Journal of the Senate

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CALL TO ORDER

The Senate was called to order by President Pruitt at 9:00 a.m. A quorum present—39:

Mr. President	Dockery	Margolis
Alexander	Fasano	Oelrich
Argenziano	Gaetz	Peaden
Aronberg	Garcia	Posey
Atwater	Geller	Rich
Baker	Haridopolos	Ring
Bennett	Hill	Saunders
Bullard	Jones	Siplin
Carlton	Joyner	Storms
Constantine	Justice	Villalobos
Crist	King	Webster
Deutch	Lawson	Wilson
Diaz de la Portilla	Lynn	Wise

MOMENT OF SILENCE

The President recognized Senator Joyner who asked the Senate to observe a moment of silence in memory of Keely Dorsey, Lincoln High School graduate and University of South Florida student, who passed away on January 17, 2007.

PRAYER

The following prayer was offered by Senator Wise:

Thank you, Lord, for another day for each of us to serve the people of Florida. What a privilege to make laws that affect the lives of more than 17 million people in our great state. Lord, give us the wisdom to know what will make a difference for our constituents in finding a solution to the insurance problem that seems so insurmountable and so complex. Your wisdom is beyond comprehension for the human mind and we seek your divine guidance to know what the right solution will be for the problem that is confronting our Legislature this day.

Lord, there are members of our staffs, as well as members of our families, and even us Lord, who need your healing hand on our lives. Help each of us to treat others like we would want to be treated and remind us to be kind to others as we go about our business today. Give each of us the courage to do what is right in our speech and actions, not only today but every day. Words do matter, and let nothing come from our mouths that would not be pleasing to you.

Now Lord, let us go forth and do what is right. And all the people said, Amen.

PLEDGE

Senator Ring led the Senate in the pledge of allegiance to the flag of the United States of America.

MOTIONS RELATING TO COMMITTEE REFERENCE

On motion by Senator King, by two-thirds vote **CS for HB 1-A**, **CS for CS for HB 3-A** and **CS for HB 9-A** were withdrawn from the Committee on Banking and Insurance; **CS for CS for HB 5-A** was withdrawn from the Committees on Banking and Insurance; and Community Affairs; and **HB 7-A** was withdrawn from the Committee on Community Affairs.

SPECIAL ORDER CALENDAR

CS for HB 1-A—A bill to be entitled An act relating to hurricane preparedness and insurance; providing a short title; amending s. 624.404, F.S.; prohibiting certain insurers from transacting residential property insurance business under certain circumstances; prohibiting private passenger automobile insurance insurers from writing such insurance under certain circumstances; amending s. 624.407, F.S.; revising capitalization requirements for insurers writing property insurance; specifying certain minimum surplus amounts; amending s. 624.408, F.S.; revising surplus requirements for insurers writing property insurance; creating s. 626.9542, F.S.; authorizing insurers to provide certain premium discounts under certain circumstances; providing criteria; amending s. 627.0613, F.S.; providing additional duties of the consumer advocate; amending s. 627.062, F.S.; requiring the filing of a statement of certification for certain rate filings; providing statement requirements; providing a penalty; requiring the Office of Insurance Regulation to adopt rules; providing an additional rate filing review factor; specifying arbitrator decision requirements for "use and file" filings; amending s. 627.0629, F.S.; providing legislative intent relating to savings to customers for windstorm mitigation efforts; amending s. 627.4035, F.S.; requiring insurers to provide certain premium payment plan options to policyholders; amending s. 627.4133, F.S.; increasing a period of notice for nonrenewals, cancellations, and terminations; requiring residential property insurers to return excess profits to policyholders; providing duties of the office; transferring, renumbering, and amending s. 627.4261, F.S.; requiring insurers to pay or deny certain claims within a time certain; providing an exception; providing penalties; creating s. 627.70141, F.S.; providing for additional offers of coverage and exclusions for personal lines residential policies; requiring notice of this option to be maintained; providing application; providing for rules; creating s. 627.7018, F.S.; providing a prohibition and requirements for insurers in denying coverage; amending s. 627.711, F.S.; requiring certain notices to specify combinations of discounts, credits, rate differentials, and reductions in deductibles; creating s. 627.713, F.S.; authorizing the office to require property insurers to report data regarding hurricane claims and underwriting costs; amending s. 627.7277, F.S.; requiring certain information to be included in notices of renewal premium; providing for rules; amending s. 628.371, F.S.; providing additional notice requirements for certain domestic stock insurers; providing additional surplus requirements; amending ss. 627.311, 627.351, 631.56, 631.716, 631.816, 631.912, and 766.105, F.S.; revising the memberships and appointing officers of certain boards of governors; providing experience requirements; providing for terms and filling vacancies; amending s. 440.103, F.S.; correcting a cross-reference; directing the Department of Financial Services to review certain insurance agent commissions for certain purposes; providing duties of the office; requiring a report; providing effective dates.

—was read the second time by title.

Senator Posey moved the following amendment which was adopted:

Amendment 1 (434898)(with title amendment)—Delete everything after the enacting clause and insert:

Section 1. Paragraphs (m) and (n) of subsection (2) of section 20.121, Florida Statutes, are amended to read:

20.121 Department of Financial Services.—There is created a Department of Financial Services.

(2) DIVISIONS.—The Department of Financial Services shall consist of the following divisions:

~~(m) The Office of Insurance Consumer Advocate.~~

(m)~~(n)~~ The Division of Funeral, Cemetery, and Consumer Services.

Section 2. *All of the powers, duties, functions, records, personnel, and property; unexpended balances of appropriations, allocations, and other funds; administrative authority; administrative rules; pending issues; and existing contracts of the consumer advocate and the Office of Insurance Consumer Advocate are transferred by a type two transfer, pursuant to s. 20.06(2), Florida Statutes, from the Chief Financial Officer and the Department of Financial Services to the Public Counsel. Funds shall be transferred by the Department of Financial Services from the Insurance Regulatory Trust Fund to the Grants and Donations Trust Fund in the legislative branch for the purpose of funding the Office of Insurance Consumer Advocate. The transfer amount for the 2006-2007 fiscal year is equal to the remaining unobligated approved operating budget for the Office of Insurance Consumer Advocate within the Department of Financial Services.*

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

(7)

(e)1. Notwithstanding the provisions of paragraph (c), any separate legal entity, created pursuant to the provisions of this section and controlled by counties or municipalities of this state, the membership of which consists or is to consist only of public agencies of this state, may, for the purpose of financing *the provision or* acquisition of liability *or property* coverage contracts *for or* from one or more local government liability *or property* pools to provide liability *or property* coverage for counties, municipalities, or other public agencies of this state, exercise all powers in connection with the authorization, issuance, and sale of bonds. All of the privileges, benefits, powers, and terms of s. 125.01 relating to counties and s. 166.021 relating to municipalities shall be fully applicable to such entity and such entity shall be considered a unit of local government for all of the privileges, benefits, powers, and terms of part I of chapter 159. Bonds issued by such entity shall be deemed issued on behalf of counties, municipalities, or public agencies which enter into loan agreements with such entity as provided in this paragraph. Proceeds of bonds issued by such entity may be loaned to counties, municipalities, or other public agencies of this state, whether or not such counties, municipalities, or other public agencies are also members of the entity issuing the bonds, and such counties, municipalities, or other public agencies may in turn deposit such loan proceeds with a separate local government liability *or property* pool for purposes of *providing or* acquiring liability *or property* coverage contracts.

2. Counties or municipalities of this state are authorized pursuant to this section, in addition to the authority provided by s. 125.01, part II of chapter 166, and other applicable law, to issue bonds for the purpose of acquiring liability coverage contracts from a local government liability pool. Any individual county or municipality may, by entering into interlocal agreements with other counties, municipalities, or public agencies of this state, issue bonds on behalf of itself and other counties, municipalities, or other public agencies, for purposes of acquiring a liability coverage contract or contracts from a local government liability pool. Counties, municipalities, or other public agencies are also authorized to enter into loan agreements with any entity created pursuant to subparagraph 1., or with any county or municipality issuing bonds pursuant to this subparagraph, for the purpose of obtaining bond proceeds with which to acquire liability coverage contracts from a local government liability pool. No county, municipality, or other public agency shall at any time have more than one loan agreement outstanding for the purpose of obtaining bond proceeds with which to acquire liability coverage contracts from a local government liability pool. Obligations of any county, municipality, or other public agency of this state pursuant to a loan agreement as described above may be validated as provided in chapter 75. Prior to the issuance of any bonds pursuant to subparagraph 1. or this subparagraph for the purpose of acquiring liability coverage contracts from a local government liability pool, the reciprocal insurer or the manager of any self-insurance program shall demonstrate to the satisfaction of the Office of Insurance Regulation of the Financial Services Commission that excess liability coverage for counties, municipalities, or other public agencies is reasonably unobtainable in the amounts provided by such pool or that the liability coverage obtained through acquiring contracts from a local government liability pool, after taking into account costs of issuance of bonds and any other administrative fees, is less expensive to counties, municipalities, or special districts than similar commercial coverage then reasonably available.

3. Any entity created pursuant to this section or any county or municipality may also issue bond anticipation notes, as provided by s. 215.431, in connection with the authorization, issuance, and sale of such bonds. In addition, the governing body of such legal entity or the governing body of such county or municipality may also authorize bonds to be issued and sold from time to time and may delegate, to such officer, official, or agent of such legal entity as the governing body of such legal entity may select, the power to determine the time; manner of sale, public or private; maturities; rate or rates of interest, which may be fixed or may vary at such time or times and in accordance with a specified formula or method of determination; and other terms and conditions as may be deemed appropriate by the officer, official, or agent so designated by the governing body of such legal entity. However, the amounts and maturities of such bonds and the interest rate or rates of such bonds shall be within the limits prescribed by the governing body of such legal entity and its resolution delegating to such officer, official, or agent the power to authorize the issuance and sale of such bonds. Any series of bonds issued pursuant to this paragraph *for liability coverage* shall mature no later than 7 years following the date of issuance ~~thereof~~. *Any series of bonds issued pursuant to this paragraph for property coverage shall mature no later than 30 years following the date of issuance.*

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

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

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

(h)1. Notwithstanding the provisions of paragraph (c), any separate legal entity consisting of an alliance, as defined in s. 395.1060(2)(a), which is created pursuant to this paragraph and controlled by and whose members consist of the following eligible entities: special districts created pursuant to a special act and having the authority to own or operate one or more Florida-licensed hospitals, or Florida-licensed hospitals that are owned, operated, or funded by a county or municipality, may, for the purpose of providing property insurance coverage as defined in s. 395.1060(2)(c), for such eligible entities, exercise all powers under this subsection in connection with borrowing funds for such purposes, including, without limitation, the authorization, issuance, and sale of bonds, notes, or other obligations of indebtedness. Borrowed funds, including bonds issued by such alliance, shall be deemed issued on behalf of such eligible entities that enter into loan agreements with such separate entity as provided in this paragraph.

2. Any such separate entity shall have all the powers that are provided by the interlocal agreement under which it is created or that are necessary to finance, operate, or manage the alliance's property insurance coverage program. Proceeds of bonds, notes, or other obligations issued by such an entity may be loaned to any one or more eligible entities. Eligible entities are authorized to enter into loan agreements with any separate entity created pursuant to this paragraph for the purpose of obtaining moneys with which to finance property insurance coverage or claims. Obligations of any eligible entity pursuant to a loan agreement as described in this paragraph may be validated as provided in chapter 75.

3. Any bonds, notes, or other obligations to be issued or incurred by a separate entity created pursuant to this paragraph shall be authorized by resolution of the governing body of such entity and bear the date or dates; mature at the time or times, not exceeding 30 years from their respective dates; bear interest at the rate or rates, which may be fixed or vary at such time or times and in accordance with a specified formula or method of determination; be payable at the time or times; be in the denomination; be in the form; carry the registration privileges; be executed in the manner; be payable from the sources and in the medium of payment and at the place; and be subject to redemption, including redemption prior to maturity, as the resolution may provide. The bonds, notes, or other obligations may be sold at public or private sale for such price as the governing body of the separate entity shall determine. The bonds may be secured by such credit enhancement, if any, as the governing body of the separate entity deems appropriate. The bonds may be secured by an indenture of trust or trust agreement. In addition, the governing body of the separate entity may delegate, to such officer or official of such entity as the governing body may select, the power to determine the time; manner of sale, public or private; maturities; rate or rates of interest, which may be fixed or may vary at such time or times and in accordance with a specified formula or method of determination; and other terms and conditions as may be deemed appropriate by the officer or official so designated by the governing body of such separate entity. However, the amounts and maturities of such bonds, the interest rate or rates, and the purchase price of such bonds shall be within the limits prescribed by the governing body of such separate entity in its resolution delegating to such officer or official the power to authorize the issuance and sale of such bonds.

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

5. The accomplishment of the authorized purposes of a separate entity created under this paragraph is in all respects for the benefit of the people of the state, for the increase of their commerce and prosperity, and for the improvement of their health and living conditions. Since the separate entity will perform essential public functions in accomplishing its purposes, the separate entity is not required to pay any taxes or assessments of any kind whatsoever upon any property acquired or used by it for such purposes or upon any revenues at any time received by it. The bonds, notes, and other obligations of such separate entity, their transfer, and the income therefrom, including any profits made on the sale thereof, are at all times free from taxation of any kind of the state or by any political subdivision or other agency or instrumentality thereof. The exemption granted in this paragraph is not applicable to any tax imposed by chapter 220 on interest, income, or profits on debt obligations owned by corporations.

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

Section 4. Paragraph (c) of subsection (4), subsection (6), and paragraph (a) of present subsection (7) of section 215.555, Florida Statutes, are amended, present subsections (7) through (15) of that section are redesignated as subsections (8) through (16), respectively, a new subsection (7) is added to that section, and subsections (17), (18), and (19) are added to that section, to read:

215.555 Florida Hurricane Catastrophe Fund.—

(4) REIMBURSEMENT CONTRACTS.—

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

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

(6) REVENUE BONDS *FOR FUNDING OBLIGATIONS OF THE FLORIDA HURRICANE CATASTROPHE FUND*.—

(a) General provisions.—

1. Upon the occurrence of a hurricane and a determination that the moneys in the fund are or will be insufficient to pay reimbursement at the levels promised in the reimbursement contracts, the board may take the necessary steps under paragraph (c) or paragraph (d) for the issuance of revenue bonds for the benefit of the fund. The proceeds of such revenue bonds may be used to make reimbursement payments under reimbursement contracts; to refinance or replace previously existing borrowings or financial arrangements; to pay interest on bonds; to fund reserves for the bonds; to pay expenses incident to the issuance or sale of any bond issued under this section, including costs of validating, printing, and delivering the bonds, costs of printing the official statement, costs of publishing notices of sale of the bonds, and related administrative expenses; or for such other purposes related to the financial obligations of the fund as the board may determine. The term of the bonds may not exceed 30 years. The board may pledge or authorize the corporation to pledge all or a portion of all revenues under subsection (5) and under paragraph (b) to secure such revenue bonds and the board may execute such agreements between the board and the issuer of any revenue bonds and providers of other financing arrangements under paragraph *(8)(b)* ~~(7)(b)~~ as the board deems necessary to evidence, secure, preserve, and protect such pledge. If reimbursement premiums received under subsection (5) or earnings on such premiums are used to pay debt

service on revenue bonds, such premiums and earnings shall be used only after the use of the moneys derived from assessments under paragraph (b). The funds, credit, property, or taxing power of the state or political subdivisions of the state shall not be pledged for the payment of such bonds. The board may also enter into agreements under paragraph (c) or paragraph (d) for the purpose of issuing revenue bonds in the absence of a hurricane upon a determination that such action would maximize the ability of the fund to meet future obligations.

2. The Legislature finds and declares that the issuance of bonds under this subsection is for the public purpose of paying the proceeds of the bonds to insurers, thereby enabling insurers to pay the claims of policyholders to assure that policyholders are able to pay the cost of construction, reconstruction, repair, restoration, and other costs associated with damage to property of policyholders of covered policies after the occurrence of a hurricane.

(b) Emergency assessments.—

1. If the board determines that the amount of revenue produced under subsection (5) is insufficient to fund the obligations, costs, and expenses of the fund and the corporation, including repayment of revenue bonds and that portion of the debt service coverage not met by reimbursement premiums, the board shall direct the Office of Insurance Regulation to levy, by order, an emergency assessment on direct premiums for all property and casualty lines of business in this state, including property and casualty business of surplus lines insurers regulated under part VIII of chapter 626, but not including any workers' compensation premiums or medical malpractice premiums. As used in this subsection, the term "property and casualty business" includes all lines of business identified on Form 2, Exhibit of Premiums and Losses, in the annual statement required of authorized insurers by s. 624.424 and any rule adopted under this section, except for those lines identified as accident and health insurance and except for policies written under the National Flood Insurance Program. The assessment shall be specified as a percentage of direct written premium and is subject to annual adjustments by the board in order to meet debt obligations. The same percentage shall apply to all policies in lines of business subject to the assessment issued or renewed during the 12-month period beginning on the effective date of the assessment.

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

3. Emergency assessments shall be collected from policyholders. Emergency assessments shall be remitted by insurers as a percentage of direct written premium for the preceding calendar quarter as specified in the order from the Office of Insurance Regulation. The office shall verify the accurate and timely collection and remittance of emergency assessments and shall report the information to the board in a form and at a time specified by the board. Each insurer collecting assessments shall provide the information with respect to premiums and collections as may be required by the office to enable the office to monitor and verify compliance with this paragraph.

4. With respect to assessments of surplus lines premiums, each surplus lines agent shall collect the assessment at the same time as the agent collects the surplus lines tax required by s. 626.932, and the surplus lines agent shall remit the assessment to the Florida Surplus Lines Service Office created by s. 626.921 at the same time as the agent remits the surplus lines tax to the Florida Surplus Lines Service Office. The emergency assessment on each insured procuring coverage and filing under s. 626.938 shall be remitted by the insured to the Florida Surplus Lines Service Office at the time the insured pays the surplus lines tax to the Florida Surplus Lines Service Office. The Florida Surplus Lines Service Office shall remit the collected assessments to the fund or corporation as provided in the order levied by the Office of Insurance Regulation. The Florida Surplus Lines Service Office shall verify the proper application of such emergency assessments and shall assist the board in ensuring the accurate and timely collection and remittance of assessments as required by the board. The Florida Surplus Lines Service Office shall annually calculate the aggregate written premium on property and casualty business, other than workers' compensation and medical malpractice, procured through surplus lines agents and insureds procuring coverage and filing under s. 626.938 and shall report the information to the board in a form and at a time specified by the board.

5. Any assessment authority not used for a particular contract year may be used for a subsequent contract year. If, for a subsequent contract year, the board determines that the amount of revenue produced under subsection (5) is insufficient to fund the obligations, costs, and expenses of the fund and the corporation, including repayment of revenue bonds and that portion of the debt service coverage not met by reimbursement premiums, the board shall direct the Office of Insurance Regulation to levy an emergency assessment up to an amount not exceeding the amount of unused assessment authority from a previous contract year or years, plus an additional 4 percent provided that the assessments in the aggregate do not exceed the limits specified in subparagraph 2.

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

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

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

9. When a surplus lines insured or an insured who has procured coverage and filed under s. 626.938 is entitled to the return of an unearned premium, the Florida Surplus Lines Service Office shall provide a credit or refund to the agent or such insured for the collected assessment attributable to the unearned premium prior to remitting the emergency assessment collected to the fund or corporation.

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

(c) Revenue bond issuance through counties or municipalities.—

1. If the board elects to enter into agreements with local governments for the issuance of revenue bonds for the benefit of the fund, the board shall enter into such contracts with one or more local governments, including agreements providing for the pledge of revenues, as are necessary to effect such issuance. The governing body of a county or municipality is authorized to issue bonds as defined in s. 125.013 or s. 166.101 from time to time to fund an assistance program, in conjunction with the Florida Hurricane Catastrophe Fund, for the purposes set forth in this section or for the purpose of paying the costs of construction, reconstruction, repair, restoration, and other costs associated with damage to properties of policyholders of covered policies due to the occurrence of a hurricane by assuring that policyholders located in this state are able to recover claims under property insurance policies after a covered event.

2. In order to avoid needless and indiscriminate proliferation, duplication, and fragmentation of such assistance programs, any local government may provide for the payment of fund reimbursements, regardless of whether or not the losses for which reimbursement is made occurred within or outside of the territorial jurisdiction of the local government.

3. The state hereby covenants with holders of bonds issued under this paragraph that the state will not repeal or abrogate the power of the board to direct the Office of Insurance Regulation to levy the assessments and to collect the proceeds of the revenues pledged to the payment of such bonds as long as any such bonds remain outstanding unless adequate provision has been made for the payment of such bonds pursuant to the documents authorizing the issuance of such bonds.

4. There shall be no liability on the part of, and no cause of action shall arise against any members or employees of the governing body of a local government for any actions taken by them in the performance of their duties under this paragraph.

(d) Florida Hurricane Catastrophe Fund Finance Corporation.—

1. In addition to the findings and declarations in subsection (1), the Legislature also finds and declares that:

a. The public benefits corporation created under this paragraph will provide a mechanism necessary for the cost-effective and efficient issuance of bonds. This mechanism will eliminate unnecessary costs in the bond issuance process, thereby increasing the amounts available to pay reimbursement for losses to property sustained as a result of hurricane damage.

b. The purpose of such bonds is to fund reimbursements through the Florida Hurricane Catastrophe Fund to pay for the costs of construction, reconstruction, repair, restoration, and other costs associated with damage to properties of policyholders of covered policies due to the occurrence of a hurricane.

c. The efficacy of the financing mechanism will be enhanced by the corporation's ownership of the assessments, by the insulation of the assessments from possible bankruptcy proceedings, and by covenants of the state with the corporation's bondholders.

2.a. There is created a public benefits corporation, which is an instrumentality of the state, to be known as the Florida Hurricane Catastrophe Fund Finance Corporation.

b. The corporation shall operate under a five-member board of directors consisting of the Governor or a designee, the Chief Financial Officer or a designee, the Attorney General or a designee, the director of the Division of Bond Finance of the State Board of Administration, and the senior employee of the State Board of Administration responsible for operations of the Florida Hurricane Catastrophe Fund.

c. The corporation has all of the powers of corporations under chapter 607 and under chapter 617, subject only to the provisions of this subsection.

d. The corporation may issue bonds and engage in such other financial transactions as are necessary to provide sufficient funds to achieve the purposes of this section.

e. The corporation may invest in any of the investments authorized under s. 215.47.

f. There shall be no liability on the part of, and no cause of action shall arise against, any board members or employees of the corporation for any actions taken by them in the performance of their duties under this paragraph.

3.a. In actions under chapter 75 to validate any bonds issued by the corporation, the notice required by s. 75.06 shall be published only in Leon County and in two newspapers of general circulation in the state, and the complaint and order of the court shall be served only on the State Attorney of the Second Judicial Circuit.

b. The state hereby covenants with holders of bonds of the corporation that the state will not repeal or abrogate the power of the board to direct the Office of Insurance Regulation to levy the assessments and to collect the proceeds of the revenues pledged to the payment of such bonds as long as any such bonds remain outstanding unless adequate provision has been made for the payment of such bonds pursuant to the documents authorizing the issuance of such bonds.

4. The bonds of the corporation are not a debt of the state or of any political subdivision, and neither the state nor any political subdivision is liable on such bonds. The corporation does not have the power to pledge the credit, the revenues, or the taxing power of the state or of any political subdivision. The credit, revenues, or taxing power of the state or of any political subdivision shall not be deemed to be pledged to the payment of any bonds of the corporation.

5.a. The property, revenues, and other assets of the corporation; the transactions and operations of the corporation and the income from such transactions and operations; and all bonds issued under this paragraph and interest on such bonds are exempt from taxation by the state and any political subdivision, including the intangibles tax under chapter 199 and the income tax under chapter 220. This exemption does not apply to any tax imposed by chapter 220 on interest, income, or profits on debt obligations owned by corporations other than the Florida Hurricane Catastrophe Fund Finance Corporation.

b. All bonds of the corporation shall be and constitute legal investments without limitation for all public bodies of this state; for all banks, trust companies, savings banks, savings associations, savings and loan associations, and investment companies; for all administrators, executors, trustees, and other fiduciaries; for all insurance companies and associations and other persons carrying on an insurance business; and for all other persons who are now or may hereafter be authorized to invest in bonds or other obligations of the state and shall be and constitute eligible securities to be deposited as collateral for the security of any state, county, municipal, or other public funds. This sub-subparagraph shall be considered as additional and supplemental authority and shall not be limited without specific reference to this sub-subparagraph.

6. The corporation and its corporate existence shall continue until terminated by law; however, no such law shall take effect as long as the corporation has bonds outstanding unless adequate provision has been made for the payment of such bonds pursuant to the documents authorizing the issuance of such bonds. Upon termination of the existence of the corporation, all of its rights and properties in excess of its obligations shall pass to and be vested in the state.

(e) Protection of bondholders.—

1. As long as the corporation has any bonds outstanding, neither the fund nor the corporation shall have the authority to file a voluntary petition under chapter 9 of the federal Bankruptcy Code or such corresponding chapter or sections as may be in effect, from time to time, and neither any public officer nor any organization, entity, or other person shall authorize the fund or the corporation to be or become a debtor under chapter 9 of the federal Bankruptcy Code or such corresponding chapter or sections as may be in effect, from time to time, during any such period.

2. The state hereby covenants with holders of bonds of the corporation that the state will not limit or alter the denial of authority under this paragraph or the rights under this section vested in the fund or the corporation to fulfill the terms of any agreements made with such bondholders or in any way impair the rights and remedies of such bondholders as long as any such bonds remain outstanding unless adequate provision has been made for the payment of such bonds pursuant to the documents authorizing the issuance of such bonds.

3. Notwithstanding any other provision of law, any pledge of or other security interest in revenue, money, accounts, contract rights, general intangibles, or other personal property made or created by the fund or the corporation shall be valid, binding, and perfected from the time such pledge is made or other security interest attaches without any physical delivery of the collateral or further act and the lien of any such pledge or other security interest shall be valid, binding, and perfected against all parties having claims of any kind in tort, contract, or otherwise against the fund or the corporation irrespective of whether or not such parties have notice of such claims. No instrument by which such a pledge or security interest is created nor any financing statement need be recorded or filed.

(f) Limitation.—The Florida Hurricane Fund Finance Corporation may not be used to fund obligations under subsection (19).

(7) REVENUE BONDS FOR FUNDING OBLIGATIONS OF THE FLORIDA HURRICANE EXCESS LOSS PROGRAM.—

(a) General provisions.—

1. Upon a determination by law that any moneys dedicated or otherwise available to the Florida Hurricane Excess Loss Program (FHELP) are or will be insufficient to pay for the amount of the state's liability for losses under the FHELP, and a designation by law of a source of revenue from which appropriations will be made to satisfy loan obligations or to secure bonds, the board may take the necessary steps under paragraph (b) to authorize the Florida Hurricane Excess Loss Program Finance Corporation to satisfy loan obligations or to issue bonds for the payment of such losses. The proceeds of such bonds may be used to make payments for such losses; to refinance or replace previously existing borrowings or financial arrangements; to pay interest on bonds; to fund reserves for the bonds; to pay expenses incident to the issuance or sale of any bond issued under this paragraph, including costs of validating, printing, and delivering the bonds, costs of printing the official statement, costs of publishing notices of sale of the bonds, and related administrative expenses; or for such other purposes related to the financial obligations of the FHELP as the board may determine. The term of the bonds may not exceed 30 years. The board and the Florida Hurricane Excess Loss Program Finance Corporation may pledge all or a portion of all revenues available from appropriations from the source designated by law to secure such bonds and the board may execute such agreements between the board and such corporation as the board considers necessary to evidence, secure, preserve, and protect such pledge. The credit, property, or taxing power of the state or political subdivisions of the state may not be pledged for the payment of such bonds. The bonds shall be payable only from revenues specifically appropriated for such purpose or from any other funds or revenues of the Florida Hurricane Excess Loss Program Finance Corporation which are pledged for such purpose. It is the intent of the Legislature that initial funding for the FHELP shall be provided from up to 10 percent of state revenues, which may include covenants to appropriate and budget, as may be necessary.

2. The Legislature finds and declares that the issuance of bonds under this subsection is for the public purpose of paying the proceeds of the bonds to insured policyholders and to ensure that such policyholders are able to pay the cost of construction, reconstruction, repair, restoration, and other costs associated with damage to their residential property after the occurrence of a hurricane, and that the issuance of the bonds is essential to protect the health, safety, and welfare of citizens of the state.

(b) Florida Hurricane Excess Loss Program Finance Corporation.—

1. In addition to the findings and declarations in paragraph (a) and subsection (19), the Legislature also finds and declares that:

a. The public benefits corporation created under this paragraph will provide a mechanism necessary for the cost-effective and efficient issuance of bonds. This mechanism will eliminate unnecessary costs in the bond-issuance process, thereby increasing the amounts available to pay reimbursement for losses to property sustained as a result of hurricane damage.

b. The purpose of such bonds is to fund reimbursements through the FHELP to pay for the costs of construction, reconstruction, repair, restoration, and other costs associated with damage to properties of policyholders of covered policies due to the occurrence of a hurricane.

c. The efficacy of the financing mechanism will be enhanced by the corporation's ownership of the assessments, by the insulation of the assessments from possible bankruptcy proceedings, and by covenants of the state with the corporation's bondholders.

2.a. There is created a public benefits corporation, which is an instrumentality of the state, to be known as the Florida Hurricane Excess Loss Program Finance Corporation.

b. The corporation shall operate under a five-member board of directors consisting of the Governor or a designee, the Chief Financial Officer or a designee, the Attorney General or a designee, the director of the Division of Bond Finance of the Florida Board of Administration, and the senior employee of the Florida Board of Administration responsible for operations of the Florida Hurricane Catastrophe Fund.

c. The corporation has all of the powers of corporations under chapter 607 and under chapter 617, subject only to the provisions of this subsection.

d. The corporation may issue bonds and engage in such other financial transactions as are necessary to provide sufficient funds to achieve the purposes of this section.

e. The corporation may invest in any of the investments authorized under s. 215.47.

f. There shall be no liability on the part of, and no cause of action shall arise against, any board members or employees of the corporation for any actions taken by them in the performance of their duties under this paragraph.

3.a. In actions under chapter 75 to validate any bonds issued by the corporation, the notice required by s. 75.06 shall be published only in Leon County and in two newspapers of general circulation in the state, and the complaint and order of the court shall be served only on the State Attorney of the Second Judicial Circuit.

b. The state hereby covenants with holders of bonds of the corporation that the state will not repeal or abrogate the power of the board to collect the proceeds of the revenues pledged to the payment of such bonds as long as any such bonds remain outstanding unless adequate provision has been made for the payment of such bonds pursuant to the documents authorizing the issuance of such bonds.

4. The bonds of the corporation are not a debt of the state or of any political subdivision, and neither the state nor any political subdivision is liable on such bonds. The corporation does not have the power to pledge the credit, the revenues, or the taxing power of the state or of any political subdivision. The credit, revenues, or taxing power of the state or of any political subdivision shall not be deemed to be pledged to the payment of any bonds of the corporation.

5.a. The property, revenues, and other assets of the corporation, the transactions and operations of the corporation and the income from such transactions and operations, and all bonds issued under this paragraph and interest on such bonds are exempt from taxation by the state and any political subdivision, including the intangibles tax under chapter 199 and the income tax under chapter 220. This exemption does not apply to any tax imposed by chapter 220 on interest, income, or profits on debt obligations owned by corporations other than the Florida Hurricane Excess Loss Program Finance Corporation.

b. All bonds of the corporation shall be and constitute legal investments without limitation for all public bodies of this state; for all banks, trust companies, savings banks, savings associations, savings and loan associations, and investment companies; for all administrators, executors, trustees, and other fiduciaries; for all insurance companies and associations and other persons carrying on an insurance business; and for all other persons who are now or may hereafter be authorized to invest in bonds or other obligations of the state and shall be and constitute eligible securities to be deposited as collateral for the security of any state, county, municipal, or other public funds. This sub-subparagraph shall be considered as additional and supplemental authority and may not be limited without specific reference to this sub-subparagraph.

6. The corporation and its corporate existence shall continue until terminated by law; however, such law may not take effect as long as the corporation has bonds outstanding unless adequate provision has been made for the payment of such bonds pursuant to the documents authorizing the issuance of such bonds. Upon termination of the existence of the corporation, all of its rights and properties in excess of its obligations shall pass to and be vested in the state.

(c) Protection of bondholders.—

1. As long as the corporation has any bonds outstanding, neither the fund nor the corporation shall have the authority to file a voluntary petition under chapter 9 of the federal Bankruptcy Code or such corresponding chapter or sections as may be in effect, from time to time, and neither any public officer nor any organization, entity, or other person shall authorize the fund or the corporation to be or become a debtor under chapter 9 of the federal Bankruptcy Code or such corresponding chapter or sections as may be in effect, from time to time, during any such period.

2. The state hereby covenants with holders of bonds of the corporation that the state will not limit or alter the denial of authority under this paragraph or the rights under this section vested in the fund or the corporation to fulfill the terms of any agreements made with such bondholders or in any way impair the rights and remedies of such bondholders as long as any such bonds remain outstanding unless adequate provision has been made for the payment of such bonds pursuant to the documents authorizing the issuance of such bonds.

3. Notwithstanding any other provision of law, any pledge of or other security interest in revenue, money, accounts, contract rights, general intangibles, or other personal property made or created by the fund or the corporation shall be valid, binding, and perfected from the time such pledge is made or other security interest attaches without any physical delivery of the collateral or further act and the lien of any such pledge or other security interest shall be valid, binding, and perfected against all parties having claims of any kind in tort, contract, or otherwise against the fund or the corporation irrespective of whether or not such parties have notice of such claims. No instrument by which such a pledge or security interest is created nor any financing statement need be recorded or filed.

(d) The Florida Hurricane Excess Loss Program Finance Corporation may not be used to fund obligations that are incurred by the coverage afforded under the Florida Hurricane Catastrophe Fund, including any retention levels or copayments, whether for mandatory coverage or optional coverages.

(8)~~(7)~~ ADDITIONAL POWERS AND DUTIES.—

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

(17) TEMPORARY INCREASE IN COVERAGE LIMIT OPTIONS.—

(a) Findings and intent.—

1. The Legislature finds that:

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

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

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

2. It is the intent of the Legislature to create options for insurers to purchase a temporary increased coverage limit above the statutorily determined limit in subparagraph (4)(c)1., applicable for the 2007 and 2008 hurricane seasons, to address market disruptions and enable insurers, at their option, to procure additional coverage from the Florida Hurricane Catastrophe Fund. It is the further intent of the Legislature to structure this coverage in a manner that requires insurers to pay premiums that are comparable to the premiums the insurer would have paid for comparable reinsurance coverage but for the current emergency in the reinsurance market and also in a manner that minimizes subsidies from the general public over the long run by providing the optional increase in coverage limit for 2 years.

(b) Applicability of other provisions of this section.—All provisions of this section and the rules adopted under this section apply to the coverage created by this subsection unless specifically superseded by provisions in this subsection.

(c) Additional definitions.—As used in this subsection, the term:

1. "FHCF" means Florida Hurricane Catastrophe Fund.

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

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

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

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

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

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

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

9. "TICL coverage" means the coverage for an insurer's losses above the insurer's statutorily determined claims-paying capacity based on the claims-paying limit in subparagraph (4)(c)1., which an insurer selects as its temporary increase in coverage from the fund under the TICL options selected. A TICL insurer's increased coverage limit options shall be calculated as follows:

a. The board shall calculate and report to each TICL insurer the TICL coverage multiples based on three options for increasing the insurer's FHCF coverage limit. Each TICL coverage multiple shall be calculated by dividing $1 billion, $2 billion, or $3 billion by the total estimated aggregate FHCF reimbursement premiums for the 2007-2008 reimbursement contract year and for the 2008-2009 reimbursement contract year.

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

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

(d) TICL options addendum.—

1. The TICL options addendum shall provide for reimbursement of TICL insurers for covered events occurring between June 1, 2007, and May 31, 2008, and between June 1, 2008, and May 31, 2009, in exchange for the TICL reimbursement premium paid into the fund under paragraph (e). Any insurer writing covered policies has the option of selecting an increased limit of coverage under the TICL options addendum and shall select such coverage at the time that it executes the FHCF reimbursement contract.

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

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

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

(e) TICL reimbursement premiums.—

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

2. Each insurer's TICL premium shall be calculated based on the additional limit of increased coverage that it selects. Such limit is determined by multiplying the TICL multiple associated with one of the three options times the insurer's FHCF reimbursement premium. For the

amount of increased coverage based on the option of using $1 billion to derive the TICL multiple, the rate-on-line for such coverage shall be 20 percent. For the option using $2 billion, the rate-on-line shall be 17.5 percent and for the option using $3 billion, the rate-on-line shall be 15 percent.

(f) Effect on claims-paying capacity of the fund.—For the contract terms commencing June 1, 2007, and April 1, 2008, the program created by this subsection shall increase the claims-paying capacity of the fund as provided in subparagraph (4)(c)1. by an amount not to exceed $3 billion dollars and shall depend on the TICL coverage options selected and the number of insurers that select the TICL optional coverage. The additional capacity shall apply only to the additional coverage provided under the TICL options and shall not otherwise affect any insurer's reimbursement from the fund if the insurer chooses not to select the temporary option to increase its limit of coverage under the FHCF.

(18) FLORIDA HURRICANE EXCESS LOSS PROGRAM.—

(a) The Legislature finds and declares as follows:

1. There is a compelling state interest in maintaining a viable and orderly private-sector market for property insurance in this state and ensuring that premiums for property insurance are affordable. Increased premiums and assessments may force policyholders to sell their homes and even leave the state, which poses a serious threat to the economy of the state and the essential economic value of home ownership.

2. As a result of unprecedented levels of catastrophic insured losses in recent years, and especially as a result of Hurricanes Charlie, Jeanne, Francis, Ivan, Dennis, Katrina, Rita, and Wilma, insurers are facing increased demands from regulators, rating agencies, and investors to obtain reinsurance to cover multiple catastrophic events at a time when reinsurance availability has been limited, reinsurance costs have substantially increased, and hurricane loss-projection models are reportedly being revised to increase expected hurricane losses, all causing further disruption in the reinsurance and property insurance market.

3. Providing a limitation of liability on property insurers above amounts that are covered by the Florida Hurricane Catastrophe Fund and assuming state liability for such amounts will enable insurers to limit its purchase of reinsurance and limit their exposure to losses under such amounts, with corresponding premium savings to residential property insurance policyholders in the state.

(b) All provisions of this section and rules adopted under this section apply to the program created by this subsection, except as otherwise provided in this section or as superseded by this subsection.

(c) As used in this subsection, the term:

1. "FHCF" means Florida Hurricane Catastrophe Fund.

2. "FHELP" means Florida Hurricane Excess Loss Program.

3. "FHELP retention" means the sum of the insurer's FHCF retention as defined in paragraph (2)(e), plus the insurer's limit of FHCF coverage as determined in subparagraph (4)(c)2., plus the insurer's copayments associated with the coverage selected as provided for in paragraph (4)(b), including the maximum limits of coverage available to the insurer under the Temporary Increased Coverage Limit (TICL) option pursuant to subsection (18), whether or not selected by the insurer, but only for those years when the TICL option is available.

4. "FHELP payout multiple" means the factor or number derived by dividing the difference in the industry FHELP coverage limit and the industry FHELP retention by the estimated aggregate FHCF premium paid by all insurers for the mandatory FHCF coverage for the contract year calculated at the time the premium formula is determined.

(d) There is created the Florida Hurricane Excess Loss Program to be administered by the State Board of Administration. The board may adopt such rules as are reasonable and necessary to administer this subsection and provide for the operation of the FHELP. The board may employ or contract with such staff and professionals as the board considers necessary for the administration of the FHELP. The board shall administer the FHELP in conjunction with the FHCF; however, in all other respects, the operation, accounts, assets, liabilities, rights, and obligations of the FHELP shall be segregated from those of the FHCF and shall not in any way affect the operation, accounts, assets, liabilities, rights, and obligations of the FHCF. Any moneys attributable to the FHELP shall be subject to the same limitations and investment restrictions as provide for under subsection (3).

(e)1. Beginning with the FHCF reimbursement contract year on June 1, 2007, the board shall require a contract addendum be executed by each FHCF participating insurer that obligates the state to provide FHELP coverage in exchange for the insurer's obligation to pay and service all claims covered by FHELP. The execution of the addendum shall be a requirement and a condition of doing business in this state for all insurers writing covered policies.

2. The FHELP addendum shall require that the state assume liability under the FHELP for 90 percent of losses under a covered policy from each covered event in excess of the insurer's FHELP retention up to the insurer's FHELP limit. The insurer's FHELP limit is determined by multiplying the insurer's FHCF reimbursement premium by the FHELP payout multiple. The FHELP addendum shall also require that the state reimburse the insurer for 5 percent of the reimbursed losses to cover loss-adjustment expenses.

3. The FHELP addendum shall also provide that the obligation of the board with respect to all contracts covering a particular contract year shall not exceed the industry FHELP coverage limit. For the 2007 contract year, the industry FHELP coverage limit is $23 billion in excess of the industry FHELP retention. The industry FHELP coverage limit shall be adjusted each year based upon the reported exposure from the prior contract year to reflect the percentage growth in exposure to the fund.

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

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

(f) Insurers are not be required to pay premiums for FHELP coverage, which shall be funded pursuant to subsection (7). Such coverage shall be funded separately and apart from the obligations of the Florida Hurricane Catastrophe Fund and any revenue bonds issued by the Florida Hurricane Catastrophe Fund Finance Corporation.

Section 5. *(1) An insurer that elects the TEACO or TICL coverage options offered by the Florida Hurricane Catastrophe Fund, as required to be offered by this act, must make a rate filing with the Office of Insurance Regulation, pursuant to the "file and use" provisions of s. 627.062(2)(a)1., Florida Statutes, which reflects any savings or reduction in loss exposure to the insurer. An insurer may not obtain a rate increase due to the election of the TEACO or TICL coverage options.*

(2) All residential property insurers must make a rate filing with the Office of Insurance Regulation, pursuant to the "file and use" provisions of s. 627.062(2)(a)1., Florida Statutes, to decrease rates to reflect the reduction in loss exposure due to the state assumption of liability for hurricane losses pursuant to the Florida Hurricane Excess Loss Program, as created by this act.

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

(4) An insurer may not implement a rate change under the "use and file" rate procedures of s. 627.062(2)(a)2., Florida Statutes, for a period of 1 year after the effective date of a rate filing required by this section for a policy that is subject to such a rate filing.

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

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

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

(8) Each residential property insurer shall reflect a rate change that takes into account the presumed factor determined under subsection (5) for any policy written or renewed on or after June 1, 2007.

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

Section 6. Subsection (2) of section 215.5586, Florida Statutes, is amended to read:

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

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

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

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

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

3. Have undergone an acceptable wind certification and hurricane mitigation inspection *or use hurricane-protection products tested by the International Hurricane Research Center at Florida International University*.

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

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

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

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

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

1. Roof deck attachment;

2. Secondary water barrier;

3. Roof covering*, including a weighted roof-protection system that may be installed by an approved contractor or homeowner*;

4. Brace gable ends;

5. Reinforce roof-to-wall connections;

6. Opening protection; and

7. Exterior doors, including garage doors.

(f) Low-income homeowners, as defined in s. 420.0004(9), who otherwise meet the requirements of paragraphs (a) and (c) are eligible for a grant of up to $5,000 and are not required to provide a matching amount to receive the grant. Such grants shall be used to retrofit single-family, site-built, owner-occupied, residential properties in order to make them less vulnerable to hurricane damage.

Section 7. Paragraph (a) of subsection (3) of section 215.559, Florida Statutes, is amended to read:

215.559 Hurricane Loss Mitigation Program.—

(3)(a) Forty percent of the total appropriation in paragraph (2)(a) shall be used to inspect and improve tie-downs *or other securing fixtures* for mobile homes.

Section 8. Section 350.012, Florida Statutes, is amended to read:

350.012 Committee on Public Service Commission *and Insurance* Oversight; creation; membership; powers and duties.—

(1) There is created a standing joint committee of the Legislature, designated the Committee on Public Service Commission *and Insurance* Oversight, and composed of 12 members appointed as follows: six members of the Senate appointed by the President of the Senate, two of whom must be members of the minority party; and six members of the House of Representatives appointed by the Speaker of the House of Representatives, two of whom must be members of the minority party. The terms of members shall be for 2 years and shall run from the organization of one Legislature to the organization of the next Legislature. The President shall appoint the chair of the committee in even-numbered years and the vice chair in odd-numbered years, and the Speaker of the House of Representatives shall appoint the chair of the committee in odd-numbered years and the vice chair in even-numbered years, from among the committee membership. Vacancies shall be filled in the same manner as the original appointment. Members shall serve without additional compensation, but shall be reimbursed for expenses.

(2) The committee shall:

(a) Recommend to the Governor nominees to fill a vacancy on the Public Service Commission, as provided by general law; ~~and~~

(b) Appoint a Public Counsel as provided by general law*; and*~~.~~

(c) Confirm or reject the appointment by the Chief Financial Officer of the Insurance Consumer Advocate, as provided in s. 350.0615.

(3) The committee is authorized to file a complaint with the Commission on Ethics alleging a violation of this chapter by a commissioner, former commissioner, former commission employee, or member of the Public Service Commission Nominating Council.

(4) The committee will not have a permanent staff, but the President of the Senate and the Speaker of the House of Representatives shall select staff members from among existing legislative staff, when and as needed.

Section 9. Section 350.0611, Florida Statutes, is amended to read:

350.0611 Public Counsel; duties and powers.—It shall be the duty of the Public Counsel to provide legal representation for the people of the state in proceedings before the commission and in proceedings before counties pursuant to s. 367.171(8). The Public Counsel shall have such powers as are necessary to carry out the duties of his or her office, including, but not limited to, the following specific powers:

(1) To recommend to the commission or the counties, by petition, the commencement of any proceeding or action or to appear, in the name of the state or its citizens, in any proceeding or action before the commission or the counties and urge therein any position which he or she deems to be in the public interest, whether consistent or inconsistent with positions previously adopted by the commission or the counties, and utilize therein all forms of discovery available to attorneys in civil actions generally, subject to protective orders of the commission or the counties which shall be reviewable by summary procedure in the circuit courts of this state;

(2) To have access to and use of all files, records, and data of the commission or the counties available to any other attorney representing parties in a proceeding before the commission or the counties;

(3) In any proceeding in which he or she has participated as a party, to seek review of any determination, finding, or order of the commission or the counties, or of any hearing examiner designated by the commission or the counties, in the name of the state or its citizens;

(4) To prepare and issue reports, recommendations, and proposed orders to the commission, the Governor, and the Legislature on any matter or subject within the jurisdiction of the commission, and to make such recommendations as he or she deems appropriate for legislation relative to commission procedures, rules, jurisdiction, personnel, and functions; ~~and~~

(5) To appear before other state agencies, federal agencies, and state and federal courts in connection with matters under the jurisdiction of the commission, in the name of the state or its citizens*; and*~~.~~

(6) To represent, through the Insurance Consumer Advocate, the general public of the state on matters related to the regulation of insurance before the Office of Insurance Regulation, the Department of Financial Services, and the Financial Services Commission, as provided in s. 350.0615.

