

1
2 An act relating to property and casualty
3 insurance; amending s. 215.555, F.S.;
4 redefining the term "losses" for purposes of
5 the Florida Hurricane Catastrophe Fund;
6 allowing limited apportionment companies to
7 purchase additional coverage amounts from the
8 fund; revising certain reimbursement contract
9 criteria; revising certain reimbursement
10 premium requirements; specifying procedures for
11 Citizens Property Insurance Corporation to
12 obtain coverage for certain policies from the
13 fund; deleting a requirement that bonds be
14 validated; revising certain revenue bond
15 emergency assessment requirements; specifying
16 premiums that are subject to assessment;
17 revising the date on which the exemption of
18 medical malpractice premiums from emergency
19 assessments is repealed; creating s. 215.5586,
20 F.S.; establishing the Florida Comprehensive
21 Hurricane Damage Mitigation Program within the
22 Department of Financial Services; providing
23 qualifications for the program administrator;
24 providing program components and requirements;
25 providing for wind certification and hurricane
26 mitigation inspections; providing inspection
27 requirements; providing inspector eligibility
28 requirements; providing for grants; providing
29 grant requirements; for loans; providing public
30 education and consumer awareness requirements;
31 amending s. 215.559, F.S.; creating the

1 Manufactured Housing and Mobile Home Mitigation
2 and Enhancement Program for specified purposes;
3 requiring Tallahassee Community College to
4 develop the program in consultation with
5 certain entities; specifying requirements of
6 the program as to certain concerns of the
7 Department of Highway Safety and Motor Vehicles
8 relating to manufactured homes and mobile
9 homes; specifying that the program is a grant
10 program for the improvement of mobile home and
11 manufactured home parks; providing for the
12 distribution of the grants to Tallahassee
13 Community College for specified purposes;
14 requiring the Citizens Property Insurance
15 Corporation to grant certain insurance
16 discounts, credits, rate differentials, or
17 reductions in deductibles for property
18 insurance premiums for owners of manufactured
19 homes or mobile homes; specifying criteria for
20 such premiums; specifying funding for tie-down
21 enhancement systems; requiring Tallahassee
22 Community College to provide an annual report
23 on the program to the Governor and the
24 Legislature; providing requirements relating to
25 the report; providing an appropriation;
26 creating s. 215.5595, F.S.; providing
27 legislative findings concerning the
28 appropriation of state funds to be used as
29 surplus notes for residential property
30 insurers; providing conditions and requirements
31 for the issuance of surplus notes to new or

1 existing residential property insurers under
2 the Insurance Capital Build-Up Incentive
3 Program; providing for the program to be
4 administered by the State Board of
5 Administration; limiting the amount of a
6 surplus note; requiring that an insurer
7 maintain a specified ratio of net written
8 premium to surplus for the term of the note;
9 providing for the term of a surplus note and
10 the rate of interest; providing that the state
11 is a creditor for unpaid principal and interest
12 on a surplus note; requiring the board to adopt
13 emergency rules; providing requirements for the
14 investment of appropriated funds; creating s.
15 252.63, F.S.; providing purpose and intent;
16 providing powers of the Commissioner of
17 Insurance Regulation during a state of
18 emergency; authorizing the commissioner to
19 issue certain orders in a state of emergency;
20 providing for effect and duration of such
21 orders; providing for legislative termination
22 of such orders; requiring the commissioner to
23 publish such orders and an explanatory
24 statement; creating s. 626.8795, F.S.;
25 prohibiting a public adjuster from engaging in
26 certain activities that constitute a conflict
27 of interest; providing an appropriation;
28 amending s. 627.0613, F.S.; revising powers of
29 the consumer advocate of the Chief Financial
30 Officer with respect to appearance in certain
31 proceedings; amending s. 626.918, F.S.;

1 authorizing certain letters of credit to fund a
2 surplus lines insurer's required policyholder
3 protection trust fund; defining the term
4 "qualified United States financial
5 institution"; amending s. 627.062, F.S.;
6 requiring the Office of Insurance Regulation to
7 approve a rating factor relative to an
8 insurer's rate of return; specifying certain
9 rate filings as not subject to office
10 determination as excessive or unfairly
11 discriminatory; providing limitations;
12 providing a definition; prohibiting certain
13 rate filings under certain circumstances;
14 preserving the office's authority to disapprove
15 certain rate filings under certain
16 circumstances; providing procedures for
17 insurers submitting certain rate filings;
18 revising provisions providing for recoupment of
19 certain reinsurance costs; specifying
20 nonapplication to certain types of insurance;
21 providing that the burden is on the Office of
22 Insurance Regulation to establish that certain
23 rates are excessive; amending s. 627.0628,
24 F.S.; authorizing certain determinations to be
25 made in a rate hearing regarding the
26 assumptions and factors found to be accurate or
27 reliable by the Florida Commission on Hurricane
28 Loss Projection Methodology; amending s.
29 627.06281, F.S.; requiring the public hurricane
30 loss-projection model to be submitted for
31 review by the Florida Commission on Hurricane

1 Loss Projection Methodology; allowing the
2 Office of Insurance Regulation to use the
3 public model until the commission determines
4 that the public model is not accurate or
5 reliable; amending s. 627.0629, F.S.; requiring
6 that the office reevaluate the rate
7 differentials for construction techniques that
8 meet the requirements of the Florida Building
9 Code; amending s. 627.351, F.S.; providing that
10 certain responsibilities of the Office of
11 Insurance Regulation with respect to the plan
12 of operation of Citizens Property Insurance
13 Corporation be assumed by the Financial
14 Services Commission; defining the terms
15 "homestead property" and "nonhomestead
16 property" for use with respect to Citizens
17 Property Insurance Corporation; limiting
18 eligibility for personal lines coverage by the
19 corporation; directing the corporation board to
20 reduce or, with approval by necessary parties,
21 restructure existing debt; requiring a report
22 with respect thereto; providing for a reduction
23 in aggregate amount of a regular assessment in
24 certain circumstances; authorizing the board of
25 governors of the corporation to levy an
26 assessment if certain deficits occur; requiring
27 the board to levy an assessment against
28 nonhomestead policyholders; authorizing
29 additional assessments against all
30 policyholders of the corporation under certain
31 circumstances; providing accounting

1 requirements; authorizing the corporation to
2 adopt policy forms that contain more
3 restrictive coverage; requiring the executive
4 director of the corporation to be confirmed by
5 the Senate; deleting authority of the Chief
6 Financial Officer to review corporate
7 employees; prescribing a 10-day waiting period
8 for applications for coverage for a new policy;
9 authorizing exceptions; redesignating the
10 market equalization surcharge as a Citizens
11 policyholder surcharge and providing for its
12 calculation; revising the liability of limited
13 apportionment companies for regular
14 assessments; providing for optional payment
15 plans; requiring insurers to provide
16 claims-adjusting services for certain wind
17 coverage in certain circumstances; requiring
18 the corporation to limit coverage on certain
19 mobile homes; requiring prospective senior
20 management employees of the corporation to
21 successfully pass a background check; requiring
22 employees of the corporation to sign annually a
23 statement that they have no conflict of
24 interest; providing that senior managers and
25 members of the board of governors are subject
26 to the code of ethics and must file financial
27 disclosure; prohibiting employees and members
28 of the board of governors from accepting gifts
29 or expenditures from a persons or entity, or
30 employee thereof, which has or is under
31 consideration for a contract with the

1 corporation; providing penalties; providing a
2 limitation on senior managers' representation
3 of persons before the corporation after
4 retirement or termination of employment and on
5 employment with an insurer that has received a
6 take-out bonus; prescribing guidelines for
7 purchases of goods and services; providing
8 guidelines on use of outside counsel;
9 prohibiting the corporation from retaining a
10 lobbyist; authorizing full-time employees to
11 register and engage in lobbying; creating the
12 Office of Internal Auditor and prescribing its
13 duties; providing record-retention
14 requirements; requiring establishment of a unit
15 or division to investigate claims involving
16 possible fraud against the corporation and
17 another to receive and respond to consumer
18 complaints; requiring employees of the
19 corporation to report suspected fraud;
20 requiring a periodic comprehensive market
21 conduct examination of the corporation;
22 requiring periodic operational audits of the
23 corporation by the Auditor General; prescribing
24 elements to be included in such audits;
25 providing requirements for the office with
26 respect to rate filings; specifying
27 circumstances under which a rate is deemed
28 inadequate for certain policies; requiring the
29 rate for certain policies to be based on
30 certain loss events; providing a rate surcharge
31 for certain nonhomestead property and property

1 | valued at more than a certain amount; providing
2 | that rates for the corporation are not subject
3 | to the requirements for being noncompetitive if
4 | the Office of Insurance Regulation makes a
5 | certain determination; deleting provisions
6 | relating to appointment of a rate methodology
7 | panel; providing for use of the public
8 | hurricane loss-projection model in ratemaking;
9 | prescribing requirements for paying takeout
10 | bonuses or payments to insurers; requiring
11 | records of takeout bonuses or other payments
12 | for certain purposes; clarifying that debt
13 | obligations of the corporation are not subject
14 | to taxation; prohibiting the corporation and
15 | other persons from making certain filings
16 | under, or becoming a debtor under, the federal
17 | Bankruptcy Code; authorizing the corporation to
18 | assume the policies of an insurer placed in
19 | liquidation under conditions approved by the
20 | office; postponing the dates by which the
21 | boundaries of high-risk areas must be reduced;
22 | requiring a study of the viability of
23 | authorized insurers issuing and servicing, for
24 | a fee, certain high-risk insurance policies;
25 | requiring a report to legislative leaders;
26 | providing that insurance agents are not liable
27 | for certain action; requiring that the
28 | corporation make certain information concerning
29 | policies ineligible for renewal available to
30 | licensed general lines agents unless the
31 | policyholder has requested that the corporation

1 withhold such information; providing
2 registration requirements in order for an agent
3 to obtain such information; authorizing a
4 registered agent to contact and assist a
5 policyholder in securing a replacement policy;
6 providing applicability of specified provisions
7 relating to assessments and surcharges;
8 amending s. 627.3511, F.S.; extending the
9 period for which an insurer that assumes
10 Citizens Property Insurance Corporation's
11 obligations under a policy must renew the
12 replacement policy; revising circumstances
13 under which replacement is not required;
14 amending s. 627.3512, F.S.; authorizing a
15 limited apportionment company to recoup
16 assessments levied by Citizens Property
17 Insurance Corporation; amending s. 627.3517,
18 F.S.; providing that an insurance risk
19 apportionment plan policyholder's right to
20 retain his or her current agent does not apply
21 during the first 10 days after a new
22 application for coverage has been submitted to
23 Citizens Property Insurance Corporation;
24 creating s. 627.3519, F.S.; requiring the
25 Financial Services Commission to report
26 annually to the Legislature on probable maximum
27 losses, financing options, and assessment
28 potentials of the Florida Hurricane Catastrophe
29 Fund and Citizens Property Insurance
30 Corporation; amending s. 627.4035, F.S. ;
31 providing for a waiver of a written

1 authorization requirement to pay claims by
2 debit card or other electronic transfer;
3 creating s. 627.6121, F.S.; prescribing
4 circumstances under which an insurer must pay
5 benefits to a primary policyholder of dual
6 interest property; amending s. 627.7011, F.S.;
7 limiting certain law and ordinance coverage;
8 providing that the section does not prohibit an
9 insurer from limiting its liability concerning
10 certain replacement costs; creating s.
11 627.7019, F.S.; requiring the Financial
12 Services Commission to adopt rules imposing
13 standardized requirements applicable to
14 insurers after certain natural events;
15 providing criteria; providing requirements of
16 the Office of Insurance Regulation; amending s.
17 627.706, F.S.; allowing for a deductible amount
18 applicable to sinkhole losses in a policy for
19 residential property insurance; defining the
20 term "professional engineer"; amending s.
21 627.707, F.S.; revising references to certain
22 engineers; authorizing insurers to make direct
23 payment for certain repairs; excluding insurers
24 from liability for repairs under certain
25 circumstances; amending s. 627.7072, F.S.;
26 revising references to certain engineers;
27 deleting a standard for testing; amending s.
28 627.7073, F.S.; revising requirements for
29 sinkhole reports by professional engineers and
30 professional geologists; providing for the
31 recording of sinkhole reports by the clerk of

1 court rather than the property appraiser;
2 providing that the recording of the report and
3 certification does not constitute certain
4 restrictions or create certain causes of action
5 or liabilities; creating s. 627.7074, F.S.;
6 prescribing an alternative method for resolving
7 disputed sinkhole insurance claims; providing
8 definitions; prescribing procedures for
9 invoking the alternative method; providing that
10 a recommendation by a neutral evaluator is not
11 binding on any party; providing for payments of
12 costs; requiring the insurer to pay attorney's
13 fees of the policyholder up to a specified
14 amount under certain conditions; providing that
15 an insurer is not liable for attorney's fees or
16 for certain damages under certain conditions;
17 amending s. 627.727, F.S.; conforming a
18 cross-reference; amending s. 631.181, F.S.;
19 providing an exception to certain requirements
20 for a signed statement for certain claims
21 related to the insolvency of an insurer;
22 providing requirements; amending s. 631.54,
23 F.S.; redefining the term "covered claim" and
24 defining the term "homeowner's insurance" for
25 purposes of the Florida Insurance Guaranty
26 Association; amending s. 631.55, F.S.;
27 conforming a cross-reference; amending s.
28 631.57, F.S.; revising requirements and
29 limitations for obligations of the Florida
30 Insurance Guaranty Association for covered
31 claims; authorizing the association to contract

1 with counties, municipalities, and legal
2 entities to issue revenue bonds for certain
3 purposes; authorizing the Office of Insurance
4 Regulation to levy assessments and emergency
5 assessments on insurers under certain
6 circumstances for certain bond repayment
7 purposes; providing requirements for and
8 limitations on such assessments; providing for
9 payment, collection, and distribution of such
10 assessments; requiring insurers to include an
11 analysis of revenues from such assessments in a
12 required report; providing rate filing
13 requirements for insurers relating to such
14 assessments; providing for continuing annual
15 assessments under certain circumstances;
16 specifying emergency assessments as not premium
17 and not subject to certain taxes, fees, or
18 commissions; specifying insurer liability for
19 emergency assessments; providing an exception;
20 creating s. 631.695, F.S.; providing
21 legislative findings and purposes; providing
22 for issuance of revenue bonds through counties
23 and municipalities to fund assistance programs
24 for paying covered claims for hurricane damage;
25 providing procedures, requirements, and
26 limitations for counties, municipalities, and
27 the Florida Insurance Guaranty Association,
28 Inc., relating to issuance and validation of
29 such bonds; prohibiting pledging the funds,
30 credit, property, and taxing power of the
31 state, counties, and municipalities for payment

1 of bonds; specifying authorized uses of bond
2 proceeds; limiting the term of bonds;
3 specifying a state covenant to protect
4 bondholders from adverse actions relating to
5 such bonds; specifying exemptions for bonds,
6 notes, and other obligations of counties and
7 municipalities from certain taxes or
8 assessments on property and revenues;
9 authorizing counties and municipalities to
10 create a legal entity to exercise certain
11 powers; requiring the association to issue an
12 annual report on the status of certain uses of
13 bond proceeds; providing report requirements;
14 requiring the association to provide a copy of
15 the report to the Legislature and Chief
16 Financial Officer; prohibiting repeal of
17 certain provisions relating to certain bonds
18 under certain circumstances; amending s.
19 877.02, F.S.; prohibiting certain solicitations
20 by contractors and other persons providing
21 sinkhole remediation services; providing
22 penalties; requiring the Office of Insurance
23 Regulation to submit reports to the Legislature
24 relating to the insurability of certain
25 attached or free-standing structures and
26 relating to an objective rating system for
27 homes; requiring the Office of Insurance
28 Regulation to calculate a presumed factor that
29 reflects certain provisions of the act related
30 to sinkhole claims and by ss. 17, 18, 19, 20,
31 and 21 of ch. 2005-111, Laws of Florida;

1 providing procedures; requiring residential
2 property insurers to use the presumed factor in
3 calculating rates after a specified date;
4 providing appropriations; requiring that an
5 appropriation be transferred to Citizens
6 Property Insurance Corporation to reduce the
7 amount of the regular assessment for a
8 specified deficit; requiring the corporation to
9 notify assessable insurers of the amount by
10 which assessments have been reduced; requiring
11 insurers who recoup assessments to notify
12 policyholders of the amount by which the
13 surcharge has been reduced; providing penalties
14 for a violation; defining terms; requiring that
15 emergency assessments be amortized over a
16 specified period; repealing s. 215.559(3),
17 F.S.; deleting the requirement that the
18 Department of Community Affairs develop a
19 low-interest loan program for retrofitting
20 homes; amending s. 627.701, F.S.; allowing
21 insurers to offer the insured certain
22 deductible options; amending s. 627.4133, F.S.;
23 defining the term "nonpayment of premium" for
24 purposes of insurance contracts; providing
25 effective dates.

26

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

28

29 Section 1. Effective June 1, 2006, paragraph (d) of
30 subsection (2), paragraphs (b), (c), and (d) of subsection
31 (4), paragraph (b) of subsection (5), and paragraphs (a) and

1 (b) of subsection (6) of section 215.555, Florida Statutes,
2 are amended, and paragraph (e) is added to subsection (5) of
3 that section, to read:

4 215.555 Florida Hurricane Catastrophe Fund.--

5 (2) DEFINITIONS.--As used in this section:

6 (d) "Losses" means direct incurred losses under
7 covered policies, which shall include losses for additional
8 living expenses not to exceed 40 percent of the insured value
9 of a residential structure or its contents and shall exclude
10 loss adjustment expenses. "Losses" does not include losses for
11 fair rental value, loss of rent or rental income ~~use~~, or
12 business interruption losses.

13 (4) REIMBURSEMENT CONTRACTS.--

14 (b)1. The contract shall contain a promise by the
15 board to reimburse the insurer for 45 percent, 75 percent, or
16 90 percent of its losses from each covered event in excess of
17 the insurer's retention, plus 5 percent of the reimbursed
18 losses to cover loss adjustment expenses.

19 2. The insurer must elect one of the percentage
20 coverage levels specified in this paragraph and may, upon
21 renewal of a reimbursement contract, elect a lower percentage
22 coverage level if no revenue bonds issued under subsection (6)
23 after a covered event are outstanding, or elect a higher
24 percentage coverage level, regardless of whether or not
25 revenue bonds are outstanding. All members of an insurer group
26 must elect the same percentage coverage level. Any joint
27 underwriting association, risk apportionment plan, or other
28 entity created under s. 627.351 must elect the 90-percent
29 coverage level.

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

4 4. Notwithstanding any other provision contained in
5 this section, the board shall make available to insurers
6 qualifying as limited apportionment companies under s.
7 627.351(6)(c) a contract or contract addendum that provides an
8 additional amount of reimbursement coverage of up to \$10
9 million. The premium to be charged for this additional
10 reimbursement coverage shall be 50 percent of the additional
11 reimbursement coverage provided, which shall include one
12 prepaid reinstatement. The minimum retention level that an
13 eligible participating insurer must retain associated with
14 this additional coverage layer is 30 percent of the insurer's
15 surplus as of March 31, 2006. This coverage shall be in
16 addition to all other coverage that may be provided under this
17 section. The coverage provided by the fund under this
18 subsection shall be in addition to the claims-paying capacity
19 as defined in subparagraph (c)1., but only with respect to
20 those insurers that select the additional coverage option and
21 meet the requirements of this subsection. The claims-paying
22 capacity with respect to all other participating insurers and
23 limited apportionment companies that do not select the
24 additional coverage option shall be limited to their
25 reimbursement premium's proportionate share of the actual
26 claims-paying capacity otherwise defined in subparagraph (c)1.
27 and as provided for under the terms of the reimbursement
28 contract. Coverage provided in the reimbursement contract for
29 participating insurers will not be affected by the additional
30 premiums paid by limited apportionment companies exercising

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1 the additional coverage option allowed in this subparagraph.

2 This subparagraph expires on May 31, 2007.

3 (c)1. The contract shall also provide that the
4 obligation of the board with respect to all contracts covering
5 a particular contract year shall not exceed the actual
6 claims-paying capacity of the fund up to a limit of \$15
7 billion for that contract year adjusted based upon the
8 reported exposure from the prior contract year to reflect the
9 percentage growth in exposure to the fund for covered policies
10 since 2003, provided the dollar growth in the limit may not
11 increase in any year by an amount greater than the dollar
12 growth of the ~~cash~~ balance of the fund as of December 31 as
13 defined by rule which occurred over the prior calendar year.

14 2. In May before the start of the upcoming contract
15 year and in October during the contract year, the board shall
16 publish in the Florida Administrative Weekly a statement of
17 the fund's estimated borrowing capacity and the projected
18 balance of the fund as of December 31. After the end of each
19 calendar year, the board shall notify insurers of the
20 estimated borrowing capacity and the balance of the fund as of
21 December 31 to provide insurers with data necessary to assist
22 them in determining their retention and projected payout from
23 the fund for loss reimbursement purposes. In conjunction with
24 the development of the premium formula, as provided for in
25 subsection (5), the board shall publish factors or multiples
26 that assist insurers in determining their retention and
27 projected payout for the next contract year. For all
28 regulatory and reinsurance purposes, an insurer may calculate
29 its projected payout from the fund as its share of the total
30 fund premium for the current contract year multiplied by the
31 sum of the projected balance of the fund as of December 31 and

1 the estimated borrowing capacity for that contract year as
2 reported under this subparagraph.

3 (d)1. For purposes of determining potential liability
4 and to aid in the sound administration of the fund, the
5 contract shall require each insurer to report such insurer's
6 losses from each covered event on an interim basis, as
7 directed by the board. The contract shall require the insurer
8 to report to the board no later than December 31 of each year,
9 and quarterly thereafter, its reimbursable losses from covered
10 events for the year. The contract shall require the board to
11 determine and pay, as soon as practicable after receiving
12 these reports of reimbursable losses, the initial amount of
13 reimbursement due and adjustments to this amount based on
14 later loss information. The adjustments to reimbursement
15 amounts shall require the board to pay, or the insurer to
16 return, amounts reflecting the most recent calculation of
17 losses.

18 2. In determining reimbursements pursuant to this
19 subsection, the contract shall provide that the board shall:

20 ~~a. First reimburse insurers writing covered policies,~~
21 ~~which insurers are in full compliance with this section and~~
22 ~~have petitioned the Office of Insurance Regulation and~~
23 ~~qualified as limited apportionment companies under s.~~
24 ~~627.351(2)(b)3. The amount of such reimbursement shall be the~~
25 ~~lesser of \$10 million or an amount equal to 10 times the~~
26 ~~insurer's reimbursement premium for the current year. The~~
27 ~~amount of reimbursement paid under this sub subparagraph may~~
28 ~~not exceed the full amount of reimbursement promised in the~~
29 ~~reimbursement contract. This sub subparagraph does not apply~~
30 ~~with respect to any contract year in which the year end~~
31 ~~projected cash balance of the fund, exclusive of any bonding~~

1 ~~capacity of the fund, exceeds \$2 billion. Only one member of~~
2 ~~any insurer group may receive reimbursement under this~~
3 ~~sub-subparagraph.~~

4 a.b. Next pay to each insurer such insurer's projected
5 payout, which is the amount of reimbursement it is owed, up to
6 an amount equal to the insurer's share of the actual premium
7 paid for that contract year, multiplied by the actual
8 claims-paying capacity available for that contract year;
9 provided, entities created pursuant to s. 627.351 shall be
10 further reimbursed in accordance with sub-subparagraph b. ~~e.~~

11 b.e. Thereafter, establish the prorated reimbursement
12 level at the highest level for which any remaining fund
13 balance or bond proceeds are sufficient to reimburse entities
14 created pursuant to s. 627.351 based on reimbursable losses
15 exceeding the amounts payable pursuant to sub-subparagraph a.
16 ~~b.~~ for the current contract year.

17 (5) REIMBURSEMENT PREMIUMS.--

18 (b) The State Board of Administration shall select an
19 independent consultant to develop a formula for determining
20 the actuarially indicated premium to be paid to the fund. The
21 formula shall specify, for each zip code or other limited
22 geographical area, the amount of premium to be paid by an
23 insurer for each \$1,000 of insured value under covered
24 policies in that zip code or other area. In establishing
25 premiums, the board shall consider the coverage elected under
26 paragraph (4)(b) and any factors that tend to enhance the
27 actuarial sophistication of ratemaking for the fund, including
28 deductibles, type of construction, type of coverage provided,
29 relative concentration of risks, ~~a factor providing for more~~
30 ~~rapid cash buildup in the fund until the fund capacity for a~~
31 ~~single hurricane season is fully funded,~~ and other such

1 factors deemed by the board to be appropriate. The formula may
2 provide for a procedure to determine the premiums to be paid
3 by new insurers that begin writing covered policies after the
4 beginning of a contract year, taking into consideration when
5 the insurer starts writing covered policies, the potential
6 exposure of the insurer, the potential exposure of the fund,
7 the administrative costs to the insurer and to the fund, and
8 any other factors deemed appropriate by the board. The formula
9 shall include a factor of 25 percent of the fund's actuarially
10 indicated premium in order to provide for more rapid cash
11 buildup in the fund. The formula must be approved by unanimous
12 vote of the board. The board may, at any time, revise the
13 formula pursuant to the procedure provided in this paragraph.

14 (e) If Citizens Property Insurance Corporation assumes
15 or otherwise provides coverage for policies of an insurer
16 placed in liquidation under chapter 631 pursuant to s.
17 627.351(6), the corporation may, pursuant to conditions
18 mutually agreed to between the corporation and the State Board
19 of Administration, obtain coverage for such policies under its
20 contract with the fund or accept an assignment of the
21 liquidated insurer's contract with the fund. If Citizens
22 Property Insurance Corporation elects to cover these policies
23 under the corporation's contract with the fund, it shall
24 notify the board of its insured values with respect to such
25 policies within a specified time mutually agreed to between
26 the corporation and the board, after such assumption or other
27 coverage transaction, and the fund shall treat such policies
28 as having been in effect as of June 30 of that year. In the
29 event of an assignment, the fund shall apply that contract to
30 such policies and treat Citizens Property Insurance
31 Corporation as if the corporation were the liquidated insurer

1 for the remaining term of the contract, and the corporation
2 shall have all rights and duties of the liquidated insurer
3 beginning on the date it provides coverage for such policies,
4 but the corporation is not subject to any preexisting rights,
5 liabilities, or duties of the liquidated insurer. The
6 assignment, including any unresolved issues between the
7 liquidated insurer and Citizens Property Insurance Corporation
8 under the contract, shall be provided for in the liquidation
9 order or otherwise determined by the court. However, if a
10 covered event occurs before the effective date of the
11 assignment, the corporation may not obtain coverage for such
12 policies under its contract with the fund and shall accept an
13 assignment of the liquidated insurer's contract as provided in
14 this paragraph. This paragraph expires on June 1, 2007.

