

Bill No. CS/HB 1-A (c1)

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CHAMBER ACTION

Senate

House

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The Conference Committee on CS/HB 1-A, CS/CS/HB 3-A, CS/CS/HB 5-A, HB 7-A, and CS/HB 9-A recommended the following amendment :

**Conference Committee Amendment (with title amendment)**

Delete everything after the enacting clause

and insert:

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

163.01 Florida Interlocal Cooperation Act of 1969.--

(3) As used in this section:

(b) "Public agency" means a political subdivision, agency, or officer of this state or of any state of the United States, including, but not limited to, state government, county, city, school district, single and multipurpose special district, single and multipurpose public authority, metropolitan or consolidated government, a separate legal entity or administrative entity created under subsection (7),

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1 an independently elected county officer, any agency of the  
2 United States Government, a federally recognized Native  
3 American tribe, and any similar entity of any other state of  
4 the United States.

5 (7)

6 (e)1. Notwithstanding the provisions of paragraph (c),  
7 any separate legal entity, created pursuant to the provisions  
8 of this section and controlled by counties or municipalities  
9 of this state, the membership of which consists or is to  
10 consist only of public agencies of this state, may, for the  
11 purpose of financing the provision or acquisition of liability  
12 or property coverage contracts for or from one or more local  
13 government liability or property pools to provide liability or  
14 property coverage for counties, municipalities, or other  
15 public agencies of this state, exercise all powers in  
16 connection with the authorization, issuance, and sale of  
17 bonds. All of the privileges, benefits, powers, and terms of  
18 s. 125.01 relating to counties and s. 166.021 relating to  
19 municipalities shall be fully applicable to such entity and  
20 such entity shall be considered a unit of local government for  
21 all of the privileges, benefits, powers, and terms of part I  
22 of chapter 159. Bonds issued by such entity shall be deemed  
23 issued on behalf of counties, municipalities, or public  
24 agencies which enter into loan agreements with such entity as  
25 provided in this paragraph. Proceeds of bonds issued by such  
26 entity may be loaned to counties, municipalities, or other  
27 public agencies of this state, whether or not such counties,  
28 municipalities, or other public agencies are also members of  
29 the entity issuing the bonds, and such counties,  
30 municipalities, or other public agencies may in turn deposit  
31 such loan proceeds with a separate local government liability

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1 or property pool for purposes of providing or acquiring  
2 liability or property coverage contracts.

3           2. Counties or municipalities of this state are  
4 authorized pursuant to this section, in addition to the  
5 authority provided by s. 125.01, part II of chapter 166, and  
6 other applicable law, to issue bonds for the purpose of  
7 acquiring liability coverage contracts from a local government  
8 liability pool. Any individual county or municipality may, by  
9 entering into interlocal agreements with other counties,  
10 municipalities, or public agencies of this state, issue bonds  
11 on behalf of itself and other counties, municipalities, or  
12 other public agencies, for purposes of acquiring a liability  
13 coverage contract or contracts from a local government  
14 liability pool. Counties, municipalities, or other public  
15 agencies are also authorized to enter into loan agreements  
16 with any entity created pursuant to subparagraph 1., or with  
17 any county or municipality issuing bonds pursuant to this  
18 subparagraph, for the purpose of obtaining bond proceeds with  
19 which to acquire liability coverage contracts from a local  
20 government liability pool. No county, municipality, or other  
21 public agency shall at any time have more than one loan  
22 agreement outstanding for the purpose of obtaining bond  
23 proceeds with which to acquire liability coverage contracts  
24 from a local government liability pool. Obligations of any  
25 county, municipality, or other public agency of this state  
26 pursuant to a loan agreement as described above may be  
27 validated as provided in chapter 75. Prior to the issuance of  
28 any bonds pursuant to subparagraph 1. or this subparagraph for  
29 the purpose of acquiring liability coverage contracts from a  
30 local government liability pool, the reciprocal insurer or the  
31 manager of any self-insurance program shall demonstrate to the

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1 satisfaction of the Office of Insurance Regulation of the  
2 Financial Services Commission that excess liability coverage  
3 for counties, municipalities, or other public agencies is  
4 reasonably unobtainable in the amounts provided by such pool  
5 or that the liability coverage obtained through acquiring  
6 contracts from a local government liability pool, after taking  
7 into account costs of issuance of bonds and any other  
8 administrative fees, is less expensive to counties,  
9 municipalities, or special districts than similar commercial  
10 coverage then reasonably available.

11           3. Any entity created pursuant to this section or any  
12 county or municipality may also issue bond anticipation notes,  
13 as provided by s. 215.431, in connection with the  
14 authorization, issuance, and sale of such bonds. In addition,  
15 the governing body of such legal entity or the governing body  
16 of such county or municipality may also authorize bonds to be  
17 issued and sold from time to time and may delegate, to such  
18 officer, official, or agent of such legal entity as the  
19 governing body of such legal entity may select, the power to  
20 determine the time; manner of sale, public or private;  
21 maturities; rate or rates of interest, which may be fixed or  
22 may vary at such time or times and in accordance with a  
23 specified formula or method of determination; and other terms  
24 and conditions as may be deemed appropriate by the officer,  
25 official, or agent so designated by the governing body of such  
26 legal entity. However, the amounts and maturities of such  
27 bonds and the interest rate or rates of such bonds shall be  
28 within the limits prescribed by the governing body of such  
29 legal entity and its resolution delegating to such officer,  
30 official, or agent the power to authorize the issuance and  
31 sale of such bonds. Any series of bonds issued pursuant to

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1 | this paragraph for liability coverage shall mature no later  
 2 | than 7 years following the date of issuance ~~thereof~~. A series  
 3 | of bonds issued pursuant to this paragraph for property  
 4 | coverage shall mature no later than 30 years following the  
 5 | date of issuance.

6 |         4. Bonds issued pursuant to subparagraph 1. may be  
 7 | validated as provided in chapter 75. The complaint in any  
 8 | action to validate such bonds shall be filed only in the  
 9 | Circuit Court for Leon County. The notice required to be  
 10 | published by s. 75.06 shall be published in Leon County and in  
 11 | each county which is an owner of the entity issuing the bonds,  
 12 | or in which a member of the entity is located, and the  
 13 | complaint and order of the circuit court shall be served only  
 14 | on the State Attorney of the Second Judicial Circuit and on  
 15 | the state attorney of each circuit in each county or  
 16 | municipality which is an owner of the entity issuing the bonds  
 17 | or in which a member of the entity is located.

18 |         5. Bonds issued pursuant to subparagraph 2. may be  
 19 | validated as provided in chapter 75. The complaint in any  
 20 | action to validate such bonds shall be filed in the circuit  
 21 | court of the county or municipality which will issue the  
 22 | bonds. The notice required to be published by s. 75.06 shall  
 23 | be published only in the county where the complaint is filed,  
 24 | and the complaint and order of the circuit court shall be  
 25 | served only on the state attorney of the circuit in the county  
 26 | or municipality which will issue the bonds.

27 |         6. The participation by any county, municipality, or  
 28 | other public agency of this state in a local government  
 29 | liability pool shall not be deemed a waiver of immunity to the  
 30 | extent of liability coverage, nor shall any contract entered  
 31 | regarding such a local government liability pool be required

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1 to contain any provision for waiver.

2       (h)1. Notwithstanding the provisions of paragraph (c),  
3 any separate legal entity consisting of an alliance, as  
4 defined in s. 395.106(2)(a), created pursuant to this  
5 paragraph and controlled by and whose members consist of  
6 eligible entities comprised of special districts created  
7 pursuant to a special act and having the authority to own or  
8 operate one or more hospitals licensed in this state or  
9 hospitals licensed in this state that are owned, operated, or  
10 funded by a county or municipality, for the purpose of  
11 providing property insurance coverage as defined in s.  
12 395.106(2)(c), for such eligible entities, may exercise all  
13 powers under this subsection in connection with borrowing  
14 funds for such purposes, including, without limitation, the  
15 authorization, issuance, and sale of bonds, notes, or other  
16 obligations of indebtedness. Borrowed funds, including, but  
17 not limited to, bonds issued by such alliance shall be deemed  
18 issued on behalf of such eligible entities that enter into  
19 loan agreements with such separate legal entity as provided in  
20 this paragraph.

21       2. Any such separate legal entity shall have all the  
22 powers that are provided by the interlocal agreement under  
23 which the entity is created or that are necessary to finance,  
24 operate, or manage the alliance's property insurance coverage  
25 program. Proceeds of bonds, notes, or other obligations issued  
26 by such an entity may be loaned to any one or more eligible  
27 entities. Such eligible entities are authorized to enter into  
28 loan agreements with any separate legal entity created  
29 pursuant to this paragraph for the purpose of obtaining moneys  
30 with which to finance property insurance coverage or claims.  
31 Obligations of any eligible entity pursuant to a loan

1 agreement as described in this paragraph may be validated as  
2 provided in chapter 75.

3 3. Any bonds, notes, or other obligations to be issued  
4 or incurred by a separate legal entity created pursuant to  
5 this paragraph shall be authorized by resolution of the  
6 governing body of such entity and bear the date or dates;  
7 mature at the time or times, not exceeding 30 years from their  
8 respective dates; bear interest at the rate or rates, which  
9 may be fixed or vary at such time or times and in accordance  
10 with a specified formula or method of determination; be  
11 payable at the time or times; be in the denomination; be in  
12 the form; carry the registration privileges; be executed in  
13 the manner; be payable from the sources and in the medium of  
14 payment and at the place; and be subject to redemption,  
15 including redemption prior to maturity, as the resolution may  
16 provide. The bonds, notes, or other obligations may be sold at  
17 public or private sale for such price as the governing body of  
18 the separate legal entity shall determine. The bonds may be  
19 secured by such credit enhancement, if any, as the governing  
20 body of the separate legal entity deems appropriate. The bonds  
21 may be secured by an indenture of trust or trust agreement. In  
22 addition, the governing body of the separate legal entity may  
23 delegate, to such officer or official of such entity as the  
24 governing body may select, the power to determine the time;  
25 manner of sale, public or private; maturities; rate or rates  
26 of interest, which may be fixed or may vary at such time or  
27 times and in accordance with a specified formula or method of  
28 determination; and other terms and conditions as may be deemed  
29 appropriate by the officer or official so designated by the  
30 governing body of such separate legal entity. However, the  
31 amounts and maturities of such bonds, the interest rate or

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1 rates, and the purchase price of such bonds shall be within  
 2 the limits prescribed by the governing body of such separate  
 3 legal entity in its resolution delegating to such officer or  
 4 official the power to authorize the issuance and sale of such  
 5 bonds.

6 4. Bonds issued pursuant to this paragraph may be  
 7 validated as provided in chapter 75. The complaint in any  
 8 action to validate such bonds shall be filed only in the  
 9 Circuit Court for Leon County. The notice required to be  
 10 published by s. 75.06 shall be published in Leon County and in  
 11 each county in which an eligible entity that is a member of an  
 12 alliance is located. The complaint and order of the circuit  
 13 court shall be served only on the state attorney of the Second  
 14 Judicial Circuit and on the state attorney of each circuit in  
 15 each county in which an eligible entity receiving bond  
 16 proceeds is located.

17 5. The accomplishment of the authorized purposes of a  
 18 separate legal entity created under this paragraph is deemed  
 19 in all respects for the benefit, increase of the commerce and  
 20 prosperity, and improvement of the health and living  
 21 conditions of the people of this state. Inasmuch as the  
 22 separate legal entity performs essential public functions in  
 23 accomplishing its purposes, the separate legal entity is not  
 24 required to pay any taxes or assessments of any kind upon any  
 25 property acquired or used by the entity for such purposes or  
 26 upon any revenues at any time received by the entity. The  
 27 bonds, notes, and other obligations of such separate legal  
 28 entity, the transfer of and income from such bonds, notes, and  
 29 other obligations, including any profits made on the sale of  
 30 such bonds, notes, and other obligations, are at all times  
 31 free from taxation of any kind of the state or by any



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1 political subdivision or other agency or instrumentality if  
2 the state. The exemption granted in this paragraph does not  
3 apply to any tax imposed by chapter 220 on interest, income,  
4 or profits on debt obligations owned by corporations.

5 6. The participation by any eligible entity in an  
6 alliance or a separate legal entity created pursuant to this  
7 paragraph may not be deemed a waiver of immunity to the extent  
8 of liability or any other coverage and a contract entered  
9 regarding such alliance is not required to contain any  
10 provision for waiver.

11 Section 2. Paragraphs (b), (c), and (d) of subsection  
12 (4), paragraph (b) of subsection (5), and paragraph (a) of  
13 subsection (7) of section 215.555, Florida Statutes, are  
14 amended, and subsections (16) and (17) are added to that  
15 section, to read:

16 215.555 Florida Hurricane Catastrophe Fund.--

17 (4) REIMBURSEMENT CONTRACTS.--

18 (b)1. The contract shall contain a promise by the  
19 board to reimburse the insurer for 45 percent, 75 percent, or  
20 90 percent of its losses from each covered event in excess of  
21 the insurer's retention, plus 5 percent of the reimbursed  
22 losses to cover loss adjustment expenses.

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

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1 entity created under s. 627.351 must elect the 90-percent  
 2 coverage level.

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

6           4. Notwithstanding any other provision contained in  
 7 this section, the board shall make available to insurers that  
 8 participated in 2006, insurers qualifying as limited  
 9 apportionment companies under s. 627.351(6)(c) which began  
 10 writing property insurance in 2007, and insurers that were  
 11 approved to participate in 2006 or that are approved in 2007  
 12 for the Insurance Capital Build-Up Incentive Program pursuant  
 13 to s. 215.5595, a contract or contract addendum that provides  
 14 an additional amount of reimbursement coverage of up to \$10  
 15 million. The premium to be charged for this additional  
 16 reimbursement coverage shall be 50 percent of the additional  
 17 reimbursement coverage provided, which shall include one  
 18 prepaid reinstatement. The minimum retention level that an  
 19 eligible participating insurer must retain associated with  
 20 this additional coverage layer is 30 percent of the insurer's  
 21 surplus as of December ~~March~~ 31, 2006. This coverage shall be  
 22 in addition to all other coverage that may be provided under  
 23 this section. The coverage provided by the fund under this  
 24 subsection shall be in addition to the claims-paying capacity  
 25 as defined in subparagraph (c)1., but only with respect to  
 26 those insurers that select the additional coverage option and  
 27 meet the requirements of this subsection. The claims-paying  
 28 capacity with respect to all other participating insurers and  
 29 limited apportionment companies that do not select the  
 30 additional coverage option shall be limited to their  
 31 reimbursement premium's proportionate share of the actual

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1 | claims-paying capacity otherwise defined in subparagraph (c)1.  
 2 | and as provided for under the terms of the reimbursement  
 3 | contract. Coverage provided in the reimbursement contract ~~for~~  
 4 | ~~participating insurers~~ will not be affected by the additional  
 5 | premiums paid by participating insurers ~~limited apportionment~~  
 6 | ~~companies~~ exercising the additional coverage option allowed in  
 7 | this subparagraph. This subparagraph expires on May 31, 2008  
 8 | ~~2007~~.

9 |           (c)1. The contract shall also provide that the  
 10 | obligation of the board with respect to all contracts covering  
 11 | a particular contract year shall not exceed the actual  
 12 | claims-paying capacity of the fund up to a limit of \$15  
 13 | billion for that contract year adjusted based upon the  
 14 | reported exposure from the prior contract year to reflect the  
 15 | percentage growth in exposure to the fund for covered policies  
 16 | since 2003, provided the dollar growth in the limit may not  
 17 | increase in any year by an amount greater than the dollar  
 18 | growth of the balance of the fund as of December 31, less any  
 19 | premiums or interest attributable to optional coverage, as  
 20 | defined by rule which occurred over the prior calendar year.

21 |           2. In May before the start of the upcoming contract  
 22 | year and in October during the contract year, the board shall  
 23 | publish in the Florida Administrative Weekly a statement of  
 24 | the fund's estimated borrowing capacity and the projected  
 25 | balance of the fund as of December 31. After the end of each  
 26 | calendar year, the board shall notify insurers of the  
 27 | estimated borrowing capacity and the balance of the fund as of  
 28 | December 31 to provide insurers with data necessary to assist  
 29 | them in determining their retention and projected payout from  
 30 | the fund for loss reimbursement purposes. In conjunction with  
 31 | the development of the premium formula, as provided for in

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1 subsection (5), the board shall publish factors or multiples  
 2 that assist insurers in determining their retention and  
 3 projected payout for the next contract year. For all  
 4 regulatory and reinsurance purposes, an insurer may calculate  
 5 its projected payout from the fund as its share of the total  
 6 fund premium for the current contract year multiplied by the  
 7 sum of the projected balance of the fund as of December 31 and  
 8 the estimated borrowing capacity for that contract year as  
 9 reported under this subparagraph.

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

25 2. In determining reimbursements pursuant to this  
 26 subsection, the contract shall provide that the board shall+  
 27 ~~a. Next~~ pay to each insurer such insurer's projected  
 28 payout, which is the amount of reimbursement it is owed, up to  
 29 an amount equal to the insurer's share of the actual premium  
 30 paid for that contract year, multiplied by the actual  
 31 claims-paying capacity available for that contract year+

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1 ~~provided, entities created pursuant to s. 627.351 shall be~~  
2 ~~further reimbursed in accordance with sub-subparagraph b.~~

3 ~~b. Thereafter, establish the prorated reimbursement~~  
4 ~~level at the highest level for which any remaining fund~~  
5 ~~balance or bond proceeds are sufficient to reimburse entities~~  
6 ~~created pursuant to s. 627.351 based on reimbursable losses~~  
7 ~~exceeding the amounts payable pursuant to sub-subparagraph a.~~  
8 ~~for the current contract year.~~

9 (5) REIMBURSEMENT PREMIUMS.--

10 (b) The State Board of Administration shall select an  
11 independent consultant to develop a formula for determining  
12 the actuarially indicated premium to be paid to the fund. The  
13 formula shall specify, for each zip code or other limited  
14 geographical area, the amount of premium to be paid by an  
15 insurer for each \$1,000 of insured value under covered  
16 policies in that zip code or other area. In establishing  
17 premiums, the board shall consider the coverage elected under  
18 paragraph (4)(b) and any factors that tend to enhance the  
19 actuarial sophistication of ratemaking for the fund, including  
20 deductibles, type of construction, type of coverage provided,  
21 relative concentration of risks, and other such factors deemed  
22 by the board to be appropriate. The formula may provide for a  
23 procedure to determine the premiums to be paid by new insurers  
24 that begin writing covered policies after the beginning of a  
25 contract year, taking into consideration when the insurer  
26 starts writing covered policies, the potential exposure of the  
27 insurer, the potential exposure of the fund, the  
28 administrative costs to the insurer and to the fund, and any  
29 other factors deemed appropriate by the board. ~~The formula~~  
30 ~~shall include a factor of 25 percent of the fund's actuarially~~  
31 ~~indicated premium in order to provide for more rapid cash~~

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1 ~~buildup in the fund.~~ The formula must be approved by unanimous  
2 vote of the board. The board may, at any time, revise the  
3 formula pursuant to the procedure provided in this paragraph.

4 (7) ADDITIONAL POWERS AND DUTIES.--

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

13 (16) TEMPORARY EMERGENCY OPTIONS FOR ADDITIONAL  
14 COVERAGE.--

15 (a) Findings and intent.--

16 1. The Legislature finds that:

17 a. Because of temporary disruptions in the market for  
18 catastrophic reinsurance, many property insurers were unable  
19 to procure reinsurance for the 2006 hurricane season with an  
20 attachment point below the insurers' respective Florida  
21 Hurricane Catastrophe Fund attachment points, were unable to  
22 procure sufficient amounts of such reinsurance, or were able  
23 to procure such reinsurance only by incurring substantially  
24 higher costs than in prior years.

25 b. The reinsurance market problems were responsible,  
26 at least in part, for substantial premium increases to many  
27 consumers and increases in the number of policies issued by  
28 the Citizens Property Insurance Corporation.

29 c. It is likely that the reinsurance market  
30 disruptions will not significantly abate prior to the 2007  
31 hurricane season.

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1           2. It is the intent of the Legislature to create a  
 2 temporary emergency program, applicable to the 2007, 2008, and  
 3 2009 hurricane seasons, to address these market disruptions  
 4 and enable insurers, at their option, to procure additional  
 5 coverage from the Florida Hurricane Catastrophe Fund.

6           (b) Applicability of other provisions of this  
 7 section.--All provisions of this section and the rules adopted  
 8 under this section apply to the program created by this  
 9 subsection unless specifically superseded by this subsection.

10           (c) Optional coverage.--For the contract year  
 11 commencing June 1, 2007, and ending May 31, 2008, the contract  
 12 year commencing June 1, 2008, and ending May 31, 2009, and the  
 13 contract year commencing June 1, 2009, and ending May 31,  
 14 2010, the board shall offer for each of such years the  
 15 optional coverage as provided in this subsection.

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

18           1. "TEACO options" means the temporary emergency  
 19 additional coverage options created under this subsection.

20           2. "TEACO insurer" means an insurer that has opted to  
 21 obtain coverage under the TEACO options in addition to the  
 22 coverage provided to the insurer under its reimbursement  
 23 contract.

24           3. "TEACO reimbursement premium" means the premium  
 25 charged by the fund for coverage provided under the TEACO  
 26 options.

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

31           a. The board shall calculate and report to each TEACO

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1 insurer the TEACO retention multiples. There shall be three  
2 TEACO retention multiples for defining coverage. Each multiple  
3 shall be calculated by dividing \$3 billion, \$4 billion, or \$5  
4 billion by the total estimated TEACO reimbursement premium  
5 assuming all insurers selected that option. Total estimated  
6 TEACO reimbursement premium for purposes of the calculation  
7 under this sub-subparagraph shall be calculated using the  
8 assumption that all insurers have selected a specific TEACO  
9 retention multiple option and have selected the 90-percent  
10 coverage level.

11 b. The TEACO retention multiples as determined under  
12 sub-subparagraph a. shall be adjusted to reflect the coverage  
13 level elected by the insurer. For insurers electing the  
14 90-percent coverage level, the adjusted retention multiple is  
15 100 percent of the amount determined under sub-subparagraph a.  
16 For insurers electing the 75-percent coverage level, the  
17 retention multiple is 120 percent of the amount determined  
18 under sub-subparagraph a. For insurers electing the 45-percent  
19 coverage level, the adjusted retention multiple is 200 percent  
20 of the amount determined under sub-subparagraph a.

21 c. An insurer shall determine its provisional TEACO  
22 retention by multiplying its provisional TEACO reimbursement  
23 premium by the applicable adjusted TEACO retention multiple  
24 and shall determine its actual TEACO retention by multiplying  
25 its actual TEACO reimbursement premium by the applicable  
26 adjusted TEACO retention multiple.

27 d. For TEACO insurers who experience multiple covered  
28 events causing loss during the contract year, the insurer's  
29 full TEACO retention shall be applied to each of the covered  
30 events causing the two largest losses for that insurer. For  
31 other covered events resulting in losses, the TEACO option



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1 does not apply and the insurer's retention shall be one-third  
2 of the full retention as calculated under paragraph (2)(e).

3 5. "TEACO addendum" means an addendum to the  
4 reimbursement contract reflecting the obligations of the fund  
5 and TEACO insurers under the program created by this  
6 subsection.

7 (e) TEACO addendum.--

8 1. The TEACO addendum shall provide for reimbursement  
9 of TEACO insurers for covered events occurring during the  
10 contract year, in exchange for the TEACO reimbursement premium  
11 paid into the fund under paragraph (f). Any insurer writing  
12 covered policies has the option of choosing to accept the  
13 TEACO addendum for any of the three contract years that the  
14 coverage is offered.

15 2. The TEACO addendum shall contain a promise by the  
16 board to reimburse the TEACO insurer for 45 percent, 75  
17 percent, or 90 percent of its losses from each covered event  
18 in excess of the insurer's TEACO retention, plus 5 percent of  
19 the reimbursed losses to cover loss adjustment expenses. The  
20 percentage shall be the same as the coverage level selected by  
21 the insurer under paragraph (4)(b).

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

25 4. The TEACO addendum shall also provide that the  
26 obligation of the board with respect to all TEACO addenda  
27 shall not exceed an amount equal to two times the difference  
28 between the industry retention level calculated under  
29 paragraph (2)(e) and the \$3 billion, \$4 billion, or \$5 billion  
30 industry TEACO retention level options actually selected, but  
31 in no event may the board's obligation exceed the actual

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1 claims-paying capacity of the fund plus the additional  
 2 capacity created in paragraph (g). If the actual claims-paying  
 3 capacity and the additional capacity created under paragraph  
 4 (g) fall short of the board's obligations under the  
 5 reimbursement contract, each insurer's share of the fund's  
 6 capacity shall be pro rated based on the premium an insurer  
 7 pays for its normal reimbursement coverage and the premium  
 8 paid for its optional TEACO coverage as each such premium  
 9 bears to the total premiums paid to the fund times the  
 10 available capacity.

11 5. The priorities, schedule, and method of  
 12 reimbursements under the TEACO addendum shall be the same as  
 13 provided under subsection (4).

14 6. A TEACO insurer's maximum reimbursement under the  
 15 TEACO addendum shall be calculated by multiplying the  
 16 insurer's share of the estimated total TEACO reimbursement  
 17 premium as calculated under sub-subparagraph (d)4.a. by an  
 18 amount equal to two times the difference between the industry  
 19 retention level calculated under paragraph (2)(e) and the \$3  
 20 billion, \$4 billion, or \$5 billion industry TEACO retention  
 21 level specified in sub-subparagraph (d)4.a. as selected by the  
 22 TEACO insurer.

23 (f) TEACO reimbursement premiums.--

24 1. Each TEACO insurer shall pay to the fund, in the  
 25 manner and at the time provided in the reimbursement contract  
 26 for payment of reimbursement premiums, a TEACO reimbursement  
 27 premium calculated as specified in this paragraph.

28 2. The TEACO reimbursement premiums shall be  
 29 calculated based on the assumption that, if all insurers  
 30 entering into reimbursement contracts under subsection (4)  
 31 also accepted the TEACO option:

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

6           b. The TEACO reimbursement premium associated with the  
 7 \$4 billion retention option would be equal to 80 percent of  
 8 the difference between the industry retention level calculated  
 9 under paragraph (2)(e) and the \$4 billion industry TEACO  
 10 retention level.

11           c. The TEACO premium associated with the \$5 billion  
 12 retention option would be equal to 75 percent of the  
 13 difference between the industry retention level calculated  
 14 under paragraph (2)(e) and the \$5 billion industry TEACO  
 15 retention level.