Section 10. Section 350.0613, Florida Statutes, is amended to read:

350.0613 Public Counsel; employees; receipt of pleadings.—The committee may authorize the Public Counsel to employ clerical and technical assistants whose qualifications, duties, and responsibilities the committee shall from time to time prescribe. The committee may from time to time authorize retention of the services of additional attorneys*, actuaries, economists,* or experts to the extent that the best interests of the people of the state will be better served thereby, including the retention of expert witnesses and other technical personnel for participation in contested proceedings before the *Public Service* Commission*, the Office of Insurance Regulation, the Department of Financial Services, or the Financial Services Commission*. The *Public Service* Commission shall furnish the Public Counsel with copies of the initial pleadings in all proceedings before the commission*. The Office of Insurance Regulation, the Financial Services Commission, and the Department of Financial Services shall furnish the Public Counsel with copies of all filings, as requested by the Public Counsel or under such criteria as requested by the Public Counsel, which relate to the jurisdiction of the Insurance Consumer Advocate pursuant to s. 350.0615.*~~, and~~ If the Public Counsel *or Insurance Consumer Advocate* intervenes as a party in any proceeding he or she shall be served with copies of all subsequent pleadings, exhibits, and prepared testimony, if used. Upon filing notice of intervention, the Public Counsel *or Insurance Consumer Advocate* shall serve all interested parties with copies of such notice and all of his or her subsequent pleadings and exhibits.

Section 11. Section 350.0615, Florida Statutes, is created to read:

350.0615 Insurance Consumer Advocate.—The Chief Financial Officer shall appoint the Insurance Consumer Advocate, who shall be subject to confirmation by the Committee on Public Service Commission and Insurance Oversight. The Insurance Consumer Advocate shall represent the general public of the state on matters related to the regulation of insurance before the Office of Insurance Regulation, the Department of Financial Services, and the Financial Services Commission. The Insurance Consumer Advocate shall report directly to and be engaged as an employee of the Public Counsel as a Deputy Public Counsel. The Public Counsel shall provide administrative and staff support to the Insurance Consumer Advocate. The Insurance Consumer Advocate has all powers that are necessary to carry out his or her duties, including, but not limited to, the powers to:

(1) Recommend to the office, department, or commission, by petition, the commencement of any proceeding or action; to appear in any proceeding or action before the office, department, or commission; and to appear in any proceeding before the Division of Administrative Hearings relating to insurance matters under the jurisdiction of the office, department, or commission.

(2) Have access to and use of all files, records, and data of the office, department, or commission.

(3) Examine all rate and form filings submitted to the office, hire consultants as necessary to aid in the review process, and recommend to the office, department, commission, or Legislature any position considered by the Insurance Consumer Advocate to be in the public interest.

Section 12. Section 395.1060, Florida Statutes, is created to read:

395.1060 Risk pooling by certain hospitals and hospital systems.—

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

(a) Have annual premiums in excess of $3 million;

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

(c) Cause to be prepared annually a fiscal year-end financial statement in accordance with generally accepted accounting principles and audited by an independent certified public accountant within 6 months after the end of the fiscal year; and

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

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

(a) "Alliance" means a corporation, association, limited liability company, or partnership or any other legal entity formed by a group of eligible entities.

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

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

(4) An alliance that meets the requirements of this section is not an insurer for purposes of participation in or coverage by the Florida Insurance Guaranty Association established in part II of chapter 631. Alliance self-insured coverage is not subject to insurance premium tax, nor shall any such alliance pursuant to this section be assessed for purposes of s. 627.351 or s. 215.555.

Section 13. Section 553.73, Florida Statutes, is amended to read:

553.73 Florida Building Code.—

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

(b) The technical portions of the Florida Accessibility Code for Building Construction shall be contained in their entirety in the Florida Building Code. The civil rights portions and the technical portions of the accessibility laws of this state shall remain as currently provided by law. Any revision or amendments to the Florida Accessibility Code for Building Construction pursuant to part II shall be considered adopted by the commission as part of the Florida Building Code. Neither the commission nor any local government shall revise or amend any standard of the Florida Accessibility Code for Building Construction except as provided for in part II.

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

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

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

(2) The Florida Building Code shall contain provisions or requirements for public and private buildings, structures, and facilities relative to structural, mechanical, electrical, plumbing, energy, and gas systems, existing buildings, historical buildings, manufactured buildings, elevators, coastal construction, lodging facilities, food sales and food service facilities, health care facilities, including assisted living facilities, adult day care facilities, hospice residential and inpatient facilities and units, and facilities for the control of radiation hazards, public or private educational facilities, swimming pools, and correctional facilities and enforcement of and compliance with such provisions or requirements. Further, the Florida Building Code must provide for uniform implementation of ss. 515.25, 515.27, and 515.29 by including standards and criteria for residential swimming pool barriers, pool covers, latching devices, door and window exit alarms, and other equipment required therein, which are consistent with the intent of s. 515.23. Technical provisions to be contained within the Florida Building Code are restricted to requirements related to the types of materials used and construction methods and standards employed in order to meet criteria specified in the Florida Building Code. Provisions relating to the personnel, supervision or training of personnel, or any other professional qualification requirements relating to contractors or their workforce may not be included within the Florida Building Code, and subsections (4), (5), (6), ~~and~~ (7)*, and (8)* are not to be construed to allow the inclusion of such provisions within the Florida Building Code by amendment. This restriction applies to both initial development and amendment of the Florida Building Code.

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

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

(b) In order for a Technical Advisory Committee to make a favorable recommendation to the commission, the proposal must receive a three-fourths vote of the members present at the Technical Advisory Committee meeting and at least half of the regular members must be present in order to conduct a meeting;

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

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

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

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

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

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

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

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

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

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

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

7. Each county and municipality desiring to make local technical amendments to the Florida Building Code shall by interlocal agreement establish a countywide compliance review board to review any amendment to the Florida Building Code, adopted by a local government within the county pursuant to this paragraph, that is challenged by any substantially affected party for purposes of determining the amendment's compliance with this paragraph. If challenged, the local technical amendments shall not become effective until time for filing an appeal pursuant to subparagraph 8. has expired or, if there is an appeal, until

the commission issues its final order determining the adopted amendment is in compliance with this subsection.

8. If the compliance review board determines such amendment is not in compliance with this paragraph, the compliance review board shall notify such local government of the noncompliance and that the amendment is invalid and unenforceable until the local government corrects the amendment to bring it into compliance. The local government may appeal the decision of the compliance review board to the commission. If the compliance review board determines such amendment to be in compliance with this paragraph, any substantially affected party may appeal such determination to the commission. Any such appeal shall be filed with the commission within 14 days of the board's written determination. The commission shall promptly refer the appeal to the Division of Administrative Hearings for the assignment of an administrative law judge. The administrative law judge shall conduct the required hearing within 30 days, and shall enter a recommended order within 30 days of the conclusion of such hearing. The commission shall enter a final order within 30 days thereafter. The provisions of chapter 120 and the uniform rules of procedure shall apply to such proceedings. The local government adopting the amendment that is subject to challenge has the burden of proving that the amendment complies with this paragraph in proceedings before the compliance review board and the commission, as applicable. Actions of the commission are subject to judicial review pursuant to s. 120.68. The compliance review board shall determine whether its decisions apply to a respective local jurisdiction or apply countywide.

9. An amendment adopted under this paragraph shall include a fiscal impact statement which documents the costs and benefits of the proposed amendment. Criteria for the fiscal impact statement shall include the impact to local government relative to enforcement, the impact to property and building owners, as well as to industry, relative to the cost of compliance. The fiscal impact statement may not be used as a basis for challenging the amendment for compliance.

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

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

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

(6)(a) The commission, by rule adopted pursuant to ss. 120.536(1) and 120.54, shall update the Florida Building Code every 3 years. When updating the Florida Building Code, the commission shall select the most current version of the International Building Code, the International Fuel Gas Code, the International Mechanical Code, the International Plumbing Code, and the International Residential Code, all of which are adopted by the International Code Council, and the National Electrical Code, which is adopted by the National Fire Protection Association, to form the foundation codes of the updated Florida Building Code, if the version has been adopted by the applicable model code entity and made available to the public at least 6 months prior to its selection by the commission.

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

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

(d) The commission shall further consider the commission's own interpretations, declaratory statements, appellate decisions, and approved statewide and local technical amendments and shall incorporate such interpretations, statements, decisions, and amendments into the updated Florida Building Code only to the extent that they are needed to modify the foundation codes to accommodate the specific needs of the state. A change made by an institute or standards organization to any standard or criterion that is adopted by reference in the Florida Building Code does not become effective statewide until it has been adopted by the commission. Furthermore, the edition of the Florida Building Code which is in effect on the date of application for any permit authorized by the code governs the permitted work for the life of the permit and any extension granted to the permit.

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

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

(7)~~(f)~~ Upon the conclusion of a triennial update to the Florida Building Code, notwithstanding the provisions of ~~this subsection or~~ subsection (3) *or subsection (6)*, the commission may address issues identified in this *subsection* ~~paragraph~~ by amending the code pursuant only to the rule adoption procedures contained in chapter 120. *Provisions of the Florida Building Code, including those contained in referenced standards and criteria, relating to wind resistance or the prevention of water intrusion may not be amended pursuant to this subsection to diminish those construction requirements; however, the commission may, subject to conditions in this subsection, amend the provisions to enhance those construction requirements.* Following the approval of any amendments to the Florida Building Code by the commission and publication of the amendments on the commission's website, authorities having jurisdiction to enforce the Florida Building Code may enforce the amendments. The commission may approve amendments that are needed to address:

(a)~~1.~~ Conflicts within the updated code;

(b)~~2.~~ Conflicts between the updated code and the Florida Fire Prevention Code adopted pursuant to chapter 633;

(c)~~3.~~ The omission of previously adopted Florida-specific amendments to the updated code if such omission is not supported by a specific recommendation of a technical advisory committee or particular action by the commission; or

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

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

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

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

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

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

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

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

(b) A proposed amendment shall include a fiscal impact statement which documents the costs and benefits of the proposed amendment. Criteria for the fiscal impact statement shall be established by rule by the commission and shall include the impact to local government relative to enforcement, the impact to property and building owners, as well as to industry, relative to the cost of compliance.

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

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

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

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

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

(c) Nonresidential farm buildings on farms.

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

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

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

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

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

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

With the exception of paragraphs (a), (b), (c), and (f), in order to preserve the health, safety, and welfare of the public, the Florida Building Commission may, by rule adopted pursuant to chapter 120, provide for exceptions to the broad categories of buildings exempted in this section, including exceptions for application of specific sections of the code or standards adopted therein. The Department of Agriculture and Consumer Services shall have exclusive authority to adopt by rule, pursuant to chapter 120, exceptions to nonresidential farm buildings exempted in paragraph (c) when reasonably necessary to preserve public health, safety, and welfare. The exceptions must be based upon specific criteria, such as under-roof floor area, aggregate electrical service capacity, HVAC system capacity, or other building requirements. Further, the commission may recommend to the Legislature additional categories of buildings, structures, or facilities which should be exempted from the Florida Building Code, to be provided by law.

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

(b) Any decision made by the local fire official and the local building official may be appealed to a local administrative board designated by the municipality, county, or special district having firesafety responsibilities. If the decision of the local fire official and the local building official is to apply the provisions of either the Florida Building Code or the Florida Fire Prevention Code and the Life Safety Code, the board may not alter the decision unless the board determines that the application of such code is not reasonable. If the decision of the local fire official and the local building official is to adopt an alternative to the codes, the local administrative board shall give due regard to the decision rendered by the local officials and may modify that decision if the administrative board adopts a better alternative, taking into consideration all relevant circumstances. In any case in which the local administrative board adopts alternatives to the decision rendered by the local fire official and the local building official, such alternatives shall provide an equivalent degree of lifesafety and an equivalent method of construction as the decision rendered by the local officials.

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

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

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

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

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

(12)~~(11)~~ The Florida Building Code does not apply to, and no code enforcement action shall be brought with respect to, zoning requirements, land use requirements, and owner specifications or programmatic requirements which do not pertain to and govern the design, construction, erection, alteration, modification, repair, or demolition of public or private buildings, structures, or facilities or to programmatic requirements that do not pertain to enforcement of the Florida Building Code. Additionally, a local code enforcement agency may not administer or enforce the Florida Building Code to prevent the siting of any publicly owned facility, including, but not limited to, correctional facilities, juvenile justice facilities, or state universities, community colleges, or public education facilities, as provided by law.

Section 14. Subsection (2) of section 553.775, Florida Statutes, is amended to read:

553.775 Interpretations.—

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

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

Section 16. *(1) The Florida Building Commission shall amend the Florida Building Code to reflect the application of provisions identified in section 553.73, Florida Statutes, and to eliminate all exceptions that provide less stringent requirements. The amendments by the commission shall apply throughout the state with the exception of the High Velocity Hurricane Zone, which shall be governed as currently provided within the Florida Building Code. The commission shall, in addition, amend the code to require that, at a minimum, in areas where the applicable design wind speed is less than 120 miles per hour, all new residences are designed and constructed to withstand internal pressures. The commission shall fulfill these obligations before July 1, 2007, pursuant only to the provisions of chapter 120, Florida Statutes.*

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

Section 17. Paragraph (b) of subsection (3) of section 624.319, Florida Statutes, is amended to read:

624.319 Examination and investigation reports.—

(3)

(b) Workpapers and other information held by the department or office, and workpapers and other information received from another governmental entity or the National Association of Insurance Commissioners, for the department's or office's use in the performance of its examination or investigation duties pursuant to this section and ss. 624.316, 624.3161, 624.317, and 624.318 are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to workpapers and other information held by the department or office before, on, or after the effective date of this exemption. Such confidential and exempt information may be disclosed to another governmental entity, if disclosure is necessary for the receiving entity to perform its duties and responsibilities, and may be disclosed to the National Association of Insurance Commissioners. *The Public Counsel and the Insurance Consumer Advocate shall have access to such confidential and exempt information pertaining to insurance at any time.* The receiving governmental entity or the association must maintain the confidential and exempt status of the information. The information made confidential and exempt by this paragraph may be used in a criminal, civil, or administrative proceeding so long as the confidential and exempt status of such information is maintained. This paragraph is subject to the Open Government Sunset Review Act of 1995 in accordance with s. 119.15 and shall stand repealed on October 2, 2007, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 18. Paragraph (a) of subsection (2) of section 624.462, Florida Statutes, is amended to read:

624.462 Commercial self-insurance funds.—

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

(a) Established by:

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

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

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

4. A not-for-profit group comprised of no *fewer* ~~less~~ than 10 *community* ~~condominium~~ associations*, or a not-for-profit group comprised of one or more community associations having at least 50 residential properties cumulatively valued at over $25 million, created and operating under chapter 718, chapter 719, chapter 720, chapter 721, or chapter 723* ~~as defined in s. 718.103(2), which is incorporated under the laws of this state,~~ which restricts its membership to *community* ~~condominium~~ associations only~~,~~ and which has been organized and maintained in good faith for *the purpose of pooling and spreading the liabilities of its group members relating to property or casualty risk or surety insurance* ~~a continuous period of 1 year for purposes other than that of obtaining or providing insurance~~.

Section 19. Subsection (1) of section 624.4622, Florida Statutes, is amended to read:

624.4622 Local government self-insurance funds.—

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

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

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

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

(d) Have a governing body which is comprised entirely of local elected officials.

Section 20. Section 624.4625, Florida Statutes, is created to read:

624.4625 Corporation not-for-profit self-insurance funds.—

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

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

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

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

(d) Uses a qualified actuary to establish reserves for loss and loss adjustment expenses and annually submits to the office a certification by the actuary that the loss and loss adjustment expense reserves are adequate. If the actuary determines that reserves are not adequate, the fund shall file with the office a remedial plan for increasing the reserves or otherwise addressing the financial condition of the fund, subject to a determination by the office that the fund will operate on an actuarially sound basis and the fund does not pose a significant risk of insolvency.

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

1. Purchase excess insurance from authorized insurance carriers.

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

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

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

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

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

(j) Annually submits to the office a certification by the governing body of the fund that, to the best of its knowledge, the requirements of this section are met.

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

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

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

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

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

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

Section 21. Subsection (3) of section 624.610, Florida Statutes, is amended to read:

624.610 Reinsurance.—

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

(b)1. Credit must be allowed when the reinsurance is ceded to an assuming insurer that is accredited as a reinsurer in this state. An accredited reinsurer is one that:

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

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

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

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

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

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

2. The office may deny or revoke an assuming insurer's accreditation if the assuming insurer does not submit the required documentation pursuant to subparagraph 1., if the assuming insurer fails to meet all of the standards required of an accredited reinsurer, or if the assuming insurer's accreditation would be hazardous to the policyholders of this state. In determining whether to deny or revoke accreditation, the office may consider the qualifications of the assuming insurer with respect to all the following subjects:

a. Its financial stability;

b. The lawfulness and quality of its investments;

c. The competency, character, and integrity of its management;

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

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

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

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

(c)1. Credit must be allowed when the reinsurance is ceded to an assuming insurer that maintains a trust fund in a qualified United States financial institution, as defined in paragraph (5)(b), for the payment of the valid claims of its United States ceding insurers and their

assigns and successors in interest. To enable the office to determine the sufficiency of the trust fund, the assuming insurer shall report annually to the office information substantially the same as that required to be reported on the NAIC Annual Statement form by authorized insurers. The assuming insurer shall submit to examination of its books and records by the office and bear the expense of examination.

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

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

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

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

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

3. The following requirements apply to the following categories of assuming insurer:

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

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

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

(B) For reinsurance ceded under reinsurance agreements with an inception date on or before July 31, 1995, and not amended or renewed after that date, notwithstanding the other provisions of this section, the trust consists of a trusteed account in an amount not less than the group's several insurance and reinsurance liabilities attributable to business written in the United States; and

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

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

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

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

(e) If the reinsurance is ceded to an assuming insurer not meeting the requirements of paragraph (a), paragraph (b), paragraph (c), or paragraph (d), the office may allow credit, but only if the assuming insurer holds surplus in excess of $100 million and has a secure financial strength rating from at least two nationally recognized statistical rating organizations deemed acceptable by the commissioner. In determining whether credit should be allowed, the office shall consider the following:

1. The domiciliary regulatory jurisdiction of the assuming insurer;

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

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

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

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

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

7. Any documented evidence of substantial problems with the enforcement of valid United States judgments in the domiciliary jurisdiction; and

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

(f)~~(e)~~ If the assuming insurer is not authorized or accredited to transact insurance or reinsurance in this state pursuant to paragraph (a) or paragraph (b), the credit permitted by paragraph (c) *or paragraph (d)* must not be allowed unless the assuming insurer agrees in the reinsurance agreements:

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

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

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

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

1. Notwithstanding any other provisions in the trust instrument, if the trust fund is inadequate because it contains an amount less than the amount required by paragraph (c), or if the grantor of the trust has been declared insolvent or placed into receivership, rehabilitation, liquidation, or similar proceedings under the laws of its state or country of domicile, the trustee shall comply with an order of the insurance regulator with regulatory oversight over the trust or with an order of a United States court of competent jurisdiction directing the trustee to transfer to the insurance regulator with regulatory oversight all of the assets of the trust fund.

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

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

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

Section 22. *Section 627.0613, Florida Statutes, is repealed.*

Section 23. Section 627.062, Florida Statutes, is amended to read:

627.062 Rate standards.—

(1) The rates for all classes of insurance to which the provisions of this part are applicable shall not be excessive, inadequate, or unfairly discriminatory.

(2) As to all such classes of insurance:

(a) Insurers or rating organizations shall establish and use rates, rating schedules, or rating manuals to allow the insurer a reasonable rate of return on such classes of insurance written in this state. A copy of rates, rating schedules, rating manuals, premium credits or discount schedules, and surcharge schedules, and changes thereto, shall be filed with the office ~~under one of the following procedures:~~

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

~~2. If the filing is not made in accordance with the provisions of subparagraph 1., such filing shall be made as soon as practicable, but no later than 30 days after the effective date, and shall be considered a "use and file" filing. An insurer making a "use and file" filing is potentially subject to an order by the office to return to policyholders portions of rates found to be excessive, as provided in paragraph (h).~~

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

1. Past and prospective loss experience within and without this state.

2. Past and prospective expenses.

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

4. Investment income reasonably expected by the insurer, consistent with the insurer's investment practices, from investable premiums anticipated in the filing, plus any other expected income from currently invested assets representing the amount expected on unearned premium reserves and loss reserves. The commission may adopt rules utilizing reasonable techniques of actuarial science and economics to specify the manner in which insurers shall calculate investment income attributable to such classes of insurance written in this state and the manner in which such investment income shall be used in the calculation of insurance rates. Such manner shall contemplate allowances for an underwriting profit factor and full consideration of investment income which produce a reasonable rate of return; however, investment income from invested surplus shall not be considered.

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

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

7. The adequacy of loss reserves.

8. The cost of reinsurance.

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

10. Conflagration and catastrophe hazards, if applicable.

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

12. The cost of medical services, if applicable.

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

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

(d) If conflagration or catastrophe hazards are given consideration by an insurer in its rates or rating plan, including surcharges and discounts, the insurer shall establish a reserve for that portion of the premium allocated to such hazard and shall maintain the premium in a catastrophe reserve. Any removal of such premiums from the reserve for purposes other than paying claims associated with a catastrophe or purchasing reinsurance for catastrophes shall be subject to approval of the office. Any ceding commission received by an insurer purchasing reinsurance for catastrophes shall be placed in the catastrophe reserve.

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

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

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

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

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

5. A rate shall be deemed inadequate as to the premium charged to a risk or group of risks if discounts or credits are allowed which exceed a reasonable reflection of expense savings and reasonably expected loss experience from the risk or group of risks.

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

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

(g) The office may at any time review a rate, rating schedule, rating manual, or rate change; the pertinent records of the insurer; and market conditions. If the office finds on a preliminary basis that a rate may be excessive, inadequate, or unfairly discriminatory, the office shall initiate proceedings to disapprove the rate and shall so notify the insurer. However, the office may not disapprove as excessive any rate for which it has given final approval or which has been deemed approved for a period of 1 year after the effective date of the filing unless the office finds that a material misrepresentation or material error was made by the insurer or was contained in the filing. Upon being so notified, the insurer or rating organization shall, within 60 days, file with the office all information which, in the belief of the insurer or organization, proves the reasonableness, adequacy, and fairness of the rate or rate change. The office shall issue a notice of intent to approve or a notice of intent to disapprove pursuant to the procedures of paragraph (a) within 90 days after receipt of the insurer's initial response. In such instances and in any administrative proceeding relating to the legality of the rate, the insurer or rating organization shall carry the burden of proof by a preponderance of the evidence to show that the rate is not excessive, inadequate, or unfairly discriminatory. After the office notifies an insurer that a rate may be excessive, inadequate, or unfairly discriminatory, unless the office withdraws the notification, the insurer shall not alter the rate except to conform with the office's notice until the earlier of 120 days after the date the notification was provided or 180 days after the date of the implementation of the rate. The office may, subject to chapter 120, disapprove without the 60-day notification any rate increase filed by an insurer within the prohibited time period or during the time that the legality of the increased rate is being contested.

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

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

(j) *Within 24 months after an insurer receives approval of a rate increase of 10 percent or more, the insurer must file and the office must review the insurer's rate based on a rate filing that addresses all elements of the current rate.* ~~Effective July 1, 2007, notwithstanding any other provision of this section:~~

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

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

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

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

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

(3)(a) For individual risks that are not rated in accordance with the insurer's rates, rating schedules, rating manuals, and underwriting rules filed with the office and which have been submitted to the insurer for individual rating, the insurer must maintain documentation on each risk subject to individual risk rating. The documentation must identify the named insured and specify the characteristics and classification of the risk supporting the reason for the risk being individually risk rated, including any modifications to existing approved forms to be used on the risk. The insurer must maintain these records for a period of at least 5 years after the effective date of the policy.

(b) Individual risk rates and modifications to existing approved forms are not subject to this part or part II, except for paragraph (a) and ss. 627.402, 627.403, 627.4035, 627.404, 627.405, 627.406, 627.407, 627.4085, 627.409, 627.4132, 627.4133, 627.415, 627.416, 627.417, 627.419, 627.425, 627.426, 627.4265, 627.427, and 627.428, but are subject to all other applicable provisions of this code and rules adopted thereunder.

(c) This subsection does not apply to private passenger motor vehicle insurance.

(4) The establishment of any rate, rating classification, rating plan or schedule, or variation thereof in violation of part IX of chapter 626 is also in violation of this section. In order to enhance the ability of consumers to compare premiums and to increase the accuracy and usefulness of rate-comparison information provided by the office to the public, the office shall develop a proposed standard rating territory plan to be used by all authorized property and casualty insurers for residential property insurance. In adopting the proposed plan, the office may consider geographical characteristics relevant to risk, county lines, major roadways, existing rating territories used by a significant segment of the market, and other relevant factors. Such plan shall be submitted to the President of the Senate and the Speaker of the House of Representatives by January 15, 2006. The plan may not be implemented unless authorized by further act of the Legislature.

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

~~(6)(a) After any action with respect to a rate filing that constitutes agency action for purposes of the Administrative Procedure Act, except for a rate filing for medical malpractice, an insurer may, in lieu of demanding a hearing under s. 120.57, require arbitration of the rate filing. Arbitration shall be conducted by a board of arbitrators consisting of an arbitrator selected by the office, an arbitrator selected by the insurer, and an arbitrator selected jointly by the other two arbitrators. Each arbitrator must be certified by the American Arbitration Association. A decision is valid only upon the affirmative vote of at least two of the arbitrators. No arbitrator may be an employee of any insurance regulator or regulatory body or of any insurer, regardless of whether or not the employing insurer does business in this state. The office and the insurer must treat the decision of the arbitrators as the final approval of a rate filing. Costs of arbitration shall be paid by the insurer.~~

~~(b) Arbitration under this subsection shall be conducted pursuant to the procedures specified in ss. 682.06-682.10. Either party may apply to the circuit court to vacate or modify the decision pursuant to s. 682.13 or s. 682.14. The commission shall adopt rules for arbitration under this subsection, which rules may not be inconsistent with the arbitration rules of the American Arbitration Association as of January 1, 1996.~~

~~(c) Upon initiation of the arbitration process, the insurer waives all rights to challenge the action of the office under the Administrative Procedure Act or any other provision of law; however, such rights are restored to the insurer if the arbitrators fail to render a decision within 90 days after initiation of the arbitration process.~~

(6)~~(7)~~(a) The provisions of this subsection apply only with respect to rates for medical malpractice insurance and shall control to the extent of any conflict with other provisions of this section.

(b) Any portion of a judgment entered or settlement paid as a result of a statutory or common-law bad faith action and any portion of a judgment entered which awards punitive damages against an insurer may not be included in the insurer's rate base, and shall not be used to justify a rate or rate change. Any common-law bad faith action identified as such, any portion of a settlement entered as a result of a statutory or common-law action, or any portion of a settlement wherein an insurer agrees to pay specific punitive damages may not be used to justify a rate or rate change. The portion of the taxable costs and attorney's fees which is identified as being related to the bad faith and punitive damages in these judgments and settlements may not be included in the insurer's rate base and may not be utilized to justify a rate or rate change.

(c) Upon reviewing a rate filing and determining whether the rate is excessive, inadequate, or unfairly discriminatory, the office shall consider, in accordance with generally accepted and reasonable actuarial techniques, past and present prospective loss experience, either using loss experience solely for this state or giving greater credibility to this state's loss data after applying actuarially sound methods of assigning credibility to such data.

(d) Rates shall be deemed excessive if, among other standards established by this section, the rate structure provides for replenishment of reserves or surpluses from premiums when the replenishment is attributable to investment losses.

(e) The insurer must apply a discount or surcharge based on the health care provider's loss experience or shall establish an alternative method giving due consideration to the provider's loss experience. The insurer must include in the filing a copy of the surcharge or discount schedule or a description of the alternative method used, and must provide a copy of such schedule or description, as approved by the office, to policyholders at the time of renewal and to prospective policyholders at the time of application for coverage.

(f) Each medical malpractice insurer must make a rate filing under this section, sworn to by at least two executive officers of the insurer, at least once each calendar year.

(7)~~(8)~~(a)1. No later than 60 days after the effective date of medical malpractice legislation enacted during the 2003 Special Session D of the Florida Legislature, the office shall calculate a presumed factor that reflects the impact that the changes contained in such legislation will have on rates for medical malpractice insurance and shall issue a notice informing all insurers writing medical malpractice coverage of such presumed factor. In determining the presumed factor, the office shall use generally accepted actuarial techniques and standards provided in this section in determining the expected impact on losses, expenses, and investment income of the insurer. To the extent that the operation of a provision of medical malpractice legislation enacted during the 2003 Special Session D of the Florida Legislature is stayed pending a constitutional challenge, the impact of that provision shall not be included in the calculation of a presumed factor under this subparagraph.

2. No later than 60 days after the office issues its notice of the presumed rate change factor under subparagraph 1., each insurer writing medical malpractice coverage in this state shall submit to the office a rate filing for medical malpractice insurance, which will take effect no later than January 1, 2004, and apply retroactively to policies issued or renewed on or after the effective date of medical malpractice legislation enacted during the 2003 Special Session D of the Florida Legislature. Except as authorized under paragraph (b), the filing shall reflect an overall rate reduction at least as great as the presumed factor determined under subparagraph 1. With respect to policies issued on or after the effective date of such legislation and prior to the effective date of the rate filing required by this subsection, the office shall order the insurer to make a refund of the amount that was charged in excess of the rate that is approved.

(b) Any insurer or rating organization that contends that the rate provided for in paragraph (a) is excessive, inadequate, or unfairly discriminatory shall separately state in its filing the rate it contends is appropriate and shall state with specificity the factors or data that it contends should be considered in order to produce such appropriate rate. The insurer or rating organization shall be permitted to use all of the generally accepted actuarial techniques provided in this section in making any filing pursuant to this subsection. The office shall review each such exception and approve or disapprove it prior to use. It shall be the insurer's burden to actuarially justify any deviations from the rates required to be filed under paragraph (a). The insurer making a filing under this paragraph shall include in the filing the expected impact of medical malpractice legislation enacted during the 2003 Special Session D of the Florida Legislature on losses, expenses, and rates.

(c) If any provision of medical malpractice legislation enacted during the 2003 Special Session D of the Florida Legislature is held invalid by a court of competent jurisdiction, the office shall permit an adjustment of all medical malpractice rates filed under this section to reflect the impact of such holding on such rates so as to ensure that the rates are not excessive, inadequate, or unfairly discriminatory.

(d) Rates approved on or before July 1, 2003, for medical malpractice insurance shall remain in effect until the effective date of a new rate filing approved under this subsection.

(e) The calculation and notice by the office of the presumed factor pursuant to paragraph (a) is not an order or rule that is subject to chapter 120. If the office enters into a contract with an independent consultant to assist the office in calculating the presumed factor, such contract shall not be subject to the competitive solicitation requirements of s. 287.057.

(8)(a) The chief executive officer or chief financial officer of a property insurer and the chief actuary of a property insurer must certify under oath and subject to the penalty of perjury, on a form approved by the commission, the following information, which must accompany a rate filing:

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

2. Based on the signing officer's and actuary's knowledge, the rate filing does not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in

light of the circumstances under which such statements were made, not misleading;

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

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

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

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

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

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

Section 24. Paragraph (ee) is added to subsection (1) of section 626.9541, Florida Statutes, to read:

626.9541 Unfair methods of competition and unfair or deceptive acts or practices defined.—

(1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE ACTS.—The following are defined as unfair methods of competition and unfair or deceptive acts or practices:

(ee) Selectively limiting insurance offerings.—Failing to offer in this state a kind or line of insurance which all insurers or affiliated insurers, as defined by the Financial Services Commission, offer in another jurisdiction. An insurer need not offer every kind or line of insurance, or any particular kind or line of insurance, in this state; however, if, on July 1, 2007, an insurer offers a particular kind or line of insurance anywhere it does business, it must offer the same kind or line in this state. The commission shall adopt rules to administer this paragraph.

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

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

(3) ADOPTION AND EFFECT OF STANDARDS AND GUIDELINES.—

(c) With respect to a rate filing under s. 627.062, an insurer may employ actuarial methods, principles, standards, models, or output ranges found by the commission to be accurate or reliable to determine hurricane loss factors for use in a rate filing under s. 627.062. Such findings and factors are admissible and relevant in consideration of a rate filing by the office or in any arbitration or administrative or judicial review only if the office and the *Insurance* Consumer Advocate appointed pursuant to *s. 350.0615* ~~s. 627.0613~~ have access to all of the assumptions and factors that were used in developing the actuarial methods, principles, standards, models, or output ranges, and are not precluded from disclosing such information in a rate proceeding. In any rate hearing under s. 120.57 ~~or in any arbitration proceeding under s. 627.062(6)~~, the hearing officer *or*~~,~~ judge~~, or arbitration panel~~ may determine whether the office and the *Insurance* Consumer Advocate were provided with access to all of the assumptions and factors that were used in developing the actuarial methods, principles, standards, models, or output ranges and to determine their admissibility.

Section 26. Paragraph (b) of subsection (5) of section 627.311, Florida Statutes, is amended to read:

627.311 Joint underwriters and joint reinsurers; public records and public meetings exemptions.—

(5)

(b) The operation of the plan is subject to the supervision of a 9-member board of governors. The board of governors shall be comprised of:

1. Three members appointed by the Financial Services Commission. Each member appointed by the commission shall serve at the pleasure of the commission;

2. Two of the 20 domestic insurers, as defined in s. 624.06(1), having the largest voluntary direct premiums written in this state for workers' compensation and employer's liability insurance, which shall be elected by those 20 domestic insurers;

3. Two of the 20 foreign insurers as defined in s. 624.06(2) having the largest voluntary direct premiums written in this state for workers' compensation and employer's liability insurance, which shall be elected by those 20 foreign insurers;

4. One person appointed by the largest property and casualty insurance agents' association in this state; and

5. The *Insurance* Consumer Advocate appointed under *s. 350.0615* ~~s. 627.0613~~ or the *Insurance* Consumer Advocate's designee.

Each board member shall serve a 4-year term and may serve consecutive terms. A vacancy on the board shall be filled in the same manner as the original appointment for the unexpired portion of the term. The Financial Services Commission shall designate a member of the board to serve as chair. No board member shall be an insurer which provides services to the plan or which has an affiliate which provides services to the plan or which is serviced by a service company or third-party administrator which provides services to the plan or which has an affiliate which provides services to the plan. The minutes, audits, and procedures of the board of governors are subject to chapter 119.

Section 27. Paragraphs (a), (b), (c), (m), (p), and (s) of subsection (6) of section 627.351, Florida Statutes, are amended, and paragraph (ee) is added to that section, to read:

627.351 Insurance risk apportionment plans.—

(6) CITIZENS PROPERTY INSURANCE CORPORATION.—

(a)1. The Legislature finds that actual and threatened catastrophic losses to property in this state from hurricanes have caused insurers to be unwilling or unable to provide property insurance coverage to the extent sought and needed. It is in the public interest and a public purpose to assist in assuring that property in the state is insured so as to facilitate the remediation, reconstruction, and replacement of damaged or destroyed property in order to reduce or avoid the negative effects otherwise resulting to the public health, safety, and welfare; to the economy of the state; and to the revenues of the state and local governments needed to provide for the public welfare. It is necessary, therefore, to provide property insurance to applicants who are in good faith entitled to procure insurance through the voluntary market but are unable to do so. The Legislature intends by this subsection that property insurance be provided and that it continues, as long as necessary, through an entity organized to achieve efficiencies and economies, while providing service to policyholders, applicants, and agents that is no less than the quality generally provided in the voluntary market, all toward the achievement of the foregoing public purposes. Because it is essential for the corporation to have the maximum financial resources to pay claims following a catastrophic hurricane, it is the intent of the Legislature that the income of the corporation be exempt from federal income taxation and that interest on the debt obligations issued by the corporation be exempt from federal income taxation.

2. The Residential Property and Casualty Joint Underwriting Association originally created by this statute shall be known, as of July 1, 2002, as the Citizens Property Insurance Corporation. The corporation shall provide insurance for residential and commercial property, for applicants who are in good faith entitled, but are unable, to procure insurance through the voluntary market. The corporation shall operate pursuant to a plan of operation approved by order of the Financial

Services Commission. The plan is subject to continuous review by the commission. The commission may, by order, withdraw approval of all or part of a plan if the commission determines that conditions have changed since approval was granted and that the purposes of the plan require changes in the plan. The corporation shall continue to operate pursuant to the plan of operation approved by the Office of Insurance Regulation until October 1, 2006. For the purposes of this subsection, residential coverage includes both personal lines residential coverage, which consists of the type of coverage provided by homeowner's, mobile home owner's, dwelling, tenant's, condominium unit owner's, and similar policies, and commercial lines residential coverage, which consists of the type of coverage provided by condominium association, apartment building, and similar policies.

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

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

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

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

d. Tenant's coverage;

e. Commercial lines residential property; or

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

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

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

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

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

(b)1. All insurers authorized to write one or more subject lines of business in this state are subject to assessment by the corporation and, for the purposes of this subsection, are referred to collectively as "assessable insurers." Insurers writing one or more subject lines of business in this state pursuant to part VIII of chapter 626 are not assessable insurers, but insureds who procure one or more subject lines of business in this state pursuant to part VIII of chapter 626 are subject to assessment by the corporation and are referred to collectively as "assessable insureds." An authorized insurer's assessment liability shall begin on the first day of the calendar year following the year in which the insurer was issued a certificate of authority to transact insurance for subject lines of business in this state and shall terminate 1 year after the end of the first calendar year during which the insurer no longer holds a certificate of authority to transact insurance for subject lines of business in this state.

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

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

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

(III) A high-risk account for personal residential policies and commercial residential and commercial nonresidential property policies issued by the corporation or transferred to the corporation that provide coverage for the peril of wind on risks that are located in areas eligible for coverage in the Florida Windstorm Underwriting Association as those areas were defined on January 1, 2002. *Beginning April 1, 2007, the corporation may offer multiperil coverage, wind-only coverage, or both types of coverage in the high-risk account. In issuing multiperil coverage, the corporation may use its approved policy forms and rates for personal lines accounts through December 31, 2007. It is the intent of the Legislature that the offer of multiperil coverage in the high-risk account be made and implemented in a manner that does not adversely affect the creditworthiness of or security for currently outstanding financing obligations or credit facilities of the high-risk account, the personal lines account, or the commercial lines account.* The high-risk account must also include quota share primary insurance under subparagraph (c)2. The area eligible for coverage under the high-risk account also includes the area within Port Canaveral, which is bordered on the south by the City of Cape Canaveral, bordered on the west by the Banana River, and bordered on the north by Federal Government property. ~~The office may remove territory from the area eligible for wind-only and quota share coverage if, after a public hearing, the office finds that authorized insurers in the voluntary market are willing and able to write sufficient amounts of personal and commercial residential coverage for all perils in the territory, including coverage for the peril of wind, such that risks covered by wind-only policies in the removed territory could be issued a policy by the corporation in either the personal lines or commercial lines account without a significant increase in the corporation's probable maximum loss in such account. Removal of territory from the area eligible for wind-only or quota share coverage does not alter the assignment of wind coverage written in such areas to the high-risk account.~~

b. The three separate accounts must be maintained as long as financing obligations entered into by the Florida Windstorm Underwriting Association or Residential Property and Casualty Joint Underwriting Association are outstanding, in accordance with the terms of the

corresponding financing documents. When the financing obligations are no longer outstanding, in accordance with the terms of the corresponding financing documents, the corporation may use a single account for all revenues, assets, liabilities, losses, and expenses of the corporation. Consistent with the requirement of this subparagraph and prudent investment policies that minimize the cost of carrying debt, the board shall exercise its best efforts to retire existing debt or to obtain approval of necessary parties to amend the terms of existing debt, so as to structure the most efficient plan to consolidate the three separate accounts into a single account. By February 1, 2007, the board shall submit a report to the Financial Services Commission, the President of the Senate, and the Speaker of the House of Representatives which includes an analysis of consolidating the accounts, the actions the board has taken to minimize the cost of carrying debt, and its recommendations for executing the most efficient plan.

c. Creditors of the Residential Property and Casualty Joint Underwriting Association shall have a claim against, and recourse to, the accounts referred to in sub-sub-subparagraphs a.(I) and (II) and shall have no claim against, or recourse to, the account referred to in sub-sub-subparagraph a.(III). Creditors of the Florida Windstorm Underwriting Association shall have a claim against, and recourse to, the account referred to in sub-sub-subparagraph a.(III) and shall have no claim against, or recourse to, the accounts referred to in sub-sub-subparagraphs a.(I) and (II).

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

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

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

3. With respect to a deficit in an account:

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

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

c. Each assessable insurer's share of the amount being assessed under sub-subparagraph a. or sub-subparagraph b. shall be in the proportion that the assessable insurer's direct written premium for the subject lines of business for the year preceding the assessment bears to the aggregate statewide direct written premium for the subject lines of business for that year. The assessment percentage applicable to each assessable insured is the ratio of the amount being assessed under sub-subparagraph a. or sub-subparagraph b. to the aggregate statewide direct written premium for the subject lines of business for the prior year. Assessments levied by the corporation on assessable insurers under sub-subparagraphs a. and b. shall be paid as required by the corporation's plan of operation and paragraph (p). Notwithstanding any other provision of this subsection, the aggregate amount of a regular assessment for a deficit incurred in a particular calendar year shall be reduced by the estimated amount to be received by the corporation from the Citizens policyholder surcharge under subparagraph (c)11. and the amount collected or estimated to be collected from the assessment on Citizens policyholders pursuant to sub-subparagraph i. Assessments levied by the corporation on assessable insureds under sub-subparagraphs a. and b. shall be collected by the surplus lines agent at the time the surplus lines agent collects the surplus lines tax required by s. 626.932 and shall be paid to the Florida Surplus Lines Service Office at the time the surplus lines agent pays the surplus lines tax to the Florida Surplus Lines Service Office. Upon receipt of regular assessments from surplus lines agents, the Florida Surplus Lines Service Office shall transfer the assessments directly to the corporation as determined by the corporation.

d. Upon a determination by the board of governors that a deficit in an account exceeds the amount that will be recovered through regular assessments under sub-subparagraph a. or sub-subparagraph b., the board shall levy, after verification by the office, emergency assessments, for as many years as necessary to cover the deficits, to be collected by assessable insurers and the corporation and collected from assessable insureds upon issuance or renewal of policies for subject lines of business, excluding National Flood Insurance policies. The amount of the emergency assessment collected in a particular year shall be a uniform percentage of that year's direct written premium for subject lines of business and all accounts of the corporation, excluding National Flood Insurance Program policy premiums, as annually determined by the board and verified by the office. The office shall verify the arithmetic calculations involved in the board's determination within 30 days after receipt of the information on which the determination was based. Notwithstanding any other provision of law, the corporation and each assessable insurer that writes subject lines of business shall collect emergency assessments from its policyholders without such obligation being affected by any credit, limitation, exemption, or deferment. Emergency assessments levied by the corporation on assessable insureds shall be collected by the surplus lines agent at the time the surplus lines agent collects the surplus lines tax required by s. 626.932 and shall be paid to the Florida Surplus Lines Service Office at the time the surplus lines agent pays the surplus lines tax to the Florida Surplus Lines Service Office. The emergency assessments so collected shall be transferred directly to the corporation on a periodic basis as determined by the corporation and shall be held by the corporation solely in the applicable account. The aggregate amount of emergency assessments levied for an account under this sub-subparagraph in any calendar year may not exceed the greater of 10 percent of the amount needed to cover the original deficit, plus interest, fees, commissions, required reserves, and other costs associated with financing of the original deficit, or 10 percent of the aggregate statewide direct written premium for subject lines of business and for all accounts of the corporation for the prior year, plus interest, fees, commissions, required reserves, and other costs associated with financing the original deficit.

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

f. As used in this subsection, the term "subject lines of business" means insurance written by assessable insurers or procured by assessable insureds *for all property and casualty lines of business in this state, but not including workers' compensation or medical malpractice. As used in the sub-subparagraph, the term "property and casualty lines of business" includes all lines of business identified on Form 2, Exhibit of Premiums and Losses, in the annual statement required of authorized insurers by s. 624.424 and any rule adopted under this section, except for those lines identified as accident and health insurance and except for policies written under the National Flood Insurance program or the Federal Crop Insurance Program. For purposes of this sub-subparagraph, the term "workers' compensation" includes both workers' compensation insurance*

and excess workers' compensation insurance. ~~on real or personal property, as defined in s. 624.604, including insurance for fire, industrial fire, allied lines, farmowners multiperil, homeowners multiperil, commercial multiperil, and mobile homes, and including liability coverage on all such insurance, but excluding inland marine as defined in s. 624.607(3) and excluding vehicle insurance as defined in s. 624.605(1) other than insurance on mobile homes used as permanent dwellings.~~

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

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

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

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

(c) The plan of operation of the corporation:

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

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

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

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

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

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

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

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

(I) "Quota share primary insurance" means an arrangement in which the primary hurricane coverage of an eligible risk is provided in specified percentages by the corporation and an authorized insurer. The corporation and authorized insurer are each solely responsible for a specified percentage of hurricane coverage of an eligible risk as set forth in a quota share primary insurance agreement between the corporation and an authorized insurer and the insurance contract. The responsibility of the corporation or authorized insurer to pay its specified percentage of hurricane losses of an eligible risk, as set forth in the quota share primary insurance agreement, may not be altered by the inability of the other party to the agreement to pay its specified percentage of hurricane losses. Eligible risks that are provided hurricane coverage through a quota share primary insurance arrangement must be provided policy forms that set forth the obligations of the corporation and authorized insurer under the arrangement, clearly specify the percentages of quota share primary insurance provided by the corporation and authorized insurer, and conspicuously and clearly state that neither the authorized insurer nor the corporation may be held responsible beyond its specified percentage of coverage of hurricane losses.

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

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

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

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

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

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

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

h. The quota share primary insurance agreement between the corporation and an authorized insurer must set forth the specific terms under which coverage is provided, including, but not limited to, the sale and servicing of policies issued under the agreement by the insurance agent of the authorized insurer producing the business, the reporting of information concerning eligible risks, the payment of premium to the corporation, and arrangements for the adjustment and payment of hurricane claims incurred on eligible risks by the claims adjuster and personnel of

the authorized insurer. Entering into a quota sharing insurance agreement between the corporation and an authorized insurer shall be voluntary and at the discretion of the authorized insurer.

3. May provide that the corporation may employ or otherwise contract with individuals or other entities to provide administrative or professional services that may be appropriate to effectuate the plan. The corporation shall have the power to borrow funds, by issuing bonds or by incurring other indebtedness, and shall have other powers reasonably necessary to effectuate the requirements of this subsection, including, without limitation, the power to issue bonds and incur other indebtedness in order to refinance outstanding bonds or other indebtedness. The corporation may, but is not required to, seek judicial validation of its bonds or other indebtedness under chapter 75. The corporation may issue bonds or incur other indebtedness, or have bonds issued on its behalf by a unit of local government pursuant to subparagraph (g)2., in the absence of a hurricane or other weather-related event, upon a determination by the corporation, subject to approval by the office, that such action would enable it to efficiently meet the financial obligations of the corporation and that such financings are reasonably necessary to effectuate the requirements of this subsection. The corporation is authorized to take all actions needed to facilitate tax-free status for any such bonds or indebtedness, including formation of trusts or other affiliated entities. The corporation shall have the authority to pledge assessments, projected recoveries from the Florida Hurricane Catastrophe Fund, other reinsurance recoverables, market equalization and other surcharges, and other funds available to the corporation as security for bonds or other indebtedness. In recognition of s. 10, Art. I of the State Constitution, prohibiting the impairment of obligations of contracts, it is the intent of the Legislature that no action be taken whose purpose is to impair any bond indenture or financing agreement or any revenue source committed by contract to such bond or other indebtedness.