15 (6) REVENUE BONDS.--

16 (a) General provisions.--

17 1. Upon the occurrence of a hurricane and a
18 determination that the moneys in the fund are or will be
19 insufficient to pay reimbursement at the levels promised in
20 the reimbursement contracts, the board may take the necessary
21 steps under paragraph (c) or paragraph (d) for the issuance of
22 revenue bonds for the benefit of the fund. The proceeds of
23 such revenue bonds may be used to make reimbursement payments
24 under reimbursement contracts; to refinance or replace
25 previously existing borrowings or financial arrangements; to
26 pay interest on bonds; to fund reserves for the bonds; to pay
27 expenses incident to the issuance or sale of any bond issued
28 under this section, including costs of validating, printing,
29 and delivering the bonds, costs of printing the official
30 statement, costs of publishing notices of sale of the bonds,
31 and related administrative expenses; or for such other

1 purposes related to the financial obligations of the fund as
2 the board may determine. The term of the bonds may not exceed
3 30 years. The board may pledge or authorize the corporation to
4 pledge all or a portion of all revenues under subsection (5)
5 and under paragraph (b) to secure such revenue bonds and the
6 board may execute such agreements between the board and the
7 issuer of any revenue bonds and providers of other financing
8 arrangements under paragraph (7)(b) as the board deems
9 necessary to evidence, secure, preserve, and protect such
10 pledge. If reimbursement premiums received under subsection
11 (5) or earnings on such premiums are used to pay debt service
12 on revenue bonds, such premiums and earnings shall be used
13 only after the use of the moneys derived from assessments
14 under paragraph (b). The funds, credit, property, or taxing
15 power of the state or political subdivisions of the state
16 shall not be pledged for the payment of such bonds. The board
17 may also enter into agreements under paragraph (c) or
18 paragraph (d) for the purpose of issuing revenue bonds in the
19 absence of a hurricane upon a determination that such action
20 would maximize the ability of the fund to meet future
21 obligations.

22 2. The Legislature finds and declares that the
23 issuance of bonds under this subsection is for the public
24 purpose of paying the proceeds of the bonds to insurers,
25 thereby enabling insurers to pay the claims of policyholders
26 to assure that policyholders are able to pay the cost of
27 construction, reconstruction, repair, restoration, and other
28 costs associated with damage to property of policyholders of
29 covered policies after the occurrence of a hurricane. Revenue
30 ~~bonds may not be issued under this subsection until validated~~
31 ~~under chapter 75. The validation of at least the first~~

1 ~~obligations incurred pursuant to this subsection shall be~~
2 ~~appealed to the Supreme Court, to be handled on an expedited~~
3 ~~basis.~~

4 (b) Emergency assessments.--

5 1. If the board determines that the amount of revenue
6 produced under subsection (5) is insufficient to fund the
7 obligations, costs, and expenses of the fund and the
8 corporation, including repayment of revenue bonds and that
9 portion of the debt service coverage not met by reimbursement
10 premiums, the board shall direct the Office of Insurance
11 Regulation to levy, by order, an emergency assessment on
12 direct premiums for all property and casualty lines of
13 business in this state, including property and casualty
14 business of surplus lines insurers regulated under part VIII
15 of chapter 626, but not including any workers' compensation
16 premiums or medical malpractice premiums. As used in this
17 subsection, the term "property and casualty business" includes
18 all lines of business identified on Form 2, Exhibit of
19 Premiums and Losses, in the annual statement required of
20 authorized insurers by s. 624.424 and any rule adopted under
21 this section, except for those lines identified as accident
22 and health insurance and except for policies written under the
23 National Flood Insurance Program. The assessment shall be
24 specified as a percentage of direct written future premium
25 ~~collections~~ and is subject to annual adjustments by the board
26 ~~to reflect changes in premiums subject to assessments~~
27 ~~collected under this subparagraph~~ in order to meet debt
28 obligations. The same percentage shall apply to all policies
29 in lines of business subject to the assessment issued or
30 renewed during the 12-month period beginning on the effective
31 date of the assessment.

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

13 3. Emergency assessments shall be collected from
14 policyholders. Emergency assessments shall be remitted by
15 insurers as a percentage of direct written premium for the
16 preceding calendar quarter as specified in the order from the
17 Office of Insurance Regulation. With respect to each insurer
18 ~~collecting premiums that are subject to the assessment, the~~
19 ~~insurer shall collect the assessment at the same time as it~~
20 ~~collects the premium payment for each policy and shall remit~~
21 ~~the assessment collected to the fund or corporation as~~
22 ~~provided in the order issued by the Office of Insurance~~
23 ~~Regulation.~~ The office shall verify the accurate and timely
24 collection and remittance of emergency assessments and shall
25 report the information to the board in a form and at a time
26 specified by the board. Each insurer collecting assessments
27 shall provide the information with respect to premiums and
28 collections as may be required by the office to enable the
29 office to monitor and verify compliance with this paragraph.
30 4. With respect to assessments of surplus lines
31 premiums, each surplus lines agent shall collect the

1 assessment at the same time as the agent collects the surplus
2 lines tax required by s. 626.932, and the surplus lines agent
3 shall remit the assessment to the Florida Surplus Lines
4 Service Office created by s. 626.921 at the same time as the
5 agent remits the surplus lines tax to the Florida Surplus
6 Lines Service Office. The emergency assessment on each insured
7 procuring coverage and filing under s. 626.938 shall be
8 remitted by the insured to the Florida Surplus Lines Service
9 Office at the time the insured pays the surplus lines tax to
10 the Florida Surplus Lines Service Office. The Florida Surplus
11 Lines Service Office shall remit the collected assessments to
12 the fund or corporation as provided in the order levied by the
13 Office of Insurance Regulation. The Florida Surplus Lines
14 Service Office shall verify the proper application of such
15 emergency assessments and shall assist the board in ensuring
16 the accurate and timely collection and remittance of
17 assessments as required by the board. The Florida Surplus
18 Lines Service Office shall annually calculate the aggregate
19 written premium on property and casualty business, other than
20 workers' compensation and medical malpractice, procured
21 through surplus lines agents and insureds procuring coverage
22 and filing under s. 626.938 and shall report the information
23 to the board in a form and at a time specified by the board.

24 5. Any assessment authority not used for a particular
25 contract year may be used for a subsequent contract year. If,
26 for a subsequent contract year, the board determines that the
27 amount of revenue produced under subsection (5) is
28 insufficient to fund the obligations, costs, and expenses of
29 the fund and the corporation, including repayment of revenue
30 bonds and that portion of the debt service coverage not met by
31 reimbursement premiums, the board shall direct the Office of

1 Insurance Regulation to levy an emergency assessment up to an
2 amount not exceeding the amount of unused assessment authority
3 from a previous contract year or years, plus an additional 4
4 percent provided that the assessments in the aggregate do not
5 exceed the limits specified in subparagraph 2.

6 6. The assessments otherwise payable to the
7 corporation under this paragraph shall be paid to the fund
8 unless and until the Office of Insurance Regulation and the
9 Florida Surplus Lines Service Office have received from the
10 corporation and the fund a notice, which shall be conclusive
11 and upon which they may rely without further inquiry, that the
12 corporation has issued bonds and the fund has no agreements in
13 effect with local governments under paragraph (c). On or after
14 the date of the notice and until the date the corporation has
15 no bonds outstanding, the fund shall have no right, title, or
16 interest in or to the assessments, except as provided in the
17 fund's agreement with the corporation.

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

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

30 9. When a surplus lines insured or an insured who has
31 procured coverage and filed under s. 626.938 is entitled to

1 the return of an unearned premium, the Florida Surplus Lines
2 Service Office shall provide a credit or refund to the agent
3 or such insured for the collected assessment attributable to
4 the unearned premium prior to remitting the emergency
5 assessment collected to the fund or corporation.

6 10. The exemption of medical malpractice insurance
7 premiums from emergency assessments under this paragraph is
8 repealed May 31, 2007, and medical malpractice insurance
9 premiums shall be subject to emergency assessments
10 attributable to loss events occurring in the contract years
11 commencing on June 1, 2007.

12 Section 2. Effective July 1, 2006, section 215.5586,
13 Florida Statutes, is created to read:

14 215.5586 Florida Comprehensive Hurricane Damage
15 Mitigation Program.--There is established within the
16 Department of Financial Services the Florida Comprehensive
17 Hurricane Damage Mitigation Program. This section does not
18 create an entitlement for property owners or obligate the
19 state in any way to fund the inspection or retrofitting of
20 residential property in this state. Implementation of this
21 program is subject to annual legislative appropriations. The
22 program shall be administered by an individual with prior
23 executive experience in the private sector in the areas of
24 insurance, business, or construction. The program shall
25 develop and implement a comprehensive and coordinated approach
26 for hurricane damage mitigation that shall include the
27 following:

28 (1) WIND CERTIFICATION AND HURRICANE MITIGATION
29 INSPECTIONS.--

30 (a) Free home-retrofit inspections of site-built,
31 residential property, including single-family, two-family,

1 three-family, or four-family residential units, shall be
2 offered to determine what mitigation measures are needed and
3 what improvements to existing residential properties are
4 needed to reduce the property's vulnerability to hurricane
5 damage. The Department of Financial Services shall establish a
6 request for proposals to solicit proposals from wind
7 certification entities to provide at no cost to homeowners
8 wind certification and hurricane mitigation inspections. The
9 inspections provided to homeowners, at a minimum, must
10 include:

11 1. A home inspection and report that summarizes the
12 results and identifies corrective actions a homeowner may take
13 to mitigate hurricane damage.

14 2. A range of cost estimates regarding the mitigation
15 features.

16 3. Insurer-specific information regarding premium
17 discounts correlated to recommended mitigation features
18 identified by the inspection.

19 4. A hurricane resistance rating scale specifying the
20 home's current as well as projected wind resistance
21 capabilities.

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

25 1. Use wind certification and hurricane mitigation
26 inspectors who:

27 a. Have prior experience in residential construction
28 or inspection and have received specialized training in
29 hurricane mitigation procedures.

30 b. Have undergone drug testing and background checks.

31

1 c. Have been certified, in a manner satisfactory to
2 the department, to conduct the inspections.

3 2. Provide a quality assurance program including a
4 reinspection component.

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

9 (a) To be eligible for a grant, a residential property
10 must:

11 1. Have been granted a homestead exemption under
12 chapter 196.

13 2. Be a dwelling with an insured value of \$500,000 or
14 less.

15 3. Have undergone an acceptable wind certification and
16 hurricane mitigation inspection.

17
18 A residential property which is part of a multi-family
19 residential unit may receive a grant only if all homeowners
20 participate and the total number of units does not exceed
21 four.

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

25 (c) The program shall create a process in which
26 mitigation contractors agree to participate and seek
27 reimbursement from the state and homeowners select from a list
28 of participating contractors. All mitigation must be based
29 upon the securing of all required local permits and
30 inspections. Mitigation projects are subject to random
31 reinspection of up to at least 10 percent of all projects.

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

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

6 1. Roof deck attachment;

7 2. Secondary water barrier;

8 3. Roof covering;

9 4. Brace gable ends;

10 5. Reinforce roof-to-wall connections;

11 6. Opening protection; and

12 7. Exterior doors, including garage doors.

13 (f) Low-income homeowners, as defined in s.

14 420.0004(9), who otherwise meet the requirements of paragraphs
15 (a) and (c) are eligible for a grant of up to \$5,000 and are
16 not required to provide a matching amount to receive the
17 grant. Such grants shall be used to retrofit single-family,
18 site-built, owner-occupied, residential properties in order to
19 make them less vulnerable to hurricane damage.

20 (3) EDUCATION AND CONSUMER AWARENESS.--Multimedia
21 public education, awareness, and advertising efforts designed
22 to specifically address mitigation techniques shall be
23 employed, as well as a component to support ongoing consumer
24 resources and referral services.

25 (4) ADVISORY COUNCIL.--There is created an advisory
26 council to provide advice and assistance to the program
27 administrator with regard to his or her administration of the
28 program. The advisory council shall consist of:

29 (a) A representative of lending institutions, selected
30 by the Financial Services Commission from a list of at least
31 three persons recommended by the Florida Bankers Association.

1 (b) A representative of residential property insurers,
2 selected by the Financial Services Commission from a list of
3 at least three persons recommended by the Florida Insurance
4 Council.

5 (c) A representative of home builders, selected by the
6 Financial Services Commission from a list of at least three
7 persons recommended by the Florida Home Builders Association.

8 (d) A faculty member of a state university, selected
9 by the Financial Services Commission, who is an expert in
10 hurricane-resistant construction methodologies and materials.

11 (e) Two members of the House of Representatives,
12 selected by the Speaker of the House of Representatives.

13 (f) Two members of the Senate, selected by the
14 President of the Senate.

15 (g) The Chief Executive Officer of the Federal
16 Alliance for Safe Homes, Inc., or his or her designee.

17 (h) The senior officer of the Florida Hurricane
18 Catastrophe Fund.

19 (i) The executive director of Citizens Property
20 Insurance Corporation.

21 (j) The director of the Division of Emergency
22 Management of the Department of Community Affairs.

23
24 Members appointed under paragraphs (a)-(d) shall serve at the
25 pleasure of the Financial Services Commission. Members
26 appointed under paragraphs (e) and (f) shall serve at the
27 pleasure of the appointing officer. All other members shall
28 serve voting ex officio. Members of the advisory council shall
29 serve without compensation but may receive reimbursement as
30 provided in s. 112.061 for per diem and travel expenses
31 incurred in the performance of their official duties.

1 (5) FEDERAL FUNDING.--The department shall use its
2 best efforts to obtain grants or funds from the federal
3 government to supplement the financial resources of the
4 program.

5 (6) RULES.--The Department of Financial Services shall
6 adopt rules pursuant to ss. 120.536(1) and 120.54 governing
7 the Florida Comprehensive Hurricane Damage Mitigation Program.
8 The department shall also adopt rules establishing priorities
9 for grants provided under this section based on objective
10 criteria that gives priority to reducing the state's probable
11 maximum loss from hurricanes. However, pursuant to this
12 overall goal, the department may further establish priorities
13 based on the insured value of the dwelling, whether or not the
14 dwelling is insured by Citizens Property Insurance Corporation
15 and whether or not the area under consideration has sufficient
16 resources and the ability to perform the retrofitting
17 required.

18 Section 3. Subsections (4) and (6) of section 215.559,
19 Florida Statutes, are amended to read:

20 215.559 Hurricane Loss Mitigation Program.--

21 (4)(a) Forty percent of the total appropriation in
22 paragraph (2)(a) shall be used to inspect and improve
23 tie-downs for mobile homes. ~~Within 30 days after the effective~~
24 ~~date of that appropriation, the department shall contract with~~
25 ~~a public higher educational institution in this state which~~
26 ~~has previous experience in administering the programs set~~
27 ~~forth in this subsection to serve as the administrative entity~~
28 ~~and fiscal agent pursuant to s. 216.346 for the purpose of~~
29 ~~administering the programs set forth in this subsection in~~
30 ~~accordance with established policy and procedures. The~~
31 ~~administrative entity working with the advisory council set up~~

1 ~~under subsection (6) shall develop a list of mobile home parks~~
2 ~~and counties that may be eligible to participate in the~~
3 ~~tie down program.~~

4 (b)1. There is created the Manufactured Housing and
5 Mobile Home Mitigation and Enhancement Program. The program
6 shall require the mitigation of damage to or the enhancement
7 of homes for the areas of concern raised by the Department of
8 Highway Safety and Motor Vehicles in the 2004-2005 Hurricane
9 Reports on the effects of the 2004 and 2005 hurricanes on
10 manufactured and mobile homes in this state. The mitigation or
11 enhancement must include, but need not be limited to, problems
12 associated with weakened trusses, studs, and other structural
13 components caused by wood rot or termite damage; site-built
14 additions; or tie-down systems and may also address any other
15 issues deemed appropriate by Tallahassee Community College,
16 the Federation of Manufactured Home Owners of Florida, Inc.,
17 the Florida Manufactured Housing Association, and the
18 Department of Highway Safety and Motor Vehicles. The program
19 shall include an education and outreach component to ensure
20 that owners of manufactured and mobile homes are aware of the
21 benefits of participation.

22 2. The program shall be a grant program that ensures
23 that entire manufactured home communities and mobile home
24 parks may be improved wherever practicable. The moneys
25 appropriated for this program shall be distributed directly to
26 Tallahassee Community College for the uses set forth under
27 this subsection.

28 3. Upon evidence of completion of the program, the
29 Citizens Property Insurance Corporation shall grant, on a
30 pro-rata basis, actuarially reasonable discounts, credits, or
31 other rate differentials or appropriate reductions in

1 deductibles for the properties of owners of manufactured homes
2 or mobile homes on which fixtures or construction techniques
3 that have been demonstrated to reduce the amount of loss in a
4 windstorm have been installed or implemented. The discount on
5 the premium must be applied to subsequent renewal premium
6 amounts. Premiums of the Citizens Property Insurance
7 Corporation must reflect the location of the home and the fact
8 that the home has been installed in compliance with building
9 codes adopted after Hurricane Andrew. Rates resulting from the
10 completion of the Manufactured Housing and Mobile Home
11 Mitigation and Enhancement Program are not considered
12 competitive rates for the purposes of s. 627.351(6)(d)1. and
13 2.

14 4. On or before January 1 of each year, Tallahassee
15 Community College shall provide a report of activities under
16 this subsection to the Governor, the President of the Senate,
17 and the Speaker of the House of Representatives. The report
18 must set forth the number of homes that have taken advantage
19 of the program, the types of enhancements and improvements
20 made to the manufactured or mobile homes and attachments to
21 such homes, and whether there has been an increase in
22 availability of insurance products to owners of manufactured
23 or mobile homes.

24
25 Tallahassee Community College shall develop the programs set
26 forth in this subsection in consultation with the Federation
27 of Manufactured Home Owners of Florida, Inc., the Florida
28 Manufactured Housing Association, and the Department of
29 Highway Safety and Motor Vehicles. The moneys appropriated for
30 the programs set forth in this subsection shall be distributed
31

1 directly to Tallahassee Community College to be used as set
2 forth in this subsection.

3 (6) Except for the programs set forth in subsection
4 (4), the Department of Community Affairs shall develop the
5 programs set forth in this section in consultation with an
6 advisory council consisting of a representative designated by
7 the Chief Financial Officer, a representative designated by
8 the Florida Home Builders Association, a representative
9 designated by the Florida Insurance Council, a representative
10 designated by the Federation of Manufactured Home Owners, a
11 representative designated by the Florida Association of
12 Counties, and a representative designated by the Florida
13 Manufactured Housing Association.

14 Section 4. Of the funds appropriated for the Florida
15 Comprehensive Hurricane Damage Mitigation Program specified in
16 s. 215.5586, Florida Statutes, as created by this act, \$7.5
17 million shall be for the Manufactured Housing and Mobile Home
18 Mitigation and Enhancement Program specified in s.
19 215.559(4)(b), Florida Statutes, as created by this act. The
20 Department of Financial Services shall use these funds to
21 contract with Tallahassee Community College to implement the
22 Manufactured Housing and Mobile Home Mitigation and
23 Enhancement Program.

24 Section 5. Section 215.5595, Florida Statutes, is
25 created to read:

26 215.5595 Insurance Capital Build-Up Incentive
27 Program.--

28 (1) Upon entering the 2006 hurricane season, the
29 Legislature finds that:

30 (a) The losses in Florida from eight hurricanes in
31 2004 and 2005 have seriously strained the resources of both

1 the voluntary insurance market and the public-sector
2 mechanisms of Citizens Property Insurance Corporation and the
3 Florida Hurricane Catastrophe Fund.

4 (b) Private reinsurance is much less available and at
5 a significantly greater cost to residential property insurers
6 as compared to 1 year ago, particularly for amounts below the
7 insurer's retention or retained losses that must be paid
8 before reimbursement is provided by the Florida Hurricane
9 Catastrophe Fund.

10 (c) The Office of Insurance Regulation has reported
11 that the insolvency of certain insurers may be imminent.

12 (d) Hurricane forecast experts predict that the 2006
13 hurricane season will be an active hurricane season and that
14 the Atlantic and Gulf Coast regions face an active hurricane
15 cycle of 10 to 20 years or longer.

16 (e) The number of cancellations or nonrenewals of
17 residential property insurance policies is expected to
18 increase and the number of new residential policies written in
19 the voluntary market are likely to decrease, causing increased
20 policy growth and exposure to the state insurer of last
21 resort, Citizens Property Insurance Corporation, and
22 threatening to increase the deficit of the corporation,
23 currently estimated to be over \$1.7 billion. This deficit must
24 be funded by assessments against insurers and policyholders,
25 unless otherwise funded by the state.

26 (f) Policyholders are subject to increased premiums
27 and assessments that are increasingly making such coverage
28 unaffordable and that may force policyholders to sell their
29 homes and even leave the state.

30 (g) The increased risk to the public sector and
31 private sector poses a serious threat to the economy of this

1 state, particularly the building and financing of residential
2 structures, and existing mortgages may be placed in default.

3 (h) The losses from 2004 and 2005, combined with the
4 expectation that the increase in hurricane activity will
5 continue for the foreseeable future, have caused both insurers
6 and reinsurers to limit the capital they are willing to commit
7 to covering the hurricane risk in Florida; attracting new
8 capital to the Florida market is a critical priority; and
9 providing a low-cost source of capital would enable insurers
10 to write additional residential property insurance coverage
11 and act to mitigate premium increases.

12 (i) Appropriating state funds to be used as surplus
13 notes for residential property insurers, under conditions
14 requiring the insurer to contribute additional private-sector
15 capital and to write a minimum level of premiums for
16 residential hurricane coverage, is a valid and important
17 public purpose.

18 (2) The purpose of this section is to provide surplus
19 notes to new or existing authorized residential property
20 insurers under the Insurance Capital Build-Up Incentive
21 Program administered by the State Board of Administration,
22 under the following conditions:

23 (a) The amount of the surplus note for any insurer or
24 insurer group may not exceed \$25 million or 20 percent of the
25 total amount of funds available under the program, whichever
26 is greater.

27 (b) The insurer must contribute an amount of new
28 capital to its surplus which is at least equal to the amount
29 of the surplus note and must apply to the board by July 1,
30 2006. If an insurer applies after July 1, 2006, but before
31 June 1, 2007, the amount of the surplus note is limited to

1 one-half of the new capital that the insurer contributes to
2 its surplus. For purposes of this section, new capital must be
3 in the form of cash or cash equivalents as specified in s.
4 625.012(1).

5 (c) The insurer's surplus, new capital, and the
6 surplus note must total at least \$50 million.

7 (d) The insurer must commit to meeting a minimum
8 writing ratio of net written premium to surplus of at least
9 2:1 for the term of the surplus note, which shall be
10 determined by the Office of Insurance Regulation and certified
11 quarterly to the board. For this purpose, the term "net
12 written premium" means net written premium for residential
13 property insurance in Florida, including the peril of wind,
14 and "surplus" refers to the entire surplus of the insurer. If
15 the required ratio is not maintained during the term of the
16 surplus note, the board may increase the interest rate,
17 accelerate the repayment of interest and principal, or shorten
18 the term of the surplus note, subject to approval by the
19 Commissioner of Insurance of payments by the insurer of
20 principal and interest as provided in paragraph (f).

21 (e) If the requirements of this section are met, the
22 board may approve an application by an insurer for a surplus
23 note, unless the board determines that the financial condition
24 of the insurer and its business plan for writing residential
25 property insurance in Florida places an unreasonably high
26 level of financial risk to the state of nonpayment in full of
27 the interest and principal. The board shall consult with the
28 Office of Insurance Regulation and may contract with
29 independent financial and insurance consultants in making this
30 determination.

31

1 (f) The surplus note must be repayable to the state
2 with a term of 20 years. The surplus note shall accrue
3 interest on the unpaid principal balance at a rate equivalent
4 to the 10-year U.S. Treasury Bond rate, require the payment
5 only of interest during the first 3 years, and include such
6 other terms as approved by the board. Payment of principal or
7 interest by the insurer on the surplus note must be approved
8 by the Commissioner of Insurance, who shall approve such
9 payment unless the commissioner determines that such payment
10 will substantially impair the financial condition of the
11 insurer. If such a determination is made, the commissioner
12 shall approve such payment that will not substantially impair
13 the financial condition of the insurer.

14 (g) The total amount of funds available for the
15 program is limited to the amount appropriated by the
16 Legislature for this purpose. If the amount of surplus notes
17 requested by insurers exceeds the amount of funds available,
18 the board may prioritize insurers that are eligible and
19 approved, regardless of the date of application, based on the
20 financial strength of the insurer, the viability of its
21 proposed business plan for writing additional residential
22 property insurance in the state, and the effect on competition
23 in the residential property insurance market.

24 (h) The board may allocate portions of the funds
25 available for the program and establish dates for insurers to
26 apply for surplus notes from such allocation which are earlier
27 than the dates established in paragraph (b).

28 (3) As used in this section, the term:

29 (a) "Board" means the State Board of Administration.

30 (b) "Program" means the Insurance Capital Build-Up
31 Incentive Program established by this section.

1 (4) A surplus note provided to an insurer pursuant to
2 this section is considered an asset of the insurer pursuant to
3 s. 625.012.

4 (5) If an insurer that receives a surplus note
5 pursuant to this section is rendered insolvent, the state is a
6 class 3 creditor pursuant to s. 631.271 for the unpaid
7 principal and interest on the surplus note.

