

COMMISSION STRUCTURE

Oversight

The Commission was created, pursuant to s. 627.0628, F.S., “to independently exercise the powers and duties specified” in that statute. The Commission is administratively housed within the State Board of Administration of Florida (SBA), and as a cost of administration, the Florida Hurricane Catastrophe Fund (FHCF) provides travel reimbursement, expenses, and staff support. The SBA has no governing authority over the Commission; however, the SBA annually appoints one of the Commission members to serve as Chair, appoints one of the Commission members who is the actuary member of the FHCF Advisory Council, and has final approval authority over the Commission’s budget.

Membership and Required Expertise

Section 627.0628(2)(b), F.S., requires that the Commission consist of twelve members with the following qualifications and expertise:

1. The Insurance Consumer Advocate;
2. The senior employee of the State Board of Administration responsible for operations of the Florida Hurricane Catastrophe Fund;
3. The Executive Director of the Citizens Property Insurance Corporation;
4. The Director of the Division of Emergency Management;
5. The actuary member of the Florida Hurricane Catastrophe Fund Advisory Council;
6. An employee of the Florida Department of Financial Services, Office of Insurance Regulation who is an actuary responsible for property insurance rate filings and who is appointed by the Director of the Office of Insurance Regulation;
7. Five members appointed by the Chief Financial Officer, as follows:
 - a. An actuary who is employed full time by a property and casualty insurer which was responsible for at least 1 percent of the aggregate statewide direct written premium for homeowner’s insurance in the calendar year preceding the member’s appointment to the Commission;
 - b. An expert in insurance finance who is a full time member of the faculty of the State University System and who has a background in actuarial science;
 - c. An expert in statistics who is a full time member of the faculty of the State University System and who has a background in insurance;
 - d. An expert in computer system design who is a full time member of the faculty of the State University System;
 - e. An expert in meteorology who is a full time member of the faculty of the State University System and who specializes in hurricanes;
8. A licensed professional structural engineer who is a full-time faculty member in the State University System and who has expertise in wind mitigation techniques. This appointment shall be made by the Governor.

The licensed professional structural engineer was added by virtue of CS/SB 1770, which was enacted and became law in 2013. This legislation amended the requirements in s. 627.0628(2)(b), F.S., and enhanced the expertise immediately available to the Commission by increasing the membership to provide for the appointment of an additional member with special qualifications and attributes.

Terms of Members

The Insurance Consumer Advocate, Chief Operating Officer of the FHCF, Executive Director of Citizens Property Insurance Corporation, Director of the Division of Emergency Management, and the actuary member of the FHCF Advisory Council shall serve as a Commission member for as long as the individual holds the position listed.

The member appointed by the Director of the Office of Insurance Regulation shall serve until the end of the term of office of the Director who appointed the member, unless removed earlier by the Director for cause. The five members appointed by the Chief Financial Officer shall serve until the end of the Chief Financial Officer's term of office, unless the Chief Financial Officer releases them earlier for cause (s. 627.0628(2)(c), F.S.).

Officers

Officers: The officers of the Commission shall be a Chair and a Vice Chair.

Selection: Annually, the SBA shall appoint one of the Commission members to serve as the Chair (s. 627.0628(2)(d), F.S.). After the Chair is appointed, the Commission shall, by majority roll call vote, select a Vice Chair.

Duties of the Chair and Vice Chair:

A. The **CHAIR** shall:

1. Preside at all meetings except during committee meetings where other Commission members are designated to act as committee chairs;
2. Conduct a roll call of members at each meeting;
3. Ensure all procedures established by the Commission are followed;
4. Designate one of the Commission members to act in the role of Chair at any meeting where the Chair and Vice Chair cannot attend;
5. Assign members to serve on committees and appoint committee chairs.

B. The **VICE CHAIR** shall:

In the absence or request of the Chair, preside at Commission meetings and have the duties, powers, and prerogatives of the Chair.

Member Duties and Responsibilities

The purpose of the Commission is to adopt findings relating to the accuracy or reliability of particular methods, principles, standards, models, or output ranges used to project hurricane losses, flood losses, and probable maximum loss levels. This work is extremely technical and requires specialized expertise. Therefore, the Legislature, in s. 627.0628, F.S., limited membership on the Commission to a careful balance of individuals meeting specific employment, education, and expertise requirements. Thus, each member's contribution cannot be underestimated and each member should make every effort to attend all meetings, in person or by telephone, and be prepared to actively participate. In particular, each member has the following responsibilities and duties:

1. Fully prepare for each Commission meeting and committee meeting where the member is designated as a committee member;
2. Attend and participate at each meeting in person or by telephone;
3. Give notice to SBA staff, in advance if possible, when a member must leave a meeting early or cannot attend at all;
4. Abide by the requirements of Florida's Sunshine Law. A summary of the requirements of the law is outlined in this section;
5. Since it is the SBA's responsibility to fund all Commission activities, direct all communications related directly to Commission activities to SBA staff who are responsible for administrative support of the Commission. The following communications, directly related to Commission activities, shall not take place:
 - a. Commission members shall not contact Professional Team members or modeling organizations directly, except in conjunction with communications during the on-site visit of a Commission member,
 - b. Modeling organizations shall not contact Commission members or Professional Team members directly,
 - c. Professional Team members shall not contact Commission members or modeling organizations directly.

A Committee Chair or the Commission Chair may, in conjunction with SBA staff, contact a modeling organization or outside party for the purpose of clarifying or refining input or suggested revisions to the *Hurricane Standards Report of Activities* and *Flood Standards Report of Activities*;

6. Give notice of "special" conflicts of interest where the member, the member's relative, business associate, or any principal by whom he or she is retained stands to reap a direct financial benefit or suffer a potential loss from the issue being voted on. Financial benefit which is speculative, uncertain, or subject to many contingencies is not a special benefit that would preclude a member from voting. See Attorney General's Opinion 96-63 (September 4, 1996) and Commission on Ethics Opinion 94-18 (April 21, 1994). If a special conflict of interest arises and the special conflict is apparent prior to the meeting, the member must give advance notice to SBA staff. If the special conflict becomes apparent during a meeting, the member should immediately inform the Commission Chair or Vice Chair. The conflicted member shall recuse himself or herself from any activity of the Commission in the area of the special conflict;
7. Commission members are expected to meet the highest standards of ethical behavior. Commission members may be subject to the Code of Ethics for Public Officers and Employees, ss. 112.311-112.3261, F.S., including, but not limited to, s. 112.313(7), F.S.,

relating to conflicting employment or contractual relationships; s. 112.3143, F.S., relating to voting conflicts; and s. 112.3145, F.S., relating to disclosure of financial interests. It is understood, given the nature of the expertise held by Commission members, that general conflicts of interest are inherent. The conflicts of interest which are addressed in s. 112.3143, F.S., and the conflicts which would preclude a Commission member from voting on an issue are only those conflicts which are special. Additionally, Commission members should be mindful of situations which may arise that have the potential to give an unfair advantage to any modeling organization or result in a particular Commission member having unique information and being in a position to exercise greater influence than other Commission members.