4.a. Must require that the corporation operate subject to the supervision and approval of a board of governors consisting of eight individuals who are residents of this state, from different geographical areas of this state. The Governor, the Chief Financial Officer, the President of the Senate, and the Speaker of the House of Representatives shall each appoint two members of the board. At least one of the two members appointed by each appointing officer must have demonstrated expertise in insurance. The Chief Financial Officer shall designate one of the appointees as chair. All board members serve at the pleasure of the appointing officer. All board members, including the chair, must be appointed to serve for 3-year terms beginning annually on a date designated by the plan. Any board vacancy shall be filled for the unexpired term by the appointing officer. The Chief Financial Officer shall appoint a technical advisory group to provide information and advice to the board of governors in connection with the board's duties under this subsection. The executive director and senior managers of the corporation shall be engaged by the board and serve at the pleasure of the board. Any executive director appointed on or after July 1, 2006, is subject to confirmation by the Senate. The executive director is responsible for employing other staff as the corporation may require, subject to review and concurrence by the board.

b. The board shall create a Market Accountability Advisory Committee to assist the corporation in developing awareness of its rates and its customer and agent service levels in relationship to the voluntary market insurers writing similar coverage. The members of the advisory committee shall consist of the following 11 persons, one of whom must be elected chair by the members of the committee: four representatives, one appointed by the Florida Association of Insurance Agents, one by the Florida Association of Insurance and Financial Advisors, one by the Professional Insurance Agents of Florida, and one by the Latin American Association of Insurance Agencies; three representatives appointed by the insurers with the three highest voluntary market share of residential property insurance business in the state; one representative from the Office of Insurance Regulation; one consumer appointed by the board who is insured by the corporation at the time of appointment to the committee; one representative appointed by the Florida Association of Realtors; and one representative appointed by the Florida Bankers Association. All members must serve for 3-year terms and may serve for consecutive terms. The committee shall report to the corporation at each board meeting on insurance market issues which may include rates and rate competition with the voluntary market; service, including policy issuance, claims processing, and general responsiveness to policyholders, applicants, and agents; and matters relating to depopulation.

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

a. Subject to the provisions of s. 627.3517, with respect to personal lines residential risks, if the risk is offered coverage from an authorized insurer at the insurer's approved rate under either a standard policy including wind coverage or, if consistent with the insurer's underwriting rules as filed with the office, a basic policy including wind coverage, the risk is not eligible for any policy issued by the corporation *unless the premium for coverage from the authorized insurer is more than 25 percent greater than the premium for comparable coverage from the corporation*. If the risk is not able to obtain any such offer, the risk is eligible for either a standard policy including wind coverage or a basic policy including wind coverage issued by the corporation; however, if the risk could not be insured under a standard policy including wind coverage regardless of market conditions, the risk shall be eligible for a basic policy including wind coverage unless rejected under subparagraph 8. The corporation shall determine the type of policy to be provided on the basis of objective standards specified in the underwriting manual and based on generally accepted underwriting practices.

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

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

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

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

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

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

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

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

b. With respect to commercial lines residential risks, if the risk is offered coverage under a policy including wind coverage from an authorized insurer at its approved rate, the risk is not eligible for any policy issued by the corporation *unless the premium for coverage from the authorized insurer is more than 25 percent greater than the premium for comparable coverage from the corporation*. If the risk is not able to obtain any such offer, the risk is eligible for a policy including wind coverage issued by the corporation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11. Must provide that in the event of regular deficit assessments under sub-subparagraph (b)3.a. or sub-subparagraph (b)3.b., in the personal lines account, the commercial lines residential account, or the high-risk account, the corporation shall levy upon corporation policyholders in its next rate filing, or by a separate rate filing solely for this purpose, a Citizens policyholder surcharge arising from a regular assessment in such account in a percentage equal to the total amount of such regular assessments divided by the aggregate statewide direct written premium for subject lines of business for the prior calendar year. For purposes of calculating the Citizens policyholder surcharge to be levied under this subparagraph, the total amount of the regular assessment to which this surcharge is related shall be determined as set forth in subparagraph (b)3., without deducting the estimated Citizens policyholder surcharge. Citizens policyholder surcharges under this subparagraph are not considered premium and are not subject to commissions, fees, or premium taxes; however, failure to pay a market equalization surcharge shall be treated as failure to pay premium.

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

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

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

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

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

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

18. Must provide, effective June 1, 2007, that the corporation contract with each insurer providing the non-wind coverage for risks insured by the corporation in the high-risk account, requiring that the insurer provide claims adjusting services for the wind coverage provided by the corporation for such risks. An insurer is required to enter into this contract as a condition of providing non-wind coverage for a risk that is insured by the corporation in the high-risk account unless the board finds, after a hearing, that the insurer is not capable of providing adjusting services at an acceptable level of quality to corporation policyholders. The terms and conditions of such contracts must be substantially the same as the contracts that the corporation executed with insurers under the "adjust-your-own" program in 2006, except as may be mutually

agreed to by the parties and except for such changes that the board determines are necessary to ensure that claims are adjusted appropriately. The corporation shall provide a process for neutral arbitration of any dispute between the corporation and the insurer regarding the terms of the contract. The corporation shall review and monitor the performance of insurers under these contracts.

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

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

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

(m)1.

~~a.~~ Rates for coverage provided by the corporation shall be actuarially sound and *subject to the requirements of s. 627.062, except as otherwise provided in this paragraph. The corporation shall file its recommended rates with the office at least annually. The corporation shall provide any additional information regarding the rates which the office requires. The office shall consider the recommendations of the board and issue a final order establishing the rates for the corporation within 45 days after the recommended rates are filed. The corporation may not pursue an administrative challenge or judicial review of the final order of the office.* ~~not competitive with approved rates charged in the admitted voluntary market, so that the corporation functions as a residual market mechanism to provide insurance only when the insurance cannot be procured in the voluntary market. Rates shall include an appropriate catastrophe loading factor that reflects the actual catastrophic exposure of the corporation. For policies in the personal lines account and the commercial lines account issued or renewed on or after March 1, 2007, a rate is deemed inadequate if the rate, including investment income, is not sufficient to provide for the procurement of coverage under the Florida Hurricane Catastrophe Fund and private reinsurance costs, whether or not reinsurance is procured, and to pay all claims and expenses reasonably expected to result from a 100-year probable maximum loss event without resort to any regular or emergency assessments, long-term debt, state revenues, or other funding sources. For policies in the high-risk account issued or renewed on or after March 1, 2007, a rate is deemed inadequate if the rate, including investment income, is not sufficient to provide for the procurement of coverage under the Florida Hurricane Catastrophe Fund and private reinsurance costs, whether or not reinsurance is procured, and to pay all claims and expenses reasonably expected to result from a 70-year probable maximum loss event with resort to any regular or emergency assessments, long-term debt, state revenues, or other funding sources. For policies in the high-risk account issued or renewed in 2008 and 2009, the rate must be based upon an 85-year and 100-year probable maximum loss event, respectively.~~

~~b. It is the intent of the Legislature to reaffirm the requirement of rate adequacy in the residual market. Recognizing that rates may comply with the intent expressed in sub-subparagraph a. and yet be inadequate and recognizing the public need to limit subsidies within the residual market, it is the further intent of the Legislature to establish statutory standards for rate adequacy. Such standards are intended to supplement the standard specified in s. 627.062(2)(c)3., providing that rates are inadequate if they are clearly insufficient to sustain projected losses and expenses in the class of business to which they apply.~~

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

~~3. Rates for personal lines residential wind-only policies must be actuarially sound and not competitive with approved rates charged by authorized insurers. If the filing under this subparagraph is made at least 90 days before the proposed effective date and the filing is not implemented during the office's review of the filing and any proceeding and judicial review, such filing shall be considered a "file and use" filing. In such case, the office shall finalize its review by issuance of a notice of intent to approve or a notice of intent to disapprove within 90 days after receipt of the filing. The notice of intent to approve and the notice of intent to disapprove constitute agency action for purposes of the Administrative Procedure Act. Requests for supporting information, requests for mathematical or mechanical corrections, or notification to the insurer by the office of its preliminary findings shall not toll the 90-day period during any such proceedings and subsequent judicial review. The rate shall be deemed approved if the office does not issue a notice of intent to approve or a notice of intent to disapprove within 90 days after receipt of the filing. Corporation rate manuals shall include a rate surcharge for seasonal occupancy. To ensure that personal lines residential wind-only rates are not competitive with approved rates charged by authorized insurers, the corporation, in conjunction with the office, shall develop a wind-only ratemaking methodology, which methodology shall be contained in each rate filing made by the corporation with the office. If the office determines that the wind-only rates or rating factors filed by the corporation fail to comply with the wind-only ratemaking methodology provided for in this subsection, it shall so notify the corporation and require the corporation to amend its rates or rating factors to come into compliance within 90 days of notice from the office.~~

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

~~5. For the purposes of establishing a pilot program to evaluate issues relating to the availability and affordability of insurance in an area where historically there has been little market competition, the provisions of subparagraph 2. do not apply to coverage provided by the corporation in Monroe County if the office determines that a reasonable degree of competition does not exist for personal lines residential policies. The provisions of subparagraph 3. do not apply to coverage provided by the corporation in Monroe County if the office determines that a reasonable degree of competition does not exist for personal lines residential policies in the area of that county which is eligible for wind-only coverage. In this county, the rates for personal lines residential coverage shall be actuarially sound and not excessive, inadequate, or unfairly discriminatory and are subject to the other provisions of the paragraph and s. 627.062. The commission shall adopt rules establishing the criteria for determining whether a reasonable degree of competition exists for personal lines residential policies in Monroe County. By March 1, 2006, the office shall submit a report to the Legislature providing an evaluation of the implementation of the pilot program affecting Monroe County.~~

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

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

~~8. The corporation shall certify to the office at least twice annually that its personal lines rates comply with the requirements of subparagraphs 1., 2., and 3. If any adjustment in the rates or rating factors of the corporation is necessary to ensure such compliance, the corporation shall make and implement such adjustments and file its revised rates and rating factors with the office. If the office thereafter determines that the revised rates and rating factors fail to comply with the provisions of subparagraphs 1., 2., and 3., it shall notify the corporation and require the corporation to amend its rates or rating factors in conjunction with its next rate filing. The office must notify the corporation by electronic means of any rate filing it approves for any insurer among the insurers referred to in subparagraph 2.~~

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

~~10. The corporation shall develop a notice to policyholders or applicants that the rates of Citizens Property Insurance Corporation are intended to be higher than the rates of any admitted carrier and provid-~~

~~ing other information the corporation deems necessary to assist consumers in finding other voluntary admitted insurers willing to insure their property.~~

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

4. The rate filings for the corporation which were approved by the office and which took effect January 1, 2007, are rescinded, except for those rates that were lowered. As soon as possible, the corporation shall begin using the lower rates that were in effect on December 31, 2006, and shall provide refunds to policyholders who have paid higher rates as a result of that rate filing. The rates in effect on December 31, 2006, shall remain in effect for the 2007 calendar year except for any rate change that results in a lower rate. The next rate change that may increase rates shall take effect January 1, 2008, pursuant to a new rate filing recommended by the corporation and established by the office, subject to the requirements of this paragraph.

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

2. The governing body of any unit of local government, any residents of which are insured by the corporation, may issue bonds as defined in s. 125.013 or s. 166.101 from time to time to fund an assistance program, in conjunction with the corporation, for the purpose of defraying deficits of the corporation. In order to avoid needless and indiscriminate proliferation, duplication, and fragmentation of such assistance programs, any unit of local government, any residents of which are insured by the corporation, may provide for the payment of losses, regardless of whether or not the losses occurred within or outside of the territorial jurisdiction of the local government. Revenue bonds under this subparagraph may not be issued until validated pursuant to chapter 75, unless a state of emergency is declared by executive order or proclamation of the Governor pursuant to s. 252.36 making such findings as are necessary to determine that it is in the best interests of, and necessary for, the protection of the public health, safety, and general welfare of residents of this state and declaring it an essential public purpose to permit certain municipalities or counties to issue such bonds as will permit relief to claimants and policyholders of the corporation. Any such unit of local government may enter into such contracts with the corporation and with any other entity created pursuant to this subsection as are necessary to carry out this paragraph. Any bonds issued under this subparagraph shall be payable from and secured by moneys received by the corporation from emergency assessments under sub-subparagraph (b)3.d., and assigned and pledged to or on behalf of the unit of local government for the benefit of the holders of such bonds. The funds, credit, property, and taxing power of the state or of the unit of local government shall not be pledged for the payment of such bonds. If any of the bonds remain unsold 60 days after issuance, the office shall require all insurers subject to assessment to purchase the bonds, which shall be treated as admitted assets; each insurer shall be required to purchase that percentage of the unsold portion of the bond issue that equals the insurer's relative share of assessment liability under this subsection. An insurer shall not be required to purchase the bonds to the extent that the office determines that the purchase would endanger or impair the solvency of the insurer.

3.a. The corporation shall adopt one or more programs subject to approval by the office for the reduction of both new and renewal writings in the corporation. Beginning January 1, 2008, any program the corporation adopts for the payment of bonuses to an insurer for each risk the insurer removes from the corporation shall comply with s. 627.3511(2) and may not exceed the amount referenced in s. 627.3511(2) for each risk removed. The corporation may consider any prudent and not unfairly discriminatory approach to reducing corporation writings, and may adopt a credit against assessment liability or other liability that provides an incentive for insurers to take risks out of the corporation and to keep risks out of the corporation by maintaining or increasing voluntary writings in counties or areas in which corporation risks are highly concentrated and a program to provide a formula under which an insurer voluntarily taking risks out of the corporation by maintaining or increasing voluntary writings will be relieved wholly or partially from assessments under sub-subparagraphs (b)3.a. and b. However, any "take-out bonus" or payment to an insurer must be conditioned on the property being insured for at least 5 years by the insurer, unless canceled or nonrenewed by the policyholder. If the policy is canceled or nonrenewed by the policyholder before the end of the 5-year period, the amount of the take-out bonus must be prorated for the time period the policy was insured. When the corporation enters into a contractual agreement for a take-out plan, the producing agent of record of the corporation policy is entitled to retain any unearned commission on such policy, and the insurer shall either:

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

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

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

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

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

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

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

(s) For the purposes of s. 199.183(1), the corporation shall be considered a political subdivision of the state and shall be exempt from the corporate income tax. The premiums, assessments, investment income, and other revenue of the corporation are funds received for providing

property insurance coverage as required by this subsection, paying claims for Florida citizens insured by the corporation, securing and repaying debt obligations issued by the corporation, and conducting all other activities of the corporation, and shall not be considered taxes, fees, licenses, or charges for services imposed by the Legislature on individuals, businesses, or agencies outside state government. Bonds and other debt obligations issued by or on behalf of the corporation are not to be considered "state bonds" within the meaning of s. 215.58(8). The corporation is not subject to the procurement provisions of chapter 287, and policies and decisions of the corporation relating to incurring debt, levying of assessments and the sale, issuance, continuation, terms and claims under corporation policies, and all services relating thereto, are not subject to the provisions of chapter 120. The corporation is not required to obtain or to hold a certificate of authority issued by the office, nor is it required to participate as a member insurer of the Florida Insurance Guaranty Association. However, the corporation is required to pay, in the same manner as an authorized insurer, assessments *levied* ~~pledged~~ by the Florida Insurance Guaranty Association ~~to secure bonds issued or other indebtedness incurred to pay covered claims arising from insurer insolvencies caused by, or proximately related to, hurricane losses~~. It is the intent of the Legislature that the tax exemptions provided in this paragraph will augment the financial resources of the corporation to better enable the corporation to fulfill its public purposes. Any debt obligations issued by the corporation, their transfer, and the income therefrom, including any profit made on the sale thereof, shall at all times be free from taxation of every kind by the state and any political subdivision or local unit or other instrumentality thereof; however, this exemption does not apply to any tax imposed by chapter 220 on interest, income, or profits on debt obligations owned by corporations other than the corporation.

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

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

Section 29. Subsections (3), (4), (5), and (7) of section 627.701, Florida Statutes, are amended to read:

627.701 Liability of insureds; coinsurance; deductibles.—

(3)~~(a) A policy of residential property insurance shall include a deductible amount applicable to hurricane losses no lower than $500 and no higher than 2 percent of the policy dwelling limits with respect to personal lines residential risks, and no higher than 3 percent of the policy limits with respect to commercial lines residential risks; however, if a risk was covered on August 24, 1992, under a policy having a higher deductible than the deductibles allowed by this paragraph, a policy covering such risk may include a deductible no higher than the deductible in effect on August 24, 1992. Notwithstanding the other provisions of this paragraph, a personal lines residential policy covering a risk valued at $50,000 or less may include a deductible amount attributable to hurricane losses no lower than $250, and a personal lines residential policy covering a risk valued at $100,000 or more may include a deductible amount attributable to hurricane losses no higher than 10 percent of the policy limits unless subject to a higher deductible on August 24, 1992; however, no maximum deductible is required with respect to a personal lines residential policy covering a risk valued at more than $500,000. An insurer may require a higher deductible, provided such deductible is the same as or similar to a deductible program lawfully in effect on June 14, 1995. In addition to the deductible amounts authorized by this paragraph, an insurer may also offer policies with a copayment provision under which, after exhaustion of the deductible, the policyholder is responsible for 10 percent of the next $10,000 of insured hurricane losses.~~

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

2. For policies issued or renewed on or after July 1, 2007, an insurer that is subject to subparagraph 1. must also offer a deductible applicable to hurricane losses which covers 50 percent of the policyholder's equity in a structure that is subject to a mortgage or lien. As a condition of making this offer, the insurer may require the policyholder or financial institution or other lienholder that holds the mortgage to provide documentation annually to the insurer identifying the amount of the policyholder's equity projected for the policy year. The deductible may be structured to cover 50 percent of the policyholder's equity as of the effective date of the policy renewal or the deductible may be scheduled to reflect a monthly adjustment that tracks the change in the policyholder's equity. The commission may adopt rules to administer this subparagraph.

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

4.~~3.~~ With respect to a policy covering a risk with dwelling limits of at least $100,000, but less than $250,000, the insurer may, in lieu of offering a policy with a $500 hurricane or wind deductible as required by subparagraph 1., offer a policy that the insurer guarantees it will not nonrenew for reasons of reducing hurricane loss for one renewal period and that contains up to a 2 percent hurricane or wind deductible as required by subparagraph 1.

5.~~4.~~ With respect to a policy covering a risk with dwelling limits of $250,000 or more, the insurer need not offer the $500 hurricane deductible as required by subparagraph 1., but must, except as otherwise provided in this subsection, offer the other hurricane deductibles as required by subparagraph 1.

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

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

(c) ~~Beginning October 1, 2005,~~ For any personal lines residential property insurance policy containing an inflation guard rider, the insurer shall compute and prominently display the actual dollar value of

the hurricane deductible on the declarations page of the policy at issuance and, for renewal, on the renewal declarations page of the policy or on the premium renewal notice. In addition, ~~beginning October 1, 2005,~~ for any personal lines residential property insurance policy containing an inflation guard rider, the insurer shall notify the policyholder of the possibility that the hurricane deductible may be higher than indicated when loss occurs due to application of the inflation guard rider. Such notification shall be made on the declarations page of the policy at issuance and, for renewal, on the renewal declarations page of the policy or on the premium renewal notice.

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

a. The policyholder must personally write and provide to the insurer the following statement in his or her own handwriting and signs his or her name, which must also be signed by every other named insured on the policy, and dated: "I do not want the insurance on my home to pay for the first (specify dollar value) of damage from hurricanes. I will pay those costs. My insurance will not."

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

2. A deductible subject to the requirements of this paragraph applies only for the term of the policy and must be newly executed upon each renewal pursuant to the requirements of this paragraph.

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

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

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

1. The hurricane deductible shall apply on an annual basis to all covered hurricane losses that occur during the calendar year for losses that are covered under one or more policies issued by the same insurer or an insurer in the same insurer group.

2. If a hurricane deductible applies separately to each of one or more structures insured under a single policy, the requirements of this paragraph apply with respect to the deductible for each structure.

3. If there was a hurricane loss for a prior hurricane or hurricanes during the calendar year, the insurer may apply a deductible to a subsequent hurricane which is the greater of the remaining amount of the hurricane deductible or the amount of the deductible that applies to perils other than a hurricane. Insurers may require policyholders to report hurricane losses that are below the hurricane deductible or to maintain receipts or other records of such hurricane losses in order to apply such losses to subsequent hurricane claims.

4. If there are hurricane losses in a calendar year on more than one policy issued by the same insurer or an insurer in the same insurer group, the hurricane deductible shall be the highest amount stated in any one of the policies. If a policyholder who had a hurricane loss under the prior policy is provided or offered a lower hurricane deductible under the new or renewal policy, the insurer must notify the policyholder, in writing, at the time the lower hurricane deductible is provided or offered, that the lower hurricane deductible will not apply until January 1 of the following calendar year.

(b) For commercial residential property insurance policies ~~issued or renewed on or after January 1, 2006~~, the insurer must offer the policyholder the following alternative hurricane deductibles:

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

2. A hurricane deductible that applies to each hurricane.

(7) Prior to issuing a personal lines residential property insurance policy ~~on or after April 1, 1997, or prior to the first renewal of a residential property insurance policy on or after April 1, 1997~~, the insurer must offer a deductible equal to $500 applicable to losses from perils other than hurricane. The insurer must provide the policyholder with notice of the availability of the deductible specified in this subsection in a form approved by the office at least once every 3 years. The failure to provide such notice constitutes a violation of this code but does not affect the coverage provided under the policy. An insurer may require a higher deductible only as part of a deductible program lawfully in effect on June 1, 1996, or as part of a similar deductible program.

Section 30. Effective July 1, 2007, section 627.706, Florida Statutes, is amended to read:

627.706 Sinkhole insurance; definitions.—

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

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

(a) "Catastrophic ground cover collapse" means geological activity that results in the collapse of the ground cover and the insured structure being condemned and ordered to be vacated by the governmental agency authorized by law to issue such an order for that structure.

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

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

(d)~~(c)~~ "Sinkhole activity" means settlement or systematic weakening of the earth supporting such property only when such settlement or systematic weakening results from movement or raveling of soils, sediments, or rock materials into subterranean voids created by the effect of water on a limestone or similar rock formation.

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

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

(3) Every insurer authorized to transact property insurance in this state shall make a proper filing with the office for the purpose of extending the appropriate forms of property insurance to include coverage for *catastrophic ground cover collapse or for* sinkhole losses.

Section 31. Subsection (2) of section 627.7065, Florida Statutes, is amended to read:

627.7065 Database of information relating to sinkholes; the Department of Financial Services and the Department of Environmental Protection.—

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

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

627.712 Residential hurricane coverage required; availability of exclusions for windstorm or contents.—

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

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

(a) The policyholder personally writes and provides to the insurer the following statement in his or her own handwriting and signs his or her name, which must also be signed by every other named insured on the policy, and dated: "I do not want the insurance on my (home / mobile home / condominium unit) to pay for damage from windstorms or hurricanes. I will pay those costs. My insurance will not."

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

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

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

(5) The exclusions authorized by this section are valid only for the term of the contract and must be newly executed upon each contract renewal pursuant to the requirements of this section.

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

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

627.713 Report of hurricane loss data.—

(1) The office may require property insurers to report data regarding hurricane claims and underwriting costs, including, but not limited to:

(a) Number of claims;

(b) Amount of claim payments made;

(c) Number and amount of total-loss claims;

(d) Amount and percentage of losses covered by reinsurance or other loss-transfer agreements;

(e) Amount of losses covered under specified deductibles;

(f) Claims and payments for specified insured values;

(g) Claims and payments for specified dollar values;

(h) Claims and payments for specified types of construction or mitigation features;

(i) Claims and payments for policies under specified underwriting criteria;

(j) Claims and payments for contents, additional living expense, and other specified coverages;

(k) Claims and payments by county for the information specified in this section; and

(l) Any other data that the office requires.

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

Section 34. Paragraph (e) of subsection (3) and subsection (4) of section 631.57, Florida Statutes, are amended to read:

631.57 Powers and duties of the association.—

(3)

(e)1.

a. In addition to assessments otherwise authorized in paragraph (a) and to the extent necessary to secure the funds for the account specified in s. 631.55(2)(c) *for the direct payment of covered claims and to pay the reasonable costs to administer such claims,* or to retire indebtedness, including, without limitation, the principal, redemption premium, if any, and interest on, and related costs of issuance of, bonds issued under s. 631.695 and the funding of any reserves and other payments required under the bond resolution or trust indenture pursuant to which such bonds have been issued, the office, upon certification of the board of directors, shall levy emergency assessments upon insurers holding a certificate of authority. The emergency assessments payable under this paragraph by any insurer shall not exceed in any single year more than 2 percent of that insurer's direct written premiums, net of refunds, in this state during the preceding calendar year for the kinds of insurance within the account specified in s. 631.55(2)(c).

b. Any emergency assessments authorized under this paragraph shall be levied by the office upon insurers referred to in sub-subparagraph a., upon certification as to the need for such assessments by the board of directors. *In the event the board of directors participates in the issuance of bonds in accordance with s. 631.695, emergency assessments shall be levied*~~,~~ in each year that bonds issued under s. 631.695 and secured by such emergency assessments are outstanding, in such amounts up to such 2-percent limit as required in order to provide for the full and timely payment of the principal of, redemption premium, if any, and interest on, and related costs of issuance of, such bonds. The emergency assessments provided for in this paragraph are assigned and pledged to the municipality, county, or legal entity issuing bonds under s. 631.695 for the benefit of the holders of such bonds, in order to enable such municipality, county, or legal entity to provide for the payment of the principal of, redemption premium, if any, and interest on such bonds, the cost of issuance of such bonds, and the funding of any reserves and other payments required under the bond resolution or trust indenture pursuant to which such bonds have been issued, without the necessity of any further action by the association, the office, or any other party. To the extent bonds are issued under s. 631.695 and the association determines to secure such bonds by a pledge of revenues received from the emergency assessments, such bonds, upon such pledge of revenues, shall be secured by and payable from the proceeds of such emergency assessments, and the proceeds of emergency assessments levied under this paragraph shall be remitted directly to and administered by the trustee or custodian appointed for such bonds.

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

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

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

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

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

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

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

Section 35. *The amendments to section 34 of chapter 2006-12, Laws of Florida, authorized the Florida Insurance Guaranty Association to certify, and the Office of Insurance Regulation to levy, an emergency assessment of up to 2 percent to either directly pay the covered claims out of the account specified in s. 631.55(2)(c), Florida Statutes, or to use the proceeds of such emergency assessment to retire the indebtedness and the costs of bonds issued to pay such claims and reasonable claims-administration costs.*

Section 36. Subsection (1) of section 631.912, Florida Statutes, is amended to read:

631.912 Board of directors.—

(1) The board of directors of the corporation shall consist of 11 persons, 1 of whom is the Insurance Consumer Advocate appointed under *s. 350.0615* ~~s. 627.0613~~ or designee and 1 of whom is designated by the Chief Financial Officer. The department shall appoint to the board 6 persons selected by private carriers from among the 20 workers' compensation insurers with the largest amount of net direct written premium as determined by the department, and 3 persons selected by the self-insurance funds. At least two of the private carriers shall be foreign carriers authorized to do business in this state. The board shall elect a chairperson from among its members. The Chief Financial Officer may remove any board member for cause. Each board member shall serve for a 4-year term and may be reappointed. A vacancy on the board shall be filled for the remaining period of the term in the same manner by which the original appointment was made.

Section 37. *Effective July 1, 2007, subsection (6) of section 627.0629, Florida Statutes, is repealed.*

Section 38. *Windstorm Mitigation Study Commission.—*

(1)(a) The Windstorm Mitigation Study Commission is created and shall be composed of five members as follows:

1. Three members shall be appointed by the Governor, with one designated by the Governor to serve as chair.

2. One member shall be appointed by the Chief Financial Officer.

3. One member shall be appointed by the Commissioner of Insurance Regulation.

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

(2)(a) The members of the commission shall serve without compensation, but are entitled to reimbursement for all necessary expenses incurred in performing their duties, including travel expenses, in accordance with s. 112.061, Florida Statutes.

(b) The commission shall meet as necessary, at the call of the chair, and at the time and place designated by the chair. The commission may conduct its meetings through teleconferences or other similar means.

(3) The Department of Financial Services, the Office of Insurance Regulation, the Citizens Property Insurance Corporation, and other agencies of this state shall supply any information, assistance, and facilities that are considered necessary by the commission to carry out its duties under this section. The Executive Office of the Governor shall provide staff assistance as necessary in order to carry out the required clerical and administrative functions of the commission.

(4) The commission shall analyze those solutions and programs that address the state's acute need to mitigate the effects of windstorms on structures, especially residential property that is located in areas at greatest risk of windstorm damage, including programs or proposals that provide for:

(a) The availability of home inspections for windstorm resistance;

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

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

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

(e) Coordination among federal, local, and private initiatives;

(f) Streamlining or strengthening applicable state, regional, and local regulations;

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

(h) The discovery and assessment of funding sources for windstorm mitigation;

(i) Tax incentives for windstorm mitigation;

(j) Consumer information concerning the benefits of windstorm mitigation, including personal safety as well as property security;

(k) Research on windstorm mitigation; and

(l) The development of a form for uniform mitigation verification inspection to be used by insurers when factoring discounts for wind insurance which clearly specifies the procedures necessary to receive the full value of a discount.

The commission may develop any other solutions and programs that it considers appropriate.

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

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

(7) The commission shall provide recommendations, including proposed legislation, to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Chief Financial Officer, and the Commissioner of Insurance Regulation by March 30, 2007.

Section 39. *Florida Disaster Recovery Initiative.—*

(1) There is established within the Department of Community Affairs the Florida Disaster Recovery Initiative for the purpose of assisting local governments in satisfying disaster-recovery needs in the areas of low-income housing and infrastructure, with a primary focus on the hardening of single-family and multifamily housing units, not only to ensure that affordable housing can withstand the effects of hurricane-force winds, but also to mitigate the increasing costs of insurance, which may ultimately render existing affordable homes unaffordable or uninsurable. This section does not create an entitlement for local governments or property owners or obligate the state in any way to fund disaster-recovery needs. Implementation of this initiative is subject to annual legislative appropriations.

(2) The Department of Community Affairs shall administer the initiative using funds provided through the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006, and those funds shall be used to assist local governments in satisfying their disaster-recovery needs in the areas of housing and infrastructure.

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

(4) Up to 78 percent of these funds may be used to complement the grants awarded by the Department of Financial Services under s. 215.5586, Florida Statutes, and fund other eligible disaster-related activities supporting housing rehabilitation, hardening, mitigation, and infrastructure improvements at the request of the local governments in order to assist the State of Florida in better serving low-income homeowners in single-family housing units or condominiums. Up to 20 percent of the funds may be used to provide inspections and mitigation improvements to multifamily units receiving rental assistance under projects of the United States Department of Housing and Urban Development or the Rural Development Division of the United States Department of Agriculture.

Section 40. *For the 2006-2007 fiscal year, the sum of $100,066,518 is appropriated in a Grant in Aid—Fixed Capital Outlay appropriation category from the Florida Small Cities Community Development Block Grant Program Fund to the Department of Community Affairs for the purpose of implementing the provisions of section 39 of this act. These funds shall be used in a manner consistent with Federal Register, Vol. 71, No. 209, Docket No. FR-5089-N-01, and the State of Florida Action Plan for Disaster Recovery as approved by the United States Department of Housing and Urban Development.*

Section 41. Subsection (11) of section 718.111, Florida Statutes, is amended to read:

718.111 The association.—

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

(a) A unit-owner controlled association *operating a residential condominium* shall use its best efforts to obtain and maintain adequate insurance to protect the association, the association property, the common elements, and the condominium property required to be insured by the association pursuant to paragraph (b). If the association is developer controlled, the association shall exercise due diligence to obtain and maintain such insurance. Failure to obtain and maintain adequate insurance during any period of developer control shall constitute a breach of fiduciary responsibility by the developer-appointed members of the board of directors of the association, unless said members can show that despite such failure, they have exercised due diligence. The declaration of condominium as originally recorded, or amended pursuant to procedures provided therein, may require that condominium property consisting of freestanding buildings where there is no more than one building in or on such unit need not be insured by the association if the declaration requires the unit owner to obtain adequate insurance for the condominium property. An association may also obtain and maintain liability insurance for directors and officers, insurance for the benefit of association employees, and flood insurance for common elements, association property, and units. Adequate insurance, regardless of any requirement in the declaration of condominium for coverage by the association for "full insurable value," "replacement cost," or the like, may include reasonable deductibles as determined by the board *based upon available funds or predetermined assessment authority at the time that the insurance is obtained.*

1. Windstorm insurance coverage for a group of no fewer than three communities created and operating under chapter 718, chapter 719, chapter 720, or chapter 721 may be obtained and maintained for the communities if the insurance coverage is sufficient to cover an amount equal to the probable maximum loss for the communities for a 250-year windstorm event. Such probable maximum loss must be determined through the use of a competent model that has been accepted by the Florida Commission on Hurricane Loss Project Methodology. Such insurance coverage is deemed adequate windstorm insurance for the purposes of this section.

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

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

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

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

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

Anything to the contrary notwithstanding, the terms "condominium property," "building," "improvements," "insurable improvements," "common elements," "association property," or any other term found in the declaration of condominium which defines the scope of property or casualty insurance that a condominium association must obtain shall exclude all floor, wall, and ceiling coverings, electrical fixtures, appliances, air conditioner or heating equipment, water heaters, water filters, built-in cabinets and countertops, and window treatments, including curtains, drapes, blinds, hardware, and similar window treatment components, or replacements of any of the foregoing which are located within the boundaries of a unit and serve only one unit and all air conditioning compressors that service only an individual unit, whether or not located within the unit boundaries. The foregoing is intended to establish the property or casualty insuring responsibilities of the association and

those of the individual unit owner and do not serve to broaden or extend the perils of coverage afforded by any insurance contract provided to the individual unit owner. Beginning January 1, 2004, the association shall have the authority to amend the declaration of condominium, without regard to any requirement for mortgagee approval of amendments affecting insurance requirements, to conform the declaration of condominium to the coverage requirements of this section.

(c) Every hazard insurance policy issued or renewed on or after January 1, 2004, to an individual unit owner shall provide that the coverage afforded by such policy is excess over the amount recoverable under any other policy covering the same property. Each insurance policy issued to an individual unit owner providing such coverage shall be without rights of subrogation against the condominium association that operates the condominium in which such unit owner's unit is located. All real or personal property located within the boundaries of the unit owner's unit which is excluded from the coverage to be provided by the association as set forth in paragraph (b) shall be insured by the individual unit owner.

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

Section 42. Section 627.711, Florida Statutes, is amended to read:

627.711 Notice of premium discounts for hurricane loss mitigation*; uniform mitigation verification inspection form.—*

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

(2) The Financial Services Commission shall develop by rule a uniform mitigation verification inspection form that shall be used by all insurers when factoring discounts for wind insurance. In developing the form, the commission shall seek input from insurance, construction, and building code representatives. Further, the commission shall provide guidance as to the length of time the inspection results are valid.

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

Section 44. Section 350.06151, Florida Statutes, is created to read:

350.06151 Beginning July 1, 2007, funds shall be transferred by the Department of Financial Services from the Insurance Regulatory Trust Fund to the Grants and Donations Trust Fund in the legislative branch for the purpose of funding the Office of Insurance Consumer Advocate. The transfer amount is equal to the approved operating budget for the Office of Insurance Consumer Advocate within the Office of Public Counsel.

Section 45. Except as otherwise expressly provided in this act, this act shall take effect upon becoming a law.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to hurricane preparedness and property insurance; amending s. 20.121, F.S.; removing the Office of Insurance Consumer Advocate from the Department of Financial Services; providing for the powers, records, personnel, property, balances of appropriations and other funds, rules, pending issues, and contracts of the Office of Insurance Consumer Advocate to be transferred from the Department of Financial Services to the Public Counsel; amending s. 163.01, F.S., relating to the Interlocal Cooperation Act; redefining the term "public agency" to include certain legal or administrative entities; authorizing such entities to finance the provision of property coverage contracts for or from local government property insurance pools or property coverage contracts; authorizing certain hospitals and hospital systems to borrow funds, issue bonds, and enter into loan agreements for the purpose of providing property coverage; providing for validating such bonds; providing an exemption from taxation; amending s. 215.555, F.S.; limiting the activities of the Florida Hurricane Fund Finance Corporation with respect to funding obligations; providing for revenue bonds to be issued to fund the obligations of the Florida Hurricane Excess Loss Program (FHELP); providing legislative findings; creating the Florida Hurricane Excess Loss Program Finance Corporation; providing for a board of directors; providing powers and duties; providing for the corporation to issue bonds that are not a debt of the state or any political subdivision; providing an exemption from taxation; providing for the protection of bondholders; limiting the activities of the Florida Hurricane Excess Loss Program Finance Corporation with respect to the obligations incurred by the Florida Hurricane Catastrophe Fund; authorizing the board of the Florida Hurricane Catastrophe Fund to enter into capital market transactions; authorizing temporary emergency options for additional coverage; providing a system under which insurers may procure additional reinsurance from the fund; defining terms; providing guidelines for such coverage; prescribing premiums for such coverage; providing a temporary increase in coverage limit options; providing legislative findings; defining terms; creating the Florida Hurricane Excess Loss Program, which shall be administered by the State Board of Administration; authorizing the board to adopt rules and employ or contract with staff; requiring that a contract addendum be executed by participating insurers; requiring that the state assume a portion of liability for losses under a covered policy; requiring that such coverage be funded separately from the obligations of the Florida Hurricane Catastrophe Fund and proceeds of bonds issued by the Florida Hurricane Catastrophe Fund Finance Corporation; requiring insurers obtaining certain coverages offered by the Florida Hurricane Catastrophe Fund to make rate filings that reflect savings or reduction in loss exposure; requiring that the Office of Insurance Regulation specify, by order, the dates on which such filings must be made; providing limitations for an insurer in implementing a rate change following a rate filing; requiring the Office of Insurance Regulation to calculate a presumed factor to reflect the impact on rates resulting from this act; providing an appropriation; amending s. 215.5586, F.S., relating to the Florida Comprehensive Hurricane Damage Mitigation Program; providing for grants to homeowners to protect rather than retrofit their properties; revising certain other eligibility criteria for a grant; authorizing the use of grants for roof-protection systems; amending s. 215.559, F.S., relating to the Hurricane Loss Mitigation Program; providing for a certain portion of the appropriation under the program to be used for securing fixtures for mobile homes; amending s. 350.012, F.S.; redesignating the Committee on Public Service Commission Oversight as the "Committee on Public Service Commission and Insurance Oversight"; requiring that the committee confirm or reject the appointment of the Insurance Consumer Advocate by the Chief Financial Officer; amending s. 350.0611, F.S., relating to the Public Counsel; providing duties with respect to the Insurance Consumer Advocate; amending s. 350.0613, F.S.; authorizing the Public Counsel to represent the public before the Office of Insurance Regulation, the Financial Services Commission, and the Department of Financial Services; including certain proceedings related to rules and rate filings for insurance; authorizing the Public Counsel to have access to files of the Office of Insurance Regulation, the Financial Services Commission, and the Department of Financial Services, to seek review of orders of the office and the commission, and to issue reports, recommendations, and proposed orders to the office and the commission; authorizing the Committee on Public Service Commission and Insurance Oversight to authorize the Public Counsel to employ certain types of employees; requiring the Office of Insurance Regulation, the Financial Services Commission, and the Department of Financial Services to provide copies of certain filings to the Public Counsel; creating s. 350.0615, F.S.; creating the office of Insurance Consumer Advocate to represent the public on matters relating to the regulation

of insurance; requiring the Chief Financial Officer to appoint the Insurance Consumer Advocate, who is subject to confirmation by the Committee on Public Service Commission and Insurance Oversight; providing for the Insurance Consumer Advocate to report directly to and be employed by the Public Counsel; specifying the powers and duties of the Insurance Consumer Advocate; creating s. 395.1060, F.S.; providing for risk pooling, with respect to property exposure, by certain hospitals and hospital systems; exempting entities formed to do so from the Florida Insurance Code; amending s. 553.73, F.S.; prohibiting the Florida Building Commission from modifying certain foundation codes relating to wind resistance or the prevention of water intrusion unless the modification enhances such provisions; amending s. 553.775, F.S., relating to interpretations of the Florida Building Code; conforming a cross-reference; requiring jurisdictions having authority to enforce the Florida Building Code to require wind-borne-debris protection according to specified requirements; requiring that the Florida Building Commission amend the Florida Building Code to reflect the requirements of the act and eliminate certain less stringent requirements; providing an exception; requiring an amendment to the code with respect to certain provisions governing new residential construction; requiring the commission to develop voluntary guidelines for increasing the hurricane resistance of buildings; requiring that the guidelines be included in the commission's report to the 2008 Legislature; amending s. 624.319, F.S.; authorizing the Public Counsel and the Insurance Consumer Advocate to have access to certain confidential information held by the Department of Financial Services or the Office of Insurance Regulation; amending s. 624.462, F.S.; revising requirements for the establishment of a commercial self-insurance fund by a not-for-profit group; amending s. 624.4622, F.S.; authorizing local government self-insurance funds to insure or self-insure real or personal property against loss or damage; creating s. 624.4625, F.S.; authorizing two or more corporations not for profit to form a self-insurance fund for certain purposes; providing specific requirements; providing a definition; providing limitations; providing for application of certain provisions to certain premiums, contributions, and assessments; providing for payment of insurance premium tax at a reduced rate by corporation not-for-profit self-insurance funds; subjecting a corporation not for profit self-insurance fund to certain group self-insurance fund provisions under certain circumstances; amending s. 624.610, F.S.; specifying additional circumstances under which the Office of Insurance Regulation may allow credit when reinsurance is ceded to an assuming insurer; amending s. 626.9541, F.S.; providing that an insurer's failure to offer in this state any kind or line of insurance which all insurers or affiliated insurers offer in another jurisdiction constitutes an unfair method of competition and unfair or deceptive act; providing penalties; providing for rules; repealing s. 627.0613, F.S., relating to the consumer advocate appointed by the Chief Financial Officer; amending s. 627.062, F.S.; deleting provisions allowing property and casualty insurers to use and file rates; deleting provisions exempting certain rate filings from review by the Office of Insurance Regulation; deleting provisions authorizing an insurer to require the arbitration of a rate filing following agency action under the Administrative Procedure Act; requiring the chief executive officer, chief financial officer, or chief actuary of a property insurer to certify the information contained in a rate filing; providing penalties for knowingly making a false certification; authorizing the Financial Services Commission to adopt rules; deleting provisions placing the burden on the Office of Insurance Regulation to establish that certain rates are excessive; amending s. 627.0628, F.S., relating to hurricane loss projection; conforming references to changes made by the act; amending s. 627.311, F.S.; providing for the Insurance Consumer Advocate to be a member of the board of governors supervising joint underwriting associations; amending s. 627.351, F.S., relating to the Citizens Property Insurance Corporation; deleting provisions that deny certain nonhomestead property eligibility for coverage by the corporation; including commercial nonresidential policies into an account of the corporation; authorizing the corporation to issue multiperil coverage, wind-only coverage, or both in the high-risk account after a specified date; deleting provisions authorizing the Office of Insurance Regulation to remove territory from the area eligible for wind-only and quota share coverage; redefining the term "subject lines of business" subject to assessments for deficits; requiring the board of governors of the corporation to levy an assessment against nonhomestead property policyholders if certain deficits occur after a specified date; restricting the eligibility of a risk for a policy issued by the corporation under certain circumstances; authorizing the plan of operation to establish limits of coverage and to require commercial property to meet specified hurricane-mitigation features; requiring that the corporation annually file recommended rates; requiring that the office issue a final order establishing the rates within a specified period; prohibiting the corporation from pursuing administrative or judicial review of such order; deleting provisions specifying circumstances under which a rate is deemed inadequate; deleting legislative intent concerning rate adequacy in the residual market; deleting provisions providing requirements for personal lines residential policies and residential wind-only policies; deleting an exemption provided for coverage provided by the corporation in Monroe County under certain circumstances; deleting a requirement that the corporation certify to the office that its rates comply with certain requirements; deleting a requirement for a notice to policyholders and applicants; rescinding certain rate filings by the corporation which took effect January 1, 2007; reinstating certain rates in effect on December 31, 2006; clarifying the effect of a policy that is taken out, assumed, or removed from the corporation; providing legislative intent that commercial nonresidential property insurance be made available from Citizens Property Insurance Corporation; requiring that Citizens Property Insurance Corporation adopt a plan providing for the transition of such coverage from the Property and Casualty Joint Underwriting Association to Citizens; providing requirements for the plan; amending s. 627.701, F.S.; revising requirements for the deductible amount applicable to hurricane loss for policies of residential property insurance and personal lines residential property insurance; prohibiting a hurricane deductible in excess of a specified percentage for personal lines residential property insurance policies of less than a certain value unless the policyholder signs a statement acknowledging the lack of insurance or provides a statement from the mortgageholder or lienholder; requiring that the insurer keep documentation of such statements; requiring the Financial Services Commission to adopt rules; deleting obsolete provisions; amending s. 627.706, F.S., relating to sinkhole insurance; defining the term "catastrophic ground cover collapse"; amending s. 627.7065, F.S., relating to a database of sinkhole information; conforming a reference to changes made by the act; creating s. 627.712, F.S.; requiring insurers issuing residential property insurance to provide hurricane or windstorm coverage; authorizing a policyholder to make a written rejection of such coverage by signing a statement acknowledging the lack of insurance or providing a statement from the mortgageholder or lienholder; requiring insurers issuing residential property insurance to make available an exclusion of coverage for contents; providing for the policyholder to make a written rejection of such coverage; requiring that the insurer keep documentation of such statements; requiring the Financial Services commission to adopt rules; creating s. 627.713, F.S.; authorizing the office to require property insurers to report data regarding hurricane claims and underwriting costs; providing for the adoption of rules; amending s. 631.57, F.S.; specifying certain additional circumstances under which the board of directors of the Florida Insurance Guaranty Association, Inc., may levy emergency and regular assessments; clarifying that authorization exists for the Florida Insurance Guaranty Association to certify and for the Office of Insurance Regulation to levy an emergency assessment; amending s. 631.912, F.S., relating to the board of directors of the Florida Workers' Compensation Insurance Guaranty Association, Inc.; conforming provisions to changes made by the act; amending s. 718.111, F.S.; providing for windstorm insurance for condominium associations; repealing s. 627.0629(6), F.S., relating to requirements for hurricane or windstorm coverage; creating the Windstorm Mitigation Study Commission for the purpose of analyzing solutions and programs that could address the state's need to mitigate the effects of windstorms on structures; providing for membership and qualifications; providing that the members are entitled to reimbursement for expenses incurred in connection with their duties; requiring the Department of Financial Services, the Office of Insurance Regulation, the Citizens Property Insurance Corporation, and other state agencies to supply information, assistance, and facilities to the commission; requiring that the Executive Office of the Governor provide staff assistance; specifying duties of the commission; requiring that the commission report to the Governor, the Legislature, the Chief Financial Officer, and the Commissioner of Insurance Regulation by a specified date; establishing the Florida Disaster Recovery Initiative within the Department of Community Affairs for the purpose of assisting local governments in hardening affordable housing against the effects of hurricanes; specifying that the act does not create an entitlement or obligate the state; providing for program administration; specifying the entities that are eligible to apply for funding; providing components and requirements of the initiative; providing an appropriation; amending s. 627.711, F.S.; requiring the Financial Services Commission to develop uniform mitigation verification inspection forms; providing duties of the commission; expressing the intent of the Legislature to create a grant program to assist low-income persons in purchasing property insurance; creating s. 350.06151, F.S.; providing for transfer of funds from the Insurance Regulatory Trust Fund to the Grants and Donations Trust Fund of the legislative branch

to fund the Office of Insurance Consumer Advocate; providing effective dates.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

On motion by Senator Geller, by two-thirds vote **CS for HB 1-A** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38

Mr. President	Bullard	Gaetz
Alexander	Carlton	Garcia
Argenziano	Constantine	Geller
Aronberg	Crist	Haridopolos
Atwater	Deutch	Hill
Baker	Dockery	Jones
Bennett	Fasano	Joyner
Justice	Peaden	Storms
King	Posey	Villalobos
Lawson	Rich	Webster
Lynn	Ring	Wilson
Margolis	Saunders	Wise
Oelrich	Siplin	

Nays—None

Vote after roll call:

Yea—Diaz de la Portilla

MOTION

On motion by Senator Posey, the House was requested to concur in the Senate amendment to **CS for HB 1-A** and in the event the House refuses to concur, moved that a conference committee be appointed.

