mobile homes or manufactured  
3554 homes built prior to 1994 to actual cash value of the dwelling  
3555 rather than replacement costs of the dwelling.

3556         20. May provide such limits of coverage as the board

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3557 determines, consistent with the requirements of this subsection.

3558 21. May require commercial property to meet specified  
 3559 hurricane mitigation construction features as a condition of  
 3560 eligibility for coverage.

3561 (m) 1.

3562 a. Rates for coverage provided by the corporation shall be  
 3563 actuarially sound and subject to the requirements of s. 627.062,  
 3564 except as otherwise provided in this paragraph. The corporation  
 3565 shall file its recommended rates with the office at least  
 3566 annually. The corporation shall provide any additional  
 3567 information regarding the rates which the office requires. The  
 3568 office shall consider the recommendations of the board and issue  
 3569 a final order establishing the rates for the corporation within  
 3570 45 days after the recommended rates are filed. The corporation  
 3571 may not pursue an administrative challenge or judicial review of  
 3572 the final order of the office. ~~not competitive with approved~~  
 3573 ~~rates charged in the admitted voluntary market, so that the~~  
 3574 ~~corporation functions as a residual market mechanism to provide~~  
 3575 ~~insurance only when the insurance cannot be procured in the~~  
 3576 ~~voluntary market. Rates shall include an appropriate catastrophe~~  
 3577 ~~loading factor that reflects the actual catastrophic exposure of~~  
 3578 ~~the corporation. For policies in the personal lines account and~~  
 3579 ~~the commercial lines account issued or renewed on or after March~~  
 3580 ~~1, 2007, a rate is deemed inadequate if the rate, including~~  
 3581 ~~investment income, is not sufficient to provide for the~~  
 3582 ~~procurement of coverage under the Florida Hurricane Catastrophe~~  
 3583 ~~Fund and private reinsurance costs, whether or not reinsurance~~  
 3584 ~~is procured, and to pay all claims and expenses reasonably~~



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3585 ~~expected to result from a 100 year probable maximum loss event~~  
3586 ~~without resort to any regular or emergency assessments, long-~~  
3587 ~~term debt, state revenues, or other funding sources. For~~  
3588 ~~policies in the high risk account issued or renewed on or after~~  
3589 ~~March 1, 2007, a rate is deemed inadequate if the rate,~~  
3590 ~~including investment income, is not sufficient to provide for~~  
3591 ~~the procurement of coverage under the Florida Hurricane~~  
3592 ~~Catastrophe Fund and private reinsurance costs, whether or not~~  
3593 ~~reinsurance is procured, and to pay all claims and expenses~~  
3594 ~~reasonably expected to result from a 70 year probable maximum~~  
3595 ~~loss event with resort to any regular or emergency assessments,~~  
3596 ~~long term debt, state revenues, or other funding sources. For~~  
3597 ~~policies in the high risk account issued or renewed in 2008 and~~  
3598 ~~2009, the rate must be based upon an 85 year and 100 year~~  
3599 ~~probable maximum loss event, respectively.~~

3600 ~~b. It is the intent of the Legislature to reaffirm the~~  
3601 ~~requirement of rate adequacy in the residual market. Recognizing~~  
3602 ~~that rates may comply with the intent expressed in sub-~~  
3603 ~~subparagraph a. and yet be inadequate and recognizing the public~~  
3604 ~~need to limit subsidies within the residual market, it is the~~  
3605 ~~further intent of the Legislature to establish statutory~~  
3606 ~~standards for rate adequacy. Such standards are intended to~~  
3607 ~~supplement the standard specified in s. 627.062(2)(c)3.,~~  
3608 ~~providing that rates are inadequate if they are clearly~~  
3609 ~~insufficient to sustain projected losses and expenses in the~~  
3610 ~~class of business to which they apply.~~

3611 ~~2. For each county, the average rates of the corporation~~  
3612 ~~for each line of business for personal lines residential~~

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3613 ~~policies excluding rates for wind only policies shall be no~~  
3614 ~~lower than the average rates charged by the insurer that had the~~  
3615 ~~highest average rate in that county among the 20 insurers with~~  
3616 ~~the greatest total direct written premium in the state for that~~  
3617 ~~line of business in the preceding year, except that with respect~~  
3618 ~~to mobile home coverages, the average rates of the corporation~~  
3619 ~~shall be no lower than the average rates charged by the insurer~~  
3620 ~~that had the highest average rate in that county among the 5~~  
3621 ~~insurers with the greatest total written premium for mobile home~~  
3622 ~~owner's policies in the state in the preceding year.~~

3623 ~~3. Rates for personal lines residential wind only policies~~  
3624 ~~must be actuarially sound and not competitive with approved~~  
3625 ~~rates charged by authorized insurers. If the filing under this~~  
3626 ~~subparagraph is made at least 90 days before the proposed~~  
3627 ~~effective date and the filing is not implemented during the~~  
3628 ~~office's review of the filing and any proceeding and judicial~~  
3629 ~~review, such filing shall be considered a "file and use" filing.~~  
3630 ~~In such case, the office shall finalize its review by issuance~~  
3631 ~~of a notice of intent to approve or a notice of intent to~~  
3632 ~~disapprove within 90 days after receipt of the filing. The~~  
3633 ~~notice of intent to approve and the notice of intent to~~  
3634 ~~disapprove constitute agency action for purposes of the~~  
3635 ~~Administrative Procedure Act. Requests for supporting~~  
3636 ~~information, requests for mathematical or mechanical~~  
3637 ~~corrections, or notification to the insurer by the office of its~~  
3638 ~~preliminary findings shall not toll the 90-day period during any~~  
3639 ~~such proceedings and subsequent judicial review. The rate shall~~  
3640 ~~be deemed approved if the office does not issue a notice of~~

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3641 ~~intent to approve or a notice of intent to disapprove within 90~~  
3642 ~~days after receipt of the filing. Corporation rate manuals shall~~  
3643 ~~include a rate surcharge for seasonal occupancy. To ensure that~~  
3644 ~~personal lines residential wind only rates are not competitive~~  
3645 ~~with approved rates charged by authorized insurers, the~~  
3646 ~~corporation, in conjunction with the office, shall develop a~~  
3647 ~~wind only ratemaking methodology, which methodology shall be~~  
3648 ~~contained in each rate filing made by the corporation with the~~  
3649 ~~office. If the office determines that the wind only rates or~~  
3650 ~~rating factors filed by the corporation fail to comply with the~~  
3651 ~~wind only ratemaking methodology provided for in this~~  
3652 ~~subsection, it shall so notify the corporation and require the~~  
3653 ~~corporation to amend its rates or rating factors to come into~~  
3654 ~~compliance within 90 days of notice from the office.~~

3655 ~~4. The requirements of this paragraph that rates not be~~  
3656 ~~competitive with approved rates charged by authorized insurers~~  
3657 ~~do not apply in a county or area for which the office determines~~  
3658 ~~that no authorized insurer is offering coverage. The corporation~~  
3659 ~~shall amend its rates or rating factors for the affected county~~  
3660 ~~or area in conjunction with its next rate filing after such~~  
3661 ~~determination is made.~~

3662 ~~5. For the purposes of establishing a pilot program to~~  
3663 ~~evaluate issues relating to the availability and affordability~~  
3664 ~~of insurance in an area where historically there has been little~~  
3665 ~~market competition, the provisions of subparagraph 2. do not~~  
3666 ~~apply to coverage provided by the corporation in Monroe County~~  
3667 ~~if the office determines that a reasonable degree of competition~~  
3668 ~~does not exist for personal lines residential policies. The~~

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3669 ~~provisions of subparagraph 3. do not apply to coverage provided~~  
3670 ~~by the corporation in Monroe County if the office determines~~  
3671 ~~that a reasonable degree of competition does not exist for~~  
3672 ~~personal lines residential policies in the area of that county~~  
3673 ~~which is eligible for wind-only coverage. In this county, the~~  
3674 ~~rates for personal lines residential coverage shall be~~  
3675 ~~actuarially sound and not excessive, inadequate, or unfairly~~  
3676 ~~discriminatory and are subject to the other provisions of the~~  
3677 ~~paragraph and s. 627.062. The commission shall adopt rules~~  
3678 ~~establishing the criteria for determining whether a reasonable~~  
3679 ~~degree of competition exists for personal lines residential~~  
3680 ~~policies in Monroe County. By March 1, 2006, the office shall~~  
3681 ~~submit a report to the Legislature providing an evaluation of~~  
3682 ~~the implementation of the pilot program affecting Monroe County.~~

3683 ~~6. Rates for commercial lines coverage shall not be~~  
3684 ~~subject to the requirements of subparagraph 2., but shall be~~  
3685 ~~subject to all other requirements of this paragraph and s.~~  
3686 ~~627.062.~~

3687 ~~7. Nothing in this paragraph shall require or allow the~~  
3688 ~~corporation to adopt a rate that is inadequate under s. 627.062.~~

3689 ~~8. The corporation shall certify to the office at least~~  
3690 ~~twice annually that its personal lines rates comply with the~~  
3691 ~~requirements of subparagraphs 1., 2., and 3. If any adjustment~~  
3692 ~~in the rates or rating factors of the corporation is necessary~~  
3693 ~~to ensure such compliance, the corporation shall make and~~  
3694 ~~implement such adjustments and file its revised rates and rating~~  
3695 ~~factors with the office. If the office thereafter determines~~  
3696 ~~that the revised rates and rating factors fail to comply with~~

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3697 ~~the provisions of subparagraphs 1., 2., and 3., it shall notify~~  
3698 ~~the corporation and require the corporation to amend its rates~~  
3699 ~~or rating factors in conjunction with its next rate filing. The~~  
3700 ~~office must notify the corporation by electronic means of any~~  
3701 ~~rate filing it approves for any insurer among the insurers~~  
3702 ~~referred to in subparagraph 2.~~

3703 2.9. In addition to the rates otherwise determined  
3704 pursuant to this paragraph, the corporation shall impose and  
3705 collect an amount equal to the premium tax provided for in s.  
3706 624.509 to augment the financial resources of the corporation.