16           3. Each insurer's TEACO premium shall be calculated  
 17 based on its share of the total TEACO reimbursement premiums  
 18 based on its coverage selection under the TEACO addendum.

19           (g) Effect on claims-paying capacity of the fund.--For  
 20 the contract term commencing June 1, 2007, the contract year  
 21 commencing June 1, 2008, and the contract term beginning June  
 22 1, 2009, the program created by this subsection shall increase  
 23 the claims-paying capacity of the fund as provided in  
 24 subparagraph (4)(c)1. by an amount equal to two times the  
 25 difference between the industry retention level calculated  
 26 under paragraph (2)(e) and the \$3 billion industry TEACO  
 27 retention level specified in sub-subparagraph (d)4.a. The  
 28 additional capacity shall apply only to the additional  
 29 coverage provided by the TEACO option and shall not otherwise  
 30 affect any insurer's reimbursement from the fund.

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

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1       (a) Findings and intent.--

2           1. The Legislature finds that:

3           a. Because of temporary disruptions in the market for  
4 catastrophic reinsurance, many property insurers were unable  
5 to procure sufficient amounts of reinsurance for the 2006  
6 hurricane season or were able to procure such reinsurance only  
7 by incurring substantially higher costs than in prior years.

8           b. The reinsurance market problems were responsible,  
9 at least in part, for substantial premium increases to many  
10 consumers and increases in the number of policies issued by  
11 Citizens Property Insurance Corporation.

12           c. It is likely that the reinsurance market  
13 disruptions will not significantly abate prior to the 2007  
14 hurricane season.

15           2. It is the intent of the Legislature to create  
16 options for insurers to purchase a temporary increased  
17 coverage limit above the statutorily determined limit in  
18 subparagraph (4)(c)1., applicable for the 2007, 2008, and 2009  
19 hurricane seasons, to address market disruptions and enable  
20 insurers, at their option, to procure additional coverage from  
21 the Florida Hurricane Catastrophe Fund.

22           (b) Applicability of other provisions of this  
23 section.--All provisions of this section and the rules adopted  
24 under this section apply to the coverage created by this  
25 subsection unless specifically superseded by provisions in  
26 this subsection.

27           (c) Optional coverage.--For the contract year  
28 commencing June 1, 2007, and ending May 31, 2008, the contract  
29 year commencing June 1, 2008, and ending May 31, 2009, the  
30 contract year commencing June 1, 2009, and ending May 31,  
31 2010, the board shall offer, for each of such years, the

1 optional coverage as provided in this subsection.

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

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

5 2. "FHCF reimbursement premium" means the premium paid  
6 by an insurer for its coverage as a mandatory participant in  
7 the FHCF, but does not include additional premiums for  
8 optional coverages.

9 3. "Payout multiple" means the number or multiple  
10 created by dividing the statutorily defined claims-paying  
11 capacity as determined in subparagraph (4)(c)1. by the  
12 aggregate reimbursement premiums paid by all insurers  
13 estimated or projected as of calendar year-end.

14 4. "TICL" means the temporary increase in coverage  
15 limit.

16 5. "TICL options" means the temporary increase in  
17 coverage options created under this subsection.

18 6. "TICL insurer" means an insurer that has opted to  
19 obtain coverage under the TICL options addendum in addition to  
20 the coverage provided to the insurer under its FHCF  
21 reimbursement contract.

22 7. "TICL reimbursement premium" means the premium  
23 charged by the fund for coverage provided under the TICL  
24 option.

25 8. "TICL coverage multiple" means the coverage  
26 multiple when multiplied by an insurer's reimbursement premium  
27 that defines the temporary increase in coverage limit.

28 9. "TICL coverage" means the coverage for an insurer's  
29 losses above the insurer's statutorily determined  
30 claims-paying capacity based on the claims-paying limit in  
31 subparagraph (4)(c)1., which an insurer selects as its

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1 temporary increase in coverage from the fund under the TICL  
2 options selected. A TICL insurer's increased coverage limit  
3 options shall be calculated as follows:

4       a. The board shall calculate and report to each TICL  
5 insurer the TICL coverage multiples based on twelve options  
6 for increasing the insurer's FHCF coverage limit. Each TICL  
7 coverage multiple shall be calculated by dividing \$1 billion,  
8 \$2 billion, \$3 billion, \$4 billion, \$5 billion, \$6 billion, \$7  
9 billion, \$8 billion, \$9 billion, \$10 billion, \$11 billion, or  
10 \$12 billion by the total estimated aggregate FHCF  
11 reimbursement premiums for the 2007-2008 contract year, the  
12 2008-2009 contract year, and the 2009-2010 contract year.

13       b. The TICL insurer's increased coverage shall be the  
14 FHCF reimbursement premium multiplied by the TICL coverage  
15 multiple. In order to determine an insurer's total limit of  
16 coverage, an insurer shall add its TICL coverage multiple to  
17 its payout multiple. The total shall represent a number that,  
18 when multiplied by an insurer's FHCF reimbursement premium for  
19 a given reimbursement contract year, defines an insurer's  
20 total limit of FHCF reimbursement coverage for that  
21 reimbursement contract year.

22       10. "TICL options addendum" means an addendum to the  
23 reimbursement contract reflecting the obligations of the fund  
24 and insurers selecting an option to increase an insurer's FHCF  
25 coverage limit.

26       (e) TICL options addendum.--

27       1. The TICL options addendum shall provide for  
28 reimbursement of TICL insurers for covered events occurring  
29 between June 1, 2007, May 31, 2008, and between June 1, 2008,  
30 and May 31, 2009, or between June 1, 2009, and May 31, 2010,  
31 in exchange for the TICL reimbursement premium paid into the

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1 fund under paragraph (e). Any insurer writing covered policies  
2 has the option of selecting an increased limit of coverage  
3 under the TICL options addendum and shall select such coverage  
4 at the time that it executes the FHCF reimbursement contract.

5 2. The TICL addendum shall contain a promise by the  
6 board to reimburse the TICL insurer for 45 percent, 75  
7 percent, or 90 percent of its losses from each covered event  
8 in excess of the insurer's retention, plus 5 percent of the  
9 reimbursed losses to cover loss adjustment expenses. The  
10 percentage shall be the same as the coverage level selected by  
11 the insurer under paragraph (4)(b).

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

15 4. The priorities, schedule, and method of  
16 reimbursements under the TICL addendum shall be the same as  
17 provided under subsection (4).

18 (f) TICL reimbursement premiums.--Each TICL insurer  
19 shall pay to the fund, in the manner and at the time provided  
20 in the reimbursement contract for payment of reimbursement  
21 premiums, a TICL reimbursement premium determined as specified  
22 in subsection (5).

23 (g) Effect on claims-paying capacity of the fund.--For  
24 the contract terms commencing June 1, 2007, June 1, 2008, and  
25 June 1, 2009, the program created by this subsection shall  
26 increase the claims-paying capacity of the fund as provided in  
27 subparagraph (4)(c)1. by an amount not to exceed \$12 billion  
28 dollars and shall depend on the TICL coverage options selected  
29 and the number of insurers that select the TICL optional  
30 coverage. The additional capacity shall apply only to the  
31 additional coverage provided under the TICL options and shall

1 not otherwise affect any insurer's reimbursement from the fund  
2 if the insurer chooses not to select the temporary option to  
3 increase its limit of coverage under the FHCF.

4 (h) Increasing the claims-paying capacity of the  
5 fund.--For the contract years commencing June 1, 2007, June 1,  
6 2008, and June 1, 2009, the board may increase the  
7 claims-paying capacity of the fund as provided in paragraph  
8 (g) by an amount not to exceed \$4 billion in four \$1 billion  
9 options and shall depend on the TICL coverage options selected  
10 and the number of insurers that select the TICL optional  
11 coverage. Each insurer's TICL premium shall be calculated  
12 based upon the additional limit of increased coverage that the  
13 insurer selects. Such limit is determined by multiplying the  
14 TICL multiple associated with one of the four options times  
15 the insurer's FHCF reimbursement premium. The reimbursement  
16 premium associated with the additional coverage provided in  
17 this paragraph shall be determined as specified in subsection  
18 (5).

19 Section 3. (1) Every residential property insurer  
20 must make a rate filing with the Office of Insurance  
21 Regulation, pursuant to the "file and use" provisions of s.  
22 627.062(2)(a)1., Florida Statutes, which reflects the savings  
23 or reduction in loss exposure to the insurer due to the  
24 provisions of section 2 of this act. An insurer may not obtain  
25 a rate increase due to the election of coverage options from  
26 the Florida Hurricane Catastrophe Fund pursuant to s.  
27 215.555(4), (16), or (17), Florida Statutes.

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



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1       (3) By March 15, 2007, the Office of Insurance  
 2 Regulation shall calculate a presumed factor or factors to be  
 3 used in the rate filings required by this section to reflect  
 4 the impact to rates of the changes made by section 2 of this  
 5 act and this section.

6       (4) In determining the presumed factor, the Office of  
 7 Insurance Regulation shall use generally accepted actuarial  
 8 techniques and standards in determining the expected impact on  
 9 losses, expenses, and investment income of insurers.

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

13       (6) Each residential property insurer shall reflect a  
 14 rate change that takes into account the presumed factor  
 15 determined under subsection (3) for any policy written or  
 16 renewed on or after June 1, 2007. Such factor must be taken  
 17 into account for the coverage options offered pursuant to s.  
 18 215.555(4), (16), and (17), Florida Statutes, for an insurer  
 19 eligible to elect such optional coverage, whether or not the  
 20 insurer purchases that coverage. Any additional cost for  
 21 private reinsurance or loss exposure that duplicates such  
 22 coverage options may not be factored in the rate, whether or  
 23 not such coverage options are purchased.

24       (7) The sum of \$250,000 in nonrecurring funds is  
 25 appropriated from the Insurance Regulatory Trust Fund in the  
 26 Department of Financial Services to the Office of Insurance  
 27 Regulation for the 2006-2007 fiscal year for the purpose of  
 28 implementing this section.

29       Section 4. Paragraph (b) of subsection (1) and  
 30 subsection (2) of section 215.5586, Florida Statutes, are  
 31 amended, and subsections (7) and (8) are added to that

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1 section, to read:

2           215.5586 Florida Comprehensive Hurricane Damage  
3 Mitigation Program.--There is established within the  
4 Department of Financial Services the Florida Comprehensive  
5 Hurricane Damage Mitigation Program. This section does not  
6 create an entitlement for property owners or obligate the  
7 state in any way to fund the inspection or retrofitting of  
8 residential property in this state. Implementation of this  
9 program is subject to annual legislative appropriations. The  
10 program shall be administered by an individual with prior  
11 executive experience in the private sector in the areas of  
12 insurance, business, or construction. The program shall  
13 develop and implement a comprehensive and coordinated approach  
14 for hurricane damage mitigation that shall include the  
15 following:

16           (1) WIND CERTIFICATION AND HURRICANE MITIGATION  
17 INSPECTIONS.--

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

21           1. Use wind certification and hurricane mitigation  
22 inspectors who:

23           a. Have prior experience in residential construction  
24 or inspection and have received specialized training in  
25 hurricane mitigation procedures.

26           b. Have undergone drug testing and level 2 background  
27 checks pursuant to s. 435.04. The department is authorized to  
28 conduct criminal record checks of inspectors. Inspectors must  
29 submit a set of the fingerprints to the department for state  
30 and national criminal history checks and must pay the  
31 fingerprint processing fee set forth in s. 624.501. The

1 fingerprints shall be sent by the department to the Department  
 2 of Law Enforcement and forwarded to the Federal Bureau of  
 3 Investigation for processing. The results shall be returned to  
 4 the department for screening. The fingerprints shall be taken  
 5 by a law enforcement agency, designated examination center, or  
 6 other department-approved entity. Wind certification and  
 7 hurricane mitigation inspectors participating in the program  
 8 on the effective date of this act shall have until June 1,  
 9 2007, to meet the requirements for a criminal record check.

10           c. Have been certified, in a manner satisfactory to  
 11 the department, to conduct the inspections.

12           2. Provide a quality assurance program including a  
 13 reinspection component.

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

18           (a) To be eligible for a grant, a residential property  
 19 must:

20           1. Have been granted a homestead exemption under  
 21 chapter 196.

22           2. Be a dwelling with an insured value of \$500,000 or  
 23 less. Homeowners who are low-income persons, as defined in s.  
 24 420.0004(10), are exempt from this requirement.

25           3. Have undergone an acceptable wind certification and  
 26 hurricane mitigation inspection, if the property is an  
 27 existing structure.

28  
 29 A residential property which is part of a multifamily  
 30 residential unit may receive a grant only if all homeowners  
 31 participate and the total number of units does not exceed

1 four.

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

5 (c) The program shall create a process in which  
6 mitigation contractors agree to participate and seek  
7 reimbursement from the state and homeowners select from a list  
8 of participating contractors. All mitigation must be based  
9 upon the securing of all required local permits and  
10 inspections. Mitigation projects are subject to random  
11 reinspection of up to at least 10 percent of all projects.

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

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

- 17 1. Roof deck attachment.~~†~~
- 18 2. Secondary water barrier.~~†~~
- 19 3. Roof covering.~~†~~
- 20 4. Brace gable ends.~~†~~
- 21 5. Reinforce roof-to-wall connections.~~†~~
- 22 6. Opening protection.~~†~~ ~~and~~
- 23 7. Exterior doors, including garage doors.

24 (f) Grants may be used on a previously inspected  
25 existing structure or on a rebuild. A rebuild is defined as a  
26 site-built, single-family dwelling under construction to  
27 replace a home that was destroyed or significantly damaged by  
28 a hurricane and deemed unlivable by a regulatory authority.  
29 The homeowner must have had a homestead exemption prior to the  
30 hurricane and maintained the homestead exemption.

31 ~~(g)(f)~~ Low-income homeowners, as defined in s.

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1 | ~~420.0004(10)(9)~~, who otherwise meet the requirements of  
 2 | paragraphs (a), ~~and (c)~~, (e), and (f) are eligible for a grant  
 3 | of up to \$5,000 and are not required to provide a matching  
 4 | amount to receive the grant. Additionally, for low-income  
 5 | homeowners, grant funding may be used for repair to existing  
 6 | structures leading to any of the mitigation improvements  
 7 | provided in paragraph (e), limited to 20 percent of the grant  
 8 | value. ~~Such grants shall be used to retrofit single-family,~~  
 9 | ~~site-built, owner-occupied, residential properties in order to~~  
 10 | ~~make them less vulnerable to hurricane damage.~~

11 |       (7) CONTRACTS WITH NOT-FOR-PROFIT CORPORATIONS.--The  
 12 | Department of Financial Services is authorized to contract  
 13 | with not-for-profit corporations to conduct all or portions of  
 14 | the program and to increase the awareness of the benefits of  
 15 | mitigation among homeowners in this state. The department  
 16 | shall consider the not-for-profit corporation's ability to  
 17 | raise funds from the private sector to provide for mitigation  
 18 | grants, as well as administrative capabilities for conducting  
 19 | other business related to the program.

20 |       (8) WIND CERTIFICATION AND HURRICANE MITIGATION  
 21 | INSPECTOR LIST.--The department shall develop and maintain as  
 22 | a public record a current list of wind certification and  
 23 | hurricane mitigation inspectors authorized to conduct wind  
 24 | certification and hurricane mitigation inspections pursuant to  
 25 | this section.

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

29 |       215.5595 Insurance Capital Build-Up Incentive  
 30 | Program.--

31 |       (2) The purpose of this section is to provide surplus

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1 notes to new or existing authorized residential property  
2 insurers under the Insurance Capital Build-Up Incentive  
3 Program administered by the State Board of Administration,  
4 under the following conditions:

5 (a) The amount of the surplus note for any insurer or  
6 insurer group, other than an insurer writing only manufactured  
7 housing policies, may not exceed \$25 million or 20 percent of  
8 the total amount of funds available under the program,  
9 whichever is greater. The amount of the surplus note for any  
10 insurer or insurer group writing residential property  
11 insurance covering only manufactured housing may not exceed \$7  
12 million.

13 (c) The insurer's surplus, new capital, and the  
14 surplus note must total at least \$50 million, except for  
15 insurers writing residential property insurance covering only  
16 manufactured housing. The insurer's surplus, new capital, and  
17 the surplus note must total at least \$14 million for insurers  
18 writing only residential property insurance covering  
19 manufactured housing policies as provided in paragraph (a).

20 (g) The total amount of funds available for the  
21 program is limited to the amount appropriated by the  
22 Legislature for this purpose. If the amount of surplus notes  
23 requested by insurers exceeds the amount of funds available,  
24 the board may prioritize insurers that are eligible and  
25 approved, with priority for funding given to insurers writing  
26 only manufactured housing policies, regardless of the date of  
27 application, based on the financial strength of the insurer,  
28 the viability of its proposed business plan for writing  
29 additional residential property insurance in the state, and  
30 the effect on competition in the residential property  
31 insurance market.

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

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

7           395.106 Risk pooling by certain hospitals and hospital  
 8 systems.--

9           (1) Notwithstanding any other provision of law, any  
 10 two or more hospitals licensed in this state and located in  
 11 this state may form an alliance for the purpose of pooling and  
 12 spreading liabilities of its members relative to property  
 13 exposure or securing such property insurance coverage for the  
 14 benefit of its members, provided an alliance that is created:

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

16           (b) Maintains a continuing program of premium  
 17 calculation and evaluation and reserve evaluation to protect  
 18 the financial stability of the alliance in an amount and  
 19 manner determined by consultants using catastrophic (CAT)  
 20 modeling criteria or other risk-estimating methodologies,  
 21 including those used by qualified and independent actuaries.

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

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

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

30           (a) "Alliance" means a corporation, association,  
 31 limited liability company, or partnership or any other legal

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1 entity formed by a group of eligible entities.

2 (b) "Property coverage" means property coverage  
3 provided by self-insurance or insurance for real or personal  
4 property of every kind and every interest in such property  
5 against loss or damage from any hazard or cause and against  
6 any loss consequential to such loss or damage.

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

9 (4) An alliance that meets the requirements of this  
10 section is not an insurer for purposes of participation in or  
11 coverage by the Florida Insurance Guaranty Association  
12 established in part II of chapter 631. Alliance self-insured  
13 coverage is not subject to insurance premium tax, and any such  
14 alliance formed pursuant to this section may not be assessed  
15 for purposes of s. 627.351 or s. 215.555.

16 Section 7. Section 553.73, Florida Statutes, is  
17 amended to read:

18 553.73 Florida Building Code.--

19 (1)(a) The commission shall adopt, by rule pursuant to  
20 ss. 120.536(1) and 120.54, the Florida Building Code which  
21 shall contain or incorporate by reference all laws and rules  
22 which pertain to and govern the design, construction,  
23 erection, alteration, modification, repair, and demolition of  
24 public and private buildings, structures, and facilities and  
25 enforcement of such laws and rules, except as otherwise  
26 provided in this section.

27 (b) The technical portions of the Florida  
28 Accessibility Code for Building Construction shall be  
29 contained in their entirety in the Florida Building Code. The  
30 civil rights portions and the technical portions of the  
31 accessibility laws of this state shall remain as currently



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1 provided by law. Any revision or amendments to the Florida  
2 Accessibility Code for Building Construction pursuant to part  
3 II shall be considered adopted by the commission as part of  
4 the Florida Building Code. Neither the commission nor any  
5 local government shall revise or amend any standard of the  
6 Florida Accessibility Code for Building Construction except as  
7 provided for in part II.

8           (c) The Florida Fire Prevention Code and the Life  
9 Safety Code shall be referenced in the Florida Building Code,  
10 but shall be adopted, modified, revised, or amended,  
11 interpreted, and maintained by the Department of Financial  
12 Services by rule adopted pursuant to ss. 120.536(1) and  
13 120.54. The Florida Building Commission may not adopt a fire  
14 prevention or lifesafety code, and nothing in the Florida  
15 Building Code shall affect the statutory powers, duties, and  
16 responsibilities of any fire official or the Department of  
17 Financial Services.

18           (d) Conflicting requirements between the Florida  
19 Building Code and the Florida Fire Prevention Code and Life  
20 Safety Code of the state established pursuant to ss. 633.022  
21 and 633.025 shall be resolved by agreement between the  
22 commission and the State Fire Marshal in favor of the  
23 requirement that offers the greatest degree of lifesafety or  
24 alternatives that would provide an equivalent degree of  
25 lifesafety and an equivalent method of construction. If the  
26 commission and State Fire Marshal are unable to agree on a  
27 resolution, the question shall be referred to a mediator,  
28 mutually agreeable to both parties, to resolve the conflict in  
29 favor of the provision that offers the greatest lifesafety, or  
30 alternatives that would provide an equivalent degree of  
31 lifesafety and an equivalent method of construction.

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1           (e) Subject to the provisions of this act,  
 2 responsibility for enforcement, interpretation, and regulation  
 3 of the Florida Building Code shall be vested in a specified  
 4 local board or agency, and the words "local government" and  
 5 "local governing body" as used in this part shall be construed  
 6 to refer exclusively to such local board or agency.

7           (2) The Florida Building Code shall contain provisions  
 8 or requirements for public and private buildings, structures,  
 9 and facilities relative to structural, mechanical, electrical,  
 10 plumbing, energy, and gas systems, existing buildings,  
 11 historical buildings, manufactured buildings, elevators,  
 12 coastal construction, lodging facilities, food sales and food  
 13 service facilities, health care facilities, including assisted  
 14 living facilities, adult day care facilities, hospice  
 15 residential and inpatient facilities and units, and facilities  
 16 for the control of radiation hazards, public or private  
 17 educational facilities, swimming pools, and correctional  
 18 facilities and enforcement of and compliance with such  
 19 provisions or requirements. Further, the Florida Building Code  
 20 must provide for uniform implementation of ss. 515.25, 515.27,  
 21 and 515.29 by including standards and criteria for residential  
 22 swimming pool barriers, pool covers, latching devices, door  
 23 and window exit alarms, and other equipment required therein,  
 24 which are consistent with the intent of s. 515.23. Technical  
 25 provisions to be contained within the Florida Building Code  
 26 are restricted to requirements related to the types of  
 27 materials used and construction methods and standards employed  
 28 in order to meet criteria specified in the Florida Building  
 29 Code. Provisions relating to the personnel, supervision or  
 30 training of personnel, or any other professional qualification  
 31 requirements relating to contractors or their workforce may

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1 not be included within the Florida Building Code, and  
2 subsections (4), (5), (6), ~~and (7)~~, and (8) are not to be  
3 construed to allow the inclusion of such provisions within the  
4 Florida Building Code by amendment. This restriction applies  
5 to both initial development and amendment of the Florida  
6 Building Code.

7       (3) The commission shall select from available  
8 national or international model building codes, or other  
9 available building codes and standards currently recognized by  
10 the laws of this state, to form the foundation for the Florida  
11 Building Code. The commission may modify the selected model  
12 codes and standards as needed to accommodate the specific  
13 needs of this state. Standards or criteria referenced by the  
14 selected model codes shall be similarly incorporated by  
15 reference. If a referenced standard or criterion requires  
16 amplification or modification to be appropriate for use in  
17 this state, only the amplification or modification shall be  
18 specifically set forth in the Florida Building Code. The  
19 Florida Building Commission may approve technical amendments  
20 to the code, subject to the requirements of subsections (7)  
21 and (8), after the amendments have been subject to the  
22 following conditions:

23       (a) The proposed amendment has been published on the  
24 commission's website for a minimum of 45 days and all the  
25 associated documentation has been made available to any  
26 interested party before any consideration by any Technical  
27 Advisory Committee;

28       (b) In order for a Technical Advisory Committee to  
29 make a favorable recommendation to the commission, the  
30 proposal must receive a three-fourths vote of the members  
31 present at the Technical Advisory Committee meeting and at

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1 | least half of the regular members must be present in order to  
2 | conduct a meeting;

3 |         (c) After Technical Advisory Committee consideration  
4 | and a recommendation for approval of any proposed amendment,  
5 | the proposal must be published on the commission's website for  
6 | not less than 45 days before any consideration by the  
7 | commission; and

8 |         (d) Any proposal may be modified by the commission  
9 | based on public testimony and evidence from a public hearing  
10 | held in accordance with chapter 120.

11 |

12 | The commission shall incorporate within sections of the  
13 | Florida Building Code provisions which address regional and  
14 | local concerns and variations. The commission shall make every  
15 | effort to minimize conflicts between the Florida Building  
16 | Code, the Florida Fire Prevention Code, and the Life Safety  
17 | Code.

18 |         (4)(a) All entities authorized to enforce the Florida  
19 | Building Code pursuant to s. 553.80 shall comply with  
20 | applicable standards for issuance of mandatory certificates of  
21 | occupancy, minimum types of inspections, and procedures for  
22 | plans review and inspections as established by the commission  
23 | by rule. Local governments may adopt amendments to the  
24 | administrative provisions of the Florida Building Code,  
25 | subject to the limitations of this paragraph. Local amendments  
26 | shall be more stringent than the minimum standards described  
27 | herein and shall be transmitted to the commission within 30  
28 | days after enactment. The local government shall make such  
29 | amendments available to the general public in a usable format.  
30 | The State Fire Marshal is responsible for establishing the  
31 | standards and procedures required in this paragraph for

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1 governmental entities with respect to applying the Florida  
2 Fire Prevention Code and the Life Safety Code.

3 (b) Local governments may, subject to the limitations  
4 of this section, adopt amendments to the technical provisions  
5 of the Florida Building Code which apply solely within the  
6 jurisdiction of such government and which provide for more  
7 stringent requirements than those specified in the Florida  
8 Building Code, not more than once every 6 months. A local  
9 government may adopt technical amendments that address local  
10 needs if:

11 1. The local governing body determines, following a  
12 public hearing which has been advertised in a newspaper of  
13 general circulation at least 10 days before the hearing, that  
14 there is a need to strengthen the requirements of the Florida  
15 Building Code. The determination must be based upon a review  
16 of local conditions by the local governing body, which review  
17 demonstrates by evidence or data that the geographical  
18 jurisdiction governed by the local governing body exhibits a  
19 local need to strengthen the Florida Building Code beyond the  
20 needs or regional variation addressed by the Florida Building  
21 Code, that the local need is addressed by the proposed local  
22 amendment, and that the amendment is no more stringent than  
23 necessary to address the local need.

24 2. Such additional requirements are not discriminatory  
25 against materials, products, or construction techniques of  
26 demonstrated capabilities.

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

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

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1           5. Any amendment to the Florida Building Code shall be  
2 transmitted within 30 days by the adopting local government to  
3 the commission. The commission shall maintain copies of all  
4 such amendments in a format that is usable and obtainable by  
5 the public. Local technical amendments shall not become  
6 effective until 30 days after the amendment has been received  
7 and published by the commission.