8 (6) The board shall adopt rules prescribing the
9 procedures, administration, and criteria for approving the
10 issuance of surplus notes pursuant to this section, which may
11 be adopted pursuant to the procedures for emergency rules of
12 chapter 120. Otherwise, actions and determinations by the
13 board pursuant to this section are exempt from chapter 120.

14 (7) The board shall invest and reinvest the funds
15 appropriated for the program in accordance with s. 215.47 and
16 consistent with board policy.

17 Section 6. Section 252.63, Florida Statutes, is
18 created to read:

19 252.63 Commissioner of Insurance Regulation; powers in
20 a state of emergency.--

21 (1) When the Governor declares a state of emergency
22 pursuant to s. 252.36, the commissioner may issue one or more
23 general orders applicable to all insurance companies,
24 entities, and persons, as defined in s. 624.04, that are
25 subject to the Florida Insurance Code and that serve any
26 portion of the area of the state under the state of emergency.

27 (2) An order issued by the commissioner under this
28 section becomes effective upon issuance and continues for 120
29 days unless terminated sooner by the commissioner. The
30 commissioner may extend an order for one additional period of
31 120 days if he or she determines that the emergency conditions

1 that gave rise to the initial order still exist. By concurrent
2 resolution, the Legislature may terminate any order issued
3 under this section.

4 (3) The commissioner shall publish in the next
5 available publication of the Florida Administrative Weekly a
6 copy of the text of any order issued under this section,
7 together with a statement describing the modification or
8 suspension and explaining how the modification or suspension
9 will facilitate recovery from the emergency.

10 Section 7. Section 626.8795, Florida Statutes, is
11 created to read:

12 626.8795 Public adjusters; prohibition of conflict of
13 interest.--A public adjuster may not participate, directly or
14 indirectly, in the reconstruction, repair, or restoration of
15 damaged property that is the subject of a claim adjusted by
16 the licensee; may not engage in any other activities that may
17 be reasonably construed as a conflict of interest, including
18 soliciting or accepting any remuneration from, of any kind or
19 nature, directly or indirectly; and may not have a financial
20 interest in any salvage, repair, or any other business entity
21 that obtains business in connection with any claim that the
22 public adjuster has a contract or an agreement to adjust.

23 Section 8. Subsection (1) of 627.0613, Florida
24 Statutes, is amended to read:

25 627.0613 Consumer advocate.--The Chief Financial
26 Officer must appoint a consumer advocate who must represent
27 the general public of the state before the department and the
28 office. The consumer advocate must report directly to the
29 Chief Financial Officer, but is not otherwise under the
30 authority of the department or of any employee of the
31 department. The consumer advocate has such powers as are

1 necessary to carry out the duties of the office of consumer
2 advocate, including, but not limited to, the powers to:

3 (1) Recommend to the department or office, by
4 petition, the commencement of any proceeding or action; appear
5 in any proceeding or action before the department or office;
6 or appear in any proceeding before the Division of
7 Administrative Hearings or arbitration panel specified in s.
8 627.062(6) relating to subject matter under the jurisdiction
9 of the department or office.

10 Section 9. For the 2006-2007 fiscal year, there is
11 appropriated \$250,000 from the Insurance Regulatory Trust Fund
12 to the Office of the Consumer Advocate within the Department
13 of Financial Services for the purposes provided in section
14 627.0613, Florida Statutes.

15 Section 10. Subsections (1) and (2) of section
16 626.918, Florida Statutes, are amended to read:

17 626.918 Eligible surplus lines insurers.--

18 (1) A ~~No~~ surplus lines agent may not ~~shall~~ place any
19 coverage with any unauthorized insurer which is not then an
20 eligible surplus lines insurer, except as permitted under
21 subsections (5) and (6).

22 (2) An ~~No~~ unauthorized insurer may not ~~shall~~ be or
23 become an eligible surplus lines insurer unless made eligible
24 by the office in accordance with the following conditions:

25 (a) Eligibility of the insurer must be requested in
26 writing by the Florida Surplus Lines Service Office. +

27 (b) The insurer must be currently an authorized
28 insurer in the state or country of its domicile as to the kind
29 or kinds of insurance proposed to be so placed and must have
30 been such an insurer for not less than the 3 years next
31 preceding or must be the wholly owned subsidiary of such

1 authorized insurer or must be the wholly owned subsidiary of
2 an already eligible surplus lines insurer as to the kind or
3 kinds of insurance proposed for a period of not less than the
4 3 years next preceding. However, the office may waive the
5 3-year requirement if the insurer provides a product or
6 service not readily available to the consumers of this state
7 or has operated successfully for a period of at least 1 year
8 next preceding and has capital and surplus of not less than
9 \$25 million.†

10 (c) Before granting eligibility, the requesting
11 surplus lines agent or the insurer shall furnish the office
12 with a duly authenticated copy of its current annual financial
13 statement in the English language and with all monetary values
14 therein expressed in United States dollars, at an exchange
15 rate (in the case of statements originally made in the
16 currencies of other countries) then-current and shown in the
17 statement, and with such additional information relative to
18 the insurer as the office may request.†

19 (d)1.a. The insurer must have and maintain surplus as
20 to policyholders of not less than \$15 million; in addition, an
21 alien insurer must also have and maintain in the United States
22 a trust fund for the protection of all its policyholders in
23 the United States under terms deemed by the office to be
24 reasonably adequate, in an amount not less than \$5.4 million.
25 Any such surplus as to policyholders or trust fund shall be
26 represented by investments consisting of eligible investments
27 for like funds of like domestic insurers under part II of
28 chapter 625 provided, however, that in the case of an alien
29 insurance company, any such surplus as to policyholders may be
30 represented by investments permitted by the domestic regulator
31 of such alien insurance company if such investments are

1 substantially similar in terms of quality, liquidity, and
2 security to eligible investments for like funds of like
3 domestic insurers under part II of chapter 625. Clean,
4 irrevocable, unconditional, and evergreen letters of credit
5 issued or confirmed by a qualified United States financial
6 institution, as defined in subparagraph 2., may be used to
7 fund the trust.†

8 ~~b.2.~~ For those surplus lines insurers that were
9 eligible on January 1, 1994, and that maintained their
10 eligibility thereafter, the required surplus as to
11 policyholders shall be:

12 ~~(I)a.~~ On December 31, 1994, and until December 30,
13 1995, \$2.5 million.

14 ~~(II)b.~~ On December 31, 1995, and until December 30,
15 1996, \$3.5 million.

16 ~~(III)c.~~ On December 31, 1996, and until December 30,
17 1997, \$4.5 million.

18 ~~(IV)d.~~ On December 31, 1997, and until December 30,
19 1998, \$5.5 million.

20 ~~(V)e.~~ On December 31, 1998, and until December 30,
21 1999, \$6.5 million.

22 ~~(VI)f.~~ On December 31, 1999, and until December 30,
23 2000, \$8 million.

24 ~~(VII)g.~~ On December 31, 2000, and until December 30,
25 2001, \$9.5 million.

26 ~~(VIII)h.~~ On December 31, 2001, and until December 30,
27 2002, \$11 million.

28 ~~(IX)i.~~ On December 31, 2002, and until December 30,
29 2003, \$13 million.

30 ~~(X)j.~~ On December 31, 2003, and thereafter, \$15
31 million.

1 ~~c.3.~~ The capital and surplus requirements as set forth
2 in sub-subparagraph b. ~~subparagraph 2.~~ do not apply in the
3 case of an insurance exchange created by the laws of
4 individual states, where the exchange maintains capital and
5 surplus pursuant to the requirements of that state, or
6 maintains capital and surplus in an amount not less than \$50
7 million in the aggregate. For an insurance exchange which
8 maintains funds in the amount of at least \$12 million for the
9 protection of all insurance exchange policyholders, each
10 individual syndicate shall maintain minimum capital and
11 surplus in an amount not less than \$3 million. If the
12 insurance exchange does not maintain funds in the amount of at
13 least \$12 million for the protection of all insurance exchange
14 policyholders, each individual syndicate shall meet the
15 minimum capital and surplus requirements set forth in
16 sub-subparagraph b. ~~subparagraph 2.~~

17 ~~d.4.~~ A surplus lines insurer which is a member of an
18 insurance holding company that includes a member which is a
19 Florida domestic insurer as set forth in its holding company
20 registration statement, as set forth in s. 628.801 and rules
21 adopted thereunder, may elect to maintain surplus as to
22 policyholders in an amount equal to the requirements of s.
23 624.408, subject to the requirement that the surplus lines
24 insurer shall at all times be in compliance with the
25 requirements of chapter 625.

26
27 The election shall be submitted to the office and shall be
28 effective upon the office's being satisfied that the
29 requirements of sub-subparagraph d. ~~subparagraph 4.~~ have been
30 met. The initial date of election shall be the date of office
31 approval. The election approval application shall be on a form

1 adopted by commission rule. The office may approve an election
2 form submitted pursuant to sub-subparagraph d. ~~subparagraph 4.~~
3 only if it was on file with the former Department of Insurance
4 before February 28, 1998.†

5 2. For purposes of letters of credit under
6 subparagraph 1., the term "qualified United States financial
7 institution" means an institution that:

8 a. Is organized or, in the case of a United States
9 office of a foreign banking organization, is licensed under
10 the laws of the United States or any state.

11 b. Is regulated, supervised, and examined by
12 authorities of the United States or any state having
13 regulatory authority over banks and trust companies.

14 c. Has been determined by the office or the Securities
15 Valuation Office of the National Association of Insurance
16 Commissioners to meet such standards of financial condition
17 and standing as are considered necessary and appropriate to
18 regulate the quality of financial institutions whose letters
19 of credit are acceptable to the office.

20 (e) The insurer must be of good reputation as to the
21 providing of service to its policyholders and the payment of
22 losses and claims.†

23 (f) The insurer must be eligible, as for authority to
24 transact insurance in this state, under s. 624.404(3).†~~and~~

25 (g) This subsection does not apply as to unauthorized
26 insurers made eligible under s. 626.917 as to wet marine and
27 aviation risks.

28 Section 11. Effective July 1, 2006, paragraph (b) of
29 subsection (2) of section 627.062, Florida Statutes, is
30 amended, paragraph (j) is added to that subsection, and
31 subsection (9) is added to that section, to read:

1 627.062 Rate standards.--

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

3 (b) Upon receiving a rate filing, the office shall

4 review the rate filing to determine if a rate is excessive,

5 inadequate, or unfairly discriminatory. In making that

6 determination, the office shall, in accordance with generally

7 accepted and reasonable actuarial techniques, consider the

8 following factors:

9 1. Past and prospective loss experience within and

10 without this state.

11 2. Past and prospective expenses.

12 3. The degree of competition among insurers for the

13 risk insured.

14 4. Investment income reasonably expected by the

15 insurer, consistent with the insurer's investment practices,

16 from investable premiums anticipated in the filing, plus any

17 other expected income from currently invested assets

18 representing the amount expected on unearned premium reserves

19 and loss reserves. The commission may adopt rules utilizing

20 reasonable techniques of actuarial science and economics to

21 specify the manner in which insurers shall calculate

22 investment income attributable to such classes of insurance

23 written in this state and the manner in which such investment

24 income shall be used in the calculation of insurance rates.

25 Such manner shall contemplate allowances for an underwriting

26 profit factor and full consideration of investment income

27 which produce a reasonable rate of return; however, investment

28 income from invested surplus shall not be considered.

29 5. The reasonableness of the judgment reflected in the

30 filing.

31

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

4 7. The adequacy of loss reserves.

5 8. The cost of reinsurance.

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

8 10. Conflagration and catastrophe hazards, if
9 applicable.

10 11. A reasonable margin for underwriting profit and
11 contingencies. For that portion of the rate covering the risk
12 of hurricanes and other catastrophic losses for which the
13 insurer has not purchased reinsurance and has exposed its
14 capital and surplus to such risk, the office must approve a
15 rating factor that provides the insurer a reasonable rate of
16 return that is commensurate with such risk.

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

18 13. Other relevant factors which impact upon the
19 frequency or severity of claims or upon expenses.

20

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

24 (j) Effective July 1, 2007, notwithstanding any other
25 provision of this section:

26 1. With respect to any residential property insurance
27 subject to regulation under this section for any area for
28 which the office determines a reasonable degree of competition
29 exists, a rate filing, including, but not limited to, any rate
30 changes, rating factors, territories, classification,
31 discounts, and credits, with respect to any policy form,

1 including endorsements issued with the form, that results in
2 an overall average statewide premium increase or decrease of
3 no more than 5 percent above or below the premium that would
4 result from the insurer's rates then in effect shall not be
5 subject to a determination by the office that the rate is
6 excessive or unfairly discriminatory except as provided in
7 subparagraph 3., or any other provision of law, provided all
8 changes specified in the filing do not result in an overall
9 premium increase of more than 10 percent for any one
10 territory, for reasons related solely to the rate change. As
11 used in this subparagraph, the term "insurer's rates then in
12 effect" includes only rates that have been lawfully in effect
13 under this section or rates that have been determined to be
14 lawful through administrative proceedings or judicial
15 proceedings.

16 2. An insurer may not make filings under this
17 paragraph with respect to any policy form, including
18 endorsements issued with the form, if the overall premium
19 changes resulting from such filings exceed the amounts
20 specified in this paragraph in any 12-month period. An insurer
21 may proceed under other provisions of this section or other
22 provisions of law if the insurer seeks to exceed the premium
23 or rate limitations of this paragraph.

24 3. This paragraph does not affect the authority of the
25 office to disapprove a rate as inadequate or to disapprove a
26 filing for the unlawful use of unfairly discriminatory rating
27 factors that are prohibited by the laws of this state. An
28 insurer electing to implement a rate change under this
29 paragraph shall submit a filing to the office at least 40 days
30 prior to the effective date of the rate change. The office
31 shall have 30 days after the filing's submission to review the

1 filing and determine if the rate is inadequate or uses
2 unfairly discriminatory rating factors. Absent a finding by
3 the office within such 30-day period that the rate is
4 inadequate or that the insurer has used unfairly
5 discriminatory rating factors, the filing is deemed approved.
6 If the office finds during the 30-day period that the filing
7 will result in inadequate premiums or otherwise endanger the
8 insurer's solvency, the office shall suspend the rate
9 decrease. If the insurer is implementing an overall rate
10 increase, the results of which continue to produce an
11 inadequate rate, such increase shall proceed pending
12 additional action by the office to ensure the adequacy of the
13 rate.

14 4. This paragraph does not apply to rate filings for
15 any insurance other than residential property insurance.

16 (9) The burden is on the office to establish that
17 rates are excessive for personal lines residential coverage
18 with a dwelling replacement cost of \$1 million or more or for
19 a single condominium unit with a combined dwelling and
20 contents replacement cost of \$1 million or more. Upon request
21 of the office, the insurer shall provide to the office such
22 loss and expense information as the office reasonably needs to
23 meet this burden.

24 Section 12. Paragraph (c) of subsection (3) of section
25 627.0628, Florida Statutes, is amended to read:

26 627.0628 Florida Commission on Hurricane Loss
27 Projection Methodology; public records exemption; public
28 meetings exemption.--

29 (3) ADOPTION AND EFFECT OF STANDARDS AND GUIDELINES.--

30 (c) With respect to a rate filing under s. 627.062, an
31 insurer may employ actuarial methods, principles, standards,

1 models, or output ranges found by the commission to be
2 accurate or reliable to determine hurricane loss factors for
3 use in a rate filing under s. 627.062. Such findings and
4 factors are admissible and relevant in consideration of a rate
5 filing by the office or in any arbitration or administrative
6 or judicial review only if the office and the consumer
7 advocate appointed pursuant to s. 627.0613 have access to all
8 of the assumptions and factors that were used in developing
9 the actuarial methods, principles, standards, models, or
10 output ranges, and are not precluded from disclosing such
11 information in a rate proceeding. In any rate hearing under s.
12 120.57 or in any arbitration proceeding under s. 627.062(6),
13 the hearing officer, judge, or arbitration panel may determine
14 whether the office and the consumer advocate were provided
15 with access to all of the assumptions and factors that were
16 used in developing the actuarial methods, principles,
17 standards, models, or output ranges and to determine their
18 admissibility.

19 Section 13. Section 627.06281, Florida Statutes, is
20 amended to read:

21 627.06281 Public hurricane loss projection model;
22 reporting of data by insurers.--

23 (1) Within 30 days after a written request for loss
24 data and associated exposure data by the office or a type I
25 center within the State University System established to study
26 mitigation, residential property insurers and licensed rating
27 and advisory organizations that compile residential property
28 insurance loss data shall provide loss data and associated
29 exposure data for residential property insurance policies to
30 the office or to a type I center within the State University
31 System established to study mitigation, as directed by the

1 office, for the purposes of developing, maintaining, and
2 updating a public model for hurricane loss projections. The
3 loss data and associated exposure data provided shall be in
4 writing.

5 (2) The public model must be submitted to the Florida
6 Commission on Hurricane Loss Projection Methodology for review
7 under s. 627.0628 by March 1, 2007. The office may continue to
8 use the model for its review of rate filings pursuant to ss.
9 627.062 and 627.351 until such time as the Florida Commission
10 on Hurricane Loss Projection Methodology determines that the
11 public model is not accurate or reliable pursuant to the same
12 process and standards as the commission uses for the review of
13 other hurricane loss projection models.

14 Section 14. Subsection (1) of section 627.0629,
15 Florida Statutes, is amended to read:

16 627.0629 Residential property insurance; rate
17 filings.--

18 (1) Effective June 1, 2002, a rate filing for
19 residential property insurance must include actuarially
20 reasonable discounts, credits, or other rate differentials, or
21 appropriate reductions in deductibles, for properties on which
22 fixtures or construction techniques demonstrated to reduce the
23 amount of loss in a windstorm have been installed or
24 implemented. The fixtures or construction techniques shall
25 include, but not be limited to, fixtures or construction
26 techniques which enhance roof strength, roof covering
27 performance, roof-to-wall strength,
28 wall-to-floor-to-foundation strength, opening protection, and
29 window, door, and skylight strength. Credits, discounts, or
30 other rate differentials for fixtures and construction
31 techniques which meet the minimum requirements of the Florida

1 Building Code must be included in the rate filing. All
2 insurance companies must make a rate filing which includes the
3 credits, discounts, or other rate differentials by February
4 28, 2003. By July 1, 2007, the office shall reevaluate the
5 discounts, credits, other rate differentials, and appropriate
6 reductions in deductibles for fixtures and construction
7 techniques that meet the minimum requirements of the Florida
8 Building Code, based upon actual experience or any other loss
9 relativity studies available to the office. The office shall
10 determine the discounts, credits, other rate differentials,
11 and appropriate reductions in deductibles that reflect the
12 full actuarial value of such revaluation, which may be used by
13 insurers in rate filings.

14 Section 15. Effective July 1, 2006, subsection (6) of
15 section 627.351, Florida Statutes, is amended to read:

16 627.351 Insurance risk apportionment plans.--

17 (6) CITIZENS PROPERTY INSURANCE CORPORATION.--

18 (a)1. The Legislature finds that actual and threatened
19 catastrophic losses to property in this state from hurricanes
20 have caused insurers to be unwilling or unable to provide
21 property insurance coverage to the extent sought and needed.
22 It is in the public interest and a public purpose to assist in
23 assuring that property in the state is insured so as to
24 facilitate the remediation, reconstruction, and replacement of
25 damaged or destroyed property in order to reduce or avoid the
26 negative effects otherwise resulting to the public health,
27 safety, and welfare; to the economy of the state; and to the
28 revenues of the state and local governments needed to provide
29 for the public welfare. It is necessary, therefore, to provide
30 property insurance to applicants who are in good faith
31 entitled to procure insurance through the voluntary market but

1 are unable to do so. The Legislature intends by this
2 subsection that property insurance be provided and that it
3 continues, as long as necessary, through an entity organized
4 to achieve efficiencies and economies, while providing service
5 to policyholders, applicants, and agents that is no less than
6 the quality generally provided in the voluntary market, all
7 toward the achievement of the foregoing public purposes.
8 Because it is essential for the corporation to have the
9 maximum financial resources to pay claims following a
10 catastrophic hurricane, it is the intent of the Legislature
11 that the income of the corporation be exempt from federal
12 income taxation and that interest on the debt obligations
13 issued by the corporation be exempt from federal income
14 taxation.

15 2. The Residential Property and Casualty Joint
16 Underwriting Association originally created by this statute
17 shall be known, as of July 1, 2002, as the Citizens Property
18 Insurance Corporation. The corporation shall provide insurance
19 for residential and commercial property, for applicants who
20 are in good faith entitled, but are unable, to procure
21 insurance through the voluntary market. The corporation shall
22 operate pursuant to a plan of operation approved by order of
23 the Financial Services Commission ~~office~~. The plan is subject
24 to continuous review by the commission ~~office~~. The commission
25 ~~office~~ may, by order, withdraw approval of all or part of a
26 plan if the commission ~~office~~ determines that conditions have
27 changed since approval was granted and that the purposes of
28 the plan require changes in the plan. The corporation shall
29 continue to operate pursuant to the plan of operation approved
30 by the Office of Insurance Regulation until October 1, 2006.
31 For the purposes of this subsection, residential coverage

1 includes both personal lines residential coverage, which
2 consists of the type of coverage provided by homeowner's,
3 mobile home owner's, dwelling, tenant's, condominium unit
4 owner's, and similar policies, and commercial lines
5 residential coverage, which consists of the type of coverage
6 provided by condominium association, apartment building, and
7 similar policies.

8 3. For the purposes of this subsection, the term
9 "homestead property" means:

10 a. Property that has been granted a homestead
11 exemption under chapter 196;

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

16 c. An owner-occupied mobile home or manufactured home,
17 as defined in s. 320.01, which is permanently affixed to real
18 property, is owned by a Florida resident, and has been granted
19 a homestead exemption under chapter 196 or, if the owner does
20 not own the real property, the owner certifies that the mobile
21 home or manufactured home is his or her principal place of
22 residence.

23 d. Tenants coverage;

24 e. Commercial lines residential property; or

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

31

1 4. For the purposes of this subsection, the term
2 "nonhomestead property" means property that is not homestead
3 property.

4 5. Effective July 1, 2008, a personal lines
5 residential structure that has a dwelling replacement cost of
6 \$1 million or more, or a single condominium unit that has a
7 combined dwelling and content replacement cost of \$1 million
8 or more is not eligible for coverage by the corporation. Such
9 dwellings insured by the corporation on June 30, 2008, may
10 continue to be covered by the corporation until the end of the
11 policy term. However, such dwellings that are insured by the
12 corporation and become ineligible for coverage due to the
13 provisions of this subparagraph may reapply and obtain
14 coverage in the high-risk account and be considered
15 "nonhomestead property" if the property owner provides the
16 corporation with a sworn affidavit from one or more insurance
17 agents, on a form provided by the corporation, stating that
18 the agents have made their best efforts to obtain coverage and
19 that the property has been rejected for coverage by at least
20 one authorized insurer and at least three surplus lines
21 insurers. If such conditions are met, the dwelling may be
22 insured by the corporation for up to 3 years, after which time
23 the dwelling is ineligible for coverage. The office shall
24 approve the method used by the corporation for valuing the
25 dwelling replacement cost for the purposes of this
26 subparagraph. If a policyholder is insured by the corporation
27 prior to being determined to be ineligible pursuant to this
28 subparagraph and such policyholder files a lawsuit challenging
29 the determination, the policyholder may remain insured by the
30 corporation until the conclusion of the litigation.
31

1 6. Effective March 1, 2007, nonhomestead property is
2 not eligible for coverage by the corporation and is not
3 eligible for renewal of such coverage unless the property
4 owner provides the corporation with a sworn affidavit from one
5 or more insurance agents, on a form provided by the
6 corporation, stating that the agents have made their best
7 efforts to obtain coverage and that the property has been
8 rejected for coverage by at least one authorized insurer and
9 at least three surplus lines insurers.

10 ~~7.3.~~ It is the intent of the Legislature that
11 policyholders, applicants, and agents of the corporation
12 receive service and treatment of the highest possible level
13 but never less than that generally provided in the voluntary
14 market. It also is intended that the corporation be held to
15 service standards no less than those applied to insurers in
16 the voluntary market by the office with respect to
17 responsiveness, timeliness, customer courtesy, and overall
18 dealings with policyholders, applicants, or agents of the
19 corporation.

20 (b)1. All insurers authorized to write one or more
21 subject lines of business in this state are subject to
22 assessment by the corporation and, for the purposes of this
23 subsection, are referred to collectively as "assessable
24 insurers." Insurers writing one or more subject lines of
25 business in this state pursuant to part VIII of chapter 626
26 are not assessable insurers, but insureds who procure one or
27 more subject lines of business in this state pursuant to part
28 VIII of chapter 626 are subject to assessment by the
29 corporation and are referred to collectively as "assessable
30 insureds." An authorized insurer's assessment liability shall
31 begin on the first day of the calendar year following the year

1 | in which the insurer was issued a certificate of authority to
2 | transact insurance for subject lines of business in this state
3 | and shall terminate 1 year after the end of the first calendar
4 | year during which the insurer no longer holds a certificate of
5 | authority to transact insurance for subject lines of business
6 | in this state.

