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2 An act relating to property insurance; amending  
3 s. 215.555, F.S.; revising the retention of  
4 losses for which an insurer is not entitled to  
5 reimbursement from the Florida Hurricane  
6 Catastrophe Fund; amending s. 215.559, F.S.;  
7 revising the allocation of funds appropriated  
8 to the Department of Community Affairs from the  
9 Florida Hurricane Catastrophe Fund for the  
10 Hurricane Loss Mitigation Program; requiring  
11 that the department establish a low-interest  
12 loan program and pilot project for hurricane  
13 loss mitigation; authorizing contractual  
14 agreements between the department and financial  
15 institutions; authorizing the Department of  
16 Community Affairs to adopt rules; amending s.  
17 627.062, F.S.; requiring the Office of  
18 Insurance Regulation to submit a proposed plan  
19 to the Legislature establishing uniform rating  
20 territories to be used by insurers for  
21 residential property insurance rate filings;  
22 requiring a further act of the Legislature to  
23 implement the plan; limiting the recoupment by  
24 an insurer in its rates of the reimbursement  
25 premium it pays to the Florida Hurricane  
26 Catastrophe Fund; amending s. 627.0628, F.S.;  
27 restricting the admissibility and relevance in  
28 rate proceedings of findings of the Florida  
29 Commission on Hurricane Loss Projection  
30 Methodology; amending s. 627.0629, F.S.;  
31 lowering the percentage amount of a rate filing

1 based on a computer model which requires a  
2 public hearing; creating s. 627.06281, F.S.;  
3 requiring residential property insurers and  
4 rating and advisory organizations to report  
5 hurricane loss data for development of a public  
6 hurricane model for hurricane loss projections;  
7 amending s. 627.351, F.S.; revising the  
8 appointments to the board and the approval of  
9 officers and employees of the corporation;  
10 providing additional legislative intent  
11 relating to the Citizens Property Insurance  
12 Corporation; authorizing the corporation to  
13 issue bonds and incur indebtedness for certain  
14 purposes; requiring creation of a Market  
15 Accountability Advisory Committee to assist the  
16 corporation for certain purposes; providing for  
17 appointment of committee members; providing for  
18 terms; requiring reports to the corporation;  
19 revising requirements for the plan of operation  
20 of the corporation; deleting an obsolete  
21 reporting requirement; establishing a pilot  
22 program; specifying nonapplication of certain  
23 policy requirements in a county lacking  
24 reasonable degrees of competition for certain  
25 policies under certain circumstances; requiring  
26 the commission to adopt rules; deleting an  
27 obsolete rate methodology panel reporting  
28 requirement provision; creating s. 627.40951,  
29 F.S.; providing legislative findings and  
30 intent; providing for an advisory committee;  
31 providing for membership; providing for

1 | recommendations to be submitted to the  
2 | Legislature regarding standard residential  
3 | property insurance policies; amending s.  
4 | 627.411, F.S.; adding grounds for which the  
5 | Office of Insurance Regulation must disapprove  
6 | a form filed by an insurer; amending s.  
7 | 627.4133, F.S.; prohibiting insurers from  
8 | canceling or nonrenewing residential property  
9 | insurance policies under certain emergency  
10 | circumstances; providing exceptions; providing  
11 | notice requirements; providing application to  
12 | personal residential and commercial residential  
13 | policies covering certain damaged property;  
14 | extending the effective date of certain  
15 | policies under certain hurricane circumstances;  
16 | authorizing the insurer to collect premiums for  
17 | the extended period; providing nonapplication;  
18 | amending s. 627.4143, F.S.; requiring insurers  
19 | to provide personal lines property insurance  
20 | policyholders with a checklist of items  
21 | contained in policies; authorizing the  
22 | Financial Services Commission to adopt rules;  
23 | prescribing elements to be contained in the  
24 | checklist; requiring the checklist and outline  
25 | of insurance coverage to be sent with each  
26 | renewal; clarifying that homeowners' insurance  
27 | includes mobile homeowners', dwelling, and  
28 | condominium unit owners' insurance for purposes  
29 | of the outline of coverage; amending s.  
30 | 627.701, F.S.; increasing the maximum allowable  
31 | hurricane deductible for personal lines and

1 certain commercial lines residential policies;  
2 requiring insurers to offer specified hurricane  
3 deductibles for such policies; requiring  
4 insurers to provide written notice explaining  
5 hurricane deductible options for such policies;  
6 providing for computation and display of the  
7 dollar value of hurricane deductibles;  
8 requiring insurers to compute and display  
9 actual dollar values of certain riders for  
10 certain policies; amending s. 627.701, F.S.;  
11 providing that the requirement for a hurricane  
12 deductible to apply on an annual basis applies  
13 to personal lines residential property  
14 insurance policies; requiring insurers that  
15 provide commercial residential property  
16 insurance to offer alternative hurricane  
17 deductibles that apply on an annual basis or to  
18 each hurricane; amending s. 627.7011, F.S.;  
19 requiring insurers to offer coverage for  
20 additional costs of repair due to laws and  
21 ordinances; requiring insurers to pay the  
22 replacement cost for a loss insured on that  
23 basis, whether or not the insured replaces or  
24 repairs the dwelling or property; requiring  
25 certain homeowner's insurance policies to  
26 contain a specified statement; providing  
27 intent; amending s. 627.7015, F.S.; revising  
28 purpose and scope provisions relating to an  
29 alternative procedure for resolution of  
30 disputed property insurance claims; providing  
31 that failure of an insurer to notify a claimant

1 of the availability of mediation excuses an  
2 insured from being required to submit to  
3 certain loss appraisal processes; amending s.  
4 627.702, F.S.; providing legislative intent  
5 regarding the requirement that an insurer pay  
6 policy limits if there is a total loss of a  
7 building; providing nonapplication of certain  
8 insurer liability requirements under certain  
9 circumstances; limiting an insurer's liability  
10 to certain loss covered by a covered peril;  
11 amending s. 627.706, F.S., relating to sinkhole  
12 insurance; providing definitions; creating s.  
13 627.7065, F.S.; providing legislative findings;  
14 requiring the Department of Financial Services  
15 and the Office of the Insurance Consumer  
16 Advocate to consult with the Florida Geological  
17 Survey and the Department of Environmental  
18 Protection to implement a statewide automated  
19 database of sinkholes and related activity;  
20 providing requirements for the form and content  
21 of the database; authorizing the Department of  
22 Financial Services to require insurers to  
23 provide certain information; providing for  
24 management of the database; requiring the  
25 department to investigate sinkhole activity  
26 reports and include findings and investigations  
27 in the database; requiring the Department of  
28 Environmental Protection to report on the  
29 database to the Governor, Legislature, and  
30 Chief Financial Officer; authorizing the  
31 Department of Financial Services to adopt

1 implementing rules; amending s. 627.707, F.S. ;  
2 revising standards for investigations of  
3 sinkhole claims by insurers; requiring an  
4 insurer to engage an engineer or professional  
5 geologist for certain purposes; requiring a  
6 report under certain circumstances; requiring  
7 an insurer to provide written notice to a  
8 policyholder disclosing certain information;  
9 authorizing an insurer to deny a claim under  
10 certain circumstances; authorizing a  
11 policyholder to demand certain testing;  
12 providing requirements; specifying required  
13 activities for insurers if a sinkhole loss is  
14 verified; specifying payment requirements for  
15 insurers; providing limitations; requiring the  
16 insurer to pay fees of the engineer and  
17 geologist; authorizing an insurer to engage a  
18 structural engineer for certain purposes;  
19 creating s. 627.7072, F.S.; specifying  
20 requirements for sinkhole testing by engineers  
21 and geologists; creating s. 627.7073, F.S. ;  
22 providing reporting requirements for engineers  
23 and geologists after testing for sinkholes;  
24 specifying a presumption of correctness of  
25 certain findings; requiring an insurer paying a  
26 sinkhole loss claim to file a report and  
27 certification with the county property  
28 appraiser; requiring the property appraiser to  
29 record the report and certification; requiring  
30 the insurer to bear the cost of filing and  
31 recording; requiring a seller of certain

1 | property to make certain disclosures to  
2 | property buyers under certain circumstances;  
3 | creating s. 627.711, F.S.; requiring insurers  
4 | to notify applicants or policyholders of the  
5 | availability and amounts of certain discounts,  
6 | credits, rate differentials, or reductions in  
7 | deductibles for properties on which certain  
8 | fixtures have been installed or construction  
9 | techniques have been implemented; requiring  
10 | insurers to provide qualifying information;  
11 | authorizing the Financial Services Commission  
12 | to adopt rules; creating s. 627.712, F.S.;  
13 | requiring property insurers to pay or deny  
14 | claims within certain time periods; providing  
15 | that overdue payments bear interest; creating  
16 | the Task Force on Long-Term Solutions for  
17 | Florida's Hurricane Insurance Market; requiring  
18 | the Executive Office of the Governor, the  
19 | Department of Financial Services, and the  
20 | Office of Insurance Regulation to provide  
21 | administrative support and staff support;  
22 | providing membership; providing purpose and  
23 | intent; providing for research and hearings on  
24 | specified issues; requiring the task force to  
25 | submit a report of findings and recommendations  
26 | to the Governor, the Chief Financial Officer,  
27 | the President of the Senate, and the Speaker of  
28 | the House of Representatives; providing for  
29 | additional activities; providing for expiration  
30 | of the task force; requiring the Office of  
31 | Insurance Regulation to submit a report to the

1 Legislature relating to residential property  
2 insurance; providing report requirements;  
3 requiring the Office of the Auditor General to  
4 conduct an operational audit of Citizens  
5 Property Insurance Corporation; specifying  
6 audit requirements; requiring a report;  
7 requiring the board of governors of the  
8 Citizens Property Insurance Corporation to  
9 submit a report to the Legislature relating to  
10 property and casualty insurance; specifying  
11 report requirements; providing an appropriation  
12 and authorizing positions; providing a  
13 contingent effective date; providing effective  
14 dates.

15  
16 Be It Enacted by the Legislature of the State of Florida:

17  
18 Section 1. Effective June 1, 2005, paragraph (e) of  
19 subsection (2) of section 215.555, Florida Statutes, is  
20 amended to read:

21 215.555 Florida Hurricane Catastrophe Fund.--

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

23 (e) "Retention" means the amount of losses below which  
24 an insurer is not entitled to reimbursement from the fund. An  
25 insurer's retention shall be calculated as follows:

26 1. The board shall calculate and report to each  
27 insurer the retention multiples for that year. For the  
28 contract year beginning June 1, 2005 ~~2004~~, the retention  
29 multiple shall be equal to \$4.5 billion divided by the total  
30 estimated reimbursement premium for the contract year; for  
31 subsequent years, the retention multiple shall be equal to



1 \$4.5 billion, adjusted based upon the reported exposure from  
2 the prior contract year to reflect the percentage growth in  
3 exposure to the fund for covered policies since 2004 ~~2003~~ ,  
4 divided by the total estimated reimbursement premium for the  
5 contract year. Total reimbursement premium for purposes of the  
6 calculation under this subparagraph shall be estimated using  
7 the assumption that all insurers have selected the 90-percent  
8 coverage level.