8           6. Any amendment to the Florida Building Code adopted  
9 by a local government pursuant to this paragraph shall be  
10 effective only until the adoption by the commission of the new  
11 edition of the Florida Building Code every third year. At such  
12 time, the commission shall review such amendment for  
13 consistency with the criteria in paragraph(8)(a) ~~(7)(a)~~ and  
14 adopt such amendment as part of the Florida Building Code or  
15 rescind the amendment. The commission shall immediately notify  
16 the respective local government of the rescission of any  
17 amendment. After receiving such notice, the respective local  
18 government may readopt the rescinded amendment pursuant to the  
19 provisions of this paragraph.

20           7. Each county and municipality desiring to make local  
21 technical amendments to the Florida Building Code shall by  
22 interlocal agreement establish a countywide compliance review  
23 board to review any amendment to the Florida Building Code,  
24 adopted by a local government within the county pursuant to  
25 this paragraph, that is challenged by any substantially  
26 affected party for purposes of determining the amendment's  
27 compliance with this paragraph. If challenged, the local  
28 technical amendments shall not become effective until time for  
29 filing an appeal pursuant to subparagraph 8. has expired or,  
30 if there is an appeal, until the commission issues its final  
31 order determining the adopted amendment is in compliance with

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1 | this subsection.

2 |           8. If the compliance review board determines such  
3 | amendment is not in compliance with this paragraph, the  
4 | compliance review board shall notify such local government of  
5 | the noncompliance and that the amendment is invalid and  
6 | unenforceable until the local government corrects the  
7 | amendment to bring it into compliance. The local government  
8 | may appeal the decision of the compliance review board to the  
9 | commission. If the compliance review board determines such  
10 | amendment to be in compliance with this paragraph, any  
11 | substantially affected party may appeal such determination to  
12 | the commission. Any such appeal shall be filed with the  
13 | commission within 14 days of the board's written  
14 | determination. The commission shall promptly refer the appeal  
15 | to the Division of Administrative Hearings for the assignment  
16 | of an administrative law judge. The administrative law judge  
17 | shall conduct the required hearing within 30 days, and shall  
18 | enter a recommended order within 30 days of the conclusion of  
19 | such hearing. The commission shall enter a final order within  
20 | 30 days thereafter. The provisions of chapter 120 and the  
21 | uniform rules of procedure shall apply to such proceedings.  
22 | The local government adopting the amendment that is subject to  
23 | challenge has the burden of proving that the amendment  
24 | complies with this paragraph in proceedings before the  
25 | compliance review board and the commission, as applicable.  
26 | Actions of the commission are subject to judicial review  
27 | pursuant to s. 120.68. The compliance review board shall  
28 | determine whether its decisions apply to a respective local  
29 | jurisdiction or apply countywide.

30 |           9. An amendment adopted under this paragraph shall  
31 | include a fiscal impact statement which documents the costs

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1 and benefits of the proposed amendment. Criteria for the  
 2 fiscal impact statement shall include the impact to local  
 3 government relative to enforcement, the impact to property and  
 4 building owners, as well as to industry, relative to the cost  
 5 of compliance. The fiscal impact statement may not be used as  
 6 a basis for challenging the amendment for compliance.

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

11           (c) Any amendment adopted by a local enforcing agency  
 12 pursuant to this subsection shall not apply to state or school  
 13 district owned buildings, manufactured buildings or  
 14 factory-built school buildings approved by the commission, or  
 15 prototype buildings approved pursuant to s. 553.77(3). The  
 16 respective responsible entities shall consider the physical  
 17 performance parameters substantiating such amendments when  
 18 designing, specifying, and constructing such exempt buildings.

19           (5) The initial adoption of, and any subsequent update  
 20 or amendment to, the Florida Building Code by the commission  
 21 is deemed adopted for use statewide without adoptions by local  
 22 government. For a building permit for which an application is  
 23 submitted prior to the effective date of the Florida Building  
 24 Code, the state minimum building code in effect in the  
 25 permitting jurisdiction on the date of the application governs  
 26 the permitted work for the life of the permit and any  
 27 extension granted to the permit.

28           (6)(a) The commission, by rule adopted pursuant to ss.  
 29 120.536(1) and 120.54, shall update the Florida Building Code  
 30 every 3 years. When updating the Florida Building Code, the  
 31 commission shall select the most current version of the



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1 International Building Code, the International Fuel Gas Code,  
 2 the International Mechanical Code, the International Plumbing  
 3 Code, and the International Residential Code, all of which are  
 4 adopted by the International Code Council, and the National  
 5 Electrical Code, which is adopted by the National Fire  
 6 Protection Association, to form the foundation codes of the  
 7 updated Florida Building Code, if the version has been adopted  
 8 by the applicable model code entity and made available to the  
 9 public at least 6 months prior to its selection by the  
 10 commission.

11 (b) Codes regarding noise contour lines shall be  
 12 reviewed annually, and the most current federal guidelines  
 13 shall be adopted.

14 (c) The commission may modify any portion of the  
 15 foundation codes only as needed to accommodate the specific  
 16 needs of this state, maintaining Florida-specific amendments  
 17 previously adopted by the commission and not addressed by the  
 18 updated foundation code. Standards or criteria referenced by  
 19 the codes shall be incorporated by reference. If a referenced  
 20 standard or criterion requires amplification or modification  
 21 to be appropriate for use in this state, only the  
 22 amplification or modification shall be set forth in the  
 23 Florida Building Code. The commission may approve technical  
 24 amendments to the updated Florida Building Code after the  
 25 amendments have been subject to the conditions set forth in  
 26 paragraphs (3)(a)-(d). Amendments to the foundation codes  
 27 which are adopted in accordance with this subsection shall be  
 28 clearly marked in printed versions of the Florida Building  
 29 Code so that the fact that the provisions are Florida-specific  
 30 amendments to the foundation codes is readily apparent.

31 (d) The commission shall further consider the

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1 | commission's own interpretations, declaratory statements,  
 2 | appellate decisions, and approved statewide and local  
 3 | technical amendments and shall incorporate such  
 4 | interpretations, statements, decisions, and amendments into  
 5 | the updated Florida Building Code only to the extent that they  
 6 | are needed to modify the foundation codes to accommodate the  
 7 | specific needs of the state. A change made by an institute or  
 8 | standards organization to any standard or criterion that is  
 9 | adopted by reference in the Florida Building Code does not  
 10 | become effective statewide until it has been adopted by the  
 11 | commission. Furthermore, the edition of the Florida Building  
 12 | Code which is in effect on the date of application for any  
 13 | permit authorized by the code governs the permitted work for  
 14 | the life of the permit and any extension granted to the  
 15 | permit.

16 |           (e) A rule updating the Florida Building Code in  
 17 | accordance with this subsection shall take effect no sooner  
 18 | than 6 months after publication of the updated code. Any  
 19 | amendment to the Florida Building Code which is adopted upon a  
 20 | finding by the commission that the amendment is necessary to  
 21 | protect the public from immediate threat of harm takes effect  
 22 | immediately.

23 |           (f) Provisions of the foundation codes, including  
 24 | those contained in referenced standards and criteria, relating  
 25 | to wind resistance or the prevention of water intrusion may  
 26 | not be modified to diminish those construction requirements;  
 27 | however, the commission may, subject to conditions in this  
 28 | subsection, modify the provisions to enhance those  
 29 | construction requirements.

30 |           ~~(7)(f)~~ Upon the conclusion of a triennial update to  
 31 | the Florida Building Code, notwithstanding the provisions of

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1 ~~this subsection or~~ subsection (3) or subsection (6), the  
 2 commission may address issues identified in this subsection  
 3 ~~paragraph~~ by amending the code pursuant only to the rule  
 4 adoption procedures contained in chapter 120. Provisions of  
 5 the Florida Building Code, including those contained in  
 6 referenced standards and criteria, relating to wind resistance  
 7 or the prevention of water intrusion may not be amended  
 8 pursuant to this subsection to diminish those construction  
 9 requirements; however, the commission may, subject to  
 10 conditions in this subsection, amend the provisions to enhance  
 11 those construction requirements. Following the approval of any  
 12 amendments to the Florida Building Code by the commission and  
 13 publication of the amendments on the commission's website,  
 14 authorities having jurisdiction to enforce the Florida  
 15 Building Code may enforce the amendments. The commission may  
 16 approve amendments that are needed to address:

- 17       (a)1. Conflicts within the updated code;
- 18       (b)2. Conflicts between the updated code and the  
 19 Florida Fire Prevention Code adopted pursuant to chapter 633;
- 20       (c)3. The omission of previously adopted  
 21 Florida-specific amendments to the updated code if such  
 22 omission is not supported by a specific recommendation of a  
 23 technical advisory committee or particular action by the  
 24 commission; or

25       (d)4. Unintended results from the integration of  
 26 previously adopted Florida-specific amendments with the model  
 27 code.

28       (8)(7)(a) The commission may approve technical  
 29 amendments to the Florida Building Code once each year for  
 30 statewide or regional application upon a finding that the  
 31 amendment:

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1           1. Is needed in order to accommodate the specific  
2 needs of this state.

3           2. Has a reasonable and substantial connection with  
4 the health, safety, and welfare of the general public.

5           3. Strengthens or improves the Florida Building Code,  
6 or in the case of innovation or new technology, will provide  
7 equivalent or better products or methods or systems of  
8 construction.

9           4. Does not discriminate against materials, products,  
10 methods, or systems of construction of demonstrated  
11 capabilities.

12           5. Does not degrade the effectiveness of the Florida  
13 Building Code.

14  
15 Furthermore, the Florida Building Commission may approve  
16 technical amendments to the code once each year to incorporate  
17 into the Florida Building Code its own interpretations of the  
18 code which are embodied in its opinions, final orders,  
19 declaratory statements, and interpretations of hearing officer  
20 panels under s. 553.775(3)(c), but shall do so only to the  
21 extent that incorporation of interpretations is needed to  
22 modify the foundation codes to accommodate the specific needs  
23 of this state. Amendments approved under this paragraph shall  
24 be adopted by rule pursuant to ss. 120.536(1) and 120.54,  
25 after the amendments have been subjected to the provisions of  
26 subsection (3).

27           (b) A proposed amendment shall include a fiscal impact  
28 statement which documents the costs and benefits of the  
29 proposed amendment. Criteria for the fiscal impact statement  
30 shall be established by rule by the commission and shall  
31 include the impact to local government relative to

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1 enforcement, the impact to property and building owners, as  
2 well as to industry, relative to the cost of compliance.

3 (c) The commission may not approve any proposed  
4 amendment that does not accurately and completely address all  
5 requirements for amendment which are set forth in this  
6 section. The commission shall require all proposed amendments  
7 and information submitted with proposed amendments to be  
8 reviewed by commission staff prior to consideration by any  
9 technical advisory committee. These reviews shall be for  
10 sufficiency only and are not intended to be qualitative in  
11 nature. Staff members shall reject any proposed amendment that  
12 fails to include a fiscal impact statement. Proposed  
13 amendments rejected by members of the staff may not be  
14 considered by the commission or any technical advisory  
15 committee.

16 (d) Provisions of the Florida Building Code, including  
17 those contained in referenced standards and criteria, relating  
18 to wind resistance or the prevention of water intrusion may  
19 not be amended pursuant to this subsection to diminish those  
20 construction requirements; however, the commission may,  
21 subject to conditions in this subsection, amend the provisions  
22 to enhance those construction requirements.

23 ~~(9)(8)~~ The following buildings, structures, and  
24 facilities are exempt from the Florida Building Code as  
25 provided by law, and any further exemptions shall be as  
26 determined by the Legislature and provided by law:

27 (a) Buildings and structures specifically regulated  
28 and preempted by the Federal Government.

29 (b) Railroads and ancillary facilities associated with  
30 the railroad.

31 (c) Nonresidential farm buildings on farms.

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1 (d) Temporary buildings or sheds used exclusively for  
2 construction purposes.

3 (e) Mobile or modular structures used as temporary  
4 offices, except that the provisions of part II relating to  
5 accessibility by persons with disabilities shall apply to such  
6 mobile or modular structures.

7 (f) Those structures or facilities of electric  
8 utilities, as defined in s. 366.02, which are directly  
9 involved in the generation, transmission, or distribution of  
10 electricity.

11 (g) Temporary sets, assemblies, or structures used in  
12 commercial motion picture or television production, or any  
13 sound-recording equipment used in such production, on or off  
14 the premises.

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

20 (i) Chickees constructed by the Miccosukee Tribe of  
21 Indians of Florida or the Seminole Tribe of Florida. As used  
22 in this paragraph, the term "chickee" means an open-sided  
23 wooden hut that has a thatched roof of palm or palmetto or  
24 other traditional materials, and that does not incorporate any  
25 electrical, plumbing, or other nonwood features.

26  
27 With the exception of paragraphs (a), (b), (c), and (f), in  
28 order to preserve the health, safety, and welfare of the  
29 public, the Florida Building Commission may, by rule adopted  
30 pursuant to chapter 120, provide for exceptions to the broad  
31 categories of buildings exempted in this section, including

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1 exceptions for application of specific sections of the code or  
 2 standards adopted therein. The Department of Agriculture and  
 3 Consumer Services shall have exclusive authority to adopt by  
 4 rule, pursuant to chapter 120, exceptions to nonresidential  
 5 farm buildings exempted in paragraph (c) when reasonably  
 6 necessary to preserve public health, safety, and welfare. The  
 7 exceptions must be based upon specific criteria, such as  
 8 under-roof floor area, aggregate electrical service capacity,  
 9 HVAC system capacity, or other building requirements. Further,  
 10 the commission may recommend to the Legislature additional  
 11 categories of buildings, structures, or facilities which  
 12 should be exempted from the Florida Building Code, to be  
 13 provided by law.

14 ~~(10)~~(9)(a) In the event of a conflict between the  
 15 Florida Building Code and the Florida Fire Prevention Code and  
 16 the Life Safety Code as applied to a specific project, the  
 17 conflict shall be resolved by agreement between the local  
 18 building code enforcement official and the local fire code  
 19 enforcement official in favor of the requirement of the code  
 20 which offers the greatest degree of lifesafety or alternatives  
 21 which would provide an equivalent degree of lifesafety and an  
 22 equivalent method of construction.

23 (b) Any decision made by the local fire official and  
 24 the local building official may be appealed to a local  
 25 administrative board designated by the municipality, county,  
 26 or special district having firesafety responsibilities. If the  
 27 decision of the local fire official and the local building  
 28 official is to apply the provisions of either the Florida  
 29 Building Code or the Florida Fire Prevention Code and the Life  
 30 Safety Code, the board may not alter the decision unless the  
 31 board determines that the application of such code is not

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1 reasonable. If the decision of the local fire official and  
2 the local building official is to adopt an alternative to the  
3 codes, the local administrative board shall give due regard to  
4 the decision rendered by the local officials and may modify  
5 that decision if the administrative board adopts a better  
6 alternative, taking into consideration all relevant  
7 circumstances. In any case in which the local administrative  
8 board adopts alternatives to the decision rendered by the  
9 local fire official and the local building official, such  
10 alternatives shall provide an equivalent degree of lifesafety  
11 and an equivalent method of construction as the decision  
12 rendered by the local officials.

13 (c) If the local building official and the local fire  
14 official are unable to agree on a resolution of the conflict  
15 between the Florida Building Code and the Florida Fire  
16 Prevention Code and the Life Safety Code, the local  
17 administrative board shall resolve the conflict in favor of  
18 the code which offers the greatest degree of lifesafety or  
19 alternatives which would provide an equivalent degree of  
20 lifesafety and an equivalent method of construction.

21 (d) All decisions of the local administrative board,  
22 or if none exists, the decisions of the local building  
23 official and the local fire official, are subject to review by  
24 a joint committee composed of members of the Florida Building  
25 Commission and the Fire Code Advisory Council. If the joint  
26 committee is unable to resolve conflicts between the codes as  
27 applied to a specific project, the matter shall be resolved  
28 pursuant to the provisions of paragraph (1)(d).

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



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1 (f) All decisions of the local building official and  
2 local fire official and all decisions of the administrative  
3 board shall be in writing and shall be binding upon all  
4 persons but shall not limit the authority of the State Fire  
5 Marshal or the Florida Building Commission pursuant to  
6 paragraph (1)(d) and ss. 663.01 and 633.161. Decisions of  
7 general application shall be indexed by building and fire code  
8 sections and shall be available for inspection during normal  
9 business hours.

10 ~~(11)(10)~~ Except within coastal building zones as  
11 defined in s. 161.54, specification standards developed by  
12 nationally recognized code promulgation organizations to  
13 determine compliance with engineering criteria of the Florida  
14 Building Code for wind load design shall not apply to one or  
15 two family dwellings which are two stories or less in height  
16 unless approved by the commission for use or unless expressly  
17 made subject to said standards and criteria by local ordinance  
18 adopted in accordance with the provisions of subsection (4).

19 ~~(12)(11)~~ The Florida Building Code does not apply to,  
20 and no code enforcement action shall be brought with respect  
21 to, zoning requirements, land use requirements, and owner  
22 specifications or programmatic requirements which do not  
23 pertain to and govern the design, construction, erection,  
24 alteration, modification, repair, or demolition of public or  
25 private buildings, structures, or facilities or to  
26 programmatic requirements that do not pertain to enforcement  
27 of the Florida Building Code. Additionally, a local code  
28 enforcement agency may not administer or enforce the Florida  
29 Building Code to prevent the siting of any publicly owned  
30 facility, including, but not limited to, correctional  
31 facilities, juvenile justice facilities, or state

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1 universities, community colleges, or public education  
2 facilities, as provided by law.

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

5 553.775 Interpretations.--

6 (2) Local enforcement agencies, local building  
7 officials, state agencies, and the commission shall interpret  
8 provisions of the Florida Building Code in a manner that is  
9 consistent with declaratory statements and interpretations  
10 entered by the commission, except that conflicts between the  
11 Florida Fire Prevention Code and the Florida Building Code  
12 shall be resolved in accordance with s. 553.73(10)(c) and (d)  
13 ~~s. 553.73(9)(c) and (d)~~.

14 Section 9. Upon the effective date of this act, each  
15 jurisdiction having authority to enforce the Florida Building  
16 Code shall, at a minimum, require wind-borne-debris protection  
17 in accordance with s. 1609.1, International Building Code  
18 (2006) and the International Residential Code (2006) within  
19 the "wind-borne-debris region" as that term is defined in s.  
20 1609.2, International Building Code (2006), and s. R301.2,  
21 International Residential Code (2006).

22 Section 10. (1) The Florida Building Commission shall  
23 amend the Florida Building Code to reflect the application of  
24 provisions identified in section 9 of this act, and to  
25 eliminate all exceptions that provide less stringent  
26 requirements. The amendments by the commission shall apply  
27 throughout the state with the exception of the High Velocity  
28 Hurricane Zone, which shall be governed as currently provided  
29 within the Florida Building Code. The commission shall fulfill  
30 these obligations before July 1, 2007, pursuant only to the  
31 provisions of chapter 120, Florida Statutes.

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1       (2) The Florida Building Commission shall develop  
2 voluntary "Code Plus" guidelines for increasing the hurricane  
3 resistance of buildings. The guidelines may be modeled on the  
4 requirements for the High Velocity Hurricane Zone and must  
5 identify products, systems, and methods of construction that  
6 the commission anticipates could result in stronger  
7 construction. The commission shall include these guidelines in  
8 its report to the 2008 Legislature.

9           Section 11. Subsection (1) of section 624.407, Florida  
10 Statutes, is amended to read:

11           624.407 Capital funds required; new insurers.--

12           (1) To receive authority to transact any one kind or  
13 combinations of kinds of insurance, as defined in part V of  
14 this chapter, an insurer applying for its original certificate  
15 of authority in this state after the effective date of this  
16 section shall possess surplus as to policyholders not less  
17 than the greater of:

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

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

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

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

28  
29 however, a domestic insurer that transacts residential  
30 property insurance and is a wholly owned subsidiary of an  
31 insurer authorized to do business in any other state shall

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1 possess surplus as to policyholders of at least \$50 million,  
2 but no insurer shall be required under this subsection to have  
3 surplus as to policyholders greater than \$100 million.

4 Section 12. Paragraph (a) of subsection (2) of section  
5 624.462, Florida Statutes, is amended to read:

6 624.462 Commercial self-insurance funds.--

7 (2) As used in ss. 624.460-624.488, "commercial  
8 self-insurance fund" or "fund" means a group of members,  
9 operating individually and collectively through a trust or  
10 corporation, that must be:

11 (a) Established by:

12 1. A not-for-profit trade association, industry  
13 association, or professional association of employers or  
14 professionals which has a constitution or bylaws, which is  
15 incorporated under the laws of this state, and which has been  
16 organized for purposes other than that of obtaining or  
17 providing insurance and operated in good faith for a  
18 continuous period of 1 year;

19 2. A self-insurance trust fund organized pursuant to  
20 s. 627.357 and maintained in good faith for a continuous  
21 period of 1 year for purposes other than that of obtaining or  
22 providing insurance pursuant to this section. Each member of a  
23 commercial self-insurance trust fund established pursuant to  
24 this subsection must maintain membership in the self-insurance  
25 trust fund organized pursuant to s. 627.357;

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

29 4. A not-for-profit group comprised of one or more  
30 community ~~no less than 10 condominium~~ associations responsible  
31 for operating at least 50 residential parcels or units created

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1 and operating under chapter 718, chapter 719, chapter 720,  
 2 chapter 721, or chapter 723 ~~as defined in s. 718.103(2), which~~  
 3 ~~is incorporated under the laws of this state, which restricts~~  
 4 its membership to community ~~condominium~~ associations only, and  
 5 which has been organized and maintained in good faith for the  
 6 purpose of pooling and spreading the liabilities of its group  
 7 members relating to property or casualty risk or surety ~~a~~  
 8 ~~continuous period of 1 year for purposes other than that of~~  
 9 ~~obtaining or providing~~ insurance.

10 Section 13. Subsection (1) of section 624.4622,  
 11 Florida Statutes, is amended to read:

12 624.4622 Local government self-insurance funds.--

13 (1) Any two or more local governmental entities may  
 14 enter into interlocal agreements for the purpose of securing  
 15 the payment of benefits under chapter 440, or insuring or  
 16 self-insuring real or personal property of every kind and  
 17 every interest in such property against loss or damage from  
 18 any hazard or cause and against any loss consequential to such  
 19 loss or damage, provided the local government self-insurance  
 20 fund that is created must:

21 (a) Have annual normal premiums in excess of \$5  
 22 million;

23 (b) Maintain a continuing program of excess insurance  
 24 coverage and reserve evaluation to protect the financial  
 25 stability of the fund in an amount and manner determined by a  
 26 qualified and independent actuary;

27 (c) Submit annually an audited fiscal year-end  
 28 financial statement by an independent certified public  
 29 accountant within 6 months after the end of the fiscal year to  
 30 the office; and

31 (d) Have a governing body which is comprised entirely

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1 of local elected officials.

2 Section 14. Section 624.4625, Florida Statutes, is  
3 created to read:

4 624.4625 Corporation not-for-profit self-insurance  
5 funds.--

6 (1) Notwithstanding any other provision of law, any  
7 two or more corporations not for profit located in and  
8 organized under the laws of this state may form a  
9 self-insurance fund for the purpose of pooling and spreading  
10 liabilities of its group members in any one or combination of  
11 property or casualty risk, provided the corporation not for  
12 profit self-insurance fund that is created:

13 (a) Has annual normal premiums in excess of \$5  
14 million.

15 (b) Requires for qualification that each participating  
16 member receive at least 75 percent of its revenues from local,  
17 state, or federal governmental sources or a combination of  
18 such sources.

19 (c) Uses a qualified actuary to determine rates using  
20 accepted actuarial principles and annually submits to the  
21 office a certification by the actuary that the rates are  
22 actuarially sound and are not inadequate, as defined in s.  
23 627.062.

24 (d) Uses a qualified actuary to establish reserves for  
25 loss and loss adjustment expenses and annually submits to the  
26 office a certification by the actuary that the loss and loss  
27 adjustment expense reserves are adequate. If the actuary  
28 determines that reserves are not adequate, the fund shall file  
29 with the office a remedial plan for increasing the reserves or  
30 otherwise addressing the financial condition of the fund,  
31 subject to a determination by the office that the fund will

1 operate on an actuarially sound basis and the fund does not  
2 pose a significant risk of insolvency.

3 (e) Maintains a continuing program of excess insurance  
4 coverage and reserve evaluation to protect the financial  
5 stability of the fund in an amount and manner determined by a  
6 qualified actuary. At a minimum, this program must:

7 1. Purchase excess insurance from authorized insurance  
8 carriers.

9 2. Retain a per-loss occurrence that does not exceed  
10 \$350,000.

11 (f) Submits to the office annually an audited fiscal  
12 year-end financial statement by an independent certified  
13 public accountant within 6 months after the end of the fiscal  
14 year.

15 (g) Has a governing body that is comprised entirely of  
16 officials from corporations not for profit that are members of  
17 the corporation not-for-profit self-insurance fund.

18 (h) Uses knowledgeable persons or business entities to  
19 administer or service the fund in the areas of claims  
20 administration, claims adjusting, underwriting, risk  
21 management, loss control, policy administration, financial  
22 audit, and legal areas. Such persons must meet all applicable  
23 requirements of law for state licensure and must have at least  
24 5 years' experience with commercial self-insurance funds  
25 formed under s. 624.462, self-insurance funds formed under s.  
26 624.4622, or domestic insurers.

27 (i) Submits to the office copies of contracts used for  
28 its members that clearly establish the liability of each  
29 member for the obligations of the fund.

30 (j) Annually submits to the office a certification by  
31 the governing body of the fund that, to the best of its

1 knowledge, the requirements of this section are met.

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

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

7 (a) An insurer for purposes of participation in or  
8 coverage by any insurance guaranty association established by  
9 chapter 631; or

10 (b) Subject to s. 624.4621 and is not required to file  
11 any report with the department under s. 440.38(2)(b) that is  
12 uniquely required of group self-insurer funds qualified under  
13 s. 624.4621.

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

19 (5) If any of the requirements of subsection (1) are  
20 not met, a corporation not-for-profit self-insurance fund is  
21 subject to the requirements of s. 624.4621 if the fund  
22 provides only workers' compensation coverage or is subject to  
23 the requirements of ss. 624.460-624.488 if the fund provides  
24 coverage for other property, casualty, or surety risks.

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

27 624.610 Reinsurance.--

28 (3)(a) Credit must be allowed when the reinsurance is  
29 ceded to an assuming insurer that is authorized to transact  
30 insurance or reinsurance in this state.