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

10 | (I) A personal lines account for personal residential
11 | policies issued by the corporation or issued by the
12 | Residential Property and Casualty Joint Underwriting
13 | Association and renewed by the corporation that provide
14 | comprehensive, multiperil coverage on risks that are not
15 | located in areas eligible for coverage in the Florida
16 | Windstorm Underwriting Association as those areas were defined
17 | on January 1, 2002, and for such policies that do not provide
18 | coverage for the peril of wind on risks that are located in
19 | such areas;

20 | (II) A commercial lines account for commercial
21 | residential policies issued by the corporation or issued by
22 | the Residential Property and Casualty Joint Underwriting
23 | Association and renewed by the corporation that provide
24 | coverage for basic property perils on risks that are not
25 | located in areas eligible for coverage in the Florida
26 | Windstorm Underwriting Association as those areas were defined
27 | on January 1, 2002, and for such policies that do not provide
28 | coverage for the peril of wind on risks that are located in
29 | such areas; and

30 | (III) A high-risk account for personal residential
31 | policies and commercial residential and commercial

1 nonresidential property policies issued by the corporation or
2 transferred to the corporation that provide coverage for the
3 peril of wind on risks that are located in areas eligible for
4 coverage in the Florida Windstorm Underwriting Association as
5 those areas were defined on January 1, 2002. The high-risk
6 account must also include quota share primary insurance under
7 subparagraph (c)2. The area eligible for coverage under the
8 high-risk account also includes the area within Port
9 Canaveral, which is bordered on the south by the City of Cape
10 Canaveral, bordered on the west by the Banana River, and
11 bordered on the north by Federal Government property. The
12 office may remove territory from the area eligible for
13 wind-only and quota share coverage if, after a public hearing,
14 the office finds that authorized insurers in the voluntary
15 market are willing and able to write sufficient amounts of
16 personal and commercial residential coverage for all perils in
17 the territory, including coverage for the peril of wind, such
18 that risks covered by wind-only policies in the removed
19 territory could be issued a policy by the corporation in
20 either the personal lines or commercial lines account without
21 a significant increase in the corporation's probable maximum
22 loss in such account. Removal of territory from the area
23 eligible for wind-only or quota share coverage does not alter
24 the assignment of wind coverage written in such areas to the
25 high-risk account.

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

1 outstanding, in accordance with the terms of the corresponding
2 financing documents, the corporation may use a single account
3 for all revenues, assets, liabilities, losses, and expenses of
4 the corporation. Consistent with the requirement of this
5 subparagraph and prudent investment policies that minimize the
6 cost of carrying debt, the board shall exercise its best
7 efforts to retire existing debt or to obtain approval of
8 necessary parties to amend the terms of existing debt, so as
9 to structure the most efficient plan to consolidate the three
10 separate accounts into a single account. By February 1, 2007,
11 the board shall submit a report to the Financial Services
12 Commission, the President of the Senate, and the Speaker of
13 the House of Representatives which includes an analysis of
14 consolidating the accounts, the actions the board has taken to
15 minimize the cost of carrying debt, and its recommendations
16 for executing the most efficient plan.

17 c. Creditors of the Residential Property and Casualty
18 Joint Underwriting Association shall have a claim against, and
19 recourse to, the accounts referred to in sub-sub-subparagraphs
20 a.(I) and (II) and shall have no claim against, or recourse
21 to, the account referred to in sub-sub-subparagraph a.(III).
22 Creditors of the Florida Windstorm Underwriting Association
23 shall have a claim against, and recourse to, the account
24 referred to in sub-sub-subparagraph a.(III) and shall have no
25 claim against, or recourse to, the accounts referred to in
26 sub-sub-subparagraphs a.(I) and (II).

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

30 e. The Legislature finds that the revenues of the
31 corporation are revenues that are necessary to meet the

1 requirements set forth in documents authorizing the issuance
2 of bonds under this subsection.

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

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

6 a. When the deficit incurred in a particular calendar
7 year is not greater than 10 percent of the aggregate statewide
8 direct written premium for the subject lines of business for
9 the prior calendar year, the entire deficit shall be recovered
10 through regular assessments of assessable insurers under
11 paragraph (p) ~~(g)~~ and assessable insureds.

12 b. When the deficit incurred in a particular calendar
13 year exceeds 10 percent of the aggregate statewide direct
14 written premium for the subject lines of business for the
15 prior calendar year, the corporation shall levy regular
16 assessments on assessable insurers under paragraph (p) ~~(g)~~ and
17 on assessable insureds in an amount equal to the greater of 10
18 percent of the deficit or 10 percent of the aggregate
19 statewide direct written premium for the subject lines of
20 business for the prior calendar year. Any remaining deficit
21 shall be recovered through emergency assessments under
22 sub-subparagraph d.

23 c. Each assessable insurer's share of the amount being
24 assessed under sub-subparagraph a. or sub-subparagraph b.
25 shall be in the proportion that the assessable insurer's
26 direct written premium for the subject lines of business for
27 the year preceding the assessment bears to the aggregate
28 statewide direct written premium for the subject lines of
29 business for that year. The assessment percentage applicable
30 to each assessable insured is the ratio of the amount being
31 assessed under sub-subparagraph a. or sub-subparagraph b. to

1 the aggregate statewide direct written premium for the subject
2 lines of business for the prior year. Assessments levied by
3 the corporation on assessable insurers under sub-subparagraphs
4 a. and b. shall be paid as required by the corporation's plan
5 of operation and paragraph~~(p)~~~~(g)~~. Notwithstanding any other
6 provision of this subsection, the aggregate amount of a
7 regular assessment for a deficit incurred in a particular
8 calendar year shall be reduced by the estimated amount to be
9 received by the corporation from the Citizens policyholder
10 surcharge under subparagraph (c)11. and the amount collected
11 or estimated to be collected from the assessment on Citizens
12 policyholders pursuant to sub-subparagraph i. Assessments
13 levied by the corporation on assessable insureds under
14 sub-subparagraphs a. and b. shall be collected by the surplus
15 lines agent at the time the surplus lines agent collects the
16 surplus lines tax required by s. 626.932 and shall be paid to
17 the Florida Surplus Lines Service Office at the time the
18 surplus lines agent pays the surplus lines tax to the Florida
19 Surplus Lines Service Office. Upon receipt of regular
20 assessments from surplus lines agents, the Florida Surplus
21 Lines Service Office shall transfer the assessments directly
22 to the corporation as determined by the corporation.

23 d. Upon a determination by the board of governors that
24 a deficit in an account exceeds the amount that will be
25 recovered through regular assessments under sub-subparagraph
26 a. or sub-subparagraph b., the board shall levy, after
27 verification by the office, emergency assessments, for as many
28 years as necessary to cover the deficits, to be collected by
29 assessable insurers and the corporation and collected from
30 assessable insureds upon issuance or renewal of policies for
31 subject lines of business, excluding National Flood Insurance

1 policies. The amount of the emergency assessment collected in
2 a particular year shall be a uniform percentage of that year's
3 direct written premium for subject lines of business and all
4 accounts of the corporation, excluding National Flood
5 Insurance Program policy premiums, as annually determined by
6 the board and verified by the office. The office shall verify
7 the arithmetic calculations involved in the board's
8 determination within 30 days after receipt of the information
9 on which the determination was based. Notwithstanding any
10 other provision of law, the corporation and each assessable
11 insurer that writes subject lines of business shall collect
12 emergency assessments from its policyholders without such
13 obligation being affected by any credit, limitation,
14 exemption, or deferment. Emergency assessments levied by the
15 corporation on assessable insureds shall be collected by the
16 surplus lines agent at the time the surplus lines agent
17 collects the surplus lines tax required by s. 626.932 and
18 shall be paid to the Florida Surplus Lines Service Office at
19 the time the surplus lines agent pays the surplus lines tax to
20 the Florida Surplus Lines Service Office. The emergency
21 assessments so collected shall be transferred directly to the
22 corporation on a periodic basis as determined by the
23 corporation and shall be held by the corporation solely in the
24 applicable account. The aggregate amount of emergency
25 assessments levied for an account under this sub-subparagraph
26 in any calendar year may not exceed the greater of 10 percent
27 of the amount needed to cover the original deficit, plus
28 interest, fees, commissions, required reserves, and other
29 costs associated with financing of the original deficit, or 10
30 percent of the aggregate statewide direct written premium for
31 subject lines of business and for all accounts of the

1 corporation for the prior year, plus interest, fees,
2 commissions, required reserves, and other costs associated
3 with financing the original deficit.

4 e. The corporation may pledge the proceeds of
5 assessments, projected recoveries from the Florida Hurricane
6 Catastrophe Fund, other insurance and reinsurance
7 recoverables, policyholder ~~market equalization~~ surcharges and
8 other surcharges, and other funds available to the corporation
9 as the source of revenue for and to secure bonds issued under
10 paragraph (p) ~~(g)~~, bonds or other indebtedness issued under
11 subparagraph (c)3., or lines of credit or other financing
12 mechanisms issued or created under this subsection, or to
13 retire any other debt incurred as a result of deficits or
14 events giving rise to deficits, or in any other way that the
15 board determines will efficiently recover such deficits. The
16 purpose of the lines of credit or other financing mechanisms
17 is to provide additional resources to assist the corporation
18 in covering claims and expenses attributable to a catastrophe.
19 As used in this subsection, the term "assessments" includes
20 regular assessments under sub-subparagraph a.,
21 sub-subparagraph b., or subparagraph (p)1. ~~(g)1.~~ and emergency
22 assessments under sub-subparagraph d. Emergency assessments
23 collected under sub-subparagraph d. are not part of an
24 insurer's rates, are not premium, and are not subject to
25 premium tax, fees, or commissions; however, failure to pay the
26 emergency assessment shall be treated as failure to pay
27 premium. The emergency assessments under sub-subparagraph d.
28 shall continue as long as any bonds issued or other
29 indebtedness incurred with respect to a deficit for which the
30 assessment was imposed remain outstanding, unless adequate
31 provision has been made for the payment of such bonds or other

1 indebtedness pursuant to the documents governing such bonds or
2 other indebtedness.

3 f. As used in this subsection, the term "subject lines
4 of business" means insurance written by assessable insurers or
5 procured by assessable insureds on real or personal property,
6 as defined in s. 624.604, including insurance for fire,
7 industrial fire, allied lines, farmowners multiperil,
8 homeowners multiperil, commercial multiperil, and mobile
9 homes, and including liability coverage on all such insurance,
10 but excluding inland marine as defined in s. 624.607(3) and
11 excluding vehicle insurance as defined in s. 624.605(1) other
12 than insurance on mobile homes used as permanent dwellings.

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

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

27 i. If a deficit is incurred in any account, the board
28 of governors shall levy an immediate assessment against the
29 premium of each nonhomestead property policyholder in all
30 accounts of the corporation, as a uniform percentage of the
31 premium of the policy of up to 10 percent of such premium,

1 which funds shall be used to offset the deficit. If this
2 assessment is insufficient to eliminate the deficit, the board
3 of governors shall levy an additional assessment against all
4 policyholders of the corporation, which shall be collected at
5 the time of issuance or renewal of a policy, as a uniform
6 percentage of the premium for the policy of up to 10 percent
7 of such premium, which funds shall be used to further offset
8 the deficit.

9 j. The board of governors shall maintain separate
10 accounting records that consolidate data for nonhomestead
11 properties, including, but not limited to, number of policies,
12 insured values, premiums written, and losses. The board of
13 governors shall annually report to the office and the
14 Legislature a summary of such data.

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

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

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

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

31

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

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

10 e. Commercial lines nonresidential property insurance
11 forms that cover the peril of wind only. The forms are
12 applicable only to nonresidential properties located in areas
13 eligible for coverage under the high-risk account referred to
14 in sub-subparagraph (b)2.a.

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

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

25 (I) "Quota share primary insurance" means an
26 arrangement in which the primary hurricane coverage of an
27 eligible risk is provided in specified percentages by the
28 corporation and an authorized insurer. The corporation and
29 authorized insurer are each solely responsible for a specified
30 percentage of hurricane coverage of an eligible risk as set
31 forth in a quota share primary insurance agreement between the

1 corporation and an authorized insurer and the insurance
2 contract. The responsibility of the corporation or authorized
3 insurer to pay its specified percentage of hurricane losses of
4 an eligible risk, as set forth in the quota share primary
5 insurance agreement, may not be altered by the inability of
6 the other party to the agreement to pay its specified
7 percentage of hurricane losses. Eligible risks that are
8 provided hurricane coverage through a quota share primary
9 insurance arrangement must be provided policy forms that set
10 forth the obligations of the corporation and authorized
11 insurer under the arrangement, clearly specify the percentages
12 of quota share primary insurance provided by the corporation
13 and authorized insurer, and conspicuously and clearly state
14 that neither the authorized insurer nor the corporation may be
15 held responsible beyond its specified percentage of coverage
16 of hurricane losses.

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

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

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

31

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

8 e. Any quota share primary insurance agreement entered
9 into between an authorized insurer and the corporation is
10 subject to review and approval by the office. However, such
11 agreement shall be authorized only as to insurance contracts
12 entered into between an authorized insurer and an insured who
13 is already insured by the corporation for wind coverage.

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

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

1 h. The quota share primary insurance agreement between
2 the corporation and an authorized insurer must set forth the
3 specific terms under which coverage is provided, including,
4 but not limited to, the sale and servicing of policies issued
5 under the agreement by the insurance agent of the authorized
6 insurer producing the business, the reporting of information
7 concerning eligible risks, the payment of premium to the
8 corporation, and arrangements for the adjustment and payment
9 of hurricane claims incurred on eligible risks by the claims
10 adjuster and personnel of the authorized insurer. Entering
11 into a quota sharing insurance agreement between the
12 corporation and an authorized insurer shall be voluntary and
13 at the discretion of the authorized insurer.

14 3. May provide that the corporation may employ or
15 otherwise contract with individuals or other entities to
16 provide administrative or professional services that may be
17 appropriate to effectuate the plan. The corporation shall have
18 the power to borrow funds, by issuing bonds or by incurring
19 other indebtedness, and shall have other powers reasonably
20 necessary to effectuate the requirements of this subsection,
21 including, without limitation, the power to issue bonds and
22 incur other indebtedness in order to refinance outstanding
23 bonds or other indebtedness. The corporation may, but is not
24 required to, seek judicial validation of its bonds or other
25 indebtedness under chapter 75. The corporation may issue bonds
26 or incur other indebtedness, or have bonds issued on its
27 behalf by a unit of local government pursuant to subparagraph
28 (g)2., in the absence of a hurricane or other weather-related
29 event, upon a determination by the corporation, subject to
30 approval by the office, that such action would enable it to
31 efficiently meet the financial obligations of the corporation

1 and that such financings are reasonably necessary to
2 effectuate the requirements of this subsection. The
3 corporation is authorized to take all actions needed to
4 facilitate tax-free status for any such bonds or indebtedness,
5 including formation of trusts or other affiliated entities.
6 The corporation shall have the authority to pledge
7 assessments, projected recoveries from the Florida Hurricane
8 Catastrophe Fund, other reinsurance recoverables, market
9 equalization and other surcharges, and other funds available
10 to the corporation as security for bonds or other
11 indebtedness. In recognition of s. 10, Art. I of the State
12 Constitution, prohibiting the impairment of obligations of
13 contracts, it is the intent of the Legislature that no action
14 be taken whose purpose is to impair any bond indenture or
15 financing agreement or any revenue source committed by
16 contract to such bond or other indebtedness.

17 4.a. Must require that the corporation operate subject
18 to the supervision and approval of a board of governors
19 consisting of 8 individuals who are residents of this state,
20 from different geographical areas of this state. The Governor,
21 the Chief Financial Officer, the President of the Senate, and
22 the Speaker of the House of Representatives shall each appoint
23 two members of the board, ~~effective August 1, 2005~~. At least
24 one of the two members appointed by each appointing officer
25 must have demonstrated expertise in insurance. The Chief
26 Financial Officer shall designate one of the appointees as
27 chair. All board members serve at the pleasure of the
28 appointing officer. All board members, including the chair,
29 must be appointed to serve for 3-year terms beginning annually
30 on a date designated by the plan. Any board vacancy shall be
31 filled for the unexpired term by the appointing officer. The

1 Chief Financial Officer shall appoint a technical advisory
2 group to provide information and advice to the board of
3 governors in connection with the board's duties under this
4 subsection. The executive director and senior managers of the
5 corporation shall be engaged by the board, ~~as recommended by~~
6 ~~the Chief Financial Officer,~~ and serve at the pleasure of the
7 board. Any executive director appointed on or after July 1,
8 2006, is subject to confirmation by the Senate. The executive
9 director is responsible for employing other staff as the
10 corporation may require, subject to review and concurrence by
11 the board ~~and the Chief Financial Officer.~~

12 b. The board shall create a Market Accountability
13 Advisory Committee to assist the corporation in developing
14 awareness of its rates and its customer and agent service
15 levels in relationship to the voluntary market insurers
16 writing similar coverage. The members of the advisory
17 committee shall consist of the following 11 persons, one of
18 whom must be elected chair by the members of the committee:
19 four representatives, one appointed by the Florida Association
20 of Insurance Agents, one by the Florida Association of
21 Insurance and Financial Advisors, one by the Professional
22 Insurance Agents of Florida, and one by the Latin American
23 Association of Insurance Agencies; three representatives
24 appointed by the insurers with the three highest voluntary
25 market share of residential property insurance business in the
26 state; one representative from the Office of Insurance
27 Regulation; one consumer appointed by the board who is insured
28 by the corporation at the time of appointment to the
29 committee; one representative appointed by the Florida
30 Association of Realtors; and one representative appointed by
31 the Florida Bankers Association. All members must serve for

1 3-year terms and may serve for consecutive terms. The
2 committee shall report to the corporation at each board
3 meeting on insurance market issues which may include rates and
4 rate competition with the voluntary market; service, including
5 policy issuance, claims processing, and general responsiveness
6 to policyholders, applicants, and agents; and matters relating
7 to depopulation.

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

10 a. Subject to the provisions of s. 627.3517, with
11 respect to personal lines residential risks, if the risk is
12 offered coverage from an authorized insurer at the insurer's
13 approved rate under either a standard policy including wind
14 coverage or, if consistent with the insurer's underwriting
15 rules as filed with the office, a basic policy including wind
16 coverage, the risk is not eligible for any policy issued by
17 the corporation. If the risk is not able to obtain any such
18 offer, the risk is eligible for either a standard policy
19 including wind coverage or a basic policy including wind
20 coverage issued by the corporation; however, if the risk could
21 not be insured under a standard policy including wind coverage
22 regardless of market conditions, the risk shall be eligible
23 for a basic policy including wind coverage unless rejected
24 under subparagraph 8. The corporation shall determine the type
25 of policy to be provided on the basis of objective standards
26 specified in the underwriting manual and based on generally
27 accepted underwriting practices.

28 (I) If the risk accepts an offer of coverage through
29 the market assistance plan or an offer of coverage through a
30 mechanism established by the corporation before a policy is
31 issued to the risk by the corporation or during the first 30

1 days of coverage by the corporation, and the producing agent
2 who submitted the application to the plan or to the
3 corporation is not currently appointed by the insurer, the
4 insurer shall:

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

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

15
16 If the producing agent is unwilling or unable to accept
17 appointment, the new insurer shall pay the agent in accordance
18 with sub-sub-sub-subparagraph (A).

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

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

28 (B) Offer to allow the producing agent of record of
29 the corporation policy to continue servicing the policy for a
30 period of not less than 1 year and offer to pay the agent the
31

1 greater of the insurer's or the corporation's usual and
2 customary commission for the type of policy written.

3
4 If the producing agent is unwilling or unable to accept
5 appointment, the new insurer shall pay the agent in accordance
6 with sub-sub-sub-subparagraph (A).

7 b. With respect to commercial lines residential risks,
8 if the risk is offered coverage under a policy including wind
9 coverage from an authorized insurer at its approved rate, the
10 risk is not eligible for any policy issued by the corporation.
11 If the risk is not able to obtain any such offer, the risk is
12 eligible for a policy including wind coverage issued by the
13 corporation.

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

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

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

31

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

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

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

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

18
19 If the producing agent is unwilling or unable to accept
20 appointment, the new insurer shall pay the agent in accordance
21 with sub-sub-sub-subparagraph (A).

22 6. Must provide by July 1, 2007, that an application
23 for coverage for a new policy is subject to a waiting period
24 of 10 days before coverage is effective, during which time the
25 corporation shall make such application available for review
26 by general lines agents and authorized property and casualty
27 insurers. The board may approve exceptions that allow for
28 coverage to be effective before the end of the 10-day waiting
29 period, for coverage issued in conjunction with a real estate
30 closing, and for such other exceptions as the board determines
31 are necessary to prevent lapses in coverage.

1 ~~7.6.~~ Must include rules for classifications of risks
2 and rates therefor.

3 ~~8.7.~~ Must provide that if premium and investment
4 income for an account attributable to a particular calendar
5 year are in excess of projected losses and expenses for the
6 account attributable to that year, such excess shall be held
7 in surplus in the account. Such surplus shall be available to
8 defray deficits in that account as to future years and shall
9 be used for that purpose prior to assessing assessable
10 insurers and assessable insureds as to any calendar year.

11 ~~9.8.~~ Must provide objective criteria and procedures to
12 be uniformly applied for all applicants in determining whether
13 an individual risk is so hazardous as to be uninsurable. In
14 making this determination and in establishing the criteria and
15 procedures, the following shall be considered:

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

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

22
23 The acceptance or rejection of a risk by the corporation shall
24 be construed as the private placement of insurance, and the
25 provisions of chapter 120 shall not apply.

26 ~~10.9.~~ Must provide that the corporation shall make its
27 best efforts to procure catastrophe reinsurance at reasonable
28 rates, to cover its projected 100-year probable maximum loss
29 as determined by the board of governors.

30 ~~11.10.~~ Must provide that in the event of regular
31 deficit assessments under sub-subparagraph (b)3.a. or

1 sub-subparagraph (b)3.b., in the personal lines account, the
2 commercial lines residential account, or the high-risk
3 account, the corporation shall levy upon corporation
4 policyholders in its next rate filing, or by a separate rate
5 filing solely for this purpose, a Citizens policyholder market
6 ~~equalization~~ surcharge arising from a regular assessment in
7 such account in a percentage equal to the total amount of such
8 regular assessments divided by the aggregate statewide direct
9 written premium for subject lines of business for the prior
10 calendar year. For purposes of calculating the Citizens
11 policyholder surcharge to be levied under this subparagraph,
12 the total amount of the regular assessment to which this
13 surcharge is related shall be determined as set forth in
14 subparagraph (b)3., without deducting the estimated Citizens
15 policyholder surcharge. Citizens policyholder Market
16 ~~equalization~~ surcharges under this subparagraph are not
17 considered premium and are not subject to commissions, fees,
18 or premium taxes; however, failure to pay a market
19 equalization surcharge shall be treated as failure to pay
20 premium.

21 ~~12.11.~~ The policies issued by the corporation must
22 provide that, if the corporation or the market assistance plan
23 obtains an offer from an authorized insurer to cover the risk
24 at its approved rates, the risk is no longer eligible for
25 renewal through the corporation.

26 ~~13.12.~~ Corporation policies and applications must
27 include a notice that the corporation policy could, under this
28 section, be replaced with a policy issued by an authorized
29 insurer that does not provide coverage identical to the
30 coverage provided by the corporation. The notice shall also
31 specify that acceptance of corporation coverage creates a

1 conclusive presumption that the applicant or policyholder is
2 aware of this potential.

3 ~~14.13.~~ May establish, subject to approval by the
4 office, different eligibility requirements and operational
5 procedures for any line or type of coverage for any specified
6 county or area if the board determines that such changes to
7 the eligibility requirements and operational procedures are
8 justified due to the voluntary market being sufficiently
9 stable and competitive in such area or for such line or type
10 of coverage and that consumers who, in good faith, are unable
11 to obtain insurance through the voluntary market through
12 ordinary methods would continue to have access to coverage
13 from the corporation. When coverage is sought in connection
14 with a real property transfer, such requirements and
15 procedures shall not provide for an effective date of coverage
16 later than the date of the closing of the transfer as
17 established by the transferor, the transferee, and, if
18 applicable, the lender.

19 ~~15.14.~~ Must provide that, with respect to the
20 high-risk account, any assessable insurer with a surplus as to
21 policyholders of \$25 million or less writing 25 percent or
22 more of its total countrywide property insurance premiums in
23 this state may petition the office, within the first 90 days
24 of each calendar year, to qualify as a limited apportionment
25 company. A regular assessment levied by the corporation on a
26 limited apportionment company for a deficit incurred by the
27 corporation for the high-risk account in 2006 or thereafter
28 may be paid to the corporation on a monthly basis as the
29 assessments are collected by the limited apportionment company
30 from its insureds pursuant to s. 627.3512, but the regular
31 assessment must be paid in full within 12 months after being

1 ~~levied by the corporation. In no event shall a limited~~
2 ~~apportionment company be required to participate in the~~
3 ~~portion of any assessment, within the high risk account,~~
4 ~~pursuant to sub-subparagraph (b)3.a. or sub-subparagraph~~
5 ~~(b)3.b. in the aggregate which exceeds \$50 million after~~
6 ~~payment of available high risk account funds in any calendar~~
7 ~~year. However,~~ A limited apportionment company shall collect
8 from its policyholders any emergency assessment imposed under
9 sub-subparagraph (b)3.d. The plan shall provide that, if the
10 office determines that any regular assessment will result in
11 an impairment of the surplus of a limited apportionment
12 company, the office may direct that all or part of such
13 assessment be deferred as provided in subparagraph (g)4.
14 However, there shall be no limitation or deferment of an
15 emergency assessment to be collected from policyholders under
16 sub-subparagraph (b)3.d.

17 ~~16.15.~~ Must provide that the corporation appoint as
18 its licensed agents only those agents who also hold an
19 appointment as defined in s. 626.015(3) with an insurer who at
20 the time of the agent's initial appointment by the corporation
21 is authorized to write and is actually writing personal lines
22 residential property coverage, commercial residential property
23 coverage, or commercial nonresidential property coverage
24 within the state.

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

28 18. Must provide, effective June 1, 2007, that the
29 corporation contract with each insurer providing the non-wind
30 coverage for risks insured by the corporation in the high-risk
31 account, requiring that the insurer provide claims-adjusting

1 services for the wind coverage provided by the corporation for
2 such risks. An insurer is required to enter into this contract
3 as a condition of providing non-wind coverage for a risk that
4 is insured by the corporation in the high-risk account unless
5 the board finds, after a hearing, that the insurer is not
6 capable of providing adjusting services at an acceptable level
7 of quality to corporation policyholders. The terms and
8 conditions of such contracts must be substantially the same as
9 the contracts that the corporation executed with insurers
10 under the "adjust-your-own" program in 2006, except as may be
11 mutually agreed to by the parties and except for such changes
12 that the board determines are necessary to ensure that claims
13 are adjusted appropriately. The corporation shall provide a
14 process for neutral arbitration of any dispute between the
15 corporation and the insurer regarding the terms of the
16 contract. The corporation shall review and monitor the
17 performance of insurers under these contracts.