3707 ~~10. The corporation shall develop a notice to~~  
3708 ~~policyholders or applicants that the rates of Citizens Property~~  
3709 ~~Insurance Corporation are intended to be higher than the rates~~  
3710 ~~of any admitted carrier and providing other information the~~  
3711 ~~corporation deems necessary to assist consumers in finding other~~  
3712 ~~voluntary admitted insurers willing to insure their property.~~

3713 3.11. After the public hurricane loss-projection model  
3714 under s. 627.06281 has been found to be accurate and reliable by  
3715 the Florida Commission on Hurricane Loss Projection Methodology,  
3716 that model shall serve as the minimum benchmark for determining  
3717 the windstorm portion of the corporation's rates. This  
3718 subparagraph does not require or allow the corporation to adopt  
3719 rates lower than the rates otherwise required or allowed by this  
3720 paragraph.

3721 4. The rate filings for the corporation which were  
3722 approved by the office and which took effect January 1, 2007,  
3723 are rescinded, except for those rates that were lowered. As soon  
3724 as possible, the corporation shall begin using the lower rates

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3725 that were in effect on December 31, 2006, and shall provide  
3726 refunds to policyholders who have paid higher rates as a result  
3727 of that rate filing. The rates in effect on December 31, 2006,  
3728 shall remain in effect for the 2007 calendar year except for any  
3729 rate change that results in a lower rate. The next rate change  
3730 that may increase rates shall take effect January 1, 2008,  
3731 pursuant to a new rate filing recommended by the corporation and  
3732 established by the office, subject to the requirements of this  
3733 paragraph.

3734 (p)1. The corporation shall certify to the office its  
3735 needs for annual assessments as to a particular calendar year,  
3736 and for any interim assessments that it deems to be necessary to  
3737 sustain operations as to a particular year pending the receipt  
3738 of annual assessments. Upon verification, the office shall  
3739 approve such certification, and the corporation shall levy such  
3740 annual or interim assessments. Such assessments shall be  
3741 prorated as provided in paragraph (b). The corporation shall  
3742 take all reasonable and prudent steps necessary to collect the  
3743 amount of assessment due from each assessable insurer,  
3744 including, if prudent, filing suit to collect such assessment.  
3745 If the corporation is unable to collect an assessment from any  
3746 assessable insurer, the uncollected assessments shall be levied  
3747 as an additional assessment against the assessable insurers and  
3748 any assessable insurer required to pay an additional assessment  
3749 as a result of such failure to pay shall have a cause of action  
3750 against such nonpaying assessable insurer. Assessments shall be  
3751 included as an appropriate factor in the making of rates. The  
3752 failure of a surplus lines agent to collect and remit any

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3753 regular or emergency assessment levied by the corporation is  
 3754 considered to be a violation of s. 626.936 and subjects the  
 3755 surplus lines agent to the penalties provided in that section.  
 3756         2. The governing body of any unit of local government, any  
 3757 residents of which are insured by the corporation, may issue  
 3758 bonds as defined in s. 125.013 or s. 166.101 from time to time  
 3759 to fund an assistance program, in conjunction with the  
 3760 corporation, for the purpose of defraying deficits of the  
 3761 corporation. In order to avoid needless and indiscriminate  
 3762 proliferation, duplication, and fragmentation of such assistance  
 3763 programs, any unit of local government, any residents of which  
 3764 are insured by the corporation, may provide for the payment of  
 3765 losses, regardless of whether or not the losses occurred within  
 3766 or outside of the territorial jurisdiction of the local  
 3767 government. Revenue bonds under this subparagraph may not be  
 3768 issued until validated pursuant to chapter 75, unless a state of  
 3769 emergency is declared by executive order or proclamation of the  
 3770 Governor pursuant to s. 252.36 making such findings as are  
 3771 necessary to determine that it is in the best interests of, and  
 3772 necessary for, the protection of the public health, safety, and  
 3773 general welfare of residents of this state and declaring it an  
 3774 essential public purpose to permit certain municipalities or  
 3775 counties to issue such bonds as will permit relief to claimants  
 3776 and policyholders of the corporation. Any such unit of local  
 3777 government may enter into such contracts with the corporation  
 3778 and with any other entity created pursuant to this subsection as  
 3779 are necessary to carry out this paragraph. Any bonds issued  
 3780 under this subparagraph shall be payable from and secured by

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3781 moneys received by the corporation from emergency assessments  
 3782 under sub-subparagraph (b)3.d., and assigned and pledged to or  
 3783 on behalf of the unit of local government for the benefit of the  
 3784 holders of such bonds. The funds, credit, property, and taxing  
 3785 power of the state or of the unit of local government shall not  
 3786 be pledged for the payment of such bonds. If any of the bonds  
 3787 remain unsold 60 days after issuance, the office shall require  
 3788 all insurers subject to assessment to purchase the bonds, which  
 3789 shall be treated as admitted assets; each insurer shall be  
 3790 required to purchase that percentage of the unsold portion of  
 3791 the bond issue that equals the insurer's relative share of  
 3792 assessment liability under this subsection. An insurer shall not  
 3793 be required to purchase the bonds to the extent that the office  
 3794 determines that the purchase would endanger or impair the  
 3795 solvency of the insurer.

3796 3.a. The corporation shall adopt one or more programs  
 3797 subject to approval by the office for the reduction of both new  
 3798 and renewal writings in the corporation. Beginning January 1,  
 3799 2008, any program the corporation adopts for the payment of  
 3800 bonuses to an insurer for each risk the insurer removes from the  
 3801 corporation shall comply with s. 627.3511(2) and may not exceed  
 3802 the amount referenced in s. 627.3511(2) for each risk removed.  
 3803 The corporation may consider any prudent and not unfairly  
 3804 discriminatory approach to reducing corporation writings, and  
 3805 may adopt a credit against assessment liability or other  
 3806 liability that provides an incentive for insurers to take risks  
 3807 out of the corporation and to keep risks out of the corporation  
 3808 by maintaining or increasing voluntary writings in counties or



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3809 areas in which corporation risks are highly concentrated and a  
3810 program to provide a formula under which an insurer voluntarily  
3811 taking risks out of the corporation by maintaining or increasing  
3812 voluntary writings will be relieved wholly or partially from  
3813 assessments under sub-subparagraphs (b)3.a. and b. However, any  
3814 "take-out bonus" or payment to an insurer must be conditioned on  
3815 the property being insured for at least 5 years by the insurer,  
3816 unless canceled or nonrenewed by the policyholder. If the policy  
3817 is canceled or nonrenewed by the policyholder before the end of  
3818 the 5-year period, the amount of the take-out bonus must be  
3819 prorated for the time period the policy was insured. When the  
3820 corporation enters into a contractual agreement for a take-out  
3821 plan, the producing agent of record of the corporation policy is  
3822 entitled to retain any unearned commission on such policy, and  
3823 the insurer shall either:

3824 (I) Pay to the producing agent of record of the policy,  
3825 for the first year, an amount which is the greater of the  
3826 insurer's usual and customary commission for the type of policy  
3827 written or a policy fee equal to the usual and customary  
3828 commission of the corporation; or

3829 (II) Offer to allow the producing agent of record of the  
3830 policy to continue servicing the policy for a period of not less  
3831 than 1 year and offer to pay the agent the insurer's usual and  
3832 customary commission for the type of policy written. If the  
3833 producing agent is unwilling or unable to accept appointment by  
3834 the new insurer, the new insurer shall pay the agent in  
3835 accordance with sub-sub-subparagraph (I).

3836 b. Any credit or exemption from regular assessments

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3837 adopted under this subparagraph shall last no longer than the 3  
 3838 years following the cancellation or expiration of the policy by  
 3839 the corporation. With the approval of the office, the board may  
 3840 extend such credits for an additional year if the insurer  
 3841 guarantees an additional year of renewability for all policies  
 3842 removed from the corporation, or for 2 additional years if the  
 3843 insurer guarantees 2 additional years of renewability for all  
 3844 policies so removed.

3845 c. There shall be no credit, limitation, exemption, or  
 3846 deferment from emergency assessments to be collected from  
 3847 policyholders pursuant to sub-subparagraph (b)3.d.

3848 4. The plan shall provide for the deferment, in whole or  
 3849 in part, of the assessment of an assessable insurer, other than  
 3850 an emergency assessment collected from policyholders pursuant to  
 3851 sub-subparagraph (b)3.d., if the office finds that payment of  
 3852 the assessment would endanger or impair the solvency of the  
 3853 insurer. In the event an assessment against an assessable  
 3854 insurer is deferred in whole or in part, the amount by which  
 3855 such assessment is deferred may be assessed against the other  
 3856 assessable insurers in a manner consistent with the basis for  
 3857 assessments set forth in paragraph (b).

3858 5. Effective July 1, 2007, in order to evaluate the costs  
 3859 and benefits of approved take-out plans, if the corporation pays  
 3860 a bonus or other payment to an insurer for an approved take-out  
 3861 plan, it shall maintain a record of the address or such other  
 3862 identifying information on the property or risk removed in order  
 3863 to track if and when the property or risk is later insured by  
 3864 the corporation.

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3865           6. Any policy taken out, assumed, or removed from the  
3866 corporation is, as of the effective date of the take-out,  
3867 assumption, or removal, direct insurance issued by the insurer  
3868 and not by the corporation, even if the corporation continues to  
3869 service the policies. This subparagraph applies to policies of  
3870 the corporation and not policies taken out, assumed, or removed  
3871 from any other entity.