CS for CS for HB 3-A—A bill to be entitled An act relating to hurricane preparedness and insurance; providing a short title; amending s. 215.555, F.S.; deleting a rapid cash buildup requirement from a reimbursement premium formula factor; expanding the State Board of Administration's reinsurance procurement powers and duties for certain purposes; providing for temporary emergency options for additional coverage and for temporary increase in coverage limit options; providing legislative findings and intent; providing for application of certain provisions; providing additional definitions; providing for a reimbursement contract addendum for certain insurers; providing requirements and procedures under the addendum; providing for certain reimbursement premiums for such insurers; providing for calculation of such premiums; providing for effect on claims-paying capacity of fund; requiring insurers electing optional coverages offered by the Florida Hurricane Catastrophe Fund to make rate filings that reflect savings or reduction in loss exposure; requiring that the Office of Insurance Regulation specify, by order, the dates on which such filings must be made; requiring certain insurers to make additional rate filings; specifying rate filing requirements; authorizing the Financial Services Commission to grant certain waivers; specifying duties of the office; providing an effective date.

—was read the second time by title.

Senator Posey moved the following amendment which was adopted:

Amendment 1 (084790)(with title amendment)—Delete everything after the enacting clause and insert:

Section 1. Paragraphs (m) and (n) of subsection (2) of section 20.121, Florida Statutes, are amended to read:

20.121 Department of Financial Services.—There is created a Department of Financial Services.

(2) DIVISIONS.—The Department of Financial Services shall consist of the following divisions:

~~(m) The Office of Insurance Consumer Advocate.~~

(m)~~(n)~~ The Division of Funeral, Cemetery, and Consumer Services.

Section 2. *All of the powers, duties, functions, records, personnel, and property; unexpended balances of appropriations, allocations, and other funds; administrative authority; administrative rules; pending issues; and existing contracts of the consumer advocate and the Office of Insurance Consumer Advocate are transferred by a type two transfer, pursuant to s. 20.06(2), Florida Statutes, from the Chief Financial Officer and the Department of Financial Services to the Public Counsel. Funds shall be transferred by the Department of Financial Services from the Insurance Regulatory Trust Fund to the Grants and Donations Trust Fund in the legislative branch for the purpose of funding the Office of Insurance Consumer Advocate. The transfer amount for the 2006-2007 fiscal year is equal to the remaining unobligated approved operating budget for the Office of Insurance Consumer Advocate within the Department of Financial Services.*

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

(7)

(e)1. Notwithstanding the provisions of paragraph (c), any separate legal entity, created pursuant to the provisions of this section and controlled by counties or municipalities of this state, the membership of which consists or is to consist only of public agencies of this state, may, for the purpose of financing *the provision or* acquisition of liability *or property* coverage contracts *for or* from one or more local government liability *or property* pools to provide liability *or property* coverage for counties, municipalities, or other public agencies of this state, exercise all powers in connection with the authorization, issuance, and sale of bonds. All of the privileges, benefits, powers, and terms of s. 125.01 relating to counties and s. 166.021 relating to municipalities shall be fully applicable to such entity and such entity shall be considered a unit of local government for all of the privileges, benefits, powers, and terms of part I of chapter 159. Bonds issued by such entity shall be deemed issued on behalf of counties, municipalities, or public agencies which enter into loan agreements with such entity as provided in this paragraph. Proceeds of bonds issued by such entity may be loaned to counties, municipalities, or other public agencies of this state, whether or not such counties, municipalities, or other public agencies are also members of the entity issuing the bonds, and such counties, municipalities, or other public agencies may in turn deposit such loan proceeds with a separate local government liability *or property* pool for purposes of *providing or* acquiring liability *or property* coverage contracts.

2. Counties or municipalities of this state are authorized pursuant to this section, in addition to the authority provided by s. 125.01, part II of chapter 166, and other applicable law, to issue bonds for the purpose of acquiring liability coverage contracts from a local government liability pool. Any individual county or municipality may, by entering into interlocal agreements with other counties, municipalities, or public agencies of this state, issue bonds on behalf of itself and other counties, municipalities, or other public agencies, for purposes of acquiring a liability coverage contract or contracts from a local government liability pool. Counties, municipalities, or other public agencies are also authorized to enter into loan agreements with any entity created pursuant to subparagraph 1., or with any county or municipality issuing bonds pursuant to this subparagraph, for the purpose of obtaining bond proceeds with which to acquire liability coverage contracts from a local government liability pool. No county, municipality, or other public agency shall at any time have more than one loan agreement outstanding for the purpose of obtaining bond proceeds with which to acquire liability coverage contracts from a local government liability pool. Obligations of any county, municipality, or other public agency of this state pursuant to a loan agreement as described above may be validated as provided in chapter 75. Prior to the issuance of any bonds pursuant to subparagraph 1. or this subparagraph for the purpose of acquiring liability coverage contracts from a local government liability pool, the reciprocal insurer or the manager of any self-insurance program shall demonstrate to the satisfaction of the Office of Insurance Regulation of the Financial Services Commission that excess liability coverage for counties, municipalities, or other public agencies is reasonably unobtainable in the amounts provided by such pool or that the liability coverage obtained through acquiring contracts from a local government liability pool, after taking into account costs of issuance of bonds and any other administrative fees, is less expensive to counties, municipalities, or special districts than similar commercial coverage then reasonably available.

3. Any entity created pursuant to this section or any county or municipality may also issue bond anticipation notes, as provided by s. 215.431, in connection with the authorization, issuance, and sale of such bonds. In addition, the governing body of such legal entity or the governing body of such county or municipality may also authorize bonds to be issued and sold from time to time and may delegate, to such officer, official, or agent of such legal entity as the governing body of such legal entity may select, the power to determine the time; manner of sale, public or private; maturities; rate or rates of interest, which may be fixed or may vary at such time or times and in accordance with a specified formula or method of determination; and other terms and conditions as may be deemed appropriate by the officer, official, or agent so designated by the governing body of such legal entity. However, the amounts and maturities of such bonds and the interest rate or rates of such bonds shall be within the limits prescribed by the governing body of such legal entity and its resolution delegating to such officer, official, or agent the power to authorize the issuance and sale of such bonds. Any series of bonds issued pursuant to this paragraph *for liability coverage* shall mature no later than 7 years following the date of issuance ~~thereof~~. *Any series of bonds issued pursuant to this paragraph for property coverage shall mature no later than 30 years following the date of issuance.*

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

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

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

(h)1. Notwithstanding the provisions of paragraph (c), any separate legal entity consisting of an alliance, as defined in s. 395.1060(2)(a), which is created pursuant to this paragraph and controlled by and whose members consist of the following eligible entities: special districts created pursuant to a special act and having the authority to own or operate one or more Florida-licensed hospitals, or Florida-licensed hospitals that are owned, operated, or funded by a county or municipality, may, for the purpose of providing property insurance coverage as defined in s. 395.1060(2)(c), for such eligible entities, exercise all powers under this subsection in connection with borrowing funds for such purposes, including, without limitation, the authorization, issuance, and sale of bonds, notes, or other obligations of indebtedness. Borrowed funds, including bonds issued by such alliance, shall be deemed issued on behalf of such eligible entities that enter into loan agreements with such separate entity as provided in this paragraph.

2. Any such separate entity shall have all the powers that are provided by the interlocal agreement under which it is created or that are necessary to finance, operate, or manage the alliance's property insurance coverage program. Proceeds of bonds, notes, or other obligations issued by such an entity may be loaned to any one or more eligible entities. Eligible entities are authorized to enter into loan agreements with any separate entity created pursuant to this paragraph for the purpose of obtaining moneys with which to finance property insurance coverage or claims. Obligations of any eligible entity pursuant to a loan agreement as described in this paragraph may be validated as provided in chapter 75.

3. Any bonds, notes, or other obligations to be issued or incurred by a separate entity created pursuant to this paragraph shall be authorized by resolution of the governing body of such entity and bear the date or dates; mature at the time or times, not exceeding 30 years from their respective dates; bear interest at the rate or rates, which may be fixed or vary at such time or times and in accordance with a specified formula or method of determination; be payable at the time or times; be in the

denomination; be in the form; carry the registration privileges; be executed in the manner; be payable from the sources and in the medium of payment and at the place; and be subject to redemption, including redemption prior to maturity, as the resolution may provide. The bonds, notes, or other obligations may be sold at public or private sale for such price as the governing body of the separate entity shall determine. The bonds may be secured by such credit enhancement, if any, as the governing body of the separate entity deems appropriate. The bonds may be secured by an indenture of trust or trust agreement. In addition, the governing body of the separate entity may delegate, to such officer or official of such entity as the governing body may select, the power to determine the time; manner of sale, public or private; maturities; rate or rates of interest, which may be fixed or may vary at such time or times and in accordance with a specified formula or method of determination; and other terms and conditions as may be deemed appropriate by the officer or official so designated by the governing body of such separate entity. However, the amounts and maturities of such bonds, the interest rate or rates, and the purchase price of such bonds shall be within the limits prescribed by the governing body of such separate entity in its resolution delegating to such officer or official the power to authorize the issuance and sale of such bonds.

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

5. The accomplishment of the authorized purposes of a separate entity created under this paragraph is in all respects for the benefit of the people of the state, for the increase of their commerce and prosperity, and for the improvement of their health and living conditions. Since the separate entity will perform essential public functions in accomplishing its purposes, the separate entity is not required to pay any taxes or assessments of any kind whatsoever upon any property acquired or used by it for such purposes or upon any revenues at any time received by it. The bonds, notes, and other obligations of such separate entity, their transfer, and the income therefrom, including any profits made on the sale thereof, are at all times free from taxation of any kind of the state or by any political subdivision or other agency or instrumentality thereof. The exemption granted in this paragraph is not applicable to any tax imposed by chapter 220 on interest, income, or profits on debt obligations owned by corporations.

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

Section 4. Paragraph (c) of subsection (4), subsection (6), and paragraph (a) of present subsection (7) of section 215.555, Florida Statutes, are amended, present subsections (7) through (15) of that section are redesignated as subsections (8) through (16), respectively, a new subsection (7) is added to that section, and subsections (17), (18), and (19) are added to that section, to read:

215.555 Florida Hurricane Catastrophe Fund.—

(4) REIMBURSEMENT CONTRACTS.—

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

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

(6) REVENUE BONDS *FOR FUNDING OBLIGATIONS OF THE FLORIDA HURRICANE CATASTROPHE FUND.*—

(a) General provisions.—

1. Upon the occurrence of a hurricane and a determination that the moneys in the fund are or will be insufficient to pay reimbursement at the levels promised in the reimbursement contracts, the board may take the necessary steps under paragraph (c) or paragraph (d) for the issuance of revenue bonds for the benefit of the fund. The proceeds of such revenue bonds may be used to make reimbursement payments under reimbursement contracts; to refinance or replace previously existing borrowings or financial arrangements; to pay interest on bonds; to fund reserves for the bonds; to pay expenses incident to the issuance or sale of any bond issued under this section, including costs of validating, printing, and delivering the bonds, costs of printing the official statement, costs of publishing notices of sale of the bonds, and related administrative expenses; or for such other purposes related to the financial obligations of the fund as the board may determine. The term of the bonds may not exceed 30 years. The board may pledge or authorize the corporation to pledge all or a portion of all revenues under subsection (5) and under paragraph (b) to secure such revenue bonds and the board may execute such agreements between the board and the issuer of any revenue bonds and providers of other financing arrangements under paragraph *(8)(b)* ~~(7)(b)~~ as the board deems necessary to evidence, secure, preserve, and protect such pledge. If reimbursement premiums received under subsection (5) or earnings on such premiums are used to pay debt service on revenue bonds, such premiums and earnings shall be used only after the use of the moneys derived from assessments under paragraph (b). The funds, credit, property, or taxing power of the state or political subdivisions of the state shall not be pledged for the payment of such bonds. The board may also enter into agreements under paragraph (c) or paragraph (d) for the purpose of issuing revenue bonds in the absence of a hurricane upon a determination that such action would maximize the ability of the fund to meet future obligations.

2. The Legislature finds and declares that the issuance of bonds under this subsection is for the public purpose of paying the proceeds of the bonds to insurers, thereby enabling insurers to pay the claims of policyholders to assure that policyholders are able to pay the cost of construction, reconstruction, repair, restoration, and other costs associated with damage to property of policyholders of covered policies after the occurrence of a hurricane.

(b) Emergency assessments.—

1. If the board determines that the amount of revenue produced under subsection (5) is insufficient to fund the obligations, costs, and expenses of the fund and the corporation, including repayment of revenue bonds and that portion of the debt service coverage not met by reimbursement premiums, the board shall direct the Office of Insurance Regulation to levy, by order, an emergency assessment on direct premiums for all property and casualty lines of business in this state, including property and casualty business of surplus lines insurers regulated under part VIII of chapter 626, but not including any workers' compensation premiums or medical malpractice premiums. As used in this subsection, the term "property and casualty business" includes all lines of business identified on Form 2, Exhibit of Premiums and Losses, in the annual statement required of authorized insurers by s. 624.424 and any rule adopted under this section, except for those lines identified as accident and health insurance and except for policies written under the National Flood Insurance Program. The assessment shall be specified as

a percentage of direct written premium and is subject to annual adjustments by the board in order to meet debt obligations. The same percentage shall apply to all policies in lines of business subject to the assessment issued or renewed during the 12-month period beginning on the effective date of the assessment.

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

3. Emergency assessments shall be collected from policyholders. Emergency assessments shall be remitted by insurers as a percentage of direct written premium for the preceding calendar quarter as specified in the order from the Office of Insurance Regulation. The office shall verify the accurate and timely collection and remittance of emergency assessments and shall report the information to the board in a form and at a time specified by the board. Each insurer collecting assessments shall provide the information with respect to premiums and collections as may be required by the office to enable the office to monitor and verify compliance with this paragraph.

4. With respect to assessments of surplus lines premiums, each surplus lines agent shall collect the assessment at the same time as the agent collects the surplus lines tax required by s. 626.932, and the surplus lines agent shall remit the assessment to the Florida Surplus Lines Service Office created by s. 626.921 at the same time as the agent remits the surplus lines tax to the Florida Surplus Lines Service Office. The emergency assessment on each insured procuring coverage and filing under s. 626.938 shall be remitted by the insured to the Florida Surplus Lines Service Office at the time the insured pays the surplus lines tax to the Florida Surplus Lines Service Office. The Florida Surplus Lines Service Office shall remit the collected assessments to the fund or corporation as provided in the order levied by the Office of Insurance Regulation. The Florida Surplus Lines Service Office shall verify the proper application of such emergency assessments and shall assist the board in ensuring the accurate and timely collection and remittance of assessments as required by the board. The Florida Surplus Lines Service Office shall annually calculate the aggregate written premium on property and casualty business, other than workers' compensation and medical malpractice, procured through surplus lines agents and insureds procuring coverage and filing under s. 626.938 and shall report the information to the board in a form and at a time specified by the board.

5. Any assessment authority not used for a particular contract year may be used for a subsequent contract year. If, for a subsequent contract year, the board determines that the amount of revenue produced under subsection (5) is insufficient to fund the obligations, costs, and expenses of the fund and the corporation, including repayment of revenue bonds and that portion of the debt service coverage not met by reimbursement premiums, the board shall direct the Office of Insurance Regulation to levy an emergency assessment up to an amount not exceeding the amount of unused assessment authority from a previous contract year or years, plus an additional 4 percent provided that the assessments in the aggregate do not exceed the limits specified in subparagraph 2.

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

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

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

9. When a surplus lines insured or an insured who has procured coverage and filed under s. 626.938 is entitled to the return of an unearned premium, the Florida Surplus Lines Service Office shall provide a credit or refund to the agent or such insured for the collected assessment attributable to the unearned premium prior to remitting the emergency assessment collected to the fund or corporation.

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

(c) Revenue bond issuance through counties or municipalities.—

1. If the board elects to enter into agreements with local governments for the issuance of revenue bonds for the benefit of the fund, the board shall enter into such contracts with one or more local governments, including agreements providing for the pledge of revenues, as are necessary to effect such issuance. The governing body of a county or municipality is authorized to issue bonds as defined in s. 125.013 or s. 166.101 from time to time to fund an assistance program, in conjunction with the Florida Hurricane Catastrophe Fund, for the purposes set forth in this section or for the purpose of paying the costs of construction, reconstruction, repair, restoration, and other costs associated with damage to properties of policyholders of covered policies due to the occurrence of a hurricane by assuring that policyholders located in this state are able to recover claims under property insurance policies after a covered event.

2. In order to avoid needless and indiscriminate proliferation, duplication, and fragmentation of such assistance programs, any local government may provide for the payment of fund reimbursements, regardless of whether or not the losses for which reimbursement is made occurred within or outside of the territorial jurisdiction of the local government.

3. The state hereby covenants with holders of bonds issued under this paragraph that the state will not repeal or abrogate the power of the board to direct the Office of Insurance Regulation to levy the assessments and to collect the proceeds of the revenues pledged to the payment of such bonds as long as any such bonds remain outstanding unless adequate provision has been made for the payment of such bonds pursuant to the documents authorizing the issuance of such bonds.

4. There shall be no liability on the part of, and no cause of action shall arise against any members or employees of the governing body of a local government for any actions taken by them in the performance of their duties under this paragraph.

(d) Florida Hurricane Catastrophe Fund Finance Corporation.—

1. In addition to the findings and declarations in subsection (1), the Legislature also finds and declares that:

a. The public benefits corporation created under this paragraph will provide a mechanism necessary for the cost-effective and efficient issuance of bonds. This mechanism will eliminate unnecessary costs in the bond issuance process, thereby increasing the amounts available to pay reimbursement for losses to property sustained as a result of hurricane damage.

b. The purpose of such bonds is to fund reimbursements through the Florida Hurricane Catastrophe Fund to pay for the costs of construction, reconstruction, repair, restoration, and other costs associated with damage to properties of policyholders of covered policies due to the occurrence of a hurricane.

c. The efficacy of the financing mechanism will be enhanced by the corporation's ownership of the assessments, by the insulation of the assessments from possible bankruptcy proceedings, and by covenants of the state with the corporation's bondholders.

2.a. There is created a public benefits corporation, which is an instrumentality of the state, to be known as the Florida Hurricane Catastrophe Fund Finance Corporation.

b. The corporation shall operate under a five-member board of directors consisting of the Governor or a designee, the Chief Financial Officer or a designee, the Attorney General or a designee, the director of the Division of Bond Finance of the State Board of Administration, and the senior employee of the State Board of Administration responsible for operations of the Florida Hurricane Catastrophe Fund.

c. The corporation has all of the powers of corporations under chapter 607 and under chapter 617, subject only to the provisions of this subsection.

d. The corporation may issue bonds and engage in such other financial transactions as are necessary to provide sufficient funds to achieve the purposes of this section.

e. The corporation may invest in any of the investments authorized under s. 215.47.

f. There shall be no liability on the part of, and no cause of action shall arise against, any board members or employees of the corporation for any actions taken by them in the performance of their duties under this paragraph.

3.a. In actions under chapter 75 to validate any bonds issued by the corporation, the notice required by s. 75.06 shall be published only in Leon County and in two newspapers of general circulation in the state, and the complaint and order of the court shall be served only on the State Attorney of the Second Judicial Circuit.

b. The state hereby covenants with holders of bonds of the corporation that the state will not repeal or abrogate the power of the board to direct the Office of Insurance Regulation to levy the assessments and to collect the proceeds of the revenues pledged to the payment of such bonds as long as any such bonds remain outstanding unless adequate provision has been made for the payment of such bonds pursuant to the documents authorizing the issuance of such bonds.

4. The bonds of the corporation are not a debt of the state or of any political subdivision, and neither the state nor any political subdivision is liable on such bonds. The corporation does not have the power to pledge the credit, the revenues, or the taxing power of the state or of any political subdivision. The credit, revenues, or taxing power of the state or of any political subdivision shall not be deemed to be pledged to the payment of any bonds of the corporation.

5.a. The property, revenues, and other assets of the corporation; the transactions and operations of the corporation and the income from such transactions and operations; and all bonds issued under this paragraph and interest on such bonds are exempt from taxation by the state and any political subdivision, including the intangibles tax under chapter 199 and the income tax under chapter 220. This exemption does not apply to any tax imposed by chapter 220 on interest, income, or profits on debt obligations owned by corporations other than the Florida Hurricane Catastrophe Fund Finance Corporation.

b. All bonds of the corporation shall be and constitute legal investments without limitation for all public bodies of this state; for all banks, trust companies, savings banks, savings associations, savings and loan associations, and investment companies; for all administrators, executors, trustees, and other fiduciaries; for all insurance companies and associations and other persons carrying on an insurance business; and for all other persons who are now or may hereafter be authorized to invest in bonds or other obligations of the state and shall be and constitute eligible securities to be deposited as collateral for the security of any state, county, municipal, or other public funds. This sub-subparagraph shall be considered as additional and supplemental authority and shall not be limited without specific reference to this sub-subparagraph.

6. The corporation and its corporate existence shall continue until terminated by law; however, no such law shall take effect as long as the corporation has bonds outstanding unless adequate provision has been made for the payment of such bonds pursuant to the documents authorizing the issuance of such bonds. Upon termination of the existence of the corporation, all of its rights and properties in excess of its obligations shall pass to and be vested in the state.

(e) Protection of bondholders.—

1. As long as the corporation has any bonds outstanding, neither the fund nor the corporation shall have the authority to file a voluntary petition under chapter 9 of the federal Bankruptcy Code or such corresponding chapter or sections as may be in effect, from time to time, and neither any public officer nor any organization, entity, or other person shall authorize the fund or the corporation to be or become a debtor under chapter 9 of the federal Bankruptcy Code or such corresponding chapter or sections as may be in effect, from time to time, during any such period.

2. The state hereby covenants with holders of bonds of the corporation that the state will not limit or alter the denial of authority under this paragraph or the rights under this section vested in the fund or the corporation to fulfill the terms of any agreements made with such bondholders or in any way impair the rights and remedies of such bondholders as long as any such bonds remain outstanding unless adequate provision has been made for the payment of such bonds pursuant to the documents authorizing the issuance of such bonds.

3. Notwithstanding any other provision of law, any pledge of or other security interest in revenue, money, accounts, contract rights, general intangibles, or other personal property made or created by the fund or the corporation shall be valid, binding, and perfected from the time such pledge is made or other security interest attaches without any physical delivery of the collateral or further act and the lien of any such pledge or other security interest shall be valid, binding, and perfected against all parties having claims of any kind in tort, contract, or otherwise against the fund or the corporation irrespective of whether or not such parties have notice of such claims. No instrument by which such a pledge or security interest is created nor any financing statement need be recorded or filed.

(f) Limitation.—The Florida Hurricane Fund Finance Corporation may not be used to fund obligations under subsection (19).

(7) REVENUE BONDS FOR FUNDING OBLIGATIONS OF THE FLORIDA HURRICANE EXCESS LOSS PROGRAM.—

(a) General provisions.—

1. Upon a determination by law that any moneys dedicated or otherwise available to the Florida Hurricane Excess Loss Program (FHELP) are or will be insufficient to pay for the amount of the state's liability for losses under the FHELP, and a designation by law of a source of revenue from which appropriations will be made to satisfy loan obligations or to secure bonds, the board may take the necessary steps under paragraph (b) to authorize the Florida Hurricane Excess Loss Program Finance Corporation to satisfy loan obligations or to issue bonds for the payment of such losses. The proceeds of such bonds may be used to make payments for such losses; to refinance or replace previously existing borrowings or financial arrangements; to pay interest on bonds; to fund reserves for the bonds; to pay expenses incident to the issuance or sale of any bond issued under this paragraph, including costs of validating, printing, and delivering the bonds, costs of printing the official statement, costs of publishing notices of sale of the bonds, and related administrative expenses; or for such other purposes related to the financial obligations of the FHELP as the board may determine. The term of the bonds may not exceed 30 years. The board and the Florida Hurricane Excess Loss Program Finance Corporation may pledge all or a portion of all revenues available from appropriations from the source designated by law to secure such bonds and the board may execute such agreements between the board and such corporation as the board considers necessary to evidence, secure, preserve, and protect such pledge. The credit, property, or taxing power of the state or political subdivisions of the state may not be pledged for the payment of such bonds. The bonds shall be payable only from revenues specifically appropriated for such purpose or from any other funds or revenues of the Florida Hurricane Excess Loss Program Finance Corporation which are pledged for such purpose. It is the intent of the Legislature that initial funding for the FHELP shall be provided from up to 10 percent of state revenues, which may include covenants to appropriate and budget, as may be necessary.

2. The Legislature finds and declares that the issuance of bonds under this subsection is for the public purpose of paying the proceeds of the bonds to insured policyholders and to ensure that such policyholders are able to pay the cost of construction, reconstruction, repair, restoration, and other costs associated with damage to their residential property after the occurrence of a hurricane, and that the issuance of the bonds is essential to protect the health, safety, and welfare of citizens of the state.

(b) Florida Hurricane Excess Loss Program Finance Corporation.—

1. In addition to the findings and declarations in paragraph (a) and subsection (19), the Legislature also finds and declares that:

a. The public benefits corporation created under this paragraph will provide a mechanism necessary for the cost-effective and efficient issuance of bonds. This mechanism will eliminate unnecessary costs in the bond-issuance process, thereby increasing the amounts available to pay reimbursement for losses to property sustained as a result of hurricane damage.

b. The purpose of such bonds is to fund reimbursements through the FHELP to pay for the costs of construction, reconstruction, repair, restoration, and other costs associated with damage to properties of policyholders of covered policies due to the occurrence of a hurricane.

c. The efficacy of the financing mechanism will be enhanced by the corporation's ownership of the assessments, by the insulation of the assessments from possible bankruptcy proceedings, and by covenants of the state with the corporation's bondholders.

2.a. There is created a public benefits corporation, which is an instrumentality of the state, to be known as the Florida Hurricane Excess Loss Program Finance Corporation.

b. The corporation shall operate under a five-member board of directors consisting of the Governor or a designee, the Chief Financial Officer or a designee, the Attorney General or a designee, the director of the Division of Bond Finance of the Florida Board of Administration, and the senior employee of the Florida Board of Administration responsible for operations of the Florida Hurricane Catastrophe Fund.

c. The corporation has all of the powers of corporations under chapter 607 and under chapter 617, subject only to the provisions of this subsection.

d. The corporation may issue bonds and engage in such other financial transactions as are necessary to provide sufficient funds to achieve the purposes of this section.

e. The corporation may invest in any of the investments authorized under s. 215.47.

f. There shall be no liability on the part of, and no cause of action shall arise against, any board members or employees of the corporation for any actions taken by them in the performance of their duties under this paragraph.

3.a. In actions under chapter 75 to validate any bonds issued by the corporation, the notice required by s. 75.06 shall be published only in Leon County and in two newspapers of general circulation in the state, and the complaint and order of the court shall be served only on the State Attorney of the Second Judicial Circuit.

b. The state hereby covenants with holders of bonds of the corporation that the state will not repeal or abrogate the power of the board to collect the proceeds of the revenues pledged to the payment of such bonds as long as any such bonds remain outstanding unless adequate provision has been made for the payment of such bonds pursuant to the documents authorizing the issuance of such bonds.

4. The bonds of the corporation are not a debt of the state or of any political subdivision, and neither the state nor any political subdivision is liable on such bonds. The corporation does not have the power to pledge the credit, the revenues, or the taxing power of the state or of any political subdivision. The credit, revenues, or taxing power of the state or of any political subdivision shall not be deemed to be pledged to the payment of any bonds of the corporation.

5.a. The property, revenues, and other assets of the corporation, the transactions and operations of the corporation and the income from such transactions and operations, and all bonds issued under this paragraph and interest on such bonds are exempt from taxation by the state and any political subdivision, including the intangibles tax under chapter 199 and the income tax under chapter 220. This exemption does not apply to any tax imposed by chapter 220 on interest, income, or profits on debt obligations owned by corporations other than the Florida Hurricane Excess Loss Program Finance Corporation.

b. All bonds of the corporation shall be and constitute legal investments without limitation for all public bodies of this state; for all banks, trust companies, savings banks, savings associations, savings and loan associations, and investment companies; for all administrators, executors, trustees, and other fiduciaries; for all insurance companies and associations and other persons carrying on an insurance business; and for all other persons who are now or may hereafter be authorized to invest in bonds or other obligations of the state and shall be and constitute eligible securities to be deposited as collateral for the security of any state, county, municipal, or other public funds. This sub-subparagraph shall be considered as additional and supplemental authority and may not be limited without specific reference to this sub-subparagraph.

6. The corporation and its corporate existence shall continue until terminated by law; however, such law may not take effect as long as the corporation has bonds outstanding unless adequate provision has been made for the payment of such bonds pursuant to the documents authorizing the issuance of such bonds. Upon termination of the existence of the corporation, all of its rights and properties in excess of its obligations shall pass to and be vested in the state.

(c) Protection of bondholders.—

1. As long as the corporation has any bonds outstanding, neither the fund nor the corporation shall have the authority to file a voluntary petition under chapter 9 of the federal Bankruptcy Code or such corresponding chapter or sections as may be in effect, from time to time, and neither any public officer nor any organization, entity, or other person shall authorize the fund or the corporation to be or become a debtor under chapter 9 of the federal Bankruptcy Code or such corresponding chapter or sections as may be in effect, from time to time, during any such period.

2. The state hereby covenants with holders of bonds of the corporation that the state will not limit or alter the denial of authority under this paragraph or the rights under this section vested in the fund or the corporation to fulfill the terms of any agreements made with such bondholders or in any way impair the rights and remedies of such bondholders as long as any such bonds remain outstanding unless adequate provision has been made for the payment of such bonds pursuant to the documents authorizing the issuance of such bonds.

3. Notwithstanding any other provision of law, any pledge of or other security interest in revenue, money, accounts, contract rights, general intangibles, or other personal property made or created by the fund or the corporation shall be valid, binding, and perfected from the time such pledge is made or other security interest attaches without any physical delivery of the collateral or further act and the lien of any such pledge or other security interest shall be valid, binding, and perfected against all parties having claims of any kind in tort, contract, or otherwise against the fund or the corporation irrespective of whether or not such parties have notice of such claims. No instrument by which such a pledge or security interest is created nor any financing statement need be recorded or filed.

(d) The Florida Hurricane Excess Loss Program Finance Corporation may not be used to fund obligations that are incurred by the coverage afforded under the Florida Hurricane Catastrophe Fund, including any retention levels or copayments, whether for mandatory coverage or optional coverages.

(8)~~(7)~~ ADDITIONAL POWERS AND DUTIES.—

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

(17) TEMPORARY INCREASE IN COVERAGE LIMIT OPTIONS.—

(a) Findings and intent.—

1. The Legislature finds that:

a. Because of temporary disruptions in the market for catastrophic reinsurance, many property insurers were unable to procure sufficient

amounts of such reinsurance for the 2006 hurricane season or were able to procure such reinsurance only by incurring substantially higher costs than in prior years.

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

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

2. It is the intent of the Legislature to create options for insurers to purchase a temporary increased coverage limit above the statutorily determined limit in subparagraph (4)(c)1., applicable for the 2007 and 2008 hurricane seasons, to address market disruptions and enable insurers, at their option, to procure additional coverage from the Florida Hurricane Catastrophe Fund. It is the further intent of the Legislature to structure this coverage in a manner that requires insurers to pay premiums that are comparable to the premiums the insurer would have paid for comparable reinsurance coverage but for the current emergency in the reinsurance market and also in a manner that minimizes subsidies from the general public over the long run by providing the optional increase in coverage limit for 2 years.

(b) Applicability of other provisions of this section.—All provisions of this section and the rules adopted under this section apply to the coverage created by this subsection unless specifically superseded by provisions in this subsection.

(c) Additional definitions.—As used in this subsection, the term:

1. "FHCF" means Florida Hurricane Catastrophe Fund.

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

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

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

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

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

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

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

9. "TICL coverage" means the coverage for an insurer's losses above the insurer's statutorily determined claims-paying capacity based on the claims-paying limit in subparagraph (4)(c)1., which an insurer selects as its temporary increase in coverage from the fund under the TICL options selected. A TICL insurer's increased coverage limit options shall be calculated as follows:

a. The board shall calculate and report to each TICL insurer the TICL coverage multiples based on three options for increasing the insurer's FHCF coverage limit. Each TICL coverage multiple shall be calculated by dividing $1 billion, $2 billion, or $3 billion by the total estimated aggregate FHCF reimbursement premiums for the 2007-2008 reimbursement contract year and for the 2008-2009 reimbursement contract year.

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

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

(d) TICL options addendum.—

1. The TICL options addendum shall provide for reimbursement of TICL insurers for covered events occurring between June 1, 2007, and May 31, 2008, and between June 1, 2008, and May 31, 2009, in exchange for the TICL reimbursement premium paid into the fund under paragraph (e). Any insurer writing covered policies has the option of selecting an increased limit of coverage under the TICL options addendum and shall select such coverage at the time that it executes the FHCF reimbursement contract.

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

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

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

(e) TICL reimbursement premiums.—

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

2. Each insurer's TICL premium shall be calculated based on the additional limit of increased coverage that it selects. Such limit is determined by multiplying the TICL multiple associated with one of the three options times the insurer's FHCF reimbursement premium. For the amount of increased coverage based on the option of using $1 billion to derive the TICL multiple, the rate-on-line for such coverage shall be 20 percent. For the option using $2 billion, the rate-on-line shall be 17.5 percent and for the option using $3 billion, the rate-on-line shall be 15 percent.

(f) Effect on claims-paying capacity of the fund.—For the contract terms commencing June 1, 2007, and April 1, 2008, the program created by this subsection shall increase the claims-paying capacity of the fund as provided in subparagraph (4)(c)1. by an amount not to exceed $3 billion dollars and shall depend on the TICL coverage options selected and the number of insurers that select the TICL optional coverage. The additional capacity shall apply only to the additional coverage provided under the TICL options and shall not otherwise affect any insurer's reimbursement from the fund if the insurer chooses not to select the temporary option to increase its limit of coverage under the FHCF.

(18) FLORIDA HURRICANE EXCESS LOSS PROGRAM.—

(a) The Legislature finds and declares as follows:

1. There is a compelling state interest in maintaining a viable and orderly private-sector market for property insurance in this state and ensuring that premiums for property insurance are affordable. Increased premiums and assessments may force policyholders to sell their homes and even leave the state, which poses a serious threat to the economy of the state and the essential economic value of home ownership.

2. As a result of unprecedented levels of catastrophic insured losses in recent years, and especially as a result of Hurricanes Charlie, Jeanne, Francis, Ivan, Dennis, Katrina, Rita, and Wilma, insurers are facing increased demands from regulators, rating agencies, and investors to obtain reinsurance to cover multiple catastrophic events at a time when reinsurance availability has been limited, reinsurance costs have substantially increased, and hurricane loss-projection models are reportedly being revised to increase expected hurricane losses, all causing further disruption in the reinsurance and property insurance market.

3. Providing a limitation of liability on property insurers above amounts that are covered by the Florida Hurricane Catastrophe Fund and assuming state liability for such amounts will enable insurers to limit its purchase of reinsurance and limit their exposure to losses under such amounts, with corresponding premium savings to residential property insurance policyholders in the state.

(b) All provisions of this section and rules adopted under this section apply to the program created by this subsection, except as otherwise provided in this section or as superseded by this subsection.

(c) As used in this subsection, the term:

1. "FHCF" means Florida Hurricane Catastrophe Fund.

2. "FHELP" means Florida Hurricane Excess Loss Program.

3. "FHELP retention" means the sum of the insurer's FHCF retention as defined in paragraph (2)(e), plus the insurer's limit of FHCF coverage as determined in subparagraph (4)(c)2., plus the insurer's copayments associated with the coverage selected as provided for in paragraph (4)(b), including the maximum limits of coverage available to the insurer under the Temporary Increased Coverage Limit (TICL) option pursuant to subsection (18), whether or not selected by the insurer, but only for those years when the TICL option is available.

4. "FHELP payout multiple" means the factor or number derived by dividing the difference in the industry FHELP coverage limit and the industry FHELP retention by the estimated aggregate FHCF premium paid by all insurers for the mandatory FHCF coverage for the contract year calculated at the time the premium formula is determined.

(d) There is created the Florida Hurricane Excess Loss Program to be administered by the State Board of Administration. The board may adopt such rules as are reasonable and necessary to administer this subsection and provide for the operation of the FHELP. The board may employ or contract with such staff and professionals as the board considers necessary for the administration of the FHELP. The board shall administer the FHELP in conjunction with the FHCF; however, in all other respects, the operation, accounts, assets, liabilities, rights, and obligations of the FHELP shall be segregated from those of the FHCF and shall not in any way affect the operation, accounts, assets, liabilities, rights, and obligations of the FHCF. Any moneys attributable to the FHELP shall be subject to the same limitations and investment restrictions as provide for under subsection (3).

(e)1. Beginning with the FHCF reimbursement contract year on June 1, 2007, the board shall require a contract addendum be executed by each FHCF participating insurer that obligates the state to provide FHELP coverage in exchange for the insurer's obligation to pay and service all claims covered by FHELP. The execution of the addendum shall be a requirement and a condition of doing business in this state for all insurers writing covered policies.

2. The FHELP addendum shall require that the state assume liability under the FHELP for 90 percent of losses under a covered policy from each covered event in excess of the insurer's FHELP retention up to the insurer's FHELP limit. The insurer's FHELP limit is determined by multiplying the insurer's FHCF reimbursement premium by the FHELP payout multiple. The FHELP addendum shall also require that the state reimburse the insurer for 5 percent of the reimbursed losses to cover loss-adjustment expenses.

3. The FHELP addendum shall also provide that the obligation of the board with respect to all contracts covering a particular contract year shall not exceed the industry FHELP coverage limit. For the 2007 contract year, the industry FHELP coverage limit is $23 billion in excess of the industry FHELP retention. The industry FHELP coverage limit shall be adjusted each year based upon the reported exposure from the prior contract year to reflect the percentage growth in exposure to the fund.

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

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

(f) Insurers are not be required to pay premiums for FHELP coverage, which shall be funded pursuant to subsection (7). Such coverage shall be funded separately and apart from the obligations of the Florida Hurricane Catastrophe Fund and any revenue bonds issued by the Florida Hurricane Catastrophe Fund Finance Corporation.

Section 5. *(1) An insurer that elects the TEACO or TICL coverage options offered by the Florida Hurricane Catastrophe Fund, as required to be offered by this act, must make a rate filing with the Office of Insurance Regulation, pursuant to the "file and use" provisions of s. 627.062(2)(a)1., Florida Statutes, which reflects any savings or reduction in loss exposure to the insurer. An insurer may not obtain a rate increase due to the election of the TEACO or TICL coverage options.*

(2) All residential property insurers must make a rate filing with the Office of Insurance Regulation, pursuant to the "file and use" provisions of s. 627.062(2)(a)1., Florida Statutes, to decrease rates to reflect the reduction in loss exposure due to the state assumption of liability for hurricane losses pursuant to the Florida Hurricane Excess Loss Program, as created by this act.

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

(4) An insurer may not implement a rate change under the "use and file" rate procedures of s. 627.062(2)(a)2., Florida Statutes, for a period of 1 year after the effective date of a rate filing required by this section for a policy that is subject to such a rate filing.

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

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

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

(8) Each residential property insurer shall reflect a rate change that takes into account the presumed factor determined under subsection (5) for any policy written or renewed on or after June 1, 2007.

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

Section 6. Subsection (2) of section 215.5586, Florida Statutes, is amended to read:

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

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

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

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

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

3. Have undergone an acceptable wind certification and hurricane mitigation inspection *or use hurricane-protection products tested by the*

International Hurricane Research Center at Florida International University.

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

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

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

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

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

1. Roof deck attachment;

2. Secondary water barrier;

3. Roof covering*, including a weighted roof-protection system that may be installed by an approved contractor or homeowner*;

4. Brace gable ends;

5. Reinforce roof-to-wall connections;

6. Opening protection; and

7. Exterior doors, including garage doors.

(f) Low-income homeowners, as defined in s. 420.0004(9), who otherwise meet the requirements of paragraphs (a) and (c) are eligible for a grant of up to $5,000 and are not required to provide a matching amount to receive the grant. Such grants shall be used to retrofit single-family, site-built, owner-occupied, residential properties in order to make them less vulnerable to hurricane damage.

Section 7. Paragraph (a) of subsection (3) of section 215.559, Florida Statutes, is amended to read:

215.559 Hurricane Loss Mitigation Program.—

(3)(a) Forty percent of the total appropriation in paragraph (2)(a) shall be used to inspect and improve tie-downs *or other securing fixtures* for mobile homes.

Section 8. Section 350.012, Florida Statutes, is amended to read:

350.012 Committee on Public Service Commission *and Insurance* Oversight; creation; membership; powers and duties.—

(1) There is created a standing joint committee of the Legislature, designated the Committee on Public Service Commission *and Insurance* Oversight, and composed of 12 members appointed as follows: six members of the Senate appointed by the President of the Senate, two of whom must be members of the minority party; and six members of the House of Representatives appointed by the Speaker of the House of Representatives, two of whom must be members of the minority party. The terms of members shall be for 2 years and shall run from the organization of one Legislature to the organization of the next Legislature. The President shall appoint the chair of the committee in even-numbered years and the vice chair in odd-numbered years, and the Speaker of the House of Representatives shall appoint the chair of the committee in odd-numbered years and the vice chair in even-numbered years, from among the committee membership. Vacancies shall be filled in the same manner as the original appointment. Members shall serve without additional compensation, but shall be reimbursed for expenses.

(2) The committee shall:

(a) Recommend to the Governor nominees to fill a vacancy on the Public Service Commission, as provided by general law; ~~and~~

(b) Appoint a Public Counsel as provided by general law*; and*~~.~~

(c) Confirm or reject the appointment by the Chief Financial Officer of the Insurance Consumer Advocate, as provided in s. 350.0615.

(3) The committee is authorized to file a complaint with the Commission on Ethics alleging a violation of this chapter by a commissioner, former commissioner, former commission employee, or member of the Public Service Commission Nominating Council.

(4) The committee will not have a permanent staff, but the President of the Senate and the Speaker of the House of Representatives shall select staff members from among existing legislative staff, when and as needed.

Section 9. Section 350.0611, Florida Statutes, is amended to read:

350.0611 Public Counsel; duties and powers.—It shall be the duty of the Public Counsel to provide legal representation for the people of the state in proceedings before the commission and in proceedings before counties pursuant to s. 367.171(8). The Public Counsel shall have such powers as are necessary to carry out the duties of his or her office, including, but not limited to, the following specific powers:

(1) To recommend to the commission or the counties, by petition, the commencement of any proceeding or action or to appear, in the name of the state or its citizens, in any proceeding or action before the commission or the counties and urge therein any position which he or she deems to be in the public interest, whether consistent or inconsistent with positions previously adopted by the commission or the counties, and utilize therein all forms of discovery available to attorneys in civil actions generally, subject to protective orders of the commission or the counties which shall be reviewable by summary procedure in the circuit courts of this state;

(2) To have access to and use of all files, records, and data of the commission or the counties available to any other attorney representing parties in a proceeding before the commission or the counties;

(3) In any proceeding in which he or she has participated as a party, to seek review of any determination, finding, or order of the commission or the counties, or of any hearing examiner designated by the commission or the counties, in the name of the state or its citizens;

(4) To prepare and issue reports, recommendations, and proposed orders to the commission, the Governor, and the Legislature on any matter or subject within the jurisdiction of the commission, and to make such recommendations as he or she deems appropriate for legislation relative to commission procedures, rules, jurisdiction, personnel, and functions; ~~and~~

(5) To appear before other state agencies, federal agencies, and state and federal courts in connection with matters under the jurisdiction of the commission, in the name of the state or its citizens*; and*~~.~~

(6) To represent, through the Insurance Consumer Advocate, the general public of the state on matters related to the regulation of insurance before the Office of Insurance Regulation, the Department of Financial Services, and the Financial Services Commission, as provided in s. 350.0615.

Section 10. Section 350.0613, Florida Statutes, is amended to read:

350.0613 Public Counsel; employees; receipt of pleadings.—The committee may authorize the Public Counsel to employ clerical and technical assistants whose qualifications, duties, and responsibilities the committee shall from time to time prescribe. The committee may from time to time authorize retention of the services of additional attorneys*, actuaries, economists,* or experts to the extent that the best interests of the people of the state will be better served thereby, including the retention of expert witnesses and other technical personnel for participation in contested proceedings before the *Public Service* Commission*, the Office of Insurance Regulation, the Department of Financial Services, or the Financial Services Commission*. The *Public Service* Commission shall furnish the Public Counsel with copies of the initial pleadings in all proceedings before the commission. *The Office of Insurance Regula-*

tion, the Financial Services Commission, and the Department of Financial Services shall furnish the Public Counsel with copies of all filings, as requested by the Public Counsel or under such criteria as requested by the Public Counsel, which relate to the jurisdiction of the Insurance Consumer Advocate pursuant to s. 350.0615.~~, and~~ If the Public Counsel *or Insurance Consumer Advocate* intervenes as a party in any proceeding he or she shall be served with copies of all subsequent pleadings, exhibits, and prepared testimony, if used. Upon filing notice of intervention, the Public Counsel *or Insurance Consumer Advocate* shall serve all interested parties with copies of such notice and all of his or her subsequent pleadings and exhibits.

Section 11. Section 350.0615, Florida Statutes, is created to read:

350.0615 Insurance Consumer Advocate.—The Chief Financial Officer shall appoint the Insurance Consumer Advocate, who shall be subject to confirmation by the Committee on Public Service Commission and Insurance Oversight. The Insurance Consumer Advocate shall represent the general public of the state on matters related to the regulation of insurance before the Office of Insurance Regulation, the Department of Financial Services, and the Financial Services Commission. The Insurance Consumer Advocate shall report directly to and be engaged as an employee of the Public Counsel as a Deputy Public Counsel. The Public Counsel shall provide administrative and staff support to the Insurance Consumer Advocate. The Insurance Consumer Advocate has all powers that are necessary to carry out his or her duties, including, but not limited to, the powers to:

(1) Recommend to the office, department, or commission, by petition, the commencement of any proceeding or action; to appear in any proceeding or action before the office, department, or commission; and to appear in any proceeding before the Division of Administrative Hearings relating to insurance matters under the jurisdiction of the office, department, or commission.