31 (b)1. Credit must be allowed when the reinsurance is



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1 ceded to an assuming insurer that is accredited as a reinsurer  
2 in this state. An accredited reinsurer is one that:

3 a. Files with the office evidence of its submission to  
4 this state's jurisdiction;

5 b. Submits to this state's authority to examine its  
6 books and records;

7 c. Is licensed or authorized to transact insurance or  
8 reinsurance in at least one state or, in the case of a United  
9 States branch of an alien assuming insurer, is entered  
10 through, licensed, or authorized to transact insurance or  
11 reinsurance in at least one state;

12 d. Files annually with the office a copy of its annual  
13 statement filed with the insurance department of its state of  
14 domicile any quarterly statements if required by its state of  
15 domicile or such quarterly statements if specifically  
16 requested by the office, and a copy of its most recent audited  
17 financial statement; and

18 (I) Maintains a surplus as regards policyholders in an  
19 amount not less than \$20 million and whose accreditation has  
20 not been denied by the office within 90 days after its  
21 submission; or

22 (II) Maintains a surplus as regards policyholders in  
23 an amount not less than \$20 million and whose accreditation  
24 has been approved by the office.

25 2. The office may deny or revoke an assuming insurer's  
26 accreditation if the assuming insurer does not submit the  
27 required documentation pursuant to subparagraph 1., if the  
28 assuming insurer fails to meet all of the standards required  
29 of an accredited reinsurer, or if the assuming insurer's  
30 accreditation would be hazardous to the policyholders of this  
31 state. In determining whether to deny or revoke accreditation,

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1 the office may consider the qualifications of the assuming  
2 insurer with respect to all the following subjects:

- 3 a. Its financial stability;
- 4 b. The lawfulness and quality of its investments;
- 5 c. The competency, character, and integrity of its  
6 management;

- 7 d. The competency, character, and integrity of persons  
8 who own or have a controlling interest in the assuming  
9 insurer; and

- 10 e. Whether claims under its contracts are promptly and  
11 fairly adjusted and are promptly and fairly paid in accordance  
12 with the law and the terms of the contracts.

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

16 4. The actual costs and expenses incurred by the  
17 office to review a reinsurer's request for accreditation and  
18 subsequent reviews must be charged to and collected from the  
19 requesting reinsurer. If the reinsurer fails to pay the actual  
20 costs and expenses promptly when due, the office may refuse to  
21 accredit the reinsurer or may revoke the reinsurer's  
22 accreditation.

23 (c)1. Credit must be allowed when the reinsurance is  
24 ceded to an assuming insurer that maintains a trust fund in a  
25 qualified United States financial institution, as defined in  
26 paragraph (5)(b), for the payment of the valid claims of its  
27 United States ceding insurers and their assigns and successors  
28 in interest. To enable the office to determine the sufficiency  
29 of the trust fund, the assuming insurer shall report annually  
30 to the office information substantially the same as that  
31 required to be reported on the NAIC Annual Statement form by

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1 authorized insurers. The assuming insurer shall submit to  
2 examination of its books and records by the office and bear  
3 the expense of examination.

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

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

9           (II) The insurance regulator of another state who,  
10 pursuant to the terms of the trust instrument, has accepted  
11 principal regulatory oversight of the trust.

12       b. The form of the trust and any trust amendments must  
13 be filed with the insurance regulator of every state in which  
14 the ceding insurer beneficiaries of the trust are domiciled.  
15 The trust instrument must provide that contested claims are  
16 valid and enforceable upon the final order of any court of  
17 competent jurisdiction in the United States. The trust must  
18 vest legal title to its assets in its trustees for the benefit  
19 of the assuming insurer's United States ceding insurers and  
20 their assigns and successors in interest. The trust and the  
21 assuming insurer are subject to examination as determined by  
22 the insurance regulator.

23       c. The trust remains in effect for as long as the  
24 assuming insurer has outstanding obligations due under the  
25 reinsurance agreements subject to the trust. No later than  
26 February 28 of each year, the trustee of the trust shall  
27 report to the insurance regulator in writing the balance of  
28 the trust and list the trust's investments at the preceding  
29 year end, and shall certify that the trust will not expire  
30 prior to the following December 31.

31       3. The following requirements apply to the following

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1 categories of assuming insurer:

2 a. The trust fund for a single assuming insurer  
3 consists of funds in trust in an amount not less than the  
4 assuming insurer's liabilities attributable to reinsurance  
5 ceded by United States ceding insurers, and, in addition, the  
6 assuming insurer shall maintain a trusteed surplus of not less  
7 than \$20 million. Not less than 50 percent of the funds in the  
8 trust covering the assuming insurer's liabilities attributable  
9 to reinsurance ceded by United States ceding insurers and  
10 trusteed surplus shall consist of assets of a quality  
11 substantially similar to that required in part II of chapter  
12 625. Clean, irrevocable, unconditional, and evergreen letters  
13 of credit, issued or confirmed by a qualified United States  
14 financial institution, as defined in paragraph (5)(a),  
15 effective no later than December 31 of the year for which the  
16 filing is made and in the possession of the trust on or before  
17 the filing date of its annual statement, may be used to fund  
18 the remainder of the trust and trusteed surplus.

19 b.(I) In the case of a group including incorporated  
20 and individual unincorporated underwriters:

21 (A) For reinsurance ceded under reinsurance agreements  
22 with an inception, amendment, or renewal date on or after  
23 August 1, 1995, the trust consists of a trusteed account in an  
24 amount not less than the group's several liabilities  
25 attributable to business ceded by United States domiciled  
26 ceding insurers to any member of the group;

27 (B) For reinsurance ceded under reinsurance agreements  
28 with an inception date on or before July 31, 1995, and not  
29 amended or renewed after that date, notwithstanding the other  
30 provisions of this section, the trust consists of a trusteed  
31 account in an amount not less than the group's several

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1 insurance and reinsurance liabilities attributable to business  
2 written in the United States; and

3 (C) In addition to these trusts, the group shall  
4 maintain in trust a trusteed surplus of which \$100 million  
5 must be held jointly for the benefit of the United States  
6 domiciled ceding insurers of any member of the group for all  
7 years of account.

8 (II) The incorporated members of the group must not be  
9 engaged in any business other than underwriting of a member of  
10 the group, and are subject to the same level of regulation and  
11 solvency control by the group's domiciliary regulator as the  
12 unincorporated members.

13 (III) Within 90 days after its financial statements  
14 are due to be filed with the group's domiciliary regulator,  
15 the group shall provide to the insurance regulator an annual  
16 certification by the group's domiciliary regulator of the  
17 solvency of each underwriter member or, if a certification is  
18 unavailable, financial statements, prepared by independent  
19 public accountants, of each underwriter member of the group.

20 (d) Credit must be allowed when the reinsurance is  
21 ceded to an assuming insurer not meeting the requirements of  
22 paragraph (a), paragraph (b), or paragraph (c), but only as to  
23 the insurance of risks located in jurisdictions in which the  
24 reinsurance is required to be purchased by a particular entity  
25 by applicable law or regulation of that jurisdiction.

26 (e) If the reinsurance is ceded to an assuming insurer  
27 not meeting the requirements of paragraph (a), paragraph (b),  
28 paragraph (c), or paragraph (d), the commissioner may allow  
29 credit, but only if the assuming insurer holds surplus in  
30 excess of \$100 million and has a secure financial strength  
31 rating from at least two nationally recognized statistical

1 rating organizations deemed acceptable by the commissioner. In  
2 determining whether credit should be allowed, the commissioner  
3 shall consider the following:

4 1. The domiciliary regulatory jurisdiction of the  
5 assuming insurer.

6 2. The structure and authority of the domiciliary  
7 regulator with regard to solvency regulation requirements and  
8 the financial surveillance of the reinsurer.

9 3. The substance of financial and operating standards  
10 for reinsurers in the domiciliary jurisdiction.

11 4. The form and substance of financial reports  
12 required to be filed by the reinsurers in the domiciliary  
13 jurisdiction or other public financial statements filed in  
14 accordance with generally accepted accounting principles.

15 5. The domiciliary regulator's willingness to  
16 cooperate with United States regulators in general and the  
17 office in particular.

18 6. The history of performance by reinsurers in the  
19 domiciliary jurisdiction.

20 7. Any documented evidence of substantial problems  
21 with the enforcement of valid United States judgments in the  
22 domiciliary jurisdiction.

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

29 (f)(e) If the assuming insurer is not authorized or  
30 accredited to transact insurance or reinsurance in this state  
31 pursuant to paragraph (a) or paragraph (b), the credit

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1 permitted by paragraph (c) or paragraph (d) must not be  
 2 allowed unless the assuming insurer agrees in the reinsurance  
 3 agreements:

4           1.a. That in the event of the failure of the assuming  
 5 insurer to perform its obligations under the terms of the  
 6 reinsurance agreement, the assuming insurer, at the request of  
 7 the ceding insurer, shall submit to the jurisdiction of any  
 8 court of competent jurisdiction in any state of the United  
 9 States, will comply with all requirements necessary to give  
 10 the court jurisdiction, and will abide by the final decision  
 11 of the court or of any appellate court in the event of an  
 12 appeal; and

13           b. To designate the Chief Financial Officer, pursuant  
 14 to s. 48.151, or a designated attorney as its true and lawful  
 15 attorney upon whom may be served any lawful process in any  
 16 action, suit, or proceeding instituted by or on behalf of the  
 17 ceding company.

18           2. This paragraph is not intended to conflict with or  
 19 override the obligation of the parties to a reinsurance  
 20 agreement to arbitrate their disputes, if this obligation is  
 21 created in the agreement.

22           ~~(g)(f)~~ If the assuming insurer does not meet the  
 23 requirements of paragraph (a) or paragraph (b), the credit  
 24 permitted by paragraph (c) or paragraph (d) is not allowed  
 25 unless the assuming insurer agrees in the trust agreements, in  
 26 substance, to the following conditions:

27           1. Notwithstanding any other provisions in the trust  
 28 instrument, if the trust fund is inadequate because it  
 29 contains an amount less than the amount required by paragraph  
 30 (c), or if the grantor of the trust has been declared  
 31 insolvent or placed into receivership, rehabilitation,

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1 liquidation, or similar proceedings under the laws of its  
 2 state or country of domicile, the trustee shall comply with an  
 3 order of the insurance regulator with regulatory oversight  
 4 over the trust or with an order of a United States court of  
 5 competent jurisdiction directing the trustee to transfer to  
 6 the insurance regulator with regulatory oversight all of the  
 7 assets of the trust fund.

8           2. The assets must be distributed by and claims must  
 9 be filed with and valued by the insurance regulator with  
 10 regulatory oversight in accordance with the laws of the state  
 11 in which the trust is domiciled which are applicable to the  
 12 liquidation of domestic insurance companies.

13           3. If the insurance regulator with regulatory  
 14 oversight determines that the assets of the trust fund or any  
 15 part thereof are not necessary to satisfy the claims of the  
 16 United States ceding insurers of the grantor of the trust, the  
 17 assets or part thereof must be returned by the insurance  
 18 regulator with regulatory oversight to the trustee for  
 19 distribution in accordance with the trust agreement.

20           4. The grantor shall waive any right otherwise  
 21 available to it under United States law which is inconsistent  
 22 with this provision.

23           Section 16. Paragraph (a) of subsection (3) of section  
 24 626.2815, Florida Statutes, is amended to read:

25           626.2815 Continuing education required; application;  
 26 exceptions; requirements; penalties.--

27           (3)(a) Each person subject to the provisions of this  
 28 section must, except as set forth in paragraphs (b), (c), and  
 29 (d), complete a minimum of 24 hours of continuing education  
 30 courses every 2 years in basic or higher-level courses  
 31 prescribed by this section or in other courses approved by the



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1 department. Each person subject to the provisions of this  
 2 section must complete, as part of his or her required number  
 3 of continuing education hours, 3 hours of continuing  
 4 education, approved by the department, every 2 years on the  
 5 subject matter of ethics. Each licensed general lines agent  
 6 and customer representative subject to this section must  
 7 complete, as part of his or her required number of continuing  
 8 education hours, 1 hour of continuing education, approved by  
 9 the department, every 2 years on the subject matter of premium  
 10 discounts available on property insurance policies based on  
 11 various hurricane mitigation options and the means for  
 12 obtaining the discounts.

13 Section 17. Section 627.0613, Florida Statutes, is  
 14 amended to read:

15 627.0613 Consumer advocate.--The Chief Financial  
 16 Officer must appoint a consumer advocate who must represent  
 17 the general public of the state before the department and the  
 18 office. The consumer advocate must report directly to the  
 19 Chief Financial Officer, but is not otherwise under the  
 20 authority of the department or of any employee of the  
 21 department. The consumer advocate has such powers as are  
 22 necessary to carry out the duties of the office of consumer  
 23 advocate, including, but not limited to, the powers to:

24 (1) Recommend to the department or office, by  
 25 petition, the commencement of any proceeding or action; appear  
 26 in any proceeding or action before the department or office;  
 27 or appear in any proceeding before the Division of  
 28 Administrative Hearings or arbitration panel specified in s.  
 29 627.062(6) relating to subject matter under the jurisdiction  
 30 of the department or office.

31 (2) Have access to and use of all files, records, and

1 data of the department or office.

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

7 (4) Prepare an annual report card for each authorized  
8 property insurer, on a form and using a letter-grade scale  
9 developed by the commission by rule, which grades each insurer  
10 based on the following factors:

11 1. The number and nature of consumer complaints  
12 received by the department against the insurer.

13 2. The disposition of all complaints received by the  
14 department.

15 3. The average length of time for payment of claims by  
16 the insurer.

17 4. Any other factors the commission identifies as  
18 assisting policyholders in making informed choices about  
19 homeowner's insurance.

20 (5)(4) Prepare an annual budget for presentation to  
21 the Legislature by the department, which budget must be  
22 adequate to carry out the duties of the office of consumer  
23 advocate.

24 Section 18. Subsection (2) and paragraph (a) of  
25 subsection (6) of section 627.062, Florida Statutes, are  
26 amended, present subsection (9) of that section is  
27 redesignated as subsection (10), and a new subsection (9) is  
28 added to that section, to read:

29 627.062 Rate standards.--

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

31 (a) Insurers or rating organizations shall establish

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1 and use rates, rating schedules, or rating manuals to allow  
2 the insurer a reasonable rate of return on such classes of  
3 insurance written in this state. A copy of rates, rating  
4 schedules, rating manuals, premium credits or discount  
5 schedules, and surcharge schedules, and changes thereto, shall  
6 be filed with the office under one of the following procedures  
7 except as provided in subparagraph 3.:

8           1. If the filing is made at least 90 days before the  
9 proposed effective date and the filing is not implemented  
10 during the office's review of the filing and any proceeding  
11 and judicial review, then such filing shall be considered a  
12 "file and use" filing. In such case, the office shall  
13 finalize its review by issuance of a notice of intent to  
14 approve or a notice of intent to disapprove within 90 days  
15 after receipt of the filing. The notice of intent to approve  
16 and the notice of intent to disapprove constitute agency  
17 action for purposes of the Administrative Procedure Act.  
18 Requests for supporting information, requests for mathematical  
19 or mechanical corrections, or notification to the insurer by  
20 the office of its preliminary findings shall not toll the  
21 90-day period during any such proceedings and subsequent  
22 judicial review. The rate shall be deemed approved if the  
23 office does not issue a notice of intent to approve or a  
24 notice of intent to disapprove within 90 days after receipt of  
25 the filing.

26           2. If the filing is not made in accordance with the  
27 provisions of subparagraph 1., such filing shall be made as  
28 soon as practicable, but no later than 30 days after the  
29 effective date, and shall be considered a "use and file"  
30 filing. An insurer making a "use and file" filing is  
31 potentially subject to an order by the office to return to

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1 | policyholders portions of rates found to be excessive, as  
2 | provided in paragraph (h).

3 |       3. For all filings made on or before December 31,  
4 | 2008, an insurer seeking a rate that is greater than the rate  
5 | most recently approved by the office shall make a "file and  
6 | use" filing.

7 |       (b) Upon receiving a rate filing, the office shall  
8 | review the rate filing to determine if a rate is excessive,  
9 | inadequate, or unfairly discriminatory. In making that  
10 | determination, the office shall, in accordance with generally  
11 | accepted and reasonable actuarial techniques, consider the  
12 | following factors:

13 |           1. Past and prospective loss experience within and  
14 | without this state.

15 |           2. Past and prospective expenses.

16 |           3. The degree of competition among insurers for the  
17 | risk insured.

18 |           4. Investment income reasonably expected by the  
19 | insurer, consistent with the insurer's investment practices,  
20 | from investable premiums anticipated in the filing, plus any  
21 | other expected income from currently invested assets  
22 | representing the amount expected on unearned premium reserves  
23 | and loss reserves. The commission may adopt rules utilizing  
24 | reasonable techniques of actuarial science and economics to  
25 | specify the manner in which insurers shall calculate  
26 | investment income attributable to such classes of insurance  
27 | written in this state and the manner in which such investment  
28 | income shall be used in the calculation of insurance rates.  
29 | Such manner shall contemplate allowances for an underwriting  
30 | profit factor and full consideration of investment income  
31 | which produce a reasonable rate of return; however, investment

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1 income from invested surplus shall not be considered.

2 5. The reasonableness of the judgment reflected in the  
3 filing.

4 6. Dividends, savings, or unabsorbed premium deposits  
5 allowed or returned to Florida policyholders, members, or  
6 subscribers.

7 7. The adequacy of loss reserves.

8 8. The cost of reinsurance.

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

11 10. Conflagration and catastrophe hazards, if  
12 applicable.

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

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

21 13. Other relevant factors which impact upon the  
22 frequency or severity of claims or upon expenses.

23 (c) In the case of fire insurance rates, consideration  
24 shall be given to the availability of water supplies and the  
25 experience of the fire insurance business during a period of  
26 not less than the most recent 5-year period for which such  
27 experience is available.

28 (d) If conflagration or catastrophe hazards are given  
29 consideration by an insurer in its rates or rating plan,  
30 including surcharges and discounts, the insurer shall  
31 establish a reserve for that portion of the premium allocated

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1 to such hazard and shall maintain the premium in a catastrophe  
 2 reserve. Any removal of such premiums from the reserve for  
 3 purposes other than paying claims associated with a  
 4 catastrophe or purchasing reinsurance for catastrophes shall  
 5 be subject to approval of the office. Any ceding commission  
 6 received by an insurer purchasing reinsurance for catastrophes  
 7 shall be placed in the catastrophe reserve.

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

12 1. Rates shall be deemed excessive if they are likely  
 13 to produce a profit from Florida business that is unreasonably  
 14 high in relation to the risk involved in the class of business  
 15 or if expenses are unreasonably high in relation to services  
 16 rendered.

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

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

25 4. A rating plan, including discounts, credits, or  
 26 surcharges, shall be deemed unfairly discriminatory if it  
 27 fails to clearly and equitably reflect consideration of the  
 28 policyholder's participation in a risk management program  
 29 adopted pursuant to s. 627.0625.

30 5. A rate shall be deemed inadequate as to the premium  
 31 charged to a risk or group of risks if discounts or credits

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1 are allowed which exceed a reasonable reflection of expense  
2 savings and reasonably expected loss experience from the risk  
3 or group of risks.

4           6. A rate shall be deemed unfairly discriminatory as  
5 to a risk or group of risks if the application of premium  
6 discounts, credits, or surcharges among such risks does not  
7 bear a reasonable relationship to the expected loss and  
8 expense experience among the various risks.

9           (f) In reviewing a rate filing, the office may require  
10 the insurer to provide at the insurer's expense all  
11 information necessary to evaluate the condition of the company  
12 and the reasonableness of the filing according to the criteria  
13 enumerated in this section.

14           (g) The office may at any time review a rate, rating  
15 schedule, rating manual, or rate change; the pertinent records  
16 of the insurer; and market conditions. If the office finds on  
17 a preliminary basis that a rate may be excessive, inadequate,  
18 or unfairly discriminatory, the office shall initiate  
19 proceedings to disapprove the rate and shall so notify the  
20 insurer. However, the office may not disapprove as excessive  
21 any rate for which it has given final approval or which has  
22 been deemed approved for a period of 1 year after the  
23 effective date of the filing unless the office finds that a  
24 material misrepresentation or material error was made by the  
25 insurer or was contained in the filing. Upon being so  
26 notified, the insurer or rating organization shall, within 60  
27 days, file with the office all information which, in the  
28 belief of the insurer or organization, proves the  
29 reasonableness, adequacy, and fairness of the rate or rate  
30 change. The office shall issue a notice of intent to approve  
31 or a notice of intent to disapprove pursuant to the procedures

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1 of paragraph (a) within 90 days after receipt of the insurer's  
2 initial response. In such instances and in any administrative  
3 proceeding relating to the legality of the rate, the insurer  
4 or rating organization shall carry the burden of proof by a  
5 preponderance of the evidence to show that the rate is not  
6 excessive, inadequate, or unfairly discriminatory. After the  
7 office notifies an insurer that a rate may be excessive,  
8 inadequate, or unfairly discriminatory, unless the office  
9 withdraws the notification, the insurer shall not alter the  
10 rate except to conform with the office's notice until the  
11 earlier of 120 days after the date the notification was  
12 provided or 180 days after the date of the implementation of  
13 the rate. The office may, subject to chapter 120, disapprove  
14 without the 60-day notification any rate increase filed by an  
15 insurer within the prohibited time period or during the time  
16 that the legality of the increased rate is being contested.

17 (h) In the event the office finds that a rate or rate  
18 change is excessive, inadequate, or unfairly discriminatory,  
19 the office shall issue an order of disapproval specifying that  
20 a new rate or rate schedule which responds to the findings of  
21 the office be filed by the insurer. The office shall further  
22 order, for any "use and file" filing made in accordance with  
23 subparagraph (a)2., that premiums charged each policyholder  
24 constituting the portion of the rate above that which was  
25 actuarially justified be returned to such policyholder in the  
26 form of a credit or refund. If the office finds that an  
27 insurer's rate or rate change is inadequate, the new rate or  
28 rate schedule filed with the office in response to such a  
29 finding shall be applicable only to new or renewal business of  
30 the insurer written on or after the effective date of the  
31 responsive filing.



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1 (i) Except as otherwise specifically provided in this  
 2 chapter, the office shall not prohibit any insurer, including  
 3 any residual market plan or joint underwriting association,  
 4 from paying acquisition costs based on the full amount of  
 5 premium, as defined in s. 627.403, applicable to any policy,  
 6 or prohibit any such insurer from including the full amount of  
 7 acquisition costs in a rate filing.

8 (j) With respect to residential property insurance  
 9 rate filings, the rate filing must account for mitigation  
 10 measures undertaken by policyholders to reduce hurricane  
 11 losses.

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

14 ~~1. With respect to any residential property insurance~~  
 15 ~~subject to regulation under this section for any area for~~  
 16 ~~which the office determines a reasonable degree of competition~~  
 17 ~~exists, a rate filing, including, but not limited to, any rate~~  
 18 ~~changes, rating factors, territories, classification,~~  
 19 ~~discounts, and credits, with respect to any policy form,~~  
 20 ~~including endorsements issued with the form, that results in~~  
 21 ~~an overall average statewide premium increase or decrease of~~  
 22 ~~no more than 5 percent above or below the premium that would~~  
 23 ~~result from the insurer's rates then in effect shall not be~~  
 24 ~~subject to a determination by the office that the rate is~~  
 25 ~~excessive or unfairly discriminatory except as provided in~~  
 26 ~~subparagraph 3., or any other provision of law, provided all~~  
 27 ~~changes specified in the filing do not result in an overall~~  
 28 ~~premium increase of more than 10 percent for any one~~  
 29 ~~territory, for reasons related solely to the rate change. As~~  
 30 ~~used in this subparagraph, the term "insurer's rates then in~~  
 31 ~~effect" includes only rates that have been lawfully in effect~~

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1 ~~under this section or rates that have been determined to be~~  
2 ~~lawful through administrative proceedings or judicial~~  
3 ~~proceedings.~~

4         ~~2. An insurer may not make filings under this~~  
5 ~~paragraph with respect to any policy form, including~~  
6 ~~endorsements issued with the form, if the overall premium~~  
7 ~~changes resulting from such filings exceed the amounts~~  
8 ~~specified in this paragraph in any 12-month period. An insurer~~  
9 ~~may proceed under other provisions of this section or other~~  
10 ~~provisions of law if the insurer seeks to exceed the premium~~  
11 ~~or rate limitations of this paragraph.~~

12         ~~3. This paragraph does not affect the authority of the~~  
13 ~~office to disapprove a rate as inadequate or to disapprove a~~  
14 ~~filing for the unlawful use of unfairly discriminatory rating~~  
15 ~~factors that are prohibited by the laws of this state. An~~  
16 ~~insurer electing to implement a rate change under this~~  
17 ~~paragraph shall submit a filing to the office at least 40 days~~  
18 ~~prior to the effective date of the rate change. The office~~  
19 ~~shall have 30 days after the filing's submission to review the~~  
20 ~~filing and determine if the rate is inadequate or uses~~  
21 ~~unfairly discriminatory rating factors. Absent a finding by~~  
22 ~~the office within such 30-day period that the rate is~~  
23 ~~inadequate or that the insurer has used unfairly~~  
24 ~~discriminatory rating factors, the filing is deemed approved.~~  
25 ~~If the office finds during the 30-day period that the filing~~  
26 ~~will result in inadequate premiums or otherwise endanger the~~  
27 ~~insurer's solvency, the office shall suspend the rate~~  
28 ~~decrease. If the insurer is implementing an overall rate~~  
29 ~~increase, the results of which continue to produce an~~  
30 ~~inadequate rate, such increase shall proceed pending~~  
31 ~~additional action by the office to ensure the adequacy of the~~

1 ~~rate.~~

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

4

5 The provisions of this subsection shall not apply to workers'  
6 compensation and employer's liability insurance and to motor  
7 vehicle insurance.

8

9 The provisions of this subsection shall not apply to workers'  
10 compensation and employer's liability insurance and to motor  
11 vehicle insurance.

12 (6)(a) After any action with respect to a rate filing  
13 that constitutes agency action for purposes of the  
14 Administrative Procedure Act, except for a rate filing for  
15 medical malpractice, an insurer may, in lieu of demanding a  
16 hearing under s. 120.57, require arbitration of the rate  
17 filing. However, the arbitration option provision in this  
18 subsection does not apply to a rate filing that is made on or  
19 after the effective date of this act until January 1, 2009.