9         2. The retention multiple as determined under  
10 subparagraph 1. shall be adjusted to reflect the coverage  
11 level elected by the insurer. For insurers electing the  
12 90-percent coverage level, the adjusted retention multiple is  
13 100 percent of the amount determined under subparagraph 1. For  
14 insurers electing the 75-percent coverage level, the retention  
15 multiple is 120 percent of the amount determined under  
16 subparagraph 1. For insurers electing the 45-percent coverage  
17 level, the adjusted retention multiple is 200 percent of the  
18 amount determined under subparagraph 1.

19         3. An insurer shall determine its provisional  
20 retention by multiplying its provisional reimbursement premium  
21 by the applicable adjusted retention multiple and shall  
22 determine its actual retention by multiplying its actual  
23 reimbursement premium by the applicable adjusted retention  
24 multiple.

25         4. For insurers who experience multiple covered events  
26 causing loss during the contract year, beginning June 1, 2005,  
27 each insurer's full retention shall be applied to each of the  
28 covered events causing the two largest losses for that  
29 insurer. For each other covered event resulting in losses, the  
30 insurer's retention shall be reduced to one-third of the full  
31 retention. The reimbursement contract shall provide for the

1 reimbursement of losses for each covered event based on the  
2 full retention with adjustments made to reflect the reduced  
3 retentions after January 1 of the contract year provided the  
4 insurer reports its losses as specified in the reimbursement  
5 contract.

6 Section 2. Effective July 1, 2005, section 215.559,  
7 Florida Statutes, is amended to read:

8 215.559 Hurricane Loss Mitigation Program.--

9 (1) There is created a Hurricane Loss Mitigation  
10 Program. The Legislature shall annually appropriate \$10  
11 million of the moneys authorized for appropriation under s.  
12 215.555(7)(c) from the Florida Hurricane Catastrophe Fund to  
13 the Department of Community Affairs for the purposes set forth  
14 in this section.

15 (2)(a) Seven million dollars in funds provided in  
16 subsection (1) shall be used for programs to improve the wind  
17 resistance of residences and mobile homes, including loans,  
18 subsidies, grants, demonstration projects, and direct  
19 assistance; cooperative programs with local governments and  
20 the Federal Government; and other efforts to prevent or reduce  
21 losses or reduce the cost of rebuilding after a disaster.

22 (b) Three million dollars in funds provided in  
23 subsection (1) shall be used to retrofit existing facilities  
24 used as public hurricane shelters. The department must  
25 prioritize the use of these funds for projects included in the  
26 September 1, 2000, version of the Shelter Retrofit Report  
27 prepared in accordance with s. 252.385(3), and each annual  
28 report thereafter. The department must give funding priority  
29 to projects in regional planning council regions that have  
30 shelter deficits and to projects that maximize use of state  
31 funds.

1           (3) By the 2006-2007 fiscal year, the Department of  
2 Community Affairs shall develop a low-interest loan program  
3 for homeowners and mobile home owners to retrofit their homes  
4 with fixtures or apply construction techniques that have been  
5 demonstrated to reduce the amount of damage or loss due to a  
6 hurricane. Funding for the program shall be used to subsidize  
7 or guaranty private-sector loans for this purpose to qualified  
8 homeowners by financial institutions chartered by the state or  
9 Federal Government. The department may enter into contracts  
10 with financial institutions for this purpose. The department  
11 shall establish criteria for determining eligibility for the  
12 loans and selecting recipients, standards for retrofitting  
13 homes or mobile homes, limitations on loan subsidies and loan  
14 guaranties, and other terms and conditions of the program,  
15 which must be specified in the department's report to the  
16 Legislature on January 1, 2006, required by subsection (8).  
17 For the 2005-2006 fiscal year, the Department of Community  
18 Affairs may use up to \$1 million of the funds appropriated  
19 pursuant to paragraph (2)(a) to begin the low-interest loan  
20 program as a pilot project in one or more counties. The  
21 Department of Financial Services, the Office of Financial  
22 Regulation, the Florida Housing Finance Corporation, and the  
23 Office of Tourism, Trade, and Economic Development shall  
24 assist the Department of Community Affairs in establishing the  
25 program and pilot project. The department may use up to 2.5  
26 percent of the funds appropriated in any given fiscal year for  
27 administering the loan program. The department may adopt rules  
28 to implement the program.

29           ~~(4)(3)~~ Forty percent of the total appropriation in  
30 paragraph (2)(a) shall be used to inspect and improve  
31 tie-downs for mobile homes. Within 30 days after the effective

1 date of that appropriation, the department shall contract with  
2 a public higher educational institution in this state which  
3 has previous experience in administering the programs set  
4 forth in this subsection to serve as the administrative entity  
5 and fiscal agent pursuant to s. 216.346 for the purpose of  
6 administering the programs set forth in this subsection in  
7 accordance with established policy and procedures. The  
8 administrative entity working with the advisory council set up  
9 under subsection (6)~~(5)~~ shall develop a list of mobile home  
10 parks and counties that may be eligible to participate in the  
11 tie-down program.

12 (5)~~(4)~~ Of moneys provided to the Department of  
13 Community Affairs in paragraph (2)(a), 10 percent shall be  
14 allocated to a Type I Center within the State University  
15 System dedicated to hurricane research. The Type I Center  
16 shall develop a preliminary work plan approved by the advisory  
17 council set forth in subsection (6)~~(5)~~ to eliminate the state  
18 and local barriers to upgrading existing mobile homes and  
19 communities, research and develop a program for the recycling  
20 of existing older mobile homes, and support programs of  
21 research and development relating to hurricane loss reduction  
22 devices and techniques for site-built residences. The State  
23 University System also shall consult with the Department of  
24 Community Affairs and assist the department with the report  
25 required under subsection (8)~~(7)~~.

26 (6)~~(5)~~ ~~Except for the program set forth in subsection~~  
27 ~~(3)~~, The Department of Community Affairs shall develop the  
28 programs set forth in this section in consultation with an  
29 advisory council consisting of a representative designated by  
30 the Chief Financial Officer, a representative designated by  
31 the Florida Home Builders Association, a representative

1 designated by the Florida Insurance Council, a representative  
2 designated by the Federation of Manufactured Home Owners, a  
3 representative designated by the Florida Association of  
4 Counties, and a representative designated by the Florida  
5 Manufactured Housing Association.

6 ~~(7)(6)~~ Moneys provided to the Department of Community  
7 Affairs under this section are intended to supplement other  
8 funding sources of the Department of Community Affairs and may  
9 not supplant other funding sources of the Department of  
10 Community Affairs.

11 ~~(8)(7)~~ On January 1st of each year, the Department of  
12 Community Affairs shall provide a full report and accounting  
13 of activities under this section and an evaluation of such  
14 activities to the Speaker of the House of Representatives, the  
15 President of the Senate, and the Majority and Minority Leaders  
16 of the House of Representatives and the Senate.

17 ~~(9)(8)~~ This section is repealed June 30, 2011.

18 Section 3. Subsections (4) and (5) of section 627.062,  
19 Florida Statutes, are amended to read:

20 627.062 Rate standards.--

21 (4) The establishment of any rate, rating  
22 classification, rating plan or schedule, or variation thereof  
23 in violation of part IX of chapter 626 is also in violation of  
24 this section. In order to enhance the ability of consumers to  
25 compare premiums and to increase the accuracy and usefulness  
26 of rate-comparison information provided by the office to the  
27 public, the office shall develop a proposed standard rating  
28 territory plan to be used by all authorized property and  
29 casualty insurers for residential property insurance. In  
30 adopting the proposed plan, the office may consider  
31 geographical characteristics relevant to risk, county lines,

1 major roadways, existing rating territories used by a  
2 significant segment of the market, and other relevant factors.  
3 Such plan shall be submitted to the President of the Senate  
4 and the Speaker of the House of Representatives by January 15,  
5 2006. The plan may not be implemented unless authorized by  
6 further act of the Legislature.

7 (5) With respect to a rate filing involving coverage  
8 of the type for which the insurer is required to pay a  
9 reimbursement premium to the Florida Hurricane Catastrophe  
10 Fund, the insurer may fully recoup in its property insurance  
11 premiums any reimbursement premiums paid to the Florida  
12 Hurricane Catastrophe Fund, together with reasonable costs of  
13 other reinsurance, but may not recoup reinsurance costs that  
14 duplicate coverage provided by the Florida Hurricane  
15 Catastrophe Fund. An insurer may not recoup more than 1 year  
16 of reimbursement premium at a time. Any under-recoupment from  
17 the prior year may be added to the following year's  
18 reimbursement premium and any over-recoupment shall be  
19 subtracted from the following year's reimbursement premium.

20 Section 4. Paragraph (c) of subsection (1) and  
21 paragraph (c) of subsection (3) of section 627.0628, Florida  
22 Statutes, are amended to read:

23 627.0628 Florida Commission on Hurricane Loss  
24 Projection Methodology.--

25 (1) LEGISLATIVE FINDINGS AND INTENT.--

26 (c) It is the intent of the Legislature to create the  
27 Florida Commission on Hurricane Loss Projection Methodology as  
28 a panel of experts to provide the most actuarially  
29 sophisticated guidelines and standards for projection of  
30 hurricane losses possible, given the current state of  
31 actuarial science. It is the further intent of the Legislature

1 that such standards and guidelines must be used by the State  
2 Board of Administration in developing reimbursement premium  
3 rates for the Florida Hurricane Catastrophe Fund, and, subject  
4 to paragraph (3)(c), may be used by insurers in rate filings  
5 under s. 627.062 unless the way in which such standards and  
6 guidelines were applied by the insurer was erroneous, as shown  
7 by a preponderance of the evidence.

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

9 (c) With respect to a rate filing under s. 627.062, an  
10 insurer may employ actuarial methods, principles, standards,  
11 models, or output ranges found by the commission to be  
12 accurate or reliable to determine hurricane loss factors for  
13 use in a rate filing under s. 627.062. Such, which findings  
14 and factors are admissible and relevant in consideration of a  
15 rate filing by the office or in any arbitration or  
16 administrative or judicial review only if the office and the  
17 consumer advocate appointed pursuant to s. 627.0613 have  
18 access to all of the assumptions and factors that were used in  
19 developing the actuarial methods, principles, standards,  
20 models, or output ranges, and are not precluded from  
21 disclosing such information in a rate proceeding.

22 Section 5. Subsection (7) of section 627.0629, Florida  
23 Statutes, is amended to read:

24 627.0629 Residential property insurance; rate  
25 filings.--

26 (7) Any rate filing that is based in whole or part on  
27 data from a computer model may not exceed 15 ~~25~~ percent unless  
28 there is a public hearing.

29 Section 6. Section 627.06281, Florida Statutes, is  
30 created to read:

31

1           627.06281 Public hurricane loss projection model;  
2 reporting of data by insurers.--Within 30 days after a written  
3 request for loss data and associated exposure data by the  
4 office or a type I center within the State University System  
5 established to study mitigation, residential property insurers  
6 and licensed rating and advisory organizations that compile  
7 residential property insurance loss data shall provide loss  
8 data and associated exposure data for residential property  
9 insurance policies to the office or to a type I center within  
10 the State University System established to study mitigation,  
11 as directed by the office, for the purposes of developing,  
12 maintaining, and updating a public model for hurricane loss  
13 projections. The loss data and associated exposure data  
14 provided shall be in writing.