3872           (s) For the purposes of s. 199.183(1), the corporation  
3873 shall be considered a political subdivision of the state and  
3874 shall be exempt from the corporate income tax. The premiums,  
3875 assessments, investment income, and other revenue of the  
3876 corporation are funds received for providing property insurance  
3877 coverage as required by this subsection, paying claims for  
3878 Florida citizens insured by the corporation, securing and  
3879 repaying debt obligations issued by the corporation, and  
3880 conducting all other activities of the corporation, and shall  
3881 not be considered taxes, fees, licenses, or charges for services  
3882 imposed by the Legislature on individuals, businesses, or  
3883 agencies outside state government. Bonds and other debt  
3884 obligations issued by or on behalf of the corporation are not to  
3885 be considered "state bonds" within the meaning of s. 215.58(8).  
3886 The corporation is not subject to the procurement provisions of  
3887 chapter 287, and policies and decisions of the corporation  
3888 relating to incurring debt, levying of assessments and the sale,  
3889 issuance, continuation, terms and claims under corporation  
3890 policies, and all services relating thereto, are not subject to  
3891 the provisions of chapter 120. The corporation is not required  
3892 to obtain or to hold a certificate of authority issued by the

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3893 office, nor is it required to participate as a member insurer of  
 3894 the Florida Insurance Guaranty Association. However, the  
 3895 corporation is required to pay, in the same manner as an  
 3896 authorized insurer, assessments levied ~~pledged~~ by the Florida  
 3897 Insurance Guaranty Association ~~to secure bonds issued or other~~  
 3898 ~~indebtedness incurred to pay covered claims arising from insurer~~  
 3899 ~~insolvencies caused by, or proximately related to, hurricane~~  
 3900 ~~losses~~. It is the intent of the Legislature that the tax  
 3901 exemptions provided in this paragraph will augment the financial  
 3902 resources of the corporation to better enable the corporation to  
 3903 fulfill its public purposes. Any debt obligations issued by the  
 3904 corporation, their transfer, and the income therefrom, including  
 3905 any profit made on the sale thereof, shall at all times be free  
 3906 from taxation of every kind by the state and any political  
 3907 subdivision or local unit or other instrumentality thereof;  
 3908 however, this exemption does not apply to any tax imposed by  
 3909 chapter 220 on interest, income, or profits on debt obligations  
 3910 owned by corporations other than the corporation.

3911 (ee) The assets of the corporation may be invested and  
 3912 managed by the State Board of Administration.

3913 Section 22. It is the intent of the Legislature that  
 3914 commercial nonresidential property insurance coverage be made  
 3915 available from Citizens Property Insurance Corporation  
 3916 (Citizens), under s. 627.351(6), Florida Statutes, as amended by  
 3917 this act, rather than from the Property and Casualty Joint  
 3918 Underwriting Association (PCJUA), under s. 627.351(5), Florida  
 3919 Statutes. As soon as it is reasonably able to do so, Citizens  
 3920 shall adopt, subject to approval of the Office of Insurance

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3921 Regulation, a plan providing for the transition of such coverage  
 3922 from the PCJUA to Citizens under such forms, rates, terms, and  
 3923 conditions as the board of Citizens considers appropriate. The  
 3924 plan shall include any contractual agreements between Citizens  
 3925 and the PCJUA which are required to effect the transition. In  
 3926 the transition plan, Citizens may assume policies or otherwise  
 3927 provide coverage for the commercial nonresidential policyholders  
 3928 of the PCJUA and may also provide for allocating to the  
 3929 appropriate account or accounts of Citizens the revenues,  
 3930 assets, liabilities, losses, and expenses associated with  
 3931 policies of the PCJUA which are assumed or otherwise covered by  
 3932 Citizens. It is the intent of the Legislature that the  
 3933 transition plan be implemented in a manner that does not  
 3934 adversely affect the creditworthiness of or security for  
 3935 currently outstanding financing obligations or credit facilities  
 3936 of the high-risk account, the personal lines account, or the  
 3937 commercial lines account. The order issued by the Office of  
 3938 Insurance Regulation may allow the PCJUA to continue to issue  
 3939 such coverage until the time that Citizens begins issuing such  
 3940 coverage.

3941 Section 23. Subsection (3) is added to section 627.3515,  
 3942 Florida Statutes, to read:

3943 627.3515 Market assistance plan; property and casualty  
 3944 risks.--

3945 (3) (a) The plan and the corporation shall develop a  
 3946 business plan and present it to the Financial Services  
 3947 Commission for approval by September 1, 2007, to provide for the  
 3948 implementation of an electronic database for the purpose of

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3949 confirming eligibility pursuant to s. 627.351(6).

3950 (b) There shall be no liability on the part of, and no  
 3951 cause of action of any nature shall arise against, any  
 3952 authorized insurer acting within the scope of its authority  
 3953 under this subsection or its agents or employees for any action  
 3954 taken by them in the performance of their duties or  
 3955 responsibilities under this subsection.

3956 Section 24. Subsection (1) of section 627.4035, Florida  
 3957 Statutes, is amended to read:

3958 627.4035 Cash payment of premiums; claims.--

3959 (1) The premiums for insurance contracts issued in this  
 3960 state or covering risk located in this state shall be paid in  
 3961 cash consisting of coins, currency, checks, or money orders or  
 3962 by using a debit card, credit card, automatic electronic funds  
 3963 transfer, or payroll deduction plan. By July 1, 2007, insurers  
 3964 issuing personal lines residential and commercial property  
 3965 policies shall provide a premium payment plan option to their  
 3966 policyholders which allows for quarterly and semiannual payment  
 3967 of premiums. Insurers issuing such policies must submit their  
 3968 premium payment plan option to the office for approval before  
 3969 use.

3970 Section 25. Paragraph (b) of subsection (2) of section  
 3971 627.4133, Florida Statutes, is amended to read:

3972 627.4133 Notice of cancellation, nonrenewal, or renewal  
 3973 premium.--

3974 (2) With respect to any personal lines or commercial  
 3975 residential property insurance policy, including, but not  
 3976 limited to, any homeowner's, mobile home owner's, farmowner's,

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3977 condominium association, condominium unit owner's, apartment  
 3978 building, or other policy covering a residential structure or  
 3979 its contents:

3980 (b) The insurer shall give the named insured written  
 3981 notice of nonrenewal, cancellation, or termination at least 100  
 3982 ~~90~~ days prior to the effective date of the nonrenewal,  
 3983 cancellation, or termination. However, the insurer shall give at  
 3984 least 100 days' written notice, or written notice by June 1,  
 3985 whichever is earlier, for any nonrenewal, cancellation, or  
 3986 termination that would be effective between June 1 and November  
 3987 30. The notice must include the reason or reasons for the  
 3988 nonrenewal, cancellation, or termination, except that:

3989 1. When cancellation is for nonpayment of premium, at  
 3990 least 10 days' written notice of cancellation accompanied by the  
 3991 reason therefor shall be given. As used in this subparagraph,  
 3992 the term "nonpayment of premium" means failure of the named  
 3993 insured to discharge when due any of her or his obligations in  
 3994 connection with the payment of premiums on a policy or any  
 3995 installment of such premium, whether the premium is payable  
 3996 directly to the insurer or its agent or indirectly under any  
 3997 premium finance plan or extension of credit, or failure to  
 3998 maintain membership in an organization if such membership is a  
 3999 condition precedent to insurance coverage. "Nonpayment of  
 4000 premium" also means the failure of a financial institution to  
 4001 honor an insurance applicant's check after delivery to a  
 4002 licensed agent for payment of a premium, even if the agent has  
 4003 previously delivered or transferred the premium to the insurer.  
 4004 If a dishonored check represents the initial premium payment,

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4005 the contract and all contractual obligations shall be void ab  
 4006 initio unless the nonpayment is cured within the earlier of 5  
 4007 days after actual notice by certified mail is received by the  
 4008 applicant or 15 days after notice is sent to the applicant by  
 4009 certified mail or registered mail, and if the contract is void,  
 4010 any premium received by the insurer from a third party shall be  
 4011 refunded to that party in full.

4012 2. When such cancellation or termination occurs during the  
 4013 first 90 days during which the insurance is in force and the  
 4014 insurance is canceled or terminated for reasons other than  
 4015 nonpayment of premium, at least 20 days' written notice of  
 4016 cancellation or termination accompanied by the reason therefor  
 4017 shall be given except where there has been a material  
 4018 misstatement or misrepresentation or failure to comply with the  
 4019 underwriting requirements established by the insurer.

4020  
 4021 After the policy has been in effect for 90 days, the policy  
 4022 shall not be canceled by the insurer except when there has been  
 4023 a material misstatement, a nonpayment of premium, a failure to  
 4024 comply with underwriting requirements established by the insurer  
 4025 within 90 days of the date of effectuation of coverage, or a  
 4026 substantial change in the risk covered by the policy or when the  
 4027 cancellation is for all insureds under such policies for a given  
 4028 class of insureds. This paragraph does not apply to individually  
 4029 rated risks having a policy term of less than 90 days.

4030 Section 26. A residential property insurer shall return  
 4031 all excess profits to policyholders except as otherwise directed  
 4032 by the Office of Insurance Regulation. A residential property



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4033 insurer shall be deemed to have earned an excess profit if its  
 4034 surplus exceeds its direct probable maximum loss for a 1-in-250-  
 4035 year return period and it has earned a net underwriting gain in  
 4036 Florida in excess of 10 percent of earned premiums above its  
 4037 anticipated underwriting profit over the most recent 10-year  
 4038 period.