20 Arbitration shall be conducted by a board of arbitrators  
21 consisting of an arbitrator selected by the office, an  
22 arbitrator selected by the insurer, and an arbitrator selected  
23 jointly by the other two arbitrators. Each arbitrator must be  
24 certified by the American Arbitration Association. A decision  
25 is valid only upon the affirmative vote of at least two of the  
26 arbitrators. No arbitrator may be an employee of any insurance  
27 regulator or regulatory body or of any insurer, regardless of  
28 whether or not the employing insurer does business in this  
29 state. The office and the insurer must treat the decision of  
30 the arbitrators as the final approval of a rate filing. Costs  
31 of arbitration shall be paid by the insurer.

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1           (9)(a) Effective March 1, 2007, the chief executive  
 2 officer or chief financial officer of a property insurer and  
 3 the chief actuary of a property insurer must certify under  
 4 oath and subject to the penalty of perjury, on a form approved  
 5 by the commission, the following information, which must  
 6 accompany a rate filing:

7           1. The signing officer and actuary have reviewed the  
 8 rate filing;

9           2. Based on the signing officer's and actuary's  
 10 knowledge, the rate filing does not contain any untrue  
 11 statement of a material fact or omit to state a material fact  
 12 necessary in order to make the statements made, in light of  
 13 the circumstances under which such statements were made, not  
 14 misleading;

15           3. Based on the signing officer's and actuary's  
 16 knowledge, the information and other factors described in s.  
 17 627.062(2)(b), including, but not limited to, investment  
 18 income, fairly present in all material respects the basis of  
 19 the rate filing for the periods presented in the filing; and

20           4. Based on the signing officer's and actuary's  
 21 knowledge, the rate filing reflects all premium savings that  
 22 are reasonably expected to result from legislative enactments  
 23 and are in accordance with generally accepted and reasonable  
 24 actuarial techniques.

25           (b) A signing officer or actuary knowingly making a  
 26 false certification under this subsection commits a violation  
 27 of s. 626.9541(1)(e) and is subject to the penalties under s.  
 28 626.9521.

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

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

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

5           627.0629 Residential property insurance; rate  
6 filings.--

7           (1) It is the intent of the Legislature that insurers  
8 must provide savings to consumers who install or implement  
9 windstorm damage mitigation techniques, alterations, or  
10 solutions to their properties to prevent windstorm losses.

11 ~~Effective June 1, 2002,~~ A rate filing for residential property  
12 insurance must include actuarially reasonable discounts,  
13 credits, or other rate differentials, or appropriate  
14 reductions in deductibles, for properties on which fixtures or  
15 construction techniques demonstrated to reduce the amount of  
16 loss in a windstorm have been installed or implemented. The  
17 fixtures or construction techniques shall include, but not be  
18 limited to, fixtures or construction techniques which enhance  
19 roof strength, roof covering performance, roof-to-wall  
20 strength, wall-to-floor-to-foundation strength, opening  
21 protection, and window, door, and skylight strength. Credits,  
22 discounts, or other rate differentials, or appropriate  
23 reductions in deductibles, for fixtures and construction  
24 techniques which meet the minimum requirements of the Florida  
25 Building Code must be included in the rate filing. All  
26 insurance companies must make a rate filing which includes the  
27 credits, discounts, or other rate differentials or reductions  
28 in deductibles by February 28, 2003. By July 1, 2007, the  
29 office shall reevaluate the discounts, credits, other rate  
30 differentials, and appropriate reductions in deductibles for  
31 fixtures and construction techniques that meet the minimum

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1 requirements of the Florida Building Code, based upon actual  
 2 experience or any other loss relativity studies available to  
 3 the office. The office shall determine the discounts, credits,  
 4 other rate differentials, and appropriate reductions in  
 5 deductibles that reflect the full actuarial value of such  
 6 revaluation, which may be used by insurers in rate filings.

7 Section 20. Section 627.0655, Florida Statutes, is  
 8 created to read:

9 627.0655 Policyholder loss or expense-related premium  
 10 discounts.--An insurer or person authorized to engage in the  
 11 business of insurance in this state may include, in the  
 12 premium charged an insured for any policy, contract, or  
 13 certificate of insurance, a discount based on the fact that  
 14 another policy, contract, or certificate of any type has been  
 15 purchased by the insured.

16 Section 21. Paragraphs (a), (b), (c), (m), (p), and  
 17 (s) of subsection (6) of section 627.351, Florida Statutes,  
 18 are amended, and paragraph (ee) is added to that subsection,  
 19 to read:

20 627.351 Insurance risk apportionment plans.--

21 (6) CITIZENS PROPERTY INSURANCE CORPORATION.--

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

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

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

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1 changes in the plan. The corporation shall continue to operate  
 2 pursuant to the plan of operation approved by the Office of  
 3 Insurance Regulation until October 1, 2006. For the purposes  
 4 of this subsection, residential coverage includes both  
 5 personal lines residential coverage, which consists of the  
 6 type of coverage provided by homeowner's, mobile home owner's,  
 7 dwelling, tenant's, condominium unit owner's, and similar  
 8 policies, and commercial lines residential coverage, which  
 9 consists of the type of coverage provided by condominium  
 10 association, apartment building, and similar policies.

11           3. For the purposes of this subsection, the term  
 12 "homestead property" means:

13           a. Property that has been granted a homestead  
 14 exemption under chapter 196;

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

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

26           d. Tenant's coverage;

27           e. Commercial lines residential property; or

28           f. Any county, district, or municipal hospital; a  
 29 hospital licensed by any not-for-profit corporation qualified  
 30 under s. 501(c)(3) of the United States Internal Revenue Code;  
 31 or a continuing care retirement community that is certified



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1 under chapter 651 and that receives an exemption from ad  
2 valorem taxes under chapter 196.

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

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

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1 corporation until the conclusion of the litigation.

2           6. For properties constructed on or after January  
 3 1,2009, the corporation may not insure any property located  
 4 within 2,500 feet landward of the coastal construction control  
 5 line created pursuant to s. 161.053 unless the property meets  
 6 the requirements of the code-plus building standards developed  
 7 by the Florida Building Commission.

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

17           7. It is the intent of the Legislature that  
 18 policyholders, applicants, and agents of the corporation  
 19 receive service and treatment of the highest possible level  
 20 but never less than that generally provided in the voluntary  
 21 market. It also is intended that the corporation be held to  
 22 service standards no less than those applied to insurers in  
 23 the voluntary market by the office with respect to  
 24 responsiveness, timeliness, customer courtesy, and overall  
 25 dealings with policyholders, applicants, or agents of the  
 26 corporation.

27           (b)1. All insurers authorized to write one or more  
 28 subject lines of business in this state are subject to  
 29 assessment by the corporation and, for the purposes of this  
 30 subsection, are referred to collectively as "assessable  
 31 insurers." Insurers writing one or more subject lines of

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1 business in this state pursuant to part VIII of chapter 626  
2 are not assessable insurers, but insureds who procure one or  
3 more subject lines of business in this state pursuant to part  
4 VIII of chapter 626 are subject to assessment by the  
5 corporation and are referred to collectively as "assessable  
6 insureds." An authorized insurer's assessment liability shall  
7 begin on the first day of the calendar year following the year  
8 in which the insurer was issued a certificate of authority to  
9 transact insurance for subject lines of business in this state  
10 and shall terminate 1 year after the end of the first calendar  
11 year during which the insurer no longer holds a certificate of  
12 authority to transact insurance for subject lines of business  
13 in this state.

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

17 (I) A personal lines account for personal residential  
18 policies issued by the corporation or issued by the  
19 Residential Property and Casualty Joint Underwriting  
20 Association and renewed by the corporation that provide  
21 comprehensive, multiperil coverage on risks that are not  
22 located in areas eligible for coverage in the Florida  
23 Windstorm Underwriting Association as those areas were defined  
24 on January 1, 2002, and for such policies that do not provide  
25 coverage for the peril of wind on risks that are located in  
26 such areas;

27 (II) A commercial lines account for commercial  
28 residential and commercial nonresidential policies issued by  
29 the corporation or issued by the Residential Property and  
30 Casualty Joint Underwriting Association and renewed by the  
31 corporation that provide coverage for basic property perils on

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1 risks that are not located in areas eligible for coverage in  
 2 the Florida Windstorm Underwriting Association as those areas  
 3 were defined on January 1, 2002, and for such policies that do  
 4 not provide coverage for the peril of wind on risks that are  
 5 located in such areas; and

6 (III) A high-risk account for personal residential  
 7 policies and commercial residential and commercial  
 8 nonresidential property policies issued by the corporation or  
 9 transferred to the corporation that provide coverage for the  
 10 peril of wind on risks that are located in areas eligible for  
 11 coverage in the Florida Windstorm Underwriting Association as  
 12 those areas were defined on January 1, 2002. Subject to the  
 13 approval of a business plan by the Financial Services  
 14 Commission and Legislative Budget Commission as provided in  
 15 this sub-sub-subparagraph, but no earlier than March 31, 2007,  
 16 the corporation may offer policies that provide multiperil  
 17 coverage and the corporation shall continue to offer policies  
 18 that provide coverage only for the peril of wind for risks  
 19 located in areas eligible for coverage in the high-risk  
 20 account. In issuing multiperil coverage, the corporation may  
 21 use its approved policy forms and rates for the personal lines  
 22 account. An applicant or insured who is eligible to purchase a  
 23 multiperil policy from the corporation may purchase a  
 24 multiperil policy from an authorized insurer without prejudice  
 25 to the applicant's or insured's eligibility to prospectively  
 26 purchase a policy that provides coverage only for the peril of  
 27 wind from the corporation. An applicant or insured who is  
 28 eligible for a corporation policy that provides coverage only  
 29 for the peril of wind may elect to purchase or retain such  
 30 policy and also purchase or retain coverage excluding wind  
 31 from an authorized insurer without prejudice to the

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1 applicant's or insured's eligibility to prospectively purchase  
2 a policy that provides multiperil coverage from the  
3 corporation. It is the goal of the Legislature that there  
4 would be an overall average savings of 10 percent or more for  
5 a policyholder who currently has a wind-only policy with the  
6 corporation, and an ex-wind policy with a voluntary insurer or  
7 the corporation, and who then obtains a multiperil policy from  
8 the corporation. It is the intent of the Legislature that the  
9 offer of multiperil coverage in the high-risk account be made  
10 and implemented in a manner that does not adversely affect the  
11 tax-exempt status of the corporation or creditworthiness of or  
12 security for currently outstanding financing obligations or  
13 credit facilities of the high-risk account, the personal lines  
14 account, or the commercial lines account. By March 1, 2007,  
15 the corporation shall prepare and submit for approval by the  
16 Financial Services Commission and Legislative Budget  
17 Commission a report detailing the corporation's business plan  
18 for issuing multiperil coverage in the high-risk account. The  
19 business plan shall be approved or disapproved within 30 days  
20 after receipt, as submitted or modified and resubmitted by the  
21 corporation. The business plan must include: the impact of  
22 such multiperil coverage on the corporation's financial  
23 resources, the impact of such multiperil coverage on the  
24 corporation's tax-exempt status, the manner in which the  
25 corporation plans to implement the processing of applications  
26 and policy forms for new and existing policyholders, the  
27 impact of such multiperil coverage on the corporation's  
28 ability to deliver customer service at the high level required  
29 by this subsection, the ability of the corporation to process  
30 claims, the ability of the corporation to quote and issue  
31 policies, the impact of such multiperil coverage on the

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

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

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

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

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

28       e. The Legislature finds that the revenues of the  
29 corporation are revenues that are necessary to meet the  
30 requirements set forth in documents authorizing the issuance  
31 of bonds under this subsection.

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1 f. No part of the income of the corporation may inure  
2 to the benefit of any private person.

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

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

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

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



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

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

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

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1 with financing the original deficit.

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

31 f. As used in this subsection, the term "subject lines

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1 of business" means insurance written by assessable insurers or  
 2 procured by assessable insureds for all property and casualty  
 3 lines of business in this state, but not including workers'  
 4 compensation or medical malpractice. As used in the  
 5 sub-subparagraph, the term "property and casualty lines of  
 6 business" includes all lines of business identified on Form 2,  
 7 Exhibit of Premiums and Losses, in the annual statement  
 8 required of authorized insurers by s. 624.424 and any rule  
 9 adopted under this section, except for those lines identified  
 10 as accident and health insurance and except for policies  
 11 written under the National Flood Insurance program or the  
 12 Federal Crop Insurance Program. For purposes of this  
 13 sub-subparagraph, the term "workers' compensation" includes  
 14 both workers' compensation insurance and excess workers'  
 15 compensation insurance. ~~on real or personal property, as~~  
 16 ~~defined in s. 624.604, including insurance for fire,~~  
 17 ~~industrial fire, allied lines, farmowners multiperil,~~  
 18 ~~homeowners multiperil, commercial multiperil, and mobile~~  
 19 ~~homes, and including liability coverage on all such insurance,~~  
 20 ~~but excluding inland marine as defined in s. 624.607(3) and~~  
 21 ~~excluding vehicle insurance as defined in s. 624.605(1) other~~  
 22 ~~than insurance on mobile homes used as permanent dwellings.~~

23 g. The Florida Surplus Lines Service Office shall  
 24 determine annually the aggregate statewide written premium in  
 25 subject lines of business procured by assessable insureds and  
 26 shall report that information to the corporation in a form and  
 27 at a time the corporation specifies to ensure that the  
 28 corporation can meet the requirements of this subsection and  
 29 the corporation's financing obligations.

30 h. The Florida Surplus Lines Service Office shall  
 31 verify the proper application by surplus lines agents of

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1 assessment percentages for regular assessments and emergency  
 2 assessments levied under this subparagraph on assessable  
 3 insureds and shall assist the corporation in ensuring the  
 4 accurate, timely collection and payment of assessments by  
 5 surplus lines agents as required by the corporation.

6       i. If a deficit is incurred in any account in 2008 or  
 7 thereafter, the board of governors shall levy an immediate  
 8 assessment against the premium of each nonhomestead property  
 9 policyholder in all accounts of the corporation, as a uniform  
 10 percentage of the premium of the policy of up to 10 percent of  
 11 such premium, which funds shall be used to offset the deficit.  
 12 If this assessment is insufficient to eliminate the deficit,  
 13 the board of governors shall levy an additional assessment  
 14 against all policyholders of the corporation, which shall be  
 15 collected at the time of issuance or renewal of a policy, as a  
 16 uniform percentage of the premium for the policy of up to 10  
 17 percent of such premium, which funds shall be used to further  
 18 offset the deficit.

19       j. The board of governors shall maintain separate  
 20 accounting records that consolidate data for nonhomestead  
 21 properties, including, but not limited to, number of policies,  
 22 insured values, premiums written, and losses. The board of  
 23 governors shall annually report to the office and the  
 24 Legislature a summary of such data.

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

26       1. Must provide for adoption of residential property  
 27 and casualty insurance policy forms and commercial residential  
 28 and nonresidential property insurance forms, which forms must  
 29 be approved by the office prior to use. The corporation shall  
 30 adopt the following policy forms:

31       a. Standard personal lines policy forms that are

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1 comprehensive multiperil policies providing full coverage of a  
2 residential property equivalent to the coverage provided in  
3 the private insurance market under an HO-3, HO-4, or HO-6  
4 policy.

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

10         c. Commercial lines residential and nonresidential  
11 policy forms that are generally similar to the basic perils of  
12 full coverage obtainable for commercial residential structures  
13 and commercial nonresidential structures in the admitted  
14 voluntary market.

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

20         e. Commercial lines nonresidential property insurance  
21 forms that cover the peril of wind only. The forms are  
22 applicable only to nonresidential properties located in areas  
23 eligible for coverage under the high-risk account referred to  
24 in sub-subparagraph (b)2.a.

25         f. The corporation may adopt variations of the policy  
26 forms listed in sub-subparagraphs a.-e. that contain more  
27 restrictive coverage.

28         2.a. Must provide that the corporation adopt a program  
29 in which the corporation and authorized insurers enter into  
30 quota share primary insurance agreements for hurricane  
31 coverage, as defined in s. 627.4025(2)(a), for eligible risks,

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1 and adopt property insurance forms for eligible risks which  
2 cover the peril of wind only. As used in this subsection, the  
3 term:

4 (I) "Quota share primary insurance" means an  
5 arrangement in which the primary hurricane coverage of an  
6 eligible risk is provided in specified percentages by the  
7 corporation and an authorized insurer. The corporation and  
8 authorized insurer are each solely responsible for a specified  
9 percentage of hurricane coverage of an eligible risk as set  
10 forth in a quota share primary insurance agreement between the  
11 corporation and an authorized insurer and the insurance  
12 contract. The responsibility of the corporation or authorized  
13 insurer to pay its specified percentage of hurricane losses of  
14 an eligible risk, as set forth in the quota share primary  
15 insurance agreement, may not be altered by the inability of  
16 the other party to the agreement to pay its specified  
17 percentage of hurricane losses. Eligible risks that are  
18 provided hurricane coverage through a quota share primary  
19 insurance arrangement must be provided policy forms that set  
20 forth the obligations of the corporation and authorized  
21 insurer under the arrangement, clearly specify the percentages  
22 of quota share primary insurance provided by the corporation  
23 and authorized insurer, and conspicuously and clearly state  
24 that neither the authorized insurer nor the corporation may be  
25 held responsible beyond its specified percentage of coverage  
26 of hurricane losses.

27 (II) "Eligible risks" means personal lines residential  
28 and commercial lines residential risks that meet the  
29 underwriting criteria of the corporation and are located in  
30 areas that were eligible for coverage by the Florida Windstorm  
31 Underwriting Association on January 1, 2002.

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1           b. The corporation may enter into quota share primary  
2 insurance agreements with authorized insurers at corporation  
3 coverage levels of 90 percent and 50 percent.

4           c. If the corporation determines that additional  
5 coverage levels are necessary to maximize participation in  
6 quota share primary insurance agreements by authorized  
7 insurers, the corporation may establish additional coverage  
8 levels. However, the corporation's quota share primary  
9 insurance coverage level may not exceed 90 percent.

10           d. Any quota share primary insurance agreement entered  
11 into between an authorized insurer and the corporation must  
12 provide for a uniform specified percentage of coverage of  
13 hurricane losses, by county or territory as set forth by the  
14 corporation board, for all eligible risks of the authorized  
15 insurer covered under the quota share primary insurance  
16 agreement.

17           e. Any quota share primary insurance agreement entered  
18 into between an authorized insurer and the corporation is  
19 subject to review and approval by the office. However, such  
20 agreement shall be authorized only as to insurance contracts  
21 entered into between an authorized insurer and an insured who  
22 is already insured by the corporation for wind coverage.

23           f. For all eligible risks covered under quota share  
24 primary insurance agreements, the exposure and coverage levels  
25 for both the corporation and authorized insurers shall be  
26 reported by the corporation to the Florida Hurricane  
27 Catastrophe Fund. For all policies of eligible risks covered  
28 under quota share primary insurance agreements, the  
29 corporation and the authorized insurer shall maintain complete  
30 and accurate records for the purpose of exposure and loss  
31 reimbursement audits as required by Florida Hurricane



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1 Catastrophe Fund rules. The corporation and the authorized  
2 insurer shall each maintain duplicate copies of policy  
3 declaration pages and supporting claims documents.

4 g. The corporation board shall establish in its plan  
5 of operation standards for quota share agreements which ensure  
6 that there is no discriminatory application among insurers as  
7 to the terms of quota share agreements, pricing of quota share  
8 agreements, incentive provisions if any, and consideration  
9 paid for servicing policies or adjusting claims.

10 h. The quota share primary insurance agreement between  
11 the corporation and an authorized insurer must set forth the  
12 specific terms under which coverage is provided, including,  
13 but not limited to, the sale and servicing of policies issued  
14 under the agreement by the insurance agent of the authorized  
15 insurer producing the business, the reporting of information  
16 concerning eligible risks, the payment of premium to the  
17 corporation, and arrangements for the adjustment and payment  
18 of hurricane claims incurred on eligible risks by the claims  
19 adjuster and personnel of the authorized insurer. Entering  
20 into a quota sharing insurance agreement between the  
21 corporation and an authorized insurer shall be voluntary and  
22 at the discretion of the authorized insurer.

23 3. May provide that the corporation may employ or  
24 otherwise contract with individuals or other entities to  
25 provide administrative or professional services that may be  
26 appropriate to effectuate the plan. The corporation shall have  
27 the power to borrow funds, by issuing bonds or by incurring  
28 other indebtedness, and shall have other powers reasonably  
29 necessary to effectuate the requirements of this subsection,  
30 including, without limitation, the power to issue bonds and  
31 incur other indebtedness in order to refinance outstanding

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1 | bonds or other indebtedness. The corporation may, but is not  
 2 | required to, seek judicial validation of its bonds or other  
 3 | indebtedness under chapter 75. The corporation may issue bonds  
 4 | or incur other indebtedness, or have bonds issued on its  
 5 | behalf by a unit of local government pursuant to subparagraph  
 6 | (g)2., in the absence of a hurricane or other weather-related  
 7 | event, upon a determination by the corporation, subject to  
 8 | approval by the office, that such action would enable it to  
 9 | efficiently meet the financial obligations of the corporation  
 10 | and that such financings are reasonably necessary to  
 11 | effectuate the requirements of this subsection. The  
 12 | corporation is authorized to take all actions needed to  
 13 | facilitate tax-free status for any such bonds or indebtedness,  
 14 | including formation of trusts or other affiliated entities.  
 15 | The corporation shall have the authority to pledge  
 16 | assessments, projected recoveries from the Florida Hurricane  
 17 | Catastrophe Fund, other reinsurance recoverables, market  
 18 | equalization and other surcharges, and other funds available  
 19 | to the corporation as security for bonds or other  
 20 | indebtedness. In recognition of s. 10, Art. I of the State  
 21 | Constitution, prohibiting the impairment of obligations of  
 22 | contracts, it is the intent of the Legislature that no action  
 23 | be taken whose purpose is to impair any bond indenture or  
 24 | financing agreement or any revenue source committed by  
 25 | contract to such bond or other indebtedness.

26 |         4.a. Must require that the corporation operate subject  
 27 | to the supervision and approval of a board of governors  
 28 | consisting of eight individuals who are residents of this  
 29 | state, from different geographical areas of this state. The  
 30 | Governor, the Chief Financial Officer, the President of the  
 31 | Senate, and the Speaker of the House of Representatives shall

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1 each appoint two members of the board. At least one of the two  
2 members appointed by each appointing officer must have  
3 demonstrated expertise in insurance. The Chief Financial  
4 Officer shall designate one of the appointees as chair. All  
5 board members serve at the pleasure of the appointing officer.  
6 All members of the board of governors are subject to removal  
7 at will by the officers who appointed them. All board members,  
8 including the chair, must be appointed to serve for 3-year  
9 terms beginning annually on a date designated by the plan. Any  
10 board vacancy shall be filled for the unexpired term by the  
11 appointing officer. The Chief Financial Officer shall appoint  
12 a technical advisory group to provide information and advice  
13 to the board of governors in connection with the board's  
14 duties under this subsection. The executive director and  
15 senior managers of the corporation shall be engaged by the  
16 board and serve at the pleasure of the board. Any executive  
17 director appointed on or after July 1, 2006, is subject to  
18 confirmation by the Senate. The executive director is  
19 responsible for employing other staff as the corporation may  
20 require, subject to review and concurrence by the board.

21       b. The board shall create a Market Accountability  
22 Advisory Committee to assist the corporation in developing  
23 awareness of its rates and its customer and agent service  
24 levels in relationship to the voluntary market insurers  
25 writing similar coverage. The members of the advisory  
26 committee shall consist of the following 11 persons, one of  
27 whom must be elected chair by the members of the committee:  
28 four representatives, one appointed by the Florida Association  
29 of Insurance Agents, one by the Florida Association of  
30 Insurance and Financial Advisors, one by the Professional  
31 Insurance Agents of Florida, and one by the Latin American

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1 Association of Insurance Agencies; three representatives  
2 appointed by the insurers with the three highest voluntary  
3 market share of residential property insurance business in the  
4 state; one representative from the Office of Insurance  
5 Regulation; one consumer appointed by the board who is insured  
6 by the corporation at the time of appointment to the  
7 committee; one representative appointed by the Florida  
8 Association of Realtors; and one representative appointed by  
9 the Florida Bankers Association. All members must serve for  
10 3-year terms and may serve for consecutive terms. The  
11 committee shall report to the corporation at each board  
12 meeting on insurance market issues which may include rates and  
13 rate competition with the voluntary market; service, including  
14 policy issuance, claims processing, and general responsiveness  
15 to policyholders, applicants, and agents; and matters relating  
16 to depopulation.

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

19           a. Subject to the provisions of s. 627.3517, with  
20 respect to personal lines residential risks, if the risk is  
21 offered coverage from an authorized insurer at the insurer's  
22 approved rate under either a standard policy including wind  
23 coverage or, if consistent with the insurer's underwriting  
24 rules as filed with the office, a basic policy including wind  
25 coverage, for a new application to the corporation for  
26 coverage, the risk is not eligible for any policy issued by  
27 the corporation unless the premium for coverage from the  
28 authorized insurer is more than 25 percent greater than the  
29 premium for comparable coverage from the corporation. If the  
30 risk is not able to obtain any such offer, the risk is  
31 eligible for either a standard policy including wind coverage

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1 or a basic policy including wind coverage issued by the  
2 corporation; however, if the risk could not be insured under a  
3 standard policy including wind coverage regardless of market  
4 conditions, the risk shall be eligible for a basic policy  
5 including wind coverage unless rejected under subparagraph 8.  
6 However, with regard to a policyholder of the corporation, the  
7 policyholder remains eligible for coverage from the  
8 corporation regardless of any offer of coverage from an  
9 authorized insurer or surplus lines insurer. The corporation  
10 shall determine the type of policy to be provided on the basis  
11 of objective standards specified in the underwriting manual  
12 and based on generally accepted underwriting practices.

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

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

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

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

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

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

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

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

22 b. With respect to commercial lines residential risks,  
23 for a new application to the corporation for coverage, if the  
24 risk is offered coverage under a policy including wind  
25 coverage from an authorized insurer at its approved rate, the  
26 risk is not eligible for any policy issued by the corporation  
27 unless the premium for coverage from the authorized insurer is  
28 more than 25 percent greater than the premium for comparable  
29 coverage from the corporation. If the risk is not able to  
30 obtain any such offer, the risk is eligible for a policy  
31 including wind coverage issued by the corporation. However,

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1 with regard to a policyholder of the corporation, the  
 2 policyholder remains eligible for coverage from the  
 3 corporation regardless of any offer of coverage from an  
 4 authorized insurer or surplus lines insurer.