15           Section 7. Paragraphs (a), (c), and (d) of subsection  
16 (6) of section 627.351, Florida Statutes, are amended to read:

17           627.351 Insurance risk apportionment plans.--

18           (6) CITIZENS PROPERTY INSURANCE CORPORATION.--

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



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

16           2. The Residential Property and Casualty Joint  
17 Underwriting Association originally created by this statute  
18 shall be known, as of July 1, 2002, as the Citizens Property  
19 Insurance Corporation. The corporation shall provide insurance  
20 for residential and commercial property, for applicants who  
21 are in good faith entitled, but are unable, to procure  
22 insurance through the voluntary market. The corporation shall  
23 operate pursuant to a plan of operation approved by order of  
24 the office. The plan is subject to continuous review by the  
25 office. The office may, by order, withdraw approval of all or  
26 part of a plan if the office determines that conditions have  
27 changed since approval was granted and that the purposes of  
28 the plan require changes in the plan. For the purposes of this  
29 subsection, residential coverage includes both personal lines  
30 residential coverage, which consists of the type of coverage  
31 provided by homeowner's, mobile home owner's, dwelling,

1 | tenant's, condominium unit owner's, and similar policies, and  
2 | commercial lines residential coverage, which consists of the  
3 | type of coverage provided by condominium association,  
4 | apartment building, and similar policies.

5 |       3. It is the intent of the Legislature that  
6 | policyholders, applicants, and agents of the corporation  
7 | receive service and treatment of the highest possible level  
8 | but never less than that generally provided in the voluntary  
9 | market. It also is intended that the corporation be held to  
10 | service standards no less than those applied to insurers in  
11 | the voluntary market by the office with respect to  
12 | responsiveness, timeliness, customer courtesy, and overall  
13 | dealings with policyholders, applicants, or agents of the  
14 | corporation.

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

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

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

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

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

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

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

1 corporation board, for all eligible risks of the authorized  
2 insurer covered under the quota share primary insurance  
3 agreement.

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

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

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

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

1 under the agreement by the insurance agent of the authorized  
2 insurer producing the business, the reporting of information  
3 concerning eligible risks, the payment of premium to the  
4 corporation, and arrangements for the adjustment and payment  
5 of hurricane claims incurred on eligible risks by the claims  
6 adjuster and personnel of the authorized insurer. Entering  
7 into a quota sharing insurance agreement between the  
8 corporation and an authorized insurer shall be voluntary and  
9 at the discretion of the authorized insurer.

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

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

13       4.a. Must require that the corporation operate subject  
14 to the supervision and approval of a board of governors  
15 consisting of 8 ~~7~~ individuals who are residents of this state,  
16 from different geographical areas of this state, ~~appointed by~~  
17 ~~the Chief Financial Officer. The Governor, the Chief Financial~~  
18 Officer, the President of the Senate, and the Speaker of the  
19 House of Representatives shall each appoint two members of the  
20 board, effective August 1, 2005. At least one of the two  
21 members appointed by each appointing officer must have  
22 demonstrated expertise in insurance. The Chief Financial  
23 Officer shall designate one of the appointees as chair. All  
24 board members serve at the pleasure of the appointing officer  
25 ~~Chief Financial Officer~~. All board members, including the  
26 chair, must be appointed to serve for 3-year terms beginning  
27 annually on a date designated by the plan. Any board vacancy  
28 shall be filled for the unexpired term by the appointing  
29 officer ~~Chief Financial Officer~~. The Chief Financial Officer  
30 shall appoint a technical advisory group to provide  
31 information and advice to the board of governors in connection

1 with the board's duties under this subsection. The executive  
2 director and senior managers of the corporation shall be  
3 engaged by the board, as recommended by the Chief Financial  
4 Officer and serve at the pleasure of the ~~board~~Chief Financial  
5 ~~Officer~~. The executive director is responsible for employing  
6 other staff as the corporation may require, subject to review  
7 and concurrence by the board and ~~office of~~ the Chief Financial  
8 Officer.

9       b. The board shall create a Market Accountability  
10 Advisory Committee to assist the corporation in developing  
11 awareness of its rates and its customer and agent service  
12 levels in relationship to the voluntary market insurers  
13 writing similar coverage. The members of the advisory  
14 committee shall consist of the following 11 persons, one of  
15 whom must be elected chair by the members of the committee:  
16 four representatives, one appointed by the Florida Association  
17 of Insurance Agents, one by the Florida Association of  
18 Insurance and Financial Advisors, one by the Professional  
19 Insurance Agents of Florida, and one by the Latin American  
20 Association of Insurance Agencies; three representatives  
21 appointed by the insurers with the three highest voluntary  
22 market share of residential property insurance business in the  
23 state; one representative from the Office of Insurance  
24 Regulation; one consumer appointed by the board who is insured  
25 by the corporation at the time of appointment to the  
26 committee; one representative appointed by the Florida  
27 Association of Realtors; and one representative appointed by  
28 the Florida Bankers Association. All members must serve for  
29 3-year terms and may serve for consecutive terms. The  
30 committee shall report to the corporation at each board  
31 meeting on insurance market issues which may include rates and



1 rate competition with the voluntary market; service, including  
2 policy issuance, claims processing, and general responsiveness  
3 to policyholders, applicants, and agents; and matters relating  
4 to depopulation.

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

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

25           (I) If the risk accepts an offer of coverage through  
26 the market assistance plan or an offer of coverage through a  
27 mechanism established by the corporation before a policy is  
28 issued to the risk by the corporation or during the first 30  
29 days of coverage by the corporation, and the producing agent  
30 who submitted the application to the plan or to the  
31

1 corporation is not currently appointed by the insurer, the  
2 insurer shall:

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

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

13  
14 If the producing agent is unwilling or unable to accept  
15 appointment, the new insurer shall pay the agent in accordance  
16 with sub-sub-sub-subparagraph (A).

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

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

26 (B) Offer to allow the producing agent of record of  
27 the corporation policy to continue servicing the policy for a  
28 period of not less than 1 year and offer to pay the agent the  
29 greater of the insurer's or the corporation's usual and  
30 customary 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       b. With respect to commercial lines residential risks,  
5 if the risk is offered coverage under a policy including wind  
6 coverage from an authorized insurer at its approved rate, the  
7 risk is not eligible for any policy issued by the corporation.  
8 If the risk is not able to obtain any such offer, the risk is  
9 eligible for a policy including wind coverage issued by the  
10 corporation.

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

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

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

28  
29 If the producing agent is unwilling or unable to accept  
30 appointment, the new insurer shall pay the agent in accordance  
31 with sub-sub-sub-subparagraph (A).

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

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

10           (B) Offer to allow the producing agent of record of  
11 the corporation policy to continue servicing the policy for a  
12 period of not less than 1 year and offer to pay the agent the  
13 greater of the insurer's or the corporation's usual and  
14 customary 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           6. Must include rules for classifications of risks and  
20 rates therefor.

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

29           8. Must provide objective criteria and procedures to  
30 be uniformly applied for all applicants in determining whether  
31 an individual risk is so hazardous as to be uninsurable. In

1 making this determination and in establishing the criteria and  
2 procedures, the following shall be considered:

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

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

9  
10 The acceptance or rejection of a risk by the corporation shall  
11 be construed as the private placement of insurance, and the  
12 provisions of chapter 120 shall not apply.

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

17 10. Must provide that in the event of regular deficit  
18 assessments under sub-subparagraph (b)3.a. or sub-subparagraph  
19 (b)3.b., in the personal lines account, the commercial lines  
20 residential account, or the high-risk account, the corporation  
21 shall levy upon corporation policyholders in its next rate  
22 filing, or by a separate rate filing solely for this purpose,  
23 a market equalization surcharge arising from a regular  
24 assessment in such account in a percentage equal to the total  
25 amount of such regular assessments divided by the aggregate  
26 statewide direct written premium for subject lines of business  
27 for the prior calendar year. Market equalization surcharges  
28 under this subparagraph are not considered premium and are not  
29 subject to commissions, fees, or premium taxes; however,  
30 failure to pay a market equalization surcharge shall be  
31 treated as failure to pay premium.

1           11. The policies issued by the corporation must  
2 provide that, if the corporation or the market assistance plan  
3 obtains an offer from an authorized insurer to cover the risk  
4 at its approved rates, the risk is no longer eligible for  
5 renewal through the corporation.

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

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

30           14. Must provide that, with respect to the high-risk  
31 account, any assessable insurer with a surplus as to

1 | policyholders of \$25 million or less writing 25 percent or  
2 | more of its total countrywide property insurance premiums in  
3 | this state may petition the office, within the first 90 days  
4 | of each calendar year, to qualify as a limited apportionment  
5 | company. In no event shall a limited apportionment company be  
6 | required to participate in the portion of any assessment,  
7 | within the high-risk account, pursuant to sub-subparagraph  
8 | (b)3.a. or sub-subparagraph (b)3.b. in the aggregate which  
9 | exceeds \$50 million after payment of available high-risk  
10 | account funds in any calendar year. However, a limited  
11 | apportionment company shall collect from its policyholders any  
12 | emergency assessment imposed under sub-subparagraph (b)3.d.  
13 | The plan shall provide that, if the office determines that any  
14 | regular assessment will result in an impairment of the surplus  
15 | of a limited apportionment company, the office may direct that  
16 | all or part of such assessment be deferred as provided in  
17 | subparagraph (g)4. However, there shall be no limitation or  
18 | deferment of an emergency assessment to be collected from  
19 | policyholders under sub-subparagraph (b)3.d.

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

28 |         (d)1. It is the intent of the Legislature that the  
29 | rates for coverage provided by the corporation be actuarially  
30 | sound and not competitive with approved rates charged in the  
31 | admitted voluntary market, so that the corporation functions

1 as a residual market mechanism to provide insurance only when  
2 the insurance cannot be procured in the voluntary market.  
3 Rates shall include an appropriate catastrophe loading factor  
4 that reflects the actual catastrophic exposure of the  
5 corporation.

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

19         3. Rates for personal lines residential wind-only  
20 policies must be actuarially sound and not competitive with  
21 approved rates charged by authorized insurers. ~~However, for~~  
22 ~~personal lines residential wind only policies issued or~~  
23 ~~renewed between July 1, 2002, and June 30, 2003, the maximum~~  
24 ~~premium increase must be no greater than 10 percent of the~~  
25 ~~Florida Windstorm Underwriting Association premium for that~~  
26 ~~policy in effect on June 30, 2002, as adjusted for coverage~~  
27 ~~changes and seasonal occupancy surcharges. For personal lines~~  
28 ~~residential wind only policies issued or renewed between July~~  
29 ~~1, 2003, and June 30, 2004, the corporation shall use its~~  
30 ~~existing filed and approved wind only rating and~~  
31 ~~classification plans, provided, however, that the maximum~~



1 ~~premium increase must be no greater than 20 percent of the~~  
2 ~~premium for that policy in effect on June 30, 2003, as~~  
3 ~~adjusted for coverage changes and seasonal occupancy~~  
4 ~~surcharges.~~ Corporation rate manuals shall include a rate  
5 surcharge for seasonal occupancy. To ensure that personal  
6 lines residential wind-only rates ~~effective on or after July~~  
7 ~~1, 2004,~~ are not competitive with approved rates charged by  
8 authorized insurers, the corporation, in conjunction with the  
9 office, shall develop a wind-only ratemaking methodology,  
10 which methodology shall be contained in each ~~a~~ rate filing  
11 made by the corporation with the office ~~by January 1, 2004.~~ If  
12 the office ~~thereafter~~ determines that the wind-only rates or  
13 rating factors filed by the corporation fail to comply with  
14 the 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. ~~The~~  
18 ~~office shall report to the Speaker of the House of~~  
19 ~~Representatives and the President of the Senate on the~~  
20 ~~provisions of the wind only ratemaking methodology by January~~  
21 ~~31, 2004.~~

22 4. For the purposes of establishing a pilot program to  
23 evaluate issues relating to the availability and affordability  
24 of insurance in an area where historically there has been  
25 little market competition, the provisions of subparagraph 2.  
26 do not apply to coverage provided by the corporation in Monroe  
27 County if the office determines that a reasonable degree of  
28 competition does not exist for personal lines residential  
29 policies. The provisions of subparagraph 3. do not apply to  
30 coverage provided by the corporation in Monroe County if the  
31 office determines that a reasonable degree of competition does

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

13 ~~5.4.~~ Rates for commercial lines coverage shall not be  
14 subject to the requirements of subparagraph 2., but shall be  
15 subject to all other requirements of this paragraph and s.  
16 627.062.