New Member Orientation and Continuing Education of Existing Members

As part of the SBA's administrative support of the Commission, the SBA staff is responsible for new member orientation. The SBA staff may also design programs for continuing education at the request of the Commission. The cost of such programs is subject to approval through the state budgetary process as outlined under ***Budget Consideration***.

On-Site Visits to a Modeling Organization by Commission Members

The 2005 and 2014 legislative changes to s. 627.0628, F.S., specified that the goal was to enable the Commission to have access to all aspects of hurricane and flood models. Since both a public records exemption and a public meetings exemption are provided in the law, Commission members are able to review trade secrets in much more depth and able to inquire into the underlying nature of the hurricane and flood models without exposing such trade secret information to modeling organization competitors.

Although reliance on the expertise of the Professional Team continues to be necessary in the Commission's review process, it is anticipated that Commission members may request to have greater access to the hurricane and flood models by going to the modeling organization's location for an on-site visit.

The procedure for on-site visits and additional verification review visits requires that the Commission member obtain approval from the Commission and obtain authorization from the SBA for reimbursable travel (due to budget considerations). The deadline for requesting on-site visits, which includes any additional verification review visits, is seven days prior to the Commission meeting to review modeling organization hurricane model or flood model submissions in order for the requests to be placed on the meeting agenda.

Travel arrangements are coordinated through SBA staff and in accordance with the SBA's travel policy. Commission members are responsible for their own transportation arrangements to, from, and during the on-site visits.

The Commission member's on-site visit shall take place at the same time as the Professional Team's on-site or additional verification review. The Commission member's presence shall not disrupt the activities or work of the Professional Team. This procedure will limit Commission members' participation to that of an observer during the Professional Team activities and their review process. The Commission member may ask questions of the modeling organization in meetings separate from those of the Professional Team. Given time and resource constraints, all reasonable attempts will be made to schedule meetings between the modeling organization and Commission members, and the modeling organization should make its best effort to be available to answer the Commission member's questions.

If any notes are taken by a Commission member, the notes identified by the modeling organization as trade secret shall be placed in a sealed envelope marked "Confidential" with the date, time, and Commission member's signature across the seal. The notes shall be kept by the modeling organization and returned to the Commission member during the closed meeting to discuss trade secrets. At the conclusion of the closed meeting, all notes shall be returned to the modeling organization.

It should also be noted that the job of the Professional Team while on-site is to review the hurricane or flood model rather than to educate Commission members. The education of Commission members by the Professional Team is better accomplished in other settings.

Commission members shall refrain from discussing the hurricane or flood model among themselves while on-site and shall be mindful of the requirements of the public meeting laws of Florida. Since Professional Team members have signed contracts with the SBA that contain a confidentiality clause accepted by each modeling organization and are prohibited from discussing such proprietary information, Commission members cannot be included in any activities, meetings, or deliberations of the Professional Team.

Trade Secret Documents for Review On-Site by Commission Members: The Professional Team reviews the Audit sections of the *Hurricane Standards Report of Activities* and the *Flood Standards Report of Activities* while on-site, and a Commission member may have additional questions or prefer a more in-depth discussion about a particular audit requirement. In order for the modeling organization to have the necessary personnel and documents available, Commission members shall identify the items from the Audit section of the *Hurricane Standards Report of Activities* or from the Audit section of the *Flood Standards Report of Activities* that they are particularly interested in reviewing on-site. Each Commission member may create a prioritized list of items that should be provided to SBA staff no later than the Commission meeting to review modeling organization hurricane model or flood model submissions. The list will be provided to the modeling organization with the Professional Team pre-visit letter, in preparation for the member's on-site visit.

All items included in the Audit sections are of equal importance since all are required for verification of the hurricane and flood standards. Because the time needed to review the different audit requirements will vary, Commission members should prioritize the items they request to review based upon their expertise and interest. Due to time constraints, it will be the responsibility of the Commission members to allocate their time accordingly while on-site.

Documents Containing Trade Secrets Used in the Design and Construction of Hurricane and Flood Models

Material Containing Potential Hurricane or Flood Model Trade Secrets to be Visually Displayed or Discussed during Closed Meetings (Trade Secret Items): The Commission may develop a list of information, documents, and presentation materials that contain potential trade secrets used in the design or construction of the hurricane or flood model that the Commission wants to review during the closed portion of the Commission meeting to review hurricane or flood models for acceptability in addition to the trade secret items identified in the *Hurricane Standards Report of Activities* and the *Flood Standards Report of Activities*.

The trade secret material shown to the Commission shall be under the control of the modeling organization. This information, by law, shall be confidential and exempt from the State's public records requirements.

Closed Meetings for the Purpose of Discussing Trade Secrets Used in the Design and Construction of Hurricane or Flood Models

There is an exemption from public meeting requirements for those portions of a Commission meeting where trade secrets, used in the design and construction of hurricane or flood models, are discussed. The closed portion of a Commission meeting where trade secrets are reviewed and discussed will be held prior to the public portion of the Commission meeting to review hurricane or flood models for acceptability. Voting regarding the acceptability of a hurricane or flood model shall only take place during the public portion of the meeting. During any closed meeting, Commission members shall confine their discussions to trade secrets related to that particular hurricane or flood model under consideration. Discussions other than those involving trade secrets shall take place during the public portion of the meeting. Only public information that is absolutely essential to the understanding of the trade secret information may be provided along with the trade secret information during the closed meeting. Any such public information discussed must be discussed during the public portion of the meeting to ensure full access of the public to that information.

In accordance with s. 627.0628(3)(g), F.S., the closed portion of a Commission meeting shall be recorded electronically as per SBA policies and procedures. The recording is exempt from s. 119.07(1), F.S., and s. 24(a), Article 1 of the State Constitution.