5 (I) If the risk accepts an offer of coverage through  
 6 the market assistance plan or an offer of coverage through a  
 7 mechanism established by the corporation before a policy is  
 8 issued to the risk by the corporation or during the first 30  
 9 days of coverage by the corporation, and the producing agent  
 10 who submitted the application to the plan or the corporation  
 11 is not currently appointed by the insurer, the insurer shall:

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

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

22  
 23 If the producing agent is unwilling or unable to accept  
 24 appointment, the new insurer shall pay the agent in accordance  
 25 with sub-sub-sub-subparagraph (A).

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

30 (A) Pay to the producing agent of record of the  
 31 corporation policy, for the first year, an amount that is the

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1 greater of the insurer's usual and customary commission for  
2 the type of policy written or a fee equal to the usual and  
3 customary commission of the corporation; or

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

9  
10 If the producing agent is unwilling or unable to accept  
11 appointment, the new insurer shall pay the agent in accordance  
12 with sub-sub-sub-subparagraph (A).

13 6. Must provide by July 1, 2007, that an application  
14 for coverage for a new policy is subject to a waiting period  
15 of 10 days before coverage is effective, during which time the  
16 corporation shall make such application available for review  
17 by general lines agents and authorized property and casualty  
18 insurers. The board ~~shall~~ may approve an exception ~~exceptions~~  
19 that allows ~~allow~~ for coverage to be effective before the end  
20 of the 10-day waiting period, for coverage issued in  
21 conjunction with a real estate closing. The board may approve  
22 ~~and for~~ such other exceptions as the board determines are  
23 necessary to prevent lapses in coverage.

24 7. Must include rules for classifications of risks and  
25 rates therefor.

26 8. Must provide that if premium and investment income  
27 for an account attributable to a particular calendar year are  
28 in excess of projected losses and expenses for the account  
29 attributable to that year, such excess shall be held in  
30 surplus in the account. Such surplus shall be available to  
31 defray deficits in that account as to future years and shall



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1 | be used for that purpose prior to assessing assessable  
2 | insurers and assessable insureds as to any calendar year.

3 |         9. Must provide objective criteria and procedures to  
4 | be uniformly applied for all applicants in determining whether  
5 | an individual risk is so hazardous as to be uninsurable. In  
6 | making this determination and in establishing the criteria and  
7 | procedures, the following shall be considered:

8 |             a. Whether the likelihood of a loss for the individual  
9 | risk is substantially higher than for other risks of the same  
10 | class; and

11 |             b. Whether the uncertainty associated with the  
12 | individual risk is such that an appropriate premium cannot be  
13 | determined.

14 |  
15 | The acceptance or rejection of a risk by the corporation shall  
16 | be construed as the private placement of insurance, and the  
17 | provisions of chapter 120 shall not apply.

18 |         10. Must provide that the corporation shall make its  
19 | best efforts to procure catastrophe reinsurance at reasonable  
20 | rates, to cover its projected 100-year probable maximum loss  
21 | as determined by the board of governors.

22 |         11. Must provide that in the event of regular deficit  
23 | assessments under sub-subparagraph (b)3.a. or sub-subparagraph  
24 | (b)3.b., in the personal lines account, the commercial lines  
25 | residential account, or the high-risk account, the corporation  
26 | shall levy upon corporation policyholders in its next rate  
27 | filing, or by a separate rate filing solely for this purpose,  
28 | a Citizens policyholder surcharge arising from a regular  
29 | assessment in such account in a percentage equal to the total  
30 | amount of such regular assessments divided by the aggregate  
31 | statewide direct written premium for subject lines of business

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1 for the prior calendar year. For purposes of calculating the  
 2 Citizens policyholder surcharge to be levied under this  
 3 subparagraph, the total amount of the regular assessment to  
 4 which this surcharge is related shall be determined as set  
 5 forth in subparagraph (b)3., without deducting the estimated  
 6 Citizens policyholder surcharge. Citizens policyholder  
 7 surcharges under this subparagraph are not considered premium  
 8 and are not subject to commissions, fees, or premium taxes;  
 9 however, failure to pay a market equalization surcharge shall  
 10 be treated as failure to pay premium.

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

17       13. Corporation policies and applications must include  
 18 a notice that the corporation policy could, under this  
 19 section, be replaced with a policy issued by an authorized  
 20 insurer that does not provide coverage identical to the  
 21 coverage provided by the corporation. The notice shall also  
 22 specify that acceptance of corporation coverage creates a  
 23 conclusive presumption that the applicant or policyholder is  
 24 aware of this potential.

25       14. May establish, subject to approval by the office,  
 26 different eligibility requirements and operational procedures  
 27 for any line or type of coverage for any specified county or  
 28 area if the board determines that such changes to the  
 29 eligibility requirements and operational procedures are  
 30 justified due to the voluntary market being sufficiently  
 31 stable and competitive in such area or for such line or type

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1 of coverage and that consumers who, in good faith, are unable  
 2 to obtain insurance through the voluntary market through  
 3 ordinary methods would continue to have access to coverage  
 4 from the corporation. When coverage is sought in connection  
 5 with a real property transfer, such requirements and  
 6 procedures shall not provide for an effective date of coverage  
 7 later than the date of the closing of the transfer as  
 8 established by the transferor, the transferee, and, if  
 9 applicable, the lender.

10           15. Must provide that, with respect to the high-risk  
 11 account, any assessable insurer with a surplus as to  
 12 policyholders of \$25 million or less writing 25 percent or  
 13 more of its total countrywide property insurance premiums in  
 14 this state may petition the office, within the first 90 days  
 15 of each calendar year, to qualify as a limited apportionment  
 16 company. A regular assessment levied by the corporation on a  
 17 limited apportionment company for a deficit incurred by the  
 18 corporation for the high-risk account in 2006 or thereafter  
 19 may be paid to the corporation on a monthly basis as the  
 20 assessments are collected by the limited apportionment company  
 21 from its insureds pursuant to s. 627.3512, but the regular  
 22 assessment must be paid in full within 12 months after being  
 23 levied by the corporation. A limited apportionment company  
 24 shall collect from its policyholders any emergency assessment  
 25 imposed under sub-subparagraph (b)3.d. The plan shall provide  
 26 that, if the office determines that any regular assessment  
 27 will result in an impairment of the surplus of a limited  
 28 apportionment company, the office may direct that all or part  
 29 of such assessment be deferred as provided in subparagraph  
 30 (g)4. However, there shall be no limitation or deferment of an  
 31 emergency assessment to be collected from policyholders under

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1 sub-subparagraph (b)3.d.

2           16. Must provide that the corporation appoint as its  
3 licensed agents only those agents who also hold an appointment  
4 as defined in s. 626.015(3) with an insurer who at the time of  
5 the agent's initial appointment by the corporation is  
6 authorized to write and is actually writing personal lines  
7 residential property coverage, commercial residential property  
8 coverage, or commercial nonresidential property coverage  
9 within the state.

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

13           18. Must provide, effective June 1, 2007, that the  
14 corporation contract with each insurer providing the non-wind  
15 coverage for risks insured by the corporation in the high-risk  
16 account, requiring that the insurer provide claims adjusting  
17 services for the wind coverage provided by the corporation for  
18 such risks. An insurer is required to enter into this contract  
19 as a condition of providing non-wind coverage for a risk that  
20 is insured by the corporation in the high-risk account unless  
21 the board finds, after a hearing, that the insurer is not  
22 capable of providing adjusting services at an acceptable level  
23 of quality to corporation policyholders. The terms and  
24 conditions of such contracts must be substantially the same as  
25 the contracts that the corporation executed with insurers  
26 under the "adjust-your-own" program in 2006, except as may be  
27 mutually agreed to by the parties and except for such changes  
28 that the board determines are necessary to ensure that claims  
29 are adjusted appropriately. The corporation shall provide a  
30 process for neutral arbitration of any dispute between the  
31 corporation and the insurer regarding the terms of the

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1 contract. The corporation shall review and monitor the  
2 performance of insurers under these contracts.

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

6 20. May provide such limits of coverage as the board  
7 determines, consistent with the requirements of this  
8 subsection.

9 21. May require commercial property to meet specified  
10 hurricane mitigation construction features as a condition of  
11 eligibility for coverage.

12 (m)1.

13 ~~a.~~ Rates for coverage provided by the corporation  
14 shall be actuarially sound and subject to the requirements of  
15 s. 627.062, except as otherwise provided in this paragraph.  
16 The corporation shall file its recommended rates with the  
17 office at least annually. The corporation shall provide any  
18 additional information regarding the rates which the office  
19 requires. The office shall consider the recommendations of the  
20 board and issue a final order establishing the rates for the  
21 corporation within 45 days after the recommended rates are  
22 filed. The corporation may not pursue an administrative  
23 challenge or judicial review of the final order of the office.

24 ~~not competitive with approved rates charged in the admitted~~  
25 ~~voluntary market, so that the corporation functions as a~~  
26 ~~residual market mechanism to provide insurance only when the~~  
27 ~~insurance cannot be procured in the voluntary market. Rates~~  
28 ~~shall include an appropriate catastrophe loading factor that~~  
29 ~~reflects the actual catastrophic exposure of the corporation.~~  
30 ~~For policies in the personal lines account and the commercial~~  
31 ~~lines account issued or renewed on or after March 1, 2007, a~~

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

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

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1 ~~expenses in the class of business to which they apply.~~

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

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

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1 ~~The rate shall be deemed approved if the office does not issue~~  
2 ~~a notice of intent to approve or a notice of intent to~~  
3 ~~disapprove within 90 days after receipt of the filing.~~  
4 ~~Corporation rate manuals shall include a rate surcharge for~~  
5 ~~seasonal occupancy. To ensure that personal lines residential~~  
6 ~~wind-only rates are not competitive with approved rates~~  
7 ~~charged by authorized insurers, the corporation, in~~  
8 ~~conjunction with the office, shall develop a wind-only~~  
9 ~~ratemaking methodology, which methodology shall be contained~~  
10 ~~in each rate filing made by the corporation with the office.~~  
11 ~~If the office determines that the wind-only rates or rating~~  
12 ~~factors filed by the corporation fail to comply with the~~  
13 ~~wind-only ratemaking methodology provided for in this~~  
14 ~~subsection, it shall so notify the corporation and require the~~  
15 ~~corporation to amend its rates or rating factors to come into~~  
16 ~~compliance within 90 days of notice from the office.~~

17       4. ~~The requirements of this paragraph that rates not~~  
18 ~~be competitive with approved rates charged by authorized~~  
19 ~~insurers do not apply in a county or area for which the office~~  
20 ~~determines that no authorized insurer is offering coverage.~~  
21 ~~The corporation shall amend its rates or rating factors for~~  
22 ~~the affected county or area in conjunction with its next rate~~  
23 ~~filing after such determination is made.~~

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



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

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

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

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

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

5 2.9. In addition to the rates otherwise determined  
 6 pursuant to this paragraph, the corporation shall impose and  
 7 collect an amount equal to the premium tax provided for in s.  
 8 624.509 to augment the financial resources of the corporation.

9 ~~10. The corporation shall develop a notice to~~  
 10 ~~policyholders or applicants that the rates of Citizens~~  
 11 ~~Property Insurance Corporation are intended to be higher than~~  
 12 ~~the rates of any admitted carrier and providing other~~  
 13 ~~information the corporation deems necessary to assist~~  
 14 ~~consumers in finding other voluntary admitted insurers willing~~  
 15 ~~to insure their property.~~

16 3.11. After the public hurricane loss-projection model  
 17 under s. 627.06281 has been found to be accurate and reliable  
 18 by the Florida Commission on Hurricane Loss Projection  
 19 Methodology, that model shall serve as the minimum benchmark  
 20 for determining the windstorm portion of the corporation's  
 21 rates. This subparagraph does not require or allow the  
 22 corporation to adopt rates lower than the rates otherwise  
 23 required or allowed by this paragraph.

24 4. The rate filings for the corporation which were  
 25 approved by the office and which took effect January 1, 2007,  
 26 are rescinded, except for those rates that were lowered. As  
 27 soon as possible, the corporation shall begin using the lower  
 28 rates that were in effect on December 31, 2006, and shall  
 29 provide refunds to policyholders who have paid higher rates as  
 30 a result of that rate filing. The rates in effect on December  
 31 31, 2006, shall remain in effect for the 2007 calendar year

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1 except for any rate change that results in a lower rate. The  
 2 next rate change that may increase rates shall take effect  
 3 January 1, 2008, pursuant to a new rate filing recommended by  
 4 the corporation and established by the office, subject to the  
 5 requirements of this paragraph.

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

29 2. The governing body of any unit of local government,  
 30 any residents of which are insured by the corporation, may  
 31 issue bonds as defined in s. 125.013 or s. 166.101 from time

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1 to time to fund an assistance program, in conjunction with the  
2 corporation, for the purpose of defraying deficits of the  
3 corporation. In order to avoid needless and indiscriminate  
4 proliferation, duplication, and fragmentation of such  
5 assistance programs, any unit of local government, any  
6 residents of which are insured by the corporation, may provide  
7 for the payment of losses, regardless of whether or not the  
8 losses occurred within or outside of the territorial  
9 jurisdiction of the local government. Revenue bonds under this  
10 subparagraph may not be issued until validated pursuant to  
11 chapter 75, unless a state of emergency is declared by  
12 executive order or proclamation of the Governor pursuant to s.  
13 252.36 making such findings as are necessary to determine that  
14 it is in the best interests of, and necessary for, the  
15 protection of the public health, safety, and general welfare  
16 of residents of this state and declaring it an essential  
17 public purpose to permit certain municipalities or counties to  
18 issue such bonds as will permit relief to claimants and  
19 policyholders of the corporation. Any such unit of local  
20 government may enter into such contracts with the corporation  
21 and with any other entity created pursuant to this subsection  
22 as are necessary to carry out this paragraph. Any bonds issued  
23 under this subparagraph shall be payable from and secured by  
24 moneys received by the corporation from emergency assessments  
25 under sub-subparagraph (b)3.d., and assigned and pledged to or  
26 on behalf of the unit of local government for the benefit of  
27 the holders of such bonds. The funds, credit, property, and  
28 taxing power of the state or of the unit of local government  
29 shall not be pledged for the payment of such bonds. If any of  
30 the bonds remain unsold 60 days after issuance, the office  
31 shall require all insurers subject to assessment to purchase

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1 the bonds, which shall be treated as admitted assets; each  
 2 insurer shall be required to purchase that percentage of the  
 3 unsold portion of the bond issue that equals the insurer's  
 4 relative share of assessment liability under this subsection.  
 5 An insurer shall not be required to purchase the bonds to the  
 6 extent that the office determines that the purchase would  
 7 endanger or impair the solvency of the insurer.

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

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1 period the policy was insured. When the corporation enters  
 2 into a contractual agreement for a take-out plan, the  
 3 producing agent of record of the corporation policy is  
 4 entitled to retain any unearned commission on such policy, and  
 5 the insurer shall either:

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

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

18 b. Any credit or exemption from regular assessments  
 19 adopted under this subparagraph shall last no longer than the  
 20 3 years following the cancellation or expiration of the policy  
 21 by the corporation. With the approval of the office, the board  
 22 may extend such credits for an additional year if the insurer  
 23 guarantees an additional year of renewability for all policies  
 24 removed from the corporation, or for 2 additional years if the  
 25 insurer guarantees 2 additional years of renewability for all  
 26 policies so removed.

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

30 4. The plan shall provide for the deferment, in whole  
 31 or in part, of the assessment of an assessable insurer, other

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

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

16 |         6. Any policy taken out, assumed, or removed from the  
 17 | corporation is, as of the effective date of the take-out,  
 18 | assumption, or removal, direct insurance issued by the insurer  
 19 | and not by the corporation, even if the corporation continues  
 20 | to service the policies. This subparagraph applies to policies  
 21 | of the corporation and not policies taken out, assumed, or  
 22 | removed from any other entity.

23 |         (s) For the purposes of s. 199.183(1), the corporation  
 24 | shall be considered a political subdivision of the state and  
 25 | shall be exempt from the corporate income tax. The premiums,  
 26 | assessments, investment income, and other revenue of the  
 27 | corporation are funds received for providing property  
 28 | insurance coverage as required by this subsection, paying  
 29 | claims for Florida citizens insured by the corporation,  
 30 | securing and repaying debt obligations issued by the  
 31 | corporation, and conducting all other activities of the

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1 corporation, and shall not be considered taxes, fees,  
2 licenses, or charges for services imposed by the Legislature  
3 on individuals, businesses, or agencies outside state  
4 government. Bonds and other debt obligations issued by or on  
5 behalf of the corporation are not to be considered "state  
6 bonds" within the meaning of s. 215.58(8). The corporation is  
7 not subject to the procurement provisions of chapter 287, and  
8 policies and decisions of the corporation relating to  
9 incurring debt, levying of assessments and the sale, issuance,  
10 continuation, terms and claims under corporation policies, and  
11 all services relating thereto, are not subject to the  
12 provisions of chapter 120. The corporation is not required to  
13 obtain or to hold a certificate of authority issued by the  
14 office, nor is it required to participate as a member insurer  
15 of the Florida Insurance Guaranty Association. However, the  
16 corporation is required to pay, in the same manner as an  
17 authorized insurer, assessments levied ~~pledged~~ by the Florida  
18 Insurance Guaranty Association ~~to secure bonds issued or other~~  
19 ~~indebtedness incurred to pay covered claims arising from~~  
20 ~~insurer insolvencies caused by, or proximately related to,~~  
21 ~~hurricane losses.~~ It is the intent of the Legislature that the  
22 tax exemptions provided in this paragraph will augment the  
23 financial resources of the corporation to better enable the  
24 corporation to fulfill its public purposes. Any debt  
25 obligations issued by the corporation, their transfer, and the  
26 income therefrom, including any profit made on the sale  
27 thereof, shall at all times be free from taxation of every  
28 kind by the state and any political subdivision or local unit  
29 or other instrumentality thereof; however, this exemption does  
30 not apply to any tax imposed by chapter 220 on interest,  
31 income, or profits on debt obligations owned by corporations



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1 other than the corporation.

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

4 Section 22. It is the intent of the Legislature that  
5 commercial nonresidential property insurance coverage be made  
6 available from Citizens Property Insurance Corporation  
7 (Citizens), under s. 627.351(6), Florida Statutes, as amended  
8 by this act, rather than from the Property and Casualty Joint  
9 Underwriting Association (PCJUA), under s. 627.351(5), Florida  
10 Statutes. As soon as it is reasonably able to do so, Citizens  
11 shall adopt, subject to approval of the Office of Insurance  
12 Regulation, a plan providing for the transition of such  
13 coverage from the PCJUA to Citizens under such forms, rates,  
14 terms, and conditions as the board of Citizens considers  
15 appropriate. The plan shall include any contractual agreements  
16 between Citizens and the PCJUA which are required to effect  
17 the transition. In the transition plan, Citizens may assume  
18 policies or otherwise provide coverage for the commercial  
19 nonresidential policyholders of the PCJUA and may also provide  
20 for allocating to the appropriate account or accounts of  
21 Citizens the revenues, assets, liabilities, losses, and  
22 expenses associated with policies of the PCJUA which are  
23 assumed or otherwise covered by Citizens. It is the intent of  
24 the Legislature that the transition plan be implemented in a  
25 manner that does not adversely affect the creditworthiness of  
26 or security for currently outstanding financing obligations or  
27 credit facilities of the high-risk account, the personal lines  
28 account, or the commercial lines account. The order issued by  
29 the Office of Insurance Regulation may allow the PCJUA to  
30 continue to issue such coverage until the time that Citizens  
31 begins issuing such coverage.

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1 Section 23. Subsection (3) is added to section  
2 627.3515, Florida Statutes, to read:

3 627.3515 Market assistance plan; property and casualty  
4 risks.--

5 (3)(a) The plan and the corporation shall develop a  
6 business plan and present it to the Financial Services  
7 Commission for approval by September 1, 2007, to provide for  
8 the implementation of an electronic database for the purpose  
9 of confirming eligibility pursuant to s. 627.351(6).

10 (b) There shall be no liability on the part of, and no  
11 cause of action of any nature shall arise against, any  
12 authorized insurer acting within the scope of its authority  
13 under this subsection or its agents or employees for any  
14 action taken by them in the performance of their duties or  
15 responsibilities under this subsection.

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

18 627.4035 Cash payment of premiums; claims.--

19 (1) The premiums for insurance contracts issued in  
20 this state or covering risk located in this state shall be  
21 paid in cash consisting of coins, currency, checks, or money  
22 orders or by using a debit card, credit card, automatic  
23 electronic funds transfer, or payroll deduction plan. By July  
24 1, 2007, insurers issuing personal lines residential and  
25 commercial property policies shall provide a premium payment  
26 plan option to their policyholders which allows for quarterly  
27 and semiannual payment of premiums. Insurers issuing such  
28 policies must submit their premium payment plan option to the  
29 office for approval before use.

30 Section 25. Paragraph (b) of subsection (2) of section  
31 627.4133, Florida Statutes, is amended to read:

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

3           (2) With respect to any personal lines or commercial  
4 residential property insurance policy, including, but not  
5 limited to, any homeowner's, mobile home owner's, farmowner's,  
6 condominium association, condominium unit owner's, apartment  
7 building, or other policy covering a residential structure or  
8 its contents:

9           (b) The insurer shall give the named insured written  
10 notice of nonrenewal, cancellation, or termination at least  
11 100 ~~90~~ days prior to the effective date of the nonrenewal,  
12 cancellation, or termination. However, the insurer shall give  
13 at least 100 days' written notice, or written notice by June  
14 1, whichever is earlier, for any nonrenewal, cancellation, or  
15 termination that would be effective between June 1 and  
16 November 30. The notice must include the reason or reasons for  
17 the nonrenewal, cancellation, or termination, except that:

18           1. When cancellation is for nonpayment of premium, at  
19 least 10 days' written notice of cancellation accompanied by  
20 the reason therefor shall be given. As used in this  
21 subparagraph, the term "nonpayment of premium" means failure  
22 of the named insured to discharge when due any of her or his  
23 obligations in connection with the payment of premiums on a  
24 policy or any installment of such premium, whether the premium  
25 is payable directly to the insurer or its agent or indirectly  
26 under any premium finance plan or extension of credit, or  
27 failure to maintain membership in an organization if such  
28 membership is a condition precedent to insurance coverage.  
29 "Nonpayment of premium" also means the failure of a financial  
30 institution to honor an insurance applicant's check after

31 delivery to a licensed agent for payment of a premium, even if

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1 the agent has previously delivered or transferred the premium  
2 to the insurer. If a dishonored check represents the initial  
3 premium payment, the contract and all contractual obligations  
4 shall be void ab initio unless the nonpayment is cured within  
5 the earlier of 5 days after actual notice by certified mail is  
6 received by the applicant or 15 days after notice is sent to  
7 the applicant by certified mail or registered mail, and if the  
8 contract is void, any premium received by the insurer from a  
9 third party shall be refunded to that party in full.

10           2. When such cancellation or termination occurs during  
11 the first 90 days during which the insurance is in force and  
12 the insurance is canceled or terminated for reasons other than  
13 nonpayment of premium, at least 20 days' written notice of  
14 cancellation or termination accompanied by the reason therefor  
15 shall be given except where there has been a material  
16 misstatement or misrepresentation or failure to comply with  
17 the underwriting requirements established by the insurer.

18

19 After the policy has been in effect for 90 days, the policy  
20 shall not be canceled by the insurer except when there has  
21 been a material misstatement, a nonpayment of premium, a  
22 failure to comply with underwriting requirements established  
23 by the insurer within 90 days of the date of effectuation of  
24 coverage, or a substantial change in the risk covered by the  
25 policy or when the cancellation is for all insureds under such  
26 policies for a given class of insureds. This paragraph does  
27 not apply to individually rated risks having a policy term of  
28 less than 90 days.

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

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1 property insurer shall be deemed to have earned an excess  
 2 profit if its surplus exceeds its direct probable maximum loss  
 3 for a 1-in-250-year return period and it has earned a net  
 4 underwriting gain in Florida in excess of 10 percent of earned  
 5 premiums above its anticipated underwriting profit over the  
 6 most recent 10-year period.

7 Section 27. Section 627.4261, Florida Statutes, is  
 8 transferred and renumbered as section 627.70131, Florida  
 9 Statutes, and subsection (5) is added to that section, to  
 10 read:

11 627.70131 ~~627.4261~~ Insurer's duty to acknowledge  
 12 communications regarding claims; investigation.--

13 (5) Within 90 days after an insurer receives notice of  
 14 a property insurance claim from a policyholder, the insurer  
 15 shall pay or deny such claim unless the failure to pay such  
 16 claim is caused by factors beyond the control of the insurer  
 17 which reasonably prevent such payment. Failure to comply with  
 18 this subsection constitutes a violation of this code.

19 Section 28. Subsections (3), (4), and (9) of section  
 20 627.701, Florida Statutes, are amended to read:

21 627.701 Liability of insureds; coinsurance;  
 22 deductibles.--

23 ~~(3)(a) A policy of residential property insurance~~  
 24 ~~shall include a deductible amount applicable to hurricane~~  
 25 ~~losses no lower than \$500 and no higher than 2 percent of the~~  
 26 ~~policy dwelling limits with respect to personal lines~~  
 27 ~~residential risks, and no higher than 3 percent of the policy~~  
 28 ~~limits with respect to commercial lines residential risks;~~  
 29 ~~however, if a risk was covered on August 24, 1992, under a~~  
 30 ~~policy having a higher deductible than the deductibles allowed~~  
 31 ~~by this paragraph, a policy covering such risk may include a~~

1 ~~deductible no higher than the deductible in effect on August~~  
2 ~~24, 1992. Notwithstanding the other provisions of this~~  
3 ~~paragraph, a personal lines residential policy covering a risk~~  
4 ~~valued at \$50,000 or less may include a deductible amount~~  
5 ~~attributable to hurricane losses no lower than \$250, and a~~  
6 ~~personal lines residential policy covering a risk valued at~~  
7 ~~\$100,000 or more may include a deductible amount attributable~~  
8 ~~to hurricane losses no higher than 10 percent of the policy~~  
9 ~~limits unless subject to a higher deductible on August 24,~~  
10 ~~1992; however, no maximum deductible is required with respect~~  
11 ~~to a personal lines residential policy covering a risk valued~~  
12 ~~at more than \$500,000. An insurer may require a higher~~  
13 ~~deductible, provided such deductible is the same as or similar~~  
14 ~~to a deductible program lawfully in effect on June 14, 1995.~~  
15 ~~In addition to the deductible amounts authorized by this~~  
16 ~~paragraph, an insurer may also offer policies with a copayment~~  
17 ~~provision under which, after exhaustion of the deductible, the~~  
18 ~~policyholder is responsible for 10 percent of the next \$10,000~~  
19 ~~of insured hurricane losses.~~

20 (a)(b)1. Except as otherwise provided in this  
21 subsection ~~paragraph~~, prior to issuing a personal lines  
22 residential property insurance policy ~~on or after January 1,~~  
23 ~~2006, or prior to the first renewal of a residential property~~  
24 ~~insurance policy on or after January 1, 2006, the insurer must~~  
25 offer alternative deductible amounts applicable to hurricane  
26 losses equal to \$500, 2 percent, 5 percent, and 10 percent of  
27 the policy dwelling limits, unless the specific percentage  
28 deductible is less than \$500. The written notice of the offer  
29 shall specify the hurricane or wind deductible to be applied  
30 in the event that the applicant or policyholder fails to  
31 affirmatively choose a hurricane deductible. The insurer must

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1 provide such policyholder with notice of the availability of  
 2 the deductible amounts specified in this paragraph in a form  
 3 approved by the office in conjunction with each renewal of the  
 4 policy. The failure to provide such notice constitutes a  
 5 violation of this code but does not affect the coverage  
 6 provided under the policy.