17 ~~6.5.~~ Nothing in this paragraph shall require or allow  
18 the corporation to adopt a rate that is inadequate under s.  
19 627.062.

20 ~~7.6.~~ The corporation shall certify to the office at  
21 least twice annually that its personal lines rates comply with  
22 the requirements of subparagraphs 1. and 2. If any adjustment  
23 in the rates or rating factors of the corporation is necessary  
24 to ensure such compliance, the corporation shall make and  
25 implement such adjustments and file its revised rates and  
26 rating factors with the office. If the office thereafter  
27 determines that the revised rates and rating factors fail to  
28 comply with the provisions of subparagraphs 1. and 2., it  
29 shall notify the corporation and require the corporation to  
30 amend its rates or rating factors in conjunction with its next  
31 rate filing. The office must notify the corporation by

1 | electronic means of any rate filing it approves for any  
2 | insurer among the insurers referred to in subparagraph 2.

3 |       ~~8.7.~~ In addition to the rates otherwise determined  
4 | pursuant to this paragraph, the corporation shall impose and  
5 | collect an amount equal to the premium tax provided for in s.  
6 | 624.509 to augment the financial resources of the corporation.

7 |       9.8-a. To assist the corporation in developing  
8 | additional ratemaking methods to assure compliance with  
9 | subparagraphs 1. and 4., the corporation shall appoint a rate  
10 | methodology panel consisting of one person recommended by the  
11 | Florida Association of Insurance Agents, one person  
12 | recommended by the Professional Insurance Agents of Florida,  
13 | one person recommended by the Florida Association of Insurance  
14 | and Financial Advisors, one person recommended by the insurer  
15 | with the highest voluntary market share of residential  
16 | property insurance business in the state, one person  
17 | recommended by the insurer with the second-highest voluntary  
18 | market share of residential property insurance business in the  
19 | state, one person recommended by an insurer writing commercial  
20 | residential property insurance in this state, one person  
21 | recommended by the Office of Insurance Regulation, and one  
22 | board member designated by the board chairman, who shall serve  
23 | as chairman of the panel.

24 |       b. By January 1, 2004, the rate methodology panel  
25 | shall provide a report to the corporation of its findings and  
26 | recommendations for the use of additional ratemaking methods  
27 | and procedures, including the use of a rate equalization  
28 | surcharge in an amount sufficient to assure that the total  
29 | cost of coverage for policyholders or applicants to the  
30 | corporation is sufficient to comply with subparagraph 1.

31 |

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

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

17           ~~10.9.~~ By January 1, 2004, the corporation shall  
18 develop a notice to policyholders or applicants that the rates  
19 of Citizens Property Insurance Corporation are intended to be  
20 higher than the rates of any admitted carrier and providing  
21 other information the corporation deems necessary to assist  
22 consumers in finding other voluntary admitted insurers willing  
23 to insure their property.

24           Section 8. Section 627.40951, Florida Statutes, is  
25 created to read:

26           627.40951 Standard personal lines residential  
27 insurance policy.--

28           (1) The Legislature finds that many consumers who  
29 filed property loss claims as a result of the hurricanes that  
30 struck this state in 2004 were inadequately insured due to the  
31 difficulty consumers encounter in trying to understand the

1 complex nature of property insurance policies. The purpose and  
2 intent of this section is to have property and casualty  
3 insurers offer standard personal lines residential property  
4 insurance policies and standard checklists of policy contents,  
5 in accordance with s. 627.4143, to consumers and to ensure  
6 that these policies and checklists are written in a simple  
7 format with easily readable language that will enable most  
8 consumers to understand the principal benefits and coverage  
9 provided in the policy; the principal exclusions and  
10 limitations or reductions contained in the policy, including,  
11 but not limited to, deductibles, coinsurance, and any other  
12 limitations or reductions; and any additional coverage  
13 provided through any rider or endorsement that accompanies the  
14 policy and renewal or cancellation provisions.

15 (2) The Chief Financial Officer shall appoint an  
16 advisory committee composed of two representatives of insurers  
17 currently selling personal lines residential property  
18 insurance coverage, two representatives of property and  
19 casualty agents, two representatives of consumers, two  
20 representatives of the Commissioner of Insurance Regulation,  
21 and the Insurance Consumer Advocate or her or his designee.  
22 The Chief Financial Officer or her or his designee shall serve  
23 as chair of the committee. The committee shall develop policy  
24 language for coverage that represents general industry  
25 standards in the market for comprehensive coverage under  
26 personal lines residential insurance policies and shall  
27 develop a checklist to be used with each type of personal  
28 lines residential property insurance policy. The committee  
29 shall review policies and related forms written by Insurance  
30 Services Office, Inc. The committee shall file a report  
31 containing its recommendations to the President of the Senate

1 and the Speaker of the House of Representatives by January 15,  
2 2006. No insurer shall be required to offer the standard  
3 policy unless required by further act of the Legislature.

4 Section 9. Subsection (1) of section 627.411, Florida  
5 Statutes, is amended to read:

6 627.411 Grounds for disapproval.--

7 (1) The office shall disapprove any form filed under  
8 s. 627.410, or withdraw any previous approval thereof, only if  
9 the form:

10 (a) Is in any respect in violation of, or does not  
11 comply with, this code.

12 (b) Contains or incorporates by reference, where such  
13 incorporation is otherwise permissible, any inconsistent,  
14 ambiguous, or misleading clauses, or exceptions and conditions  
15 which deceptively affect the risk purported to be assumed in  
16 the general coverage of the contract.

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

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

22 (e) Is for residential property insurance and contains  
23 provisions that are unfair or inequitable or encourage  
24 misrepresentation.

25 (f)(e) Is for health insurance, and:

26 1. Provides benefits that are unreasonable in relation  
27 to the premium charged.†

28 2. Contains provisions that are unfair or inequitable  
29 or contrary to the public policy of this state or that  
30 encourage misrepresentation.†

31

1           3. Contains provisions that apply rating practices  
2 that result in unfair discrimination pursuant to s.  
3 626.9541(1)(g)2.

4           ~~(g)(f)~~ Excludes coverage for human immunodeficiency  
5 virus infection or acquired immune deficiency syndrome or  
6 contains limitations in the benefits payable, or in the terms  
7 or conditions of such contract, for human immunodeficiency  
8 virus infection or acquired immune deficiency syndrome which  
9 are different than those which apply to any other sickness or  
10 medical condition.

11           Section 10. Paragraphs (d) and (e) are added to  
12 subsection (2) of section 627.4133, Florida Statutes, to read:

13           627.4133 Notice of cancellation, nonrenewal, or  
14 renewal premium.--

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

21           (d)1. Upon a declaration of an emergency pursuant to  
22 s. 252.36 and the filing of an order by the Commissioner of  
23 Insurance Regulation, an insurer may not cancel or nonrenew a  
24 personal residential or commercial residential property  
25 insurance policy covering a dwelling or residential property  
26 located in this state which has been damaged as a result of a  
27 hurricane or wind loss that is the subject of the declaration  
28 of emergency for a period of 90 days after the dwelling or  
29 residential property has been repaired. A structure is deemed  
30 to be repaired when substantially completed and restored to  
31

1 the extent that it is insurable by another authorized insurer  
2 that is writing policies in this state.

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

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

7 b. Upon 45 days' notice:

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

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

12 (III) If the insurer has paid policy limits.

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

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

30 (e) If any cancellation or nonrenewal of a policy  
31 subject to this subsection is to take effect during the



1 duration of a hurricane as defined in s. 627.4025(2)(c), the  
2 effective date of such cancellation or nonrenewal is extended  
3 until the end of the duration of such hurricane. The insurer  
4 may collect premium at the prior rates or the rates then in  
5 effect for the period of time for which coverage is extended.  
6 This paragraph does not apply to any property with respect to  
7 which replacement coverage has been obtained and which is in  
8 effect for a claim occurring during the duration of the  
9 hurricane.

10 Section 11. Effective January 1, 2006, section  
11 627.4143, Florida Statutes, is amended to read:

12 627.4143 Outline of coverage.--

13 (1) No private passenger automobile or basic  
14 homeowner's policy shall be delivered or issued for delivery  
15 in this state unless an appropriate outline of coverage has  
16 been delivered prior to issuance of the policy or accompanies  
17 the policy when issued.

18 (2) The outline of coverage for a private passenger  
19 motor vehicle insurance policy shall contain all of the  
20 following:

21 (a) A brief description of the principal benefits and  
22 coverage provided in the policy, broken down by each class or  
23 type of coverage provided under the policy for which a premium  
24 is charged, and itemization of the applicable premium.

25 (b) A summary statement of the principal exclusions  
26 and limitations or reductions contained in the policy by class  
27 or type, including, but not limited to, deductibles,  
28 coinsurance, and any other limitations or reductions.

29 (c) A summary statement of any renewal or cancellation  
30 provisions.

31

1 (d) A description of the credit or surcharge plan that  
2 is being applied. The description may display numerical or  
3 alphabetical codes on the declarations page or premium notice  
4 to enable the insured to determine the reason or reasons why  
5 her or his policy is being surcharged or is receiving a  
6 credit.

7 (e) A list of any additional coverage provided through  
8 any rider or endorsement which accompanies the policy. The  
9 list shall contain a descriptive reference to each additional  
10 coverage, rather than solely a reference to a form or code  
11 number.

12 ~~(f) For a private passenger motor vehicle insurance~~  
13 ~~policy,~~ The extent of coverage provided to the insured in the  
14 event of collision damage to a rental vehicle rented by the  
15 insured. The proof-of-insurance card required by s. 316.646  
16 must also specify whether rental car coverage is provided, and  
17 may refer to the outline of coverage as to the details or  
18 extent of coverage.

19 (3) A basic homeowners', mobile homeowners', dwelling,  
20 or condominium unit owners' policy may not be delivered or  
21 issued for delivery in this state unless a comprehensive  
22 checklist of coverage on a form adopted by the commission and  
23 an appropriate outline of coverage have been delivered prior  
24 to issuance of the policy or accompanies the policy when  
25 issued. The commission shall, by rule, adopt a form for the  
26 checklist for each type of policy to which this subsection  
27 applies. Each form shall indicate that it was adopted by the  
28 commission.

