

**CS/CS/CS/HB 1495, Section 16 – Subsection (4) is added to Section 627.0628, F.S.**

This legislative session Section 16 of CS/CS/CS/HB 1495 creates a requirement for the Florida Commission on Hurricane Loss Projection Methodology (Commission) to draft a report which will include recommendations for improving the process of assessing, determining, and applying windstorm mitigation discounts, credits, other rate differentials, and appropriate reductions in deductibles.

The requirement is for the Commission to do the following:

- (1) **Review** discounts, credits, other rate differentials, and reductions in deductibles relating to windstorm mitigation.
- (2) **Hold public meetings** for the purpose of receiving testimony and data regarding the implementation of windstorm mitigation discounts, credits, other rate differentials, and appropriate reductions in deductibles pursuant to s. 627.0629, F.S.
- (3) **Present a report**, after reviewing the testimony and data as well as any other information the Commission deems appropriate, by February 1, 2010, to the Governor, the Cabinet, the President of the Senate, and the Speaker of the House of Representatives.
- (4) The report shall include **recommendations on improving the process** of assessing, determining, and applying windstorm mitigation discounts, credits, other rate differentials, and appropriate reductions in deductibles pursuant to s. 627.0629, F.S.

Basically, the Commission is to review, hold public meetings, and write a report to include certain recommendations.

Some brief discussions have been held at previous Commission meetings as to the requirements of this new law. The law is clear as to what the Legislature wants the Commission to do. The suggestions below are designed to provide a framework so that the Commission can accomplish the requirements of the statute. It is important that the Commission addresses the statutory requirements and attempts to stay within the parameters of what is being asked of it.

The ultimate work product is a report with a deadline of February 1, 2010.

In developing the report, the Commission is to REVIEW windstorm mitigation discounts, credits, other rate differentials, and reductions in deductibles, HOLD PUBLIC MEETINGS to receive testimony and data, and finally PRODUCE A REPORT. The REPORT shall include recommendations on improving the process.

**Suggested Plan of Action:**

The Commission would schedule a series of meetings to accomplish the following:

- (1) Review and discuss the statutory requirements. This would include a discussion first of s. 627.0629, F.S., and then the new law s. 627.0628(4), F.S. It is critical that the Commission has a full understanding of the law and hears how the law is being

interpreted and implemented from the standpoint of the Office of Insurance Regulation, the Department of Financial Services, and the Department of Community Affairs. Also, it is important to understand any disagreements over how the law is being interpreted and implemented. The Commission needs to understand any rules that have been promulgated or that are about to be promulgated and any controversy or disagreements regarding the formation and implementation of rules. For this discussion, the Commission would invite legislative staff, the Office of Insurance Regulation, the Department of Financial Services, the Department of Community Affairs, insurers, the Consumer Advocate, and individual consumers to discuss the meaning and purpose of the law and/or rules implementing the law. In addition, the Commission will solicit information related to the ultimate purpose of the statute and what is intended to be accomplished as a result of the Commission's final report.

- (2) Hold a public meeting or a series of meetings to solicit testimony and gather data, but the meeting(s) should proceed in an organized fashion according to the following steps:
  - a. First, testimony needs to be heard regarding what the current process is.
    - i. Testimony from the Office of Insurance Regulation
    - ii. Testimony from the modeling firm Applied Research Associates and other modelers
    - iii. Testimony from other interested parties knowledgeable of the process
    - iv. The Commission will take notes in order to fully describe the current process. This will serve as the background early on in the report.
  - b. Second, testimony regarding what are the problems with the current process.
    - i. Testimony from insurance companies
    - ii. Testimony from consumers
    - iii. Testimony from the Office of Insurance Regulation
    - iv. Testimony from other interested parties
    - v. The Commission will take notes, and this will serve as material to follow the description of the current process.
  - c. Third, testimony regarding various solutions/recommendations for improving the process.
    - i. Testimony from insurance companies
    - ii. Testimony from the Office of Insurance Regulation
    - iii. Testimony from modelers
    - iv. Testimony from consumers
    - v. Testimony from other interested parties, i.e., other government agencies, universities, etc.
    - vi. The Commission will note the strengths and weaknesses of the various alternative solutions or recommendations and attempt to classify, prioritize, and evaluate the various solutions and/or recommendations.
  - d. Fourth, the Commission will hold a public meeting for the purpose of presenting a draft report.
    - i. The Commission will hear public comments regarding the draft document and will attempt to decide upon which recommendations are appropriate and which ones are not.
    - ii. The Commission will note all changes and modifications to the draft report.