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

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

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

1 3. Senior managers and members of the board of
2 governors are subject to the provisions of part III of chapter
3 112, including, but not limited to, the code of ethics and
4 public disclosure and reporting of financial interests,
5 pursuant to s. 112.3145. Senior managers and board members are
6 also required to file such disclosures with the Office of
7 Insurance Regulation. The executive director of the
8 corporation or his or her designee shall notify each newly
9 appointed and existing appointed member of the board of
10 governors and senior managers of their duty to comply with the
11 reporting requirements of part III of chapter 112. At least
12 quarterly, the executive director or his or her designee shall
13 submit to the Commission on Ethics a list of names of the
14 senior managers and members of the board of governors that are
15 subject to the public disclosure requirements under s.
16 112.3145.

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

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

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

7 (e) Purchases that equal or exceed \$2,500, but are
8 less than \$25,000, shall be made by receipt of written quotes,
9 written record of telephone quotes, or informal bids, whenever
10 practical. The procurement of goods or services valued at or
11 over \$25,000 shall be subject to competitive solicitation,
12 except in situations where the goods or services are provided
13 by a sole source or are deemed an emergency purchase; the
14 services are exempted from competitive solicitation
15 requirements under s. 287.057(5)(f); or the procurement of
16 services is subject to s. 627.3513. Justification for the
17 sole-sourcing or emergency procurement must be documented.
18 Contracts for goods or services valued at or over \$100,000 are
19 subject to approval by the board.

20 (f) The board shall determine whether it is more
21 cost-effective and in the best interests of the corporation to
22 use legal services provided by in-house attorneys employed by
23 the corporation rather than contracting with outside counsel.
24 In making such determination, the board shall document its
25 findings and shall consider: the expertise needed; whether
26 time commitments exceed in-house staff resources; whether
27 local representation is needed; the travel, lodging and other
28 costs associated with in-house representation; and such other
29 factors that the board determines are relevant.

30 (g) The corporation may not retain a lobbyist to
31 represent it before the legislative branch or executive

1 branch. However, full-time employees of the corporation may
2 register as lobbyists and represent the corporation before the
3 legislative branch or executive branch.

4 (h)1. The Office of the Internal Auditor is
5 established within the corporation to provide a central point
6 for coordination of and responsibility for activities that
7 promote accountability, integrity, and efficiency to the
8 policyholders and to the taxpayers of this state. The internal
9 auditor shall be appointed by the board of governors, shall
10 report to and be under the general supervision of the board of
11 governors, and is not subject to supervision by any employee
12 of the corporation. Administrative staff and support shall be
13 provided by the corporation. The internal auditor shall be
14 appointed without regard to political affiliation. It is the
15 duty and responsibility of the internal auditor to:

16 a. Provide direction for, supervise, conduct, and
17 coordinate audits, investigations, and management reviews
18 relating to the programs and operations of the corporation.

19 b. Conduct, supervise, or coordinate other activities
20 carried out or financed by the corporation for the purpose of
21 promoting efficiency in the administration of, or preventing
22 and detecting fraud, abuse, and mismanagement in, its programs
23 and operations.

24 c. Submit final audit reports, reviews, or
25 investigative reports to the board of governors, the executive
26 director, the members of the Financial Services Commission,
27 and the President of the Senate and the Speaker of the House
28 of Representatives.

29 d. Keep the board of governors informed concerning
30 fraud, abuses, and internal control deficiencies relating to
31 programs and operations administered or financed by the

1 corporation, recommend corrective action, and report on the
2 progress made in implementing corrective action.

3 e. Report expeditiously to the Department of Law
4 Enforcement or other law enforcement agencies, as appropriate,
5 whenever the internal auditor has reasonable grounds to
6 believe there has been a violation of criminal law.

7 2. On or before February 15, the internal auditor
8 shall prepare an annual report evaluating the effectiveness of
9 the internal controls of the corporation and providing
10 recommendations for corrective action, if necessary, and
11 summarizing the audits, reviews, and investigations conducted
12 by the office during the preceding fiscal year. The final
13 report shall be furnished to the board of governors and the
14 executive director, the President of the Senate, the Speaker
15 of the House of Representatives, and the Financial Services
16 Commission.

17 (i) All records of the corporation, except as
18 otherwise provided by law, are subject to the record retention
19 requirements of s. 119.021.

20 (j)1. The corporation shall establish and maintain a
21 unit or division to investigate possible fraudulent claims by
22 insureds or by persons making claims for services or repairs
23 against policies held by insureds; or it may contract with
24 others to investigate possible fraudulent claims for services
25 or repairs against policies held by the corporation pursuant
26 to s. 626.9891. The corporation must comply with reporting
27 requirements of s. 626.9891. An employee of the corporation
28 shall notify the Division of Insurance Fraud within 48 hours
29 after having information that would lead a reasonable person
30 to suspect that fraud may have been committed by any employee
31 of the corporation.

1 2. The corporation shall establish a unit or division
2 responsible for receiving and responding to consumer
3 complaints, which unit or division is the sole responsibility
4 of a senior manager of the corporation.

5 (k) The office shall conduct a comprehensive market
6 conduct examination of the corporation every 2 years to
7 determine compliance with its plan of operation and internal
8 operations procedures. The first market conduct examination
9 report shall be submitted to the President of the Senate and
10 the Speaker of the House of Representatives no later than
11 February 1, 2009. Subsequent reports shall be submitted on or
12 before February 1 every 2 years thereafter.

13 (l) The Auditor General shall conduct an operational
14 audit of the corporations every 3 years to evaluate
15 management's performance in administering laws, policies, and
16 procedures governing the operations of the corporation in an
17 efficient and effective manner. The scope of the review shall
18 include, but is not limited to, evaluating claims handling,
19 customer service, take-out programs and bonuses, financing
20 arrangements, procurement of goods and services, internal
21 controls, and the internal audit function. The initial audit
22 must be completed by February 1, 2009.

23 (m)(d)1.a. ~~It is the intent of the Legislature that~~
24 ~~the~~ Rates for coverage provided by the corporation shall be
25 actuarially sound and not competitive with approved rates
26 charged in the admitted voluntary market, so that the
27 corporation functions as a residual market mechanism to
28 provide insurance only when the insurance cannot be procured
29 in the voluntary market. Rates shall include an appropriate
30 catastrophe loading factor that reflects the actual
31 catastrophic exposure of the corporation. For policies in the

1 personal lines account and the commercial lines account issued
2 or renewed on or after March 1, 2007, a rate is deemed
3 inadequate if the rate, including investment income, is not
4 sufficient to provide for the procurement of coverage under
5 the Florida Hurricane Catastrophe Fund and private reinsurance
6 costs, whether or not reinsurance is procured, and to pay all
7 claims and expenses reasonably expected to result from a
8 100-year probable maximum loss event without resort to any
9 regular or emergency assessments, long-term debt, state
10 revenues, or other funding sources. For policies in the
11 high-risk account issued or renewed on or after March 1, 2007,
12 a rate is deemed inadequate if the rate, including investment
13 income, is not sufficient to provide for the procurement of
14 coverage under the Florida Hurricane Catastrophe Fund and
15 private reinsurance costs, whether or not reinsurance is
16 procured, and to pay all claims and expenses reasonably
17 expected to result from a 70-year probable maximum loss event
18 with resort to any regular or emergency assessments, long-term
19 debt, state revenues, or other funding sources. For policies
20 in the high-risk account issued or renewed in 2008 and 2009,
21 the rate must be based upon an 85-year and 100-year probable
22 maximum loss event, respectively.

23 b. It is the intent of the Legislature to reaffirm the
24 requirement of rate adequacy in the residual market.
25 Recognizing that rates may comply with the intent expressed in
26 sub-subparagraph a. and yet be inadequate and recognizing the
27 public need to limit subsidies within the residual market, it
28 is the further intent of the Legislature to establish
29 statutory standards for rate adequacy. Such standards are
30 intended to supplement the standard specified in s.
31 627.062(2)(e)3., providing that rates are inadequate if they

1 are clearly insufficient to sustain projected losses and
2 expenses in the class of business to which they apply.

3 2. For each county, the average rates of the
4 corporation for each line of business for personal lines
5 residential policies excluding rates for wind-only policies
6 shall be no lower than the average rates charged by the
7 insurer that had the highest average rate in that county among
8 the 20 insurers with the greatest total direct written premium
9 in the state for that line of business in the preceding year,
10 except that with respect to mobile home coverages, the average
11 rates of the corporation shall be no lower than the average
12 rates charged by the insurer that had the highest average rate
13 in that county among the 5 insurers with the greatest total
14 written premium for mobile home owner's policies in the state
15 in the preceding year.

16 3. Rates for personal lines residential wind-only
17 policies must be actuarially sound and not competitive with
18 approved rates charged by authorized insurers. If the filing
19 under this subparagraph is made at least 90 days before the
20 proposed effective date and the filing is not implemented
21 during the office's review of the filing and any proceeding
22 and judicial review, such filing shall be considered a file
23 and use filing. In such case, the office shall finalize its
24 review by issuance of a notice of intent to approve or a
25 notice of intent to disapprove within 90 days after receipt of
26 the filing. The notice of intent to approve and the notice of
27 intent to disapprove constitute agency action for purposes of
28 the Administrative Procedure Act. Requests for supporting
29 information, requests for mathematical or mechanical
30 corrections, or notification to the insurer by the office of
31 its preliminary findings shall not toll the 90-day period

1 during any such proceedings and subsequent judicial review.

2 The rate shall be deemed approved if the office does not issue

3 a notice of intent to approve or a notice of intent to

4 disapprove within 90 days after receipt of the filing.

5 Corporation rate manuals shall include a rate surcharge for
6 seasonal occupancy. To ensure that personal lines residential
7 wind-only rates are not competitive with approved rates
8 charged by authorized insurers, the corporation, in

9 conjunction with the office, shall develop a wind-only

10 ratemaking methodology, which methodology shall be contained

11 in each rate filing made by the corporation with the office.

12 If the office determines that the wind-only rates or rating

13 factors filed by the corporation fail to comply with the

14 wind-only ratemaking methodology provided for in this

15 subsection, it shall so notify the corporation and require the

16 corporation to amend its rates or rating factors to come into

17 compliance within 90 days of notice from the office.

18 4. The requirements of paragraph (m) that rates not be

19 competitive with approved rates charged by authorized insurers

20 do not apply in a county or area for which the office

21 determines that no authorized insurer is offering coverage.

22 The corporation shall amend its rates or rating factors for

23 the affected county or area in conjunction with its next rate

24 filing after such determination is made.

25 ~~5.4.~~ For the purposes of establishing a pilot program

26 to evaluate issues relating to the availability and

27 affordability of insurance in an area where historically there

28 has been little market competition, the provisions of

29 subparagraph 2. do not apply to coverage provided by the

30 corporation in Monroe County if the office determines that a

31 reasonable degree of competition does not exist for personal

1 | lines residential policies. The provisions of subparagraph 3.
2 | do not apply to coverage provided by the corporation in Monroe
3 | County if the office determines that a reasonable degree of
4 | competition does not exist for personal lines residential
5 | policies in the area of that county which is eligible for
6 | wind-only coverage. In this county, the rates for personal
7 | lines residential coverage shall be actuarially sound and not
8 | excessive, inadequate, or unfairly discriminatory and are
9 | subject to the other provisions of the paragraph and s.
10 | 627.062. The commission shall adopt rules establishing the
11 | criteria for determining whether a reasonable degree of
12 | competition exists for personal lines residential policies in
13 | Monroe County. By March 1, 2006, the office shall submit a
14 | report to the Legislature providing an evaluation of the
15 | implementation of the pilot program affecting Monroe County.

16 | ~~6.5.~~ Rates for commercial lines coverage shall not be
17 | subject to the requirements of subparagraph 2., but shall be
18 | subject to all other requirements of this paragraph and s.
19 | 627.062.

20 | ~~7.6.~~ Nothing in this paragraph shall require or allow
21 | the corporation to adopt a rate that is inadequate under s.
22 | 627.062.

23 | ~~8.7.~~ The corporation shall certify to the office at
24 | least twice annually that its personal lines rates comply with
25 | the requirements of subparagraphs 1., ~~and~~ 2., and 3. If any
26 | adjustment in the rates or rating factors of the corporation
27 | is necessary to ensure such compliance, the corporation shall
28 | make and implement such adjustments and file its revised rates
29 | and rating factors with the office. If the office thereafter
30 | determines that the revised rates and rating factors fail to
31 | comply with the provisions of subparagraphs 1., ~~and~~ 2., and

1 3., it shall notify the corporation and require the
2 corporation to amend its rates or rating factors in
3 conjunction with its next rate filing. The office must notify
4 the corporation by electronic means of any rate filing it
5 approves for any insurer among the insurers referred to in
6 subparagraph 2.

7 9.8. In addition to the rates otherwise determined
8 pursuant to this paragraph, the corporation shall impose and
9 collect an amount equal to the premium tax provided for in s.
10 624.509 to augment the financial resources of the corporation.

11 ~~9.a. To assist the corporation in developing~~
12 ~~additional ratemaking methods to assure compliance with~~
13 ~~subparagraphs 1. and 4., the corporation shall appoint a rate~~
14 ~~methodology panel consisting of one person recommended by the~~
15 ~~Florida Association of Insurance Agents, one person~~
16 ~~recommended by the Professional Insurance Agents of Florida,~~
17 ~~one person recommended by the Florida Association of Insurance~~
18 ~~and Financial Advisors, one person recommended by the insurer~~
19 ~~with the highest voluntary market share of residential~~
20 ~~property insurance business in the state, one person~~
21 ~~recommended by the insurer with the second highest voluntary~~
22 ~~market share of residential property insurance business in the~~
23 ~~state, one person recommended by an insurer writing commercial~~
24 ~~residential property insurance in this state, one person~~
25 ~~recommended by the Office of Insurance Regulation, and one~~
26 ~~board member designated by the board chairman, who shall serve~~
27 ~~as chairman of the panel.~~

28 ~~b. By January 1, 2004, the rate methodology panel~~
29 ~~shall provide a report to the corporation of its findings and~~
30 ~~recommendations for the use of additional ratemaking methods~~
31 ~~and procedures, including the use of a rate equalization~~

1 ~~surcharge in an amount sufficient to assure that the total~~
2 ~~cost of coverage for policyholders or applicants to the~~
3 ~~corporation is sufficient to comply with subparagraph 1.~~

4 ~~c. Within 30 days after such report, the corporation~~
5 ~~shall present to the President of the Senate, the Speaker of~~
6 ~~the House of Representatives, the minority party leaders of~~
7 ~~each house of the Legislature, and the chairs of the standing~~
8 ~~committees of each house of the Legislature having~~
9 ~~jurisdiction of insurance issues, a plan for implementing the~~
10 ~~additional ratemaking methods and an outline of any~~
11 ~~legislation needed to facilitate use of the new methods.~~

12 ~~d. The plan must include a provision that producer~~
13 ~~commissions paid by the corporation shall not be calculated in~~
14 ~~such a manner as to include any rate equalization surcharge.~~
15 ~~However, without regard to the plan to be developed or its~~
16 ~~implementation, producer commissions paid by the corporation~~
17 ~~for each account, other than the quota share primary program,~~
18 ~~shall remain fixed as to percentage, effective rate,~~
19 ~~calculation, and payment method until January 1, 2004.~~

20 ~~10. By January 1, 2004, The corporation shall develop~~
21 ~~a notice to policyholders or applicants that the rates of~~
22 ~~Citizens Property Insurance Corporation are intended to be~~
23 ~~higher than the rates of any admitted carrier and providing~~
24 ~~other information the corporation deems necessary to assist~~
25 ~~consumers in finding other voluntary admitted insurers willing~~
26 ~~to insure their property.~~

27 11. After the public hurricane loss-projection model
28 under s. 627.06281 has been found to be accurate and reliable
29 by the Florida Commission on Hurricane Loss Projection
30 Methodology, that model shall serve as the minimum benchmark
31 for determining the windstorm portion of the corporation's

1 rates. This subparagraph does not require or allow the
2 corporation to adopt rates lower than the rates otherwise
3 required or allowed by this paragraph.

4 ~~(n)(e)~~ If coverage in an account is deactivated
5 pursuant to paragraph (f), coverage through the corporation
6 shall be reactivated by order of the office only under one of
7 the following circumstances:

8 1. If the market assistance plan receives a minimum of
9 100 applications for coverage within a 3-month period, or 200
10 applications for coverage within a 1-year period or less for
11 residential coverage, unless the market assistance plan
12 provides a quotation from admitted carriers at their filed
13 rates for at least 90 percent of such applicants. Any market
14 assistance plan application that is rejected because an
15 individual risk is so hazardous as to be uninsurable using the
16 criteria specified in subparagraph (c)8. shall not be included
17 in the minimum percentage calculation provided herein. In the
18 event that there is a legal or administrative challenge to a
19 determination by the office that the conditions of this
20 subparagraph have been met for eligibility for coverage in the
21 corporation, any eligible risk may obtain coverage during the
22 pendency of such challenge.

23 2. In response to a state of emergency declared by the
24 Governor under s. 252.36, the office may activate coverage by
25 order for the period of the emergency upon a finding by the
26 office that the emergency significantly affects the
27 availability of residential property insurance.

28 ~~(o)(f)~~1. The corporation shall file with the office
29 quarterly statements of financial condition, an annual
30 statement of financial condition, and audited financial
31 statements in the manner prescribed by law. In addition, the

1 corporation shall report to the office monthly on the types,
2 premium, exposure, and distribution by county of its policies
3 in force, and shall submit other reports as the office
4 requires to carry out its oversight of the corporation.

5 2. The activities of the corporation shall be reviewed
6 at least annually by the office to determine whether coverage
7 shall be deactivated in an account on the basis that the
8 conditions giving rise to its activation no longer exist.

9 (p)~~(g)~~1. The corporation shall certify to the office
10 its needs for annual assessments as to a particular calendar
11 year, and for any interim assessments that it deems to be
12 necessary to sustain operations as to a particular year
13 pending the receipt of annual assessments. Upon verification,
14 the office shall approve such certification, and the
15 corporation shall levy such annual or interim assessments.
16 Such assessments shall be prorated as provided in paragraph
17 (b). The corporation shall take all reasonable and prudent
18 steps necessary to collect the amount of assessment due from
19 each assessable insurer, including, if prudent, filing suit to
20 collect such assessment. If the corporation is unable to
21 collect an assessment from any assessable insurer, the
22 uncollected assessments shall be levied as an additional
23 assessment against the assessable insurers and any assessable
24 insurer required to pay an additional assessment as a result
25 of such failure to pay shall have a cause of action against
26 such nonpaying assessable insurer. Assessments shall be
27 included as an appropriate factor in the making of rates. The
28 failure of a surplus lines agent to collect and remit any
29 regular or emergency assessment levied by the corporation is
30 considered to be a violation of s. 626.936 and subjects the
31 surplus lines agent to the penalties provided in that section.

1 2. The governing body of any unit of local government,
2 any residents of which are insured by the corporation, may
3 issue bonds as defined in s. 125.013 or s. 166.101 from time
4 to time to fund an assistance program, in conjunction with the
5 corporation, for the purpose of defraying deficits of the
6 corporation. In order to avoid needless and indiscriminate
7 proliferation, duplication, and fragmentation of such
8 assistance programs, any unit of local government, any
9 residents of which are insured by the corporation, may provide
10 for the payment of losses, regardless of whether or not the
11 losses occurred within or outside of the territorial
12 jurisdiction of the local government. Revenue bonds under this
13 subparagraph may not be issued until validated pursuant to
14 chapter 75, unless a state of emergency is declared by
15 executive order or proclamation of the Governor pursuant to s.
16 252.36 making such findings as are necessary to determine that
17 it is in the best interests of, and necessary for, the
18 protection of the public health, safety, and general welfare
19 of residents of this state and declaring it an essential
20 public purpose to permit certain municipalities or counties to
21 issue such bonds as will permit relief to claimants and
22 policyholders of the corporation. Any such unit of local
23 government may enter into such contracts with the corporation
24 and with any other entity created pursuant to this subsection
25 as are necessary to carry out this paragraph. Any bonds issued
26 under this subparagraph shall be payable from and secured by
27 moneys received by the corporation from emergency assessments
28 under sub-subparagraph (b)3.d., and assigned and pledged to or
29 on behalf of the unit of local government for the benefit of
30 the holders of such bonds. The funds, credit, property, and
31 taxing power of the state or of the unit of local government

1 shall not be pledged for the payment of such bonds. If any of
2 the bonds remain unsold 60 days after issuance, the office
3 shall require all insurers subject to assessment to purchase
4 the bonds, which shall be treated as admitted assets; each
5 insurer shall be required to purchase that percentage of the
6 unsold portion of the bond issue that equals the insurer's
7 relative share of assessment liability under this subsection.
8 An insurer shall not be required to purchase the bonds to the
9 extent that the office determines that the purchase would
10 endanger or impair the solvency of the insurer.

11 3.a. The corporation shall adopt one or more programs
12 subject to approval by the office for the reduction of both
13 new and renewal writings in the corporation. Beginning January
14 1, 2008, any program the corporation adopts for the payment of
15 bonuses to an insurer for each risk the insurer removes from
16 the corporation shall comply with s. 627.3511(2) and may not
17 exceed the amount referenced in s. 627.3511(2) for each risk
18 removed. The corporation may consider any prudent and not
19 unfairly discriminatory approach to reducing corporation
20 writings, and may adopt a credit against assessment liability
21 or other liability that provides an incentive for insurers to
22 take risks out of the corporation and to keep risks out of the
23 corporation by maintaining or increasing voluntary writings in
24 counties or areas in which corporation risks are highly
25 concentrated and a program to provide a formula under which an
26 insurer voluntarily taking risks out of the corporation by
27 maintaining or increasing voluntary writings will be relieved
28 wholly or partially from assessments under sub-subparagraphs
29 (b)3.a. and b. However, any "take-out bonus" or payment to an
30 insurer must be conditioned on the property being insured for
31 at least 5 years by the insurer, unless canceled or nonrenewed

1 by the policyholder. If the policy is canceled or nonrenewed
2 by the policyholder before the end of the 5-year period, the
3 amount of the take-out bonus must be prorated for the time
4 period the policy was insured. When the corporation enters
5 into a contractual agreement for a take-out plan, the
6 producing agent of record of the corporation policy is
7 entitled to retain any unearned commission on such policy, and
8 the insurer shall either:

9 (I) Pay to the producing agent of record of the
10 policy, for the first year, an amount which is the greater of
11 the insurer's usual and customary commission for the type of
12 policy written or a policy fee equal to the usual and
13 customary commission of the corporation; or

14 (II) Offer to allow the producing agent of record of
15 the policy to continue servicing the policy for a period of
16 not less than 1 year and offer to pay the agent the insurer's
17 usual and customary commission for the type of policy written.
18 If the producing agent is unwilling or unable to accept
19 appointment by the new insurer, the new insurer shall pay the
20 agent in accordance with sub-sub-subparagraph (I).

21 b. Any credit or exemption from regular assessments
22 adopted under this subparagraph shall last no longer than the
23 3 years following the cancellation or expiration of the policy
24 by the corporation. With the approval of the office, the board
25 may extend such credits for an additional year if the insurer
26 guarantees an additional year of renewability for all policies
27 removed from the corporation, or for 2 additional years if the
28 insurer guarantees 2 additional years of renewability for all
29 policies so removed.

30

31

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

4 4. The plan shall provide for the deferment, in whole
5 or in part, of the assessment of an assessable insurer, other
6 than an emergency assessment collected from policyholders
7 pursuant to sub-subparagraph (b)3.d., if the office finds that
8 payment of the assessment would endanger or impair the
9 solvency of the insurer. In the event an assessment against an
10 assessable insurer is deferred in whole or in part, the amount
11 by which such assessment is deferred may be assessed against
12 the other assessable insurers in a manner consistent with the
13 basis for assessments set forth in paragraph (b).

14 5. Effective July 1, 2007, in order to evaluate the
15 costs and benefits of approved take-out plans, if the
16 corporation pays a bonus or other payment to an insurer for an
17 approved take-out plan, it shall maintain a record of the
18 address or such other identifying information on the property
19 or risk removed in order to track if and when the property or
20 risk is later insured by the corporation.

21 ~~(q)(h)~~ Nothing in this subsection shall be construed
22 to preclude the issuance of residential property insurance
23 coverage pursuant to part VIII of chapter 626.

24 ~~(r)(i)~~ There shall be no liability on the part of, and
25 no cause of action of any nature shall arise against, any
26 assessable insurer or its agents or employees, the corporation
27 or its agents or employees, members of the board of governors
28 or their respective designees at a board meeting, corporation
29 committee members, or the office or its representatives, for
30 any action taken by them in the performance of their duties or
31

1 responsibilities under this subsection. Such immunity does not
2 apply to:

3 1. Any of the foregoing persons or entities for any
4 willful tort;

5 2. The corporation or its producing agents for breach
6 of any contract or agreement pertaining to insurance coverage;

7 3. The corporation with respect to issuance or payment
8 of debt; or

9 4. Any assessable insurer with respect to any action
10 to enforce an assessable insurer's obligations to the
11 corporation under this subsection.

12 ~~(s)(j)~~ For the purposes of s. 199.183(1), the
13 corporation shall be considered a political subdivision of the
14 state and shall be exempt from the corporate income tax. The
15 premiums, assessments, investment income, and other revenue of
16 the corporation are funds received for providing property
17 insurance coverage as required by this subsection, paying
18 claims for Florida citizens insured by the corporation,
19 securing and repaying debt obligations issued by the
20 corporation, and conducting all other activities of the
21 corporation, and shall not be considered taxes, fees,
22 licenses, or charges for services imposed by the Legislature
23 on individuals, businesses, or agencies outside state
24 government. Bonds and other debt obligations issued by or on
25 behalf of the corporation are not to be considered "state
26 bonds" within the meaning of s. 215.58(8). The corporation is
27 not subject to the procurement provisions of chapter 287, and
28 policies and decisions of the corporation relating to
29 incurring debt, levying of assessments and the sale, issuance,
30 continuation, terms and claims under corporation policies, and
31 all services relating thereto, are not subject to the

1 provisions of chapter 120. The corporation is not required to
2 obtain or to hold a certificate of authority issued by the
3 office, nor is it required to participate as a member insurer
4 of the Florida Insurance Guaranty Association. However, the
5 corporation is required to pay, in the same manner as an
6 authorized insurer, assessments pledged by the Florida
7 Insurance Guaranty Association to secure bonds issued or other
8 indebtedness incurred to pay covered claims arising from
9 insurer insolvencies caused by, or proximately related to,
10 hurricane losses. It is the intent of the Legislature that the
11 tax exemptions provided in this paragraph will augment the
12 financial resources of the corporation to better enable the
13 corporation to fulfill its public purposes. Any debt
14 obligations ~~bonds~~ issued by the corporation, their transfer,
15 and the income therefrom, including any profit made on the
16 sale thereof, shall at all times be free from taxation of
17 every kind by the state and any political subdivision or local
18 unit or other instrumentality thereof; however, this exemption
19 does not apply to any tax imposed by chapter 220 on interest,
20 income, or profits on debt obligations owned by corporations
21 other than the corporation.