29 (a) The checklist must contain a list of the standard  
30 provisions and elements that may typically be included in  
31 these policies, whether or not they are included in the

1 particular policy being issued, in a format that allows the  
2 insurer to place a check mark next to the provisions elements  
3 that are included so that the consumer can see both what is  
4 included and what is not included in the policy. As an  
5 alternative to checking the boxes on the checklist, an insurer  
6 may delete the check boxes from the form and replace them with  
7 text indicating whether the provision's elements are included  
8 or not. Limits of liability shall be listed for each item. The  
9 checklist must include, but is not limited to, the following:  
10       1. Property coverage for the principal premises shown  
11 in the declarations.  
12       2. Property coverage for other structures on the  
13 residence premises.  
14       3. Whether the principal premises and other structures  
15 are insured against the following perils:  
16           a. Fire.  
17           b. Lightning.  
18           c. Explosion.  
19           d. Hurricane loss.  
20           e. Nonhurricane wind loss.  
21           f. Collapse.  
22           g. Mold.  
23           h. Sinkhole loss.  
24           i. Vandalism.  
25       4. Personal property coverage.  
26       5. Whether personal property is insured against the  
27 following perils:  
28           a. Fire.  
29           b. Lightning.  
30           c. Hurricane loss.  
31           d. Nonhurricane wind loss.

- 1        e. Collapse.
- 2        f. Mold.
- 3        g. Sinkhole loss.
- 4        h. Theft.
- 5        6. The following additional coverages:
- 6            a. Debris removal.
- 7            b. Loss assessment.
- 8            c. Additional living expenses.
- 9            7. Personal liability coverage.
- 10          8. Medical payments coverage.
- 11          9. Discounts applied to the premium.
- 12          10. Deductibles for loss due to hurricane and loss to
- 13 other perils.
- 14            11. Building ordinance or law coverage.
- 15            12. Replacement cost coverage.
- 16            13. Actual cash value coverage.
- 17          (b) The forms shall allow insurers to place other
- 18 coverages on the checklists which may or may not be included
- 19 in the insurer's policies.
- 20          (c) The outline of coverage must contain:
- 21            1. A brief description of the principal benefits and
- 22 coverage provided in the policy, broken down by each class or
- 23 type of coverage provided under the policy for which a premium
- 24 is charged, and itemization of the applicable premium.
- 25            2. A summary statement of the principal exclusions and
- 26 limitations or reductions contained in the policy by class or
- 27 type, including, but not limited to, deductibles, coinsurance,
- 28 and any other limitations or reductions.
- 29            3. A summary statement of any renewal or cancellation
- 30 provisions.
- 31

1           4. A description of the credit or surcharge plan that  
2 is being applied. The description may display numerical or  
3 alphabetical codes on the declarations page or premium notice  
4 to enable the insured to determine the reason or reasons why  
5 her or his policy is being surcharged or is receiving a  
6 credit.

7           5. A summary of any additional coverage provided  
8 through any rider or endorsement that accompanies the policy.

9           ~~(4)(3)~~ The outline of coverage for a private  
10 passenger motor vehicle policy is required only on the initial  
11 policy issued by an insurer. The outline of coverage and the  
12 checklist for a basic homeowners', mobile homeowners',  
13 dwelling, or condominium unit owners' policy is required on  
14 the initial policy and each renewal thereof issued by an  
15 insurer.

16           ~~(5)(4)~~ An insurer must insert the following language  
17 on the outline of coverage:

18  
19 " The following outline of coverage or checklist is for  
20 informational purposes only. Florida law prohibits this  
21 outline or checklist from changing any of the provisions of  
22 the insurance contract which is the subject of this  
23 outline. Any endorsement regarding changes in types of  
24 coverage, exclusions, limitations, reductions, deductibles,  
25 coinsurance, renewal provisions, cancellation provisions,  
26 surcharges, or credits will be sent separately."

27           ~~(6)(5)~~ Neither this section nor the outline of  
28 coverage or checklist mandated by this section alters or  
29 modifies the terms of the insurance contract, creates a cause  
30 of action, or is admissible in any civil action.

31

1           Section 12. Effective October 1, 2005, subsections  
2 (3), (4), (8), and (9) of section 627.701, Florida Statutes,  
3 as amended by section 4 of chapter 2004-480, Laws of Florida,  
4 are amended to read:

5           627.701 Liability of insureds; coinsurance;  
6 deductibles.--

7           (3)(a) A policy of residential property insurance  
8 shall include a deductible amount applicable to hurricane ~~or~~  
9 ~~wind~~ losses no lower than \$500 and no higher than 2 percent of  
10 the policy dwelling limits with respect to personal lines  
11 residential risks, and no higher than 3 percent of the policy  
12 limits with respect to commercial lines residential risks;  
13 however, if a risk was covered on August 24, 1992, under a  
14 policy having a higher deductible than the deductibles allowed  
15 by this paragraph, a policy covering such risk may include a  
16 deductible no higher than the deductible in effect on August  
17 24, 1992. Notwithstanding the other provisions of this  
18 paragraph, a personal lines residential policy covering a risk  
19 valued at \$50,000 or less may include a deductible amount  
20 attributable to hurricane ~~or wind~~ losses no lower than \$250,  
21 and a personal lines residential policy covering a risk valued  
22 at \$100,000 or more may include a deductible amount  
23 attributable to hurricane ~~or wind~~ losses no higher than 10 ~~5~~  
24 percent of the policy limits unless subject to a higher  
25 deductible on August 24, 1992; however, no maximum deductible  
26 is required with respect to a personal lines residential  
27 policy covering a risk valued at more than \$500,000. An  
28 insurer may require a higher deductible, provided such  
29 deductible is the same as or similar to a deductible program  
30 lawfully in effect on June 14, 1995. In addition to the  
31 deductible amounts authorized by this paragraph, an insurer

1 may also offer policies with a copayment provision under  
2 which, after exhaustion of the deductible, the policyholder is  
3 responsible for 10 percent of the next \$10,000 of insured  
4 hurricane ~~or wind~~ losses.

5 (b)1. Except as otherwise provided in this paragraph,  
6 prior to issuing a personal lines residential property  
7 insurance policy on or after January 1, 2006 ~~April 1, 1996~~, or  
8 prior to the first renewal of a residential property insurance  
9 policy on or after January 1, 2006 ~~April 1, 1996~~, the insurer  
10 must offer alternative deductible amounts applicable to  
11 hurricane ~~or wind~~ losses equal to \$500, ~~and 2 percent,~~ 5  
12 percent, and 10 percent of the policy dwelling limits, unless  
13 the specific percentage ~~2 percent~~ deductible is less than  
14 \$500. The written notice of the offer shall specify the  
15 hurricane or wind deductible to be applied in the event that  
16 the applicant or policyholder fails to affirmatively choose a  
17 hurricane deductible. The insurer must provide such  
18 policyholder with notice of the availability of the deductible  
19 amounts specified in this paragraph in a form approved by the  
20 office in conjunction with each renewal of the policy. The  
21 failure to provide such notice constitutes a violation of this  
22 code but does not affect the coverage provided under the  
23 policy.

24 2. This paragraph does not apply with respect to a  
25 deductible program lawfully in effect on June 14, 1995, or to  
26 any similar deductible program, if the deductible program  
27 requires a minimum deductible amount of no less than 2 percent  
28 of the policy limits.

29 3. With respect to a policy covering a risk with  
30 dwelling limits of at least \$100,000, but less than \$250,000,  
31 the insurer may, in lieu of offering a policy with a \$500

1 hurricane or wind deductible as required by subparagraph 1.,  
2 offer a policy that the insurer guarantees it will not  
3 nonrenew for reasons of reducing hurricane loss for one  
4 renewal period and that contains up to a 2 percent hurricane  
5 or wind deductible as required by subparagraph 1.

6 4. With respect to a policy covering a risk with  
7 dwelling limits of \$250,000 or more, the insurer need not  
8 offer the \$500 hurricane ~~or wind~~ deductible as required by  
9 subparagraph 1., but must, except as otherwise provided in  
10 this subsection, offer the other 2 percent hurricane  
11 deductibles ~~or wind deductible~~ as required by subparagraph 1.

12 ~~(c) In order to provide for the transition from wind~~  
13 ~~deductibles to hurricane deductibles as required by this~~  
14 ~~subsection, an insurer is required to provide wind deductibles~~  
15 ~~meeting the requirements of this subsection until the~~  
16 ~~effective date of the insurer's first rate filing made after~~  
17 ~~January 1, 1997, and is thereafter required to provide~~  
18 ~~hurricane deductibles meeting the requirements of this~~  
19 ~~subsection.~~

20 (4)(a) Any policy that contains a separate hurricane  
21 deductible must on its face include in boldfaced type no  
22 smaller than 18 points the following statement: "THIS POLICY  
23 CONTAINS A SEPARATE DEDUCTIBLE FOR HURRICANE LOSSES, WHICH MAY  
24 RESULT IN HIGH OUT-OF-POCKET EXPENSES TO YOU." A policy  
25 containing a coinsurance provision applicable to hurricane  
26 losses must on its face include in boldfaced type no smaller  
27 than 18 points the following statement: "THIS POLICY CONTAINS  
28 A CO-PAY PROVISION THAT MAY RESULT IN HIGH OUT-OF-POCKET  
29 EXPENSES TO YOU."

30 (b) Beginning October 1, 2005, for any personal lines  
31 residential property insurance policy containing a separate



1 hurricane deductible, the insurer shall compute and  
2 prominently display the actual dollar value of the hurricane  
3 deductible on the declarations page of the policy at issuance  
4 and, for renewal, on the renewal declarations page of the  
5 policy or on the premium renewal notice.

6 (c) Beginning October 1, 2005, for any personal lines  
7 residential property insurance policy containing an inflation  
8 guard rider, the insurer shall compute and prominently display  
9 the actual dollar value of the hurricane deductible on the  
10 declarations page of the policy at issuance and, for renewal,  
11 on the renewal declarations page of the policy or on the  
12 premium renewal notice. In addition, beginning October 1,  
13 2005, for any personal lines residential property insurance  
14 policy containing an inflation guard rider, the insurer shall  
15 notify the policyholder of the possibility that the hurricane  
16 deductible may be higher than indicated when loss occurs due  
17 to application of the inflation guard rider. Such notification  
18 shall be made on the declarations page of the policy at  
19 issuance and, for renewal, on the renewal declarations page of  
20 the policy or on the premium renewal notice.

21 ~~(8)(a) The Legislature finds that property insurance~~  
22 ~~coverage has become unaffordable for a significant number of~~  
23 ~~mobile home owners, as evidenced by reports that up to 100,000~~  
24 ~~mobile home owners have terminated their insurance coverage~~  
25 ~~because they cannot afford to pay approved rates charged in~~  
26 ~~the voluntary or residual markets. The Legislature further~~  
27 ~~finds that additional flexibility in available coverages will~~  
28 ~~enable mobile home owners to obtain affordable insurance and~~  
29 ~~increase capacity.~~

30 ~~(b) Notwithstanding the provisions of subsection (3),~~  
31 ~~with respect to mobile home policies:~~

1           ~~1. The deductible for hurricane coverage may not~~  
2 ~~exceed 10 percent of the property value if the property is not~~  
3 ~~subject to any liens and may not exceed 5 percent of the~~  
4 ~~property value if the property is subject to any liens.~~

5           ~~2. The insurer need not make the offers required by~~  
6 ~~paragraph (3)(b).~~

7           ~~(8)(9)~~ Notwithstanding the other provisions of this  
8 section or of other law, but only as to hurricane coverage as  
9 defined in s. 627.4025 for commercial lines residential  
10 coverages, an insurer may offer a deductible in an amount not  
11 exceeding ~~5 percent of the insured value with respect to a~~  
12 ~~condominium association or cooperative association policy, or~~  
13 ~~in an amount not exceeding~~ 10 percent of the insured value  
14 ~~with respect to any other commercial lines residential policy,~~  
15 if, at the time of such offer and at each renewal, the insurer  
16 also offers to the policyholder a deductible in the amount of  
17 3 percent of the insured value. Nothing in this subsection  
18 prohibits any deductible otherwise authorized by this section.  
19 All forms by which the offers authorized in this subsection  
20 are made or required to be made shall be on forms that are  
21 adopted or approved by the commission or office.