4039 Section 27. Section 627.4261, Florida Statutes, is  
 4040 transferred and renumbered as section 627.70131, Florida  
 4041 Statutes, and subsection (5) is added to that section, to read:

4042 627.70131 ~~627.4261~~ Insurer's duty to acknowledge  
 4043 communications regarding claims; investigation.--

4044 (5) Within 90 days after an insurer receives notice of a  
 4045 property insurance claim from a policyholder, the insurer shall  
 4046 pay or deny such claim unless the failure to pay such claim is  
 4047 caused by factors beyond the control of the insurer which  
 4048 reasonably prevent such payment. Failure to comply with this  
 4049 subsection constitutes a violation of this code.

4050 Section 28. Subsections (3), (4), and (9) of section  
 4051 627.701, Florida Statutes, are amended to read:

4052 627.701 Liability of insureds; coinsurance; deductibles.--

4053 ~~(3)(a) A policy of residential property insurance shall~~  
 4054 ~~include a deductible amount applicable to hurricane losses no~~  
 4055 ~~lower than \$500 and no higher than 2 percent of the policy~~  
 4056 ~~dwelling limits with respect to personal lines residential~~  
 4057 ~~risks, and no higher than 3 percent of the policy limits with~~  
 4058 ~~respect to commercial lines residential risks; however, if a~~  
 4059 ~~risk was covered on August 24, 1992, under a policy having a~~  
 4060 ~~higher deductible than the deductibles allowed by this~~

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4061 ~~paragraph, a policy covering such risk may include a deductible~~  
 4062 ~~no higher than the deductible in effect on August 24, 1992.~~  
 4063 ~~Notwithstanding the other provisions of this paragraph, a~~  
 4064 ~~personal lines residential policy covering a risk valued at~~  
 4065 ~~\$50,000 or less may include a deductible amount attributable to~~  
 4066 ~~hurricane losses no lower than \$250, and a personal lines~~  
 4067 ~~residential policy covering a risk valued at \$100,000 or more~~  
 4068 ~~may include a deductible amount attributable to hurricane losses~~  
 4069 ~~no higher than 10 percent of the policy limits unless subject to~~  
 4070 ~~a higher deductible on August 24, 1992; however, no maximum~~  
 4071 ~~deductible is required with respect to a personal lines~~  
 4072 ~~residential policy covering a risk valued at more than \$500,000.~~  
 4073 ~~An insurer may require a higher deductible, provided such~~  
 4074 ~~deductible is the same as or similar to a deductible program~~  
 4075 ~~lawfully in effect on June 14, 1995. In addition to the~~  
 4076 ~~deductible amounts authorized by this paragraph, an insurer may~~  
 4077 ~~also offer policies with a copayment provision under which,~~  
 4078 ~~after exhaustion of the deductible, the policyholder is~~  
 4079 ~~responsible for 10 percent of the next \$10,000 of insured~~  
 4080 ~~hurricane losses.~~

4081 (a) ~~(b)~~1. Except as otherwise provided in this subsection  
 4082 ~~paragraph~~, prior to issuing a personal lines residential  
 4083 property insurance policy ~~on or after January 1, 2006, or prior~~  
 4084 ~~to the first renewal of a residential property insurance policy~~  
 4085 ~~on or after January 1, 2006, the insurer must offer alternative~~  
 4086 deductible amounts applicable to hurricane losses equal to \$500,  
 4087 2 percent, 5 percent, and 10 percent of the policy dwelling  
 4088 limits, unless the specific percentage deductible is less than

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4089 \$500. The written notice of the offer shall specify the  
 4090 hurricane or wind deductible to be applied in the event that the  
 4091 applicant or policyholder fails to affirmatively choose a  
 4092 hurricane deductible. The insurer must provide such policyholder  
 4093 with notice of the availability of the deductible amounts  
 4094 specified in this paragraph in a form approved by the office in  
 4095 conjunction with each renewal of the policy. The failure to  
 4096 provide such notice constitutes a violation of this code but  
 4097 does not affect the coverage provided under the policy.

4098 (b)2- This subsection ~~paragraph~~ does not apply with  
 4099 respect to a deductible program lawfully in effect on June 14,  
 4100 1995, or to any similar deductible program, if the deductible  
 4101 program requires a minimum deductible amount of no less than 2  
 4102 percent of the policy limits.

4103 (c)3- With respect to a policy covering a risk with  
 4104 dwelling limits of at least \$100,000, but less than \$250,000,  
 4105 the insurer may, in lieu of offering a policy with a \$500  
 4106 hurricane or wind deductible as required by paragraph (a)  
 4107 ~~subparagraph 1-~~, offer a policy that the insurer guarantees it  
 4108 will not nonrenew for reasons of reducing hurricane loss for one  
 4109 renewal period and that contains up to a 2 percent hurricane or  
 4110 wind deductible as required by paragraph (a) ~~subparagraph 1-~~.

4111 (d)4- With respect to a policy covering a risk with  
 4112 dwelling limits of \$250,000 or more, the insurer need not offer  
 4113 the \$500 hurricane deductible as required by paragraph (a)  
 4114 ~~subparagraph 1-~~, but must, except as otherwise provided in this  
 4115 subsection, offer the other hurricane deductibles as required by  
 4116 paragraph (a) ~~subparagraph 1-~~.

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4117 (4) (a) Any policy that contains a separate hurricane  
 4118 deductible must on its face include in boldfaced type no smaller  
 4119 than 18 points the following statement: "THIS POLICY CONTAINS A  
 4120 SEPARATE DEDUCTIBLE FOR HURRICANE LOSSES, WHICH MAY RESULT IN  
 4121 HIGH OUT-OF-POCKET EXPENSES TO YOU." A policy containing a  
 4122 coinsurance provision applicable to hurricane losses must on its  
 4123 face include in boldfaced type no smaller than 18 points the  
 4124 following statement: "THIS POLICY CONTAINS A CO-PAY PROVISION  
 4125 THAT MAY RESULT IN HIGH OUT-OF-POCKET EXPENSES TO YOU."

4126 (b) ~~Beginning October 1, 2005,~~ For any personal lines  
 4127 residential property insurance policy containing a separate  
 4128 hurricane deductible, the insurer shall compute and prominently  
 4129 display the actual dollar value of the hurricane deductible on  
 4130 the declarations page of the policy at issuance and, for  
 4131 renewal, on the renewal declarations page of the policy or on  
 4132 the premium renewal notice.

4133 (c) ~~Beginning October 1, 2005,~~ For any personal lines  
 4134 residential property insurance policy containing an inflation  
 4135 guard rider, the insurer shall compute and prominently display  
 4136 the actual dollar value of the hurricane deductible on the  
 4137 declarations page of the policy at issuance and, for renewal, on  
 4138 the renewal declarations page of the policy or on the premium  
 4139 renewal notice. In addition, ~~beginning October 1, 2005,~~ for any  
 4140 personal lines residential property insurance policy containing  
 4141 an inflation guard rider, the insurer shall notify the  
 4142 policyholder of the possibility that the hurricane deductible  
 4143 may be higher than indicated when loss occurs due to application  
 4144 of the inflation guard rider. Such notification shall be made on

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4145 the declarations page of the policy at issuance and, for  
 4146 renewal, on the renewal declarations page of the policy or on  
 4147 the premium renewal notice.

4148 (d)1. A personal lines residential property insurance  
 4149 policy covering a risk valued at less than \$500,000 may not have  
 4150 a hurricane deductible in excess of 10 percent of the policy  
 4151 dwelling limits, unless the following conditions are met:

4152 a. The policyholder must personally write and provide to  
 4153 the insurer the following statement in his or her own  
 4154 handwriting and signs his or her name, which must also be signed  
 4155 by every other named insured on the policy, and dated: "I do not  
 4156 want the insurance on my home to pay for the first (specify  
 4157 dollar value) of damage from hurricanes. I will pay those costs.  
 4158 My insurance will not."

4159 b. If the structure insured by the policy is subject to a  
 4160 mortgage or lien, the policyholder must provide the insurer with  
 4161 a written statement from the mortgageholder or lienholder  
 4162 indicating that the mortgageholder or lienholder approves the  
 4163 policyholder electing to have the specified deductible.

4164 2. A deductible subject to the requirements of this  
 4165 paragraph applies for the term of the policy and for each  
 4166 renewal unless the policyholder elects otherwise.

4167 3. An insurer shall keep the original copy of the signed  
 4168 statement required by this paragraph and provide a copy to the  
 4169 policyholder providing the signed statement. A signed statement  
 4170 meeting the requirements of this paragraph creates a presumption  
 4171 that there was an informed, knowing election of coverage.

4172 4. The commission shall adopt rules providing appropriate

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4173 alternative methods for providing the statements required by  
 4174 this section for policyholders who have a handicapping or  
 4175 disabling condition that prevents them from providing a  
 4176 handwritten statement.

4177 (9) With respect to hurricane coverage provided in a  
 4178 policy of residential coverage, when the policyholder has taken  
 4179 appropriate hurricane mitigation measures regarding the  
 4180 residence covered under the policy, the insurer shall ~~may~~  
 4181 provide the insured the option of selecting an appropriate  
 4182 reduction in the policy's hurricane deductible or ~~in lieu of~~  
 4183 selecting the appropriate discount credit or other rate  
 4184 differential as provided in s. 627.0629. ~~If made available by~~  
 4185 ~~the insurer,~~ The insurer must provide the policyholder with  
 4186 notice of the options available under this subsection on a form  
 4187 approved by the office.

4188 Section 29. Effective April 1, 2007, section 627.7018,  
 4189 Florida Statutes, is created to read:

4190 627.7018 Standards for determining risk of coverage.--In  
 4191 determining the risk of providing property insurance coverage,  
 4192 an insurer may not deny coverage solely on the basis of the age  
 4193 of the structure and shall consider the wind resistance of the  
 4194 structure and measures undertaken by the owner to protect the  
 4195 structure against hurricane loss.