- e. Fifth, the Commission will hold a public meeting for finalizing the report.
    - i. Commission members will vote as to each of the recommendations and a majority vote as to each recommendation will result in the recommendation being included in the final report.
    - ii. Any recommendation failing to gain a majority vote will be rejected, but may be put in an Appendix to the final report in a section entitled “Recommendations Considered But Not Included as a Final Recommendation.”
- (3) It is contemplated that the first three steps can be accomplished in one meeting. The fourth and fifth steps will need to be accomplished in separate meetings with sufficient time passing so as to allow the appropriate work products to be developed.

**Format of the Final Report:**

**Recommendations on Improving the Process of Assessing, Determining, and Applying Windstorm Mitigation Discounts, Credits, Other Rate Differentials, and Appropriate Reductions in Deductibles**

- I. Background
- II. Review of Applicable Statutes
- III. Description of Current Process
- IV. Problems/Issues with the Current Process
- V. Alternative Solutions Considered
- VI. Recommendations on Improving the Process
- VII. Appendix
  - a. Meetings Held – Dates, Agendas, and Transcript information
  - b. Recommendations Considered but not Adopted by the Commission

**Florida Statutes**

**627.0629 Residential property insurance; rate filings.--**

(1)(a) It is the intent of the Legislature that insurers must provide savings to consumers who install or implement windstorm damage mitigation techniques, alterations, or solutions to their properties to prevent windstorm losses. A rate filing for residential property insurance must include actuarially reasonable discounts, credits, or other rate differentials, or appropriate reductions in deductibles, for properties on which fixtures or construction techniques demonstrated to reduce the amount of loss in a windstorm have been installed or implemented. The fixtures or construction techniques shall include, but not be limited to, fixtures or construction techniques which enhance roof strength, roof covering performance, roof-to-wall strength, wall-to-floor-to-foundation strength, opening protection, and window, door, and skylight strength. Credits, discounts, or other rate differentials, or appropriate reductions in deductibles, for fixtures and construction techniques which meet the minimum requirements of the Florida Building Code must be included in the rate filing. All insurance companies

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

(b) By February 1, 2011, the Office of Insurance Regulation, in consultation with the Department of Financial Services and the Department of Community Affairs, shall develop and make publicly available a proposed method for insurers to establish discounts, credits, or other rate differentials for hurricane mitigation measures which directly correlate to the numerical rating assigned to a structure pursuant to the uniform home grading scale adopted by the Financial Services Commission pursuant to s. 215.55865, including any proposed changes to the uniform home grading scale. By October 1, 2011, the commission shall adopt rules requiring insurers to make rate filings for residential property insurance which revise insurers' discounts, credits, or other rate differentials for hurricane mitigation measures so that such rate differentials correlate directly to the uniform home grading scale. The rules may include such changes to the uniform home grading scale as the commission determines are necessary, and may specify the minimum required discounts, credits, or other rate differentials. Such rate differentials must be consistent with generally accepted actuarial principles and wind-loss mitigation studies. The rules shall allow a period of at least 2 years after the effective date of the revised mitigation discounts, credits, or other rate differentials for a property owner to obtain an inspection or otherwise qualify for the revised credit, during which time the insurer shall continue to apply the mitigation credit that was applied immediately prior to the effective date of the revised credit. Discounts, credits, and other rate differentials established for rate filings under this paragraph shall supersede, after adoption, the discounts, credits, and other rate differentials included in rate filings under paragraph (a).