22           Section 13. Subsection (5) of section 627.701, Florida  
23 Statutes, as amended by section 4 of chapter 2004-480, Laws of  
24 Florida, is amended to read:

25           627.701 Liability of Insureds; coinsurance;  
26 deductibles.--

27           ~~(5)~~(a) The hurricane deductible of any personal lines  
28 residential property insurance policy issued or renewed on or  
29 after May 1, 2005, shall be applied as follows:

30           ~~1.(a)~~ The hurricane deductible shall apply on an  
31 annual basis to all covered hurricane losses that occur during

1 the calendar year for losses that are covered under one or  
2 more policies issued by the same insurer or an insurer in the  
3 same insurer group.

4 ~~2.(b)~~ If a hurricane deductible applies separately to  
5 each of one or more structures insured under a single policy,  
6 the requirements of this paragraph ~~subsection~~ apply with  
7 respect to the deductible for each structure.

8 ~~3.(c)~~ If there was a hurricane loss for a prior  
9 hurricane or hurricanes during the calendar year, the insurer  
10 may apply a deductible to a subsequent hurricane which ~~that~~ is  
11 the greater of the remaining amount of the hurricane  
12 deductible or the amount of the deductible that applies to  
13 perils other than a hurricane. Insurers may require  
14 policyholders to report hurricane losses that are below the  
15 hurricane deductible or to maintain receipts or other records  
16 of such hurricane losses in order to apply such losses to  
17 subsequent hurricane claims.

18 ~~4.(d)~~ If there are hurricane losses in a calendar year  
19 on more than one policy issued by the same insurer or an  
20 insurer in the same insurer group, the hurricane deductible  
21 shall be the highest amount stated in any one of the policies.  
22 If a policyholder who had a hurricane loss under the prior  
23 policy is provided or offered a lower hurricane deductible  
24 under the new or renewal policy, the insurer must notify the  
25 policyholder, in writing, at the time the lower hurricane  
26 deductible is provided or offered, that the lower hurricane  
27 deductible will not apply until January 1 of the following  
28 calendar year.

29 (b) For commercial residential property insurance  
30 policies issued or renewed on or after January 1, 2006, the  
31

1 insurer must offer the policyholder the following alternative  
2 hurricane deductibles:

3 1. A hurricane deductible that applies on an annual  
4 basis as provided in paragraph (a); and

5 2. A hurricane deductible that applies to each  
6 hurricane.

7 Section 14. Effective October 1, 2005, section  
8 627.7011, Florida Statutes, is amended to read:

9 627.7011 Homeowners' policies; offer of replacement  
10 cost coverage and law and ordinance coverage.--

11 (1) Prior to issuing a homeowner's insurance policy on  
12 or after October 1, 2005 ~~June 1, 1994~~, or prior to the first  
13 renewal of a homeowner's insurance policy on or after October  
14 1, 2005 ~~June 1, 1994~~, the insurer must offer each of the  
15 following:

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

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

1 costs of removing debris; however, such additional costs  
2 necessary to meet applicable laws and ordinances may be  
3 limited to either 25 percent or 50 percent of the dwelling  
4 limit, as selected by the policyholder, and such coverage  
5 shall apply only to repairs of the damaged portion of the  
6 structure unless the total damage to the structure exceeds 50  
7 percent of the replacement cost of the structure.

8  
9 An insurer is not required to make the offers required by this  
10 subsection with respect to the issuance or renewal of a  
11 homeowner's policy that contains the provisions specified in  
12 paragraph (b) for law and ordinance coverage limited to 25  
13 percent of the dwelling limit, except that the insurer must  
14 offer the law and ordinance coverage limited to 50 percent of  
15 the dwelling limit. This subsection does not prohibit the  
16 offer of a guaranteed replacement cost policy.

17 (2) Unless the insurer obtains the policyholder's  
18 written refusal of the policies or endorsements specified in  
19 subsection (1), any policy covering the dwelling is deemed to  
20 include the coverage specified in paragraph (1)(b). The  
21 rejection or selection of alternative coverage shall be made  
22 on a form approved by the office. The form shall fully advise  
23 the applicant of the nature of the coverage being rejected. If  
24 this form is signed by a named insured, it will be  
25 conclusively presumed that there was an informed, knowing  
26 rejection of the coverage or election of the alternative  
27 coverage on behalf of all insureds. Unless the policyholder  
28 requests in writing the coverage specified in this section, it  
29 need not be provided in or supplemental to any other policy  
30 that renews, insures, extends, changes, supersedes, or  
31 replaces an existing policy when the policyholder has rejected

1 the coverage specified in this section or has selected  
2 alternative coverage. The insurer must provide such  
3 policyholder with notice of the availability of such coverage  
4 in a form approved by the office at least once every 3 years.  
5 The failure to provide such notice constitutes a violation of  
6 this code, but does not affect the coverage provided under the  
7 policy.

8 (3) In the event of a loss for which a dwelling or  
9 personal property is insured on the basis of replacement  
10 costs, the insurer shall pay the replacement cost without  
11 reservation or holdback of any depreciation in value, whether  
12 or not the insured replaces or repairs the dwelling or  
13 property.

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

17 "LAW AND ORDINANCE COVERAGE IS AN IMPORTANT COVERAGE  
18 THAT YOU MAY WISH TO PURCHASE. YOU MAY ALSO NEED TO CONSIDER  
19 THE PURCHASE OF FLOOD INSURANCE FROM THE NATIONAL FLOOD  
20 INSURANCE PROGRAM. WITHOUT THIS COVERAGE, YOU MAY HAVE  
21 UNCOVERED LOSSES. PLEASE DISCUSS THESE COVERAGES WITH YOUR  
22 INSURANCE AGENT."

23  
24 The intent of this subsection is to encourage policyholders to  
25 purchase sufficient coverage to protect them in case events  
26 excluded from the standard homeowners policy, such as law and  
27 ordinance enforcement and flood, combine with covered events  
28 to produce damage or loss to the insured property. The intent  
29 is also to encourage policyholders to discuss these issues  
30 with their insurance agent.

31

1           ~~(5)(3)~~ Nothing in this section shall be construed to  
2 apply to policies not considered to be "homeowners' policies,"  
3 as that term is commonly understood in the insurance industry.  
4 This section specifically does not apply to mobile home  
5 policies. Nothing in this section shall be construed as  
6 limiting the ability of any insurer to reject or nonrenew any  
7 insured or applicant on the grounds that the structure does  
8 not meet underwriting criteria applicable to replacement cost  
9 or law and ordinance policies or for other lawful reasons.

10           Section 15. Effective July 1, 2005, subsections (1)  
11 and (7) of section 627.7015, Florida Statutes, are amended,  
12 and subsection (2) of that section is reenacted, to read:

13           627.7015 Alternative procedure for resolution of  
14 disputed property insurance claims.--

15           (1) PURPOSE AND SCOPE.--This section sets forth a  
16 nonadversarial alternative dispute resolution procedure for a  
17 mediated claim resolution conference prompted by the need for  
18 effective, fair, and timely handling of property insurance  
19 claims. There is a particular need for an informal,  
20 nonthreatening forum for helping parties who elect this  
21 procedure to resolve their claims disputes because most  
22 homeowner's and commercial residential insurance policies  
23 obligate insureds to participate in a potentially expensive  
24 and time-consuming adversarial appraisal process prior to  
25 litigation. The procedure set forth in this section is  
26 designed to bring the parties together for a mediated claims  
27 settlement conference without any of the trappings or  
28 drawbacks of an adversarial process. Before resorting to these  
29 procedures, insureds and insurers are encouraged to resolve  
30 claims as quickly and fairly as possible. This section is  
31 available with respect to claims under personal lines and

1 commercial residential policies for all claimants and insurers  
2 prior to commencing the appraisal process, or commencing  
3 litigation. If requested by the insured, participation by  
4 legal counsel shall be permitted. Mediation under this section  
5 is also available to litigants referred to the department by a  
6 county court or circuit court. This section does not apply to  
7 commercial coverages, to private passenger motor vehicle  
8 insurance coverages, or to disputes relating to liability  
9 coverages in policies of property insurance.

10 (2) At the time a first-party claim within the scope  
11 of this section is filed, the insurer shall notify all  
12 first-party claimants of their right to participate in the  
13 mediation program under this section. The department shall  
14 prepare a consumer information pamphlet for distribution to  
15 persons participating in mediation under this section.

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

26 Section 16. Subsection (1) of section 627.702, Florida  
27 Statutes, is amended to read:

28 627.702 Valued policy law.--

29 (1)(a) In the event of the total loss of any building,  
30 structure, mobile home as defined in s. 320.01(2), or  
31 manufactured building as defined in s. 553.36(12), located in



1 this state and insured by any insurer as to a covered peril,  
2 in the absence of any change increasing the risk without the  
3 insurer's consent and in the absence of fraudulent or criminal  
4 fault on the part of the insured or one acting in her or his  
5 behalf, the insurer's liability, ~~if any,~~ under the policy for  
6 such total loss, if caused by a covered peril, shall be in the  
7 amount of money for which such property was so insured as  
8 specified in the policy and for which a premium has been  
9 charged and paid.

10 (b) The intent of this subsection is not to deprive an  
11 insurer of any proper defense under the policy, to create new  
12 or additional coverage under the policy, or to require an  
13 insurer to pay for a loss caused by a peril other than the  
14 covered peril. In furtherance of such legislative intent, when  
15 a loss was caused in part by a covered peril and in part by a  
16 noncovered peril, paragraph (a) does not apply. In such  
17 circumstances, the insurer's liability under this section  
18 shall be limited to the amount of the loss caused by the  
19 covered peril. However, if the covered perils alone would have  
20 caused the total loss, paragraph (a) shall apply. The insurer  
21 is never liable for more than the amount necessary to repair,  
22 rebuild, or replace the structure following the total loss,  
23 after considering all other benefits actually paid for the  
24 total loss.

25 (c) It is the intent of the Legislature that the  
26 amendment to this section shall not be applied retroactively  
27 and shall apply only to claims filed after effective date of  
28 such amendment.

29 Section 17. Section 627.706, Florida Statutes, is  
30 amended to read:

31 627.706 Sinkhole insurance; definitions.--

1           (1) Every insurer authorized to transact property  
2 insurance in this state shall make available coverage for  
3 insurable sinkhole losses on any structure, including contents  
4 of personal property contained therein, to the extent provided  
5 in the form to which the sinkhole coverage attaches.

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

9           (a) "Sinkhole" means a landform created by subsidence  
10 of soil, sediment, or rock as underlying strata are dissolved  
11 by ground water. A sinkhole may form by collapse into  
12 subterranean voids created by dissolution of limestone or  
13 dolostone or by subsidence as these strata are dissolved.