Attendees: The only authorized attendees of the closed portion of the Commission meeting to review hurricane or flood models for acceptability shall include Commission members, Commission staff, Professional Team members, and modeling organization designated personnel, staff, and consultants.

Role of Professional Team: The discussion of trade secrets may involve verbal explanations, review of documents, and various types of demonstrations. Although the Professional Team will be present during the discussion of trade secrets, they should be viewed by the Commission members as a resource to confirm that the information being provided is consistent with the information provided on-site. Questions related to modeling organization trade secrets shall be addressed directly to the modeling organization rather than to the Professional Team members.

Room Requirements: Before the closed portion of the Commission meeting to review hurricane or flood models for acceptability begins, the room shall be cleared of all unauthorized persons and all their belongings. No briefcases, cellular phones, laptops, or other electronic devices shall be accessible to the authorized attendees during the closed meeting other than equipment needed by the modeling organization and equipment required by the Commission to accommodate Commission members.

All telephone lines and all microphones shall be checked to ensure that discussions cannot be heard, relayed, or recorded beyond the confines of the room. Personnel outside of the meeting room shall be asked to move to a distance where discussions cannot be inadvertently overheard or visual presentations seen. No telephone calls shall be made or received from the meeting room during the discussions of trade secrets other than those needed to meet the needs of the modeling organization. Authorized attendees needing to make or receive telephone calls shall be required to leave the meeting room to handle such communications. Any notes taken by authorized attendees, other than the modeling organization, shall be collected and given to the modeling organization at the conclusion of the closed meeting and prior to anyone leaving the meeting room. During the closed meeting, internet access may be available where modeling organizations may choose to provide direct access to the model by electronic means to help answer questions of Commission members.

Teleconference: Due to security reasons, a teleconference call-in number shall not be available to authorized attendees. If requested by the modeling organization, Commission staff will contact, from the meeting room, additional modeling organization personnel to allow their participation by phone.

Breaks: If a break is taken during a closed meeting, authorized attendees shall not discuss any of the proceedings from the time the meeting doors are open until they are closed following the conclusion of the break. No notes or other recorded information shall be taken out of the meeting room during a break. Other than authorized attendees, no one shall be allowed to enter the meeting room during a break with the exception of building maintenance personnel, food or beverage service personnel, or electronic technicians needed to provide services for the meeting room.

Transcripts: The Commission will not record a transcript for the closed portion of a Commission meeting.

Quorum Requirements: A quorum of Commission members is not required to conduct the closed portion of the Commission meeting.

Additional Closed Meetings: Once the initial closed portion of a Commission meeting has concluded, the public portion of the meeting shall begin. Upon a motion and a second and a majority vote, the Commission may decide to go back into a closed meeting. If such a decision is made by the Commission, all meeting security requirements previously outlined shall apply.

Commission Meetings

Quorum: A majority of the twelve Commission members (i.e., seven members) is required to constitute a quorum. A quorum is the number of members necessary to transact the official business of the Commission. “Presence” shall be defined as either a physical presence or as participation by any other means that allows the Commission member to communicate simultaneously with those members who are present.

Voting Abstentions based on Conflict: For the purpose of determining whether there is a quorum, if a member abstains from voting based on a special conflict of interest (as defined under *Member Duties and Responsibilities*), that member would still be deemed present for purposes of the quorum requirement (Attorney General’s Opinion 75-244; August 29, 1975).

Temporary Absence: “If a member in attendance at a meeting is called away and is unable to return to the meeting, the transcript should reflect the point at which ... [the member] left and - if the remaining members constitute a quorum - the meeting should continue.” If, however, the member is only temporarily absent, and this member is needed to constitute a quorum, the “appropriate procedure would be to recess the meeting until the member can return or, at least, to postpone a vote on any matter before the body until ... [the member’s] return” (Attorney General’s Opinion 74-289; September 20, 1974).

Meeting Notices: Written notice of a Commission meeting shall be provided to each member as soon as possible, and at a minimum, except in the event of an emergency meeting, at least seven days prior to the date scheduled. Section 286.011, F.S., requires public meetings to be noticed, and the notice must contain a time certain, a date, and the location of the meeting. If available, an agenda should be provided. If no agenda is available, it is sufficient if the notice summarizes the subject matter to be covered in the public meeting.

Public Access: Any member of the public shall have access to all Commission meetings that do not involve the discussion of trade secrets used in designing and constructing hurricane or flood models. That portion of a Commission meeting where a trade secret is addressed is confidential and exempt pursuant to s. 627.0628(3)(g)2, F.S., and thus will not be open to the public.

Agendas: Agendas listing topics planned for discussion shall be furnished to each member prior to the meeting. The agenda is to be used merely as a guide and topics not listed may be raised and discussed and the members may choose not to address an issue or topic listed on the agenda.

Location: Meetings shall be in Tallahassee, Florida, unless special circumstances arise.

Recording: The SBA staff shall be responsible for ensuring that all Commission meetings are recorded. A transcribed record shall be taken for all public portions of Commission meetings and an electronic recording shall be taken for all closed portions of Commission meetings. Commission meeting records shall be maintained by SBA staff in accordance with SBA policies and procedures. The Commission will not record a transcript for any closed portion of a Commission meeting.

Voting Requirement: Except in the case of a special conflict of interest (as defined under *Member Duties and Responsibilities*), no Commission member who is present at any meeting at which an official decision or act is to be taken or adopted by the Commission may abstain from voting (s. 286.012, F.S.).

Designation of an Acting Chair: Depending on the circumstances, the Commission Chair or Vice Chair may temporarily appoint any member to act as Chair in those situations where the physical presence of a Chair is desirable to facilitate conducting the meeting.

Purpose and Conduct of Meetings: The Commission holds six types of meetings:

1. Committee meetings designed to review and revise the hurricane and flood standards, disclosures, audit requirements, forms, acceptability process, and other sections of the *Hurricane Standards Report of Activities* and the *Flood Standards Report of Activities*,
2. Commission meetings to adopt revisions to the hurricane and flood standards, disclosures, audit requirements, forms, acceptability process, and other sections of the *Hurricane Standards Report of Activities* and the *Flood Standards Report of Activities*,
3. Commission meetings to review hurricane or flood model submissions,
4. Commission meetings to review hurricane or flood models for acceptability,
5. Commission meetings to consider an appeal by a modeling organization if a hurricane or flood model is not found acceptable by the Commission, and
6. Planning workshops for the purpose of discussing, studying, and educating Commission members on new scientific developments and advances in the fields of meteorology, hydrology, hydraulics, engineering, actuarial science, statistics, and computer/information science. The discussions from the planning workshops will be instrumental in planning for future hurricane and flood standards, disclosures, audit requirements, and forms.