22 (t)~~(k)~~ Upon a determination by the office that the
23 conditions giving rise to the establishment and activation of
24 the corporation no longer exist, the corporation is dissolved.
25 Upon dissolution, the assets of the corporation shall be
26 applied first to pay all debts, liabilities, and obligations
27 of the corporation, including the establishment of reasonable
28 reserves for any contingent liabilities or obligations, and
29 all remaining assets of the corporation shall become property
30 of the state and shall be deposited in the Florida Hurricane
31 Catastrophe Fund. However, no dissolution shall take effect as

1 long as the corporation has bonds or other financial
2 obligations outstanding unless adequate provision has been
3 made for the payment of the bonds or other financial
4 obligations pursuant to the documents authorizing the issuance
5 of the bonds or other financial obligations.

6 (u)~~(1)~~1. Effective July 1, 2002, policies of the
7 Residential Property and Casualty Joint Underwriting
8 Association shall become policies of the corporation. All
9 obligations, rights, assets and liabilities of the Residential
10 Property and Casualty Joint Underwriting Association,
11 including bonds, note and debt obligations, and the financing
12 documents pertaining to them become those of the corporation
13 as of July 1, 2002. The corporation is not required to issue
14 endorsements or certificates of assumption to insureds during
15 the remaining term of in-force transferred policies.

16 2. Effective July 1, 2002, policies of the Florida
17 Windstorm Underwriting Association are transferred to the
18 corporation and shall become policies of the corporation. All
19 obligations, rights, assets, and liabilities of the Florida
20 Windstorm Underwriting Association, including bonds, note and
21 debt obligations, and the financing documents pertaining to
22 them are transferred to and assumed by the corporation on July
23 1, 2002. The corporation is not required to issue endorsement
24 or certificates of assumption to insureds during the remaining
25 term of in-force transferred policies.

26 3. The Florida Windstorm Underwriting Association and
27 the Residential Property and Casualty Joint Underwriting
28 Association shall take all actions as may be proper to further
29 evidence the transfers and shall provide the documents and
30 instruments of further assurance as may reasonably be
31 requested by the corporation for that purpose. The corporation

1 shall execute assumptions and instruments as the trustees or
2 other parties to the financing documents of the Florida
3 Windstorm Underwriting Association or the Residential Property
4 and Casualty Joint Underwriting Association may reasonably
5 request to further evidence the transfers and assumptions,
6 which transfers and assumptions, however, are effective on the
7 date provided under this paragraph whether or not, and
8 regardless of the date on which, the assumptions or
9 instruments are executed by the corporation. Subject to the
10 relevant financing documents pertaining to their outstanding
11 bonds, notes, indebtedness, or other financing obligations,
12 the moneys, investments, receivables, choses in action, and
13 other intangibles of the Florida Windstorm Underwriting
14 Association shall be credited to the high-risk account of the
15 corporation, and those of the personal lines residential
16 coverage account and the commercial lines residential coverage
17 account of the Residential Property and Casualty Joint
18 Underwriting Association shall be credited to the personal
19 lines account and the commercial lines account, respectively,
20 of the corporation.

21 4. Effective July 1, 2002, a new applicant for
22 property insurance coverage who would otherwise have been
23 eligible for coverage in the Florida Windstorm Underwriting
24 Association is eligible for coverage from the corporation as
25 provided in this subsection.

26 5. The transfer of all policies, obligations, rights,
27 assets, and liabilities from the Florida Windstorm
28 Underwriting Association to the corporation and the renaming
29 of the Residential Property and Casualty Joint Underwriting
30 Association as the corporation shall in no way affect the
31 coverage with respect to covered policies as defined in s.

1 215.555(2)(c) provided to these entities by the Florida
2 Hurricane Catastrophe Fund. The coverage provided by the
3 Florida Hurricane Catastrophe Fund to the Florida Windstorm
4 Underwriting Association based on its exposures as of June 30,
5 2002, and each June 30 thereafter shall be redesignated as
6 coverage for the high-risk account of the corporation.
7 Notwithstanding any other provision of law, the coverage
8 provided by the Florida Hurricane Catastrophe Fund to the
9 Residential Property and Casualty Joint Underwriting
10 Association based on its exposures as of June 30, 2002, and
11 each June 30 thereafter shall be transferred to the personal
12 lines account and the commercial lines account of the
13 corporation. Notwithstanding any other provision of law, the
14 high-risk account shall be treated, for all Florida Hurricane
15 Catastrophe Fund purposes, as if it were a separate
16 participating insurer with its own exposures, reimbursement
17 premium, and loss reimbursement. Likewise, the personal lines
18 and commercial lines accounts shall be viewed together, for
19 all Florida Hurricane Catastrophe Fund purposes, as if the two
20 accounts were one and represent a single, separate
21 participating insurer with its own exposures, reimbursement
22 premium, and loss reimbursement. The coverage provided by the
23 Florida Hurricane Catastrophe Fund to the corporation shall
24 constitute and operate as a full transfer of coverage from the
25 Florida Windstorm Underwriting Association and Residential
26 Property and Casualty Joint Underwriting to the corporation.

27 (v)~~(m)~~ Notwithstanding any other provision of law:
28 1. The pledge or sale of, the lien upon, and the
29 security interest in any rights, revenues, or other assets of
30 the corporation created or purported to be created pursuant to
31 any financing documents to secure any bonds or other

1 indebtedness of the corporation shall be and remain valid and
2 enforceable, notwithstanding the commencement of and during
3 the continuation of, and after, any rehabilitation,
4 insolvency, liquidation, bankruptcy, receivership,
5 conservatorship, reorganization, or similar proceeding against
6 the corporation under the laws of this state.

7 2. No such proceeding shall relieve the corporation of
8 its obligation, or otherwise affect its ability to perform its
9 obligation, to continue to collect, or levy and collect,
10 assessments, market equalization or other surcharges under
11 subparagraph (c)10., or any other rights, revenues, or other
12 assets of the corporation pledged pursuant to any financing
13 documents.

14 3. Each such pledge or sale of, lien upon, and
15 security interest in, including the priority of such pledge,
16 lien, or security interest, any such assessments, market
17 equalization or other surcharges, or other rights, revenues,
18 or other assets which are collected, or levied and collected,
19 after the commencement of and during the pendency of, or
20 after, any such proceeding shall continue unaffected by such
21 proceeding. As used in this subsection, the term "financing
22 documents" means any agreement or agreements, instrument or
23 instruments, or other document or documents now existing or
24 hereafter created evidencing any bonds or other indebtedness
25 of the corporation or pursuant to which any such bonds or
26 other indebtedness has been or may be issued and pursuant to
27 which any rights, revenues, or other assets of the corporation
28 are pledged or sold to secure the repayment of such bonds or
29 indebtedness, together with the payment of interest on such
30 bonds or such indebtedness, or the payment of any other
31 obligation or financial product, as defined in the plan of

1 operation of the corporation related to such bonds or
2 indebtedness.

3 4. Any such pledge or sale of assessments, revenues,
4 contract rights, or other rights or assets of the corporation
5 shall constitute a lien and security interest, or sale, as the
6 case may be, that is immediately effective and attaches to
7 such assessments, revenues, or contract rights or other rights
8 or assets, whether or not imposed or collected at the time the
9 pledge or sale is made. Any such pledge or sale is effective,
10 valid, binding, and enforceable against the corporation or
11 other entity making such pledge or sale, and valid and binding
12 against and superior to any competing claims or obligations
13 owed to any other person or entity, including policyholders in
14 this state, asserting rights in any such assessments,
15 revenues, or contract rights or other rights or assets to the
16 extent set forth in and in accordance with the terms of the
17 pledge or sale contained in the applicable financing
18 documents, whether or not any such person or entity has notice
19 of such pledge or sale and without the need for any physical
20 delivery, recordation, filing, or other action.

21 5. As long as the corporation has any bonds
22 outstanding, the corporation may not file a voluntary petition
23 under chapter 9 of the federal Bankruptcy Code or such
24 corresponding chapter or sections as may be in effect, from
25 time to time, and a public officer or any organization,
26 entity, or other person may not authorize the corporation to
27 be or become a debtor under chapter 9 of the federal
28 Bankruptcy Code or such corresponding chapter or sections as
29 may be in effect, from time to time, during any such period.

30 6. If ordered by a court of competent jurisdiction,
31 the corporation may assume policies or otherwise provide

1 coverage for policyholders of an insurer placed in liquidation
2 under chapter 631, under such forms, rates, terms, and
3 conditions as the corporation deems appropriate, subject to
4 approval by the office.

5 ~~(w)(n)~~1. The following records of the corporation are
6 confidential and exempt from the provisions of s. 119.07(1)
7 and s. 24(a), Art. I of the State Constitution:

8 a. Underwriting files, except that a policyholder or
9 an applicant shall have access to his or her own underwriting
10 files.

11 b. Claims files, until termination of all litigation
12 and settlement of all claims arising out of the same incident,
13 although portions of the claims files may remain exempt, as
14 otherwise provided by law. Confidential and exempt claims file
15 records may be released to other governmental agencies upon
16 written request and demonstration of need; such records held
17 by the receiving agency remain confidential and exempt as
18 provided for herein.

19 c. Records obtained or generated by an internal
20 auditor pursuant to a routine audit, until the audit is
21 completed, or if the audit is conducted as part of an
22 investigation, until the investigation is closed or ceases to
23 be active. An investigation is considered "active" while the
24 investigation is being conducted with a reasonable, good faith
25 belief that it could lead to the filing of administrative,
26 civil, or criminal proceedings.

27 d. Matters reasonably encompassed in privileged
28 attorney-client communications.

29 e. Proprietary information licensed to the corporation
30 under contract and the contract provides for the
31 confidentiality of such proprietary information.

1 f. All information relating to the medical condition
2 or medical status of a corporation employee which is not
3 relevant to the employee's capacity to perform his or her
4 duties, except as otherwise provided in this paragraph.
5 Information which is exempt shall include, but is not limited
6 to, information relating to workers' compensation, insurance
7 benefits, and retirement or disability benefits.

8 g. Upon an employee's entrance into the employee
9 assistance program, a program to assist any employee who has a
10 behavioral or medical disorder, substance abuse problem, or
11 emotional difficulty which affects the employee's job
12 performance, all records relative to that participation shall
13 be confidential and exempt from the provisions of s. 119.07(1)
14 and s. 24(a), Art. I of the State Constitution, except as
15 otherwise provided in s. 112.0455(11).

16 h. Information relating to negotiations for financing,
17 reinsurance, depopulation, or contractual services, until the
18 conclusion of the negotiations.

19 i. Minutes of closed meetings regarding underwriting
20 files, and minutes of closed meetings regarding an open claims
21 file until termination of all litigation and settlement of all
22 claims with regard to that claim, except that information
23 otherwise confidential or exempt by law will be redacted.

24
25 When an authorized insurer is considering underwriting a risk
26 insured by the corporation, relevant underwriting files and
27 confidential claims files may be released to the insurer
28 provided the insurer agrees in writing, notarized and under
29 oath, to maintain the confidentiality of such files. When a
30 file is transferred to an insurer that file is no longer a
31 public record because it is not held by an agency subject to

1 the provisions of the public records law. Underwriting files
2 and confidential claims files may also be released to staff of
3 and the board of governors of the market assistance plan
4 established pursuant to s. 627.3515, who must retain the
5 confidentiality of such files, except such files may be
6 released to authorized insurers that are considering assuming
7 the risks to which the files apply, provided the insurer
8 agrees in writing, notarized and under oath, to maintain the
9 confidentiality of such files. Finally, the corporation or
10 the board or staff of the market assistance plan may make the
11 following information obtained from underwriting files and
12 confidential claims files available to licensed general lines
13 insurance agents: name, address, and telephone number of the
14 residential property owner or insured; location of the risk;
15 rating information; loss history; and policy type. The
16 receiving licensed general lines insurance agent must retain
17 the confidentiality of the information received.

18 2. Portions of meetings of the corporation are exempt
19 from the provisions of s. 286.011 and s. 24(b), Art. I of the
20 State Constitution wherein confidential underwriting files or
21 confidential open claims files are discussed. All portions of
22 corporation meetings which are closed to the public shall be
23 recorded by a court reporter. The court reporter shall record
24 the times of commencement and termination of the meeting, all
25 discussion and proceedings, the names of all persons present
26 at any time, and the names of all persons speaking. No
27 portion of any closed meeting shall be off the record.
28 Subject to the provisions hereof and s. 119.07(1)(b)-(d), the
29 court reporter's notes of any closed meeting shall be retained
30 by the corporation for a minimum of 5 years. A copy of the
31 transcript, less any exempt matters, of any closed meeting

1 wherein claims are discussed shall become public as to
2 individual claims after settlement of the claim.

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

9 1. The board shall, on or before February 1 of each
10 year, provide a report to the President of the Senate and the
11 Speaker of the House of Representatives showing the reduction
12 or increase in the 100-year probable maximum loss attributable
13 to wind-only coverages and the quota share program under this
14 subsection combined, as compared to the benchmark 100-year
15 probable maximum loss of the Florida Windstorm Underwriting
16 Association. For purposes of this paragraph, the benchmark
17 100-year probable maximum loss of the Florida Windstorm
18 Underwriting Association shall be the calculation dated
19 February 2001 and based on November 30, 2000, exposures. In
20 order to ensure comparability of data, the board shall use the
21 same methods for calculating its probable maximum loss as were
22 used to calculate the benchmark probable maximum loss.

23 2. Beginning February 1, 2010 ~~2007~~, if the report
24 under subparagraph 1. for any year indicates that the 100-year
25 probable maximum loss attributable to wind-only coverages and
26 the quota share program combined does not reflect a reduction
27 of at least 25 percent from the benchmark, the board shall
28 reduce the boundaries of the high-risk area eligible for
29 wind-only coverages under this subsection in a manner
30 calculated to reduce such probable maximum loss to an amount
31 at least 25 percent below the benchmark.

1 3. Beginning February 1, 2015 ~~2012~~, if the report
2 under subparagraph 1. for any year indicates that the 100-year
3 probable maximum loss attributable to wind-only coverages and
4 the quota share program combined does not reflect a reduction
5 of at least 50 percent from the benchmark, the boundaries of
6 the high-risk area eligible for wind-only coverages under this
7 subsection shall be reduced by the elimination of any area
8 that is not seaward of a line 1,000 feet inland from the
9 Intracoastal Waterway.

10 ~~(y)~~~~(p)~~ In enacting the provisions of this section, the
11 Legislature recognizes that both the Florida Windstorm
12 Underwriting Association and the Residential Property and
13 Casualty Joint Underwriting Association have entered into
14 financing arrangements that obligate each entity to service
15 its debts and maintain the capacity to repay funds secured
16 under these financing arrangements. It is the intent of the
17 Legislature that nothing in this section be construed to
18 compromise, diminish, or interfere with the rights of
19 creditors under such financing arrangements. It is further the
20 intent of the Legislature to preserve the obligations of the
21 Florida Windstorm Underwriting Association and Residential
22 Property and Casualty Joint Underwriting Association with
23 regard to outstanding financing arrangements, with such
24 obligations passing entirely and unchanged to the corporation
25 and, specifically, to the applicable account of the
26 corporation. So long as any bonds, notes, indebtedness, or
27 other financing obligations of the Florida Windstorm
28 Underwriting Association or the Residential Property and
29 Casualty Joint Underwriting Association are outstanding, under
30 the terms of the financing documents pertaining to them, the
31 governing board of the corporation shall have and shall

1 exercise the authority to levy, charge, collect, and receive
2 all premiums, assessments, surcharges, charges, revenues, and
3 receipts that the associations had authority to levy, charge,
4 collect, or receive under the provisions of subsection (2) and
5 this subsection, respectively, as they existed on January 1,
6 2002, to provide moneys, without exercise of the authority
7 provided by this subsection, in at least the amounts, and by
8 the times, as would be provided under those former provisions
9 of subsection (2) or this subsection, respectively, so that
10 the value, amount, and collectability of any assets, revenues,
11 or revenue source pledged or committed to, or any lien thereon
12 securing such outstanding bonds, notes, indebtedness, or other
13 financing obligations will not be diminished, impaired, or
14 adversely affected by the amendments made by this act and to
15 permit compliance with all provisions of financing documents
16 pertaining to such bonds, notes, indebtedness, or other
17 financing obligations, or the security or credit enhancement
18 for them, and any reference in this subsection to bonds,
19 notes, indebtedness, financing obligations, or similar
20 obligations, of the corporation shall include like instruments
21 or contracts of the Florida Windstorm Underwriting Association
22 and the Residential Property and Casualty Joint Underwriting
23 Association to the extent not inconsistent with the provisions
24 of the financing documents pertaining to them.

25 ~~(z)(g)~~ The corporation shall not require the securing
26 of flood insurance as a condition of coverage if the insured
27 or applicant executes a form approved by the office affirming
28 that flood insurance is not provided by the corporation and
29 that if flood insurance is not secured by the applicant or
30 insured in addition to coverage by the corporation, the risk
31 will not be covered for flood damage. A corporation

1 | policyholder electing not to secure flood insurance and
2 | executing a form as provided herein making a claim for water
3 | damage against the corporation shall have the burden of
4 | proving the damage was not caused by flooding. Notwithstanding
5 | other provisions of this subsection, the corporation may deny
6 | coverage to an applicant or insured who refuses to execute the
7 | form described herein.

8 | ~~(aa)~~ A salaried employee of the corporation who
9 | performs policy administration services subsequent to the
10 | effectuation of a corporation policy is not required to be
11 | licensed as an agent under the provisions of s. 626.112.

12 | ~~(bb)~~ By February 1, 2007, the corporation shall submit
13 | a report to the President of the Senate, the Speaker of the
14 | House of Representatives, the minority party leaders of the
15 | Senate and the House of Representatives, and the chairs of the
16 | standing committees of the Senate and the House of
17 | Representatives having jurisdiction over matters relating to
18 | property and casualty insurance. In preparing the report, the
19 | corporation shall consult with the Office of Insurance
20 | Regulation, the Department of Financial Services, and any
21 | other party the corporation determines appropriate. The report
22 | must include all findings and recommendations on the
23 | feasibility of requiring authorized insurers that issue and
24 | service personal and commercial residential policies and
25 | commercial nonresidential policies that provide coverage for
26 | basic property perils except for the peril of wind to issue
27 | and service for a fee personal and commercial residential
28 | policies and commercial nonresidential policies providing
29 | coverage for the peril of wind issued by the corporation. The
30 | report must include:

31 |

- 1 1. The expense savings to the corporation of issuing
2 and servicing such policies as determined by a cost-benefit
3 analysis.
- 4 2. The expenses and liability to authorized insurers
5 associated with issuing and servicing such policies.
- 6 3. The effect on service to policyholders of the
7 corporation relating to issuing and servicing such policies.
- 8 4. The effect on the producing agent of the
9 corporation of issuing and servicing such policies.
- 10 5. Recommendations as to the amount of the fee which
11 should be paid to authorized insurers for issuing and
12 servicing such policies.
- 13 6. The effect that issuing and servicing such policies
14 will have on the corporation's number of policies, total
15 insured value, and probable maximum loss.
- 16 (cc) There shall be no liability on the part of, and
17 no cause of action of any nature shall arise against,
18 producing agents of record of the corporation or employees of
19 such agents for insolvency of any take-out insurer.
- 20 (dd)1. For policies subject to nonrenewal as a result
21 of the risk being no longer eligible for coverage due to being
22 valued at \$1 million or more, the corporation shall, directly
23 or through the market assistance plan, make information from
24 confidential underwriting and claims files of policyholders
25 available only to licensed general lines agents who register
26 with the corporation to receive such information according to
27 the following procedures:
- 28 2. By August 1, 2006, the corporation shall provide
29 such policyholders who are not eligible for renewal the
30 opportunity to request in writing, within 30 days after the
31 notification is sent, that information from their confidential

1 underwriting and claims files not be released to licensed
2 general lines agents registered pursuant to this paragraph.

3 3. By August 1, 2006, the corporation shall make
4 available to licensed general lines agents the registration
5 procedures to be used to obtain confidential information from
6 underwriting and claims files for such policies not eligible
7 for renewal. As a condition of registration, the corporation
8 shall require the licensed general lines agent to attest that
9 the agent has the experience and relationships with authorized
10 or surplus lines carriers to attempt to offer replacement
11 coverage for such policies.

12 4. By September 1, 2006, the corporation shall make
13 available through a secured website to licensed general lines
14 agents registered pursuant to this paragraph application,
15 rating, loss history, mitigation, and policy type information
16 relating to such policies not eligible for renewal and for
17 which the policyholder has not requested the corporation
18 withhold such information. The registered licensed general
19 lines agent may use such information to contact and assist the
20 policyholder in securing replacement policies and the agent
21 may disclose to the policyholder that such information was
22 obtained from the corporation.

23 Section 16. The amendments made by this act to s.
24 627.351(6), Florida Statutes, which change the method for
25 calculating and determining the assessments and surcharges
26 that must be levied or collected to fund deficits in Citizens
27 Property Insurance Corporation apply to a deficit incurred by
28 the corporation for calendar year 2006 and thereafter.

29 Section 17. Effective July 1, 2006, paragraph (a) of
30 subsection (5) of section 627.3511, Florida Statutes, is
31 amended to read:

1 627.3511 Depopulation of Citizens Property Insurance
2 Corporation.--
3 (5) APPLICABILITY.--
4 (a) The take-out bonus provided by subsection (2) and
5 the exemption from assessment provided by paragraph (3)(a)
6 apply only if the corporation policy is replaced by either a
7 standard policy including wind coverage or, if consistent with
8 the insurer's underwriting rules as filed with the office, a
9 basic policy including wind coverage; however, with respect to
10 risks located in areas where coverage through the high-risk
11 account of the corporation is available, the replacement
12 policy need not provide wind coverage. The insurer must renew
13 the replacement policy at approved rates on substantially
14 similar terms for four ~~two~~ additional 1-year terms, unless
15 canceled or not renewed by the policyholder insurer ~~for a~~
16 ~~lawful reason other than reduction of hurricane exposure~~. If
17 an insurer assumes the corporation's obligations for a policy,
18 it must issue a replacement policy for a 1-year term upon
19 expiration of the corporation policy and must renew the
20 replacement policy at approved rates on substantially similar
21 terms for four ~~two~~ additional 1-year terms, unless canceled or
22 not renewed by the policyholder insurer ~~for a lawful reason~~
23 ~~other than reduction of hurricane exposure~~. For each
24 replacement policy canceled or nonrenewed by the insurer for
25 any reason during the 5-year ~~3-year~~ coverage period required
26 by this paragraph, the insurer must remove from the
27 corporation one additional policy covering a risk similar to
28 the risk covered by the canceled or nonrenewed policy. In
29 addition to these requirements, the corporation must place the
30 bonus moneys in escrow for a period of 5 ~~3~~ years; such moneys
31 may be released from escrow only to pay claims. If the policy

1 is canceled or nonrenewed before the end of the 5-year period,
2 the amount of the take-out bonus must be prorated for the time
3 period the policy was insured. A take-out bonus provided by
4 subsection (2) or subsection (6) shall not be considered
5 premium income for purposes of taxes and assessments under the
6 Florida Insurance Code and shall remain the property of the
7 corporation, subject to the prior security interest of the
8 insurer under the escrow agreement until it is released from
9 escrow, and after it is released from escrow it shall be
10 considered an asset of the insurer and credited to the
11 insurer's capital and surplus.

12 Section 18. Subsection (1) of section 627.3512,
13 Florida Statutes, is amended to read:

14 627.3512 Recoupment of residual market deficit
15 assessments.--

16 (1) An insurer or insurer group may recoup any
17 assessments that have been paid during or after 1995 by the
18 insurer or insurer group to defray deficits of an insurance
19 risk apportionment plan or assigned risk plan under ss.
20 627.311 and 627.351, net of any earnings returned to the
21 insurer or insurer group by the association or plan for any
22 year after 1993. A limited apportionment company as defined in
23 s. 627.351(6)(c) may recoup any regular assessment that has
24 been levied by, or paid to, Citizens Property Insurance
25 Corporation. The recoupment shall be made by applying a
26 separate assessment factor on policies of the same line or
27 type as were considered by the residual markets in determining
28 the assessment liability of the insurer or insurer group. An
29 insurer or insurer group shall calculate a separate assessment
30 factor for personal lines and commercial lines. The separate
31 assessment factor shall provide for full recoupment of the

1 assessments over a period of 1 year, unless the insurer or
2 insurer group, at its option, elects to recoup the assessments
3 over a longer period. The assessment factor expires upon
4 collection of the full amount allowed to be recouped. Amounts
5 recouped under this section are not subject to premium taxes,
6 fees, or commissions.