14           (b)~~(2)~~ "Sinkhole loss" means structural damage to the  
15 building, including the foundation, caused by sinkhole  
16 activity. Contents coverage shall apply only if there is  
17 structural damage to the building caused by sinkhole activity.

18           (c)~~(3)~~ "Sinkhole activity loss" means actual physical  
19 damage to the property covered arising out of or caused by  
20 sudden settlement or systematic weakening collapse of the  
21 earth supporting such property only when such settlement or  
22 systematic weakening collapse results from movement or  
23 raveling of soils, sediments, or rock materials into  
24 subterranean voids created by the effect action of water on a  
25 limestone or similar rock formation.

26           (d) "Engineer" means a person, as defined in s.  
27 471.005, who has a bachelor degree or higher in engineering  
28 with a specialty in the geotechnical engineering field. An  
29 engineer must have geotechnical experience and expertise in  
30 the identification of sinkhole activity as well as other  
31 potential causes of damage to the structure.

1           (e) "Professional geologist" means a person, as  
2 defined by s. 492.102, who has a bachelor degree or higher in  
3 geology or related earth science with expertise in the geology  
4 of Florida. A professional geologist must have geological  
5 experience and expertise in the identification of sinkhole  
6 activity as well as other potential geologic causes of damage  
7 to the structure.

8           ~~(3)(4)~~ Every insurer authorized to transact property  
9 insurance in this state shall make a proper filing with the  
10 office for the purpose of extending the appropriate forms of  
11 property insurance to include coverage for ~~insurable~~ sinkhole  
12 losses.

13           Section 18. Section 627.7065, Florida Statutes, is  
14 created to read:

15           627.7065 Database of information relating to  
16 sinkholes; the Department of Financial Services and the  
17 Department of Environmental Protection.--

18           (1) The Legislature finds that there has been a  
19 dramatic increase in the number of sinkholes and insurance  
20 claims for sinkhole damage in the state during the past 10  
21 years. Accordingly, the Legislature recognizes the need to  
22 track current and past sinkhole activity and to make the  
23 information available for prevention and remediation  
24 activities. The Legislature further finds that the Florida  
25 Geological Survey of the Department of Environmental  
26 Protection has created a partial database of some sinkholes  
27 identified in Florida, although the database is not reflective  
28 of all sinkholes or insurance claims for sinkhole damage. The  
29 Legislature determines that creating a complete electronic  
30 database of sinkhole activity serves an important purpose in  
31

1 protecting the public and in studying property claims  
2 activities in the insurance industry.

3 (2) The Department of Financial Services, including  
4 the employee of the Division of Consumer Services designated  
5 as the primary contact for consumers on issues relating to  
6 sinkholes, and the Office of the Insurance Consumer Advocate  
7 shall consult with the Florida Geological Survey and the  
8 Department of Environmental Protection to implement a  
9 statewide automated database of sinkholes and related activity  
10 identified in the state.

11 (3) Representatives of the Department of Financial  
12 Services, with the agreement of the Department of  
13 Environmental Protection, shall determine the form and content  
14 of the database. The content may include standards for  
15 reporting and investigating sinkholes for inclusion in the  
16 database and requirements for insurers to report to the  
17 departments the receipt of claims involving sinkhole loss and  
18 other similar activities. The Department of Financial Services  
19 may require insurers to report present and past data of  
20 sinkhole claims. The database also may include information of  
21 damage due to ground settling and other subsidence activity.

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

27 (5) The Department of Environmental Protection, in  
28 consultation with the Department of Financial Services, shall  
29 present a report of activities relating to the sinkhole  
30 database, including recommendations regarding the database and  
31 similar matters, to the Governor, the Speaker of the House of

1 Representatives, the President of the Senate, and the Chief  
2 Financial Officer by December 31, 2005. The report may  
3 consider the need for the Legislature to create an entity to  
4 study the increase in sinkhole activity in the state and other  
5 similar issues relating to sinkhole damage, including  
6 recommendations and costs for staffing the entity. The report  
7 may include other information, as appropriate.

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

11 Section 19. Section 627.707, Florida Statutes, is  
12 amended to read:

13 627.707 ~~Minimum~~ Standards for investigation of  
14 sinkhole claims by insurers; nonrenewals.--

15 ~~(1)~~ Upon receipt of a claim for a sinkhole loss, an  
16 insurer must meet the following ~~minimum~~ standards in  
17 investigating a claim:

18 ~~(1)(a) Upon receipt of a claim for a sinkhole loss,~~  
19 The insurer must make an inspection of the insured's premises  
20 to determine if there has been physical damage to the  
21 structure which ~~may~~ ~~might~~ be the result of sinkhole activity.

22 ~~(b) If, upon the investigation pursuant to paragraph~~  
23 ~~(a), the insurer discovers damage to a structure which is~~  
24 ~~consistent with sinkhole activity or if the structure is~~  
25 ~~located in close proximity to a structure in which sinkhole~~  
26 ~~damage has been verified, then prior to denying a claim, the~~  
27 ~~insurer must obtain a written certification from an individual~~  
28 ~~qualified to determine the existence of sinkhole activity,~~  
29 ~~stating that the cause of the claim is not sinkhole activity,~~  
30 ~~and that the analysis conducted was of sufficient scope to~~  
31 ~~eliminate sinkhole activity as the cause of damage within a~~

1 ~~reasonable professional probability. The written certification~~  
2 ~~must also specify the professional discipline and professional~~  
3 ~~licensure or registration under which the analysis was~~  
4 ~~conducted.~~

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

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

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

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

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

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

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

29 (4) If the insurer determines that there is no  
30 sinkhole loss, the insurer may deny the claim. If the insurer  
31 denies the claim, without performing testing under s.

1 627.7072, the policyholder may demand testing by the insurer  
2 under s. 627.7072. The policyholder's demand for testing must  
3 be communicated to the insurer in writing after the  
4 policyholder's receipt of the insurer's denial of the claim.

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

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

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

1           ~~(7)(c)~~ If the insurer obtains, pursuant to s. 627.7073  
2 ~~paragraph (b)~~, written certification that there is no sinkhole  
3 loss or that the cause of the damage claim was not sinkhole  
4 activity, and if the policyholder has submitted the sinkhole  
5 claim without good faith grounds for submitting such claim,  
6 the policyholder shall reimburse the insurer for 50 percent of  
7 the actual costs ~~cost~~ of the analyses and services provided  
8 ~~analysis~~ under ss. 627.7072 and 627.7073 ~~paragraph (b)~~;  
9 however, a policyholder is not required to reimburse an  
10 insurer more than \$2,500 with respect to any claim. A  
11 policyholder is required to pay reimbursement under this  
12 subsection ~~paragraph~~ only if the insurer, prior to ordering  
13 the analysis under s. 627.7072 ~~paragraph (b)~~, informs the  
14 policyholder in writing of the policyholder's potential  
15 liability for reimbursement and gives the policyholder the  
16 opportunity to withdraw the claim.

17           ~~(8)(2)~~ No insurer shall nonrenew any policy of  
18 property insurance on the basis of filing of claims for  
19 partial loss caused by sinkhole damage or clay shrinkage as  
20 long as the total of such payments does not exceed the current  
21 policy limits of coverage for property damage, and provided  
22 the insured has repaired the structure in accordance with the  
23 engineering recommendations upon which any payment or policy  
24 proceeds were based.

25           (9) The insurer may engage a structural engineer to  
26 make recommendations as to the repair of the structure.

27           Section 20. Section 627.7072, Florida Statutes, is  
28 created to read:

29           627.7072 Testing standards for sinkholes.--

30           (1) The engineer and professional geologist shall  
31 perform such tests as sufficient, in their professional



1 opinion, to determine the presence or absence of sinkhole loss  
2 or other cause of damage within reasonable professional  
3 probability and for the engineer to make recommendations  
4 regarding necessary building stabilization, and foundation  
5 repair.

6 (2) Testing by a professional geologist shall be  
7 conducted in compliance with the Florida Geological Survey  
8 Special Publication No. 57 (2005).

9 Section 21. Section 627.7073, Florida Statutes, is  
10 created to read:

11 627.7073 Sinkhole reports.--

12 (1) Upon completion of testing as provided in s.  
13 627.7072, the engineer and professional geologist shall issue  
14 a report and certification to the insurer and the policyholder  
15 as provided in this section.

16 (a) Sinkhole loss is verified if, based upon tests  
17 performed in accordance with s. 627.7072, an engineer and a  
18 professional geologist issue a written report and  
19 certification stating:

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

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

26 3. A description of the tests performed.

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

30 (b) If sinkhole activity is eliminated as the cause of  
31 damage to the structure, the engineer and professional

1 geologist shall issue a written report and certification to  
2 the policyholder and the insurer stating:

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

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

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

10 4. A description of the tests performed.

11 (c) The respective findings, opinions, and  
12 recommendations of the engineer and professional geologist as  
13 to the verification or elimination of a sinkhole loss and the  
14 findings, opinions, and recommendations of the engineer as to  
15 land and building stabilization and foundation repair shall be  
16 presumed correct.

17 (2) Any insurer that has paid a claim for a sinkhole  
18 loss shall file a copy of the report and certification,  
19 prepared pursuant to subsection (1), with the county property  
20 appraiser who shall record the report and certification with  
21 the parcel number. The insurer shall bear the cost of filing  
22 and recording the report and certification. There shall be no  
23 cause of action or liability against an insurer for compliance  
24 with this section. The seller of real property upon which a  
25 sinkhole claim has been made shall disclose to the buyer of  
26 such property that a claim has been paid and whether or not  
27 the full amount of the proceeds were used to repair the  
28 sinkhole damage.

29 Section 22. Effective October 1, 2005, and applicable  
30 to policies issued or renewed on or after that date, section  
31 627.711, Florida Statutes, is created to read:

1           627.711 Notice of premium discounts for hurricane loss  
2 mitigation.--Using a form prescribed by the Office of  
3 Insurance Regulation, the insurer shall clearly notify the  
4 applicant or policyholder of any personal lines residential  
5 property insurance policy, at the time of the issuance of the  
6 policy and at each renewal, of the availability and the range  
7 of each premium discount, credit, other rate differential, or  
8 reduction in deductibles for properties on which fixtures or  
9 construction techniques demonstrated to reduce the amount of  
10 loss in a windstorm can or have been installed or implemented.  
11 The prescribed form shall describe generally what actions the  
12 policyholders may be able to take to reduce their windstorm  
13 premium. The prescribed form and a list of such ranges  
14 approved by the office for each insurer licensed in the state  
15 and providing such discounts, credits, other rate  
16 differentials, or reductions in deductibles for properties  
17 described in this subsection shall be available for electronic  
18 viewing and download from the Department of Financial  
19 Services' or the Office of Insurance Regulation's Internet  
20 website. The Financial Services Commission may adopt rules to  
21 implement this subsection.

22           Section 23. (1)(a) Upon an insurer's receiving a  
23 communication with respect to a claim, the insurer shall,  
24 within 14 calendar days, review and acknowledge receipt of  
25 such communication unless payment is made within that period  
26 of time or unless the failure to acknowledge is caused by  
27 factors beyond the control of the insurer which reasonably  
28 prevent such acknowledgement. If the acknowledgement is not in  
29 writing, a notification indicating acknowledgement shall be  
30 made in the insurer's claim file and dated. A communication  
31

1 made to or by an agent of an insurer with respect to a claim  
2 shall constitute communication to or by the insurer.