4196 Section 30. Section 627.706, Florida Statutes, is amended  
 4197 to read:

4198 627.706 Sinkhole insurance; catastrophic ground cover  
 4199 collapse; definitions.--

4200 (1) Every insurer authorized to transact property

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4201 insurance in this state shall provide coverage for a  
 4202 catastrophic ground cover collapse and shall make available, for  
 4203 an appropriate additional premium, coverage for ~~insurable~~  
 4204 sinkhole losses on any structure, including contents of personal  
 4205 property contained therein, to the extent provided in the form  
 4206 to which the ~~sinkhole~~ coverage attaches. A policy for  
 4207 residential property insurance may include a deductible amount  
 4208 applicable to sinkhole losses equal to 1 percent, 2 percent, 5  
 4209 percent, or 10 percent of the policy dwelling limits, with  
 4210 appropriate premium discounts offered with each deductible  
 4211 amount.

4212 (2) As used in ss. 627.706-627.7074, and as used in  
 4213 connection with any policy providing coverage for a catastrophic  
 4214 ground cover collapse or for sinkhole losses:

4215 (a) "Catastrophic ground cover collapse" means geological  
 4216 activity that results in all the following:

- 4217 1. The abrupt collapse of the ground cover;
- 4218 2. A depression in the ground cover clearly visible to the  
 4219 naked eye;
- 4220 3. Structural damage to the building, including the  
 4221 foundation; and
- 4222 4. The insured structure being condemned and ordered to be  
 4223 vacated by the governmental agency authorized by law to issue  
 4224 such an order for that structure.

4225  
 4226 Contents coverage applies if there is a loss resulting from a  
 4227 catastrophic ground cover collapse. Structural damage consisting  
 4228 merely of the settling or cracking of a foundation, structure,

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4229 or building does not constitute a loss resulting from a  
4230 catastrophic ground cover collapse.

4231 (b)~~(a)~~ "Sinkhole" means a landform created by subsidence  
4232 of soil, sediment, or rock as underlying strata are dissolved by  
4233 groundwater. A sinkhole may form by collapse into subterranean  
4234 voids created by dissolution of limestone or dolostone or by  
4235 subsidence as these strata are dissolved.

4236 (c)~~(b)~~ "Sinkhole loss" means structural damage to the  
4237 building, including the foundation, caused by sinkhole activity.  
4238 Contents coverage shall apply only if there is structural damage  
4239 to the building caused by sinkhole activity.

4240 (d)~~(e)~~ "Sinkhole activity" means settlement or systematic  
4241 weakening of the earth supporting such property only when such  
4242 settlement or systematic weakening results from movement or  
4243 raveling of soils, sediments, or rock materials into  
4244 subterranean voids created by the effect of water on a limestone  
4245 or similar rock formation.

4246 (e)~~(d)~~ "Professional engineer" means a person, as defined  
4247 in s. 471.005, who has a bachelor's degree or higher in  
4248 engineering with a specialty in the geotechnical engineering  
4249 field. A professional engineer must have geotechnical experience  
4250 and expertise in the identification of sinkhole activity as well  
4251 as other potential causes of damage to the structure.

4252 (f)~~(e)~~ "Professional geologist" means a person, as defined  
4253 by s. 492.102, who has a bachelor's degree or higher in geology  
4254 or related earth science with expertise in the geology of  
4255 Florida. A professional geologist must have geological  
4256 experience and expertise in the identification of sinkhole



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4257 activity as well as other potential geologic causes of damage to  
4258 the structure.

4259 (3) On or before June 1, 2007, every insurer authorized to  
4260 transact property insurance in this state shall make a proper  
4261 filing with the office for the purpose of extending the  
4262 appropriate forms of property insurance to include coverage for  
4263 catastrophic ground cover collapse or for sinkhole losses.  
4264 Coverage for catastrophic ground cover collapse may not go into  
4265 effect until the effective date provided for in the filing  
4266 approved by the office.

4267 (4) Insurers offering policies that exclude coverage for  
4268 sinkhole losses shall inform policyholders in bold type of not  
4269 less than 14 points as follows: "YOUR POLICY PROVIDES COVERAGE  
4270 FOR A CATASTROPHIC GROUND COVER COLLAPSE THAT RESULTS IN THE  
4271 PROPERTY BEING CONDEMNED AND UNINHABITABLE. OTHERWISE, YOUR  
4272 POLICY DOES NOT PROVIDE COVERAGE FOR SINKHOLE LOSSES. YOU MAY  
4273 PURCHASE ADDITIONAL COVERAGE FOR SINKHOLE LOSSES FOR AN  
4274 ADDITIONAL PREMIUM."

4275 Section 31. Effective March 1, 2007, section 627.711,  
4276 Florida Statutes, is amended to read:

4277 627.711 Notice of premium discounts for hurricane loss  
4278 mitigation; uniform mitigation verification inspection form.--

4279 (1) Using a form prescribed by the Office of Insurance  
4280 Regulation, the insurer shall clearly notify the applicant or  
4281 policyholder of any personal lines residential property  
4282 insurance policy, at the time of the issuance of the policy and  
4283 at each renewal, of the availability and the range of each  
4284 premium discount, credit, other rate differential, or reduction

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4285 in deductibles, and combinations of discounts, credits, rate  
 4286 differentials, or reductions in deductibles, for properties on  
 4287 which fixtures or construction techniques demonstrated to reduce  
 4288 the amount of loss in a windstorm can be or have been installed  
 4289 or implemented. The prescribed form shall describe generally  
 4290 what actions the policyholders may be able to take to reduce  
 4291 their windstorm premium. The prescribed form and a list of such  
 4292 ranges approved by the office for each insurer licensed in the  
 4293 state and providing such discounts, credits, other rate  
 4294 differentials, or reductions in deductibles for properties  
 4295 described in this subsection shall be available for electronic  
 4296 viewing and download from the Department of Financial Services'  
 4297 or the Office of Insurance Regulation's Internet website. The  
 4298 Financial Services Commission may adopt rules to implement this  
 4299 subsection.

4300 (2) By July 1, 2007, the Financial Services Commission  
 4301 shall develop by rule a uniform mitigation verification  
 4302 inspection form that shall be used by all insurers when  
 4303 factoring discounts for wind insurance. In developing the form,  
 4304 the commission shall seek input from insurance, construction,  
 4305 and building code representatives. Further, the commission shall  
 4306 provide guidance as to the length of time the inspection results  
 4307 are valid.

4308 Section 32. Effective July 1, 2007, section 627.712,  
 4309 Florida Statutes, is created to read:

4310 627.712 Residential hurricane coverage required;  
 4311 availability of exclusions for windstorm or contents.--

4312 (1) An insurer issuing a residential property insurance

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4313 policy must provide hurricane or windstorm coverage as defined  
 4314 in s. 627.4025. This subsection does not apply with respect to  
 4315 risks that are eligible for wind-only coverage from Citizens  
 4316 Property Insurance Corporation under s. 627.351(6).

4317 (2) An insurer that is subject to subsection (1) must make  
 4318 available, at the option of the policyholder, an exclusion of  
 4319 hurricane coverage or windstorm coverage. The coverage may be  
 4320 excluded only if:

4321 (a) The policyholder personally writes and provides to the  
 4322 insurer the following statement in his or her own handwriting  
 4323 and signs his or her name, which must also be signed by every  
 4324 other named insured on the policy, and dated: "I do not want the  
 4325 insurance on my (home / mobile home / condominium unit) to pay  
 4326 for damage from windstorms or hurricanes. I will pay those  
 4327 costs. My insurance will not."

4328 (b) If the structure insured by the policy is subject to a  
 4329 mortgage or lien, the policyholder must provide the insurer with  
 4330 a written statement from the mortgageholder or lienholder  
 4331 indicating that the mortgageholder or lienholder approves the  
 4332 policyholder electing to exclude windstorm coverage or hurricane  
 4333 coverage from his or her residential property insurance policy.

4334 (3) An insurer issuing a residential property insurance  
 4335 policy, except for a condominium unit owner's policy, must make  
 4336 available, at the option of the policyholder, an exclusion of  
 4337 coverage for the contents. The coverage may be excluded only if  
 4338 the policyholder personally writes and provides to the insurer  
 4339 the following statement in his or her own handwriting and signs  
 4340 his or her signature, which must also be signed by every other

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4341 named insured on the policy, and dated: "I do not want the  
4342 insurance on my (home / mobile home) to pay for the costs to  
4343 repair or replace any contents that are damaged. I will pay  
4344 those costs. My insurance will not."

4345 (4) An insurer shall keep the original copy of a signed  
4346 statement required by this section and provide a copy to the  
4347 policyholder providing the signed statement. A signed statement  
4348 meeting the requirements of this section creates a presumption  
4349 that there was an informed, knowing rejection of coverage.

4350 (5) The exclusions authorized by this section are valid  
4351 for the term of the contract and for each renewal unless the  
4352 policyholder elects otherwise.

4353 (6) The commission shall adopt rules providing appropriate  
4354 alternative methods for providing the statements required by  
4355 this section for policyholders who have a handicapping or  
4356 disabling condition that prevents them from providing a  
4357 handwritten statement.

4358 (7) This section is effective July 1, 2007, but the office  
4359 may delay application of this section until a date no later than  
4360 October 1, 2007, upon approval by the Financial Services  
4361 Commission.

4362 Section 33. Section 627.713, Florida Statutes, is created  
4363 to read:

4364 627.713 Report of hurricane loss data.--The office may  
4365 require property insurers to report data regarding hurricane  
4366 claims and underwriting costs, including, but not limited to:

4367 (1) Number of claims.

4368 (2) Amount of claim payments made.