The meetings to review hurricane or flood models for acceptability may involve the discussion of modeling organization trade secrets. The Commission shall conduct the portion of a meeting where trade secrets used in the design and construction of the hurricane or flood model are discussed as a closed meeting. Each type of meeting is discussed below.

Committee Meetings

Committee meetings are for the purpose of discussing issues, developing hurricane and flood standards, completing necessary groundwork, and reaching a consensus among those present so when the Commission meets later to formally adopt the hurricane and flood standards, the *Hurricane Standards Report of Activities*, and the *Flood Standards Report of Activities*, most of the issues can be easily resolved with less detail and finalizing work required. Committee meetings provide for an informal workshop environment where Commission members, Professional Team members, SBA staff, modeling organizations, insurers, regulators, and the general public are encouraged to participate and provide input. A working draft of proposed revisions to the hurricane and flood standards, disclosures, audit requirements, forms, acceptability process, and other portions of the *Hurricane Standards Report of Activities* and the *Flood Standards Report of Activities* is created. A public notice is required, but it is not necessary that a quorum be present since all official business requiring a vote will be conducted at Commission meetings.

Committee meetings are also for the purpose of reviewing, determining the scope, and establishing priorities for any ideas, issues, and concepts new or previously presented at Commission meetings, Committee meetings, or workshops. The Committee may make a recommendation to the Commission on those that could be subjects for current consideration or for future inquiries and investigation.

The role of the Committee Chair is to present the draft of proposed hurricane or flood standards and other relevant documents with the aid of the Professional Team and SBA staff. The role of the other Committee members is to thoroughly review the proposed draft and provide input and ideas at the Committee meetings. Committee members have the responsibility of preparing in advance and becoming familiar with all the relevant issues. Such members have the responsibility of reading documents, raising questions, forming opinions, and participating in discussions. The role of the other Commission members is to participate, at their option, in all or various Committee meetings. In this manner the difficult work will be spread among Commission members and specific expertise will be utilized when reviewing and revising hurricane and flood standards. It is beneficial for each Commission member to be fully prepared to participate as an active Committee member and provide quality input and discussion at the Committee stage.

Committee meetings are not Commission meetings. Due to quorum requirements, no formal voting shall take place at Committee meetings, but a consensus among Committee members and others participating is desirable. The Committee Chair is expected to report issues and bring work products to the Commission at properly scheduled and noticed Commission meetings. It is possible for a Committee to meet with one Commission member (the Committee Chair) and other interested parties (non-Commission members), but such Committee meetings shall be publicly noticed and approved by the Commission Chair. Committee meetings work best when Commission members guide the Committee meetings and there is broad participation by the public, modeling organizations, regulators, or other interested parties. Although Committee meetings can be held with a substantial number of Commission members present, care should be taken to include the public and all interested parties to gain maximum participation and input. Committee Chairs should regularly call upon and solicit input from any and all interested parties present.

The recommended way to conduct a Committee meeting for hurricane and flood standards is, as follows:

1. Standard
 - a. Each standard should be taken in order and read in its entirety or presented visually to the members.
 - b. The Committee Chair asks if the standard is located in the appropriate grouping of standards or if it should be moved to a more appropriate section.
 - c. The Committee Chair asks if the standard is still relevant, whether it should be eliminated, or if modifications should be made. If modifications are suggested, the Committee Chair should ask for proposed wording, if anything needs to be added, or if anything needs to be deleted in the standard.
 - d. Any proposed changes to the standard are then read and explained.
 - e. The Committee Chair next asks if there are any objections to the proposed changes and if any further changes are needed.

- f. The Committee Chair asks whether there are wording issues associated with the standard, are there any ambiguities, or are there ways to further clarify the standard by better drafting.
2. Purpose
 - a. The Committee Chair reads or visually presents the purpose of the standard and asks if the purpose is clear and if any changes are needed.
 - b. The Committee Chair asks if there are any objections or comments regarding the wording in the Purpose section.
 - c. The Committee Chair asks if there are any wording or drafting issues associated with the purpose.
3. Disclosures
 - a. The Committee Chair reads or visually presents each disclosure and asks if the disclosure is relevant and located with the appropriate standard.
 - b. The Committee Chair asks whether any additions, deletions, or other proposed changes to the disclosures are needed.
 - c. The Committee Chair asks if there are any objections to the proposed changes and if any further changes are needed.
 - d. The Committee Chair asks whether there are wording issues or additional instructions that need to be addressed to clarify the disclosure requirements.
4. Audit
 - a. The Committee Chair reads or visually presents each audit requirement and asks if it is clear and will be sufficient to help verify if the modeling organization has met the standard.
 - b. The Committee Chair asks whether any additions, deletions, or other proposed changes to the audit requirements are needed.
 - c. The Committee Chair asks if there are any objections to the proposed changes and if any further changes are needed.
 - d. The Committee Chair asks whether there are wording issues or additional instructions that need to be addressed to clarify the audit requirements.
5. Forms
 - a. The Committee Chair reads or visually presents each form and asks whether the forms are appropriate, relevant, and located in the appropriate grouping of standards.
 - b. The Committee Chair asks if there are any proposed changes suggested for the forms and if additional instructions are needed.
 - c. The Committee Chair asks if there are any objections to the proposed changes or if additional wording changes are needed for clarification.
6. Trade Secret Items

The Committee will identify trade secret information, documents, and presentation materials that contain potential trade secrets used in the design or construction of the hurricane or flood models that the Commission wants the modeling organization to visually display or discuss during the closed portion of a Commission meeting to review hurricane or flood models for acceptability.
7. Consideration of Ideas, Issues, Concepts, Inquiries, and Investigations

The Committee will discuss, evaluate, and prioritize any ideas, issues, concepts, inquiries, and investigations presented at prior Commission meetings, Committee meetings, or workshops. The Committee will consider the associated costs and time constraints.