3 (b) As used in this subsection, the term "agent" means  
4 any person to whom an insurer has granted authority or  
5 responsibility to receive or make such communications with  
6 respect to claims on behalf of the insurer.

7 (c) This subsection shall not apply to claimants  
8 represented by counsel beyond those communications necessary  
9 to provide forms and instructions.

10 (2) Such acknowledgement shall be responsive to the  
11 communication. If the communication constitutes a notification  
12 of a claim, unless the acknowledgement reasonably advises the  
13 claimant that the claim appears not to be covered by the  
14 insurer, the acknowledgement shall provide necessary claim  
15 forms, and instructions, including an appropriate telephone  
16 number.

17 (3) Unless otherwise provided by the policy of  
18 insurance or by law, within 10 working days after an insurer  
19 receives proof of loss statements the insurer shall begin such  
20 investigation as is reasonably necessary unless the failure to  
21 begin such investigation is caused by factors beyond the  
22 control of the insurer which reasonably prevent the  
23 commencement of such investigation.

24 (4) For purposes of this section, the term "insurer"  
25 means any residential property insurer.

26 Section 24. Task Force on Long-Term Solutions for  
27 Florida's Hurricane Insurance Market.--

28 (1) TASK FORCE CREATED.--There is created the Task  
29 Force on Long-Term Solutions for Florida's Hurricane Insurance  
30 Market.

31

1           (2) ADMINISTRATION.--The task force shall be  
2 administratively housed within the Office of the Chief  
3 Financial Officer, but shall operate independently of any  
4 state officer or agency. The Office of the Chief Financial  
5 Officer shall provide such administrative support as the task  
6 force deems necessary to accomplish its mission and shall  
7 provide necessary funding for the task force within its  
8 existing resources. The Executive Office of the Governor, the  
9 Department of Financial Services, and the Office of Insurance  
10 Regulation shall provide substantive staff support for the  
11 task force.

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

14           (a) The Governor shall appoint three members who have  
15 expertise in financial matters, one of whom is a  
16 representative of the mortgage lending industry, one of whom  
17 is a representative of the real estate or construction  
18 industry, and one of whom is a representative of insurance  
19 consumers.

20           (b) The Chief Financial Officer shall appoint three  
21 members who have expertise in financial matters, one of whom  
22 is a representative of a national property insurer or of a  
23 Florida-only subsidiary of a national property insurer, one of  
24 whom is a representative of a domestic property insurer in  
25 this state, and one of whom is a representative of insurance  
26 agents.

27           (c) The President of the Senate shall appoint three  
28 members.

29           (d) The Speaker of the House of Representatives shall  
30 appoint three members.

31

1           (e) The Commissioner of Insurance Regulation shall  
2 serve as an ex officio voting member of the task force.

3  
4 Members of the task force shall serve without compensation but  
5 are entitled to receive reimbursement for per diem and travel  
6 expenses as provided in section 112.061, Florida Statutes.

7           (4) PURPOSE AND INTENT.--The Legislature recognizes  
8 that the continued availability of hurricane insurance  
9 coverage for property owners in this state is essential to the  
10 state's economic survival. The Legislature further recognizes  
11 that legislative efforts to resolve problems in the hurricane  
12 insurance market in 2005 may not be sufficient to address this  
13 state's long-term needs and that further action may be  
14 necessary in subsequent legislative sessions. The purpose of  
15 the task force is to make recommendations to the legislative  
16 and executive branches of this state's government relating to  
17 the creation and maintenance of insurance capacity in the  
18 private sector and public sector which is sufficient to ensure  
19 that all property owners in this state are able to obtain  
20 appropriate insurance coverage for hurricane losses, as  
21 further described in this section.

22           (5) SPECIFIC TASKS.--The task force shall conduct such  
23 research and hearings as it deems necessary to achieve the  
24 purposes specified in subsection (4) and shall develop  
25 information on relevant issues, including, but not limited to,  
26 the following issues:

27           (a) Whether this state currently has sufficient  
28 hurricane insurance capacity to ensure the continuation of a  
29 healthy, competitive marketplace, taking into consideration  
30 both private-sector resources and public-sector resources.

31

- 1           (b) Identifying the future demands on this state's  
2 hurricane insurance capacity, taking into account population  
3 growth, coastal growth, and anticipated future hurricane  
4 activity.
- 5           (c) Whether the Florida Hurricane Catastrophe Fund  
6 fulfilled its purpose of creating additional insurance  
7 capacity sufficient to ameliorate the current dangers to the  
8 state's economy and to the public health, safety, and welfare  
9 in its response to the 2004 hurricane season.
- 10           (d) The extent to which the growth in Citizens  
11 Property Insurance Corporation is attributable to insufficient  
12 insurance capacity.
- 13           (e) The extent to which the growth trends of Citizens  
14 Property Insurance Corporation create long-term problems for  
15 property owners, buyers, and sellers in this state and for  
16 other persons and businesses that depend on a viable market.
- 17           (f) The operation and role of Citizens Property  
18 Insurance Corporation, including:
- 19               1. How to ensure that the corporation operates as an  
20 insurer of last resort which does not compete with insurers in  
21 the voluntary market, but which charges rates that are not  
22 excessive, inadequate, or unfairly discriminatory;
- 23               2. Whether the bonuses paid by the corporation to  
24 carriers taking policies out of the corporation provide a  
25 cost-effective means of reducing the potential liability of  
26 the corporation;
- 27               3. Whether the "Consumer Choice" law should be  
28 repealed or amended to ensure that the corporation serves as  
29 the insurer of last resort;
- 30               4. Whether coverage amounts should be limited;  
31

1           5. Whether the corporation has hired an adequate level  
2 of permanent claims and adjusting staff in addition to  
3 outsourcing its claims-adjusting functions to independent  
4 adjusting firms;

5           6. The effect of reducing or expanding the areas that  
6 are eligible for coverage in the high-risk, wind-only account;

7           7. Whether the corporation should purchase reinsurance  
8 or take other actions that reduce the potential for debt  
9 financing and deficit assessments; and

10           8. An evaluation of the infrastructure and  
11 administration of the corporation and how to improve customer  
12 service, claims handling, and communication and the exchange  
13 of information with agents of policyholders of the  
14 corporation.

15           (6) REPORT AND RECOMMENDATIONS.--By April 1, 2006, the  
16 task force shall provide a report containing findings relating  
17 to the tasks identified in subsection (5) and recommendations  
18 consistent with the purposes of this section and also  
19 consistent with such findings. The task force shall submit the  
20 report to the Governor, the Chief Financial Officer, the  
21 President of the Senate, and the Speaker of the House of  
22 Representatives. The task force may also submit such interim  
23 reports as it deems appropriate.

24           (7) ADDITIONAL ACTIVITIES.--The task force shall  
25 monitor the implementation of hurricane insurance-related  
26 legislation enacted during the 2005 Regular Session and shall  
27 make such additional recommendations as it deems appropriate  
28 for further legislative action during the 2004-2006  
29 legislative biennium.

30           (8) EXPIRATION.--The task force shall expire at the  
31 end of the 2004-2006 legislative biennium.



1           Section 25. The Office of Insurance Regulation shall,  
2 by January 1, 2006, submit a report to the President of the  
3 Senate, the Speaker of the House of Representatives, the  
4 minority party leaders of the Senate and the House of  
5 Representatives, and the chairs of the standing committees of  
6 the Senate and the House of Representatives having  
7 jurisdiction over matters relating to property and casualty  
8 insurance. The report shall include findings and  
9 recommendations on requiring residential property insurers to  
10 provide law and ordinance coverage for residential property  
11 insurance policies, the increase or decrease in insurance  
12 costs associated with requiring such coverage, and such other  
13 related information as the Office of Insurance Regulation  
14 determines is appropriate for the Legislature to consider.

15           Section 26. Notwithstanding that revenues of Citizens  
16 Property Insurance Corporation are not state revenues, the  
17 Auditor General shall perform an operational audit, as defined  
18 in section 11.45(1), Florida Statutes, of the Citizens  
19 Property Insurance Corporation created under section  
20 627.351(6), Florida Statutes. The scope of the audit shall  
21 also include:

22           (1) An analysis of the corporation's infrastructure,  
23 customer service, claims handling, accessibility of  
24 policyholder information to the agent of record, take-out  
25 programs, take-out bonuses, and financing arrangements.

26           (2) An evaluation of costs associated with the  
27 administration and servicing of the policies issued by the  
28 corporation to determine alternatives by which costs can be  
29 reduced, customer service improved, and claims handling  
30 improved.

31

1 The audit shall contain policy alternatives for the  
2 Legislature to consider. The Auditor General shall submit a  
3 report to the Governor, the President of the Senate, and the  
4 Speaker of the House of Representatives no later than February  
5 1, 2006.

6           Section 27. The board of governors of the Citizens  
7 Property Insurance Corporation created under section  
8 627.351(6), Florida Statutes, shall, by February 1, 2006,  
9 submit a report to the President of the Senate, the Speaker of  
10 the House of Representatives, the minority party leaders of  
11 the Senate and the House of Representatives, and the chairs of  
12 the standing committees of the Senate and the House of  
13 Representatives having jurisdiction over matters relating to  
14 property and casualty insurance. The report shall include the  
15 board's findings and recommendations on the following issues:

16           (1) The number of policies and the aggregate premium  
17 of the Citizens Property Insurance Corporation, before and  
18 after enactment of this act, and projections for future policy  
19 and premium growth.

20           (2) Increases or decreases in availability of  
21 residential property coverage in the voluntary market and the  
22 effectiveness of this act in improving the availability of  
23 residential property coverage in the voluntary market in the  
24 state.

25           (3) The board's efforts to depopulate the corporation  
26 and the willingness of insurers in the voluntary market to  
27 avail themselves of depopulation incentives.

28           (4) Further actions that could be taken by the  
29 Legislature to improve availability of residential property  
30 coverage in the voluntary and residual markets.

31

1           (5) Actions that the board has taken to restructure  
2 the corporation and recommendations for legislative action to  
3 restructure the corporation, including, but not limited to,  
4 actions relating to claims handling and customer service.

5           (6) Projected surpluses or deficits and possible means  
6 of providing funding to ensure the continued solvency of the  
7 corporation.

8           (7) The corporation's efforts to procure catastrophe  
9 reinsurance to cover its projected 100-year probable maximum  
10 loss with specification as to what best efforts were made by  
11 the corporation to procure such reinsurance.

12           (8) Such other issues as the board determines are  
13 worthy of the Legislature's consideration.

14           Section 28. For the 2005-2006 fiscal year, there is  
15 appropriated \$350,000 in recurring funds from the Insurance  
16 Regulatory Trust Fund and four positions are authorized to the  
17 Office of the Consumer Advocate within the Department of  
18 Financial Services for the purposes provided in section  
19 627.0613, Florida Statutes.

20           Section 29. The amendment to section 627.0628, Florida  
21 Statutes, and the creation of section 627.06281, Florida  
22 Statutes, as provided in this act shall take effect on the  
23 same date that House Bill 1939, Senate Bill 1478, or similar  
24 legislation takes effect, if such legislation is adopted in  
25 the same legislative session or an extension thereof and  
26 becomes a law.

27           Section 30. Except as otherwise expressly provided in  
28 this act, this act shall take effect upon becoming a law.  
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