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- 4369           (3) Number and amount of total-loss claims.
- 4370           (4) Amount and percentage of losses covered by reinsurance  
4371 or other loss-transfer agreements.
- 4372           (5) Amount of losses covered under specified deductibles.
- 4373           (6) Claims and payments for specified insured values.
- 4374           (7) Claims and payments for specified dollar values.
- 4375           (8) Claims and payments for specified types of  
4376 construction or mitigation features.
- 4377           (9) Claims and payments for policies under specified  
4378 underwriting criteria.
- 4379           (10) Claims and payments for contents, additional living  
4380 expense, and other specified coverages.
- 4381           (11) Claims and payments by county for the information  
4382 specified in this section.
- 4383           (12) Any other data that the office requires.
- 4384           Section 34. Effective August 1, 2007, section 627.7277,  
4385 Florida Statutes, is amended to read:
- 4386           627.7277 Notice of renewal premium.--
- 4387           (1) As used in this section, the terms "policy" and  
4388 "renewal" have the meaning ascribed in s. 627.728.
- 4389           (2) An insurer shall mail or deliver to its policyholder  
4390 at least 30 days' advance written notice of the renewal premium  
4391 for the policy.
- 4392           (3) If the insurer fails to provide the 30 days' notice of  
4393 a renewal premium that results in a premium increase, the  
4394 coverage under the policy remains in effect at the existing  
4395 rates until 30 days after the notice is given or until the  
4396 effective date of replacement coverage obtained by the insured,

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4397 whichever occurs first.

4398 (4) Every notice of renewal premium must specify:

4399 (a) The dollar amounts recouped for assessments by the  
 4400 Florida Hurricane Catastrophe Fund, the Citizens Property  
 4401 Insurance Corporation, and the Florida Insurance Guaranty  
 4402 Association. The actual names of the entities must appear next  
 4403 to the dollar amounts.

4404 (b) The dollar amount of any premium increase that is due  
 4405 to a rate increase and the dollar amounts that are due to  
 4406 coverage changes.

4407 (5) The Financial Services Commission may adopt rules  
 4408 pursuant to ss. 120.536(1) and 120.54 to implement this section.

4409 Section 35. Paragraph (e) of subsection (3) and subsection  
 4410 (4) of section 631.57, Florida Statutes, are amended to read:

4411 631.57 Powers and duties of the association.--

4412 (3)

4413 (e)1.a. In addition to assessments otherwise authorized in  
 4414 paragraph (a) and to the extent necessary to secure the funds  
 4415 for the account specified in s. 631.55(2)(c) for the direct  
 4416 payment of covered claims of insolvent homeowners insurers and  
 4417 to pay the reasonable costs to administer such claims, or to  
 4418 retire indebtedness, including, without limitation, the  
 4419 principal, redemption premium, if any, and interest on, and  
 4420 related costs of issuance of, bonds issued under s. 631.695 and  
 4421 the funding of any reserves and other payments required under  
 4422 the bond resolution or trust indenture pursuant to which such  
 4423 bonds have been issued, the office, upon certification of the  
 4424 board of directors, shall levy emergency assessments upon

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4425 insurers holding a certificate of authority. The emergency  
4426 assessments payable under this paragraph by any insurer shall  
4427 not exceed in any single year more than 2 percent of that  
4428 insurer's direct written premiums, net of refunds, in this state  
4429 during the preceding calendar year for the kinds of insurance  
4430 within the account specified in s. 631.55(2)(c).

4431 b. Any emergency assessments authorized under this  
4432 paragraph shall be levied by the office upon insurers referred  
4433 to in sub-subparagraph a., upon certification as to the need for  
4434 such assessments by the board of directors. In the event the  
4435 board of directors participates in the issuance of bonds in  
4436 accordance with s. 631.695, emergency assessments shall be  
4437 levied, in each year that bonds issued under s. 631.695 and  
4438 secured by such emergency assessments are outstanding, in such  
4439 amounts up to such 2-percent limit as required in order to  
4440 provide for the full and timely payment of the principal of,  
4441 redemption premium, if any, and interest on, and related costs  
4442 of issuance of, such bonds. The emergency assessments provided  
4443 for in this paragraph are assigned and pledged to the  
4444 municipality, county, or legal entity issuing bonds under s.  
4445 631.695 for the benefit of the holders of such bonds, in order  
4446 to enable such municipality, county, or legal entity to provide  
4447 for the payment of the principal of, redemption premium, if any,  
4448 and interest on such bonds, the cost of issuance of such bonds,  
4449 and the funding of any reserves and other payments required  
4450 under the bond resolution or trust indenture pursuant to which  
4451 such bonds have been issued, without the necessity of any  
4452 further action by the association, the office, or any other

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4453 party. To the extent bonds are issued under s. 631.695 and the  
4454 association determines to secure such bonds by a pledge of  
4455 revenues received from the emergency assessments, such bonds,  
4456 upon such pledge of revenues, shall be secured by and payable  
4457 from the proceeds of such emergency assessments, and the  
4458 proceeds of emergency assessments levied under this paragraph  
4459 shall be remitted directly to and administered by the trustee or  
4460 custodian appointed for such bonds.

4461 c. Emergency assessments under this paragraph may be  
4462 payable in a single payment or, at the option of the  
4463 association, may be payable in 12 monthly installments with the  
4464 first installment being due and payable at the end of the month  
4465 after an emergency assessment is levied and subsequent  
4466 installments being due not later than the end of each succeeding  
4467 month.

4468 d. If emergency assessments are imposed, the report  
4469 required by s. 631.695(7) shall include an analysis of the  
4470 revenues generated from the emergency assessments imposed under  
4471 this paragraph.

4472 e. If emergency assessments are imposed, the references in  
4473 sub-subparagraph (1)(a)3.b. and s. 631.695(2) and (7) to  
4474 assessments levied under paragraph (a) shall include emergency  
4475 assessments imposed under this paragraph.

4476 2. In order to ensure that insurers paying emergency  
4477 assessments levied under this paragraph continue to charge rates  
4478 that are neither inadequate nor excessive, within 90 days after  
4479 being notified of such assessments, each insurer that is to be  
4480 assessed pursuant to this paragraph shall submit a rate filing



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4481 for coverage included within the account specified in s.  
 4482 631.55(2)(c) and for which rates are required to be filed under  
 4483 s. 627.062. If the filing reflects a rate change that, as a  
 4484 percentage, is equal to the difference between the rate of such  
 4485 assessment and the rate of the previous year's assessment under  
 4486 this paragraph, the filing shall consist of a certification so  
 4487 stating and shall be deemed approved when made. Any rate change  
 4488 of a different percentage shall be subject to the standards and  
 4489 procedures of s. 627.062.

4490 3. In the event the board of directors participates in the  
 4491 issuance of bonds in accordance with s. 631.695, an annual  
 4492 assessment under this paragraph shall continue while the bonds  
 4493 issued with respect to which the assessment was imposed are  
 4494 outstanding, including any bonds the proceeds of which were used  
 4495 to refund bonds issued pursuant to s. 631.695, unless adequate  
 4496 provision has been made for the payment of the bonds in the  
 4497 documents authorizing the issuance of such bonds.

4498 4. Emergency assessments under this paragraph are not  
 4499 premium and are not subject to the premium tax, to any fees, or  
 4500 to any commissions. An insurer is liable for all emergency  
 4501 assessments that the insurer collects and shall treat the  
 4502 failure of an insured to pay an emergency assessment as a  
 4503 failure to pay the premium. An insurer is not liable for  
 4504 uncollectible emergency assessments.

4505 (4) The department may exempt any insurer from any regular  
 4506 or emergency ~~an~~ assessment if an assessment would result in such  
 4507 insurer's financial statement reflecting an amount of capital or  
 4508 surplus less than the sum of the minimum amount required by any

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4509 | jurisdiction in which the insurer is authorized to transact  
4510 | insurance.

4511 |       Section 36. It is the intent of the Legislature that the  
4512 | amendments to s. 631.57, Florida Statutes, by s. 34, chapter  
4513 | 2006-12, Laws of Florida, authorized the Florida Insurance  
4514 | Guaranty Association to certify, and the Office of Insurance  
4515 | Regulation to levy, an emergency assessment of up to 2 percent  
4516 | to directly pay the covered claims out of the account specified  
4517 | in s. 631.55(2)(c), Florida Statutes, or use such emergency  
4518 | assessment proceeds to retire the indebtedness and costs of  
4519 | bonds issued to pay such claims and reasonable claims  
4520 | administration costs.

4521 |       Section 37. Subsection (11) of section 718.111, Florida  
4522 | Statutes, is amended to read:

4523 |       718.111 The association.--

4524 |       (11) INSURANCE.--In order to protect the safety, health,  
4525 | and welfare of the people of the State of Florida and to ensure  
4526 | consistency in the provision of insurance coverage to  
4527 | condominiums and their unit owners, paragraphs (b) and (c) are  
4528 | deemed to apply to every residential condominium in the state,  
4529 | regardless of the date of its declaration of condominium. It is  
4530 | the intent of the Legislature to encourage lower or stable  
4531 | insurance premiums for associations described in this section.  
4532 | Therefore, the Legislature requires a report to be prepared by  
4533 | the Office of Insurance Regulation of the Department of  
4534 | Financial Services for publication 18 months from the effective  
4535 | date of this act, evaluating premium increases or decreases for  
4536 | associations, unit owner premium increases or decreases,

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4537 recommended changes to better define common areas, or any other  
4538 information the Office of Insurance Regulation deems  
4539 appropriate.