The meeting of the Acceptability Process Committee will proceed differently, but will follow a similar logical pattern as described above. The Acceptability Process Committee will start by reviewing the “Process for Determining the Acceptability of a Computer Simulation Hurricane Model,” or the “Process for Determining the Acceptability of a Computer Simulation Flood Model.” All proposed revisions will be discussed and any modifications will be considered. Comments will be solicited from those participating. Finally, any wording or formatting issues will be discussed.

Following the discussion of the acceptability process, the Acceptability Process Committee will take up other various sections of the *Hurricane Standards Report of Activities* or the *Flood Standards Report of Activities* by considering their appropriateness and relevancy, proposed revisions and any modifications, and wording or formatting issues.

As consensus is built and revisions are agreed to, the SBA staff in conjunction with the Professional Team will note the revisions and modifications and produce the draft documents that will be distributed in advance of the Commission meetings that will be held for the purpose of adopting the hurricane and flood standards and finalizing the *Hurricane Standards Report of Activities* for the next odd-numbered year and the *Flood Standards Report of Activities* every four years.

Commission Meetings to Adopt Hurricane and Flood Standards

The Commission Chair will open the meeting and ask each Committee Chair, who presided over the revisions to the hurricane and flood standards, to comment as to the purpose of each hurricane and flood standard and any suggested revisions by the Committee under each hurricane and flood standard. This will not only include the hurricane and flood standard, but the purpose, the disclosures, the audit requirements, and the forms. The Committee Chair, along with the Professional Team and SBA staff, will discuss and comment on revisions to the hurricane and flood standards. The Commission members will ask questions and offer further suggestions if necessary and appropriate. The Commission Chair may also ask for comments from others in attendance including modeling organizations, regulators, insurers, or the general public.

Once the discussion is concluded, the Committee Chair should make a motion that the Commission adopt the hurricane or flood standard along with the suggested revisions including those associated with the purpose section, the disclosures, the audit requirements, and the forms. Another Committee member should second the motion. The Commission Chair will then ask if there is any further discussion. The Commission Chair will recognize Commission members for final comments or questions. Once the discussion is completed, the Commission Chair will ask for a roll call vote. Each hurricane and flood standard (including its accompanying purpose section, disclosures, audit requirements, and forms) shall be voted on separately.

The “Process for Determining the Acceptability of a Computer Simulation Hurricane Model” and the “Process for Determining the Acceptability of a Computer Simulation Flood Model” will each be voted on separately. The Commission Chair will ask the Chair of the Acceptability Process Committee to explain the revisions to the acceptability process. Once this is completed and comments are made by the Professional Team and SBA staff, the Committee Chair should make

a motion that the Commission adopt the acceptability process as amended. Another Acceptability Process Committee member should second the motion. The Commission Chair will ask if there is any further discussion. After recognizing Commission members for discussion, the Commission Chair will ask for a roll call vote.

The final items to be voted on by the Commission include the remaining sections of the *Hurricane Standards Report of Activities* and the *Flood Standards Report of Activities*. If any of these sections do not change, they can be combined and adopted with one roll call vote. The Acceptability Process Committee will be responsible for these recommendations. The Committee Chair will discuss any revisions and modifications and should make a motion to approve each section separately. Another Acceptability Process Committee member should second the motion. The Commission Chair will recognize Commission members for discussion and questions, and then will ask for a roll call vote.

As a final consideration, the Commission Chair should consider whether it is appropriate to authorize the SBA staff to make any needed editorial changes consistent with the adopted *Hurricane Standards Report of Activities* and the *Flood Standards Report of Activities*. This would be done by a roll call vote after a Commission member makes a motion that is seconded and after discussion.

Once all voting necessary to finalize the *Hurricane Standards Report of Activities* and the *Flood Standards Report of Activities* is completed, the Commission may take up other business or may adjourn.

Commission Meetings to Review Modeling Organization Hurricane or Flood Model Submissions

The purpose of the meeting to review modeling organization hurricane or flood model submissions is to identify any deficiencies in the hurricane or flood model submissions, to create a list of issues to be addressed by each modeling organization, and to determine for a hurricane model submission whether an existing modeling organization is required to submit Form S-6, Hypothetical Events for Sensitivity and Uncertainty Analysis, prior to the Professional Team on-site review.

Modeling organization hurricane or flood model submissions shall be received by the applicable November 1 deadline or the additional deadline options available for flood model submissions under the 2017 flood standards. The hurricane or flood model submissions will have been distributed to each Commission member and the Professional Team for their review. The SBA staff will work with the Professional Team to identify any deficiencies or issues. Prior to the meeting, the Commission Chair, working with SBA staff and the Professional Team, may request that the modeling organization meet with the Commission (in person or by conference call) or provide additional information to clarify the hurricane or flood model submission.

Deficiency: A deficiency is defined as a lack of required documentation. A list of deficiencies shall be created if the hurricane or flood model submission is incomplete, unclear, or non-responsive. Some common deficiencies include failure to respond to all portions of a standard, disclosure, or form; failure to update to the current *Hurricane Standards Report of Activities* or *Flood Standards Report of Activities* language; omission of supporting scientific references;

errors and contradictory material in the submission; and insufficient detail for review of methodology. Failure to adequately provide a required written response or the necessary public documentation expected by the Commission in the hurricane or flood model submission shall result in a deficiency. If necessary, the Commission will attempt to further clarify its expectations by providing additional comments or instructions with the deficiency so that the modeling organization is fully aware of what is expected and will have a reasonable opportunity to correct the deficiency. The Commission shall determine the appropriate time frame for correcting deficiencies. Failure to correct the deficiency within the time frame specified shall result in the termination of the review process. The Commission Chair has the discretion to extend the time frame for a modeling organization correcting deficiencies if unusual circumstances are involved.

Issue: Issues are related to the operation and theoretical soundness of the hurricane or flood model. Issues should not require a modeling organization to submit additional public documentation that is not required of all modeling organizations. Issues shall be addressed by the modeling organization with the Professional Team during the on-site review as well as with the Commission when the modeling organization presents the hurricane or flood model to the Commission for acceptability. Should the nature of an issue be such that the Commission feels public documentation is needed, then the documentation shall be added to the disclosure requirements and required of all modeling organizations. Otherwise, some modeling organizations might be put in an awkward position and vulnerable to making more information about their hurricane or flood model public than other modeling organizations thus resulting in a competitive disadvantage. [See **Principle #12:** *The Commission's review process of models or methods shall not restrict competition in the catastrophe modeling industry or thwart innovation in that industry.*]

In conducting the meeting to review the modeling organizations' hurricane or flood model submissions, the Commission Chair will take up one modeling organization's hurricane or flood model submission at a time as indicated on the agenda for the meeting. The Commission Chair will take up each hurricane or flood standard grouping and consider all the responses provided under the hurricane or flood standard including the modeling organization's response to compliance with the hurricane or flood standard, the information provided in the disclosures, any response provided to the audit requirements, and the completeness of the forms.