7 Section 19. Effective July 1, 2006, section 627.3517,
8 Florida Statutes, is amended to read:

9 627.3517 Consumer choice.--

10 (1) Except as provided in subsection (2), no provision
11 of s. 627.351, s. 627.3511, or s. 627.3515 shall be construed
12 to impair the right of any insurance risk apportionment plan
13 policyholder, upon receipt of any keepout or take-out offer,
14 to retain his or her current agent, so long as that agent is
15 duly licensed and appointed by the insurance risk
16 apportionment plan or otherwise authorized to place business
17 with the insurance risk apportionment plan. This right shall
18 not be canceled, suspended, impeded, abridged, or otherwise
19 compromised by any rule, plan of operation, or depopulation
20 plan, whether through keepout, take-out, midterm assumption,
21 or any other means, of any insurance risk apportionment plan
22 or depopulation plan, including, but not limited to, those
23 described in s. 627.351, s. 627.3511, or s. 627.3515. The
24 commission shall adopt any rules necessary to cause any
25 insurance risk apportionment plan or market assistance plan
26 under such sections to demonstrate that the operations of the
27 plan do not interfere with, promote, or allow interference
28 with the rights created under this section. If the
29 policyholder's current agent is unable or unwilling to be
30 appointed with the insurer making the take-out or keepout
31 offer, the policyholder shall not be disqualified from

1 participation in the appropriate insurance risk apportionment
2 plan because of an offer of coverage in the voluntary market.
3 An offer of full property insurance coverage by the insurer
4 currently insuring either the ex-wind or wind-only coverage on
5 the policy to which the offer applies shall not be considered
6 a take-out or keepout offer. Any rule, plan of operation, or
7 plan of depopulation, through keepout, take-out, midterm
8 assumption, or any other means, of any property insurance risk
9 apportionment plan under s. 627.351(2) or (6) is subject to
10 ss. 627.351(2)(b) and (6)(c) and 627.351(4).

11 (2) This section does not apply during the first 10
12 days after a new application for coverage has been submitted
13 to Citizens Property Insurance Corporation under s.
14 627.351(6), whether or not coverage is bound during this
15 period.

16 Section 20. Section 627.3519, Florida Statutes, is
17 created to read:

18 627.3519 Annual report of aggregate net probable
19 maximum losses, financing options, and potential
20 assessments.--No later than February 1 of each year, the
21 Financial Services Commission shall provide to the Legislature
22 a report of the aggregate net probable maximum losses,
23 financing options, and potential assessments of the Florida
24 Hurricane Catastrophe Fund and Citizens Property Insurance
25 Corporation. The report must include the respective 50-year,
26 100-year, and 250-year probable maximum losses of the fund and
27 the corporation; analysis of all reasonable financing
28 strategies for each such probable maximum loss, including the
29 amount and term of debt instruments; specification of the
30 percentage assessments that would be needed to support each of
31 the financing strategies; and calculations of the aggregate

1 assessment burden on Florida property and casualty
2 policyholders for each of the probable maximum losses. The
3 commission shall require the fund and the corporation to
4 provide the commission with such data and analysis as the
5 commission considers necessary to prepare the report.

6 Section 21. Paragraph (b) of subsection (3) of section
7 627.4035, Florida Statutes, is amended to read:

8 627.4035 Cash payment of premiums; claims.--

9 (3) All payments of claims made in this state under
10 any contract of insurance shall be paid:

11 (b) If authorized in writing by the recipient or the
12 recipient's representative, by debit card or any other form of
13 electronic transfer. Any fees or costs to be charged against
14 the recipient must be disclosed in writing to the recipient or
15 the recipient's representative at the time of written
16 authorization. However, the written authorization requirement
17 may be waived by the recipient or the recipient's
18 representative if the insurer verifies the identity of the
19 insured or the insured's recipient and does not charge a fee
20 for the transaction. If the funds are misdirected, the insurer
21 remains liable for the payment of the claim.

22 Section 22. Section 627.6121, Florida Statutes, is
23 created to read:

24 627.6121 Payment of claims for dual interest
25 property.--For policies issued or renewed on or after October
26 1, 2006, a property insurer shall transmit claims payments
27 directly to the primary policyholder by check or other
28 allowable payment method, payable to the primary policyholder
29 only, without requiring a dual endorsement from any
30 mortgageholder or lienholder, for amounts payable under the
31 policy for personal property and contents, additional living

1 expenses, and other covered items that are not subject to a
2 recorded security interest that is noted in the dual interest
3 provision of the policy.

4 Section 23. Subsection (2) of section 627.7011,
5 Florida Statutes, is amended, and subsection (6) is added to
6 that section, to read:

7 627.7011 Homeowners' policies; offer of replacement
8 cost coverage and law and ordinance coverage.--

9 (2) Unless the insurer obtains the policyholder's
10 written refusal of the policies or endorsements specified in
11 subsection (1), any policy covering the dwelling is deemed to
12 include the law and ordinance coverage limited to 25 percent
13 of the dwelling limit ~~specified in paragraph (1)(b)~~. The
14 rejection or selection of alternative coverage shall be made
15 on a form approved by the office. The form shall fully advise
16 the applicant of the nature of the coverage being rejected. If
17 this form is signed by a named insured, it will be
18 conclusively presumed that there was an informed, knowing
19 rejection of the coverage or election of the alternative
20 coverage on behalf of all insureds. Unless the policyholder
21 requests in writing the coverage specified in this section, it
22 need not be provided in or supplemental to any other policy
23 that renews, insures, extends, changes, supersedes, or
24 replaces an existing policy when the policyholder has rejected
25 the coverage specified in this section or has selected
26 alternative coverage. The insurer must provide such
27 policyholder with notice of the availability of such coverage
28 in a form approved by the office at least once every 3 years.
29 The failure to provide such notice constitutes a violation of
30 this code, but does not affect the coverage provided under the
31 policy.

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

5 (a) The limit of liability shown on the policy
6 declarations page;

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

9 (c) The reasonable and necessary cost to replace the
10 damaged, destroyed, or stolen covered property.

11 Section 24. Section 627.7019, Florida Statutes, is
12 created to read:

13 627.7019 Standardization of requirements applicable to
14 insurers after natural disasters.--

15 (1) The commission shall adopt by rule, pursuant to s.
16 120.54(1)-(3), standardized requirements that may be applied
17 to insurers as a consequence of a hurricane or other natural
18 disaster. The rules shall address the following areas:

19 (a) Claims reporting requirements.

20 (b) Grace periods for payment of premiums and
21 performance of other duties by insureds.

22 (c) Temporary postponement of cancellations and
23 nonrenewals.

24 (2) The rules adopted under this section shall require
25 the office to issue an order within 72 hours after the
26 occurrence of a hurricane or other natural disaster
27 specifying, by line of insurance, which of the standardized
28 requirements apply, the geographic areas in which they apply,
29 the time at which applicability commences, and the time at
30 which applicability terminates.

31

1 (3) Any emergency rule adopted under s. 120.54(4)
2 which is in conflict with any provision of the rules adopted
3 under this section must be by unanimous vote of the
4 commission.

5 Section 25. Effective October 1, 2006, subsection (1)
6 and paragraph (d) of subsection (2) of section 627.706,
7 Florida Statutes, are amended to read:

8 627.706 Sinkhole insurance; definitions.--

9 (1) Every insurer authorized to transact property
10 insurance in this state shall make available coverage for
11 insurable sinkhole losses on any structure, including contents
12 of personal property contained therein, to the extent provided
13 in the form to which the sinkhole coverage attaches. A policy
14 for residential property insurance may include a deductible
15 amount applicable to sinkhole losses equal to 1 percent, 2
16 percent, 5 percent, or 10 percent of the policy dwelling
17 limits, with appropriate premium discounts offered with each
18 deductible amount.

19 (2) As used in ss. 627.706-627.7074, and as used in
20 connection with any policy providing coverage for sinkhole
21 losses:

22 (d) "Professional engineer" means a person, as defined
23 in s. 471.005, who has a bachelor's degree or higher in
24 engineering with a specialty in the geotechnical engineering
25 field. A professional ~~An~~ engineer must have geotechnical
26 experience and expertise in the identification of sinkhole
27 activity as well as other potential causes of damage to the
28 structure.

29 Section 26. Subsections (2), (3), (5), (6), and (9) of
30 section 627.707, Florida Statutes, are amended to read:

31

1 627.707 Standards for investigation of sinkhole claims
2 by insurers; nonrenewals.--Upon receipt of a claim for a
3 sinkhole loss, an insurer must meet the following standards in
4 investigating a claim:

5 (2) Following the insurer's initial inspection, the
6 insurer shall engage a professional ~~an~~ engineer or a
7 professional geologist to conduct testing as provided in s.
8 627.7072 to determine the cause of the loss within a
9 reasonable professional probability and issue a report as
10 provided in s. 627.7073, if:

11 (a) The insurer is unable to identify a valid cause of
12 the damage or discovers damage to the structure which is
13 consistent with sinkhole loss; or

14 (b) The policyholder demands testing in accordance
15 with this section or s. 627.7072.

16 (3) Following the initial inspection of the insured
17 premises, the insurer shall provide written notice to the
18 policyholder disclosing the following information:

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

21 (b) A statement of the circumstances under which the
22 insurer is required to engage a professional ~~an~~ engineer or a
23 professional geologist to verify or eliminate sinkhole loss
24 and to engage a professional ~~an~~ engineer to make
25 recommendations regarding land and building stabilization and
26 foundation repair.

27 (c) A statement regarding the right of the
28 policyholder to request testing by a professional ~~an~~ engineer
29 or a professional geologist and the circumstances under which
30 the policyholder may demand certain testing.

31

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

9 (b) The insurer may limit its payment to the actual
10 cash value of the sinkhole loss, not including underpinning or
11 grouting or any other repair technique performed below the
12 existing foundation of the building, until the policyholder
13 enters into a contract for the performance of building
14 stabilization or foundation repairs. After the policyholder
15 enters into the contract, the insurer shall pay the amounts
16 necessary to begin and perform such repairs as the work is
17 performed and the expenses are incurred. The insurer may not
18 require the policyholder to advance payment for such repairs.
19 If repair covered by a personal lines residential property
20 insurance policy has begun and the professional engineer
21 selected or approved by the insurer determines that the repair
22 cannot be completed within the policy limits, the insurer must
23 either complete the professional engineer's recommended repair
24 or tender the policy limits to the policyholder without a
25 reduction for the repair expenses incurred.

26 (c) Upon the insurer's obtaining the written approval
27 of the policyholder and any lienholder, the insurer may make
28 payment directly to the persons selected by the policyholder
29 to perform the land and building stabilization and foundation
30 repairs. The decision by the insurer to make payment to such
31

1 persons does not hold the insurer liable for the work
2 performed.

3 (6) Except as provided in subsection (7), the fees and
4 costs of the professional engineer or the professional
5 geologist shall be paid by the insurer.

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

9 Section 27. Section 627.7072, Florida Statutes, is
10 amended to read:

11 627.7072 Testing standards for sinkholes.--

12 ~~(1)~~ The professional engineer and professional
13 geologist shall perform such tests as sufficient, in their
14 professional opinion, to determine the presence or absence of
15 sinkhole loss or other cause of damage within reasonable
16 professional probability and for the professional engineer to
17 make recommendations regarding necessary building
18 stabilization and foundation repair.

19 ~~(2) Testing by a professional geologist shall be~~
20 ~~conducted in compliance with the Florida Geological Survey~~
21 ~~Special Publication No. 57 (2005).~~

22 Section 28. Subsections (1) and (2) of section
23 627.7073, Florida Statutes, are amended to read:

24 627.7073 Sinkhole reports.--

25 (1) Upon completion of testing as provided in s.
26 627.7072, the professional engineer ~~or and~~ professional
27 geologist shall issue a report and certification to the
28 insurer and the policyholder as provided in this section.

29 (a) Sinkhole loss is verified if, based upon tests
30 performed in accordance with s. 627.7072, a professional ~~an~~

31

1 engineer ~~or and~~ a professional geologist issues ~~issue~~ a
2 written report and certification stating:

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

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

9 3. A description of the tests performed.

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

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

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

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

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

24 4. A description of the tests performed.

25 (c) The respective findings, opinions, and
26 recommendations of the professional engineer ~~or and~~
27 professional geologist as to the cause of distress to the
28 property ~~verification or elimination of a sinkhole loss~~ and
29 the findings, opinions, and recommendations of the
30 professional engineer as to land and building stabilization
31 and foundation repair shall be presumed correct.

1 (2)(a) Any insurer that has paid a claim for a
2 sinkhole loss shall file a copy of the report and
3 certification, prepared pursuant to subsection (1), including
4 the legal description of the real property and the name of the
5 property owner, with the county clerk of court ~~property~~
6 ~~appraiser,~~ who shall record the report and certification with
7 ~~the parcel number.~~ The insurer shall bear the cost of filing
8 and recording the report and certification. There shall be no
9 cause of action or liability against an insurer for compliance
10 with this section. The recording of the report and
11 certification does not:

- 12 1. Constitute a lien, encumbrance, or restriction on
13 the title to the real property or constitute a defect in the
14 title to the real property;
- 15 2. Create any cause of action or liability against any
16 grantor of the real property for breach of any warranty of
17 good title or warranty against encumbrances; or
- 18 3. Create any cause of action or liability against any
19 title insurer that insures the title to the real property.

20 (b) The seller of real property upon which a sinkhole
21 claim has been made by the seller and paid by the insurer
22 shall disclose to the buyer of such property that a claim has
23 been paid and whether or not the full amount of the proceeds
24 were used to repair the sinkhole damage.

25 Section 29. Effective October 1, 2006, section
26 627.7074, Florida Statutes, is created to read:

27 627.7074 Alternative procedure for resolution of
28 disputed sinkhole insurance claims.--

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

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

1 (b) "Neutral evaluator" means a professional engineer
2 or a professional geologist who has completed a course of
3 study in alternative dispute resolution designed or approved
4 by the department for use in the neutral evaluation process,
5 who is determined to be fair and impartial.

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

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

13 (3) Following the receipt of the report provided under
14 s. 627.7073 or the denial of a claim for a sinkhole loss, the
15 insurer shall notify the policyholder of his or her right to
16 participate in the neutral evaluation program under this
17 section. Neutral evaluation supersedes the alternative dispute
18 resolution process under s. 627.7015. The insurer shall
19 provide to the policyholder the consumer information pamphlet
20 prepared by the department pursuant to paragraph (2)(b).

21 (4) Neutral evaluation is nonbinding, but mandatory if
22 requested by either party. A request for neutral evaluation
23 may be filed with the department by the policyholder or the
24 insurer on a form approved by the department. The request for
25 neutral evaluation must state the reason for the request and
26 must include an explanation of all the issues in dispute at
27 the time of the request. Filing a request for neutral
28 evaluation tolls the applicable time requirements for filing
29 suit for a period of 60 days following the conclusion of the
30 neutral evaluation process or the time prescribed in s. 95.11,
31 whichever is later.

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

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

10 (7) Upon receipt of a request for neutral evaluation,
11 the department shall provide the parties a list of certified
12 neutral evaluators. The parties shall mutually select a
13 neutral evaluator from the list and promptly inform the
14 department. If the parties cannot agree to a neutral evaluator
15 within 10 business days, the department shall appoint a
16 neutral evaluator from the department list. Upon selection or
17 appointment, the department shall promptly refer the request
18 to the neutral evaluator. Within 5 business days after the
19 referral, the neutral evaluator shall notify the policyholder
20 and the insurer of the date, time, and place of the neutral
21 evaluation conference. The conference may be held by
22 telephone, if feasible and desirable. The neutral evaluation
23 conference shall be held within 45 days after the receipt of
24 the request by the department.

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

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

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

7 (11) Any court proceeding related to the subject
8 matter of the neutral evaluation shall be stayed pending
9 completion of the neutral evaluation.

10 (12) For matters that are not resolved by the parties
11 at the conclusion of the neutral evaluation, the neutral
12 evaluator shall prepare a report stating that in his or her
13 opinion the sinkhole loss has been verified or eliminated and,
14 if verified, the need for and estimated costs of stabilizing
15 the land and any covered structures or buildings and other
16 appropriate remediation or structural repairs. The evaluator's
17 report shall be sent to all parties in attendance at the
18 neutral evaluation and to the department.

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

24 (14) If the neutral evaluator first verifies the
25 existence of a sinkhole and, second, recommends the need for
26 and estimates costs of stabilizing the land and any covered
27 structures or buildings and other appropriate remediation or
28 structural repairs, which costs exceed the amount that the
29 insurer has offered to pay the policyholder, the insurer is
30 liable to the policyholder for up to \$2,500 in attorney's fees
31 for the attorney's participation in the neutral evaluation

1 process. For purposes of this subsection, the term "offer to
2 pay" means a written offer signed by the insurer or its legal
3 representative and delivered to the policyholder within 10
4 days after the insurer receives notice that a request for
5 neutral evaluation has been made under this section.

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

11 a. The insurer is not liable for extra-contractual
12 damages related to a claim for a sinkhole loss but only as
13 related to the issues determined by the neutral evaluation
14 process. This section does not affect or impair claims for
15 extra contractual damages unrelated to the issues determined
16 by the neutral evaluation process contained in this section;
17 and

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

22 Section 30. Subsection (5) of section 627.727, Florida
23 Statutes, is amended to read:

24 627.727 Motor vehicle insurance; uninsured and
25 underinsured vehicle coverage; insolvent insurer protection.--

26 (5) Any person having a claim against an insolvent
27 insurer as defined in s. 631.54(6) ~~s. 631.54(5)~~ under the
28 provisions of this section shall present such claim for
29 payment to the Florida Insurance Guaranty Association only. In
30 the event of a payment to any person in settlement of a claim
31 arising under the provisions of this section, the association

1 is not subrogated or entitled to any recovery against the
2 claimant's insurer. The association, however, has the rights
3 of recovery as set forth in chapter 631 in the proceeds
4 recoverable from the assets of the insolvent insurer.

5 Section 31. Paragraph (f) is added to subsection (2)
6 of section 631.181, Florida Statutes, to read:

7 631.181 Filing and proof of claim.--

8 (2)

9 (f) The signed statement required by this section
10 shall not be required on claims for which adequate claims file
11 documentation exists within the records of the insolvent
12 insurer. Claims for payment of unearned premium shall not be
13 required to use the signed statement required by this section
14 if the receiver certifies to the guaranty fund that the
15 records of the insolvent insurer are sufficient to determine
16 the amount of unearned premium owed to each policyholder of
17 the insurer and such information is remitted to the guaranty
18 fund by the receiver in electronic or other mutually
19 agreed-upon format.

20 Section 32. Subsection (3) of section 631.54, Florida
21 Statutes, is amended, present subsections (5), (6), (7), and
22 (8) of that section are renumbered as subsections (6), (7),
23 (8), and (9), respectively, and a new subsection (5) is added
24 to that section to read:

25 631.54 Definitions.--As used in this part:

26 (3) "Covered claim" means an unpaid claim, including
27 one of unearned premiums, which arises out of, and is within
28 the coverage, and not in excess of, the applicable limits of
29 an insurance policy to which this part applies, issued by an
30 insurer, if such insurer becomes an insolvent insurer and the
31 claimant or insured is a resident of this state at the time of

1 the insured event or the property from which the claim arises
2 is permanently located in this state. For entities other than
3 individuals, the residence of a claimant, insured, or
4 policyholder is the state in which the entity's principal
5 place of business is located at the time of the insured event.

6 "Covered claim" shall not include:

7 (a) Any amount due any reinsurer, insurer, insurance
8 pool, or underwriting association, sought directly or
9 indirectly through a third party, as subrogation,
10 contribution, indemnification, or otherwise; or

11 (b) Any claim that would otherwise be a covered claim
12 under this part that has been rejected by any other state
13 guaranty fund on the grounds that an insured's net worth is
14 greater than that allowed under that state's guaranty law.

15 Member insurers shall have no right of subrogation,
16 contribution, indemnification, or otherwise, sought directly
17 or indirectly through a third party, against the insured of
18 any insolvent member.

19 (5) "Homeowner's insurance" means personal lines
20 residential property insurance coverage that consists of the
21 type of coverage provided under homeowner's, dwelling, and
22 similar policies for repair or replacement of the insured
23 structure and contents, which policies are written directly to
24 the individual homeowner. Residential coverage for personal
25 lines as set forth in this section includes policies that
26 provide coverage for particular perils such as windstorm and
27 hurricane coverage but excludes all coverage for mobile homes,
28 renter's insurance, or tenant's coverage. The term
29 "homeowner's insurance" excludes commercial residential
30 policies covering condominium associations or homeowners'
31 associations, which associations have a responsibility to

1 provide insurance coverage on residential units within the
2 association, and also excludes coverage for the common
3 elements of a homeowners' association.

4 Section 33. Subsection (1) of section 631.55, Florida
5 Statutes, is amended to read:

6 631.55 Creation of the association.--

7 (1) There is created a nonprofit corporation to be
8 known as the "Florida Insurance Guaranty Association,
9 Incorporated." All insurers defined as member insurers in s.
10 631.54(7) ~~s. 631.54(6)~~ shall be members of the association as
11 a condition of their authority to transact insurance in this
12 state, and, further, as a condition of such authority, an
13 insurer shall agree to reimburse the association for all claim
14 payments the association makes on said insurer's behalf if
15 such insurer is subsequently rehabilitated. The association
16 shall perform its functions under a plan of operation
17 established and approved under s. 631.58 and shall exercise
18 its powers through a board of directors established under s.
19 631.56. The corporation shall have all those powers granted or
20 permitted nonprofit corporations, as provided in chapter 617.

21 Section 34. Paragraph (a) of subsection (1), paragraph
22 (d) of subsection (2), and paragraph (a) of subsection (3) of
23 section 631.57, Florida Statutes, are amended, and paragraph
24 (e) is added to subsection (3) of that section, to read:

25 631.57 Powers and duties of the association.--

26 (1) The association shall:

27 (a)1. Be obligated to the extent of the covered claims
28 existing:

29 a. Prior to adjudication of insolvency and arising
30 within 30 days after the determination of insolvency;

31

1 b. Before the policy expiration date if less than 30
2 days after the determination; or

3 c. Before the insured replaces the policy or causes
4 its cancellation, if she or he does so within 30 days of the
5 determination.

6 2. The obligation under subparagraph 1. includes only
7 the amount of each covered claim which is in excess of \$100
8 and is less than \$300,000, except that policies providing
9 coverage for homeowner's insurance shall provide for an
10 additional \$200,000 for the portion of a covered claim which
11 relates only to the damage to the structure and contents.

12 ~~3.a.2.~~ Notwithstanding subparagraph 2., the obligation
13 under subparagraph 1. ~~for shall include only that amount of~~
14 ~~each covered claim which is in excess of \$100 and is less than~~
15 ~~\$300,000, except with respect to policies covering condominium~~
16 ~~associations or homeowners' associations, which associations~~
17 ~~have a responsibility to provide insurance coverage on~~
18 ~~residential units within the association, the obligation shall~~
19 ~~include that amount of each covered property insurance claim~~
20 ~~which is less than \$100,000 multiplied by the number of~~
21 ~~condominium units or other residential units; however, as to~~
22 ~~homeowners' associations, this sub-subparagraph subparagraph~~
23 ~~applies only to claims for damage or loss to residential units~~
24 ~~and structures attached to residential units.~~

25 b. Notwithstanding sub-subparagraph a., the
26 association has no obligation to pay covered claims that are
27 to be paid from the proceeds of bonds issued under s. 631.695.
28 However, the association shall assign and pledge the first
29 available moneys from all or part of the assessments to be
30 made under paragraph (3)(a) to or on behalf of the issuer of
31 such bonds for the benefit of the holders of such bonds. The

1 association shall administer any such covered claims and
2 present valid covered claims for payment in accordance with
3 the provisions of the assistance program in connection with
4 which such bonds have been issued.

5 ~~4.3-~~ In no event shall the association be obligated to
6 a policyholder or claimant in an amount in excess of the
7 obligation of the insolvent insurer under the policy from
8 which the claim arises.

9 (2) The association may:

10 (d) Negotiate and become a party to such contracts as
11 are necessary to carry out the purpose of this part.

12 Additionally, the association may enter into such contracts
13 with a municipality, a county, or a legal entity created
14 pursuant to s. 163.01(7)(g) as are necessary in order for the
15 municipality, county, or legal entity to issue bonds under s.
16 631.695. In connection with the issuance of any such bonds and
17 the entering into of any such necessary contracts, the
18 association may agree to such terms and conditions as the
19 association deems necessary and proper.

20 (3)(a) To the extent necessary to secure the funds for
21 the respective accounts for the payment of covered claims, ~~and~~
22 ~~also~~ to pay the reasonable costs to administer the same, and
23 to the extent necessary to secure the funds for the account
24 specified in s. 631.55(2)(c) or to retire indebtedness,
25 including, without limitation, the principal, redemption
26 premium, if any, and interest on, and related costs of
27 issuance of, bonds issued under s. 631.695 and the funding of
28 any reserves and other payments required under the bond
29 resolution or trust indenture pursuant to which such bonds
30 have been issued, the office, upon certification of the board
31 of directors, shall levy assessments in the proportion that

1 each insurer's net direct written premiums in this state in
2 the classes protected by the account bears to the total of
3 said net direct written premiums received in this state by all
4 such insurers for the preceding calendar year for the kinds of
5 insurance included within such account. Assessments shall be
6 remitted to and administered by the board of directors in the
7 manner specified by the approved plan. Each insurer so
8 assessed shall have at least 30 days' written notice as to the
9 date the assessment is due and payable. Every assessment shall
10 be made as a uniform percentage applicable to the net direct
11 written premiums of each insurer in the kinds of insurance
12 included within the account in which the assessment is made.
13 The assessments levied against any insurer shall not exceed in
14 any one year more than 2 percent of that insurer's net direct
15 written premiums in this state for the kinds of insurance
16 included within such account during the calendar year next
17 preceding the date of such assessments.