(2)(a) A rate filing for residential property insurance made on or before the implementation of paragraph (b) may include rate factors that reflect the manner in which building code enforcement in a particular jurisdiction addresses the risk of wind damage; however, such a rate filing must also provide for variations from such rate factors on an individual basis based on an inspection of a particular structure by a licensed home inspector, which inspection may be at the cost of the insured.

(b) A rate filing for residential property insurance made more than 150 days after approval by the office of a building code rating factor plan submitted by a statewide rating organization shall include positive and negative rate factors that reflect the manner in which building code enforcement in a particular jurisdiction addresses risk of wind damage. The rate filing shall include variations from standard rate factors on an individual basis based on inspection of a particular structure by a licensed home inspector. If an inspection is requested by the insured, the insurer may require the insured to pay the reasonable cost of the inspection. This paragraph applies to structures constructed or renovated after the implementation of this paragraph.

(c) The premium notice shall specify the amount by which the rate has been adjusted as a result of this subsection and shall also specify the maximum possible positive and negative adjustments that are approved for use by the insurer under this subsection.

(3) A rate filing made on or after July 1, 1995, for mobile home owner's insurance must include appropriate discounts, credits, or other rate differentials for mobile homes constructed to comply with American Society of Civil Engineers Standard ANSI/ASCE 7-88, adopted by the United States Department of Housing and Urban Development on July 13, 1994, and that also comply with all applicable tie-down requirements provided by state law.

(4) The Legislature finds that separate consideration and notice of hurricane insurance premiums will assist consumers by providing greater assurance that hurricane premiums are lawful and by providing more complete information regarding the components of property insurance premiums. Effective January 1, 1997, a rate filing for residential property insurance shall be separated into two components, rates for hurricane coverage and rates for all other coverages. A premium notice reflecting a rate implemented on the basis of such a filing shall separately indicate the premium for hurricane coverage and the premium for all other coverages.

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

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

(7) An insurer may implement appropriate discounts or other rate differentials of up to 10 percent of the annual premium to mobile home owners who provide to the insurer evidence of a current inspection of tie-downs for the mobile home, certifying that the tie-downs have been properly installed and are in good condition.

(8) EVALUATION OF RESIDENTIAL PROPERTY STRUCTURAL SOUNDNESS.--

(a) It is the intent of the Legislature to provide a program whereby homeowners may obtain an evaluation of the wind resistance of their homes with respect to preventing damage from hurricanes, together with a recommendation of reasonable steps that may be taken to upgrade their homes to better withstand hurricane force winds.

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

(c) The program shall provide grants to homeowners, for the purpose of providing homeowner applicants with funds to conduct an evaluation of the integrity of their homes with respect to withstanding hurricane force winds, recommendations to retrofit the homes to better withstand damage from such winds, and the estimated cost to make the recommended retrofits.

(d) The Department of Community Affairs shall establish by rule standards to govern the quality of the evaluation, the quality of the recommendations for retrofitting, the eligibility of the persons conducting the evaluation, and the selection of applicants under the program. In establishing the rule, the Department of Community Affairs shall consult with the advisory committee to minimize the possibility of fraud or abuse in the evaluation and retrofitting process, and to ensure that funds spent by homeowners acting on the recommendations achieve positive results.

(e) The Citizens Property Insurance Corporation shall identify areas of this state with the greatest wind risk to residential properties and recommend annually to the Department of Community Affairs priority target areas for such evaluations and inclusion with the associated residential construction mitigation program.

(9) A property insurance rate filing that includes any adjustments related to premiums paid to the Florida Hurricane Catastrophe Fund must include a complete calculation of the insurer's catastrophe load, and the information in the filing may not be limited solely to recovery of moneys paid to the fund.