4540 (a) A unit-owner controlled association operating a  
4541 residential condominium shall use its best efforts to obtain and  
4542 maintain adequate insurance to protect the association, the  
4543 association property, the common elements, and the condominium  
4544 property required to be insured by the association pursuant to  
4545 paragraph (b). If the association is developer controlled, the  
4546 association shall exercise due diligence to obtain and maintain  
4547 such insurance. Failure to obtain and maintain adequate  
4548 insurance during any period of developer control shall  
4549 constitute a breach of fiduciary responsibility by the  
4550 developer-appointed members of the board of directors of the  
4551 association, unless said members can show that despite such  
4552 failure, they have exercised due diligence. The declaration of  
4553 condominium as originally recorded, or amended pursuant to  
4554 procedures provided therein, may require that condominium  
4555 property consisting of freestanding buildings where there is no  
4556 more than one building in or on such unit need not be insured by  
4557 the association if the declaration requires the unit owner to  
4558 obtain adequate insurance for the condominium property. An  
4559 association may also obtain and maintain liability insurance for  
4560 directors and officers, insurance for the benefit of association  
4561 employees, and flood insurance for common elements, association  
4562 property, and units. Adequate insurance, regardless of any  
4563 requirement in the declaration of condominium for coverage by  
4564 the association for "full insurable value," "replacement cost,"

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4565 or the like, may include reasonable deductibles as determined by  
4566 the board based upon available funds or predetermined assessment  
4567 authority at the time that the insurance is obtained.

4568 1. Windstorm insurance coverage for a group of no fewer  
4569 than three communities created and operating under chapter 718,  
4570 chapter 719, chapter 720, or chapter 721 may be obtained and  
4571 maintained for the communities if the insurance coverage is  
4572 sufficient to cover an amount equal to the probable maximum loss  
4573 for the communities for a 250-year windstorm event. Such  
4574 probable maximum loss must be determined through the use of a  
4575 competent model that has been accepted by the Florida Commission  
4576 on Hurricane Loss Project Methodology. Such insurance coverage  
4577 is deemed adequate windstorm insurance for the purposes of this  
4578 section.

4579 2. An association or group of associations may self-insure  
4580 against claims against the association, the association  
4581 property, and the condominium property required to be insured by  
4582 an association, upon compliance with the applicable provisions  
4583 of ss. 624.460-624.488, which shall be considered adequate  
4584 insurance for the purposes of this section. A copy of each  
4585 policy of insurance in effect shall be made available for  
4586 inspection by unit owners at reasonable times.

4587 (b) Every hazard insurance policy issued or renewed on or  
4588 after January 1, 2004, to protect the condominium shall provide  
4589 primary coverage for:

4590 1. All portions of the condominium property located  
4591 outside the units;

4592 2. The condominium property located inside the units as

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4593 such property was initially installed, or replacements thereof  
 4594 of like kind and quality and in accordance with the original  
 4595 plans and specifications or, if the original plans and  
 4596 specifications are not available, as they existed at the time  
 4597 the unit was initially conveyed; and

4598         3. All portions of the condominium property for which the  
 4599 declaration of condominium requires coverage by the association.

4600

4601 Anything to the contrary notwithstanding, the terms "condominium  
 4602 property," "building," "improvements," "insurable improvements,"  
 4603 "common elements," "association property," or any other term  
 4604 found in the declaration of condominium which defines the scope  
 4605 of property or casualty insurance that a condominium association  
 4606 must obtain shall exclude all floor, wall, and ceiling  
 4607 coverings, electrical fixtures, appliances, air conditioner or  
 4608 heating equipment, water heaters, water filters, built-in  
 4609 cabinets and countertops, and window treatments, including  
 4610 curtains, drapes, blinds, hardware, and similar window treatment  
 4611 components, or replacements of any of the foregoing which are  
 4612 located within the boundaries of a unit and serve only one unit  
 4613 and all air conditioning compressors that service only an  
 4614 individual unit, whether or not located within the unit  
 4615 boundaries. The foregoing is intended to establish the property  
 4616 or casualty insuring responsibilities of the association and  
 4617 those of the individual unit owner and do not serve to broaden  
 4618 or extend the perils of coverage afforded by any insurance  
 4619 contract provided to the individual unit owner. Beginning  
 4620 January 1, 2004, the association shall have the authority to

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4621 amend the declaration of condominium, without regard to any  
 4622 requirement for mortgagee approval of amendments affecting  
 4623 insurance requirements, to conform the declaration of  
 4624 condominium to the coverage requirements of this section.

4625 (c) Every hazard insurance policy issued or renewed on or  
 4626 after January 1, 2004, to an individual unit owner shall provide  
 4627 that the coverage afforded by such policy is excess over the  
 4628 amount recoverable under any other policy covering the same  
 4629 property. Each insurance policy issued to an individual unit  
 4630 owner providing such coverage shall be without rights of  
 4631 subrogation against the condominium association that operates  
 4632 the condominium in which such unit owner's unit is located. All  
 4633 real or personal property located within the boundaries of the  
 4634 unit owner's unit which is excluded from the coverage to be  
 4635 provided by the association as set forth in paragraph (b) shall  
 4636 be insured by the individual unit owner.

4637 (d) The association shall obtain and maintain adequate  
 4638 insurance or fidelity bonding of all persons who control or  
 4639 disburse funds of the association. The insurance policy or  
 4640 fidelity bond must cover the maximum funds that will be in the  
 4641 custody of the association or its management agent at any one  
 4642 time. As used in this paragraph, the term "persons who control  
 4643 or disburse funds of the association" includes, but is not  
 4644 limited to, those individuals authorized to sign checks and the  
 4645 president, secretary, and treasurer of the association. The  
 4646 association shall bear the cost of bonding.

4647 Section 38. Task Force on Citizens Property Insurance  
 4648 Claims Handling and Resolution.--

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4649           (1) TASK FORCE CREATED.--There is created the Task Force  
 4650 on Citizens Property Insurance Claims Handling and Resolution.

4651           (2) ADMINISTRATION.--The task force shall be  
 4652 administratively housed within the Office of the Chief Financial  
 4653 Officer but shall operate independently of any state officer or  
 4654 agency. The Office of the Chief Financial Officer shall provide  
 4655 such administrative support as the task force deems necessary to  
 4656 accomplish its mission and shall provide necessary funding for  
 4657 the task force within its existing resources. The Executive  
 4658 Office of the Governor, the Department of Financial Services,  
 4659 and the Office of Insurance Regulation shall provide substantive  
 4660 staff support for the task force.

4661           (3) MEMBERSHIP.--The members of the task force shall be  
 4662 appointed as follows:

4663           (a) The Governor shall appoint one member who is a  
 4664 representative of insurance consumers.

4665           (b) The Chief Financial Officer shall appoint one member  
 4666 who has expertise in claims handling.

4667           (c) The President of the Senate shall appoint one member.

4668           (d) The Speaker of the House of Representatives shall  
 4669 appoint one member.

4670           (e) The Commissioner of Insurance Regulation, or his or  
 4671 her designee, shall serve as an ex officio voting member of the  
 4672 task force.

4673           (f) The Insurance Consumer Advocate, or his or her  
 4674 designee, shall serve as an ex officio voting member of the task  
 4675 force.

4676           (g) The Executive Director of Citizens Property Insurance

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4677 Corporation, or his or her designee, shall serve as an ex  
4678 officio voting member of the task force.

4679  
4680 Members of the task force shall serve without compensation but  
4681 are entitled to receive reimbursement for per diem and travel  
4682 expenses as provided in s. 112.061, Florida Statutes.

4683 (4) PURPOSE AND INTENT.--The Legislature recognizes that  
4684 policyholders and applicants of Citizens Property Insurance  
4685 Corporation should receive the highest possible level of service  
4686 and treatment. This level should never be less than the private  
4687 market. The Legislature further recognizes that Citizens  
4688 Property Insurance Corporation's service standards should be no  
4689 less than those applied to insurers in the voluntary market with  
4690 respect to responsiveness, timeliness, customer courtesy, and  
4691 overall dealings with policyholders and applicants. The purpose  
4692 of the task force is to make recommendations to the legislative  
4693 and executive branches of this state's government relating to  
4694 the handling, service, and resolution of claims by Citizens  
4695 Property Insurance Corporation that are sufficient to ensure  
4696 that all Citizens' policyholders and applicants in this state  
4697 are able to obtain appropriate handling, service, and resolution  
4698 of claims, as further described in this section.

4699 (5) SPECIFIC ISSUES.--The task force shall conduct such  
4700 research and hearings as it deems necessary to achieve the  
4701 purposes specified in subsection (4) and shall develop  
4702 information on relevant issues, including, but not limited to,  
4703 the following:

4704 (a) How Citizens Property Insurance Corporation can



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4705 improve its customer service.

4706 (b) How Citizens Property Insurance Corporation can  
 4707 improve its adjuster response time after a hurricane.

4708 (c) How Citizens Property Insurance Corporation can  
 4709 efficiently use its available adjusting sources for claims.

4710 (d) How Citizens Property Insurance Corporation can  
 4711 improve the time it takes to conduct damage assessments.

4712 (e) How Citizens Property Insurance Corporation can  
 4713 dispose of and settle claims remaining from the 2004 and 2005  
 4714 hurricane seasons and can improve the time it takes to dispose  
 4715 of and settle claims remaining from the 2004 and 2005 hurricane  
 4716 seasons.

4717 (f) How Citizens Property Insurance Corporation can  
 4718 improve the time it takes to dispose of and settle claims.

4719 (g) Whether Citizens Property Insurance Corporation has  
 4720 hired an adequate level of permanent claims and adjusting staff  
 4721 in addition to outsourcing its claims-adjusting functions to  
 4722 independent adjusting firms.