18 (e)1.a. In addition to assessments otherwise
19 authorized in paragraph (a) and to the extent necessary to
20 secure the funds for the account specified in s. 631.55(2)(c)
21 or to retire indebtedness, including, without limitation, the
22 principal, redemption premium, if any, and interest on, and
23 related costs of issuance of, bonds issued under s. 631.695
24 and the funding of any reserves and other payments required
25 under the bond resolution or trust indenture pursuant to which
26 such bonds have been issued, the office, upon certification of
27 the board of directors, shall levy emergency assessments upon
28 insurers holding a certificate of authority. The emergency
29 assessments payable under this paragraph by any insurer shall
30 not exceed in any single year more than 2 percent of that
31 insurer's direct written premiums, net of refunds, in this

1 state during the preceding calendar year for the kinds of
2 insurance within the account specified in s. 631.55(2)(c).
3 b. Any emergency assessments authorized under this
4 paragraph shall be levied by the office upon insurers referred
5 to in sub-subparagraph a., upon certification as to the need
6 for such assessments by the board of directors, in each year
7 that bonds issued under s. 631.695 and secured by such
8 emergency assessments are outstanding, in such amounts up to
9 such 2-percent limit as required in order to provide for the
10 full and timely payment of the principal of, redemption
11 premium, if any, and interest on, and related costs of
12 issuance of, such bonds. The emergency assessments provided
13 for in this paragraph are assigned and pledged to the
14 municipality, county, or legal entity issuing bonds under s.
15 631.695 for the benefit of the holders of such bonds, in order
16 to enable such municipality, county, or legal entity to
17 provide for the payment of the principal of, redemption
18 premium, if any, and interest on such bonds, the cost of
19 issuance of such bonds, and the funding of any reserves and
20 other payments required under the bond resolution or trust
21 indenture pursuant to which such bonds have been issued,
22 without the necessity of any further action by the
23 association, the office, or any other party. To the extent
24 bonds are issued under s. 631.695 and the association
25 determines to secure such bonds by a pledge of revenues
26 received from the emergency assessments, such bonds, upon such
27 pledge of revenues, shall be secured by and payable from the
28 proceeds of such emergency assessments, and the proceeds of
29 emergency assessments levied under this paragraph shall be
30 remitted directly to and administered by the trustee or
31 custodian appointed for such bonds.

1 c. Emergency assessments under this paragraph may be
2 payable in a single payment or, at the option of the
3 association, may be payable in 12 monthly installments with
4 the first installment being due and payable at the end of the
5 month after an emergency assessment is levied and subsequent
6 installments being due not later than the end of each
7 succeeding month.

8 d. If emergency assessments are imposed, the report
9 required by s. 631.695(7) shall include an analysis of the
10 revenues generated from the emergency assessments imposed
11 under this paragraph.

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

16 2. In order to ensure that insurers paying emergency
17 assessments levied under this paragraph continue to charge
18 rates that are neither inadequate nor excessive, within 90
19 days after being notified of such assessments, each insurer
20 that is to be assessed pursuant to this paragraph shall submit
21 a rate filing for coverage included within the account
22 specified in s. 631.55(2)(c) and for which rates are required
23 to be filed under s. 627.062. If the filing reflects a rate
24 change that, as a percentage, is equal to the difference
25 between the rate of such assessment and the rate of the
26 previous year's assessment under this paragraph, the filing
27 shall consist of a certification so stating and shall be
28 deemed approved when made. Any rate change of a different
29 percentage shall be subject to the standards and procedures of
30 s. 627.062.

31

1 3. An annual assessment under this paragraph shall
2 continue while the bonds issued with respect to which the
3 assessment was imposed are outstanding, including any bonds
4 the proceeds of which were used to refund bonds issued
5 pursuant to s. 631.695, unless adequate provision has been
6 made for the payment of the bonds in the documents authorizing
7 the issuance of such bonds.

8 4. Emergency assessments under this paragraph are not
9 premium and are not subject to the premium tax, to any fees,
10 or to any commissions. An insurer is liable for all emergency
11 assessments that the insurer collects and shall treat the
12 failure of an insured to pay an emergency assessment as a
13 failure to pay the premium. An insurer is not liable for
14 uncollectible emergency assessments.

15 Section 35. Section 631.695, Florida Statutes, is
16 created to read:

17 631.695 Revenue bond issuance through counties or
18 municipalities.--

19 (1) The Legislature finds:

20 (a) The potential for widespread and massive damage to
21 persons and property caused by hurricanes making landfall in
22 this state can generate insurance claims of such a number as
23 to render numerous insurers operating within this state
24 insolvent and therefore unable to satisfy covered claims.

25 (b) The inability of insureds within this state to
26 receive payment of covered claims or to timely receive such
27 payment creates financial and other hardships for such
28 insureds and places undue burdens on the state, the affected
29 units of local government, and the community at large.

30 (c) In addition, the failure of insurers to pay
31 covered claims or to timely pay such claims due to the

1 insolvency of such insurers can undermine the public's
2 confidence in insurers operating within this state, thereby
3 adversely affecting the stability of the insurance industry in
4 this state.

5 (d) The state has previously taken action to address
6 these problems by adopting the Florida Insurance Guaranty
7 Association Act, which, among other things, provides a
8 mechanism for the payment of covered claims under certain
9 insurance policies to avoid excessive delay in payment and to
10 avoid financial loss to claimants or policyholders because of
11 the insolvency of an insurer.

12 (e) In the wake of the unprecedented destruction
13 caused by various hurricanes that have made landfall in this
14 state, the resultant covered claims, and the number of
15 insurers rendered insolvent thereby, make it evident that
16 alternative programs must be developed to allow the Florida
17 Insurance Guaranty Association to more expeditiously and
18 effectively provide for the payment of covered claims.

19 (f) It is therefore determined to be in the best
20 interests of, and necessary for, the protection of the public
21 health, safety, and general welfare of the residents of this
22 state and for the protection and preservation of the economic
23 stability of insurers operating in this state, and it is
24 declared to be an essential public purpose, to permit certain
25 municipalities and counties to take such actions as will
26 provide relief to claimants and policyholders having covered
27 claims against insolvent insurers operating in this state by
28 expediting the handling and payment of covered claims.

29 (g) To achieve the foregoing purposes, it is proper to
30 authorize municipalities and counties of this state
31 substantially affected by the landfall of a hurricane to issue

1 bonds to assist the Florida Insurance Guaranty Association in
2 expediting the handling and payment of covered claims of
3 insolvent insurers.

4 (h) In order to avoid the needless and indiscriminate
5 proliferation, duplication, and fragmentation of such
6 assistance programs, it is in the best interests of the
7 residents of this state to authorize municipalities and
8 counties severely affected by a hurricane to provide for the
9 payment of covered claims beyond their territorial limits in
10 the implementation of such programs.

11 (i) It is a paramount public purpose for
12 municipalities and counties substantially affected by the
13 landfall of a hurricane to be able to issue bonds for the
14 purposes described in this section. Such issuance shall
15 provide assistance to residents of those municipalities and
16 counties as well as to other residents of this state.

17 (2) The governing body of any municipality or county,
18 the residents of which have been substantially affected by a
19 hurricane, may issue bonds to fund an assistance program in
20 conjunction with, and with the consent of, the Florida
21 Insurance Guaranty Association for the purpose of paying
22 claimants' or policyholders' covered claims, as defined in s.
23 631.54, arising through the insolvency of an insurer, which
24 insolvency is determined by the Florida Insurance Guaranty
25 Association to have been a result of a hurricane, regardless
26 of whether the claimants or policyholders are residents of
27 such municipality or county or the property to which the claim
28 relates is located within or outside the territorial
29 jurisdiction of the municipality or county. The power of a
30 municipality or county to issue bonds, as described in this
31 section, is in addition to any powers granted by law and may

1 not be abrogated or restricted by any provisions in such
2 municipality's or county's charter. A municipality or county
3 issuing bonds for this purpose shall enter into such contracts
4 with the Florida Insurance Guaranty Association or any entity
5 acting on behalf of the Florida Insurance Guaranty Association
6 as are necessary to implement the assistance program. Any
7 bonds issued by a municipality or county or a combination
8 thereof under this subsection shall be payable from and
9 secured by moneys received by or on behalf of the municipality
10 or county from assessments levied under s. 631.57(3)(a) and
11 assigned and pledged to or on behalf of the municipality or
12 county for the benefit of the holders of the bonds in
13 connection with the assistance program. The funds, credit,
14 property, and taxing power of the state or any municipality or
15 county shall not be pledged for the payment of such bonds.

16 (3) Bonds may be validated by the municipality or
17 county pursuant to chapter 75. The proceeds of the bonds may
18 be used to pay covered claims of insolvent insurers; to
19 refinance or replace previously existing borrowings or
20 financial arrangements; to pay interest on bonds; to fund
21 reserves for the bonds; to pay expenses incident to the
22 issuance or sale of any bond issued under this section,
23 including costs of validating, printing, and delivering the
24 bonds, costs of printing the official statement, costs of
25 publishing notices of sale of the bonds, costs of obtaining
26 credit enhancement or liquidity support, and related
27 administrative expenses; or for such other purposes related to
28 the financial obligations of the fund as the association may
29 determine. The term of the bonds may not exceed 30 years.

30 (4) The state covenants with holders of bonds of the
31 assistance program that the state will not take any action

1 that will have a material adverse effect on the holders and
2 will not repeal or abrogate the power of the board of
3 directors of the association to direct the Office of Insurance
4 Regulation to levy the assessments and to collect the proceeds
5 of the revenues pledged to the payment of the bonds as long as
6 any of the bonds remain outstanding, unless adequate provision
7 has been made for the payment of the bonds in the documents
8 authorizing the issuance of the bonds.

9 (5) The accomplishment of the authorized purposes of
10 such municipality or county under this section is in all
11 respects for the benefit of the people of the state, for the
12 increase of their commerce and prosperity, and for the
13 improvement of their health and living conditions. The
14 municipality or county, in performing essential governmental
15 functions in accomplishing its purposes, is not required to
16 pay any taxes or assessments of any kind whatsoever upon any
17 property acquired or used by the county or municipality for
18 such purposes or upon any revenues at any time received by the
19 county or municipality. The bonds, notes, and other
20 obligations of the municipality or county and the transfer of
21 and income from such bonds, notes, and other obligations,
22 including any profits made on the sale of such bonds, notes,
23 and other obligations, are exempt from taxation of any kind by
24 the state or by any political subdivision or other agency or
25 instrumentality of the state. The exemption granted in this
26 subsection is not applicable to any tax imposed by chapter 220
27 on interest, income, or profits on debt obligations owned by
28 corporations.

29 (6) Two or more municipalities or counties, the
30 residents of which have been substantially affected by a
31 hurricane, may create a legal entity pursuant to s.

1 163.01(7)(g) to exercise the powers described in this section
2 as well as those powers granted in s. 163.01(7)(g). References
3 in this section to a municipality or county includes such
4 legal entity.

5 (7) The association shall issue an annual report on
6 the status of the use of bond proceeds as related to
7 insolvencies caused by hurricanes. The report must contain the
8 number and amount of claims paid. The association shall also
9 include an analysis of the revenue generated from the
10 assessment levied under s. 631.57(3)(a) to pay such bonds. The
11 association shall submit a copy of the report to the President
12 of the Senate, the Speaker of the House of Representatives,
13 and the Chief Financial Officer within 90 days after the end
14 of each calendar year in which bonds were outstanding.

15 Section 36. No provision of s. 631.57 or s. 631.695,
16 Florida Statutes, shall be repealed until such time as the
17 principal, redemption premium, if any, and interest on all
18 bonds issued under s. 631.695, Florida Statutes, payable and
19 secured from assessments levied under s. 631.57(3)(a), Florida
20 Statutes, have been paid in full or adequate provision for
21 such payment has been made in accordance with the bond
22 resolution or trust indenture pursuant to which the bonds were
23 issued.

24 Section 37. Subsection (2) of section 877.02, Florida
25 Statutes, is amended to read:

26 877.02 Solicitation of legal services or retainers
27 therefor; penalty.--

28 (2) It shall be unlawful for any person in the employ
29 of or in any capacity attached to any hospital, sanitarium,
30 police department, wrecker service or garage, prison or court,
31 ~~or~~ for a person authorized to furnish bail bonds,

1 | investigators, photographers, insurance or public adjusters,
2 | or for a general or other contractor as defined in s. 489.105
3 | or other business providing sinkhole remediation services, to
4 | communicate directly or indirectly with any attorney or person
5 | acting on said attorney's behalf for the purpose of aiding,
6 | assisting or abetting such attorney in the solicitation of
7 | legal business or the procurement through solicitation of a
8 | retainer, written or oral, or any agreement authorizing the
9 | attorney to perform or render legal services.

10 | Section 38. By January 1, 2007, the Office of
11 | Insurance Regulation shall submit a report to the President of
12 | the Senate, the Speaker of the House of Representatives, the
13 | minority party leaders of the Senate and the House of
14 | Representatives, and the chairs of the standing committees of
15 | the Senate and the House of Representatives having
16 | jurisdiction over matters relating to property and casualty
17 | insurance. In preparing the report, the office shall consult
18 | with the Department of Highway Safety and Motor Vehicles, the
19 | Department of Community Affairs, the Florida Building
20 | Commission, the Florida Home Builders Association,
21 | representatives of the mobile and manufactured home industry,
22 | representatives of the property and casualty insurance
23 | industry, and any other party the office determines is
24 | appropriate. The report shall include findings and
25 | recommendations on the insurability of attached or free
26 | standing structures to residential homes, mobile, or
27 | manufactured homes, such as carports or pool enclosures; the
28 | increase or decrease in insurance costs associated with
29 | insuring such structures; the feasibility of insuring such
30 | structures; the impact on homeowners of not having insurance
31 | coverage for such structures; the ability of mitigation

1 measures relating to such structures to reduce risk and loss;
2 and such other related information as the office determines is
3 appropriate for the Legislature to consider.

4 Section 39. (1) The Office of Insurance Regulation,
5 in consultation with the Department of Community Affairs, the
6 Department of Financial Services, the Federal Alliance for
7 Safe Homes, the Florida Insurance Council, the Florida Home
8 Builders Association, the Florida Manufactured Housing
9 Association, the Risk and Insurance Department of Florida
10 State University, and the Institute for Business and Homes
11 Safety, shall study and develop a program that will provide an
12 objective rating system that will allow homeowners to evaluate
13 the relative ability of Florida properties to withstand the
14 wind load from a sustained severe tropical storm or hurricane.

15 (2) The rating system will be designed in a manner
16 that is easy to understand for the property owner, based on
17 proven readily verifiable mitigation techniques and devices,
18 and able to be implemented based on a visual inspection
19 program. The Department of Financial Services shall implement
20 a pilot program for use in the Florida Comprehensive Hurricane
21 Damage Mitigation Program.

22 (3) The Department shall provide a report to the
23 Governor, the President of the Senate, and the Speaker of the
24 House of Representatives by March 31, 2007, detailing the
25 nature and construction of the rating scale, its effectiveness
26 based on implementation in a pilot program, and an operational
27 plan for statewide implementation of the rating scale.

28 Section 40. (1) By September 1, 2006, the Office of
29 Insurance Regulation shall calculate a presumed factor to
30 reflect the impact to rates of the changes made by the
31 provisions of this act related to insurance claims for

1 sinkhole losses and by sections 17, 18, 19, 20, and 21 of
2 chapter 2005-111, Laws of Florida.

3 (2) In determining the presumed factor, the office
4 shall use generally accepted actuarial techniques and
5 standards in determining the expected impact on losses,
6 expenses, and investment income of the insurer.

7 (3) The office may contract with an appropriate vendor
8 to determine the presumed factor.

9 (4) Each residential property insurer shall, at its
10 next rate filing after October 1, 2006, reflect a rate change
11 that takes into account the presumed factor determined under
12 subsection (1).

13 (5) The sum of \$250,000 in nonrecurring funds is
14 appropriated from the Insurance Regulatory Trust Fund in the
15 Department of Financial Services to the Office of Insurance
16 Regulation for the 2006-2007 fiscal year for the purpose of
17 implementing this section.

18 Section 41. The sums of \$115,322 in recurring funds
19 and \$10,486 in nonrecurring funds are appropriated from the
20 Insurance Regulatory Trust Fund in the Department of Financial
21 Services for the 2006-2007 fiscal year for the purpose of
22 implementing the provisions this act related to the neutral
23 evaluation process for insurance claims, and two full-time
24 equivalent positions with \$59,435 in associated salary rate
25 are authorized.

26 Section 42. (1) For the 2006-2007 fiscal year, the
27 sum of \$250 million is appropriated on a nonrecurring basis
28 from the General Revenue Fund to the Insurance Regulatory
29 Trust Fund in the Department of Financial Services for
30 purposes of the Florida Comprehensive Hurricane Damage
31 Mitigation Program specified in s. 215.5586, Florida Statutes,

1 as created by this act. The department shall establish a
2 separate account within the trust fund for accounting
3 purposes.

4 (2) The sum of \$250 million is appropriated from the
5 Insurance Regulatory Trust Fund in the Department of Financial
6 Services for the purposes set forth in subsection (1). The
7 department may expend up to 1 percent of the funds
8 appropriated to administer the program. Beginning October 15,
9 2007, and quarterly thereafter, the Chief Financial Officer
10 shall provide a report to the Executive Office of the Governor
11 and the chair and vice chair of the Legislative Budget
12 Commission containing information regarding expenditures made
13 for the purposes set forth in subsection (1).

14 (3) Notwithstanding the provisions of s. 216.301,
15 Florida Statutes, to the contrary, the unexpended balance of
16 appropriations authorized in subsections (1) and (2) shall not
17 revert until June 30, 2009.

18 Section 43. The sum of \$250 million is appropriated
19 from the General Revenue Fund on a nonrecurring basis to the
20 State Board of Administration for purposes of the Insurance
21 Capital Build-Up Incentive Program established pursuant to s.
22 215.5595, Florida Statutes, as created by this act. Costs and
23 fees incurred by the board in administering this program,
24 including fees for investment services, shall be paid from
25 funds appropriated by the Legislature for this program, but
26 are limited to 1 percent of the amount appropriated.
27 Notwithstanding the provisions of s. 216.301, Florida
28 Statutes, to the contrary, the unexpended balance of this
29 appropriation shall not revert until June 30, 2007.

30 Section 44. (1) For the 2006-2007 fiscal year, the
31 sum of \$715 million is appropriated to the Department of

1 Financial Services from nonrecurring funds in the General
2 Revenue Fund. Such funds shall be transferred to Citizens
3 Property Insurance Corporation established pursuant to s.
4 627.351(6), Florida Statutes. The appropriation shall be
5 allocated to each of the personal lines and commercial lines
6 accounts so as to eliminate the deficit for the 2005 calendar
7 year in each of those two accounts, and the remaining moneys
8 shall be applied to reduce the portion of the deficit in the
9 high-risk account that would have been paid from the proceeds
10 of regular assessments except for the appropriation. The
11 moneys allocated to each account from the appropriation shall
12 be considered as proceeds of regular assessments for purposes
13 of the financing documents of Citizens Property Insurance
14 Corporation.

15 (2) Citizens Property Insurance Corporation shall
16 include in the notice of assessment to each assessable insurer
17 the amount by which the assessment has been reduced due to the
18 appropriation in paragraph (1).

19 (3) Each insurer that recoups an assessment from its
20 policyholders as allowed by law for the regular assessment by
21 Citizens Property Insurance Corporation for its 2005 deficit
22 shall include on the premium notice or on a separate document
23 included with the premium notice sent to policyholders, in
24 12-point type, the following statement with the appropriate
25 dollar amount shown:

26
27 "The \$ SURCHARGE IN YOUR PREMIUM FOR THE ASSESSMENT
28 BY CITIZENS PROPERTY INSURANCE CORPORATION HAS BEEN REDUCED BY
29 \$ DUE TO AN APPROPRIATION BY THE FLORIDA LEGISLATURE."

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1 (4) The corporation shall amortize over a 10-year
2 period any emergency assessments resulting from the 2005 Plan
3 Year deficit.

4 (5) A violation of this section by an insurer is a
5 violation of the Insurance Code and the insurer is subject to
6 the penalties provided in ss. 624.418 and 624.4211, Florida
7 Statutes.

8 (6) For the purposes of this section, the terms
9 "assessable insurer," "corporation," "deficit," and "regular
10 assessment," have the same meaning as provided in s.
11 627.351(6), Florida Statutes.

12 Section 45. Effective January 1, 2007, subsection (9)
13 is added to section 627.701, Florida Statutes, to read:

14 627.701 Liability of insureds; coinsurance;
15 deductibles.--

16 (9) With respect to hurricane coverage provided in a
17 policy of residential coverage, when the policyholder has
18 taken appropriate hurricane mitigation measures regarding the
19 residence covered under the policy, the insurer may provide
20 the insured the option of selecting an appropriate reduction
21 in the policy's hurricane deductible in lieu of selecting the
22 appropriate discount credit or other rate differential as
23 provided in s. 627.0629. If made available by the insurer, the
24 insurer must provide the policyholder with notice of the
25 options available under this subsection on a form approved by
26 the office.

27 Section 46. Effective July 1, 2006, subsection (3) of
28 s. 215.559, Florida Statutes, is repealed.

29 Section 47. Subsection (1) and paragraph (b) of
30 subsection (2) of section 627.4133, Florida Statutes, are
31 amended to read:

1 627.4133 Notice of cancellation, nonrenewal, or
2 renewal premium.--

3 (1) Except as provided in subsection (2):

4 (a) An insurer issuing a policy providing coverage for
5 workers' compensation and employer's liability insurance,
6 property, casualty, except mortgage guaranty, surety, or
7 marine insurance, other than motor vehicle insurance subject
8 to s. 627.728, shall give the named insured at least 45 days'
9 advance written notice of nonrenewal or of the renewal
10 premium. If the policy is not to be renewed, the written
11 notice shall state the reason or reasons as to why the policy
12 is not to be renewed. This requirement applies only if the
13 insured has furnished all of the necessary information so as
14 to enable the insurer to develop the renewal premium prior to
15 the expiration date of the policy to be renewed.

16 (b) An insurer issuing a policy providing coverage for
17 property, casualty, except mortgage guaranty, surety, or
18 marine insurance, other than motor vehicle insurance subject
19 to s. 627.728 or s. 627.7281, shall give the named insured
20 written notice of cancellation or termination other than
21 nonrenewal at least 45 days prior to the effective date of the
22 cancellation or termination, including in the written notice
23 the reason or reasons for the cancellation or termination,
24 except that:

25 1. When cancellation is for nonpayment of premium, at
26 least 10 days' written notice of cancellation accompanied by
27 the reason therefor shall be given. As used in this
28 subparagraph, the term "nonpayment of premium" means failure
29 of the named insured to discharge when due any of her or his
30 obligations in connection with the payment of premiums on a
31 policy or any installment of such premium, whether the premium

1 is payable directly to the insurer or its agent or indirectly
2 under any premium finance plan or extension of credit, or
3 failure to maintain membership in an organization if such
4 membership is a condition precedent to insurance coverage.
5 "Nonpayment of premium" also means the failure of a financial
6 institution to honor an insurance applicant's check after
7 delivery to a licensed agent for payment of a premium, even if
8 the agent has previously delivered or transferred the premium
9 to the insurer. If a dishonored check represents the initial
10 premium payment, the contract and all contractual obligations
11 shall be void ab initio unless the nonpayment is cured within
12 the earlier of 5 days after actual notice by certified mail is
13 received by the applicant or 15 days after notice is sent to
14 the applicant by certified mail or registered mail, and if the
15 contract is void, any premium received by the insurer from a
16 third party shall be refunded to that party in full; and
17 2. When such cancellation or termination occurs during
18 the first 90 days during which the insurance is in force and
19 the insurance is canceled or terminated for reasons other than
20 nonpayment of premium, at least 20 days' written notice of
21 cancellation or termination accompanied by the reason therefor
22 shall be given except where there has been a material
23 misstatement or misrepresentation or failure to comply with
24 the underwriting requirements established by the insurer.
25
26 After the policy has been in effect for 90 days, no such
27 policy shall be canceled by the insurer except when there has
28 been a material misstatement, a nonpayment of premium, a
29 failure to comply with underwriting requirements established
30 by the insurer within 90 days of the date of effectuation of
31 coverage, or a substantial change in the risk covered by the

1 policy or when the cancellation is for all insureds under such
2 policies for a given class of insureds. ~~The provisions of This~~
3 subsection does ~~shall~~ not apply to individually rated risks
4 having a policy term of less than 90 days.

5 (c) If an insurer fails to provide the 45-day or
6 20-day written notice required under this section, the
7 coverage provided to the named insured shall remain in effect
8 until 45 days after the notice is given or until the effective
9 date of replacement coverage obtained by the named insured,
10 whichever occurs first. The premium for the coverage shall
11 remain the same during any such extension period except that,
12 in the event of failure to provide notice of nonrenewal, if
13 the rate filing then in effect would have resulted in a
14 premium reduction, the premium during such extension of
15 coverage shall be calculated based upon the later rate filing.

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

22 (b) The insurer shall give the named insured written
23 notice of nonrenewal, cancellation, or termination at least 90
24 days prior to the effective date of the nonrenewal,
25 cancellation, or termination. The notice must include the
26 reason or reasons for the nonrenewal, cancellation, or
27 termination, except that:

28 1. When cancellation is for nonpayment of premium, at
29 least 10 days' written notice of cancellation accompanied by
30 the reason therefor shall be given. As used in this
31 subparagraph, the term "nonpayment of premium" means failure

1 of the named insured to discharge when due any of her or his
2 obligations in connection with the payment of premiums on a
3 policy or any installment of such premium, whether the premium
4 is payable directly to the insurer or its agent or indirectly
5 under any premium finance plan or extension of credit, or
6 failure to maintain membership in an organization if such
7 membership is a condition precedent to insurance coverage.
8 "Nonpayment of premium" also means the failure of a financial
9 institution to honor an insurance applicant's check after
10 delivery to a licensed agent for payment of a premium, even if
11 the agent has previously delivered or transferred the premium
12 to the insurer. If a dishonored check represents the initial
13 premium payment, the contract and all contractual obligations
14 shall be void ab initio unless the nonpayment is cured within
15 the earlier of 5 days after actual notice by certified mail is
16 received by the applicant or 15 days after notice is sent to
17 the applicant by certified mail or registered mail, and if the
18 contract is void, any premium received by the insurer from a
19 third party shall be refunded to that party in full.

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

28
29 After the policy has been in effect for 90 days, the policy
30 shall not be canceled by the insurer except when there has
31 been a material misstatement, a nonpayment of premium, a

1 failure to comply with underwriting requirements established
2 by the insurer within 90 days of the date of effectuation of
3 coverage, or a substantial change in the risk covered by the
4 policy or when the cancellation is for all insureds under such
5 policies for a given class of insureds. This paragraph does
6 not apply to individually rated risks having a policy term of
7 less than 90 days.

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

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