History.--s. 13, ch. 93-410; s. 7, ch. 95-276; s. 7, ch. 96-194; s. 4, ch. 97-55; s. 99, ch. 2000-141; ss. 34, 42, ch. 2001-186; ss. 3, 9, ch. 2001-372; s. 20, ch. 2002-293; s. 1067, ch. 2003-261; s. 5, ch. 2005-111; s. 14, ch. 2006-12; ss. 19, 44, ch. 2007-1; s. 12, ch. 2008-66.

**627.0628 Florida Commission on Hurricane Loss Projection Methodology; public records exemption; public meetings exemption.--**

**(1) LEGISLATIVE FINDINGS AND INTENT.--**

(a) Reliable projections of hurricane losses are necessary in order to assure that rates for residential property insurance meet the statutory requirement that rates be neither excessive nor inadequate. The ability to accurately project hurricane losses has been enhanced greatly in recent years through the use of computer modeling. It is the public policy of this state to encourage the use of the most sophisticated actuarial methods to assure that consumers are charged lawful rates for residential property insurance coverage.

(b) The Legislature recognizes the need for expert evaluation of computer models and other recently developed or improved actuarial methodologies for projecting hurricane losses, in order to resolve

conflicts among actuarial professionals, and in order to provide both immediate and continuing improvement in the sophistication of actuarial methods used to set rates charged to consumers.

(c) It is the intent of the Legislature to create the Florida Commission on Hurricane Loss Projection Methodology as a panel of experts to provide the most actuarially sophisticated guidelines and standards for projection of hurricane losses possible, given the current state of actuarial science. It is the further intent of the Legislature that such standards and guidelines must be used by the State Board of Administration in developing reimbursement premium rates for the Florida Hurricane Catastrophe Fund, and, subject to <sup>1</sup>paragraph (3)(c), must be used by insurers in rate filings under s. 627.062 unless the way in which such standards and guidelines were applied by the insurer was erroneous, as shown by a preponderance of the evidence.

(d) It is the intent of the Legislature that such standards and guidelines be employed as soon as possible, and that they be subject to continuing review thereafter.

(e) The Legislature finds that the authority to take final agency action with respect to insurance ratemaking is vested in the Office of Insurance Regulation and the Financial Services Commission, and that the processes, standards, and guidelines of the Florida Commission on Hurricane Loss Projection Methodology do not constitute final agency action or statements of general applicability that implement, interpret, or prescribe law or policy; accordingly, chapter 120 does not apply to the processes, standards, and guidelines of the Florida Commission on Hurricane Loss Projection Methodology.

(2) COMMISSION CREATED.--

(a) There is created the Florida Commission on Hurricane Loss Projection Methodology, which is assigned to the State Board of Administration. For the purposes of this section, the term "commission" means the Florida Commission on Hurricane Loss Projection Methodology. The commission shall be administratively housed within the State Board of Administration, but it shall independently exercise the powers and duties specified in this section.

(b) The commission shall consist of the following 11 members:

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 of the Department of Community Affairs.
5. The actuary member of the Florida Hurricane Catastrophe Fund Advisory Council.
6. An employee of the office who is an actuary responsible for property insurance rate filings and who is appointed by the director of the office.
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.

(c) Members designated under subparagraphs (b)1.-5. shall serve on the commission as long as they maintain the respective offices designated in subparagraphs (b)1.-5. The member appointed by the director of the office under subparagraph (b)6. shall serve on the commission until the end of the term of office of the director who appointed him or her, unless removed earlier by the director for cause. Members appointed by the Chief Financial Officer under subparagraph (b)7. shall serve on the commission until the end of the term of office of the Chief Financial Officer who appointed them, unless earlier removed by the Chief Financial Officer for cause. Vacancies on the commission shall be filled in the same manner as the original appointment.

(d) The State Board of Administration shall annually appoint one of the members of the commission to serve as chair.