7 (b)2- This subsection ~~paragraph~~ does not apply with  
 8 respect to a deductible program lawfully in effect on June 14,  
 9 1995, or to any similar deductible program, if the deductible  
 10 program requires a minimum deductible amount of no less than 2  
 11 percent of the policy limits.

12 (c)3- With respect to a policy covering a risk with  
 13 dwelling limits of at least \$100,000, but less than \$250,000,  
 14 the insurer may, in lieu of offering a policy with a \$500  
 15 hurricane or wind deductible as required by paragraph (a)  
 16 ~~subparagraph 1-~~, offer a policy that the insurer guarantees it  
 17 will not nonrenew for reasons of reducing hurricane loss for  
 18 one renewal period and that contains up to a 2 percent  
 19 hurricane or wind deductible as required by paragraph (a)  
 20 ~~subparagraph 1-~~.

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

27 (4)(a) Any policy that contains a separate hurricane  
 28 deductible must on its face include in boldfaced type no  
 29 smaller than 18 points the following statement: "THIS POLICY  
 30 CONTAINS A SEPARATE DEDUCTIBLE FOR HURRICANE LOSSES, WHICH MAY  
 31 RESULT IN HIGH OUT-OF-POCKET EXPENSES TO YOU." A policy

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1 containing a coinsurance provision applicable to hurricane  
2 losses must on its face include in boldfaced type no smaller  
3 than 18 points the following statement: "THIS POLICY CONTAINS  
4 A CO-PAY PROVISION THAT MAY RESULT IN HIGH OUT-OF-POCKET  
5 EXPENSES TO YOU."

6 (b) ~~Beginning October 1, 2005,~~ For any personal lines  
7 residential property insurance policy containing a separate  
8 hurricane deductible, the insurer shall compute and  
9 prominently display the actual dollar value of the hurricane  
10 deductible on the declarations page of the policy at issuance  
11 and, for renewal, on the renewal declarations page of the  
12 policy or on the premium renewal notice.

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

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



1 met:

2           a. The policyholder must personally write and provide  
3 to the insurer the following statement in his or her own  
4 handwriting and signs his or her name, which must also be  
5 signed by every other named insured on the policy, and dated:

6 "I do not want the insurance on my home to pay for the first  
7 (specify dollar value) of damage from hurricanes. I will pay  
8 those costs. My insurance will not."

9           b. If the structure insured by the policy is subject  
10 to a mortgage or lien, the policyholder must provide the  
11 insurer with a written statement from the mortgageholder or  
12 lienholder indicating that the mortgageholder or lienholder  
13 approves the policyholder electing to have the specified  
14 deductible.

15           2. A deductible subject to the requirements of this  
16 paragraph applies for the term of the policy and for each  
17 renewal unless the policyholder elects otherwise.

18           3. An insurer shall keep the original copy of the  
19 signed statement required by this paragraph and provide a copy  
20 to the policyholder providing the signed statement. A signed  
21 statement meeting the requirements of this paragraph creates a  
22 presumption that there was an informed, knowing election of  
23 coverage.

24           4. The commission shall adopt rules providing  
25 appropriate alternative methods for providing the statements  
26 required by this section for policyholders who have a  
27 handicapping or disabling condition that prevents them from  
28 providing a handwritten statement.

29           (9) With respect to hurricane coverage provided in a  
30 policy of residential coverage, when the policyholder has  
31 taken appropriate hurricane mitigation measures regarding the

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1 residence covered under the policy, the insurer shall ~~may~~  
 2 provide the insured the option of selecting an appropriate  
 3 reduction in the policy's hurricane deductible or ~~in lieu of~~  
 4 selecting the appropriate discount credit or other rate  
 5 differential as provided in s. 627.0629. ~~If made available by~~  
 6 ~~the insurer,~~ The insurer must provide the policyholder with  
 7 notice of the options available under this subsection on a  
 8 form approved by the office.

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

11 627.7018 Standards for determining risk of  
 12 coverage.--In determining the risk of providing property  
 13 insurance coverage, an insurer may not deny coverage solely on  
 14 the basis of the age of the structure and shall consider the  
 15 wind resistance of the structure and measures undertaken by  
 16 the owner to protect the structure against hurricane loss.

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

19 627.706 Sinkhole insurance; catastrophic ground cover  
 20 collapse; definitions.--

21 (1) Every insurer authorized to transact property  
 22 insurance in this state shall provide coverage for a  
 23 catastrophic ground cover collapse and shall make available,  
 24 for an appropriate additional premium, coverage for ~~insurable~~  
 25 sinkhole losses on any structure, including contents of  
 26 personal property contained therein, to the extent provided in  
 27 the form to which the ~~sinkhole~~ coverage attaches. A policy for  
 28 residential property insurance may include a deductible amount  
 29 applicable to sinkhole losses equal to 1 percent, 2 percent, 5  
 30 percent, or 10 percent of the policy dwelling limits, with  
 31 appropriate premium discounts offered with each deductible

1 amount.

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

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

7 1. The abrupt collapse of the ground cover;  
8 2. A depression in the ground cover clearly visible to  
9 the naked eye;

10 3. Structural damage to the building, including the  
11 foundation; and

12 4. The insured structure being condemned and ordered  
13 to be vacated by the governmental agency authorized by law to  
14 issue such an order for that structure.

15  
16 Contents coverage applies if there is a loss resulting from a  
17 catastrophic ground cover collapse. Structural damage  
18 consisting merely of the settling or cracking of a foundation,  
19 structure, or building does not constitute a loss resulting  
20 from a catastrophic ground cover collapse.

21 (b)~~(a)~~ "Sinkhole" means a landform created by  
22 subsidence of soil, sediment, or rock as underlying strata are  
23 dissolved by groundwater. A sinkhole may form by collapse into  
24 subterranean voids created by dissolution of limestone or  
25 dolostone or by subsidence as these strata are dissolved.

26 (c)~~(b)~~ "Sinkhole loss" means structural damage to the  
27 building, including the foundation, caused by sinkhole  
28 activity. Contents coverage shall apply only if there is  
29 structural damage to the building caused by sinkhole activity.

30 (d)~~(c)~~ "Sinkhole activity" means settlement or  
31 systematic weakening of the earth supporting such property

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1 only when such settlement or systematic weakening results from  
2 movement or raveling of soils, sediments, or rock materials  
3 into subterranean voids created by the effect of water on a  
4 limestone or similar rock formation.

5 (e)~~(d)~~ "Professional engineer" means a person, as  
6 defined in s. 471.005, who has a bachelor's degree or higher  
7 in engineering with a specialty in the geotechnical  
8 engineering field. A professional engineer must have  
9 geotechnical experience and expertise in the identification of  
10 sinkhole activity as well as other potential causes of damage  
11 to the structure.

12 (f)~~(e)~~ "Professional geologist" means a person, as  
13 defined by s. 492.102, who has a bachelor's degree or higher  
14 in geology or related earth science with expertise in the  
15 geology of Florida. A professional geologist must have  
16 geological experience and expertise in the identification of  
17 sinkhole activity as well as other potential geologic causes  
18 of damage to the structure.

19 (3) On or before June 1, 2007, every insurer  
20 authorized to transact property insurance in this state shall  
21 make a proper filing with the office for the purpose of  
22 extending the appropriate forms of property insurance to  
23 include coverage for catastrophic ground cover collapse or for  
24 sinkhole losses. Coverage for catastrophic ground cover  
25 collapse may not go into effect until the effective date  
26 provided for in the filing approved by the office.

27 (4) Insurers offering policies that exclude coverage  
28 for sinkhole losses shall inform policyholders in bold type of  
29 not less than 14 points as follows: "YOUR POLICY PROVIDES  
30 COVERAGE FOR A CATASTROPHIC GROUND COVER COLLAPSE THAT RESULTS  
31 IN THE PROPERTY BEING CONDEMNED AND UNINHABITABLE. OTHERWISE,

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1 YOUR POLICY DOES NOT PROVIDE COVERAGE FOR SINKHOLE LOSSES. YOU  
2 MAY PURCHASE ADDITIONAL COVERAGE FOR SINKHOLE LOSSES FOR AN  
3 ADDITIONAL PREMIUM."

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

6 627.711 Notice of premium discounts for hurricane loss  
7 mitigation; uniform mitigation verification inspection form.--

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

29 (2) By July 1, 2007, the Financial Services Commission  
30 shall develop by rule a uniform mitigation verification  
31 inspection form that shall be used by all insurers when

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1 factoring discounts for wind insurance. In developing the  
 2 form, the commission shall seek input from insurance,  
 3 construction, and building code representatives. Further, the  
 4 commission shall provide guidance as to the length of time the  
 5 inspection results are valid.

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

8 627.712 Residential hurricane coverage required;  
 9 availability of exclusions for windstorm or contents.--

10 (1) An insurer issuing a residential property  
 11 insurance policy must provide hurricane or windstorm coverage  
 12 as defined in s. 627.4025. This subsection does not apply with  
 13 respect to risks that are eligible for wind-only coverage from  
 14 Citizens Property Insurance Corporation under s. 627.351(6).

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

19 (a) The policyholder personally writes and provides to  
 20 the insurer the following statement in his or her own  
 21 handwriting and signs his or her name, which must also be  
 22 signed by every other named insured on the policy, and dated:

23 "I do not want the insurance on my (home / mobile home /  
 24 condominium unit) to pay for damage from windstorms or  
 25 hurricanes. I will pay those costs. My insurance will not."

26 (b) If the structure insured by the policy is subject  
 27 to a mortgage or lien, the policyholder must provide the  
 28 insurer with a written statement from the mortgageholder or  
 29 lienholder indicating that the mortgageholder or lienholder  
 30 approves the policyholder electing to exclude windstorm  
 31 coverage or hurricane coverage from his or her residential

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1 property insurance policy.

2       (3) An insurer issuing a residential property  
3 insurance policy, except for a condominium unit owner's  
4 policy, must make available, at the option of the  
5 policyholder, an exclusion of coverage for the contents. The  
6 coverage may be excluded only if the policyholder personally  
7 writes and provides to the insurer the following statement in  
8 his or her own handwriting and signs his or her signature,  
9 which must also be signed by every other named insured on the  
10 policy, and dated: "I do not want the insurance on my (home /  
11 mobile home) to pay for the costs to repair or replace any  
12 contents that are damaged. I will pay those costs. My  
13 insurance will not."

14       (4) An insurer shall keep the original copy of a  
15 signed statement required by this section and provide a copy  
16 to the policyholder providing the signed statement. A signed  
17 statement meeting the requirements of this section creates a  
18 presumption that there was an informed, knowing rejection of  
19 coverage.

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

23       (6) The commission shall adopt rules providing  
24 appropriate alternative methods for providing the statements  
25 required by this section for policyholders who have a  
26 handicapping or disabling condition that prevents them from  
27 providing a handwritten statement.

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

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1 Section 33. Section 627.713, Florida Statutes, is  
2 created to read:

3 627.713 Report of hurricane loss data.--The office may  
4 require property insurers to report data regarding hurricane  
5 claims and underwriting costs, including, but not limited to:

6 (1) Number of claims.

7 (2) Amount of claim payments made.

8 (3) Number and amount of total-loss claims.

9 (4) Amount and percentage of losses covered by  
10 reinsurance or other loss-transfer agreements.

11 (5) Amount of losses covered under specified  
12 deductibles.

13 (6) Claims and payments for specified insured values.

14 (7) Claims and payments for specified dollar values.

15 (8) Claims and payments for specified types of  
16 construction or mitigation features.

17 (9) Claims and payments for policies under specified  
18 underwriting criteria.

19 (10) Claims and payments for contents, additional  
20 living expense, and other specified coverages.

21 (11) Claims and payments by county for the information  
22 specified in this section.

23 (12) Any other data that the office requires.

24 Section 34. Effective August 1, 2007, section  
25 627.7277, Florida Statutes, is amended to read:

26 627.7277 Notice of renewal premium.--

27 (1) As used in this section, the terms "policy" and  
28 "renewal" have the meaning ascribed in s. 627.728.

29 (2) An insurer shall mail or deliver to its  
30 policyholder at least 30 days' advance written notice of the  
31 renewal premium for the policy.



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1           (3) If the insurer fails to provide the 30 days'  
 2 notice of a renewal premium that results in a premium  
 3 increase, the coverage under the policy remains in effect at  
 4 the existing rates until 30 days after the notice is given or  
 5 until the effective date of replacement coverage obtained by  
 6 the insured, whichever occurs first.

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

8           (a) The dollar amounts recouped for assessments by the  
 9 Florida Hurricane Catastrophe Fund, the Citizens Property  
 10 Insurance Corporation, and the Florida Insurance Guaranty  
 11 Association. The actual names of the entities must appear next  
 12 to the dollar amounts.

13           (b) The dollar amount of any premium increase that is  
 14 due to a rate increase and the dollar amounts that are due to  
 15 coverage changes.

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

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

22           631.57 Powers and duties of the association.--

23           (3)

24           (e)1.a. In addition to assessments otherwise  
 25 authorized in paragraph (a) and to the extent necessary to  
 26 secure the funds for the account specified in s. 631.55(2)(c)  
 27 for the direct payment of covered claims of insolvent  
 28 homeowners insurers and to pay the reasonable costs to  
 29 administer such claims, or to retire indebtedness, including,  
 30 without limitation, the principal, redemption premium, if any,  
 31 and interest on, and related costs of issuance of, bonds

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1 issued under s. 631.695 and the funding of any reserves and  
 2 other payments required under the bond resolution or trust  
 3 indenture pursuant to which such bonds have been issued, the  
 4 office, upon certification of the board of directors, shall  
 5 levy emergency assessments upon insurers holding a certificate  
 6 of authority. The emergency assessments payable under this  
 7 paragraph by any insurer shall not exceed in any single year  
 8 more than 2 percent of that insurer's direct written premiums,  
 9 net of refunds, in this state during the preceding calendar  
 10 year for the kinds of insurance within the account specified  
 11 in s. 631.55(2)(c).

12       b. Any emergency assessments authorized under this  
 13 paragraph shall be levied by the office upon insurers referred  
 14 to in sub-subparagraph a., upon certification as to the need  
 15 for such assessments by the board of directors. In the event  
 16 the board of directors participates in the issuance of bonds  
 17 in accordance with s. 631.695, emergency assessments shall be  
 18 levied, in each year that bonds issued under s. 631.695 and  
 19 secured by such emergency assessments are outstanding, in such  
 20 amounts up to such 2-percent limit as required in order to  
 21 provide for the full and timely payment of the principal of,  
 22 redemption premium, if any, and interest on, and related costs  
 23 of issuance of, such bonds. The emergency assessments provided  
 24 for in this paragraph are assigned and pledged to the  
 25 municipality, county, or legal entity issuing bonds under s.  
 26 631.695 for the benefit of the holders of such bonds, in order  
 27 to enable such municipality, county, or legal entity to  
 28 provide for the payment of the principal of, redemption  
 29 premium, if any, and interest on such bonds, the cost of  
 30 issuance of such bonds, and the funding of any reserves and  
 31 other payments required under the bond resolution or trust

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1 indenture pursuant to which such bonds have been issued,  
2 without the necessity of any further action by the  
3 association, the office, or any other party. To the extent  
4 bonds are issued under s. 631.695 and the association  
5 determines to secure such bonds by a pledge of revenues  
6 received from the emergency assessments, such bonds, upon such  
7 pledge of revenues, shall be secured by and payable from the  
8 proceeds of such emergency assessments, and the proceeds of  
9 emergency assessments levied under this paragraph shall be  
10 remitted directly to and administered by the trustee or  
11 custodian appointed for such bonds.

12 c. Emergency assessments under this paragraph may be  
13 payable in a single payment or, at the option of the  
14 association, may be payable in 12 monthly installments with  
15 the first installment being due and payable at the end of the  
16 month after an emergency assessment is levied and subsequent  
17 installments being due not later than the end of each  
18 succeeding month.

19 d. If emergency assessments are imposed, the report  
20 required by s. 631.695(7) shall include an analysis of the  
21 revenues generated from the emergency assessments imposed  
22 under this paragraph.

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

27 2. In order to ensure that insurers paying emergency  
28 assessments levied under this paragraph continue to charge  
29 rates that are neither inadequate nor excessive, within 90  
30 days after being notified of such assessments, each insurer  
31 that is to be assessed pursuant to this paragraph shall submit

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1 a rate filing for coverage included within the account  
2 specified in s. 631.55(2)(c) and for which rates are required  
3 to be filed under s. 627.062. If the filing reflects a rate  
4 change that, as a percentage, is equal to the difference  
5 between the rate of such assessment and the rate of the  
6 previous year's assessment under this paragraph, the filing  
7 shall consist of a certification so stating and shall be  
8 deemed approved when made. Any rate change of a different  
9 percentage shall be subject to the standards and procedures of  
10 s. 627.062.

11       3. In the event the board of directors participates in  
12 the issuance of bonds in accordance with s. 631.695, an annual  
13 assessment under this paragraph shall continue while the bonds  
14 issued with respect to which the assessment was imposed are  
15 outstanding, including any bonds the proceeds of which were  
16 used to refund bonds issued pursuant to s. 631.695, unless  
17 adequate provision has been made for the payment of the bonds  
18 in the documents authorizing the issuance of such bonds.

19       4. Emergency assessments under this paragraph are not  
20 premium and are not subject to the premium tax, to any fees,  
21 or to any commissions. An insurer is liable for all emergency  
22 assessments that the insurer collects and shall treat the  
23 failure of an insured to pay an emergency assessment as a  
24 failure to pay the premium. An insurer is not liable for  
25 uncollectible emergency assessments.

26       (4) The department may exempt any insurer from any  
27 regular or emergency ~~an~~ assessment if an assessment would  
28 result in such insurer's financial statement reflecting an  
29 amount of capital or surplus less than the sum of the minimum  
30 amount required by any jurisdiction in which the insurer is  
31 authorized to transact insurance.

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1           Section 36. It is the intent of the Legislature that  
2 the amendments to s. 631.57, Florida Statutes, by s. 34,  
3 chapter 2006-12, Laws of Florida, authorized the Florida  
4 Insurance Guaranty Association to certify, and the Office of  
5 Insurance Regulation to levy, an emergency assessment of up to  
6 2 percent to directly pay the covered claims out of the  
7 account specified in s. 631.55(2)(c), Florida Statutes, or use  
8 such emergency assessment proceeds to retire the indebtedness  
9 and costs of bonds issued to pay such claims and reasonable  
10 claims administration costs.

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

13           718.111 The association.--

14           (11) INSURANCE.--In order to protect the safety,  
15 health, and welfare of the people of the State of Florida and  
16 to ensure consistency in the provision of insurance coverage  
17 to condominiums and their unit owners, paragraphs (b) and (c)  
18 are deemed to apply to every residential condominium in the  
19 state, regardless of the date of its declaration of  
20 condominium. It is the intent of the Legislature to encourage  
21 lower or stable insurance premiums for associations described  
22 in this section. Therefore, the Legislature requires a report  
23 to be prepared by the Office of Insurance Regulation of the  
24 Department of Financial Services for publication 18 months  
25 from the effective date of this act, evaluating premium  
26 increases or decreases for associations, unit owner premium  
27 increases or decreases, recommended changes to better define  
28 common areas, or any other information the Office of Insurance  
29 Regulation deems appropriate.

30           (a) A unit-owner controlled association operating a  
31 residential condominium shall use its best efforts to obtain

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1 and maintain adequate insurance to protect the association,  
2 the association property, the common elements, and the  
3 condominium property required to be insured by the association  
4 pursuant to paragraph (b). If the association is developer  
5 controlled, the association shall exercise due diligence to  
6 obtain and maintain such insurance. Failure to obtain and  
7 maintain adequate insurance during any period of developer  
8 control shall constitute a breach of fiduciary responsibility  
9 by the developer-appointed members of the board of directors  
10 of the association, unless said members can show that despite  
11 such failure, they have exercised due diligence. The  
12 declaration of condominium as originally recorded, or amended  
13 pursuant to procedures provided therein, may require that  
14 condominium property consisting of freestanding buildings  
15 where there is no more than one building in or on such unit  
16 need not be insured by the association if the declaration  
17 requires the unit owner to obtain adequate insurance for the  
18 condominium property. An association may also obtain and  
19 maintain liability insurance for directors and officers,  
20 insurance for the benefit of association employees, and flood  
21 insurance for common elements, association property, and  
22 units. Adequate insurance, regardless of any requirement in  
23 the declaration of condominium for coverage by the association  
24 for "full insurable value," "replacement cost," or the like,  
25 may include reasonable deductibles as determined by the board  
26 based upon available funds or predetermined assessment  
27 authority at the time that the insurance is obtained.

28 1. Windstorm insurance coverage for a group of no  
29 fewer than three communities created and operating under  
30 chapter 718, chapter 719, chapter 720, or chapter 721 may be  
31 obtained and maintained for the communities if the insurance

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1 coverage is sufficient to cover an amount equal to the  
 2 probable maximum loss for the communities for a 250-year  
 3 windstorm event. Such probable maximum loss must be determined  
 4 through the use of a competent model that has been accepted by  
 5 the Florida Commission on Hurricane Loss Project Methodology.  
 6 Such insurance coverage is deemed adequate windstorm insurance  
 7 for the purposes of this section.

8         2. An association or group of associations may  
 9 self-insure against claims against the association, the  
 10 association property, and the condominium property required to  
 11 be insured by an association, upon compliance with the  
 12 applicable provisions of ss. 624.460-624.488, which shall be  
 13 considered adequate insurance for the purposes of this  
 14 section. A copy of each policy of insurance in effect shall be  
 15 made available for inspection by unit owners at reasonable  
 16 times.

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

20             1. All portions of the condominium property located  
 21 outside the units;

22             2. The condominium property located inside the units  
 23 as such property was initially installed, or replacements  
 24 thereof of like kind and quality and in accordance with the  
 25 original plans and specifications or, if the original plans  
 26 and specifications are not available, as they existed at the  
 27 time the unit was initially conveyed; and

28             3. All portions of the condominium property for which  
 29 the declaration of condominium requires coverage by the  
 30 association.

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1 Anything to the contrary notwithstanding, the terms  
2 "condominium property," "building," "improvements," "insurable  
3 improvements," "common elements," "association property," or  
4 any other term found in the declaration of condominium which  
5 defines the scope of property or casualty insurance that a  
6 condominium association must obtain shall exclude all floor,  
7 wall, and ceiling coverings, electrical fixtures, appliances,  
8 air conditioner or heating equipment, water heaters, water  
9 filters, built-in cabinets and countertops, and window  
10 treatments, including curtains, drapes, blinds, hardware, and  
11 similar window treatment components, or replacements of any of  
12 the foregoing which are located within the boundaries of a  
13 unit and serve only one unit and all air conditioning  
14 compressors that service only an individual unit, whether or  
15 not located within the unit boundaries. The foregoing is  
16 intended to establish the property or casualty insuring  
17 responsibilities of the association and those of the  
18 individual unit owner and do not serve to broaden or extend  
19 the perils of coverage afforded by any insurance contract  
20 provided to the individual unit owner. Beginning January 1,  
21 2004, the association shall have the authority to amend the  
22 declaration of condominium, without regard to any requirement  
23 for mortgagee approval of amendments affecting insurance  
24 requirements, to conform the declaration of condominium to the  
25 coverage requirements of this section.

26 (c) Every hazard insurance policy issued or renewed on  
27 or after January 1, 2004, to an individual unit owner shall  
28 provide that the coverage afforded by such policy is excess  
29 over the amount recoverable under any other policy covering  
30 the same property. Each insurance policy issued to an  
31 individual unit owner providing such coverage shall be without



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1 | rights of subrogation against the condominium association that  
 2 | operates the condominium in which such unit owner's unit is  
 3 | located. All real or personal property located within the  
 4 | boundaries of the unit owner's unit which is excluded from the  
 5 | coverage to be provided by the association as set forth in  
 6 | paragraph (b) shall be insured by the individual unit owner.

7 |         (d) The association shall obtain and maintain adequate  
 8 | insurance or fidelity bonding of all persons who control or  
 9 | disburse funds of the association. The insurance policy or  
 10 | fidelity bond must cover the maximum funds that will be in the  
 11 | custody of the association or its management agent at any one  
 12 | time. As used in this paragraph, the term "persons who control  
 13 | or disburse funds of the association" includes, but is not  
 14 | limited to, those individuals authorized to sign checks and  
 15 | the president, secretary, and treasurer of the association.  
 16 | The association shall bear the cost of bonding.

17 |         Section 38. Task Force on Citizens Property Insurance  
 18 | Claims Handling and Resolution.--

19 |         (1) TASK FORCE CREATED.--There is created the Task  
 20 | Force on Citizens Property Insurance Claims Handling and  
 21 | Resolution.

22 |         (2) ADMINISTRATION.--The task force shall be  
 23 | administratively housed within the Office of the Chief  
 24 | Financial Officer but shall operate independently of any state  
 25 | officer or agency. The Office of the Chief Financial Officer  
 26 | shall provide such administrative support as the task force  
 27 | deems necessary to accomplish its mission and shall provide  
 28 | necessary funding for the task force within its existing  
 29 | resources. The Executive Office of the Governor, the  
 30 | Department of Financial Services, and the Office of Insurance  
 31 | Regulation shall provide substantive staff support for the

1 task force.

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

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

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

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

10 (d) The Speaker of the House of Representatives shall  
11 appoint one member.

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

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

18 (g) The Executive Director of Citizens Property  
19 Insurance Corporation, or his or her designee, shall serve as  
20 an ex officio voting member of the task force.