4723 (6) REPORTS AND RECOMMENDATIONS.--By July 1, 2007, the  
 4724 task force shall provide a report containing recommendations  
 4725 regarding the process Citizens Property Insurance Corporation  
 4726 should use to dispose of the claims remaining open from the 2004  
 4727 and 2005 hurricane seasons. By July 1, 2008, the task force  
 4728 shall provide a report containing findings relating to the  
 4729 issues identified in subsection (5) and recommendations  
 4730 consistent with the purposes of this section and also consistent  
 4731 with such findings. The report shall include recommendations  
 4732 regarding the process Citizens Property Insurance Corporation

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4733 should use to dispose of claims. The task force shall submit the  
 4734 reports to the Governor, the Chief Financial Officer, the  
 4735 President of the Senate, and the Speaker of the House of  
 4736 Representatives. The task force may also submit such interim  
 4737 reports as it deems appropriate.

4738 (7) ADDITIONAL ACTIVITIES.--The task force shall monitor  
 4739 the implementation of the provisions of chapter 2006-12, Laws of  
 4740 Florida, relating to the creation of the Office of Internal  
 4741 Auditor in Citizens Property Insurance Corporation and shall  
 4742 make such additional recommendations as it deems appropriate for  
 4743 further legislative action during the 2006-2008 legislative  
 4744 biennium.

4745 (8) EXPIRATION.--The task force shall expire at the end of  
 4746 the 2006-2008 legislative biennium.

4747 Section 39. Windstorm Mitigation Study Committee.--

4748 (1) (a) The Windstorm Mitigation Study Committee is created  
 4749 and shall be composed of eight members as follows:

4750 1. Two members shall be appointed by the Governor, with  
 4751 one designated by the Governor to serve as chair.

4752 2. Two members shall be appointed by the Chief Financial  
 4753 Officer.

4754 3. Two members shall be appointed by the President of the  
 4755 Senate.

4756 4. Two members shall be appointed by the Speaker of the  
 4757 House of Representatives.

4758 (b) Each member must be knowledgeable of issues concerning  
 4759 the mitigation of the effects of windstorms on structures in  
 4760 this state and at least one member must represent primarily the

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4761 interests of homeowners.

4762 (2) (a) The members of the committee shall serve without  
4763 compensation, but are entitled to reimbursement for all  
4764 necessary expenses incurred in performing their duties,  
4765 including travel expenses, in accordance with s. 112.061,  
4766 Florida Statutes. Reimbursements for travel shall be paid by the  
4767 appointing entity.

4768 (b) The committee shall meet as necessary, at the call of  
4769 the chair, and at the time and place designated by the chair.  
4770 The committee may conduct its meetings through teleconferences  
4771 or other similar means. The first meeting of the committee shall  
4772 occur no later than February 9, 2007.

4773 (3) The Department of Financial Services, the Office of  
4774 Insurance Regulation, the Citizens Property Insurance  
4775 Corporation, and other agencies of this state shall supply any  
4776 information, assistance, and facilities that are considered  
4777 necessary by the committee to carry out its duties under this  
4778 section. The department shall provide staff assistance as  
4779 necessary in order to carry out the required clerical and  
4780 administrative functions of the committee.

4781 (4) The committee shall analyze those solutions and  
4782 programs that address the state's acute need to mitigate the  
4783 effects of windstorms on structures, especially residential  
4784 property that is located in areas at greatest risk of windstorm  
4785 damage, including programs or proposals that provide for:

4786 (a) The availability of home inspections for windstorm  
4787 resistance.

4788 (b) Grants to assist homeowners, and possibly other groups

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4789 of property owners, to harden their property against windstorm  
4790 damage.

4791 (c) The full actuarial value to be reflected in premium  
4792 credits for windstorm mitigation.

4793 (d) The most effective way to inform policyholders of the  
4794 availability of and means by which to obtain premium credits for  
4795 windstorm mitigation.

4796 (e) Coordination among federal, local, and private  
4797 initiatives.

4798 (f) Streamlining or strengthening applicable state,  
4799 regional, and local regulations.

4800 (g) The stimulation of public and private efforts to  
4801 mitigate against windstorm injury and damage.

4802 (h) The discovery and assessment of funding sources for  
4803 windstorm mitigation.

4804 (i) Tax incentives for windstorm mitigation.

4805 (j) Consumer information concerning the benefits of  
4806 windstorm mitigation, including personal safety as well as  
4807 property security.

4808 (k) Research on windstorm mitigation.

4809

4810 The committee may develop any other solutions and programs that  
4811 it considers appropriate.

4812 (5) In performing its analysis, the committee shall  
4813 consider both the safety of the residents of this state and the  
4814 protection of real property, especially residential. In  
4815 addition, the committee shall consider both short-term and long-  
4816 term solutions and programs.

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4817       (6) The committee shall review, evaluate, and make  
4818 recommendations regarding existing and proposed programs and  
4819 initiatives for mitigating windstorm damage.

4820       (7) The committee shall provide recommendations, including  
4821 proposed legislation, to the Governor, the President of the  
4822 Senate, the Speaker of the House of Representatives, the Chief  
4823 Financial Officer, and the Commissioner of Insurance Regulation  
4824 by March 6, 2007.

4825       (8) The committee shall expire on May 15, 2007.

4826       Section 40. The Financial Services Commission shall adopt  
4827 a uniform home grading scale to grade the ability of a home to  
4828 withstand the wind load from a sustained severe tropical storm  
4829 or hurricane. The commission shall coordinate with the Office of  
4830 Insurance Regulation, the Department of Financial Services, and  
4831 the Department of Community Affairs in developing the grading  
4832 scale, which must be based upon and consistent with the rating  
4833 system required by chapter 2006-12, Laws of Florida. The  
4834 commission shall adopt the uniform grading scale by rule no  
4835 later than June 30, 2007.

4836       Section 41. Florida Disaster Recovery Program.--

4837       (1) The Department of Community Affairs shall implement  
4838 the 2006 Disaster Recovery Program from funds provided through  
4839 the Emergency Supplemental Appropriations Act for Defense, the  
4840 Global War on Terror, and Hurricane Recovery, 2006, for the  
4841 purpose of assisting local governments in satisfying disaster-  
4842 recovery needs in the areas of low-income housing and  
4843 infrastructure, with a primary focus on the hardening of single-  
4844 family and multifamily housing units, not only to ensure that

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4845 affordable housing can withstand the effects of hurricane-force  
 4846 winds, but also to mitigate the increasing costs of insurance,  
 4847 which may ultimately render existing affordable homes  
 4848 unaffordable or uninsurable. This section does not create an  
 4849 entitlement for local governments or property owners or obligate  
 4850 the state in any way to fund disaster-recovery needs.

4851 (2) Entitlement and nonentitlement counties identified  
 4852 under the Federal Disaster Declaration (FEMA-1609-DR), federally  
 4853 recognized Indian tribes, and nonprofit organizations are  
 4854 eligible to apply for funding.

4855 (3) Up to 78 percent of these funds may be used to  
 4856 complement the grants awarded by the Department of Financial  
 4857 Services under s. 215.5586, Florida Statutes, and fund other  
 4858 eligible disaster-related activities supporting housing  
 4859 rehabilitation, hardening, mitigation, and infrastructure  
 4860 improvements at the request of the local governments in order to  
 4861 assist the State of Florida in better serving low-income  
 4862 homeowners in single-family housing units, including, but not  
 4863 limited to, condominiums. Up to 20 percent of the funds may be  
 4864 used to provide inspections and mitigation improvements to  
 4865 multifamily units receiving rental assistance under projects of  
 4866 the United States Department of Housing and Urban Development or  
 4867 the Rural Development Division of the United States Department  
 4868 of Agriculture.

4869 (4) For the 2006-2007 fiscal year, the sum of \$100,066,518  
 4870 is appropriated in a Grant in Aid - Fixed Capital Outlay  
 4871 appropriation category from the Florida Small Cities Community  
 4872 Development Block Grant Program Fund to the Department of

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4873 Community Affairs for the purpose of implementing the provisions  
4874 of this section. These funds shall be used in a manner  
4875 consistent with Federal Register, Vol. 71, No. 209, Docket No.  
4876 FR-5089-N-01, and the State of Florida Action Plan for Disaster  
4877 Recovery as approved by the United States Department of Housing  
4878 and Urban Development.

4879 Section 42. Effective January 1, 2008, no insurer writing  
4880 private passenger automobile insurance in this state may  
4881 continue to write such insurance if the insurer writes  
4882 homeowners' insurance in another state but not in this state  
4883 unless the insurer writing private passenger automobile  
4884 insurance in this state is affiliated with an insurer writing  
4885 homeowners' insurance in this state.

4886 Section 43. It is the intent of the Legislature to create  
4887 during the 2007 Legislative Session a grant program to assist  
4888 persons whose income does not exceed that of "low-income  
4889 persons" as defined in s. 420.602(8), Florida Statutes, for the  
4890 purpose of purchasing property insurance to protect their  
4891 homestead property.

4892 Section 44. Effective July 1, 2007, subsection (6) of  
4893 section 627.0629, Florida Statutes, is repealed.

4894 Section 45. For the 2006-2007 fiscal year, there is  
4895 appropriated \$2 million from the Department of Financial  
4896 Services' Insurance Regulatory Trust Fund to the Department of  
4897 Financial Services for the purposes of implementing section 40  
4898 of this act.

4899 Section 46. Effective February 1, 2007, the sum of  
4900 \$105,000 is appropriated from the Insurance Regulatory Trust

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4901 Fund and 193,000 in associated rate is provided to the Office of  
 4902 Insurance Regulation for the purpose of granting competitive pay  
 4903 adjustments for actuaries employed within the office.  
 4904 Adjustments shall be provided at the discretion of the  
 4905 Commissioner of Insurance Regulation.

4906       Section 47. If any provision of this act or its  
 4907 application to any person or circumstance is held invalid, the  
 4908 invalidity does not affect other provisions or applications of  
 4909 the act which can be given effect without the invalid provision  
 4910 or application, and to this end the provisions of this act are  
 4911 severable.

4912       Section 48. Except as otherwise expressly provided in this  
 4913 act, this act shall take effect upon becoming a law.