(e) Members of the commission shall serve without compensation, but shall be reimbursed for per diem and travel expenses pursuant to s. 112.061.

(f) The State Board of Administration shall, as a cost of administration of the Florida Hurricane Catastrophe Fund, provide for travel, expenses, and staff support for the commission.

(g) There shall be no liability on the part of, and no cause of action of any nature shall arise against, any member of the commission, any member of the State Board of Administration, or any employee of the State Board of Administration for any action taken in the performance of their duties under this section. In addition, the commission may, in writing, waive any potential cause of action for negligence of a consultant, contractor, or contract employee engaged to assist the commission.

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

(a) The commission shall consider any actuarial methods, principles, standards, models, or output ranges that have the potential for improving the accuracy of or reliability of the hurricane loss projections used in residential property insurance rate filings. The commission shall, from time to time, adopt findings as to the accuracy or reliability of particular methods, principles, standards, models, or output ranges.

(b) The commission shall consider any actuarial methods, principles, standards, or models that have the potential for improving the accuracy of or reliability of projecting probable maximum loss levels. The commission shall adopt findings as to the accuracy or reliability of particular methods, principles, standards, or models related to probable maximum loss calculations.

(c) In establishing reimbursement premiums for the Florida Hurricane Catastrophe Fund, the State Board of Administration must, to the extent feasible, employ actuarial methods, principles, standards, models, or output ranges found by the commission to be accurate or reliable.

(d) With respect to a rate filing under s. 627.062, an insurer shall employ and may not modify or adjust actuarial methods, principles, standards, models, or output ranges found by the commission to be accurate or reliable in determining hurricane loss factors for use in a rate filing under s. 627.062. An insurer shall employ and may not modify or adjust models found by the commission to be accurate or reliable in determining probable maximum loss levels pursuant to paragraph (b) with respect to a rate filing under s. 627.062 made more than 60 days after the commission has made such findings.

(e) The commission shall adopt revisions to previously adopted actuarial methods, principles, standards, models, or output ranges every odd year ~~at least annually~~.

(f)1. A trade secret, as defined in s. 812.081, that is used in designing and constructing a hurricane loss model and that is provided pursuant to this section, by a private company, to the commission, office, or consumer advocate appointed pursuant to s. 627.0613, is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

2. That portion of a meeting of the commission or of a rate proceeding on an insurer's rate filing at which a trade secret made confidential and exempt by this paragraph is discussed is exempt from s. 286.011 and s. 24(b), Art. I of the State Constitution.

3. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15, and shall stand repealed on October 2, 2010, unless reviewed and saved from repeal through reenactment by the Legislature.

(4) REVIEW OF DISCOUNTS, CREDITS, OTHER RATE DIFFERENTIALS, AND REDUCTIONS IN DEDUCTIBLES RELATING TO WINDSTORM MITIGATION.--The commission shall hold public meetings for the purpose of receiving testimony and data regarding the implementation of windstorm mitigation discounts, credits, other rate differentials, and appropriate reductions in deductibles pursuant to s. 627.0629. After reviewing the testimony and data as well as any other information the commission deems appropriate, the commission shall present a report by February 1, 2010, to the Governor, the Cabinet, the President of the Senate, and the Speaker of the House of Representatives, including recommendations on improving the process of assessing, determining, and applying windstorm mitigation discounts, credits, other rate differentials, and appropriate reductions in deductibles pursuant to s. 627.0629.

History.--s. 6, ch. 95-276; s. 6, ch. 96-194; s. 3, ch. 97-55; s. 4, ch. 2000-333; s. 1066, ch. 2003-261; s. 79, ch. 2004-390; s. 4, ch. 2005-111; s. 3, ch. 2005-264; s. 12, ch. 2006-12; s. 145, ch. 2008-4; s. 11, ch. 2008-66.

1Note.--Redesignated as paragraph (3)(d) by s. 11, ch. 2008-66.