The first point of discussion will relate to hurricane or flood model submission deficiencies. The SBA staff working with the Professional Team will have provided a report to the Commission members regarding deficiencies that have been identified and that need to be corrected. The Commission shall review those deficiencies and add, delete, or modify the list as appropriate. Following a discussion of the deficiencies, the Commission will next discuss the issues identified under each grouping of hurricane or flood standards. The SBA staff working with the Professional Team will have provided the Commission members with a list of issues prior to the meeting. The Commission shall review those issues associated with each grouping of hurricane or flood standards and add, delete, or modify the list as appropriate. For hurricane model submissions only, a third point of discussion will relate to the requirement of Form S-6, Hypothetical Events for Sensitivity and Uncertainty Analysis, for an existing modeling organization. The SBA staff working with the Professional Team will have provided, prior to the meeting, a recommendation to the Commission for requiring a completed Form S-6, Hypothetical Events for Sensitivity and Uncertainty Analysis. The Commission shall determine, based on the recommendation and hurricane model revisions disclosed in the hurricane model submission, whether an existing

modeling organization shall be required to provide Form S-6, Hypothetical Events for Sensitivity and Uncertainty Analysis.

Upon review of all hurricane or flood standards, the Commission Chair will ask if there is a motion and a second to continue the review process subject to the correction of the deficiencies and to provide Form S-6, Hypothetical Events for Sensitivity and Uncertainty Analysis, if required. The motion shall include a specific time frame for correcting any deficiencies in the hurricane or flood model submission and if required for a hurricane model submission, a specific time frame for providing a completed Form S-6, Hypothetical Events for Sensitivity and Uncertainty Analysis, prior to the Professional Team on-site review. The modeling organization shall resubmit or amend the original hurricane or flood model submission as specified by the Commission in the acceptability process of the *Hurricane Standards Report of Activities* or the *Flood Standards Report of Activities*. The Commission Chair will call for further discussion. After discussion, the Commission Chair will ask for a roll call vote. At any point, the Commission can determine that the modeling organization has not been responsive to the hurricane or flood model submission requirements and vote to terminate the review process.

The Commission Chair will next ask if there is a motion and a second to approve the list of issues to be addressed by the modeling organizations during the review process. The Commission Chair will call for further discussion. After discussion, the Commission Chair will ask for a roll call vote.

The Commission Chair shall provide a letter to each modeling organization listing:

1. Deficiencies identified in the hurricane or flood model submission with the time frame assigned for correcting the deficiencies,
2. Issues to be addressed with the Professional Team during the on-site review and with the Commission during the meeting to review the hurricane or flood model for acceptability, and
3. Inquiries and investigations to be addressed with the Professional Team during the on-site review.

Commission Meetings to Review Hurricane or Flood Models for Acceptability

The Commission meeting to review a hurricane or flood model for acceptability will begin with the Commission Chair calling upon the modeling organization to provide an overview presentation as required in the acceptability process of the *Hurricane Standards Report of Activities* or the *Flood Standards Report of Activities*. The modeling organization shall make a presentation and Commission members may ask questions during and after the presentation.

The next portion of the meeting will be closed to the public and will involve the discussion of trade secrets used in the design and construction of the hurricane or flood model identified in the *Hurricane Standards Report of Activities* or the *Flood Standards Report of Activities* as trade secret items and by the Professional Team during the on-site or additional verification reviews.

At the public meeting to determine the acceptability of a hurricane or flood model, once a quorum is present, either in person or by telecommunications, all votes shall be by a roll call vote based on the majority vote of those present. No Commission member, who is present at any Commission meeting at which an official decision or act is taken or adopted by the Commission, may abstain from voting except when a special conflict of interest exists (s. 286.012, F.S., s. 112.3143, F.S.).

For those circumstances in which a hurricane or flood standard does not apply to a particular hurricane or flood model, if the Commission votes affirmatively that the hurricane or flood standard does not apply, then such a vote shall constitute a determination by the Commission that the hurricane or flood standard is not applicable.

The hurricane standards are categorized under six groupings:

1. General Standards,
2. Meteorological Standards,
3. Statistical Standards,
4. Vulnerability Standards,
5. Actuarial Standards, and
6. Computer/Information Standards.

The flood standards are categorized under seven groupings:

1. General Flood Standards,
2. Meteorological Flood Standards,
3. Hydrological and Hydraulic Flood Standards,
4. Statistical Flood Standards,
5. Vulnerability Flood Standards,
6. Actuarial Flood Standards, and
7. Computer/Information Flood Standards.

The minimum number of vote tallies taken to determine the acceptability of a hurricane or flood model shall be one for each group of hurricane or flood standards. If the Commission determines that the hurricane or flood model meets all hurricane or flood standards in a grouping, the hurricane or flood model is found acceptable with respect to each individual hurricane or flood standard in the grouping. Hurricane or flood standards with subparts denoted by a notation of A, B, C, etc. are considered one hurricane or flood standard. At the request of any Commission member, one or more hurricane or flood standards in a grouping may be set aside from the remaining hurricane or flood standards in that grouping for a separate vote.

Based upon a motion of any member that is duly seconded, the Commission may review and modify the voting requirements for any hurricane or flood model as may be appropriate due to the unique aspects of the hurricane or flood model.

At the start of the second public portion of the meeting, the Commission Chair will first ask the modeling organization to explain corrections made for deficiencies identified in the meeting to review modeling organization's hurricane or flood model submissions. The Commission Chair will ask Commission members for questions or comments. Failure to provide the trade secret

information required in the *Hurricane Standards Report of Activities* or the *Flood Standards Report of Activities* and the Professional Team report shall result in a deficiency. If the Commission identifies other deficiencies, the Commission shall specify a time frame for correction of those deficiencies that may include a review by one or more Professional Team members.