(2) Have access to and use of all files, records, and data of the office, department, or commission.

(3) Examine all rate and form filings submitted to the office, hire consultants as necessary to aid in the review process, and recommend to the office, department, commission, or Legislature any position considered by the Insurance Consumer Advocate to be in the public interest.

Section 12. Section 395.1060, Florida Statutes, is created to read:

395.1060 Risk pooling by certain hospitals and hospital systems.—

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

(a) Have annual premiums in excess of $3 million;

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

(c) Cause to be prepared annually a fiscal year-end financial statement in accordance with generally accepted accounting principles and audited by an independent certified public accountant within 6 months after the end of the fiscal year; and

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

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

(a) "Alliance" means a corporation, association, limited liability company, or partnership or any other legal entity formed by a group of eligible entities.

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

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

(4) An alliance that meets the requirements of this section is not an insurer for purposes of participation in or coverage by the Florida Insurance Guaranty Association established in part II of chapter 631. Alliance self-insured coverage is not subject to insurance premium tax, nor shall any such alliance pursuant to this section be assessed for purposes of s. 627.351 or s. 215.555.

Section 13. Section 553.73, Florida Statutes, is amended to read:

553.73 Florida Building Code.—

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

(b) The technical portions of the Florida Accessibility Code for Building Construction shall be contained in their entirety in the Florida Building Code. The civil rights portions and the technical portions of the accessibility laws of this state shall remain as currently provided by law. Any revision or amendments to the Florida Accessibility Code for Building Construction pursuant to part II shall be considered adopted by the commission as part of the Florida Building Code. Neither the commission nor any local government shall revise or amend any standard of the Florida Accessibility Code for Building Construction except as provided for in part II.

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

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

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

(2) The Florida Building Code shall contain provisions or requirements for public and private buildings, structures, and facilities relative to structural, mechanical, electrical, plumbing, energy, and gas systems, existing buildings, historical buildings, manufactured buildings, elevators, coastal construction, lodging facilities, food sales and food service facilities, health care facilities, including assisted living facilities, adult day care facilities, hospice residential and inpatient facilities and units, and facilities for the control of radiation hazards, public or private educational facilities, swimming pools, and correctional facilities and enforcement of and compliance with such provisions or requirements. Further, the Florida Building Code must provide for uniform implementation of ss. 515.25, 515.27, and 515.29 by including standards and criteria for residential swimming pool barriers, pool covers, latching devices, door and window exit alarms, and other equipment required therein, which are consistent with the intent of s. 515.23. Technical provisions to be contained within the Florida Building Code are restricted to requirements related to the types of materials used and construction methods and standards employed in order to meet criteria specified in

the Florida Building Code. Provisions relating to the personnel, supervision or training of personnel, or any other professional qualification requirements relating to contractors or their workforce may not be included within the Florida Building Code, and subsections (4), (5), (6), ~~and~~ (7)*, and (8)* are not to be construed to allow the inclusion of such provisions within the Florida Building Code by amendment. This restriction applies to both initial development and amendment of the Florida Building Code.

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

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

(b) In order for a Technical Advisory Committee to make a favorable recommendation to the commission, the proposal must receive a three-fourths vote of the members present at the Technical Advisory Committee meeting and at least half of the regular members must be present in order to conduct a meeting;

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

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

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

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

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

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

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

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

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

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

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

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

8. If the compliance review board determines such amendment is not in compliance with this paragraph, the compliance review board shall notify such local government of the noncompliance and that the amendment is invalid and unenforceable until the local government corrects the amendment to bring it into compliance. The local government may appeal the decision of the compliance review board to the commission. If the compliance review board determines such amendment to be in compliance with this paragraph, any substantially affected party may appeal such determination to the commission. Any such appeal shall be filed with the commission within 14 days of the board's written determination. The commission shall promptly refer the appeal to the Division of Administrative Hearings for the assignment of an administrative law judge. The administrative law judge shall conduct the required hearing within 30 days, and shall enter a recommended order within 30 days of the conclusion of such hearing. The commission shall enter a final order within 30 days thereafter. The provisions of chapter 120 and the uniform rules of procedure shall apply to such proceedings. The local government adopting the amendment that is subject to challenge has the burden of proving that the amendment complies with this paragraph in proceedings before the compliance review board and the commission, as applicable. Actions of the commission are subject to judicial review pursuant to s. 120.68. The compliance review board shall determine whether its decisions apply to a respective local jurisdiction or apply countywide.

9. An amendment adopted under this paragraph shall include a fiscal impact statement which documents the costs and benefits of the proposed amendment. Criteria for the fiscal impact statement shall include the impact to local government relative to enforcement, the impact to property and building owners, as well as to industry, relative to the cost of compliance. The fiscal impact statement may not be used as a basis for challenging the amendment for compliance.

10. In addition to subparagraphs 7. and 9., the commission may review any amendments adopted pursuant to this subsection and make

nonbinding recommendations related to compliance of such amendments with this subsection.

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

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

(6)(a) The commission, by rule adopted pursuant to ss. 120.536(1) and 120.54, shall update the Florida Building Code every 3 years. When updating the Florida Building Code, the commission shall select the most current version of the International Building Code, the International Fuel Gas Code, the International Mechanical Code, the International Plumbing Code, and the International Residential Code, all of which are adopted by the International Code Council, and the National Electrical Code, which is adopted by the National Fire Protection Association, to form the foundation codes of the updated Florida Building Code, if the version has been adopted by the applicable model code entity and made available to the public at least 6 months prior to its selection by the commission.

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

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

(d) The commission shall further consider the commission's own interpretations, declaratory statements, appellate decisions, and approved statewide and local technical amendments and shall incorporate such interpretations, statements, decisions, and amendments into the updated Florida Building Code only to the extent that they are needed to modify the foundation codes to accommodate the specific needs of the state. A change made by an institute or standards organization to any standard or criterion that is adopted by reference in the Florida Building Code does not become effective statewide until it has been adopted by the commission. Furthermore, the edition of the Florida Building Code which is in effect on the date of application for any permit authorized by the code governs the permitted work for the life of the permit and any extension granted to the permit.

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

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

(7)~~(f)~~ Upon the conclusion of a triennial update to the Florida Building Code, notwithstanding the provisions of ~~this subsection or~~ subsection (3) *or subsection (6)*, the commission may address issues identified in this *subsection* ~~paragraph~~ by amending the code pursuant only to the rule adoption procedures contained in chapter 120. *Provisions of the Florida Building Code, including those contained in referenced standards and criteria, relating to wind resistance or the prevention of water intrusion may not be amended pursuant to this subsection to diminish those construction requirements; however, the commission may, subject to conditions in this subsection, amend the provisions to enhance those construction requirements.* Following the approval of any amendments to the Florida Building Code by the commission and publication of the amendments on the commission's website, authorities having jurisdiction to enforce the Florida Building Code may enforce the amendments. The commission may approve amendments that are needed to address:

(a)~~1.~~ Conflicts within the updated code;

(b)~~2.~~ Conflicts between the updated code and the Florida Fire Prevention Code adopted pursuant to chapter 633;

(c)~~3.~~ The omission of previously adopted Florida-specific amendments to the updated code if such omission is not supported by a specific recommendation of a technical advisory committee or particular action by the commission; or

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

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

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

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

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

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

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

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

(b) A proposed amendment shall include a fiscal impact statement which documents the costs and benefits of the proposed amendment. Criteria for the fiscal impact statement shall be established by rule by the commission and shall include the impact to local government relative to enforcement, the impact to property and building owners, as well as to industry, relative to the cost of compliance.

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

(d) Provisions of the Florida Building Code, including those contained in referenced standards and criteria, relating to wind resistance or the prevention of water intrusion may not be amended pursuant to this

subsection to diminish those construction requirements; however, the commission may, subject to conditions in this subsection, amend the provisions to enhance those construction requirements.

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

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

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

(c) Nonresidential farm buildings on farms.

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

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

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

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

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

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

With the exception of paragraphs (a), (b), (c), and (f), in order to preserve the health, safety, and welfare of the public, the Florida Building Commission may, by rule adopted pursuant to chapter 120, provide for exceptions to the broad categories of buildings exempted in this section, including exceptions for application of specific sections of the code or standards adopted therein. The Department of Agriculture and Consumer Services shall have exclusive authority to adopt by rule, pursuant to chapter 120, exceptions to nonresidential farm buildings exempted in paragraph (c) when reasonably necessary to preserve public health, safety, and welfare. The exceptions must be based upon specific criteria, such as under-roof floor area, aggregate electrical service capacity, HVAC system capacity, or other building requirements. Further, the commission may recommend to the Legislature additional categories of buildings, structures, or facilities which should be exempted from the Florida Building Code, to be provided by law.

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

(b) Any decision made by the local fire official and the local building official may be appealed to a local administrative board designated by the municipality, county, or special district having firesafety responsibilities. If the decision of the local fire official and the local building official is to apply the provisions of either the Florida Building Code or the Florida Fire Prevention Code and the Life Safety Code, the board may not alter the decision unless the board determines that the application of such code is not reasonable. If the decision of the local fire official and the local building official is to adopt an alternative to the codes, the local administrative board shall give due regard to the decision rendered by the local officials and may modify that decision if the administrative board adopts a better alternative, taking into consideration all relevant circumstances. In any case in which the local administrative board adopts alternatives to the decision rendered by the local fire official and the local building official, such alternatives shall provide an equivalent degree of lifesafety and an equivalent method of construction as the decision rendered by the local officials.

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

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

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

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

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

(12)~~(11)~~ The Florida Building Code does not apply to, and no code enforcement action shall be brought with respect to, zoning requirements, land use requirements, and owner specifications or programmatic requirements which do not pertain to and govern the design, construction, erection, alteration, modification, repair, or demolition of public or private buildings, structures, or facilities or to programmatic requirements that do not pertain to enforcement of the Florida Building Code. Additionally, a local code enforcement agency may not administer or enforce the Florida Building Code to prevent the siting of any publicly owned facility, including, but not limited to, correctional facilities, juvenile justice facilities, or state universities, community colleges, or public education facilities, as provided by law.

Section 14. Subsection (2) of section 553.775, Florida Statutes, is amended to read:

553.775 Interpretations.—

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

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

Section 16. *(1) The Florida Building Commission shall amend the Florida Building Code to reflect the application of provisions identified*

in section 553.73, Florida Statutes, and to eliminate all exceptions that provide less stringent requirements. The amendments by the commission shall apply throughout the state with the exception of the High Velocity Hurricane Zone, which shall be governed as currently provided within the Florida Building Code. The commission shall, in addition, amend the code to require that, at a minimum, in areas where the applicable design wind speed is less than 120 miles per hour, all new residences are designed and constructed to withstand internal pressures. The commission shall fulfill these obligations before July 1, 2007, pursuant only to the provisions of chapter 120, Florida Statutes.

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

Section 17. Paragraph (b) of subsection (3) of section 624.319, Florida Statutes, is amended to read:

624.319 Examination and investigation reports.—

(3)

(b) Workpapers and other information held by the department or office, and workpapers and other information received from another governmental entity or the National Association of Insurance Commissioners, for the department's or office's use in the performance of its examination or investigation duties pursuant to this section and ss. 624.316, 624.3161, 624.317, and 624.318 are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to workpapers and other information held by the department or office before, on, or after the effective date of this exemption. Such confidential and exempt information may be disclosed to another governmental entity, if disclosure is necessary for the receiving entity to perform its duties and responsibilities, and may be disclosed to the National Association of Insurance Commissioners. *The Public Counsel and the Insurance Consumer Advocate shall have access to such confidential and exempt information pertaining to insurance at any time.* The receiving governmental entity or the association must maintain the confidential and exempt status of the information. The information made confidential and exempt by this paragraph may be used in a criminal, civil, or administrative proceeding so long as the confidential and exempt status of such information is maintained. This paragraph is subject to the Open Government Sunset Review Act of 1995 in accordance with s. 119.15 and shall stand repealed on October 2, 2007, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 18. Paragraph (a) of subsection (2) of section 624.462, Florida Statutes, is amended to read:

624.462 Commercial self-insurance funds.—

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

(a) Established by:

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

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

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

4. A not-for-profit group comprised of no *fewer* ~~less~~ than 10 *community* ~~condominium~~ associations*, or a not-for-profit group comprised of one or more community associations having at least 50 residential properties cumulatively valued at over $25 million, created and operating under chapter 718, chapter 719, chapter 720, chapter 721, or chapter 723* ~~as defined in s. 718.103(2), which is incorporated under the laws of this state,~~ which restricts its membership to *community* ~~condominium~~ associations only~~,~~ and which has been organized and maintained in good faith for *the purpose of pooling and spreading the liabilities of its group members relating to property or casualty risk or surety insurance* ~~a continuous period of 1 year for purposes other than that of obtaining or providing insurance~~.

Section 19. Subsection (1) of section 624.4622, Florida Statutes, is amended to read:

624.4622 Local government self-insurance funds.—

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

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

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

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

(d) Have a governing body which is comprised entirely of local elected officials.

Section 20. Section 624.4625, Florida Statutes, is created to read:

624.4625 Corporation not-for-profit self-insurance funds.—

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

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

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

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

(d) Uses a qualified actuary to establish reserves for loss and loss adjustment expenses and annually submits to the office a certification by the actuary that the loss and loss adjustment expense reserves are adequate. If the actuary determines that reserves are not adequate, the fund shall file with the office a remedial plan for increasing the reserves or otherwise addressing the financial condition of the fund, subject to a determination by the office that the fund will operate on an actuarially sound basis and the fund does not pose a significant risk of insolvency.

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

1. Purchase excess insurance from authorized insurance carriers.

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

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

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

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

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

(j) Annually submits to the office a certification by the governing body of the fund that, to the best of its knowledge, the requirements of this section are met.

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

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

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

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

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

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

Section 21. Subsection (3) of section 624.610, Florida Statutes, is amended to read:

624.610 Reinsurance.—

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

(b)1. Credit must be allowed when the reinsurance is ceded to an assuming insurer that is accredited as a reinsurer in this state. An accredited reinsurer is one that:

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

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

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

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

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

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

2. The office may deny or revoke an assuming insurer's accreditation if the assuming insurer does not submit the required documentation pursuant to subparagraph 1., if the assuming insurer fails to meet all of the standards required of an accredited reinsurer, or if the assuming insurer's accreditation would be hazardous to the policyholders of this state. In determining whether to deny or revoke accreditation, the office may consider the qualifications of the assuming insurer with respect to all the following subjects:

a. Its financial stability;

b. The lawfulness and quality of its investments;

c. The competency, character, and integrity of its management;

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

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

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

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

(c)1. Credit must be allowed when the reinsurance is ceded to an assuming insurer that maintains a trust fund in a qualified United States financial institution, as defined in paragraph (5)(b), for the payment of the valid claims of its United States ceding insurers and their assigns and successors in interest. To enable the office to determine the sufficiency of the trust fund, the assuming insurer shall report annually to the office information substantially the same as that required to be reported on the NAIC Annual Statement form by authorized insurers. The assuming insurer shall submit to examination of its books and records by the office and bear the expense of examination.

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

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

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

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

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

3. The following requirements apply to the following categories of assuming insurer:

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

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

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

(B) For reinsurance ceded under reinsurance agreements with an inception date on or before July 31, 1995, and not amended or renewed after that date, notwithstanding the other provisions of this section, the trust consists of a trusteed account in an amount not less than the group's several insurance and reinsurance liabilities attributable to business written in the United States; and

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

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

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

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

(e) If the reinsurance is ceded to an assuming insurer not meeting the requirements of paragraph (a), paragraph (b), paragraph (c), or paragraph (d), the office may allow credit, but only if the assuming insurer holds surplus in excess of $100 million and has a secure financial strength rating from at least two nationally recognized statistical rating organizations deemed acceptable by the commissioner. In determining whether credit should be allowed, the office shall consider the following:

1. The domiciliary regulatory jurisdiction of the assuming insurer;

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

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

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

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

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

7. Any documented evidence of substantial problems with the enforcement of valid United States judgments in the domiciliary jurisdiction; and

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

(f)~~(e)~~ If the assuming insurer is not authorized or accredited to transact insurance or reinsurance in this state pursuant to paragraph (a) or paragraph (b), the credit permitted by paragraph (c) *or paragraph (d)* must not be allowed unless the assuming insurer agrees in the reinsurance agreements:

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

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

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

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

1. Notwithstanding any other provisions in the trust instrument, if the trust fund is inadequate because it contains an amount less than the amount required by paragraph (c), or if the grantor of the trust has been declared insolvent or placed into receivership, rehabilitation, liquidation, or similar proceedings under the laws of its state or country of domicile, the trustee shall comply with an order of the insurance regulator with regulatory oversight over the trust or with an order of a United States court of competent jurisdiction directing the trustee to transfer to the insurance regulator with regulatory oversight all of the assets of the trust fund.

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

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

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

Section 22. *Section 627.0613, Florida Statutes, is repealed.*

Section 23. Section 627.062, Florida Statutes, is amended to read:

627.062 Rate standards.—

(1) The rates for all classes of insurance to which the provisions of this part are applicable shall not be excessive, inadequate, or unfairly discriminatory.

(2) As to all such classes of insurance:

(a) Insurers or rating organizations shall establish and use rates, rating schedules, or rating manuals to allow the insurer a reasonable rate of return on such classes of insurance written in this state. A copy of rates, rating schedules, rating manuals, premium credits or discount schedules, and surcharge schedules, and changes thereto, shall be filed with the office ~~under one of the following procedures:~~

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

~~2. If the filing is not made in accordance with the provisions of subparagraph 1., such filing shall be made as soon as practicable, but no later than 30 days after the effective date, and shall be considered a "use and file" filing. An insurer making a "use and file" filing is potentially subject to an order by the office to return to policyholders portions of rates found to be excessive, as provided in paragraph (h).~~

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

1. Past and prospective loss experience within and without this state.

2. Past and prospective expenses.

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

4. Investment income reasonably expected by the insurer, consistent with the insurer's investment practices, from investable premiums anticipated in the filing, plus any other expected income from currently invested assets representing the amount expected on unearned premium reserves and loss reserves. The commission may adopt rules utilizing reasonable techniques of actuarial science and economics to specify the manner in which insurers shall calculate investment income attributable to such classes of insurance written in this state and the manner in which such investment income shall be used in the calculation of insurance rates. Such manner shall contemplate allowances for an underwriting profit factor and full consideration of investment income which produce a reasonable rate of return; however, investment income from invested surplus shall not be considered.

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

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

7. The adequacy of loss reserves.

8. The cost of reinsurance.

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

10. Conflagration and catastrophe hazards, if applicable.

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

12. The cost of medical services, if applicable.

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

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

(d) If conflagration or catastrophe hazards are given consideration by an insurer in its rates or rating plan, including surcharges and discounts, the insurer shall establish a reserve for that portion of the premium allocated to such hazard and shall maintain the premium in a catastrophe reserve. Any removal of such premiums from the reserve for purposes other than paying claims associated with a catastrophe or purchasing reinsurance for catastrophes shall be subject to approval of the office. Any ceding commission received by an insurer purchasing reinsurance for catastrophes shall be placed in the catastrophe reserve.

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

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

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

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

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

5. A rate shall be deemed inadequate as to the premium charged to a risk or group of risks if discounts or credits are allowed which exceed a reasonable reflection of expense savings and reasonably expected loss experience from the risk or group of risks.

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

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

(g) The office may at any time review a rate, rating schedule, rating manual, or rate change; the pertinent records of the insurer; and market conditions. If the office finds on a preliminary basis that a rate may be excessive, inadequate, or unfairly discriminatory, the office shall initiate proceedings to disapprove the rate and shall so notify the insurer. However, the office may not disapprove as excessive any rate for which it has given final approval or which has been deemed approved for a period of 1 year after the effective date of the filing unless the office finds that a material misrepresentation or material error was made by the insurer or was contained in the filing. Upon being so notified, the insurer or rating organization shall, within 60 days, file with the office all information which, in the belief of the insurer or organization, proves the reasonableness, adequacy, and fairness of the rate or rate change. The office shall issue a notice of intent to approve or a notice of intent to disapprove pursuant to the procedures of paragraph (a) within 90 days after receipt of the insurer's initial response. In such instances and in any administrative proceeding relating to the legality of the rate, the insurer or rating organization shall carry the burden of proof by a preponderance of the evidence to show that the rate is not excessive, inadequate, or unfairly discriminatory. After the office notifies an insurer that a rate may be excessive, inadequate, or unfairly discriminatory, unless the office withdraws the notification, the insurer shall not alter the rate

except to conform with the office's notice until the earlier of 120 days after the date the notification was provided or 180 days after the date of the implementation of the rate. The office may, subject to chapter 120, disapprove without the 60-day notification any rate increase filed by an insurer within the prohibited time period or during the time that the legality of the increased rate is being contested.

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

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

(j) *Within 24 months after an insurer receives approval of a rate increase of 10 percent or more, the insurer must file and the office must review the insurer's rate based on a rate filing that addresses all elements of the current rate.* ~~Effective July 1, 2007, notwithstanding any other provision of this section:~~

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

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

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

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

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

(3)(a) For individual risks that are not rated in accordance with the insurer's rates, rating schedules, rating manuals, and underwriting rules filed with the office and which have been submitted to the insurer for individual rating, the insurer must maintain documentation on each risk subject to individual risk rating. The documentation must identify the named insured and specify the characteristics and classification of the risk supporting the reason for the risk being individually risk rated, including any modifications to existing approved forms to be used on the risk. The insurer must maintain these records for a period of at least 5 years after the effective date of the policy.

(b) Individual risk rates and modifications to existing approved forms are not subject to this part or part II, except for paragraph (a) and ss. 627.402, 627.403, 627.4035, 627.404, 627.405, 627.406, 627.407, 627.4085, 627.409, 627.4132, 627.4133, 627.415, 627.416, 627.417, 627.419, 627.425, 627.426, 627.4265, 627.427, and 627.428, but are subject to all other applicable provisions of this code and rules adopted thereunder.

(c) This subsection does not apply to private passenger motor vehicle insurance.

(4) The establishment of any rate, rating classification, rating plan or schedule, or variation thereof in violation of part IX of chapter 626 is also in violation of this section. In order to enhance the ability of consumers to compare premiums and to increase the accuracy and usefulness of rate-comparison information provided by the office to the public, the office shall develop a proposed standard rating territory plan to be used by all authorized property and casualty insurers for residential property insurance. In adopting the proposed plan, the office may consider geographical characteristics relevant to risk, county lines, major roadways, existing rating territories used by a significant segment of the market, and other relevant factors. Such plan shall be submitted to the President of the Senate and the Speaker of the House of Representatives by January 15, 2006. The plan may not be implemented unless authorized by further act of the Legislature.

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

~~(6)(a) After any action with respect to a rate filing that constitutes agency action for purposes of the Administrative Procedure Act, except for a rate filing for medical malpractice, an insurer may, in lieu of demanding a hearing under s. 120.57, require arbitration of the rate filing. Arbitration shall be conducted by a board of arbitrators consisting of an arbitrator selected by the office, an arbitrator selected by the insurer, and an arbitrator selected jointly by the other two arbitrators. Each arbitrator must be certified by the American Arbitration Association. A decision is valid only upon the affirmative vote of at least two of the arbitrators. No arbitrator may be an employee of any insurance regulator or regulatory body or of any insurer, regardless of whether or not the employing insurer does business in this state. The office and the insurer must treat the decision of the arbitrators as the final approval of a rate filing. Costs of arbitration shall be paid by the insurer.~~

~~(b) Arbitration under this subsection shall be conducted pursuant to the procedures specified in ss. 682.06-682.10. Either party may apply to the circuit court to vacate or modify the decision pursuant to s. 682.13 or s. 682.14. The commission shall adopt rules for arbitration under this subsection, which rules may not be inconsistent with the arbitration rules of the American Arbitration Association as of January 1, 1996.~~

~~(c) Upon initiation of the arbitration process, the insurer waives all rights to challenge the action of the office under the Administrative Procedure Act or any other provision of law; however, such rights are restored to the insurer if the arbitrators fail to render a decision within 90 days after initiation of the arbitration process.~~

(6)~~(7)~~(a) The provisions of this subsection apply only with respect to rates for medical malpractice insurance and shall control to the extent of any conflict with other provisions of this section.

(b) Any portion of a judgment entered or settlement paid as a result of a statutory or common-law bad faith action and any portion of a judgment entered which awards punitive damages against an insurer may not be included in the insurer's rate base, and shall not be used to justify a rate or rate change. Any common-law bad faith action identified as such, any portion of a settlement entered as a result of a statutory or common-law action, or any portion of a settlement wherein an insurer agrees to pay specific punitive damages may not be used to justify a rate or rate change. The portion of the taxable costs and attorney's fees which is identified as being related to the bad faith and punitive damages in these judgments and settlements may not be included in the insurer's rate base and may not be utilized to justify a rate or rate change.

(c) Upon reviewing a rate filing and determining whether the rate is excessive, inadequate, or unfairly discriminatory, the office shall consider, in accordance with generally accepted and reasonable actuarial techniques, past and present prospective loss experience, either using loss experience solely for this state or giving greater credibility to this state's loss data after applying actuarially sound methods of assigning credibility to such data.

(d) Rates shall be deemed excessive if, among other standards established by this section, the rate structure provides for replenishment of reserves or surpluses from premiums when the replenishment is attributable to investment losses.

(e) The insurer must apply a discount or surcharge based on the health care provider's loss experience or shall establish an alternative method giving due consideration to the provider's loss experience. The insurer must include in the filing a copy of the surcharge or discount schedule or a description of the alternative method used, and must provide a copy of such schedule or description, as approved by the office, to policyholders at the time of renewal and to prospective policyholders at the time of application for coverage.

(f) Each medical malpractice insurer must make a rate filing under this section, sworn to by at least two executive officers of the insurer, at least once each calendar year.

(7)~~(8)~~(a)1. No later than 60 days after the effective date of medical malpractice legislation enacted during the 2003 Special Session D of the Florida Legislature, the office shall calculate a presumed factor that reflects the impact that the changes contained in such legislation will have on rates for medical malpractice insurance and shall issue a notice informing all insurers writing medical malpractice coverage of such presumed factor. In determining the presumed factor, the office shall use generally accepted actuarial techniques and standards provided in this section in determining the expected impact on losses, expenses, and investment income of the insurer. To the extent that the operation of a provision of medical malpractice legislation enacted during the 2003 Special Session D of the Florida Legislature is stayed pending a constitutional challenge, the impact of that provision shall not be included in the calculation of a presumed factor under this subparagraph.

2. No later than 60 days after the office issues its notice of the presumed rate change factor under subparagraph 1., each insurer writing medical malpractice coverage in this state shall submit to the office a rate filing for medical malpractice insurance, which will take effect no later than January 1, 2004, and apply retroactively to policies issued or renewed on or after the effective date of medical malpractice legislation enacted during the 2003 Special Session D of the Florida Legislature. Except as authorized under paragraph (b), the filing shall reflect an overall rate reduction at least as great as the presumed factor determined under subparagraph 1. With respect to policies issued on or after the effective date of such legislation and prior to the effective date of the rate filing required by this subsection, the office shall order the insurer to make a refund of the amount that was charged in excess of the rate that is approved.

(b) Any insurer or rating organization that contends that the rate provided for in paragraph (a) is excessive, inadequate, or unfairly discriminatory shall separately state in its filing the rate it contends is appropriate and shall state with specificity the factors or data that it contends should be considered in order to produce such appropriate rate. The insurer or rating organization shall be permitted to use all of the generally accepted actuarial techniques provided in this section in making any filing pursuant to this subsection. The office shall review each such exception and approve or disapprove it prior to use. It shall be the insurer's burden to actuarially justify any deviations from the rates required to be filed under paragraph (a). The insurer making a filing under this paragraph shall include in the filing the expected impact of medical malpractice legislation enacted during the 2003 Special Session D of the Florida Legislature on losses, expenses, and rates.

(c) If any provision of medical malpractice legislation enacted during the 2003 Special Session D of the Florida Legislature is held invalid by a court of competent jurisdiction, the office shall permit an adjustment of all medical malpractice rates filed under this section to reflect the impact of such holding on such rates so as to ensure that the rates are not excessive, inadequate, or unfairly discriminatory.

(d) Rates approved on or before July 1, 2003, for medical malpractice insurance shall remain in effect until the effective date of a new rate filing approved under this subsection.

(e) The calculation and notice by the office of the presumed factor pursuant to paragraph (a) is not an order or rule that is subject to chapter 120. If the office enters into a contract with an independent consultant to assist the office in calculating the presumed factor, such contract shall not be subject to the competitive solicitation requirements of s. 287.057.

(8)(a) The chief executive officer or chief financial officer of a property insurer and the chief actuary of a property insurer must certify under oath and subject to the penalty of perjury, on a form approved by the commission, the following information, which must accompany a rate filing:

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

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

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

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

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

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

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

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

Section 24. Paragraph (ee) is added to subsection (1) of section 626.9541, Florida Statutes, to read:

626.9541 Unfair methods of competition and unfair or deceptive acts or practices defined.—

(1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE ACTS.—The following are defined as unfair methods of competition and unfair or deceptive acts or practices:

(ee) Selectively limiting insurance offerings.—Failing to offer in this state a kind or line of insurance which all insurers or affiliated insurers, as defined by the Financial Services Commission, offer in another jurisdiction. An insurer need not offer every kind or line of insurance, or any particular kind or line of insurance, in this state; however, if, on July 1, 2007, an insurer offers a particular kind or line of insurance anywhere it does business, it must offer the same kind or line in this state. The commission shall adopt rules to administer this paragraph.

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

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

(3) ADOPTION AND EFFECT OF STANDARDS AND GUIDELINES.—

(c) With respect to a rate filing under s. 627.062, an insurer may employ actuarial methods, principles, standards, models, or output ranges found by the commission to be accurate or reliable to determine hurricane loss factors for use in a rate filing under s. 627.062. Such findings and factors are admissible and relevant in consideration of a rate filing by the office or in any arbitration or administrative or judicial review only if the office and the *Insurance* Consumer Advocate appointed pursuant to *s. 350.0615* ~~s. 627.0613~~ have access to all of the assumptions and factors that were used in developing the actuarial methods, principles, standards, models, or output ranges, and are not precluded from disclosing such information in a rate proceeding. In any rate hearing under s. 120.57 ~~or in any arbitration proceeding under s. 627.062(6)~~, the hearing officer *or*~~,~~ judge~~, or arbitration panel~~ may determine whether the office and the *Insurance* Consumer Advocate were provided with access to all of the assumptions and factors that were used in developing the actuarial methods, principles, standards, models, or output ranges and to determine their admissibility.

Section 26. Paragraph (b) of subsection (5) of section 627.311, Florida Statutes, is amended to read:

627.311 Joint underwriters and joint reinsurers; public records and public meetings exemptions.—

(5)

(b) The operation of the plan is subject to the supervision of a 9-member board of governors. The board of governors shall be comprised of:

1. Three members appointed by the Financial Services Commission. Each member appointed by the commission shall serve at the pleasure of the commission;

2. Two of the 20 domestic insurers, as defined in s. 624.06(1), having the largest voluntary direct premiums written in this state for workers' compensation and employer's liability insurance, which shall be elected by those 20 domestic insurers;

3. Two of the 20 foreign insurers as defined in s. 624.06(2) having the largest voluntary direct premiums written in this state for workers' compensation and employer's liability insurance, which shall be elected by those 20 foreign insurers;

4. One person appointed by the largest property and casualty insurance agents' association in this state; and

5. The *Insurance* Consumer Advocate appointed under *s. 350.0615* ~~s. 627.0613~~ or the *Insurance* Consumer Advocate's designee.

Each board member shall serve a 4-year term and may serve consecutive terms. A vacancy on the board shall be filled in the same manner as the original appointment for the unexpired portion of the term. The Financial Services Commission shall designate a member of the board to serve as chair. No board member shall be an insurer which provides services to the plan or which has an affiliate which provides services to the plan or which is serviced by a service company or third-party administrator which provides services to the plan or which has an affiliate which provides services to the plan. The minutes, audits, and procedures of the board of governors are subject to chapter 119.

Section 27. Paragraphs (a), (b), (c), (m), (p), and (s) of subsection (6) of section 627.351, Florida Statutes, are amended, and paragraph (ee) is added to that section, to read:

627.351 Insurance risk apportionment plans.—

(6) CITIZENS PROPERTY INSURANCE CORPORATION.—

(a)1. The Legislature finds that actual and threatened catastrophic losses to property in this state from hurricanes have caused insurers to be unwilling or unable to provide property insurance coverage to the extent sought and needed. It is in the public interest and a public purpose to assist in assuring that property in the state is insured so as to facilitate the remediation, reconstruction, and replacement of damaged or destroyed property in order to reduce or avoid the negative effects otherwise resulting to the public health, safety, and welfare; to the economy of the state; and to the revenues of the state and local governments needed to provide for the public welfare. It is necessary, therefore, to provide property insurance to applicants who are in good faith entitled to procure insurance through the voluntary market but are unable to do so. The Legislature intends by this subsection that property insurance be provided and that it continues, as long as necessary, through an entity organized to achieve efficiencies and economies, while providing service to policyholders, applicants, and agents that is no less than the quality generally provided in the voluntary market, all toward the achievement of the foregoing public purposes. Because it is essential for the corporation to have the maximum financial resources to pay claims following a catastrophic hurricane, it is the intent of the Legislature that the income of the corporation be exempt from federal income taxation and that interest on the debt obligations issued by the corporation be exempt from federal income taxation.

2. The Residential Property and Casualty Joint Underwriting Association originally created by this statute shall be known, as of July 1, 2002, as the Citizens Property Insurance Corporation. The corporation shall provide insurance for residential and commercial property, for applicants who are in good faith entitled, but are unable, to procure insurance through the voluntary market. The corporation shall operate pursuant to a plan of operation approved by order of the Financial Services Commission. The plan is subject to continuous review by the commission. The commission may, by order, withdraw approval of all or part of a plan if the commission determines that conditions have changed since approval was granted and that the purposes of the plan require changes in the plan. The corporation shall continue to operate pursuant to the plan of operation approved by the Office of Insurance Regulation until October 1, 2006. For the purposes of this subsection, residential coverage includes both personal lines residential coverage, which consists of the type of coverage provided by homeowner's, mobile home owner's, dwelling, tenant's, condominium unit owner's, and similar policies, and commercial lines residential coverage, which consists of the type of coverage provided by condominium association, apartment building, and similar policies.

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

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

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

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

d. Tenant's coverage;

e. Commercial lines residential property; or

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

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

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

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

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

(b)1. All insurers authorized to write one or more subject lines of business in this state are subject to assessment by the corporation and, for the purposes of this subsection, are referred to collectively as "assessable insurers." Insurers writing one or more subject lines of business in this state pursuant to part VIII of chapter 626 are not assessable insurers, but insureds who procure one or more subject lines of business in this state pursuant to part VIII of chapter 626 are subject to assessment by the corporation and are referred to collectively as "assessable insureds." An authorized insurer's assessment liability shall begin on the first day of the calendar year following the year in which the insurer was issued a certificate of authority to transact insurance for subject lines of business in this state and shall terminate 1 year after the end of the first calendar year during which the insurer no longer holds a certificate of authority to transact insurance for subject lines of business in this state.

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

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

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

(III) A high-risk account for personal residential policies and commercial residential and commercial nonresidential property policies issued by the corporation or transferred to the corporation that provide coverage for the peril of wind on risks that are located in areas eligible for coverage in the Florida Windstorm Underwriting Association as those areas were defined on January 1, 2002. *Beginning April 1, 2007, the corporation may offer multiperil coverage, wind-only coverage, or both types of coverage in the high-risk account. In issuing multiperil coverage, the corporation may use its approved policy forms and rates for personal lines accounts through December 31, 2007. It is the intent of the Legislature that the offer of multiperil coverage in the high-risk account be made and implemented in a manner that does not adversely affect the creditworthiness of or security for currently outstanding financing obligations or credit facilities of the high-risk account, the personal lines account, or the commercial lines account.* The high-risk account must also include quota share primary insurance under subparagraph (c)2. The area eligible for coverage under the high-risk account also includes the area within Port Canaveral, which is bordered on the south by the City of Cape Canaveral, bordered on the west by the Banana River, and bordered on the north by Federal Government property. ~~The office may remove territory from the area eligible for wind-only and quota share coverage if, after a public hearing, the office finds that authorized insurers in the voluntary market are willing and able to write sufficient amounts of personal and commercial residential coverage for all perils in the territory, including coverage for the peril of wind, such that risks covered by wind-only policies in the removed territory could be issued a policy by the corporation in either the personal lines or commercial lines account without a significant increase in the corporation's probable maximum loss in such account. Removal of territory from the area eligible for wind-only or quota share coverage does not alter the assignment of wind coverage written in such areas to the high-risk account.~~

b. The three separate accounts must be maintained as long as financing obligations entered into by the Florida Windstorm Underwriting Association or Residential Property and Casualty Joint Underwriting Association are outstanding, in accordance with the terms of the corresponding financing documents. When the financing obligations are no longer outstanding, in accordance with the terms of the corresponding financing documents, the corporation may use a single account for all revenues, assets, liabilities, losses, and expenses of the corporation. Consistent with the requirement of this subparagraph and prudent investment policies that minimize the cost of carrying debt, the board shall exercise its best efforts to retire existing debt or to obtain approval of necessary parties to amend the terms of existing debt, so as to structure the most efficient plan to consolidate the three separate accounts into a single account. By February 1, 2007, the board shall submit a report to the Financial Services Commission, the President of the Senate, and the Speaker of the House of Representatives which includes an analysis of consolidating the accounts, the actions the board has taken to minimize the cost of carrying debt, and its recommendations for executing the most efficient plan.

c. Creditors of the Residential Property and Casualty Joint Underwriting Association shall have a claim against, and recourse to, the accounts referred to in sub-sub-subparagraphs a.(I) and (II) and shall have no claim against, or recourse to, the account referred to in sub-sub-subparagraph a.(III). Creditors of the Florida Windstorm Underwriting Association shall have a claim against, and recourse to, the account referred to in sub-sub-subparagraph a.(III) and shall have no claim against, or recourse to, the accounts referred to in sub-sub-subparagraphs a.(I) and (II).

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

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

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

3. With respect to a deficit in an account:

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

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

c. Each assessable insurer's share of the amount being assessed under sub-subparagraph a. or sub-subparagraph b. shall be in the proportion that the assessable insurer's direct written premium for the subject lines of business for the year preceding the assessment bears to the aggregate statewide direct written premium for the subject lines of business for that year. The assessment percentage applicable to each assessable insured is the ratio of the amount being assessed under sub-subparagraph a. or sub-subparagraph b. to the aggregate statewide direct written premium for the subject lines of business for the prior year. Assessments levied by the corporation on assessable insurers under sub-subparagraphs a. and b. shall be paid as required by the corporation's plan of operation and paragraph (p). Notwithstanding any other provision of this subsection, the aggregate amount of a regular assessment for a deficit incurred in a particular calendar year shall be reduced by the estimated amount to be received by the corporation from the Citizens policyholder surcharge under subparagraph (c)11. and the amount collected or estimated to be collected from the assessment on Citizens policyholders pursuant to sub-subparagraph i. Assessments levied by the corporation on assessable insureds under sub-subparagraphs a. and b. shall be collected by the surplus lines agent at the time the surplus lines agent collects the surplus lines tax required by s. 626.932 and shall be paid to the Florida Surplus Lines Service Office at the time the surplus lines agent pays the surplus lines tax to the Florida Surplus Lines Service Office. Upon receipt of regular assessments from surplus lines agents, the Florida Surplus Lines Service Office shall transfer the assessments directly to the corporation as determined by the corporation.

d. Upon a determination by the board of governors that a deficit in an account exceeds the amount that will be recovered through regular assessments under sub-subparagraph a. or sub-subparagraph b., the board shall levy, after verification by the office, emergency assessments, for as many years as necessary to cover the deficits, to be collected by assessable insurers and the corporation and collected from assessable insureds upon issuance or renewal of policies for subject lines of business, excluding National Flood Insurance policies. The amount of the emergency assessment collected in a particular year shall be a uniform percentage of that year's direct written premium for subject lines of business and all accounts of the corporation, excluding National Flood Insurance Program policy premiums, as annually determined by the board and verified by the office. The office shall verify the arithmetic calculations involved in the board's determination within 30 days after receipt of the information on which the determination was based. Notwithstanding any other provision of law, the corporation and each assessable insurer that writes subject lines of business shall collect emergency assessments from its policyholders without such obligation being affected by any credit, limitation, exemption, or deferment. Emergency assessments levied by the corporation on assessable insureds shall be collected by the surplus lines agent at the time the surplus lines agent collects the surplus lines tax required by s. 626.932 and shall be paid to the Florida Surplus Lines Service Office at the time the surplus lines agent pays the surplus lines tax to the Florida Surplus Lines Service Office. The emergency assessments so collected shall be transferred directly to the corporation on a periodic basis as determined by the corporation and shall be held by the corporation solely in the applicable account. The aggregate amount of emergency assessments levied for an account under this sub-subparagraph in any calendar year may not exceed the greater of 10 percent of the amount needed to cover the original deficit, plus interest, fees, commissions, required reserves, and other costs associated with financing of the original deficit, or 10 percent of the aggregate statewide direct written premium for subject lines of business and for all accounts of the corporation for the prior year, plus interest, fees, commissions, required reserves, and other costs associated with financing the original deficit.

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

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

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

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

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

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

(c) The plan of operation of the corporation:

1. Must provide for adoption of residential property and casualty insurance policy forms and commercial residential and nonresidential

property insurance forms, which forms must be approved by the office prior to use. The corporation shall adopt the following policy forms:

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

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

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

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

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

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

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

(I) "Quota share primary insurance" means an arrangement in which the primary hurricane coverage of an eligible risk is provided in specified percentages by the corporation and an authorized insurer. The corporation and authorized insurer are each solely responsible for a specified percentage of hurricane coverage of an eligible risk as set forth in a quota share primary insurance agreement between the corporation and an authorized insurer and the insurance contract. The responsibility of the corporation or authorized insurer to pay its specified percentage of hurricane losses of an eligible risk, as set forth in the quota share primary insurance agreement, may not be altered by the inability of the other party to the agreement to pay its specified percentage of hurricane losses. Eligible risks that are provided hurricane coverage through a quota share primary insurance arrangement must be provided policy forms that set forth the obligations of the corporation and authorized insurer under the arrangement, clearly specify the percentages of quota share primary insurance provided by the corporation and authorized insurer, and conspicuously and clearly state that neither the authorized insurer nor the corporation may be held responsible beyond its specified percentage of coverage of hurricane losses.

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

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

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

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

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

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

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

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

3. May provide that the corporation may employ or otherwise contract with individuals or other entities to provide administrative or professional services that may be appropriate to effectuate the plan. The corporation shall have the power to borrow funds, by issuing bonds or by incurring other indebtedness, and shall have other powers reasonably necessary to effectuate the requirements of this subsection, including, without limitation, the power to issue bonds and incur other indebtedness in order to refinance outstanding bonds or other indebtedness. The corporation may, but is not required to, seek judicial validation of its bonds or other indebtedness under chapter 75. The corporation may issue bonds or incur other indebtedness, or have bonds issued on its behalf by a unit of local government pursuant to subparagraph (g)2., in the absence of a hurricane or other weather-related event, upon a determination by the corporation, subject to approval by the office, that such action would enable it to efficiently meet the financial obligations of the corporation and that such financings are reasonably necessary to effectuate the requirements of this subsection. The corporation is authorized to take all actions needed to facilitate tax-free status for any such bonds or indebtedness, including formation of trusts or other affiliated entities. The corporation shall have the authority to pledge assessments, projected recoveries from the Florida Hurricane Catastrophe Fund, other reinsurance recoverables, market equalization and other surcharges, and other funds available to the corporation as security for bonds or other indebtedness. In recognition of s. 10, Art. I of the State Constitution, prohibiting the impairment of obligations of contracts, it is the intent of the Legislature that no action be taken whose purpose is to impair any bond indenture or financing agreement or any revenue source committed by contract to such bond or other indebtedness.

4.a. Must require that the corporation operate subject to the supervision and approval of a board of governors consisting of eight individuals who are residents of this state, from different geographical areas of this state. The Governor, the Chief Financial Officer, the President of the Senate, and the Speaker of the House of Representatives shall each appoint two members of the board. At least one of the two members appointed by each appointing officer must have demonstrated expertise in insurance. The Chief Financial Officer shall designate one of the appointees as chair. All board members serve at the pleasure of the appointing officer. All board members, including the chair, must be appointed to serve for 3-year terms beginning annually on a date designated by the plan. Any board vacancy shall be filled for the unexpired

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

b. The board shall create a Market Accountability Advisory Committee to assist the corporation in developing awareness of its rates and its customer and agent service levels in relationship to the voluntary market insurers writing similar coverage. The members of the advisory committee shall consist of the following 11 persons, one of whom must be elected chair by the members of the committee: four representatives, one appointed by the Florida Association of Insurance Agents, one by the Florida Association of Insurance and Financial Advisors, one by the Professional Insurance Agents of Florida, and one by the Latin American Association of Insurance Agencies; three representatives appointed by the insurers with the three highest voluntary market share of residential property insurance business in the state; one representative from the Office of Insurance Regulation; one consumer appointed by the board who is insured by the corporation at the time of appointment to the committee; one representative appointed by the Florida Association of Realtors; and one representative appointed by the Florida Bankers Association. All members must serve for 3-year terms and may serve for consecutive terms. The committee shall report to the corporation at each board meeting on insurance market issues which may include rates and rate competition with the voluntary market; service, including policy issuance, claims processing, and general responsiveness to policyholders, applicants, and agents; and matters relating to depopulation.

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

a. Subject to the provisions of s. 627.3517, with respect to personal lines residential risks, if the risk is offered coverage from an authorized insurer at the insurer's approved rate under either a standard policy including wind coverage or, if consistent with the insurer's underwriting rules as filed with the office, a basic policy including wind coverage, the risk is not eligible for any policy issued by the corporation *unless the premium for coverage from the authorized insurer is more than 25 percent greater than the premium for comparable coverage from the corporation*. If the risk is not able to obtain any such offer, the risk is eligible for either a standard policy including wind coverage or a basic policy including wind coverage issued by the corporation; however, if the risk could not be insured under a standard policy including wind coverage regardless of market conditions, the risk shall be eligible for a basic policy including wind coverage unless rejected under subparagraph 8. The corporation shall determine the type of policy to be provided on the basis of objective standards specified in the underwriting manual and based on generally accepted underwriting practices.

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

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

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

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

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

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

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

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

b. With respect to commercial lines residential risks, if the risk is offered coverage under a policy including wind coverage from an authorized insurer at its approved rate, the risk is not eligible for any policy issued by the corporation *unless the premium for coverage from the authorized insurer is more than 25 percent greater than the premium for comparable coverage from the corporation*. If the risk is not able to obtain any such offer, the risk is eligible for a policy including wind coverage issued by the corporation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11. Must provide that in the event of regular deficit assessments under sub-subparagraph (b)3.a. or sub-subparagraph (b)3.b., in the personal lines account, the commercial lines residential account, or the high-risk account, the corporation shall levy upon corporation policyholders in its next rate filing, or by a separate rate filing solely for this purpose, a Citizens policyholder surcharge arising from a regular assessment in such account in a percentage equal to the total amount of such regular assessments divided by the aggregate statewide direct written premium for subject lines of business for the prior calendar year. For purposes of calculating the Citizens policyholder surcharge to be levied under this subparagraph, the total amount of the regular assessment to which this surcharge is related shall be determined as set forth in subparagraph (b)3., without deducting the estimated Citizens policyholder surcharge. Citizens policyholder surcharges under this subparagraph are not considered premium and are not subject to commissions, fees, or premium taxes; however, failure to pay a market equalization surcharge shall be treated as failure to pay premium.