21  
22 Members of the task force shall serve without compensation but  
23 are entitled to receive reimbursement for per diem and travel  
24 expenses as provided in s. 112.061, Florida Statutes.

25 (4) PURPOSE AND INTENT.--The Legislature recognizes  
26 that policyholders and applicants of Citizens Property  
27 Insurance Corporation should receive the highest possible  
28 level of service and treatment. This level should never be  
29 less than the private market. The Legislature further  
30 recognizes that Citizens Property Insurance Corporation's  
31 service standards should be no less than those applied to

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1 insurers in the voluntary market with respect to  
 2 responsiveness, timeliness, customer courtesy, and overall  
 3 dealings with policyholders and applicants. The purpose of the  
 4 task force is to make recommendations to the legislative and  
 5 executive branches of this state's government relating to the  
 6 handling, service, and resolution of claims by Citizens  
 7 Property Insurance Corporation that are sufficient to ensure  
 8 that all Citizens' policyholders and applicants in this state  
 9 are able to obtain appropriate handling, service, and  
 10 resolution of claims, as further described in this section.

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

16 (a) How Citizens Property Insurance Corporation can  
 17 improve its customer service.

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

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

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

24 (e) How Citizens Property Insurance Corporation can  
 25 dispose of and settle claims remaining from the 2004 and 2005  
 26 hurricane seasons and can improve the time it takes to dispose  
 27 of and settle claims remaining from the 2004 and 2005  
 28 hurricane seasons.

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

31 (g) Whether Citizens Property Insurance Corporation

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

4 (6) REPORTS AND RECOMMENDATIONS.--By July 1, 2007, the  
 5 task force shall provide a report containing recommendations  
 6 regarding the process Citizens Property Insurance Corporation  
 7 should use to dispose of the claims remaining open from the  
 8 2004 and 2005 hurricane seasons. By July 1, 2008, the task  
 9 force shall provide a report containing findings relating to  
 10 the issues identified in subsection (5) and recommendations  
 11 consistent with the purposes of this section and also  
 12 consistent with such findings. The report shall include  
 13 recommendations regarding the process Citizens Property  
 14 Insurance Corporation should use to dispose of claims. The  
 15 task force shall submit the reports to the Governor, the Chief  
 16 Financial Officer, the President of the Senate, and the  
 17 Speaker of the House of Representatives. The task force may  
 18 also submit such interim reports as it deems appropriate.

19 (7) ADDITIONAL ACTIVITIES.--The task force shall  
 20 monitor the implementation of the provisions of chapter  
 21 2006-12, Laws of Florida, relating to the creation of the  
 22 Office of Internal Auditor in Citizens Property Insurance  
 23 Corporation and shall make such additional recommendations as  
 24 it deems appropriate for further legislative action during the  
 25 2006-2008 legislative biennium.

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

28 Section 39. Windstorm Mitigation Study Committee.--

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

- 31 1. Two members shall be appointed by the Governor,

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1 with one designated by the Governor to serve as chair.

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

4 3. Two members shall be appointed by the President of  
5 the Senate.

6 4. Two members shall be appointed by the Speaker of  
7 the House of Representatives.

8 (b) Each member must be knowledgeable of issues  
9 concerning the mitigation of the effects of windstorms on  
10 structures in this state and at least one member must  
11 represent primarily the interests of homeowners.

12 (2)(a) The members of the committee shall serve  
13 without compensation, but are entitled to reimbursement for  
14 all necessary expenses incurred in performing their duties,  
15 including travel expenses, in accordance with s. 112.061,  
16 Florida Statutes. Reimbursements for travel shall be paid by  
17 the appointing entity.

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

23 (3) The Department of Financial Services, the Office  
24 of Insurance Regulation, the Citizens Property Insurance  
25 Corporation, and other agencies of this state shall supply any  
26 information, assistance, and facilities that are considered  
27 necessary by the committee to carry out its duties under this  
28 section. The department shall provide staff assistance as  
29 necessary in order to carry out the required clerical and  
30 administrative functions of the committee.

31 (4) The committee shall analyze those solutions and

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1 programs that address the state's acute need to mitigate the  
2 effects of windstorms on structures, especially residential  
3 property that is located in areas at greatest risk of  
4 windstorm damage, including programs or proposals that provide  
5 for:

6 (a) The availability of home inspections for windstorm  
7 resistance.

8 (b) Grants to assist homeowners, and possibly other  
9 groups of property owners, to harden their property against  
10 windstorm damage.

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

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

16 (e) Coordination among federal, local, and private  
17 initiatives.

18 (f) Streamlining or strengthening applicable state,  
19 regional, and local regulations.

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

22 (h) The discovery and assessment of funding sources  
23 for windstorm mitigation.

24 (i) Tax incentives for windstorm mitigation.

25 (j) Consumer information concerning the benefits of  
26 windstorm mitigation, including personal safety as well as  
27 property security.

28 (k) Research on windstorm mitigation.

29  
30 The committee may develop any other solutions and programs  
31 that it considers appropriate.

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1       (5) In performing its analysis, the committee shall  
 2 consider both the safety of the residents of this state and  
 3 the protection of real property, especially residential. In  
 4 addition, the committee shall consider both short-term and  
 5 long-term solutions and programs.

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

9       (7) The committee shall provide recommendations,  
 10 including proposed legislation, to the Governor, the President  
 11 of the Senate, the Speaker of the House of Representatives,  
 12 the Chief Financial Officer, and the Commissioner of Insurance  
 13 Regulation by March 6, 2007.

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

15       Section 40. The Financial Services Commission shall  
 16 adopt a uniform home grading scale to grade the ability of a  
 17 home to withstand the wind load from a sustained severe  
 18 tropical storm or hurricane. The commission shall coordinate  
 19 with the Office of Insurance Regulation, the Department of  
 20 Financial Services, and the Department of Community Affairs in  
 21 developing the grading scale, which must be based upon and  
 22 consistent with the rating system required by chapter 2006-12,  
 23 Laws of Florida. The commission shall adopt the uniform  
 24 grading scale by rule no later than June 30, 2007.

25       Section 41. Florida Disaster Recovery Program.--

26       (1) The Department of Community Affairs shall  
 27 implement the 2006 Disaster Recovery Program from funds  
 28 provided through the Emergency Supplemental Appropriations Act  
 29 for Defense, the Global War on Terror, and Hurricane Recovery,  
 30 2006, for the purpose of assisting local governments in  
 31 satisfying disaster-recovery needs in the areas of low-income

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1 housing and infrastructure, with a primary focus on the  
 2 hardening of single-family and multifamily housing units, not  
 3 only to ensure that affordable housing can withstand the  
 4 effects of hurricane-force winds, but also to mitigate the  
 5 increasing costs of insurance, which may ultimately render  
 6 existing affordable homes unaffordable or uninsurable. This  
 7 section does not create an entitlement for local governments  
 8 or property owners or obligate the state in any way to fund  
 9 disaster-recovery needs.

10       (2) Entitlement and nonentitlement counties identified  
 11 under the Federal Disaster Declaration (FEMA-1609-DR),  
 12 federally recognized Indian tribes, and nonprofit  
 13 organizations are eligible to apply for funding.

14       (3) Up to 78 percent of these funds may be used to  
 15 complement the grants awarded by the Department of Financial  
 16 Services under s. 215.5586, Florida Statutes, and fund other  
 17 eligible disaster-related activities supporting housing  
 18 rehabilitation, hardening, mitigation, and infrastructure  
 19 improvements at the request of the local governments in order  
 20 to assist the State of Florida in better serving low-income  
 21 homeowners in single-family housing units, including, but not  
 22 limited to, condominiums. Up to 20 percent of the funds may be  
 23 used to provide inspections and mitigation improvements to  
 24 multifamily units receiving rental assistance under projects  
 25 of the United States Department of Housing and Urban  
 26 Development or the Rural Development Division of the United  
 27 States Department of Agriculture.

28       (4) For the 2006-2007 fiscal year, the sum of  
 29 \$100,066,518 is appropriated in a Grant in Aid - Fixed Capital  
 30 Outlay appropriation category from the Florida Small Cities  
 31 Community Development Block Grant Program Fund to the



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

7       Section 42. Effective January 1, 2008, no insurer  
 8 writing private passenger automobile insurance in this state  
 9 may continue to write such insurance if the insurer writes  
 10 homeowners' insurance in another state but not in this state  
 11 unless the insurer writing private passenger automobile  
 12 insurance in this state is affiliated with an insurer writing  
 13 homeowners' insurance in this state.

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

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

22       Section 45. For the 2006-2007 fiscal year, there is  
 23 appropriated \$2 million from the Department of Financial  
 24 Services' Insurance Regulatory Trust Fund to the Department of  
 25 Financial Services for the purposes of implementing section 40  
 26 of this act.

27       Section 46. Effective February 1, 2007, the sum of  
 28 \$105,000 is appropriated from the Insurance Regulatory Trust  
 29 Fund and 193,000 in associated rate is provided to the Office  
 30 of Insurance Regulation for the purpose of granting  
 31 competitive pay adjustments for actuaries employed within the

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1 office. Adjustments shall be provided at the discretion of the  
2 Commissioner of Insurance Regulation.

3       Section 47. If any provision of this act or its  
4 application to any person or circumstance is held invalid, the  
5 invalidity does not affect other provisions or applications of  
6 the act which can be given effect without the invalid  
7 provision or application, and to this end the provisions of  
8 this act are severable.

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

11  
12

13 ===== T I T L E   A M E N D M E N T =====

14 And the title is amended as follows:

15       Delete everything before the enacting clause

16

17 and insert:

18                               A bill to be entitled  
19       An act relating to hurricane preparedness and  
20       insurance; amending s. 163.01, F.S., relating  
21       to the Florida Interlocal Cooperation Act;  
22       redefining the term "public agency" to include  
23       certain legal or administrative entities;  
24       authorizing such entities to finance the  
25       provision of property coverage contracts for or  
26       from local government property insurance pools  
27       or property coverage contracts; providing a  
28       definition; authorizing certain hospitals to  
29       jointly issue bonds to finance windstorm  
30       coverages and claims; granting authority to  
31       individual hospitals and teaching hospitals to

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1 jointly issue bond anticipation notes;  
2 authorizing validation of bonds issued to  
3 certain hospital entities; specifying that a  
4 hospital's immunity caps are not waived through  
5 issuance of bonds to pay windstorm coverage or  
6 claims; amending s. 215.555, F.S., relating to  
7 the Florida Hurricane Catastrophe Fund;  
8 revising certain provisions of the  
9 reimbursement contracts for insurers; deleting  
10 a rapid cash buildup requirement from a  
11 reimbursement premium formula factor; expanding  
12 the State Board of Administration's reinsurance  
13 procurement powers and duties for certain  
14 purposes; providing for temporary emergency  
15 options for additional coverage and for  
16 temporary increase in coverage limit options;  
17 providing legislative findings and intent;  
18 providing for application of certain  
19 provisions; providing additional definitions;  
20 providing for a reimbursement contract addendum  
21 for certain insurers; providing requirements  
22 and procedures under the addendum; providing  
23 for certain reimbursement premiums for such  
24 insurers; providing for calculation of such  
25 premiums; providing for effect on claims-paying  
26 capacity of fund; requiring insurers electing  
27 optional coverages offered by the Florida  
28 Hurricane Catastrophe Fund to make rate filings  
29 that reflect savings or reduction in loss  
30 exposure; requiring that the Office of  
31 Insurance Regulation specify, by order, the

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1 | dates on which such filings must be made;  
2 | requiring certain insurers to make additional  
3 | rate filings; specifying rate filing  
4 | requirements; amending s. 215.5586, F.S.;  
5 | revising criteria for wind certification and  
6 | hurricane mitigation inspectors; requiring a  
7 | level 2 background check for wind certification  
8 | and hurricane mitigation inspectors;  
9 | authorizing the Department of Financial  
10 | Services to conduct criminal records checks of  
11 | inspectors; requiring payment of fingerprint  
12 | processing fees; revising certain financial  
13 | wind certification and mitigation grant  
14 | criteria and use provisions; providing  
15 | additional uses for grant funding for certain  
16 | homeowners; authorizing the department to  
17 | contract with not-for-profit corporations to  
18 | conduct the Florida Comprehensive Hurricane  
19 | Damage Mitigation Program and enhance awareness  
20 | of the benefits of mitigation; requiring the  
21 | department to develop and maintain a list of  
22 | wind certification and hurricane mitigation  
23 | inspectors; amending s. 215.5595, F.S.;  
24 | including manufactured housing insurers in the  
25 | Insurance Capital Build-Up Incentive Program;  
26 | providing manufactured housing insurer program  
27 | contribution requirements; providing surplus  
28 | requirements; prioritizing funding for  
29 | manufactured housing insurers; providing  
30 | premium to surplus ratio requirements for  
31 | certain manufactured housing insurers; creating

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1 s. 395.106, F.S.; authorizing certain hospitals  
2 and hospital systems to pool and spread  
3 windstorm property exposure risk among members;  
4 providing criteria for participation; providing  
5 definitions; subjecting alliances not in  
6 compliance with risk-pooling requirements to  
7 the Insurance Code; excluding an alliance  
8 meeting provision requirements from  
9 participation in or coverage by an insurance  
10 guaranty association established by ch. 631,  
11 F.S.; amending s. 553.73, F.S.; prohibiting the  
12 Florida Building Commission from modifying  
13 certain foundation codes relating to wind  
14 resistance or the prevention of water intrusion  
15 unless the modification enhances such  
16 provisions; amending s. 553.775, F.S., relating  
17 to interpretations of the Florida Building  
18 Code; conforming a cross-reference; requiring  
19 jurisdictions having authority to enforce the  
20 Florida Building Code to require  
21 wind-borne-debris protection according to  
22 specified requirements; requiring that the  
23 Florida Building Commission amend the Florida  
24 Building Code to reflect the requirements of  
25 the act and eliminate certain less stringent  
26 requirements; providing an exception; requiring  
27 the commission to develop voluntary guidelines  
28 for increasing the hurricane resistance of  
29 buildings; requiring that the guidelines be  
30 included in the commission's report to the 2008  
31 Legislature; amending s. 624.407, F.S.,

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1 relating to capitalization requirements for  
2 insurers writing property insurance; specifying  
3 certain minimum surplus amounts; prohibiting  
4 insurers writing private passenger automobile  
5 insurance from writing such insurance under  
6 certain circumstances; amending s. 624.462,  
7 F.S.; revising requirements for the  
8 establishment of a commercial self-insurance  
9 fund by a not-for-profit group; amending s.  
10 624.4622, F.S.; authorizing local government  
11 self-insurance funds to insure or self-insure  
12 real or personal property against loss or  
13 damage; creating s. 624.4625, F.S.; authorizing  
14 two or more corporations not for profit to form  
15 a self-insurance fund for certain purposes;  
16 providing specific requirements; providing a  
17 definition; providing limitations; providing  
18 for application of certain provisions to  
19 certain premiums, contributions, and  
20 assessments; providing for payment of insurance  
21 premium tax at a reduced rate by corporation  
22 not-for-profit self-insurance funds; subjecting  
23 a corporation not for profit self-insurance  
24 fund to certain group self-insurance fund  
25 provisions under certain circumstances;  
26 amending s. 624.610, F.S.; prescribing  
27 responsibilities of the Commissioner of  
28 Insurance Regulation relating to allowing  
29 credit for reinsurance; amending s. 626.2815,  
30 F.S.; requiring continuing education for  
31 certain agents and customer representatives on

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1 the subject of premium discounts for hurricane  
2 mitigation options; amending s. 627.0613, F.S.;  
3 providing additional duties of the consumer  
4 advocate; amending s. 627.062, F.S.; requiring  
5 that an insurer make a "file and use" filing  
6 under certain circumstances; deleting  
7 provisions exempting certain rate filings from  
8 review by the Office of Insurance Regulation;  
9 requiring certain rate filings to account for  
10 certain mitigation measures; requiring the  
11 chief executive officer, chief financial  
12 officer, or chief actuary of a property insurer  
13 to certify the information contained in a rate  
14 filing; providing penalties for knowingly  
15 making a false certification; authorizing the  
16 Financial Services Commission to adopt rules;  
17 amending s. 627.0629, F.S.; providing  
18 legislative intent relating to savings to  
19 customers for windstorm mitigation efforts;  
20 providing for reductions in deductibles for  
21 mitigation measures; creating s. 627.0655,  
22 F.S.; authorizing insurers to provide certain  
23 premium discounts under certain circumstances;  
24 amending s. 627.351, F.S., relating to the  
25 Citizens Property Insurance Corporation;  
26 deleting provisions that deny certain  
27 nonhomestead property eligibility for coverage  
28 by the corporation; including commercial  
29 nonresidential policies into an account of the  
30 corporation; authorizing the corporation to  
31 issue multiperil coverage and continue to offer

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1 wind-only coverage in the high-risk account  
 2 after a specified date; deleting provisions  
 3 authorizing the Office of Insurance Regulation  
 4 to remove territory from the area eligible for  
 5 wind-only and quota share coverage; requiring  
 6 the board of governors of the corporation to  
 7 levy an assessment against nonhomestead  
 8 property policyholders if certain deficits  
 9 occur after a specified date; restricting the  
 10 eligibility of a risk for a policy issued by  
 11 the corporation under certain circumstances;  
 12 authorizing the plan of operation to establish  
 13 limits of coverage and to require commercial  
 14 property to meet specified hurricane-mitigation  
 15 features; requiring that the corporation  
 16 annually file recommended rates; requiring that  
 17 the office issue a final order establishing the  
 18 rates within a specified period; prohibiting  
 19 the corporation from pursuing administrative or  
 20 judicial review of such order; deleting  
 21 provisions specifying circumstances under which  
 22 a rate is deemed inadequate; deleting  
 23 legislative intent concerning rate adequacy in  
 24 the residual market; deleting provisions  
 25 providing requirements for personal lines  
 26 residential policies and residential wind-only  
 27 policies; deleting an exemption provided for  
 28 coverage provided by the corporation in Monroe  
 29 County under certain circumstances; deleting a  
 30 requirement that the corporation certify to the  
 31 office that its rates comply with certain



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1 requirements; deleting a requirement for a  
 2 notice to policyholders and applicants;  
 3 rescinding certain rate filings by the  
 4 corporation which took effect January 1, 2007;  
 5 reinstating certain rates in effect on December  
 6 31, 2006; clarifying the effect of a policy  
 7 that is taken out, assumed, or removed from the  
 8 corporation; providing legislative intent that  
 9 commercial nonresidential property insurance be  
 10 made available from Citizens Property Insurance  
 11 Corporation; requiring that Citizens Property  
 12 Insurance Corporation adopt a plan providing  
 13 for the transition of such coverage from the  
 14 Property and Casualty Joint Underwriting  
 15 Association to Citizens; providing requirements  
 16 for the plan; amending s. 627.3515, F.S.;  
 17 requiring Citizens Property Insurance  
 18 Corporation to develop a business plan, which  
 19 must be approved by the commission; providing  
 20 that an insurer is not liable and there is no  
 21 cause of action against an insurer acting  
 22 within the scope of its authority; amending s.  
 23 627.4035, F.S.; requiring insurers to provide  
 24 certain premium payment plan options to  
 25 policyholders; requiring prior approval of such  
 26 plans by the office; amending s. 627.4133,  
 27 F.S.; increasing a period of notice for  
 28 nonrenewals, cancellations, and terminations;  
 29 requiring residential property insurers to  
 30 return excess profits to policyholders except  
 31 as directed by the Office of Insurance

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1 Regulation; providing a formula for determining  
 2 excess profits; transferring, renumbering, and  
 3 amending s. 627.4261, F.S.; requiring insurers  
 4 to pay or deny certain claims within a time  
 5 certain; providing an exception; providing  
 6 penalties; amending s. 627.701, F.S.; requiring  
 7 insurers to provide insureds options for  
 8 certain deductibles, credits, or rate  
 9 differentials; creating s. 627.7018, F.S.;  
 10 providing a prohibition and requirements for  
 11 insurers in denying coverage; amending s.  
 12 627.706, F.S., relating to sinkhole insurance;  
 13 defining the term "catastrophic ground cover  
 14 collapse"; requiring property insurers to  
 15 provide coverage for catastrophic ground cover  
 16 collapse; allowing property insurers to charge  
 17 an appropriate additional premium for coverage  
 18 for sinkhole loss; specifying the date on which  
 19 coverage for catastrophic ground cover collapse  
 20 may take effect; requiring insurers offering  
 21 policies that exclude coverage for sinkhole  
 22 losses to provide notice to policyholders;  
 23 amending s. 627.711, F.S.; requiring certain  
 24 notices to specify combinations of discounts,  
 25 credits, rate differentials, and reductions in  
 26 deductibles; requiring the Financial Services  
 27 Commission to develop uniform mitigation  
 28 verification inspection forms; providing duties  
 29 of the commission; creating s. 627.712, F.S.;  
 30 requiring insurers issuing residential property  
 31 insurance to provide hurricane or windstorm

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1 coverage; authorizing a policyholder to make a  
 2 written rejection of such coverage by signing a  
 3 statement acknowledging the lack of insurance  
 4 or providing a statement from the  
 5 mortgageholder or lienholder; requiring  
 6 insurers issuing residential property insurance  
 7 to make available an exclusion of coverage for  
 8 contents; providing for the policyholder to  
 9 make a written rejection of such coverage;  
 10 requiring that the insurer keep documentation  
 11 of such statements; requiring the Financial  
 12 Services Commission to adopt rules; creating s.  
 13 627.713, F.S.; authorizing the office to  
 14 require property insurers to report data  
 15 regarding hurricane claims and underwriting  
 16 costs; amending s. 627.7277, F.S.; requiring  
 17 certain information to be included in notices  
 18 of renewal premium; providing for rules;  
 19 amending s. 631.57, F.S.; revising criteria and  
 20 requirements for levy of emergency assessments  
 21 by the Florida Insurance Guaranty Association;  
 22 revising characterizations of emergency  
 23 assessments; providing legislative intent;  
 24 amending s. 718.111, F.S.; providing for  
 25 windstorm insurance for condominium  
 26 associations; creating the Task Force on  
 27 Citizens Property Insurance Claims Handling and  
 28 Resolution; providing for administration of the  
 29 task force; providing for membership; providing  
 30 for reimbursement of expenses but no  
 31 compensation; providing purpose and intent;

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1 requiring the task force to address certain  
2 issues; requiring reports and recommendations;  
3 providing additional responsibilities of the  
4 task force; providing for expiration of the  
5 task force; creating the Windstorm Mitigation  
6 Study Committee for the purpose of analyzing  
7 solutions and programs that could address the  
8 state's need to mitigate the effects of  
9 windstorms on structures; providing for  
10 membership and qualifications; providing that  
11 the members are entitled to reimbursement for  
12 expenses incurred in connection with their  
13 duties; providing for reimbursement of travel  
14 expenses; requiring the Department of Financial  
15 Services, the Office of Insurance Regulation,  
16 the Citizens Property Insurance Corporation,  
17 and other state agencies to supply information,  
18 assistance, and facilities to the committee;  
19 requiring the department to provide staff  
20 assistance; specifying duties of the committee;  
21 requiring the committee to report to the  
22 Governor, the Legislature, the Chief Financial  
23 Officer, and the Commissioner of Insurance  
24 Regulation by a specified date; providing for  
25 expiration of the committee; requiring the  
26 Financial Services Commission to adopt a  
27 uniform home grading scale for certain  
28 purposes; providing criteria; requiring the  
29 Department of Community Affairs to implement  
30 the 2006 Disaster Recovery Program for the  
31 purpose of assisting local governments in

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1 hardening low-income housing against the  
 2 effects of hurricanes; specifying that the act  
 3 does not create an entitlement or obligate the  
 4 state; providing for program administration;  
 5 specifying the entities that are eligible to  
 6 apply for funding; providing for the use of  
 7 funds under the program; prohibiting insurers  
 8 writing private passenger automobile insurance  
 9 from writing such insurance under certain  
 10 circumstances; expressing the intent of the  
 11 Legislature to create a grant program to assist  
 12 low-income persons in purchasing property  
 13 insurance; repealing s. 627.0629(6), F.S.,  
 14 relating to certain limitations on writing  
 15 residential property insurance; providing  
 16 appropriations; providing for severability;  
 17 providing effective dates.

18  
 19 WHEREAS, homeowners in the State of Florida are  
 20 struggling under increased insurance costs and increased  
 21 housing prices as a result of damage caused by hurricanes and  
 22 tropical storms, and

23 WHEREAS, this increase in the cost of property  
 24 insurance for the state's residents demands immediate  
 25 attention, and

26 WHEREAS, the affordability of property insurance  
 27 creates financial burdens for Florida's residents and  
 28 financial crises for some property owners, and

29 WHEREAS, in addition to affordability, the availability  
 30 and stability of property insurance rates are critical issues  
 31 to the residents of this state, and

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1           WHEREAS, because there is no single, quick, or easy  
2 solution to the current crisis, a comprehensive and creative  
3 approach is required, and

4           WHEREAS, property insurance is so interwoven with other  
5 forms of insurance, through business, regulation, advocacy,  
6 purchasing, and other interactions, that the viability of the  
7 insurance market in Florida is at risk, and

8           WHEREAS, expanding coverage offered by the Florida  
9 Hurricane Catastrophe Fund can help to address this crisis,  
10 and

11           WHEREAS, taking steps to control or reduce the premiums  
12 charged by Citizens Property Insurance Corporation can help to  
13 address this crisis, and

14           WHEREAS, strengthening the Florida Building Code and  
15 providing for voluntary guidelines in addition to the  
16 requirements of the code can help to address this crisis, and

17           WHEREAS, sinkhole coverage is a critical part of the  
18 crisis in certain areas of the state and must be addressed as  
19 part of any comprehensive solution, and

20           WHEREAS, requiring property insurers to offer  
21 additional deductibles and exclusions that apply at the option  
22 of the property owner can help to address this crisis, and

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

26           WHEREAS, strengthening the processes for establishing  
27 property insurance rates can help to address this crisis, and

28           WHEREAS, the role of consumer advocacy is a critical  
29 part of addressing this crisis and consumer advocacy for  
30 property insurance is a critical, if not the predominant, part  
31 of consumer advocacy regarding insurance, and

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1           WHEREAS, promoting, through financial and regulatory  
2 methods, the ability of property insurers and reinsurers to do  
3 business in Florida can help to address this crisis, and

4           WHEREAS, promoting, through financial and regulatory  
5 incentives for property owners, the strengthening of property  
6 to withstand the effects of windstorm damage can help to  
7 address this crisis, NOW, THEREFORE,

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