The Commission Chair will then announce that the Commission is ready to review the hurricane or flood model for acceptability. The Commission Chair will ask Commission members their preference for reading the hurricane or flood standards by title or in entirety. The Commission Chair will read the first hurricane or flood standard and will call upon the modeling organization to discuss the compliance of the hurricane or flood model with the hurricane or flood standard. The Commission Chair will next call upon the Professional Team to comment after which the Commission Chair will ask Commission members for questions or comments. If there are none, or after all questions have been responded to, the Commission Chair will then proceed to begin reading the next hurricane or flood standard. Once all the hurricane or flood standards in a grouping have been presented and discussed, the Commission Chair will ask the Commission members whether there are any hurricane or flood standards that need to be carved out and voted on separately. If no response is heard, the Commission Chair will ask for a motion to find the hurricane or flood model acceptable under that grouping of hurricane or flood standards. A motion will be made and seconded by Commission members at this time. Prior to voting, the Commission Chair will ask if there is any further discussion. If members have questions or comments, they will be recognized. Once the discussion is completed, the Commission Chair will ask for a roll call vote. Any hurricane or flood standards carved out will be voted on separately in a roll call vote.

The Commission Chair will then move to the next grouping of hurricane or flood standards and begin to read the first hurricane or flood standard in the grouping. The review process will follow as indicated in the paragraph above.

The Commission will have completed its determination of the acceptability of the hurricane or flood model when it has completed voting on all hurricane or flood standards. This does not preclude the Commission from revisiting a previous vote or revising the voting procedure as noted above. Upon conclusion of voting on all the hurricane or flood standards, the Commission Chair will instruct SBA staff to tally the votes. The SBA staff member will indicate whether the hurricane or flood model has been found acceptable by noting that the Commission does or does not find the hurricane or flood model to have met all the hurricane or flood standards. If the Commission finds the hurricane or flood model acceptable, the Commission Chair will indicate to the modeling organization that the modeling organization will receive a letter as provided in the acceptability process of the *Hurricane Standards Report of Activities* or the *Flood Standards Report of Activities*.

The voting procedure can be changed only if approved by the Commission members, given a quorum is present. This will require a motion, a second, and approval of a majority by roll call vote.

Commission Meetings to Consider an Appeal by a Modeling Organization if a Hurricane or Flood Model is not Found to be Acceptable by the Commission

If a hurricane or flood model fails to meet one or more hurricane or flood standards and is not found to be acceptable by the Commission, the modeling organization may file an appeal with the Commission and request a meeting with the Commission in order to provide additional information and data to the Commission to justify that the hurricane or flood model complies with the hurricane or flood standards and other requirements. The appeal process is specified in the acceptability process of the *Hurricane Standards Report of Activities* and the *Flood Standards Report of Activities*.

The purpose of the meeting to consider an appeal by a modeling organization is to review the appeal documentation and determine whether or not to reconsider the hurricane or flood model.

The Commission Chair will call upon the modeling organization to provide a presentation which shall include reasons and justification for reconsideration. Commission members may ask questions during and after the presentation. After discussion, the Commission Chair will ask for a motion to reconsider the hurricane or flood model. A motion will be made and seconded by Commission members. Prior to voting, the Commission Chair will ask if there is any further discussion. Once discussion is completed, the Commission Chair will ask for a roll call vote.

If the motion to reconsider the hurricane or flood model is successfully approved by a majority vote, the Commission shall then determine if additional data and information is necessary prior to reconsideration of the hurricane or flood model. The Commission may formulate additional questions and request additional data and information to be responded to by the modeling organization. Such questions, data, and information may include proprietary information, and if so, may be addressed by the modeling organization in a closed session if requested by the modeling organization. If additional data and information is necessary for reconsideration of the hurricane or flood model, the Commission questions, data, and information request shall be provided to the modeling organization in a letter from the Commission Chair no later than ten days after the meeting to consider the appeal request. The Commission may proceed with scheduling a meeting with the modeling organization for reconsideration of the hurricane or flood model.

If the Commission does not specify any follow up questions or identify any additional data or information needed, the Commission may proceed with the reconsideration of the hurricane or flood model. The Commission shall then determine which hurricane or flood standards should be reconsidered. This may include only the hurricane or flood standards that were previously not found acceptable or it may include other hurricane or flood standards that have come into question as a result of new information and data which cast doubt as to the accuracy or reliability of the hurricane or flood model. The Commission shall vote on which hurricane or flood standards are to be reconsidered prior to reconsideration of the hurricane or flood model. The modeling organization may request more time to prepare for reconsideration if it feels that the nature of the review has become more complex and that it needs additional resources, time, and data to respond.

In reconsidering an earlier decision regarding hurricane or flood standards, the Commission shall be guided by new information and data which was not previously provided by the modeling organization. Each hurricane or flood standard will be discussed and voted upon separately in a roll call vote. The Commission Chair will read the title of the first hurricane or flood standard being reconsidered and will call upon the modeling organization to present new information and data and to discuss the compliance of the hurricane or flood model with the hurricane or flood standard. The Commission Chair may call upon the Professional Team to comment after which the Commission Chair will ask Commission members for questions or comments. The Commission Chair will ask for a motion as to whether the hurricane or flood model meets the hurricane or flood standard under reconsideration. A motion will be made and seconded by Commission members at this time. Prior to voting, the Commission Chair will ask if there is any further discussion. If members have questions or comments, they will be recognized. Once the discussion is completed, the Commission Chair will ask for a roll call vote.

The Commission Chair will then move to the next hurricane or flood standard being reconsidered, and the review process will follow as indicated in the paragraph above. The Commission will have completed its reconsideration of acceptability of the hurricane or flood model when it has completed voting on all hurricane or flood standards being reconsidered. This does not preclude the Commission from revisiting a previous vote on reconsideration of a hurricane or flood standard or revising the voting procedure as noted above. Upon conclusion of voting on all hurricane or flood standards being reconsidered, the Commission Chair will instruct SBA staff to tally the votes. The SBA staff member will indicate whether the hurricane or flood model has been found acceptable by noting that the Commission does or does not find the hurricane or flood model to have met all the hurricane or flood standards being reconsidered. If the Commission finds the hurricane or flood model acceptable under the hurricane or flood standards reconsidered, the Commission Chair will indicate to the modeling organization that the modeling organization will receive a letter as provided in the acceptability process of the *Hurricane Standards Report of Activities* or the *Flood Standards Report of Activities*.

The voting and meeting procedure can be changed only if approved by the Commission members, given a quorum is present. This will require a motion, a second, and approval of a majority by roll call vote.