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

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

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

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

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

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

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

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

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

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

(m)1.

~~a.~~ Rates for coverage provided by the corporation shall be actuarially sound and *subject to the requirements of s. 627.062, except as otherwise provided in this paragraph. The corporation shall file its recommended rates with the office at least annually. The corporation shall provide any additional information regarding the rates which the office requires. The office shall consider the recommendations of the board and issue a final order establishing the rates for the corporation within 45 days after the recommended rates are filed. The corporation may not pursue an administrative challenge or judicial review of the final order of the office.* ~~not competitive with approved rates charged in the admitted voluntary market, so that the corporation functions as a residual market mechanism to provide insurance only when the insurance cannot be procured in the voluntary market. Rates shall include an appropriate catastrophe loading factor that reflects the actual catastrophic exposure of the corporation. For policies in the personal lines account and the commercial lines account issued or renewed on or after March 1, 2007, a rate is deemed inadequate if the rate, including investment income, is not sufficient to provide for the procurement of coverage under the Florida Hurricane Catastrophe Fund and private reinsurance costs, whether or not reinsurance is procured, and to pay all claims and expenses reasonably expected to result from a 100-year probable maximum loss event without resort to any regular or emergency assessments, long-term debt, state revenues, or other funding sources. For policies in the high-risk account issued or renewed on or after March 1, 2007, a rate is deemed inadequate if the rate, including investment income, is not sufficient to provide for the procurement of coverage under the Florida Hurricane Catastrophe Fund and private reinsurance costs, whether or not reinsurance is procured, and to pay all claims and expenses reasonably expected to result from a 70-year probable maximum loss event with resort to any regular or emergency assessments, long-term debt, state revenues, or other~~

~~funding sources. For policies in the high-risk account issued or renewed in 2008 and 2009, the rate must be based upon an 85-year and 100-year probable maximum loss event, respectively.~~

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

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

~~3. Rates for personal lines residential wind-only policies must be actuarially sound and not competitive with approved rates charged by authorized insurers. If the filing under this subparagraph is made at least 90 days before the proposed effective date and the filing is not implemented during the office's review of the filing and any proceeding and judicial review, such filing shall be considered a "file and use" filing. In such case, the office shall finalize its review by issuance of a notice of intent to approve or a notice of intent to disapprove within 90 days after receipt of the filing. The notice of intent to approve and the notice of intent to disapprove constitute agency action for purposes of the Administrative Procedure Act. Requests for supporting information, requests for mathematical or mechanical corrections, or notification to the insurer by the office of its preliminary findings shall not toll the 90-day period during any such proceedings and subsequent judicial review. The rate shall be deemed approved if the office does not issue a notice of intent to approve or a notice of intent to disapprove within 90 days after receipt of the filing. Corporation rate manuals shall include a rate surcharge for seasonal occupancy. To ensure that personal lines residential wind-only rates are not competitive with approved rates charged by authorized insurers, the corporation, in conjunction with the office, shall develop a wind-only ratemaking methodology, which methodology shall be contained in each rate filing made by the corporation with the office. If the office determines that the wind-only rates or rating factors filed by the corporation fail to comply with the wind-only ratemaking methodology provided for in this subsection, it shall so notify the corporation and require the corporation to amend its rates or rating factors to come into compliance within 90 days of notice from the office.~~

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

~~5. For the purposes of establishing a pilot program to evaluate issues relating to the availability and affordability of insurance in an area where historically there has been little market competition, the provisions of subparagraph 2. do not apply to coverage provided by the corporation in Monroe County if the office determines that a reasonable degree of competition does not exist for personal lines residential policies. The provisions of subparagraph 3. do not apply to coverage provided by the corporation in Monroe County if the office determines that a reasonable degree of competition does not exist for personal lines residential policies in the area of that county which is eligible for wind-only coverage. In this county, the rates for personal lines residential coverage shall be actuarially sound and not excessive, inadequate, or unfairly discriminatory and are subject to the other provisions of the paragraph and s. 627.062. The commission shall adopt rules establishing the criteria for determining whether a reasonable degree of competition exists for personal lines residential policies in Monroe County. By March 1, 2006, the office shall submit a report to the Legislature providing an evaluation of the implementation of the pilot program affecting Monroe County.~~

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

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

~~8. The corporation shall certify to the office at least twice annually that its personal lines rates comply with the requirements of subparagraphs 1., 2., and 3. If any adjustment in the rates or rating factors of the corporation is necessary to ensure such compliance, the corporation shall make and implement such adjustments and file its revised rates and rating factors with the office. If the office thereafter determines that the revised rates and rating factors fail to comply with the provisions of subparagraphs 1., 2., and 3., it shall notify the corporation and require the corporation to amend its rates or rating factors in conjunction with its next rate filing. The office must notify the corporation by electronic means of any rate filing it approves for any insurer among the insurers referred to in subparagraph 2.~~

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

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

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

4. The rate filings for the corporation which were approved by the office and which took effect January 1, 2007, are rescinded, except for those rates that were lowered. As soon as possible, the corporation shall begin using the lower rates that were in effect on December 31, 2006, and shall provide refunds to policyholders who have paid higher rates as a result of that rate filing. The rates in effect on December 31, 2006, shall remain in effect for the 2007 calendar year except for any rate change that results in a lower rate. The next rate change that may increase rates shall take effect January 1, 2008, pursuant to a new rate filing recommended by the corporation and established by the office, subject to the requirements of this paragraph.

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

2. The governing body of any unit of local government, any residents of which are insured by the corporation, may issue bonds as defined in s. 125.013 or s. 166.101 from time to time to fund an assistance program, in conjunction with the corporation, for the purpose of defraying deficits of the corporation. In order to avoid needless and indiscriminate proliferation, duplication, and fragmentation of such assistance programs, any unit of local government, any residents of which are insured by the

corporation, may provide for the payment of losses, regardless of whether or not the losses occurred within or outside of the territorial jurisdiction of the local government. Revenue bonds under this subparagraph may not be issued until validated pursuant to chapter 75, unless a state of emergency is declared by executive order or proclamation of the Governor pursuant to s. 252.36 making such findings as are necessary to determine that it is in the best interests of, and necessary for, the protection of the public health, safety, and general welfare of residents of this state and declaring it an essential public purpose to permit certain municipalities or counties to issue such bonds as will permit relief to claimants and policyholders of the corporation. Any such unit of local government may enter into such contracts with the corporation and with any other entity created pursuant to this subsection as are necessary to carry out this paragraph. Any bonds issued under this subparagraph shall be payable from and secured by moneys received by the corporation from emergency assessments under sub-subparagraph (b)3.d., and assigned and pledged to or on behalf of the unit of local government for the benefit of the holders of such bonds. The funds, credit, property, and taxing power of the state or of the unit of local government shall not be pledged for the payment of such bonds. If any of the bonds remain unsold 60 days after issuance, the office shall require all insurers subject to assessment to purchase the bonds, which shall be treated as admitted assets; each insurer shall be required to purchase that percentage of the unsold portion of the bond issue that equals the insurer's relative share of assessment liability under this subsection. An insurer shall not be required to purchase the bonds to the extent that the office determines that the purchase would endanger or impair the solvency of the insurer.

3.a. The corporation shall adopt one or more programs subject to approval by the office for the reduction of both new and renewal writings in the corporation. Beginning January 1, 2008, any program the corporation adopts for the payment of bonuses to an insurer for each risk the insurer removes from the corporation shall comply with s. 627.3511(2) and may not exceed the amount referenced in s. 627.3511(2) for each risk removed. The corporation may consider any prudent and not unfairly discriminatory approach to reducing corporation writings, and may adopt a credit against assessment liability or other liability that provides an incentive for insurers to take risks out of the corporation and to keep risks out of the corporation by maintaining or increasing voluntary writings in counties or areas in which corporation risks are highly concentrated and a program to provide a formula under which an insurer voluntarily taking risks out of the corporation by maintaining or increasing voluntary writings will be relieved wholly or partially from assessments under sub-subparagraphs (b)3.a. and b. However, any "take-out bonus" or payment to an insurer must be conditioned on the property being insured for at least 5 years by the insurer, unless canceled or nonrenewed by the policyholder. If the policy is canceled or nonrenewed by the policyholder before the end of the 5-year period, the amount of the take-out bonus must be prorated for the time period the policy was insured. When the corporation enters into a contractual agreement for a take-out plan, the producing agent of record of the corporation policy is entitled to retain any unearned commission on such policy, and the insurer shall either:

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

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

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

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

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

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

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

(s) For the purposes of s. 199.183(1), the corporation shall be considered a political subdivision of the state and shall be exempt from the corporate income tax. The premiums, assessments, investment income, and other revenue of the corporation are funds received for providing property insurance coverage as required by this subsection, paying claims for Florida citizens insured by the corporation, securing and repaying debt obligations issued by the corporation, and conducting all other activities of the corporation, and shall not be considered taxes, fees, licenses, or charges for services imposed by the Legislature on individuals, businesses, or agencies outside state government. Bonds and other debt obligations issued by or on behalf of the corporation are not to be considered "state bonds" within the meaning of s. 215.58(8). The corporation is not subject to the procurement provisions of chapter 287, and policies and decisions of the corporation relating to incurring debt, levying of assessments and the sale, issuance, continuation, terms and claims under corporation policies, and all services relating thereto, are not subject to the provisions of chapter 120. The corporation is not required to obtain or to hold a certificate of authority issued by the office, nor is it required to participate as a member insurer of the Florida Insurance Guaranty Association. However, the corporation is required to pay, in the same manner as an authorized insurer, assessments *levied* ~~pledged~~ by the Florida Insurance Guaranty Association ~~to secure bonds issued or other indebtedness incurred to pay covered claims arising from insurer insolvencies caused by, or proximately related to, hurricane losses~~. It is the intent of the Legislature that the tax exemptions provided in this paragraph will augment the financial resources of the corporation to better enable the corporation to fulfill its public purposes. Any debt obligations issued by the corporation, their transfer, and the income therefrom, including any profit made on the sale thereof, shall at all times be free from taxation of every kind by the state and any political subdivision or local unit or other instrumentality thereof; however, this exemption does not apply to any tax imposed by chapter 220 on interest, income, or profits on debt obligations owned by corporations other than the corporation.

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

Section 28. *It is the intent of the Legislature that commercial nonresidential property insurance coverage be made available from Citizens Property Insurance Corporation (Citizens), under s. 627.351(6), Florida Statutes, as amended by this act, rather than from the Property and Casualty Joint Underwriting Association (PCJUA), under s. 627.351(5), Florida Statutes. As soon as it is reasonably able to do so, Citizens shall adopt, subject to approval of the Office of Insurance Regulation, a plan providing for the transition of such coverage from the PCJUA to Citizens under such forms, rates, terms, and conditions as the board of Citizens considers appropriate. The plan shall include any contractual agreements between Citizens and the PCJUA which are required to effect the transition. In the transition plan, Citizens may assume policies or otherwise provide coverage for the commercial nonresidential policyholders of the PCJUA and may also provide for allocating to the appropriate account or accounts of Citizens the revenues, assets, liabilities, losses, and expenses associated with policies of the PCJUA which are assumed or*

otherwise covered by Citizens. It is the intent of the Legislature that the transition plan be implemented in a manner that does not adversely affect the creditworthiness of or security for currently outstanding financing obligations or credit facilities of the high-risk account, the personal lines account, or the commercial lines account. The order issued by the Office of Insurance Regulation may allow the PCJUA to continue to issue such coverage until the time that Citizens begins issuing such coverage.

Section 29. Subsections (3), (4), (5), and (7) of section 627.701, Florida Statutes, are amended to read:

627.701 Liability of insureds; coinsurance; deductibles.—

(3)~~(a) A policy of residential property insurance shall include a deductible amount applicable to hurricane losses no lower than $500 and no higher than 2 percent of the policy dwelling limits with respect to personal lines residential risks, and no higher than 3 percent of the policy limits with respect to commercial lines residential risks; however, if a risk was covered on August 24, 1992, under a policy having a higher deductible than the deductibles allowed by this paragraph, a policy covering such risk may include a deductible no higher than the deductible in effect on August 24, 1992. Notwithstanding the other provisions of this paragraph, a personal lines residential policy covering a risk valued at $50,000 or less may include a deductible amount attributable to hurricane losses no lower than $250, and a personal lines residential policy covering a risk valued at $100,000 or more may include a deductible amount attributable to hurricane losses no higher than 10 percent of the policy limits unless subject to a higher deductible on August 24, 1992; however, no maximum deductible is required with respect to a personal lines residential policy covering a risk valued at more than $500,000. An insurer may require a higher deductible, provided such deductible is the same as or similar to a deductible program lawfully in effect on June 14, 1995. In addition to the deductible amounts authorized by this paragraph, an insurer may also offer policies with a copayment provision under which, after exhaustion of the deductible, the policyholder is responsible for 10 percent of the next $10,000 of insured hurricane losses.~~

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

2. For policies issued or renewed on or after July 1, 2007, an insurer that is subject to subparagraph 1. must also offer a deductible applicable to hurricane losses which covers 50 percent of the policyholder's equity in a structure that is subject to a mortgage or lien. As a condition of making this offer, the insurer may require the policyholder or financial institution or other lienholder that holds the mortgage to provide documentation annually to the insurer identifying the amount of the policyholder's equity projected for the policy year. The deductible may be structured to cover 50 percent of the policyholder's equity as of the effective date of the policy renewal or the deductible may be scheduled to reflect a monthly adjustment that tracks the change in the policyholder's equity. The commission may adopt rules to administer this subparagraph.

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

4.~~3.~~ With respect to a policy covering a risk with dwelling limits of at least $100,000, but less than $250,000, the insurer may, in lieu of offering a policy with a $500 hurricane or wind deductible as required by subparagraph 1., offer a policy that the insurer guarantees it will not nonrenew for reasons of reducing hurricane loss for one renewal period and that contains up to a 2 percent hurricane or wind deductible as required by subparagraph 1.

5.~~4.~~ With respect to a policy covering a risk with dwelling limits of $250,000 or more, the insurer need not offer the $500 hurricane deductible as required by subparagraph 1., but must, except as otherwise provided in this subsection, offer the other hurricane deductibles as required by subparagraph 1.

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

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

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

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

a. The policyholder must personally write and provide to the insurer the following statement in his or her own handwriting and signs his or her name, which must also be signed by every other named insured on the policy, and dated: "I do not want the insurance on my home to pay for the first (specify dollar value) of damage from hurricanes. I will pay those costs. My insurance will not."

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

2. A deductible subject to the requirements of this paragraph applies only for the term of the policy and must be newly executed upon each renewal pursuant to the requirements of this paragraph.

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

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

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

1. The hurricane deductible shall apply on an annual basis to all covered hurricane losses that occur during the calendar year for losses that are covered under one or more policies issued by the same insurer or an insurer in the same insurer group.

2. If a hurricane deductible applies separately to each of one or more structures insured under a single policy, the requirements of this paragraph apply with respect to the deductible for each structure.

3. If there was a hurricane loss for a prior hurricane or hurricanes during the calendar year, the insurer may apply a deductible to a subsequent hurricane which is the greater of the remaining amount of the hurricane deductible or the amount of the deductible that applies to perils other than a hurricane. Insurers may require policyholders to report hurricane losses that are below the hurricane deductible or to maintain receipts or other records of such hurricane losses in order to apply such losses to subsequent hurricane claims.

4. If there are hurricane losses in a calendar year on more than one policy issued by the same insurer or an insurer in the same insurer group, the hurricane deductible shall be the highest amount stated in any one of the policies. If a policyholder who had a hurricane loss under the prior policy is provided or offered a lower hurricane deductible under the new or renewal policy, the insurer must notify the policyholder, in writing, at the time the lower hurricane deductible is provided or offered, that the lower hurricane deductible will not apply until January 1 of the following calendar year.

(b) For commercial residential property insurance policies ~~issued or renewed on or after January 1, 2006~~, the insurer must offer the policyholder the following alternative hurricane deductibles:

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

2. A hurricane deductible that applies to each hurricane.

(7) Prior to issuing a personal lines residential property insurance policy ~~on or after April 1, 1997, or prior to the first renewal of a residential property insurance policy on or after April 1, 1997~~, the insurer must offer a deductible equal to $500 applicable to losses from perils other than hurricane. The insurer must provide the policyholder with notice of the availability of the deductible specified in this subsection in a form approved by the office at least once every 3 years. The failure to provide such notice constitutes a violation of this code but does not affect the coverage provided under the policy. An insurer may require a higher deductible only as part of a deductible program lawfully in effect on June 1, 1996, or as part of a similar deductible program.

Section 30. Effective July 1, 2007, section 627.706, Florida Statutes, is amended to read:

627.706 Sinkhole insurance; definitions.—

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

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

(a) "Catastrophic ground cover collapse" means geological activity that results in the collapse of the ground cover and the insured structure being condemned and ordered to be vacated by the governmental agency authorized by law to issue such an order for that structure.

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

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

(d)~~(c)~~ "Sinkhole activity" means settlement or systematic weakening of the earth supporting such property only when such settlement or systematic weakening results from movement or raveling of soils, sediments, or rock materials into subterranean voids created by the effect of water on a limestone or similar rock formation.

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

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

(3) Every insurer authorized to transact property insurance in this state shall make a proper filing with the office for the purpose of extending the appropriate forms of property insurance to include coverage for *catastrophic ground cover collapse or for* sinkhole losses.

Section 31. Subsection (2) of section 627.7065, Florida Statutes, is amended to read:

627.7065 Database of information relating to sinkholes; the Department of Financial Services and the Department of Environmental Protection.—

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

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

627.712 Residential hurricane coverage required; availability of exclusions for windstorm or contents.—

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

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

(a) The policyholder personally writes and provides to the insurer the following statement in his or her own handwriting and signs his or her name, which must also be signed by every other named insured on the policy, and dated: "I do not want the insurance on my (home / mobile home / condominium unit) to pay for damage from windstorms or hurricanes. I will pay those costs. My insurance will not."

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

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

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

(5) The exclusions authorized by this section are valid only for the term of the contract and must be newly executed upon each contract renewal pursuant to the requirements of this section.

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

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

627.713 Report of hurricane loss data.—

(1) The office may require property insurers to report data regarding hurricane claims and underwriting costs, including, but not limited to:

(a) Number of claims;

(b) Amount of claim payments made;

(c) Number and amount of total-loss claims;

(d) Amount and percentage of losses covered by reinsurance or other loss-transfer agreements;

(e) Amount of losses covered under specified deductibles;

(f) Claims and payments for specified insured values;

(g) Claims and payments for specified dollar values;

(h) Claims and payments for specified types of construction or mitigation features;

(i) Claims and payments for policies under specified underwriting criteria;

(j) Claims and payments for contents, additional living expense, and other specified coverages;

(k) Claims and payments by county for the information specified in this section; and

(l) Any other data that the office requires.

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

Section 34. Paragraph (e) of subsection (3) and subsection (4) of section 631.57, Florida Statutes, are amended to read:

631.57 Powers and duties of the association.—

(3)

(e)1.

a. In addition to assessments otherwise authorized in paragraph (a) and to the extent necessary to secure the funds for the account specified in s. 631.55(2)(c) *for the direct payment of covered claims and to pay the reasonable costs to administer such claims,* or to retire indebtedness, including, without limitation, the principal, redemption premium, if any, and interest on, and related costs of issuance of, bonds issued under s. 631.695 and the funding of any reserves and other payments required under the bond resolution or trust indenture pursuant to which such bonds have been issued, the office, upon certification of the board of directors, shall levy emergency assessments upon insurers holding a certificate of authority. The emergency assessments payable under this paragraph by any insurer shall not exceed in any single year more than 2 percent of that insurer's direct written premiums, net of refunds, in this state during the preceding calendar year for the kinds of insurance within the account specified in s. 631.55(2)(c).

b. Any emergency assessments authorized under this paragraph shall be levied by the office upon insurers referred to in subsubparagraph a., upon certification as to the need for such assessments by the board of directors. *In the event the board of directors participates in the issuance of bonds in accordance with s. 631.695, emergency assessments shall be levied,* in each year that bonds issued under s. 631.695 and secured by such emergency assessments are outstanding, in such amounts up to such 2-percent limit as required in order to provide for the full and timely payment of the principal of, redemption premium, if any, and interest on, and related costs of issuance of, such bonds. The emergency assessments provided for in this paragraph are assigned and pledged to the municipality, county, or legal entity issuing bonds under s. 631.695 for the benefit of the holders of such bonds, in order to enable such municipality, county, or legal entity to provide for the payment of the principal of, redemption premium, if any, and interest on such bonds, the cost of issuance of such bonds, and the funding of any reserves and other payments required under the bond resolution or trust indenture pursuant to which such bonds have been issued, without the necessity of any further action by the association, the office, or any other party. To the extent bonds are issued under s. 631.695 and the association determines to secure such bonds by a pledge of revenues received from the emergency assessments, such bonds, upon such pledge of revenues, shall be secured by and payable from the proceeds of such emergency assessments, and the proceeds of emergency assessments levied under this paragraph shall be remitted directly to and administered by the trustee or custodian appointed for such bonds.

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

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

e. If emergency assessments are imposed, the references in subsubparagraph (1)(a)3.b. and s. 631.695(2) and (7) to assessments levied under paragraph (a) shall include emergency assessments imposed under this paragraph.

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

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

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

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

Section 35. *The amendments to section 34 of chapter 2006-12, Laws of Florida, authorized the Florida Insurance Guaranty Association to certify, and the Office of Insurance Regulation to levy, an emergency assessment of up to 2 percent to either directly pay the covered claims out*

of the account specified in s. 631.55(2)(c), Florida Statutes, or to use the proceeds of such emergency assessment to retire the indebtedness and the costs of bonds issued to pay such claims and reasonable claims-administration costs.

Section 36. Subsection (1) of section 631.912, Florida Statutes, is amended to read:

631.912 Board of directors.—

(1) The board of directors of the corporation shall consist of 11 persons, 1 of whom is the Insurance Consumer Advocate appointed under *s. 350.0615* ~~s. 627.0613~~ or designee and 1 of whom is designated by the Chief Financial Officer. The department shall appoint to the board 6 persons selected by private carriers from among the 20 workers' compensation insurers with the largest amount of net direct written premium as determined by the department, and 3 persons selected by the self-insurance funds. At least two of the private carriers shall be foreign carriers authorized to do business in this state. The board shall elect a chairperson from among its members. The Chief Financial Officer may remove any board member for cause. Each board member shall serve for a 4-year term and may be reappointed. A vacancy on the board shall be filled for the remaining period of the term in the same manner by which the original appointment was made.

Section 37. *Effective July 1, 2007, subsection (6) of section 627.0629, Florida Statutes, is repealed.*

Section 38. *Windstorm Mitigation Study Commission.—*

(1)(a) The Windstorm Mitigation Study Commission is created and shall be composed of five members as follows:

1. Three members shall be appointed by the Governor, with one designated by the Governor to serve as chair.

2. One member shall be appointed by the Chief Financial Officer.

3. One member shall be appointed by the Commissioner of Insurance Regulation.

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

(2)(a) The members of the commission shall serve without compensation, but are entitled to reimbursement for all necessary expenses incurred in performing their duties, including travel expenses, in accordance with s. 112.061, Florida Statutes.

(b) The commission shall meet as necessary, at the call of the chair, and at the time and place designated by the chair. The commission may conduct its meetings through teleconferences or other similar means.

(3) The Department of Financial Services, the Office of Insurance Regulation, the Citizens Property Insurance Corporation, and other agencies of this state shall supply any information, assistance, and facilities that are considered necessary by the commission to carry out its duties under this section. The Executive Office of the Governor shall provide staff assistance as necessary in order to carry out the required clerical and administrative functions of the commission.

(4) The commission shall analyze those solutions and programs that address the state's acute need to mitigate the effects of windstorms on structures, especially residential property that is located in areas at greatest risk of windstorm damage, including programs or proposals that provide for:

(a) The availability of home inspections for windstorm resistance;

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

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

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

(e) Coordination among federal, local, and private initiatives;

(f) Streamlining or strengthening applicable state, regional, and local regulations;

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

(h) The discovery and assessment of funding sources for windstorm mitigation;

(i) Tax incentives for windstorm mitigation;

(j) Consumer information concerning the benefits of windstorm mitigation, including personal safety as well as property security;

(k) Research on windstorm mitigation; and

(l) The development of a form for uniform mitigation verification inspection to be used by insurers when factoring discounts for wind insurance which clearly specifies the procedures necessary to receive the full value of a discount.

The commission may develop any other solutions and programs that it considers appropriate.

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

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

(7) The commission shall provide recommendations, including proposed legislation, to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Chief Financial Officer, and the Commissioner of Insurance Regulation by March 30, 2007.

Section 39. *Florida Disaster Recovery Initiative.—*

(1) There is established within the Department of Community Affairs the Florida Disaster Recovery Initiative for the purpose of assisting local governments in satisfying disaster-recovery needs in the areas of low-income housing and infrastructure, with a primary focus on the hardening of single-family and multifamily housing units, not only to ensure that affordable housing can withstand the effects of hurricane-force winds, but also to mitigate the increasing costs of insurance, which may ultimately render existing affordable homes unaffordable or uninsurable. This section does not create an entitlement for local governments or property owners or obligate the state in any way to fund disaster-recovery needs. Implementation of this initiative is subject to annual legislative appropriations.

(2) The Department of Community Affairs shall administer the initiative using funds provided through the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006, and those funds shall be used to assist local governments in satisfying their disaster-recovery needs in the areas of housing and infrastructure.

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

(4) Up to 78 percent of these funds may be used to complement the grants awarded by the Department of Financial Services under s. 215.5586, Florida Statutes, and fund other eligible disaster-related activities supporting housing rehabilitation, hardening, mitigation, and infrastructure improvements at the request of the local governments in order to assist the State of Florida in better serving low-income homeowners in single-family housing units or condominiums. Up to 20 percent of the funds may be used to provide inspections and mitigation improvements to multifamily units receiving rental assistance under projects of the United States Department of Housing and Urban Development or the Rural Development Division of the United States Department of Agriculture.

Section 40. *For the 2006-2007 fiscal year, the sum of $100,066,518 is appropriated in a Grant in Aid—Fixed Capital Outlay appropriation category from the Florida Small Cities Community Development Block Grant Program Fund to the Department of Community Affairs for the purpose of implementing the provisions of section 39 of this act. These funds shall be used in a manner consistent with Federal Register, Vol. 71, No. 209, Docket No. FR-5089-N-01, and the State of Florida Action Plan for Disaster Recovery as approved by the United States Department of Housing and Urban Development.*

Section 41. Subsection (11) of section 718.111, Florida Statutes, is amended to read:

718.111 The association.—

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

(a) A unit-owner controlled association *operating a residential condominium* shall use its best efforts to obtain and maintain adequate insurance to protect the association, the association property, the common elements, and the condominium property required to be insured by the association pursuant to paragraph (b). If the association is developer controlled, the association shall exercise due diligence to obtain and maintain such insurance. Failure to obtain and maintain adequate insurance during any period of developer control shall constitute a breach of fiduciary responsibility by the developer-appointed members of the board of directors of the association, unless said members can show that despite such failure, they have exercised due diligence. The declaration of condominium as originally recorded, or amended pursuant to procedures provided therein, may require that condominium property consisting of freestanding buildings where there is no more than one building in or on such unit need not be insured by the association if the declaration requires the unit owner to obtain adequate insurance for the condominium property. An association may also obtain and maintain liability insurance for directors and officers, insurance for the benefit of association employees, and flood insurance for common elements, association property, and units. Adequate insurance, regardless of any requirement in the declaration of condominium for coverage by the association for "full insurable value," "replacement cost," or the like, may include reasonable deductibles as determined by the board *based upon available funds or predetermined assessment authority at the time that the insurance is obtained.*

1. Windstorm insurance coverage for a group of no fewer than three communities created and operating under chapter 718, chapter 719, chapter 720, or chapter 721 may be obtained and maintained for the communities if the insurance coverage is sufficient to cover an amount equal to the probable maximum loss for the communities for a 250-year windstorm event. Such probable maximum loss must be determined through the use of a competent model that has been accepted by the Florida Commission on Hurricane Loss Project Methodology. Such insurance coverage is deemed adequate windstorm insurance for the purposes of this section.

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

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

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

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

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

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

(c) Every hazard insurance policy issued or renewed on or after January 1, 2004, to an individual unit owner shall provide that the coverage afforded by such policy is excess over the amount recoverable under any other policy covering the same property. Each insurance policy issued to an individual unit owner providing such coverage shall be without rights of subrogation against the condominium association that operates the condominium in which such unit owner's unit is located. All real or personal property located within the boundaries of the unit owner's unit which is excluded from the coverage to be provided by the association as set forth in paragraph (b) shall be insured by the individual unit owner.

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

Section 42. Section 627.711, Florida Statutes, is amended to read:

627.711 Notice of premium discounts for hurricane loss mitigation*; uniform mitigation verification inspection form*.—

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

(2) The Financial Services Commission shall develop by rule a uniform mitigation verification inspection form that shall be used by all

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

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

Section 44. Section 350.06151, Florida Statutes, is created to read:

350.06151 Beginning July 1, 2007, funds shall be transferred by the Department of Financial Services from the Insurance Regulatory Trust Fund to the Grants and Donations Trust Fund in the legislative branch for the purpose of funding the Office of Insurance Consumer Advocate. The transfer amount is equal to the approved operating budget for the Office of Insurance Consumer Advocate within the Office of Public Counsel.

Section 45. Except as otherwise expressly provided in this act, this act shall take effect upon becoming a law.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to hurricane preparedness and property insurance; amending s. 20.121, F.S.; removing the Office of Insurance Consumer Advocate from the Department of Financial Services; providing for the powers, records, personnel, property, balances of appropriations and other funds, rules, pending issues, and contracts of the Office of Insurance Consumer Advocate to be transferred from the Department of Financial Services to the Public Counsel; amending s. 163.01, F.S., relating to the Interlocal Cooperation Act; redefining the term "public agency" to include certain legal or administrative entities; authorizing such entities to finance the provision of property coverage contracts for or from local government property insurance pools or property coverage contracts; authorizing certain hospitals and hospital systems to borrow funds, issue bonds, and enter into loan agreements for the purpose of providing property coverage; providing for validating such bonds; providing an exemption from taxation; amending s. 215.555, F.S.; limiting the activities of the Florida Hurricane Fund Finance Corporation with respect to funding obligations; providing for revenue bonds to be issued to fund the obligations of the Florida Hurricane Excess Loss Program (FHELP); providing legislative findings; creating the Florida Hurricane Excess Loss Program Finance Corporation; providing for a board of directors; providing powers and duties; providing for the corporation to issue bonds that are not a debt of the state or any political subdivision; providing an exemption from taxation; providing for the protection of bondholders; limiting the activities of the Florida Hurricane Excess Loss Program Finance Corporation with respect to the obligations incurred by the Florida Hurricane Catastrophe Fund; authorizing the board of the Florida Hurricane Catastrophe Fund to enter into capital market transactions; authorizing temporary emergency options for additional coverage; providing a system under which insurers may procure additional reinsurance from the fund; defining terms; providing guidelines for such coverage; prescribing premiums for such coverage; providing a temporary increase in coverage limit options; providing legislative findings; defining terms; creating the Florida Hurricane Excess Loss Program, which shall be administered by the State Board of Administration; authorizing the board to adopt rules and employ or contract with staff; requiring that a contract addendum be executed by participating insurers; requiring that the state assume a portion of liability for losses under a covered policy; requiring that such coverage be funded separately from the obligations of the Florida Hurricane Catastrophe Fund and proceeds of bonds issued by the Florida Hurricane Catastrophe Fund Finance Corporation; requiring insurers obtaining certain coverages offered by the Florida Hurricane Catastrophe Fund to make rate filings that reflect savings or reduction in loss exposure; requiring that the Office of Insurance Regulation specify, by order, the dates on which such filings must be made; providing limitations for an insurer in implementing a rate change following a rate filing; requiring the Office of Insurance Regulation to calculate a presumed factor to reflect the impact on rates resulting from this act; providing an appropriation; amending s. 215.5586, F.S., relating to the Florida Comprehensive Hurricane Damage Mitigation Program; providing for grants to homeowners to protect rather than retrofit their properties; revising certain other eligibility criteria for a grant; authorizing the use of grants for roof-protection systems; amending s. 215.559, F.S., relating to the Hurricane Loss Mitigation Program; providing for a certain portion of the appropriation under the program to be used for securing fixtures for mobile homes; amending s. 350.012, F.S.; redesignating the Committee on Public Service Commission Oversight as the "Committee on Public Service Commission and Insurance Oversight"; requiring that the committee confirm or reject the appointment of the Insurance Consumer Advocate by the Chief Financial Officer; amending s. 350.0611, F.S., relating to the Public Counsel; providing duties with respect to the Insurance Consumer Advocate; amending s. 350.0613, F.S.; authorizing the Public Counsel to represent the public before the Office of Insurance Regulation, the Financial Services Commission, and the Department of Financial Services; including certain proceedings related to rules and rate filings for insurance; authorizing the Public Counsel to have access to files of the Office of Insurance Regulation, the Financial Services Commission, and the Department of Financial Services, to seek review of orders of the office and the commission, and to issue reports, recommendations, and proposed orders to the office and the commission; authorizing the Committee on Public Service Commission and Insurance Oversight to authorize the Public Counsel to employ certain types of employees; requiring the Office of Insurance Regulation, the Financial Services Commission, and the Department of Financial Services to provide copies of certain filings to the Public Counsel; creating s. 350.0615, F.S.; creating the office of Insurance Consumer Advocate to represent the public on matters relating to the regulation of insurance; requiring the Chief Financial Officer to appoint the Insurance Consumer Advocate, who is subject to confirmation by the Committee on Public Service Commission and Insurance Oversight; providing for the Insurance Consumer Advocate to report directly to and be employed by the Public Counsel; specifying the powers and duties of the Insurance Consumer Advocate; creating s. 395.1060, F.S.; providing for risk pooling, with respect to property exposure, by certain hospitals and hospital systems; exempting entities formed to do so from the Florida Insurance Code; amending s. 553.73, F.S.; prohibiting the Florida Building Commission from modifying certain foundation codes relating to wind resistance or the prevention of water intrusion unless the modification enhances such provisions; amending s. 553.775, F.S., relating to interpretations of the Florida Building Code; conforming a cross-reference; requiring jurisdictions having authority to enforce the Florida Building Code to require wind-borne-debris protection according to specified requirements; requiring that the Florida Building Commission amend the Florida Building Code to reflect the requirements of the act and eliminate certain less stringent requirements; providing an exception; requiring an amendment to the code with respect to certain provisions governing new residential construction; requiring the commission to develop voluntary guidelines for increasing the hurricane resistance of buildings; requiring that the guidelines be included in the commission's report to the 2008 Legislature; amending s. 624.319, F.S.; authorizing the Public Counsel and the Insurance Consumer Advocate to have access to certain confidential information held by the Department of Financial Services or the Office of Insurance Regulation; amending s. 624.462, F.S.; revising requirements for the establishment of a commercial self-insurance fund by a not-for-profit group; amending s. 624.4622, F.S.; authorizing local government self-insurance funds to insure or self-insure real or personal property against loss or damage; creating s. 624.4625, F.S.; authorizing two or more corporations not for profit to form a self-insurance fund for certain purposes; providing specific requirements; providing a definition; providing limitations; providing for application of certain provisions to certain premiums, contributions, and assessments; providing for payment of insurance premium tax at a reduced rate by corporation not-for-profit self-insurance funds; subjecting a corporation not for profit self-insurance fund to certain group self-insurance fund provisions under certain circumstances; amending s. 624.610, F.S.; specifying additional circumstances under which the Office of Insurance Regulation may allow credit when reinsurance is ceded to an assuming insurer; amending s. 626.9541, F.S.; providing that an insurer's failure to offer in this state any kind or line of insurance which all insurers or affiliated insurers offer in another jurisdiction constitutes an unfair method of competition and unfair or deceptive act; providing penalties; providing for rules; repealing s. 627.0613, F.S., relating to the consumer advocate appointed by the Chief Financial Officer; amending s. 627.062, F.S.; deleting provisions allowing property and casualty insurers to use and file rates; deleting provisions exempting certain rate filings from review by the Office of Insurance Regulation; deleting provisions authorizing an insurer to require the arbitration of a rate filing following agency action under the Administrative Procedure Act; requiring the chief executive officer, chief financial officer, or chief actuary of a property insurer to certify the information contained in a rate filing;

providing penalties for knowingly making a false certification; authorizing the Financial Services Commission to adopt rules; deleting provisions placing the burden on the Office of Insurance Regulation to establish that certain rates are excessive; amending s. 627.0628, F.S., relating to hurricane loss projection; conforming references to changes made by the act; amending s. 627.311, F.S.; providing for the Insurance Consumer Advocate to be a member of the board of governors supervising joint underwriting associations; amending s. 627.351, F.S., relating to the Citizens Property Insurance Corporation; deleting provisions that deny certain nonhomestead property eligibility for coverage by the corporation; including commercial nonresidential policies into an account of the corporation; authorizing the corporation to issue multiperil coverage, wind-only coverage, or both in the high-risk account after a specified date; deleting provisions authorizing the Office of Insurance Regulation to remove territory from the area eligible for wind-only and quota share coverage; redefining the term "subject lines of business" subject to assessments for deficits; requiring the board of governors of the corporation to levy an assessment against nonhomestead property policyholders if certain deficits occur after a specified date; restricting the eligibility of a risk for a policy issued by the corporation under certain circumstances; authorizing the plan of operation to establish limits of coverage and to require commercial property to meet specified hurricane-mitigation features; requiring that the corporation annually file recommended rates; requiring that the office issue a final order establishing the rates within a specified period; prohibiting the corporation from pursuing administrative or judicial review of such order; deleting provisions specifying circumstances under which a rate is deemed inadequate; deleting legislative intent concerning rate adequacy in the residual market; deleting provisions providing requirements for personal lines residential policies and residential wind-only policies; deleting an exemption provided for coverage provided by the corporation in Monroe County under certain circumstances; deleting a requirement that the corporation certify to the office that its rates comply with certain requirements; deleting a requirement for a notice to policyholders and applicants; rescinding certain rate filings by the corporation which took effect January 1, 2007; reinstating certain rates in effect on December 31, 2006; clarifying the effect of a policy that is taken out, assumed, or removed from the corporation; providing legislative intent that commercial nonresidential property insurance be made available from Citizens Property Insurance Corporation; requiring that Citizens Property Insurance Corporation adopt a plan providing for the transition of such coverage from the Property and Casualty Joint Underwriting Association to Citizens; providing requirements for the plan; amending s. 627.701, F.S.; revising requirements for the deductible amount applicable to hurricane loss for policies of residential property insurance and personal lines residential property insurance; prohibiting a hurricane deductible in excess of a specified percentage for personal lines residential property insurance policies of less than a certain value unless the policyholder signs a statement acknowledging the lack of insurance or provides a statement from the mortgageholder or lienholder; requiring that the insurer keep documentation of such statements; requiring the Financial Services Commission to adopt rules; deleting obsolete provisions; amending s. 627.706, F.S., relating to sinkhole insurance; defining the term "catastrophic ground cover collapse"; amending s. 627.7065, F.S., relating to a database of sinkhole information; conforming a reference to changes made by the act; creating s. 627.712, F.S.; requiring insurers issuing residential property insurance to provide hurricane or windstorm coverage; authorizing a policyholder to make a written rejection of such coverage by signing a statement acknowledging the lack of insurance or providing a statement from the mortgageholder or lienholder; requiring insurers issuing residential property insurance to make available an exclusion of coverage for contents; providing for the policyholder to make a written rejection of such coverage; requiring that the insurer keep documentation of such statements; requiring the Financial Services commission to adopt rules; creating s. 627.713, F.S.; authorizing the office to require property insurers to report data regarding hurricane claims and underwriting costs; providing for the adoption of rules; amending s. 631.57, F.S.; specifying certain additional circumstances under which the board of directors of the Florida Insurance Guaranty Association, Inc., may levy emergency and regular assessments; clarifying that authorization exists for the Florida Insurance Guaranty Association to certify and for the Office of Insurance Regulation to levy an emergency assessment; amending s. 631.912, F.S., relating to the board of directors of the Florida Workers' Compensation Insurance Guaranty Association, Inc.; conforming provisions to changes made by the act; amending s. 718.111, F.S.; providing for windstorm insurance for condominium associations; repealing s. 627.0629(6), F.S., relating to requirements for hurricane or windstorm coverage; creating the Windstorm Mitigation Study Commission for the purpose of analyzing solutions and programs that could address the state's need to mitigate the effects of windstorms on structures; providing for membership and qualifications; providing that the members are entitled to reimbursement for expenses incurred in connection with their duties; requiring the Department of Financial Services, the Office of Insurance Regulation, the Citizens Property Insurance Corporation, and other state agencies to supply information, assistance, and facilities to the commission; requiring that the Executive Office of the Governor provide staff assistance; specifying duties of the commission; requiring that the commission report to the Governor, the Legislature, the Chief Financial Officer, and the Commissioner of Insurance Regulation by a specified date; establishing the Florida Disaster Recovery Initiative within the Department of Community Affairs for the purpose of assisting local governments in hardening affordable housing against the effects of hurricanes; specifying that the act does not create an entitlement or obligate the state; providing for program administration; specifying the entities that are eligible to apply for funding; providing components and requirements of the initiative; providing an appropriation; amending s. 627.711, F.S.; requiring the Financial Services Commission to develop uniform mitigation verification inspection forms; providing duties of the commission; expressing the intent of the Legislature to create a grant program to assist low-income persons in purchasing property insurance; creating s. 350.06151, F.S.; providing for transfer of funds from the Insurance Regulatory Trust Fund to the Grants and Donations Trust Fund of the legislative branch to fund the Office of Insurance Consumer Advocate; providing effective dates.

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

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

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

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

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

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

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

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

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

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

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

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

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

WHEREAS, the role of consumer advocacy is a critical part of addressing this crisis and consumer advocacy for property insurance is a critical,

if not the predominant, part of consumer advocacy regarding insurance, and

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

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

On motion by Senator Geller, by two-thirds vote **CS for CS for HB 3-A** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38

Mr. President	Fasano	Oelrich
Alexander	Gaetz	Peaden
Argenziano	Garcia	Posey
Aronberg	Geller	Rich
Atwater	Haridopolos	Ring
Baker	Hill	Saunders
Bennett	Jones	Siplin
Bullard	Joyner	Storms
Carlton	Justice	Villalobos
Constantine	King	Webster
Crist	Lawson	Wilson
Deutch	Lynn	Wise
Dockery	Margolis	

Nays—None

Vote after roll call:

Yea—Diaz de la Portilla

MOTION

On motion by Senator Posey, the House was requested to concur in the Senate amendment to **CS for CS for HB 3-A** and in the event the House refuses to concur, moved that a conference committee be appointed.

CS for CS for HB 5-A—A bill to be entitled An act relating to hurricane preparedness and insurance; providing a short title; amending s. 215.5586, F.S.; revising criteria for wind certification and hurricane mitigation inspectors; requiring a level 2 background check for wind certification and hurricane mitigation inspectors; revising certain financial wind certification and mitigation grant criteria and use provisions; providing additional uses for grant funding for certain homeowners; authorizing the Department of Financial Services to contract with a not-for-profit corporation to conduct the Florida Comprehensive Hurricane Damage Mitigation Program and enhance awareness of the benefits of mitigation; requiring the department to develop and maintain a list of wind certification and hurricane mitigation inspectors; amending s. 626.2815, F.S.; requiring continuing education for certain agents and customer representatives on the subject of premium discounts for hurricane mitigation options; amending s. 627.062, F.S.; requiring certain rate filings to account for certain mitigation measures; amending s. 627.0629, F.S.; providing for reductions in deductibles for mitigation measures; amending s. 627.701, F.S.; requiring insurers to provide insureds options for certain deductibles, credits, or rate differentials; amending s. 627.711, F.S.; requiring the Financial Services Commission to develop uniform mitigation verification inspection forms; providing duties of the commission; creating the Windstorm Mitigation Study Committee for the purpose of analyzing solutions and programs that could address the state's need to mitigate the effects of windstorms on structures; providing for membership and qualifications; providing that the members are entitled to reimbursement for expenses incurred in connection with their duties; providing for reimbursement of travel expenses; requiring the Department of Financial Services, the Office of Insurance Regulation, the Citizens Property Insurance Corporation, and other state agencies to supply information, assistance, and facilities to the committee; requiring the department to provide staff assistance; specifying duties of the committee; requiring the committee to report to the Governor, the Legislature, the Chief Financial Officer, and the Commissioner of Insurance Regulation by a specified date; providing for expiration of the committee; requiring the Financial Services Commission to adopt a uniform home grading scale for certain purposes; providing criteria; providing an appropriation to the Department of Community Affairs for certain purposes; specifying use of funds; providing appropriations; providing effective dates.

—was read the second time by title.

Senator Posey moved the following amendment which was adopted:

Amendment 1 (251982)(with title amendment)—Delete everything after the enacting clause and insert:

Section 1. Paragraphs (m) and (n) of subsection (2) of section 20.121, Florida Statutes, are amended to read:

20.121 Department of Financial Services.—There is created a Department of Financial Services.

(2) DIVISIONS.—The Department of Financial Services shall consist of the following divisions:

~~(m) The Office of Insurance Consumer Advocate.~~

(m)~~(n)~~ The Division of Funeral, Cemetery, and Consumer Services.

Section 2. *All of the powers, duties, functions, records, personnel, and property; unexpended balances of appropriations, allocations, and other funds; administrative authority; administrative rules; pending issues; and existing contracts of the consumer advocate and the Office of Insurance Consumer Advocate are transferred by a type two transfer, pursuant to s. 20.06(2), Florida Statutes, from the Chief Financial Officer and the Department of Financial Services to the Public Counsel. Funds shall be transferred by the Department of Financial Services from the Insurance Regulatory Trust Fund to the Grants and Donations Trust Fund in the legislative branch for the purpose of funding the Office of Insurance Consumer Advocate. The transfer amount for the 2006-2007 fiscal year is equal to the remaining unobligated approved operating budget for the Office of Insurance Consumer Advocate within the Department of Financial Services.*

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

(7)

(e)1. Notwithstanding the provisions of paragraph (c), any separate legal entity, created pursuant to the provisions of this section and controlled by counties or municipalities of this state, the membership of which consists or is to consist only of public agencies of this state, may, for the purpose of financing *the provision or* acquisition of liability *or property* coverage contracts *for or* from one or more local government liability *or property* pools to provide liability *or property* coverage for counties, municipalities, or other public agencies of this state, exercise all powers in connection with the authorization, issuance, and sale of bonds. All of the privileges, benefits, powers, and terms of s. 125.01 relating to counties and s. 166.021 relating to municipalities shall be fully applicable to such entity and such entity shall be considered a unit of local government for all of the privileges, benefits, powers, and terms of part I of chapter 159. Bonds issued by such entity shall be deemed issued on behalf of counties, municipalities, or public agencies which enter into loan agreements with such entity as provided in this paragraph. Proceeds of bonds issued by such entity may be loaned to counties, municipalities, or other public agencies of this state, whether or not

such counties, municipalities, or other public agencies are also members of the entity issuing the bonds, and such counties, municipalities, or other public agencies may in turn deposit such loan proceeds with a separate local government liability *or property* pool for purposes of *providing or* acquiring liability *or property* coverage contracts.

2. Counties or municipalities of this state are authorized pursuant to this section, in addition to the authority provided by s. 125.01, part II of chapter 166, and other applicable law, to issue bonds for the purpose of acquiring liability coverage contracts from a local government liability pool. Any individual county or municipality may, by entering into interlocal agreements with other counties, municipalities, or public agencies of this state, issue bonds on behalf of itself and other counties, municipalities, or other public agencies, for purposes of acquiring a liability coverage contract or contracts from a local government liability pool. Counties, municipalities, or other public agencies are also authorized to enter into loan agreements with any entity created pursuant to subparagraph 1., or with any county or municipality issuing bonds pursuant to this subparagraph, for the purpose of obtaining bond proceeds with which to acquire liability coverage contracts from a local government liability pool. No county, municipality, or other public agency shall at any time have more than one loan agreement outstanding for the purpose of obtaining bond proceeds with which to acquire liability coverage contracts from a local government liability pool. Obligations of any county, municipality, or other public agency of this state pursuant to a loan agreement as described above may be validated as provided in chapter 75. Prior to the issuance of any bonds pursuant to subparagraph 1. or this subparagraph for the purpose of acquiring liability coverage contracts from a local government liability pool, the reciprocal insurer or the manager of any self-insurance program shall demonstrate to the satisfaction of the Office of Insurance Regulation of the Financial Services Commission that excess liability coverage for counties, municipalities, or other public agencies is reasonably unobtainable in the amounts provided by such pool or that the liability coverage obtained through acquiring contracts from a local government liability pool, after taking into account costs of issuance of bonds and any other administrative fees, is less expensive to counties, municipalities, or special districts than similar commercial coverage then reasonably available.

3. Any entity created pursuant to this section or any county or municipality may also issue bond anticipation notes, as provided by s. 215.431, in connection with the authorization, issuance, and sale of such bonds. In addition, the governing body of such legal entity or the governing body of such county or municipality may also authorize bonds to be issued and sold from time to time and may delegate, to such officer, official, or agent of such legal entity as the governing body of such legal entity may select, the power to determine the time; manner of sale, public or private; maturities; rate or rates of interest, which may be fixed or may vary at such time or times and in accordance with a specified formula or method of determination; and other terms and conditions as may be deemed appropriate by the officer, official, or agent so designated by the governing body of such legal entity. However, the amounts and maturities of such bonds and the interest rate or rates of such bonds shall be within the limits prescribed by the governing body of such legal entity and its resolution delegating to such officer, official, or agent the power to authorize the issuance and sale of such bonds. Any series of bonds issued pursuant to this paragraph *for liability coverage* shall mature no later than 7 years following the date of issuance ~~thereof~~. *Any series of bonds issued pursuant to this paragraph for property coverage shall mature no later than 30 years following the date of issuance.*

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

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

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

(h)1. Notwithstanding the provisions of paragraph (c), any separate legal entity consisting of an alliance, as defined in s. 395.1060(2)(a), which is created pursuant to this paragraph and controlled by and whose members consist of the following eligible entities: special districts created pursuant to a special act and having the authority to own or operate one or more Florida-licensed hospitals, or Florida-licensed hospitals that are owned, operated, or funded by a county or municipality, may, for the purpose of providing property insurance coverage as defined in s. 395.1060(2)(c), for such eligible entities, exercise all powers under this subsection in connection with borrowing funds for such purposes, including, without limitation, the authorization, issuance, and sale of bonds, notes, or other obligations of indebtedness. Borrowed funds, including bonds issued by such alliance, shall be deemed issued on behalf of such eligible entities that enter into loan agreements with such separate entity as provided in this paragraph.

2. Any such separate entity shall have all the powers that are provided by the interlocal agreement under which it is created or that are necessary to finance, operate, or manage the alliance's property insurance coverage program. Proceeds of bonds, notes, or other obligations issued by such an entity may be loaned to any one or more eligible entities. Eligible entities are authorized to enter into loan agreements with any separate entity created pursuant to this paragraph for the purpose of obtaining moneys with which to finance property insurance coverage or claims. Obligations of any eligible entity pursuant to a loan agreement as described in this paragraph may be validated as provided in chapter 75.

3. Any bonds, notes, or other obligations to be issued or incurred by a separate entity created pursuant to this paragraph shall be authorized by resolution of the governing body of such entity and bear the date or dates; mature at the time or times, not exceeding 30 years from their respective dates; bear interest at the rate or rates, which may be fixed or vary at such time or times and in accordance with a specified formula or method of determination; be payable at the time or times; be in the denomination; be in the form; carry the registration privileges; be executed in the manner; be payable from the sources and in the medium of payment and at the place; and be subject to redemption, including redemption prior to maturity, as the resolution may provide. The bonds, notes, or other obligations may be sold at public or private sale for such price as the governing body of the separate entity shall determine. The bonds may be secured by such credit enhancement, if any, as the governing body of the separate entity deems appropriate. The bonds may be secured by an indenture of trust or trust agreement. In addition, the governing body of the separate entity may delegate, to such officer or official of such entity as the governing body may select, the power to determine the time; manner of sale, public or private; maturities; rate or rates of interest, which may be fixed or may vary at such time or times and in accordance with a specified formula or method of determination; and other terms and conditions as may be deemed appropriate by the officer or official so designated by the governing body of such separate entity. However, the amounts and maturities of such bonds, the interest rate or rates, and the purchase price of such bonds shall be within the limits prescribed by the governing body of such separate entity in its resolution delegating to such officer or official the power to authorize the issuance and sale of such bonds.

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

5. The accomplishment of the authorized purposes of a separate entity created under this paragraph is in all respects for the benefit of the people

of the state, for the increase of their commerce and prosperity, and for the improvement of their health and living conditions. Since the separate entity will perform essential public functions in accomplishing its purposes, the separate entity is not required to pay any taxes or assessments of any kind whatsoever upon any property acquired or used by it for such purposes or upon any revenues at any time received by it. The bonds, notes, and other obligations of such separate entity, their transfer, and the income therefrom, including any profits made on the sale thereof, are at all times free from taxation of any kind of the state or by any political subdivision or other agency or instrumentality thereof. The exemption granted in this paragraph is not applicable to any tax imposed by chapter 220 on interest, income, or profits on debt obligations owned by corporations.

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

Section 4. Paragraph (c) of subsection (4), subsection (6), and paragraph (a) of present subsection (7) of section 215.555, Florida Statutes, are amended, present subsections (7) through (15) of that section are redesignated as subsections (8) through (16), respectively, a new subsection (7) is added to that section, and subsections (17), (18), and (19) are added to that section, to read:

215.555 Florida Hurricane Catastrophe Fund.—

(4) REIMBURSEMENT CONTRACTS.—

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

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

(6) REVENUE BONDS *FOR FUNDING OBLIGATIONS OF THE FLORIDA HURRICANE CATASTROPHE FUND.*—

(a) General provisions.—

1. Upon the occurrence of a hurricane and a determination that the moneys in the fund are or will be insufficient to pay reimbursement at the levels promised in the reimbursement contracts, the board may take the necessary steps under paragraph (c) or paragraph (d) for the issuance of revenue bonds for the benefit of the fund. The proceeds of such revenue bonds may be used to make reimbursement payments under reimbursement contracts; to refinance or replace previously existing borrowings or financial arrangements; to pay interest on bonds; to fund reserves for the bonds; to pay expenses incident to the issuance or sale of any bond issued under this section, including costs of validating, printing, and delivering the bonds, costs of printing the official statement, costs of publishing notices of sale of the bonds, and related administrative expenses; or for such other purposes related to the financial obligations of the fund as the board may determine. The term of the bonds may not exceed 30 years. The board may pledge or authorize the corporation to pledge all or a portion of all revenues under subsection (5) and under paragraph (b) to secure such revenue bonds and the board may execute such agreements between the board and the issuer of any revenue bonds and providers of other financing arrangements under paragraph *(8)(b)* ~~(7)(b)~~ as the board deems necessary to evidence, secure, preserve, and protect such pledge. If reimbursement premiums received under subsection (5) or earnings on such premiums are used to pay debt service on revenue bonds, such premiums and earnings shall be used only after the use of the moneys derived from assessments under paragraph (b). The funds, credit, property, or taxing power of the state or political subdivisions of the state shall not be pledged for the payment of such bonds. The board may also enter into agreements under paragraph (c) or paragraph (d) for the purpose of issuing revenue bonds in the absence of a hurricane upon a determination that such action would maximize the ability of the fund to meet future obligations.

2. The Legislature finds and declares that the issuance of bonds under this subsection is for the public purpose of paying the proceeds of the bonds to insurers, thereby enabling insurers to pay the claims of policyholders to assure that policyholders are able to pay the cost of construction, reconstruction, repair, restoration, and other costs associated with damage to property of policyholders of covered policies after the occurrence of a hurricane.

(b) Emergency assessments.—

1. If the board determines that the amount of revenue produced under subsection (5) is insufficient to fund the obligations, costs, and expenses of the fund and the corporation, including repayment of revenue bonds and that portion of the debt service coverage not met by reimbursement premiums, the board shall direct the Office of Insurance Regulation to levy, by order, an emergency assessment on direct premiums for all property and casualty lines of business in this state, including property and casualty business of surplus lines insurers regulated under part VIII of chapter 626, but not including any workers' compensation premiums or medical malpractice premiums. As used in this subsection, the term "property and casualty business" includes all lines of business identified on Form 2, Exhibit of Premiums and Losses, in the annual statement required of authorized insurers by s. 624.424 and any rule adopted under this section, except for those lines identified as accident and health insurance and except for policies written under the National Flood Insurance Program. The assessment shall be specified as a percentage of direct written premium and is subject to annual adjustments by the board in order to meet debt obligations. The same percentage shall apply to all policies in lines of business subject to the assessment issued or renewed during the 12-month period beginning on the effective date of the assessment.

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

3. Emergency assessments shall be collected from policyholders. Emergency assessments shall be remitted by insurers as a percentage of direct written premium for the preceding calendar quarter as specified in the order from the Office of Insurance Regulation. The office shall verify the accurate and timely collection and remittance of emergency assessments and shall report the information to the board in a form and at a time specified by the board. Each insurer collecting assessments shall provide the information with respect to premiums and collections as may be required by the office to enable the office to monitor and verify compliance with this paragraph.

4. With respect to assessments of surplus lines premiums, each surplus lines agent shall collect the assessment at the same time as the agent collects the surplus lines tax required by s. 626.932, and the surplus lines agent shall remit the assessment to the Florida Surplus Lines Service Office created by s. 626.921 at the same time as the agent remits the surplus lines tax to the Florida Surplus Lines Service Office.

The emergency assessment on each insured procuring coverage and filing under s. 626.938 shall be remitted by the insured to the Florida Surplus Lines Service Office at the time the insured pays the surplus lines tax to the Florida Surplus Lines Service Office. The Florida Surplus Lines Service Office shall remit the collected assessments to the fund or corporation as provided in the order levied by the Office of Insurance Regulation. The Florida Surplus Lines Service Office shall verify the proper application of such emergency assessments and shall assist the board in ensuring the accurate and timely collection and remittance of assessments as required by the board. The Florida Surplus Lines Service Office shall annually calculate the aggregate written premium on property and casualty business, other than workers' compensation and medical malpractice, procured through surplus lines agents and insureds procuring coverage and filing under s. 626.938 and shall report the information to the board in a form and at a time specified by the board.

5. Any assessment authority not used for a particular contract year may be used for a subsequent contract year. If, for a subsequent contract year, the board determines that the amount of revenue produced under subsection (5) is insufficient to fund the obligations, costs, and expenses of the fund and the corporation, including repayment of revenue bonds and that portion of the debt service coverage not met by reimbursement premiums, the board shall direct the Office of Insurance Regulation to levy an emergency assessment up to an amount not exceeding the amount of unused assessment authority from a previous contract year or years, plus an additional 4 percent provided that the assessments in the aggregate do not exceed the limits specified in subparagraph 2.

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

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

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

9. When a surplus lines insured or an insured who has procured coverage and filed under s. 626.938 is entitled to the return of an unearned premium, the Florida Surplus Lines Service Office shall provide a credit or refund to the agent or such insured for the collected assessment attributable to the unearned premium prior to remitting the emergency assessment collected to the fund or corporation.

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

(c) Revenue bond issuance through counties or municipalities.—

1. If the board elects to enter into agreements with local governments for the issuance of revenue bonds for the benefit of the fund, the board shall enter into such contracts with one or more local governments, including agreements providing for the pledge of revenues, as are necessary to effect such issuance. The governing body of a county or municipality is authorized to issue bonds as defined in s. 125.013 or s. 166.101 from time to time to fund an assistance program, in conjunction with the Florida Hurricane Catastrophe Fund, for the purposes set forth in this section or for the purpose of paying the costs of construction, reconstruction, repair, restoration, and other costs associated with damage to properties of policyholders of covered policies due to the occurrence of a hurricane by assuring that policyholders located in this state are able to recover claims under property insurance policies after a covered event.

2. In order to avoid needless and indiscriminate proliferation, duplication, and fragmentation of such assistance programs, any local government may provide for the payment of fund reimbursements, regardless of whether or not the losses for which reimbursement is made occurred within or outside of the territorial jurisdiction of the local government.

3. The state hereby covenants with holders of bonds issued under this paragraph that the state will not repeal or abrogate the power of the board to direct the Office of Insurance Regulation to levy the assessments and to collect the proceeds of the revenues pledged to the payment of such bonds as long as any such bonds remain outstanding unless adequate provision has been made for the payment of such bonds pursuant to the documents authorizing the issuance of such bonds.

4. There shall be no liability on the part of, and no cause of action shall arise against any members or employees of the governing body of a local government for any actions taken by them in the performance of their duties under this paragraph.

(d) Florida Hurricane Catastrophe Fund Finance Corporation.—

1. In addition to the findings and declarations in subsection (1), the Legislature also finds and declares that:

a. The public benefits corporation created under this paragraph will provide a mechanism necessary for the cost-effective and efficient issuance of bonds. This mechanism will eliminate unnecessary costs in the bond issuance process, thereby increasing the amounts available to pay reimbursement for losses to property sustained as a result of hurricane damage.

b. The purpose of such bonds is to fund reimbursements through the Florida Hurricane Catastrophe Fund to pay for the costs of construction, reconstruction, repair, restoration, and other costs associated with damage to properties of policyholders of covered policies due to the occurrence of a hurricane.

c. The efficacy of the financing mechanism will be enhanced by the corporation's ownership of the assessments, by the insulation of the assessments from possible bankruptcy proceedings, and by covenants of the state with the corporation's bondholders.

2.a. There is created a public benefits corporation, which is an instrumentality of the state, to be known as the Florida Hurricane Catastrophe Fund Finance Corporation.

b. The corporation shall operate under a five-member board of directors consisting of the Governor or a designee, the Chief Financial Officer or a designee, the Attorney General or a designee, the director of the Division of Bond Finance of the State Board of Administration, and the senior employee of the State Board of Administration responsible for operations of the Florida Hurricane Catastrophe Fund.

c. The corporation has all of the powers of corporations under chapter 607 and under chapter 617, subject only to the provisions of this subsection.

d. The corporation may issue bonds and engage in such other financial transactions as are necessary to provide sufficient funds to achieve the purposes of this section.

e. The corporation may invest in any of the investments authorized under s. 215.47.

f. There shall be no liability on the part of, and no cause of action shall arise against, any board members or employees of the corporation for any actions taken by them in the performance of their duties under this paragraph.

3.a. In actions under chapter 75 to validate any bonds issued by the corporation, the notice required by s. 75.06 shall be published only in Leon County and in two newspapers of general circulation in the state, and the complaint and order of the court shall be served only on the State Attorney of the Second Judicial Circuit.

b. The state hereby covenants with holders of bonds of the corporation that the state will not repeal or abrogate the power of the board to

direct the Office of Insurance Regulation to levy the assessments and to collect the proceeds of the revenues pledged to the payment of such bonds as long as any such bonds remain outstanding unless adequate provision has been made for the payment of such bonds pursuant to the documents authorizing the issuance of such bonds.

4. The bonds of the corporation are not a debt of the state or of any political subdivision, and neither the state nor any political subdivision is liable on such bonds. The corporation does not have the power to pledge the credit, the revenues, or the taxing power of the state or of any political subdivision. The credit, revenues, or taxing power of the state or of any political subdivision shall not be deemed to be pledged to the payment of any bonds of the corporation.

5.a. The property, revenues, and other assets of the corporation; the transactions and operations of the corporation and the income from such transactions and operations; and all bonds issued under this paragraph and interest on such bonds are exempt from taxation by the state and any political subdivision, including the intangibles tax under chapter 199 and the income tax under chapter 220. This exemption does not apply to any tax imposed by chapter 220 on interest, income, or profits on debt obligations owned by corporations other than the Florida Hurricane Catastrophe Fund Finance Corporation.

b. All bonds of the corporation shall be and constitute legal investments without limitation for all public bodies of this state; for all banks, trust companies, savings banks, savings associations, savings and loan associations, and investment companies; for all administrators, executors, trustees, and other fiduciaries; for all insurance companies and associations and other persons carrying on an insurance business; and for all other persons who are now or may hereafter be authorized to invest in bonds or other obligations of the state and shall be and constitute eligible securities to be deposited as collateral for the security of any state, county, municipal, or other public funds. This sub-subparagraph shall be considered as additional and supplemental authority and shall not be limited without specific reference to this sub-subparagraph.

6. The corporation and its corporate existence shall continue until terminated by law; however, no such law shall take effect as long as the corporation has bonds outstanding unless adequate provision has been made for the payment of such bonds pursuant to the documents authorizing the issuance of such bonds. Upon termination of the existence of the corporation, all of its rights and properties in excess of its obligations shall pass to and be vested in the state.

(e) Protection of bondholders.—

1. As long as the corporation has any bonds outstanding, neither the fund nor the corporation shall have the authority to file a voluntary petition under chapter 9 of the federal Bankruptcy Code or such corresponding chapter or sections as may be in effect, from time to time, and neither any public officer nor any organization, entity, or other person shall authorize the fund or the corporation to be or become a debtor under chapter 9 of the federal Bankruptcy Code or such corresponding chapter or sections as may be in effect, from time to time, during any such period.

2. The state hereby covenants with holders of bonds of the corporation that the state will not limit or alter the denial of authority under this paragraph or the rights under this section vested in the fund or the corporation to fulfill the terms of any agreements made with such bondholders or in any way impair the rights and remedies of such bondholders as long as any such bonds remain outstanding unless adequate provision has been made for the payment of such bonds pursuant to the documents authorizing the issuance of such bonds.

3. Notwithstanding any other provision of law, any pledge of or other security interest in revenue, money, accounts, contract rights, general intangibles, or other personal property made or created by the fund or the corporation shall be valid, binding, and perfected from the time such pledge is made or other security interest attaches without any physical delivery of the collateral or further act and the lien of any such pledge or other security interest shall be valid, binding, and perfected against all parties having claims of any kind in tort, contract, or otherwise against the fund or the corporation irrespective of whether or not such parties have notice of such claims. No instrument by which such a pledge or security interest is created nor any financing statement need be recorded or filed.

(f) Limitation.—The Florida Hurricane Fund Finance Corporation may not be used to fund obligations under subsection (19).

(7) REVENUE BONDS FOR FUNDING OBLIGATIONS OF THE FLORIDA HURRICANE EXCESS LOSS PROGRAM.—

(a) General provisions.—

1. Upon a determination by law that any moneys dedicated or otherwise available to the Florida Hurricane Excess Loss Program (FHELP) are or will be insufficient to pay for the amount of the state's liability for losses under the FHELP, and a designation by law of a source of revenue from which appropriations will be made to satisfy loan obligations or to secure bonds, the board may take the necessary steps under paragraph (b) to authorize the Florida Hurricane Excess Loss Program Finance Corporation to satisfy loan obligations or to issue bonds for the payment of such losses. The proceeds of such bonds may be used to make payments for such losses; to refinance or replace previously existing borrowings or financial arrangements; to pay interest on bonds; to fund reserves for the bonds; to pay expenses incident to the issuance or sale of any bond issued under this paragraph, including costs of validating, printing, and delivering the bonds, costs of printing the official statement, costs of publishing notices of sale of the bonds, and related administrative expenses; or for such other purposes related to the financial obligations of the FHELP as the board may determine. The term of the bonds may not exceed 30 years. The board and the Florida Hurricane Excess Loss Program Finance Corporation may pledge all or a portion of all revenues available from appropriations from the source designated by law to secure such bonds and the board may execute such agreements between the board and such corporation as the board considers necessary to evidence, secure, preserve, and protect such pledge. The credit, property, or taxing power of the state or political subdivisions of the state may not be pledged for the payment of such bonds. The bonds shall be payable only from revenues specifically appropriated for such purpose or from any other funds or revenues of the Florida Hurricane Excess Loss Program Finance Corporation which are pledged for such purpose. It is the intent of the Legislature that initial funding for the FHELP shall be provided from up to 10 percent of state revenues, which may include covenants to appropriate and budget, as may be necessary.

2. The Legislature finds and declares that the issuance of bonds under this subsection is for the public purpose of paying the proceeds of the bonds to insured policyholders and to ensure that such policyholders are able to pay the cost of construction, reconstruction, repair, restoration, and other costs associated with damage to their residential property after the occurrence of a hurricane, and that the issuance of the bonds is essential to protect the health, safety, and welfare of citizens of the state.

(b) Florida Hurricane Excess Loss Program Finance Corporation.—

1. In addition to the findings and declarations in paragraph (a) and subsection (19), the Legislature also finds and declares that:

a. The public benefits corporation created under this paragraph will provide a mechanism necessary for the cost-effective and efficient issuance of bonds. This mechanism will eliminate unnecessary costs in the bond-issuance process, thereby increasing the amounts available to pay reimbursement for losses to property sustained as a result of hurricane damage.

b. The purpose of such bonds is to fund reimbursements through the FHELP to pay for the costs of construction, reconstruction, repair, restoration, and other costs associated with damage to properties of policyholders of covered policies due to the occurrence of a hurricane.

c. The efficacy of the financing mechanism will be enhanced by the corporation's ownership of the assessments, by the insulation of the assessments from possible bankruptcy proceedings, and by covenants of the state with the corporation's bondholders.

2.a. There is created a public benefits corporation, which is an instrumentality of the state, to be known as the Florida Hurricane Excess Loss Program Finance Corporation.

b. The corporation shall operate under a five-member board of directors consisting of the Governor or a designee, the Chief Financial Officer or a designee, the Attorney General or a designee, the director of the Division of Bond Finance of the Florida Board of Administration, and

the senior employee of the Florida Board of Administration responsible for operations of the Florida Hurricane Catastrophe Fund.

c. The corporation has all of the powers of corporations under chapter 607 and under chapter 617, subject only to the provisions of this subsection.

d. The corporation may issue bonds and engage in such other financial transactions as are necessary to provide sufficient funds to achieve the purposes of this section.

e. The corporation may invest in any of the investments authorized under s. 215.47.

f. There shall be no liability on the part of, and no cause of action shall arise against, any board members or employees of the corporation for any actions taken by them in the performance of their duties under this paragraph.

3.a. In actions under chapter 75 to validate any bonds issued by the corporation, the notice required by s. 75.06 shall be published only in Leon County and in two newspapers of general circulation in the state, and the complaint and order of the court shall be served only on the State Attorney of the Second Judicial Circuit.

b. The state hereby covenants with holders of bonds of the corporation that the state will not repeal or abrogate the power of the board to collect the proceeds of the revenues pledged to the payment of such bonds as long as any such bonds remain outstanding unless adequate provision has been made for the payment of such bonds pursuant to the documents authorizing the issuance of such bonds.

4. The bonds of the corporation are not a debt of the state or of any political subdivision, and neither the state nor any political subdivision is liable on such bonds. The corporation does not have the power to pledge the credit, the revenues, or the taxing power of the state or of any political subdivision. The credit, revenues, or taxing power of the state or of any political subdivision shall not be deemed to be pledged to the payment of any bonds of the corporation.

5.a. The property, revenues, and other assets of the corporation, the transactions and operations of the corporation and the income from such transactions and operations, and all bonds issued under this paragraph and interest on such bonds are exempt from taxation by the state and any political subdivision, including the intangibles tax under chapter 199 and the income tax under chapter 220. This exemption does not apply to any tax imposed by chapter 220 on interest, income, or profits on debt obligations owned by corporations other than the Florida Hurricane Excess Loss Program Finance Corporation.

b. All bonds of the corporation shall be and constitute legal investments without limitation for all public bodies of this state; for all banks, trust companies, savings banks, savings associations, savings and loan associations, and investment companies; for all administrators, executors, trustees, and other fiduciaries; for all insurance companies and associations and other persons carrying on an insurance business; and for all other persons who are now or may hereafter be authorized to invest in bonds or other obligations of the state and shall be and constitute eligible securities to be deposited as collateral for the security of any state, county, municipal, or other public funds. This sub-subparagraph shall be considered as additional and supplemental authority and may not be limited without specific reference to this sub-subparagraph.

6. The corporation and its corporate existence shall continue until terminated by law; however, such law may not take effect as long as the corporation has bonds outstanding unless adequate provision has been made for the payment of such bonds pursuant to the documents authorizing the issuance of such bonds. Upon termination of the existence of the corporation, all of its rights and properties in excess of its obligations shall pass to and be vested in the state.

(c) Protection of bondholders.—

1. As long as the corporation has any bonds outstanding, neither the fund nor the corporation shall have the authority to file a voluntary petition under chapter 9 of the federal Bankruptcy Code or such corresponding chapter or sections as may be in effect, from time to time, and neither any public officer nor any organization, entity, or other person shall authorize the fund or the corporation to be or become a debtor under chapter 9 of the federal Bankruptcy Code or such corresponding chapter or sections as may be in effect, from time to time, during any such period.

2. The state hereby covenants with holders of bonds of the corporation that the state will not limit or alter the denial of authority under this paragraph or the rights under this section vested in the fund or the corporation to fulfill the terms of any agreements made with such bondholders or in any way impair the rights and remedies of such bondholders as long as any such bonds remain outstanding unless adequate provision has been made for the payment of such bonds pursuant to the documents authorizing the issuance of such bonds.

3. Notwithstanding any other provision of law, any pledge of or other security interest in revenue, money, accounts, contract rights, general intangibles, or other personal property made or created by the fund or the corporation shall be valid, binding, and perfected from the time such pledge is made or other security interest attaches without any physical delivery of the collateral or further act and the lien of any such pledge or other security interest shall be valid, binding, and perfected against all parties having claims of any kind in tort, contract, or otherwise against the fund or the corporation irrespective of whether or not such parties have notice of such claims. No instrument by which such a pledge or security interest is created nor any financing statement need be recorded or filed.

(d) The Florida Hurricane Excess Loss Program Finance Corporation may not be used to fund obligations that are incurred by the coverage afforded under the Florida Hurricane Catastrophe Fund, including any retention levels or copayments, whether for mandatory coverage or optional coverages.

(8)~~(7)~~ ADDITIONAL POWERS AND DUTIES.—

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

(17) TEMPORARY INCREASE IN COVERAGE LIMIT OPTIONS.—

(a) Findings and intent.—

1. The Legislature finds that:

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

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

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

2. It is the intent of the Legislature to create options for insurers to purchase a temporary increased coverage limit above the statutorily determined limit in subparagraph (4)(c)1., applicable for the 2007 and 2008 hurricane seasons, to address market disruptions and enable insurers, at their option, to procure additional coverage from the Florida Hurricane Catastrophe Fund. It is the further intent of the Legislature to structure this coverage in a manner that requires insurers to pay premiums that are comparable to the premiums the insurer would have paid for comparable reinsurance coverage but for the current emergency in the reinsurance market and also in a manner that minimizes subsidies from the general public over the long run by providing the optional increase in coverage limit for 2 years.

(b) Applicability of other provisions of this section.—All provisions of this section and the rules adopted under this section apply to the coverage created by this subsection unless specifically superseded by provisions in this subsection.

(c) Additional definitions.—As used in this subsection, the term:

1. "FHCF" means Florida Hurricane Catastrophe Fund.

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

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

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

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

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

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

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

9. "TICL coverage" means the coverage for an insurer's losses above the insurer's statutorily determined claims-paying capacity based on the claims-paying limit in subparagraph (4)(c)1., which an insurer selects as its temporary increase in coverage from the fund under the TICL options selected. A TICL insurer's increased coverage limit options shall be calculated as follows:

a. The board shall calculate and report to each TICL insurer the TICL coverage multiples based on three options for increasing the insurer's FHCF coverage limit. Each TICL coverage multiple shall be calculated by dividing $1 billion, $2 billion, or $3 billion by the total estimated aggregate FHCF reimbursement premiums for the 2007-2008 reimbursement contract year and for the 2008-2009 reimbursement contract year.

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

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

(d) TICL options addendum.—

1. The TICL options addendum shall provide for reimbursement of TICL insurers for covered events occurring between June 1, 2007, and May 31, 2008, and between June 1, 2008, and May 31, 2009, in exchange for the TICL reimbursement premium paid into the fund under paragraph (e). Any insurer writing covered policies has the option of selecting an increased limit of coverage under the TICL options addendum and shall select such coverage at the time that it executes the FHCF reimbursement contract.

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

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

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

(e) TICL reimbursement premiums.—

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

2. Each insurer's TICL premium shall be calculated based on the additional limit of increased coverage that it selects. Such limit is determined by multiplying the TICL multiple associated with one of the three options times the insurer's FHCF reimbursement premium. For the amount of increased coverage based on the option of using $1 billion to derive the TICL multiple, the rate-on-line for such coverage shall be 20 percent. For the option using $2 billion, the rate-on-line shall be 17.5 percent and for the option using $3 billion, the rate-on-line shall be 15 percent.

(f) Effect on claims-paying capacity of the fund.—For the contract terms commencing June 1, 2007, and April 1, 2008, the program created by this subsection shall increase the claims-paying capacity of the fund as provided in subparagraph (4)(c)1. by an amount not to exceed $3 billion dollars and shall depend on the TICL coverage options selected and the number of insurers that select the TICL optional coverage. The additional capacity shall apply only to the additional coverage provided under the TICL options and shall not otherwise affect any insurer's reimbursement from the fund if the insurer chooses not to select the temporary option to increase its limit of coverage under the FHCF.

(18) FLORIDA HURRICANE EXCESS LOSS PROGRAM.—

(a) The Legislature finds and declares as follows:

1. There is a compelling state interest in maintaining a viable and orderly private-sector market for property insurance in this state and ensuring that premiums for property insurance are affordable. Increased premiums and assessments may force policyholders to sell their homes and even leave the state, which poses a serious threat to the economy of the state and the essential economic value of home ownership.

2. As a result of unprecedented levels of catastrophic insured losses in recent years, and especially as a result of Hurricanes Charlie, Jeanne, Francis, Ivan, Dennis, Katrina, Rita, and Wilma, insurers are facing increased demands from regulators, rating agencies, and investors to obtain reinsurance to cover multiple catastrophic events at a time when reinsurance availability has been limited, reinsurance costs have substantially increased, and hurricane loss-projection models are reportedly being revised to increase expected hurricane losses, all causing further disruption in the reinsurance and property insurance market.

3. Providing a limitation of liability on property insurers above amounts that are covered by the Florida Hurricane Catastrophe Fund and assuming state liability for such amounts will enable insurers to limit its purchase of reinsurance and limit their exposure to losses under such amounts, with corresponding premium savings to residential property insurance policyholders in the state.

(b) All provisions of this section and rules adopted under this section apply to the program created by this subsection, except as otherwise provided in this section or as superseded by this subsection.

(c) As used in this subsection, the term:

1. "FHCF" means Florida Hurricane Catastrophe Fund.

2. "FHELP" means Florida Hurricane Excess Loss Program.

3. "FHELP retention" means the sum of the insurer's FHCF retention as defined in paragraph (2)(e), plus the insurer's limit of FHCF coverage as determined in subparagraph (4)(c)2., plus the insurer's copayments associated with the coverage selected as provided for in paragraph (4)(b), including the maximum limits of coverage available to the insurer under the Temporary Increased Coverage Limit (TICL) option pursuant to subsection (18), whether or not selected by the insurer, but only for those years when the TICL option is available.

4. "FHELP payout multiple" means the factor or number derived by dividing the difference in the industry FHELP coverage limit and the industry FHELP retention by the estimated aggregate FHCF premium paid by all insurers for the mandatory FHCF coverage for the contract year calculated at the time the premium formula is determined.

(d) There is created the Florida Hurricane Excess Loss Program to be administered by the State Board of Administration. The board may adopt such rules as are reasonable and necessary to administer this subsection and provide for the operation of the FHELP. The board may employ or contract with such staff and professionals as the board considers necessary for the administration of the FHELP. The board shall administer the FHELP in conjunction with the FHCF; however, in all other respects, the operation, accounts, assets, liabilities, rights, and obligations of the FHELP shall be segregated from those of the FHCF and shall not in any way affect the operation, accounts, assets, liabilities, rights, and obligations of the FHCF. Any moneys attributable to the FHELP shall be subject to the same limitations and investment restrictions as provide for under subsection (3).

(e)1. Beginning with the FHCF reimbursement contract year on June 1, 2007, the board shall require a contract addendum be executed by each FHCF participating insurer that obligates the state to provide FHELP coverage in exchange for the insurer's obligation to pay and service all claims covered by FHELP. The execution of the addendum shall be a requirement and a condition of doing business in this state for all insurers writing covered policies.

2. The FHELP addendum shall require that the state assume liability under the FHELP for 90 percent of losses under a covered policy from each covered event in excess of the insurer's FHELP retention up to the insurer's FHELP limit. The insurer's FHELP limit is determined by multiplying the insurer's FHCF reimbursement premium by the FHELP payout multiple. The FHELP addendum shall also require that the state reimburse the insurer for 5 percent of the reimbursed losses to cover loss-adjustment expenses.

3. The FHELP addendum shall also provide that the obligation of the board with respect to all contracts covering a particular contract year shall not exceed the industry FHELP coverage limit. For the 2007 contract year, the industry FHELP coverage limit is $23 billion in excess of the industry FHELP retention. The industry FHELP coverage limit shall be adjusted each year based upon the reported exposure from the prior contract year to reflect the percentage growth in exposure to the fund.

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

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

(f) Insurers are not be required to pay premiums for FHELP coverage, which shall be funded pursuant to subsection (7). Such coverage shall be funded separately and apart from the obligations of the Florida Hurricane Catastrophe Fund and any revenue bonds issued by the Florida Hurricane Catastrophe Fund Finance Corporation.

Section 5. *(1) An insurer that elects the TEACO or TICL coverage options offered by the Florida Hurricane Catastrophe Fund, as required to be offered by this act, must make a rate filing with the Office of Insurance Regulation, pursuant to the "file and use" provisions of s. 627.062(2)(a)1., Florida Statutes, which reflects any savings or reduction in loss exposure to the insurer. An insurer may not obtain a rate increase due to the election of the TEACO or TICL coverage options.*

(2) All residential property insurers must make a rate filing with the Office of Insurance Regulation, pursuant to the "file and use" provisions of s. 627.062(2)(a)1., Florida Statutes, to decrease rates to reflect the reduction in loss exposure due to the state assumption of liability for hurricane losses pursuant to the Florida Hurricane Excess Loss Program, as created by this act.

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

(4) An insurer may not implement a rate change under the "use and file" rate procedures of s. 627.062(2)(a)2., Florida Statutes, for a period of 1 year after the effective date of a rate filing required by this section for a policy that is subject to such a rate filing.

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

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

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

(8) Each residential property insurer shall reflect a rate change that takes into account the presumed factor determined under subsection (5) for any policy written or renewed on or after June 1, 2007.

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

Section 6. Subsection (2) of section 215.5586, Florida Statutes, is amended to read:

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

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

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

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

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

3. Have undergone an acceptable wind certification and hurricane mitigation inspection *or use hurricane-protection products tested by the International Hurricane Research Center at Florida International University*.

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

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

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

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

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

1. Roof deck attachment;

2. Secondary water barrier;

3. Roof covering*, including a weighted roof-protection system that may be installed by an approved contractor or homeowner*;

4. Brace gable ends;

5. Reinforce roof-to-wall connections;

6. Opening protection; and

7. Exterior doors, including garage doors.

(f) Low-income homeowners, as defined in s. 420.0004(9), who otherwise meet the requirements of paragraphs (a) and (c) are eligible for a grant of up to $5,000 and are not required to provide a matching amount to receive the grant. Such grants shall be used to retrofit single-family, site-built, owner-occupied, residential properties in order to make them less vulnerable to hurricane damage.

Section 7. Paragraph (a) of subsection (3) of section 215.559, Florida Statutes, is amended to read:

215.559 Hurricane Loss Mitigation Program.—

(3)(a) Forty percent of the total appropriation in paragraph (2)(a) shall be used to inspect and improve tie-downs *or other securing fixtures* for mobile homes.

Section 8. Section 350.012, Florida Statutes, is amended to read:

350.012 Committee on Public Service Commission *and Insurance* Oversight; creation; membership; powers and duties.—

(1) There is created a standing joint committee of the Legislature, designated the Committee on Public Service Commission *and Insurance* Oversight, and composed of 12 members appointed as follows: six members of the Senate appointed by the President of the Senate, two of whom must be members of the minority party; and six members of the House of Representatives appointed by the Speaker of the House of Representatives, two of whom must be members of the minority party. The terms of members shall be for 2 years and shall run from the organization of one Legislature to the organization of the next Legislature. The President shall appoint the chair of the committee in even-numbered years and the vice chair in odd-numbered years, and the Speaker of the House of Representatives shall appoint the chair of the committee in odd-numbered years and the vice chair in even-numbered years, from among the committee membership. Vacancies shall be filled in the same manner as the original appointment. Members shall serve without additional compensation, but shall be reimbursed for expenses.

(2) The committee shall:

(a) Recommend to the Governor nominees to fill a vacancy on the Public Service Commission, as provided by general law; ~~and~~

(b) Appoint a Public Counsel as provided by general law*; and*~~.~~

(c) Confirm or reject the appointment by the Chief Financial Officer of the Insurance Consumer Advocate, as provided in s. 350.0615.

(3) The committee is authorized to file a complaint with the Commission on Ethics alleging a violation of this chapter by a commissioner, former commissioner, former commission employee, or member of the Public Service Commission Nominating Council.

(4) The committee will not have a permanent staff, but the President of the Senate and the Speaker of the House of Representatives shall select staff members from among existing legislative staff, when and as needed.

Section 9. Section 350.0611, Florida Statutes, is amended to read:

350.0611 Public Counsel; duties and powers.—It shall be the duty of the Public Counsel to provide legal representation for the people of the state in proceedings before the commission and in proceedings before counties pursuant to s. 367.171(8). The Public Counsel shall have such powers as are necessary to carry out the duties of his or her office, including, but not limited to, the following specific powers:

(1) To recommend to the commission or the counties, by petition, the commencement of any proceeding or action or to appear, in the name of the state or its citizens, in any proceeding or action before the commission or the counties and urge therein any position which he or she deems to be in the public interest, whether consistent or inconsistent with positions previously adopted by the commission or the counties, and utilize therein all forms of discovery available to attorneys in civil actions generally, subject to protective orders of the commission or the counties which shall be reviewable by summary procedure in the circuit courts of this state;

(2) To have access to and use of all files, records, and data of the commission or the counties available to any other attorney representing parties in a proceeding before the commission or the counties;

(3) In any proceeding in which he or she has participated as a party, to seek review of any determination, finding, or order of the commission or the counties, or of any hearing examiner designated by the commission or the counties, in the name of the state or its citizens;

(4) To prepare and issue reports, recommendations, and proposed orders to the commission, the Governor, and the Legislature on any matter or subject within the jurisdiction of the commission, and to make such recommendations as he or she deems appropriate for legislation relative to commission procedures, rules, jurisdiction, personnel, and functions; ~~and~~

(5) To appear before other state agencies, federal agencies, and state and federal courts in connection with matters under the jurisdiction of the commission, in the name of the state or its citizens*; and*~~.~~

(6) To represent, through the Insurance Consumer Advocate, the general public of the state on matters related to the regulation of insurance before the Office of Insurance Regulation, the Department of Financial Services, and the Financial Services Commission, as provided in s. 350.0615.

Section 10. Section 350.0613, Florida Statutes, is amended to read:

350.0613 Public Counsel; employees; receipt of pleadings.—The committee may authorize the Public Counsel to employ clerical and technical assistants whose qualifications, duties, and responsibilities the committee shall from time to time prescribe. The committee may from time to time authorize retention of the services of additional attorneys*, actuaries, economists,* or experts to the extent that the best interests of the people of the state will be better served thereby, including the retention of expert witnesses and other technical personnel for participation in contested proceedings before the *Public Service* Commission*, the Office of Insurance Regulation, the Department of Financial Services, or the Financial Services Commission*. The *Public Service* Commission shall furnish the Public Counsel with copies of the initial pleadings in all proceedings before the commission*. The Office of Insurance Regulation, the Financial Services Commission, and the Department of Financial Services shall furnish the Public Counsel with copies of all filings, as requested by the Public Counsel or under such criteria as requested by the Public Counsel, which relate to the jurisdiction of the Insurance Consumer Advocate pursuant to s. 350.0615.*~~, and~~ If the Public Counsel *or Insurance Consumer Advocate* intervenes as a party in any proceeding he or she shall be served with copies of all subsequent pleadings, exhibits, and prepared testimony, if used. Upon filing notice of intervention, the Public Counsel *or Insurance Consumer Advocate* shall serve all interested parties with copies of such notice and all of his or her subsequent pleadings and exhibits.

Section 11. Section 350.0615, Florida Statutes, is created to read:

350.0615 Insurance Consumer Advocate.—The Chief Financial Officer shall appoint the Insurance Consumer Advocate, who shall be subject to confirmation by the Committee on Public Service Commission and Insurance Oversight. The Insurance Consumer Advocate shall represent the general public of the state on matters related to the regulation of insurance before the Office of Insurance Regulation, the Department of Financial Services, and the Financial Services Commission. The Insurance Consumer Advocate shall report directly to and be engaged as an employee of the Public Counsel as a Deputy Public Counsel. The Public Counsel shall provide administrative and staff support to the Insurance Consumer Advocate. The Insurance Consumer Advocate has all powers that are necessary to carry out his or her duties, including, but not limited to, the powers to:

(1) Recommend to the office, department, or commission, by petition, the commencement of any proceeding or action; to appear in any proceeding or action before the office, department, or commission; and to appear

in any proceeding before the Division of Administrative Hearings relating to insurance matters under the jurisdiction of the office, department, or commission.

(2) Have access to and use of all files, records, and data of the office, department, or commission.

(3) Examine all rate and form filings submitted to the office, hire consultants as necessary to aid in the review process, and recommend to the office, department, commission, or Legislature any position considered by the Insurance Consumer Advocate to be in the public interest.

Section 12. Section 395.1060, Florida Statutes, is created to read:

395.1060 Risk pooling by certain hospitals and hospital systems.—

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

(a) Have annual premiums in excess of $3 million;

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

(c) Cause to be prepared annually a fiscal year-end financial statement in accordance with generally accepted accounting principles and audited by an independent certified public accountant within 6 months after the end of the fiscal year; and

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

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

(a) "Alliance" means a corporation, association, limited liability company, or partnership or any other legal entity formed by a group of eligible entities.

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

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

(4) An alliance that meets the requirements of this section is not an insurer for purposes of participation in or coverage by the Florida Insurance Guaranty Association established in part II of chapter 631. Alliance self-insured coverage is not subject to insurance premium tax, nor shall any such alliance pursuant to this section be assessed for purposes of s. 627.351 or s. 215.555.

Section 13. Section 553.73, Florida Statutes, is amended to read:

553.73 Florida Building Code.—

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

(b) The technical portions of the Florida Accessibility Code for Building Construction shall be contained in their entirety in the Florida Building Code. The civil rights portions and the technical portions of the accessibility laws of this state shall remain as currently provided by law. Any revision or amendments to the Florida Accessibility Code for Building Construction pursuant to part II shall be considered adopted by the commission as part of the Florida Building Code. Neither the commission nor any local government shall revise or amend any standard of the Florida Accessibility Code for Building Construction except as provided for in part II.

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

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

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

(2) The Florida Building Code shall contain provisions or requirements for public and private buildings, structures, and facilities relative to structural, mechanical, electrical, plumbing, energy, and gas systems, existing buildings, historical buildings, manufactured buildings, elevators, coastal construction, lodging facilities, food sales and food service facilities, health care facilities, including assisted living facilities, adult day care facilities, hospice residential and inpatient facilities and units, and facilities for the control of radiation hazards, public or private educational facilities, swimming pools, and correctional facilities and enforcement of and compliance with such provisions or requirements. Further, the Florida Building Code must provide for uniform implementation of ss. 515.25, 515.27, and 515.29 by including standards and criteria for residential swimming pool barriers, pool covers, latching devices, door and window exit alarms, and other equipment required therein, which are consistent with the intent of s. 515.23. Technical provisions to be contained within the Florida Building Code are restricted to requirements related to the types of materials used and construction methods and standards employed in order to meet criteria specified in the Florida Building Code. Provisions relating to the personnel, supervision or training of personnel, or any other professional qualification requirements relating to contractors or their workforce may not be included within the Florida Building Code, and subsections (4), (5), (6), ~~and~~ (7)*, and (8)* are not to be construed to allow the inclusion of such provisions within the Florida Building Code by amendment. This restriction applies to both initial development and amendment of the Florida Building Code.

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

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

(b) In order for a Technical Advisory Committee to make a favorable recommendation to the commission, the proposal must receive a three-

fourths vote of the members present at the Technical Advisory Committee meeting and at least half of the regular members must be present in order to conduct a meeting;

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

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

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

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

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

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

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

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

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

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

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

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

8. If the compliance review board determines such amendment is not in compliance with this paragraph, the compliance review board shall notify such local government of the noncompliance and that the amendment is invalid and unenforceable until the local government corrects the amendment to bring it into compliance. The local government may appeal the decision of the compliance review board to the commission. If the compliance review board determines such amendment to be in compliance with this paragraph, any substantially affected party may appeal such determination to the commission. Any such appeal shall be filed with the commission within 14 days of the board's written determination. The commission shall promptly refer the appeal to the Division of Administrative Hearings for the assignment of an administrative law judge. The administrative law judge shall conduct the required hearing within 30 days, and shall enter a recommended order within 30 days of the conclusion of such hearing. The commission shall enter a final order within 30 days thereafter. The provisions of chapter 120 and the uniform rules of procedure shall apply to such proceedings. The local government adopting the amendment that is subject to challenge has the burden of proving that the amendment complies with this paragraph in proceedings before the compliance review board and the commission, as applicable. Actions of the commission are subject to judicial review pursuant to s. 120.68. The compliance review board shall determine whether its decisions apply to a respective local jurisdiction or apply countywide.

9. An amendment adopted under this paragraph shall include a fiscal impact statement which documents the costs and benefits of the proposed amendment. Criteria for the fiscal impact statement shall include the impact to local government relative to enforcement, the impact to property and building owners, as well as to industry, relative to the cost of compliance. The fiscal impact statement may not be used as a basis for challenging the amendment for compliance.