Planning Workshops

Planning workshops are for the purpose of discussing, studying, and educating Commission members on new scientific developments and advances in the fields of meteorology, hydrology, hydraulics, engineering, actuarial science, statistics, and computer/information science. The discussions from the planning workshops will be instrumental in planning for future hurricane and flood standards, disclosures, audit requirements, and forms.

The planning workshops will be duly noticed and may require a quorum so that an official vote may be taken on actions resulting from the ideas presented and discussed at the workshop.

The Commission Chair will call the meeting to order and will introduce the ideas for discussion as indicated on the meeting agenda and will solicit any other ideas for discussion from Commission members. The ideas introduced will be discussed, prioritized, and evaluated by the Commission. Included in the discussions will be budget considerations, if any, and further study on the ideas if needed.

Outside Party Input Regarding Hurricane and Flood Standards, Disclosures, Audit Requirements, Forms, or Other Processes Adopted by the Commission

From time to time, parties other than Commission members, Professional Team members, and SBA staff assigned to the Commission make recommendations for the Commission to consider. For the Commission to fully and adequately consider input from outside parties, the following process and organizational framework is established for reviewing such input.

The Commission has a clearly defined statutory responsibility to act as a panel of experts to provide the most actuarially sophisticated guidelines and standards for projection of hurricane and flood losses possible, given the current state of actuarial science. The Commission's role is also narrowly defined as to its scope and purpose. As such, input provided by outside parties shall be considered by the Commission at its sole discretion. Subjects that go beyond the purview of the Commission's jurisdiction shall be rejected without consideration based on a decision by the Commission Chair. The Commission Chair may bring the matter to a vote by the Commission.

In order to enable the Commission and the appropriate Committees to evaluate recommended changes, the Commission requires that each recommendation be in the form of an amendment to specific language in the hurricane or flood standard, disclosure, audit requirement, form, or process. The specific amendatory language shall be accompanied by a brief statement of the problem being addressed by the amendment and an explanation of how the amendment solves the problem. The problem statement, explanation, and amendatory language shall be received by the Commission at least ten business days prior to the Committee or Commission meeting at which the outside party wishes the amendment to be considered.

Consideration of any proposed amendment is at the discretion of the Committee Chair when the input is provided for Committee consideration. The proposed amendment may later be accepted or rejected for review by the Commission Chair prior to such input being brought before the Commission for a vote.

While comments and recommendations of a more general nature may be provided by outside parties, such recommendations shall be in the form described above in order to be considered at a Committee or Commission meeting called for the purpose of adopting or revising hurricane and flood standards, disclosures, audit requirements, forms, or processes. Nothing in this paragraph prevents a Commission member from proposing alternative language to address an issue raised by an outside party.

Any topics for general discussion shall be addressed to the Commission Chair who will decide, in his or her sole discretion, whether the topic merits discussion by Commission members, when and how the topic will be discussed, and whether or not to accept public comment. The Commission Chair shall reject any topic for discussion that is beyond the scope of the Commission's purview.

Problem Statement: A brief statement of the problem being addressed shall be provided with all proposed amendatory language.

Explanation: The explanation shall classify the proposal as general, technical, or editorial and include justification for the modification.

Amendatory Language: Proposed amendatory language will assure that all recommended revisions to hurricane and flood standards, disclosures, audit requirements, forms, and processes suggested by outside parties are in a format that allows the Commission and its committee structure to give appropriate consideration to the substance of a particular proposal with minimum time spent resolving ambiguities, drafting questions, and similar issues.

This framework does not restrict the scope of proposals and allows outside parties the flexibility to present the arguments for their proposal in whatever format and at whatever length they desire.

Budget Consideration

All new projects that have a fiscal impact should be identified prior to January 1 of the calendar year so that appropriate funding can be obtained through the SBA's budgetary review process.

All new projects shall consist of a proposal, an estimated cost, and a time frame for completion. The Commission shall vote on all new proposals for projects. The FHCF will include in its budget the funding for on-going projects and anticipate the potential for new hurricane and flood model submissions or any fiscal impact that revisions to the acceptability process or the hurricane and flood standards might have on the Commission's budget. The Commission's budget is subject to approval by the SBA Trustees for the appropriate fiscal year.

Sunshine Law

Section 286.011, F.S., aka the "Sunshine Law" or "open meeting law" applies to the Commission.

Scope of the Sunshine Law: In any place where two or more Commission members are present, there is the potential for violating the Sunshine Law.

Any communication, whether in person, by telephone, electronic, etc., concerning any information on which *foreseeable action* may be taken by the Commission is a "meeting" that must meet the requirements of Florida's Sunshine Law if the communication takes place between two or more Commission members except as provided in s. 627.0628(3)(g), F.S.

Basic Requirements for Public Meetings: All meetings subject to the Sunshine Law must be:

1. Open to the public,
2. Noticed,
3. Recorded by a court reporter and minutes preserved. The official minutes of the Commission will consist of a verbatim transcript unless special circumstances arise. In addition, SBA staff may prepare a summary of the meeting that will be added to the transcript and together will comprise the minutes of the meeting.

The SBA staff ensures that all scheduled public meetings of the Commission are filed for public notice in the Florida Administrative Register and a transcript is taken and preserved.

Trade Secret Violations: s. 688.002, F.S., defines misappropriation as “disclosure or use of a trade secret of another without express or implied consent by a person who at the time of disclosure or use, knew or had reason to know that her or his knowledge of the trade secret was acquired under circumstances giving rise to a duty to maintain its secrecy or limit its use.”

Section 688.004, F.S., provides for damages as a result of a trade secret violation, “a complainant is entitled to recover damages for misappropriation. Damages can include both the actual loss caused by misappropriation and the unjust enrichment caused by misappropriation that is not taken into account in computing actual loss.”

If a trade secret also meets the definition of a trade secret in s. 812.081, F.S., the following penalty provided in s. 812.081, F.S., for violating the confidentiality of trade secrets could still apply:

“(2) Any person who, with intent to deprive or withhold from the owner thereof the control of a trade secret, or with an intent to appropriate a trade secret to his or her own use or to the use of another, steals or embezzles an article representing a trade secret or without authority makes or causes to be made a copy of an article representing a trade secret commits a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083.

(3) In a prosecution for a violation of this section, the fact that the person so charged returned or intended to return the article so stolen, embezzled, or copied is not a defense.”