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

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

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

(6)(a) The commission, by rule adopted pursuant to ss. 120.536(1) and 120.54, shall update the Florida Building Code every 3 years. When updating the Florida Building Code, the commission shall select the most current version of the International Building Code, the International Fuel Gas Code, the International Mechanical Code, the International Plumbing Code, and the International Residential Code, all of which are adopted by the International Code Council, and the National Electrical Code, which is adopted by the National Fire Protection Association, to form the foundation codes of the updated Florida Building Code,

if the version has been adopted by the applicable model code entity and made available to the public at least 6 months prior to its selection by the commission.

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

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

(d) The commission shall further consider the commission's own interpretations, declaratory statements, appellate decisions, and approved statewide and local technical amendments and shall incorporate such interpretations, statements, decisions, and amendments into the updated Florida Building Code only to the extent that they are needed to modify the foundation codes to accommodate the specific needs of the state. A change made by an institute or standards organization to any standard or criterion that is adopted by reference in the Florida Building Code does not become effective statewide until it has been adopted by the commission. Furthermore, the edition of the Florida Building Code which is in effect on the date of application for any permit authorized by the code governs the permitted work for the life of the permit and any extension granted to the permit.

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

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

(7)~~(f)~~ Upon the conclusion of a triennial update to the Florida Building Code, notwithstanding the provisions of ~~this subsection or~~ subsection (3) *or subsection (6)*, the commission may address issues identified in this *subsection* ~~paragraph~~ by amending the code pursuant only to the rule adoption procedures contained in chapter 120. *Provisions of the Florida Building Code, including those contained in referenced standards and criteria, relating to wind resistance or the prevention of water intrusion may not be amended pursuant to this subsection to diminish those construction requirements; however, the commission may, subject to conditions in this subsection, amend the provisions to enhance those construction requirements.* Following the approval of any amendments to the Florida Building Code by the commission and publication of the amendments on the commission's website, authorities having jurisdiction to enforce the Florida Building Code may enforce the amendments. The commission may approve amendments that are needed to address:

(a)~~1.~~ Conflicts within the updated code;

(b)~~2.~~ Conflicts between the updated code and the Florida Fire Prevention Code adopted pursuant to chapter 633;

(c)~~3.~~ The omission of previously adopted Florida-specific amendments to the updated code if such omission is not supported by a specific recommendation of a technical advisory committee or particular action by the commission; or

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

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

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

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

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

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

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

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

(b) A proposed amendment shall include a fiscal impact statement which documents the costs and benefits of the proposed amendment. Criteria for the fiscal impact statement shall be established by rule by the commission and shall include the impact to local government relative to enforcement, the impact to property and building owners, as well as to industry, relative to the cost of compliance.

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

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

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

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

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

(c) Nonresidential farm buildings on farms.

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

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

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

(g) Temporary sets, assemblies, or structures used in commercial motion picture or television production, or any sound-recording equipment used in such production, on or off the premises.

(h) Storage sheds that are not designed for human habitation and that have a floor area of 720 square feet or less are not required to comply with the mandatory wind-borne-debris-impact standards of the Florida Building Code.

(i) Chickees constructed by the Miccosukee Tribe of Indians of Florida or the Seminole Tribe of Florida. As used in this paragraph, the term "chickee" means an open-sided wooden hut that has a thatched roof of palm or palmetto or other traditional materials, and that does not incorporate any electrical, plumbing, or other nonwood features.

With the exception of paragraphs (a), (b), (c), and (f), in order to preserve the health, safety, and welfare of the public, the Florida Building Commission may, by rule adopted pursuant to chapter 120, provide for exceptions to the broad categories of buildings exempted in this section, including exceptions for application of specific sections of the code or standards adopted therein. The Department of Agriculture and Consumer Services shall have exclusive authority to adopt by rule, pursuant to chapter 120, exceptions to nonresidential farm buildings exempted in paragraph (c) when reasonably necessary to preserve public health, safety, and welfare. The exceptions must be based upon specific criteria, such as under-roof floor area, aggregate electrical service capacity, HVAC system capacity, or other building requirements. Further, the commission may recommend to the Legislature additional categories of buildings, structures, or facilities which should be exempted from the Florida Building Code, to be provided by law.

(10)~~(9)~~(a) In the event of a conflict between the Florida Building Code and the Florida Fire Prevention Code and the Life Safety Code as applied to a specific project, the conflict shall be resolved by agreement between the local building code enforcement official and the local fire code enforcement official in favor of the requirement of the code which offers the greatest degree of lifesafety or alternatives which would provide an equivalent degree of lifesafety and an equivalent method of construction.

(b) Any decision made by the local fire official and the local building official may be appealed to a local administrative board designated by the municipality, county, or special district having firesafety responsibilities. If the decision of the local fire official and the local building official is to apply the provisions of either the Florida Building Code or the Florida Fire Prevention Code and the Life Safety Code, the board may not alter the decision unless the board determines that the application of such code is not reasonable. If the decision of the local fire official and the local building official is to adopt an alternative to the codes, the local administrative board shall give due regard to the decision rendered by the local officials and may modify that decision if the administrative board adopts a better alternative, taking into consideration all relevant circumstances. In any case in which the local administrative board adopts alternatives to the decision rendered by the local fire official and the local building official, such alternatives shall provide an equivalent degree of lifesafety and an equivalent method of construction as the decision rendered by the local officials.

(c) If the local building official and the local fire official are unable to agree on a resolution of the conflict between the Florida Building Code and the Florida Fire Prevention Code and the Life Safety Code, the local administrative board shall resolve the conflict in favor of the code which offers the greatest degree of lifesafety or alternatives which would provide an equivalent degree of lifesafety and an equivalent method of construction.

(d) All decisions of the local administrative board, or if none exists, the decisions of the local building official and the local fire official, are subject to review by a joint committee composed of members of the Florida Building Commission and the Fire Code Advisory Council. If the joint committee is unable to resolve conflicts between the codes as applied to a specific project, the matter shall be resolved pursuant to the provisions of paragraph (1)(d).

(e) The local administrative board shall, to the greatest extent possible, be composed of members with expertise in building construction and firesafety standards.

(f) All decisions of the local building official and local fire official and all decisions of the administrative board shall be in writing and shall be binding upon all persons but shall not limit the authority of the State Fire Marshal or the Florida Building Commission pursuant to paragraph (1)(d) and ss. 663.01 and 633.161. Decisions of general application shall be indexed by building and fire code sections and shall be available for inspection during normal business hours.

(11)~~(10)~~ Except within coastal building zones as defined in s. 161.54, specification standards developed by nationally recognized code promulgation organizations to determine compliance with engineering criteria of the Florida Building Code for wind load design shall not apply to one or two family dwellings which are two stories or less in height unless approved by the commission for use or unless expressly made subject to said standards and criteria by local ordinance adopted in accordance with the provisions of subsection (4).

(12)~~(11)~~ The Florida Building Code does not apply to, and no code enforcement action shall be brought with respect to, zoning requirements, land use requirements, and owner specifications or programmatic requirements which do not pertain to and govern the design, construction, erection, alteration, modification, repair, or demolition of public or private buildings, structures, or facilities or to programmatic requirements that do not pertain to enforcement of the Florida Building Code. Additionally, a local code enforcement agency may not administer or enforce the Florida Building Code to prevent the siting of any publicly owned facility, including, but not limited to, correctional facilities, juvenile justice facilities, or state universities, community colleges, or public education facilities, as provided by law.

Section 14. Subsection (2) of section 553.775, Florida Statutes, is amended to read:

553.775 Interpretations.—

(2) Local enforcement agencies, local building officials, state agencies, and the commission shall interpret provisions of the Florida Building Code in a manner that is consistent with declaratory statements and interpretations entered by the commission, except that conflicts between the Florida Fire Prevention Code and the Florida Building Code shall be resolved in accordance with *s. 553.73(10)(c) and (d)* ~~s. 553.73(9)(c) and (d)~~.

Section 15. *Upon the effective date of this act, each jurisdiction having authority to enforce the Florida Building Code shall, at a minimum, require wind-borne-debris protection in accordance with s. 1609.1, International Building Code (2006) and the International Residential Code (2006) within the "wind-borne-debris region" as that term is defined in s. 1609.2, International Building Code (2006), and s. R301.2, International Residential Code (2006).*

Section 16. *(1) The Florida Building Commission shall amend the Florida Building Code to reflect the application of provisions identified in section 553.73, Florida Statutes, and to eliminate all exceptions that provide less stringent requirements. The amendments by the commission shall apply throughout the state with the exception of the High Velocity Hurricane Zone, which shall be governed as currently provided within the Florida Building Code. The commission shall, in addition, amend the code to require that, at a minimum, in areas where the applicable design wind speed is less than 120 miles per hour, all new residences are designed and constructed to withstand internal pressures. The commission shall fulfill these obligations before July 1, 2007, pursuant only to the provisions of chapter 120, Florida Statutes.*

(2) The Florida Building Commission shall develop voluntary "Code Plus" guidelines for increasing the hurricane resistance of buildings. The guidelines must be modeled on the requirements for the High Velocity Hurricane Zone and must identify products, systems, and methods of construction that the commission anticipates could result in stronger construction. The commission shall include these guidelines in its report to the 2008 Legislature.

Section 17. Paragraph (b) of subsection (3) of section 624.319, Florida Statutes, is amended to read:

624.319 Examination and investigation reports.—

(3)

(b) Workpapers and other information held by the department or office, and workpapers and other information received from another governmental entity or the National Association of Insurance Commissioners, for the department's or office's use in the performance of its examination or investigation duties pursuant to this section and ss.

624.316, 624.3161, 624.317, and 624.318 are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to workpapers and other information held by the department or office before, on, or after the effective date of this exemption. Such confidential and exempt information may be disclosed to another governmental entity, if disclosure is necessary for the receiving entity to perform its duties and responsibilities, and may be disclosed to the National Association of Insurance Commissioners. *The Public Counsel and the Insurance Consumer Advocate shall have access to such confidential and exempt information pertaining to insurance at any time.* The receiving governmental entity or the association must maintain the confidential and exempt status of the information. The information made confidential and exempt by this paragraph may be used in a criminal, civil, or administrative proceeding so long as the confidential and exempt status of such information is maintained. This paragraph is subject to the Open Government Sunset Review Act of 1995 in accordance with s. 119.15 and shall stand repealed on October 2, 2007, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 18. Paragraph (a) of subsection (2) of section 624.462, Florida Statutes, is amended to read:

624.462 Commercial self-insurance funds.—

(2) As used in ss. 624.460-624.488, "commercial self-insurance fund" or "fund" means a group of members, operating individually and collectively through a trust or corporation, that must be:

(a) Established by:

1. A not-for-profit trade association, industry association, or professional association of employers or professionals which has a constitution or bylaws, which is incorporated under the laws of this state, and which has been organized for purposes other than that of obtaining or providing insurance and operated in good faith for a continuous period of 1 year;

2. A self-insurance trust fund organized pursuant to s. 627.357 and maintained in good faith for a continuous period of 1 year for purposes other than that of obtaining or providing insurance pursuant to this section. Each member of a commercial self-insurance trust fund established pursuant to this subsection must maintain membership in the self-insurance trust fund organized pursuant to s. 627.357;

3. A group of 10 or more health care providers, as defined in s. 627.351(4)(h), for purposes of providing medical malpractice coverage; or

4. A not-for-profit group comprised of no *fewer* ~~less~~ than 10 *community* ~~condominium~~ associations*, or a not-for-profit group comprised of one or more community associations having at least 50 residential properties cumulatively valued at over $25 million, created and operating under chapter 718, chapter 719, chapter 720, chapter 721, or chapter 723* ~~as defined in s. 718.103(2), which is incorporated under the laws of this state,~~ which restricts its membership to *community* ~~condominium~~ associations only~~,~~ and which has been organized and maintained in good faith for *the purpose of pooling and spreading the liabilities of its group members relating to property or casualty risk or surety insurance* ~~a continuous period of 1 year for purposes other than that of obtaining or providing insurance~~.

Section 19. Subsection (1) of section 624.4622, Florida Statutes, is amended to read:

624.4622 Local government self-insurance funds.—

(1) Any two or more local governmental entities may enter into interlocal agreements for the purpose of securing the payment of benefits under chapter 440, *or insuring or self-insuring real or personal property of every kind and every interest in such property against loss or damage from any hazard or cause and against any loss consequential to such loss or damage,* provided the local government self-insurance fund that is created must:

(a) Have annual normal premiums in excess of $5 million;

(b) Maintain a continuing program of excess insurance coverage and reserve evaluation to protect the financial stability of the fund in an amount and manner determined by a qualified and independent actuary;

(c) Submit annually an audited fiscal year-end financial statement by an independent certified public accountant within 6 months after the end of the fiscal year to the office; and

(d) Have a governing body which is comprised entirely of local elected officials.

Section 20. Section 624.4625, Florida Statutes, is created to read:

624.4625 Corporation not-for-profit self-insurance funds.—

(1) Notwithstanding any other provision of law, any two or more corporations not for profit located in and organized under the laws of this state may form a self-insurance fund for the purpose of pooling and spreading liabilities of its group members in any one or combination of property or casualty risk, provided the corporation not for profit self-insurance fund that is created:

(a) Has annual normal premiums in excess of $5 million.

(b) Requires for qualification that each participating member receive at least 75 percent of its revenues from local, state, or federal governmental sources or a combination of such sources.

(c) Uses a qualified actuary to determine rates using accepted actuarial principles and annually submits to the office a certification by the actuary that the rates are actuarially sound and are not inadequate, as defined in s. 627.062.

(d) Uses a qualified actuary to establish reserves for loss and loss adjustment expenses and annually submits to the office a certification by the actuary that the loss and loss adjustment expense reserves are adequate. If the actuary determines that reserves are not adequate, the fund shall file with the office a remedial plan for increasing the reserves or otherwise addressing the financial condition of the fund, subject to a determination by the office that the fund will operate on an actuarially sound basis and the fund does not pose a significant risk of insolvency.

(e) Maintains a continuing program of excess insurance coverage and reserve evaluation to protect the financial stability of the fund in an amount and manner determined by a qualified actuary. At a minimum, this program must:

1. Purchase excess insurance from authorized insurance carriers.

2. Retain a per-loss occurrence that does not exceed $350,000.

(f) Submits to the office annually an audited fiscal year-end financial statement by an independent certified public accountant within 6 months after the end of the fiscal year.

(g) Has a governing body that is comprised entirely of officials from corporations not for profit that are members of the corporation not-for-profit self-insurance fund.

(h) Uses knowledgeable persons or business entities to administer or service the fund in the areas of claims administration, claims adjusting, underwriting, risk management, loss control, policy administration, financial audit, and legal areas. Such persons must meet all applicable requirements of law for state licensure and must have at least 5 years' experience with commercial self-insurance funds formed under s. 624.462, self-insurance funds formed under s. 624.4622, or domestic insurers.

(i) Submits to the office copies of contracts used for its members that clearly establish the liability of each member for the obligations of the fund.

(j) Annually submits to the office a certification by the governing body of the fund that, to the best of its knowledge, the requirements of this section are met.

(2) As used in this section, the term "qualified actuary" means an actuary that is a member of the Casualty Actuarial Society or the American Academy of Actuaries.

(3) A corporation not-for-profit self-insurance fund that meets the requirements of this section is not:

(a) An insurer for purposes of participation in or coverage by any insurance guaranty association established by chapter 631; or

(b) Subject to s. 624.4621 and is not required to file any report with the department under s. 440.38(2)(b) that is uniquely required of group self-insurer funds qualified under s. 624.4621.

(4) Premiums, contributions, and assessments received by a corporation not-for-profit self-insurance fund are subject to ss. 624.509(1) and (2) and 624.5092, except that the tax rate shall be 1.6 percent of the gross amount of such premiums, contributions, and assessments.

(5) If any of the requirements of subsection (1) are not met, a corporation not-for-profit self-insurance fund is subject to the requirements of s. 624.4621 if the fund provides only workers' compensation coverage or is subject to the requirements of ss. 624.460-624.488 if the fund provides coverage for other property, casualty, or surety risks.

Section 21. Subsection (3) of section 624.610, Florida Statutes, is amended to read:

624.610 Reinsurance.—

(3)(a) Credit must be allowed when the reinsurance is ceded to an assuming insurer that is authorized to transact insurance or reinsurance in this state.

(b)1. Credit must be allowed when the reinsurance is ceded to an assuming insurer that is accredited as a reinsurer in this state. An accredited reinsurer is one that:

a. Files with the office evidence of its submission to this state's jurisdiction;

b. Submits to this state's authority to examine its books and records;

c. Is licensed or authorized to transact insurance or reinsurance in at least one state or, in the case of a United States branch of an alien assuming insurer, is entered through, licensed, or authorized to transact insurance or reinsurance in at least one state;

d. Files annually with the office a copy of its annual statement filed with the insurance department of its state of domicile any quarterly statements if required by its state of domicile or such quarterly statements if specifically requested by the office, and a copy of its most recent audited financial statement; and

(I) Maintains a surplus as regards policyholders in an amount not less than $20 million and whose accreditation has not been denied by the office within 90 days after its submission; or

(II) Maintains a surplus as regards policyholders in an amount not less than $20 million and whose accreditation has been approved by the office.

2. The office may deny or revoke an assuming insurer's accreditation if the assuming insurer does not submit the required documentation pursuant to subparagraph 1., if the assuming insurer fails to meet all of the standards required of an accredited reinsurer, or if the assuming insurer's accreditation would be hazardous to the policyholders of this state. In determining whether to deny or revoke accreditation, the office may consider the qualifications of the assuming insurer with respect to all the following subjects:

a. Its financial stability;

b. The lawfulness and quality of its investments;

c. The competency, character, and integrity of its management;

d. The competency, character, and integrity of persons who own or have a controlling interest in the assuming insurer; and

e. Whether claims under its contracts are promptly and fairly adjusted and are promptly and fairly paid in accordance with the law and the terms of the contracts.

3. Credit must not be allowed a ceding insurer if the assuming insurer's accreditation has been revoked by the office after notice and the opportunity for a hearing.

4. The actual costs and expenses incurred by the office to review a reinsurer's request for accreditation and subsequent reviews must be charged to and collected from the requesting reinsurer. If the reinsurer fails to pay the actual costs and expenses promptly when due, the office may refuse to accredit the reinsurer or may revoke the reinsurer's accreditation.

(c)1. Credit must be allowed when the reinsurance is ceded to an assuming insurer that maintains a trust fund in a qualified United States financial institution, as defined in paragraph (5)(b), for the payment of the valid claims of its United States ceding insurers and their assigns and successors in interest. To enable the office to determine the sufficiency of the trust fund, the assuming insurer shall report annually to the office information substantially the same as that required to be reported on the NAIC Annual Statement form by authorized insurers. The assuming insurer shall submit to examination of its books and records by the office and bear the expense of examination.

2.a. Credit for reinsurance must not be granted under this subsection unless the form of the trust and any amendments to the trust have been approved by:

(I) The insurance regulator of the state in which the trust is domiciled; or

(II) The insurance regulator of another state who, pursuant to the terms of the trust instrument, has accepted principal regulatory oversight of the trust.

b. The form of the trust and any trust amendments must be filed with the insurance regulator of every state in which the ceding insurer beneficiaries of the trust are domiciled. The trust instrument must provide that contested claims are valid and enforceable upon the final order of any court of competent jurisdiction in the United States. The trust must vest legal title to its assets in its trustees for the benefit of the assuming insurer's United States ceding insurers and their assigns and successors in interest. The trust and the assuming insurer are subject to examination as determined by the insurance regulator.

c. The trust remains in effect for as long as the assuming insurer has outstanding obligations due under the reinsurance agreements subject to the trust. No later than February 28 of each year, the trustee of the trust shall report to the insurance regulator in writing the balance of the trust and list the trust's investments at the preceding year end, and shall certify that the trust will not expire prior to the following December 31.

3. The following requirements apply to the following categories of assuming insurer:

a. The trust fund for a single assuming insurer consists of funds in trust in an amount not less than the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers, and, in addition, the assuming insurer shall maintain a trusteed surplus of not less than $20 million. Not less than 50 percent of the funds in the trust covering the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers and trusteed surplus shall consist of assets of a quality substantially similar to that required in part II of chapter 625. Clean, irrevocable, unconditional, and evergreen letters of credit, issued or confirmed by a qualified United States financial institution, as defined in paragraph (5)(a), effective no later than December 31 of the year for which the filing is made and in the possession of the trust on or before the filing date of its annual statement, may be used to fund the remainder of the trust and trusteed surplus.

b.(I) In the case of a group including incorporated and individual unincorporated underwriters:

(A) For reinsurance ceded under reinsurance agreements with an inception, amendment, or renewal date on or after August 1, 1995, the trust consists of a trusteed account in an amount not less than the group's several liabilities attributable to business ceded by United States domiciled ceding insurers to any member of the group;

(B) For reinsurance ceded under reinsurance agreements with an inception date on or before July 31, 1995, and not amended or renewed after that date, notwithstanding the other provisions of this section, the trust consists of a trusteed account in an amount not less than the group's several insurance and reinsurance liabilities attributable to business written in the United States; and

(C) In addition to these trusts, the group shall maintain in trust a trusteed surplus of which $100 million must be held jointly for the benefit of the United States domiciled ceding insurers of any member of the group for all years of account.

(II) The incorporated members of the group must not be engaged in any business other than underwriting of a member of the group, and are subject to the same level of regulation and solvency control by the group's domiciliary regulator as the unincorporated members.

(III) Within 90 days after its financial statements are due to be filed with the group's domiciliary regulator, the group shall provide to the insurance regulator an annual certification by the group's domiciliary regulator of the solvency of each underwriter member or, if a certification is unavailable, financial statements, prepared by independent public accountants, of each underwriter member of the group.

(d) Credit must be allowed when the reinsurance is ceded to an assuming insurer not meeting the requirements of paragraph (a), paragraph (b), or paragraph (c), but only as to the insurance of risks located in jurisdictions in which the reinsurance is required to be purchased by a particular entity by applicable law or regulation of that jurisdiction.

(e) If the reinsurance is ceded to an assuming insurer not meeting the requirements of paragraph (a), paragraph (b), paragraph (c), or paragraph (d), the office may allow credit, but only if the assuming insurer holds surplus in excess of $100 million and has a secure financial strength rating from at least two nationally recognized statistical rating organizations deemed acceptable by the commissioner. In determining whether credit should be allowed, the office shall consider the following:

1. The domiciliary regulatory jurisdiction of the assuming insurer;

2. The structure and authority of the domiciliary regulator with regard to solvency regulation requirements and the financial surveillance of the reinsurer;

3. The substance of financial and operating standards for reinsurers in the domiciliary jurisdiction;

4. The form and substance of financial reports required to be filed by the reinsurers in the domiciliary jurisdiction or other public financial statements filed in accordance with generally accepted accounting principles;

5. The domiciliary regulator's willingness to cooperate with United States regulators in general and the office in particular;

6. The history of performance by reinsurers in the domiciliary jurisdiction;

7. Any documented evidence of substantial problems with the enforcement of valid United States judgments in the domiciliary jurisdiction; and

8. Any other matters deemed relevant by the commissioner. The commissioner shall give appropriate consideration to insurer group ratings that may have been issued. The commissioner may, in lieu of granting full credit under this subsection, reduce the amount required to be held in trust under paragraph (c).

(f)~~(e)~~ If the assuming insurer is not authorized or accredited to transact insurance or reinsurance in this state pursuant to paragraph (a) or paragraph (b), the credit permitted by paragraph (c) *or paragraph (d)* must not be allowed unless the assuming insurer agrees in the reinsurance agreements:

1.a. That in the event of the failure of the assuming insurer to perform its obligations under the terms of the reinsurance agreement, the assuming insurer, at the request of the ceding insurer, shall submit to the jurisdiction of any court of competent jurisdiction in any state of the United States, will comply with all requirements necessary to give the court jurisdiction, and will abide by the final decision of the court or of any appellate court in the event of an appeal; and

b. To designate the Chief Financial Officer, pursuant to s. 48.151, or a designated attorney as its true and lawful attorney upon whom may be served any lawful process in any action, suit, or proceeding instituted by or on behalf of the ceding company.

2. This paragraph is not intended to conflict with or override the obligation of the parties to a reinsurance agreement to arbitrate their disputes, if this obligation is created in the agreement.

(g)~~(f)~~ If the assuming insurer does not meet the requirements of paragraph (a) or paragraph (b), the credit permitted by paragraph (c) *or paragraph (d)* is not allowed unless the assuming insurer agrees in the trust agreements, in substance, to the following conditions:

1. Notwithstanding any other provisions in the trust instrument, if the trust fund is inadequate because it contains an amount less than the amount required by paragraph (c), or if the grantor of the trust has been declared insolvent or placed into receivership, rehabilitation, liquidation, or similar proceedings under the laws of its state or country of domicile, the trustee shall comply with an order of the insurance regulator with regulatory oversight over the trust or with an order of a United States court of competent jurisdiction directing the trustee to transfer to the insurance regulator with regulatory oversight all of the assets of the trust fund.

2. The assets must be distributed by and claims must be filed with and valued by the insurance regulator with regulatory oversight in accordance with the laws of the state in which the trust is domiciled which are applicable to the liquidation of domestic insurance companies.

3. If the insurance regulator with regulatory oversight determines that the assets of the trust fund or any part thereof are not necessary to satisfy the claims of the United States ceding insurers of the grantor of the trust, the assets or part thereof must be returned by the insurance regulator with regulatory oversight to the trustee for distribution in accordance with the trust agreement.

4. The grantor shall waive any right otherwise available to it under United States law which is inconsistent with this provision.

Section 22. *Section 627.0613, Florida Statutes, is repealed.*

Section 23. Section 627.062, Florida Statutes, is amended to read:

627.062 Rate standards.—

(1) The rates for all classes of insurance to which the provisions of this part are applicable shall not be excessive, inadequate, or unfairly discriminatory.

(2) As to all such classes of insurance:

(a) Insurers or rating organizations shall establish and use rates, rating schedules, or rating manuals to allow the insurer a reasonable rate of return on such classes of insurance written in this state. A copy of rates, rating schedules, rating manuals, premium credits or discount schedules, and surcharge schedules, and changes thereto, shall be filed with the office ~~under one of the following procedures:~~

~~1. If the filing is made~~ at least 90 days before the proposed effective date and the filing *may not be* ~~is not~~ implemented during the office's review of the filing and any proceeding and judicial review~~, then such filing shall be considered a "file and use" filing~~. ~~In such case,~~ The office shall finalize its review by issuance of a notice of intent to approve or a notice of intent to disapprove within 90 days after receipt of the filing. The notice of intent to approve and the notice of intent to disapprove constitute agency action for purposes of the Administrative Procedure Act. Requests for supporting information, requests for mathematical or mechanical corrections, or notification to the insurer by the office of its preliminary findings shall not toll the 90-day period during any such proceedings and subsequent judicial review. The rate shall be deemed approved if the office does not issue a notice of intent to approve or a notice of intent to disapprove within 90 days after receipt of the filing.

~~2. If the filing is not made in accordance with the provisions of subparagraph 1., such filing shall be made as soon as practicable, but no later than 30 days after the effective date, and shall be considered a "use and file" filing. An insurer making a "use and file" filing is potentially subject to an order by the office to return to policyholders portions of rates found to be excessive, as provided in paragraph (h).~~

(b) Upon receiving a rate filing, the office shall review the rate filing to determine if a rate is excessive, inadequate, or unfairly discriminatory. In making that determination, the office shall, in accordance with

generally accepted and reasonable actuarial techniques, consider the following factors:

1. Past and prospective loss experience within and without this state.

2. Past and prospective expenses.

3. The degree of competition among insurers for the risk insured.

4. Investment income reasonably expected by the insurer, consistent with the insurer's investment practices, from investable premiums anticipated in the filing, plus any other expected income from currently invested assets representing the amount expected on unearned premium reserves and loss reserves. The commission may adopt rules utilizing reasonable techniques of actuarial science and economics to specify the manner in which insurers shall calculate investment income attributable to such classes of insurance written in this state and the manner in which such investment income shall be used in the calculation of insurance rates. Such manner shall contemplate allowances for an underwriting profit factor and full consideration of investment income which produce a reasonable rate of return; however, investment income from invested surplus shall not be considered.

5. The reasonableness of the judgment reflected in the filing.

6. Dividends, savings, or unabsorbed premium deposits allowed or returned to Florida policyholders, members, or subscribers.

7. The adequacy of loss reserves.

8. The cost of reinsurance.

9. Trend factors, including trends in actual losses per insured unit for the insurer making the filing.

10. Conflagration and catastrophe hazards, if applicable.

11. A reasonable margin for underwriting profit and contingencies. For that portion of the rate covering the risk of hurricanes and other catastrophic losses for which the insurer has not purchased reinsurance and has exposed its capital and surplus to such risk, the office must approve a rating factor that provides the insurer a reasonable rate of return that is commensurate with such risk.

12. The cost of medical services, if applicable.

13. Other relevant factors which impact upon the frequency or severity of claims or upon expenses.

(c) In the case of fire insurance rates, consideration shall be given to the availability of water supplies and the experience of the fire insurance business during a period of not less than the most recent 5-year period for which such experience is available.

(d) If conflagration or catastrophe hazards are given consideration by an insurer in its rates or rating plan, including surcharges and discounts, the insurer shall establish a reserve for that portion of the premium allocated to such hazard and shall maintain the premium in a catastrophe reserve. Any removal of such premiums from the reserve for purposes other than paying claims associated with a catastrophe or purchasing reinsurance for catastrophes shall be subject to approval of the office. Any ceding commission received by an insurer purchasing reinsurance for catastrophes shall be placed in the catastrophe reserve.

(e) After consideration of the rate factors provided in paragraphs (b), (c), and (d), a rate may be found by the office to be excessive, inadequate, or unfairly discriminatory based upon the following standards:

1. Rates shall be deemed excessive if they are likely to produce a profit from Florida business that is unreasonably high in relation to the risk involved in the class of business or if expenses are unreasonably high in relation to services rendered.

2. Rates shall be deemed excessive if, among other things, the rate structure established by a stock insurance company provides for replenishment of surpluses from premiums, when the replenishment is attributable to investment losses.

3. Rates shall be deemed inadequate if they are clearly insufficient, together with the investment income attributable to them, to sustain projected losses and expenses in the class of business to which they apply.

4. A rating plan, including discounts, credits, or surcharges, shall be deemed unfairly discriminatory if it fails to clearly and equitably reflect consideration of the policyholder's participation in a risk management program adopted pursuant to s. 627.0625.

5. A rate shall be deemed inadequate as to the premium charged to a risk or group of risks if discounts or credits are allowed which exceed a reasonable reflection of expense savings and reasonably expected loss experience from the risk or group of risks.

6. A rate shall be deemed unfairly discriminatory as to a risk or group of risks if the application of premium discounts, credits, or surcharges among such risks does not bear a reasonable relationship to the expected loss and expense experience among the various risks.

(f) In reviewing a rate filing, the office may require the insurer to provide at the insurer's expense all information necessary to evaluate the condition of the company and the reasonableness of the filing according to the criteria enumerated in this section.

(g) The office may at any time review a rate, rating schedule, rating manual, or rate change; the pertinent records of the insurer; and market conditions. If the office finds on a preliminary basis that a rate may be excessive, inadequate, or unfairly discriminatory, the office shall initiate proceedings to disapprove the rate and shall so notify the insurer. However, the office may not disapprove as excessive any rate for which it has given final approval or which has been deemed approved for a period of 1 year after the effective date of the filing unless the office finds that a material misrepresentation or material error was made by the insurer or was contained in the filing. Upon being so notified, the insurer or rating organization shall, within 60 days, file with the office all information which, in the belief of the insurer or organization, proves the reasonableness, adequacy, and fairness of the rate or rate change. The office shall issue a notice of intent to approve or a notice of intent to disapprove pursuant to the procedures of paragraph (a) within 90 days after receipt of the insurer's initial response. In such instances and in any administrative proceeding relating to the legality of the rate, the insurer or rating organization shall carry the burden of proof by a preponderance of the evidence to show that the rate is not excessive, inadequate, or unfairly discriminatory. After the office notifies an insurer that a rate may be excessive, inadequate, or unfairly discriminatory, unless the office withdraws the notification, the insurer shall not alter the rate except to conform with the office's notice until the earlier of 120 days after the date the notification was provided or 180 days after the date of the implementation of the rate. The office may, subject to chapter 120, disapprove without the 60-day notification any rate increase filed by an insurer within the prohibited time period or during the time that the legality of the increased rate is being contested.

(h) In the event the office finds that a rate or rate change is excessive, inadequate, or unfairly discriminatory, the office shall issue an order of disapproval specifying that a new rate or rate schedule which responds to the findings of the office be filed by the insurer. ~~The office shall further order, for any "use and file" filing made in accordance with subparagraph (a)2., that premiums charged each policyholder constituting the portion of the rate above that which was actuarially justified be returned to such policyholder in the form of a credit or refund. If the office finds that an insurer's rate or rate change is inadequate, the new rate or rate schedule filed with the office in response to such a finding shall be applicable only to new or renewal business of the insurer written on or after the effective date of the responsive filing.~~

(i) Except as otherwise specifically provided in this chapter, the office shall not prohibit any insurer, including any residual market plan or joint underwriting association, from paying acquisition costs based on the full amount of premium, as defined in s. 627.403, applicable to any policy, or prohibit any such insurer from including the full amount of acquisition costs in a rate filing.

(j) *Within 24 months after an insurer receives approval of a rate increase of 10 percent or more, the insurer must file and the office must review the insurer's rate based on a rate filing that addresses all elements of the current rate.* ~~Effective July 1, 2007, notwithstanding any other provision of this section:~~

~~1. With respect to any residential property insurance subject to regulation under this section for any area for which the office determines a reasonable degree of competition exists, a rate filing, including, but not limited to, any rate changes, rating factors, territories, classification, discounts, and credits, with respect to any policy form, including endorsements issued with the form, that results in an overall average statewide premium increase or decrease of no more than 5 percent above or below the premium that would result from the insurer's rates then in effect shall not be subject to a determination by the office that the rate is excessive or unfairly discriminatory except as provided in subparagraph 3., or any other provision of law, provided all changes specified in the filing do not result in an overall premium increase of more than 10 percent for any one territory, for reasons related solely to the rate change. As used in this subparagraph, the term "insurer's rates then in effect" includes only rates that have been lawfully in effect under this section or rates that have been determined to be lawful through administrative proceedings or judicial proceedings.~~

~~2. An insurer may not make filings under this paragraph with respect to any policy form, including endorsements issued with the form, if the overall premium changes resulting from such filings exceed the amounts specified in this paragraph in any 12-month period. An insurer may proceed under other provisions of this section or other provisions of law if the insurer seeks to exceed the premium or rate limitations of this paragraph.~~

~~3. This paragraph does not affect the authority of the office to disapprove a rate as inadequate or to disapprove a filing for the unlawful use of unfairly discriminatory rating factors that are prohibited by the laws of this state. An insurer electing to implement a rate change under this paragraph shall submit a filing to the office at least 40 days prior to the effective date of the rate change. The office shall have 30 days after the filing's submission to review the filing and determine if the rate is inadequate or uses unfairly discriminatory rating factors. Absent a finding by the office within such 30-day period that the rate is inadequate or that the insurer has used unfairly discriminatory rating factors, the filing is deemed approved. If the office finds during the 30-day period that the filing will result in inadequate premiums or otherwise endanger the insurer's solvency, the office shall suspend the rate decrease. If the insurer is implementing an overall rate increase, the results of which continue to produce an inadequate rate, such increase shall proceed pending additional action by the office to ensure the adequacy of the rate.~~

~~4. This paragraph does not apply to rate filings for any insurance other than residential property insurance.~~

The provisions of this subsection shall not apply to workers' compensation and employer's liability insurance and to motor vehicle insurance.

(3)(a) For individual risks that are not rated in accordance with the insurer's rates, rating schedules, rating manuals, and underwriting rules filed with the office and which have been submitted to the insurer for individual rating, the insurer must maintain documentation on each risk subject to individual risk rating. The documentation must identify the named insured and specify the characteristics and classification of the risk supporting the reason for the risk being individually risk rated, including any modifications to existing approved forms to be used on the risk. The insurer must maintain these records for a period of at least 5 years after the effective date of the policy.

(b) Individual risk rates and modifications to existing approved forms are not subject to this part or part II, except for paragraph (a) and ss. 627.402, 627.403, 627.4035, 627.404, 627.405, 627.406, 627.407, 627.4085, 627.409, 627.4132, 627.4133, 627.415, 627.416, 627.417, 627.419, 627.425, 627.426, 627.4265, 627.427, and 627.428, but are subject to all other applicable provisions of this code and rules adopted thereunder.

(c) This subsection does not apply to private passenger motor vehicle insurance.

(4) The establishment of any rate, rating classification, rating plan or schedule, or variation thereof in violation of part IX of chapter 626 is also in violation of this section. In order to enhance the ability of consumers to compare premiums and to increase the accuracy and usefulness of rate-comparison information provided by the office to the public, the office shall develop a proposed standard rating territory plan to be used by all authorized property and casualty insurers for residential property insurance. In adopting the proposed plan, the office may consider geographical characteristics relevant to risk, county lines, major roadways, existing rating territories used by a significant segment of the market, and other relevant factors. Such plan shall be submitted to the President of the Senate and the Speaker of the House of Representatives by January 15, 2006. The plan may not be implemented unless authorized by further act of the Legislature.

(5) With respect to a rate filing involving coverage of the type for which the insurer is required to pay a reimbursement premium to the Florida Hurricane Catastrophe Fund, the insurer may fully recoup in its property insurance premiums any reimbursement premiums paid to the Florida Hurricane Catastrophe Fund, together with reasonable costs of other reinsurance, but may not recoup reinsurance costs that duplicate coverage provided by the Florida Hurricane Catastrophe Fund. An insurer may not recoup more than 1 year of reimbursement premium at a time. Any under-recoupment from the prior year may be added to the following year's reimbursement premium and any over-recoupment shall be subtracted from the following year's reimbursement premium.

~~(6)(a) After any action with respect to a rate filing that constitutes agency action for purposes of the Administrative Procedure Act, except for a rate filing for medical malpractice, an insurer may, in lieu of demanding a hearing under s. 120.57, require arbitration of the rate filing. Arbitration shall be conducted by a board of arbitrators consisting of an arbitrator selected by the office, an arbitrator selected by the insurer, and an arbitrator selected jointly by the other two arbitrators. Each arbitrator must be certified by the American Arbitration Association. A decision is valid only upon the affirmative vote of at least two of the arbitrators. No arbitrator may be an employee of any insurance regulator or regulatory body or of any insurer, regardless of whether or not the employing insurer does business in this state. The office and the insurer must treat the decision of the arbitrators as the final approval of a rate filing. Costs of arbitration shall be paid by the insurer.~~

~~(b) Arbitration under this subsection shall be conducted pursuant to the procedures specified in ss. 682.06-682.10. Either party may apply to the circuit court to vacate or modify the decision pursuant to s. 682.13 or s. 682.14. The commission shall adopt rules for arbitration under this subsection, which rules may not be inconsistent with the arbitration rules of the American Arbitration Association as of January 1, 1996.~~

~~(c) Upon initiation of the arbitration process, the insurer waives all rights to challenge the action of the office under the Administrative Procedure Act or any other provision of law; however, such rights are restored to the insurer if the arbitrators fail to render a decision within 90 days after initiation of the arbitration process.~~

(6)~~(7)~~(a) The provisions of this subsection apply only with respect to rates for medical malpractice insurance and shall control to the extent of any conflict with other provisions of this section.

(b) Any portion of a judgment entered or settlement paid as a result of a statutory or common-law bad faith action and any portion of a judgment entered which awards punitive damages against an insurer may not be included in the insurer's rate base, and shall not be used to justify a rate or rate change. Any common-law bad faith action identified as such, any portion of a settlement entered as a result of a statutory or common-law action, or any portion of a settlement wherein an insurer agrees to pay specific punitive damages may not be used to justify a rate or rate change. The portion of the taxable costs and attorney's fees which is identified as being related to the bad faith and punitive damages in these judgments and settlements may not be included in the insurer's rate base and may not be utilized to justify a rate or rate change.

(c) Upon reviewing a rate filing and determining whether the rate is excessive, inadequate, or unfairly discriminatory, the office shall consider, in accordance with generally accepted and reasonable actuarial techniques, past and present prospective loss experience, either using loss experience solely for this state or giving greater credibility to this state's loss data after applying actuarially sound methods of assigning credibility to such data.

(d) Rates shall be deemed excessive if, among other standards established by this section, the rate structure provides for replenishment of reserves or surpluses from premiums when the replenishment is attributable to investment losses.

(e) The insurer must apply a discount or surcharge based on the health care provider's loss experience or shall establish an alternative method giving due consideration to the provider's loss experience. The insurer must include in the filing a copy of the surcharge or discount schedule or a description of the alternative method used, and must provide a copy of such schedule or description, as approved by the office, to policyholders at the time of renewal and to prospective policyholders at the time of application for coverage.

(f) Each medical malpractice insurer must make a rate filing under this section, sworn to by at least two executive officers of the insurer, at least once each calendar year.

(7)~~(8)~~(a)1. No later than 60 days after the effective date of medical malpractice legislation enacted during the 2003 Special Session D of the Florida Legislature, the office shall calculate a presumed factor that reflects the impact that the changes contained in such legislation will have on rates for medical malpractice insurance and shall issue a notice informing all insurers writing medical malpractice coverage of such presumed factor. In determining the presumed factor, the office shall use generally accepted actuarial techniques and standards provided in this section in determining the expected impact on losses, expenses, and investment income of the insurer. To the extent that the operation of a provision of medical malpractice legislation enacted during the 2003 Special Session D of the Florida Legislature is stayed pending a constitutional challenge, the impact of that provision shall not be included in the calculation of a presumed factor under this subparagraph.

2. No later than 60 days after the office issues its notice of the presumed rate change factor under subparagraph 1., each insurer writing medical malpractice coverage in this state shall submit to the office a rate filing for medical malpractice insurance, which will take effect no later than January 1, 2004, and apply retroactively to policies issued or renewed on or after the effective date of medical malpractice legislation enacted during the 2003 Special Session D of the Florida Legislature. Except as authorized under paragraph (b), the filing shall reflect an overall rate reduction at least as great as the presumed factor determined under subparagraph 1. With respect to policies issued on or after the effective date of such legislation and prior to the effective date of the rate filing required by this subsection, the office shall order the insurer to make a refund of the amount that was charged in excess of the rate that is approved.

(b) Any insurer or rating organization that contends that the rate provided for in paragraph (a) is excessive, inadequate, or unfairly discriminatory shall separately state in its filing the rate it contends is appropriate and shall state with specificity the factors or data that it contends should be considered in order to produce such appropriate rate. The insurer or rating organization shall be permitted to use all of the generally accepted actuarial techniques provided in this section in making any filing pursuant to this subsection. The office shall review each such exception and approve or disapprove it prior to use. It shall be the insurer's burden to actuarially justify any deviations from the rates required to be filed under paragraph (a). The insurer making a filing under this paragraph shall include in the filing the expected impact of medical malpractice legislation enacted during the 2003 Special Session D of the Florida Legislature on losses, expenses, and rates.

(c) If any provision of medical malpractice legislation enacted during the 2003 Special Session D of the Florida Legislature is held invalid by a court of competent jurisdiction, the office shall permit an adjustment of all medical malpractice rates filed under this section to reflect the impact of such holding on such rates so as to ensure that the rates are not excessive, inadequate, or unfairly discriminatory.

(d) Rates approved on or before July 1, 2003, for medical malpractice insurance shall remain in effect until the effective date of a new rate filing approved under this subsection.

(e) The calculation and notice by the office of the presumed factor pursuant to paragraph (a) is not an order or rule that is subject to chapter 120. If the office enters into a contract with an independent consultant to assist the office in calculating the presumed factor, such contract shall not be subject to the competitive solicitation requirements of s. 287.057.

(8)(a) The chief executive officer or chief financial officer of a property insurer and the chief actuary of a property insurer must certify under oath and subject to the penalty of perjury, on a form approved by the commission, the following information, which must accompany a rate filing:

1. The signing officer and actuary have reviewed the rate filing;

2. Based on the signing officer's and actuary's knowledge, the rate filing does not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which such statements were made, not misleading;

3. Based on the signing officer's and actuary's knowledge, the information and other factors described in s. 627.062(2)(b), including, but not limited to, investment income, fairly present in all material respects the basis of the rate filing for the periods presented in the filing; and

4. Based on the signing officer's and actuary's knowledge, the rate filing reflects all premium savings that are reasonably expected to result from legislative enactments and are in accordance with generally accepted and reasonable actuarial techniques.

(b) A signing officer or actuary knowingly making a false certification under this subsection commits a violation of s. 626.9541(1)(e) and is subject to the penalties under s. 626.9521.

(c) Failure to provide such certification by the officer and actuary shall result in the rate filing being disapproved without prejudice to be refiled.

(d) The commission may adopt rules and forms pursuant to ss. 120.536(1) and 120.54 to administer this subsection.

~~(9) The burden is on the office to establish that rates are excessive for personal lines residential coverage with a dwelling replacement cost of $1 million or more or for a single condominium unit with a combined dwelling and contents replacement cost of $1 million or more. Upon request of the office, the insurer shall provide to the office such loss and expense information as the office reasonably needs to meet this burden.~~

Section 24. Paragraph (ee) is added to subsection (1) of section 626.9541, Florida Statutes, to read:

626.9541 Unfair methods of competition and unfair or deceptive acts or practices defined.—

(1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE ACTS.—The following are defined as unfair methods of competition and unfair or deceptive acts or practices:

(ee) Selectively limiting insurance offerings.—Failing to offer in this state a kind or line of insurance which all insurers or affiliated insurers, as defined by the Financial Services Commission, offer in another jurisdiction. An insurer need not offer every kind or line of insurance, or any particular kind or line of insurance, in this state; however, if, on July 1, 2007, an insurer offers a particular kind or line of insurance anywhere it does business, it must offer the same kind or line in this state. The commission shall adopt rules to administer this paragraph.

Section 25. Paragraph (c) of subsection (3) of section 627.0628, Florida Statutes, is amended to read:

627.0628 Florida Commission on Hurricane Loss Projection Methodology; public records exemption; public meetings exemption.—

(3) ADOPTION AND EFFECT OF STANDARDS AND GUIDELINES.—

(c) With respect to a rate filing under s. 627.062, an insurer may employ actuarial methods, principles, standards, models, or output ranges found by the commission to be accurate or reliable to determine hurricane loss factors for use in a rate filing under s. 627.062. Such findings and factors are admissible and relevant in consideration of a rate filing by the office or in any arbitration or administrative or judicial review only if the office and the *Insurance* Consumer Advocate appointed pursuant to *s. 350.0615* ~~s. 627.0613~~ have access to all of the assumptions and factors that were used in developing the actuarial methods, principles, standards, models, or output ranges, and are not precluded from disclosing such information in a rate proceeding. In any rate hearing under s. 120.57 ~~or in any arbitration proceeding under s.~~

~~627.062(6)~~, the hearing officer *or*~~,~~ judge~~, or arbitration panel~~ may determine whether the office and the *Insurance* Consumer Advocate were provided with access to all of the assumptions and factors that were used in developing the actuarial methods, principles, standards, models, or output ranges and to determine their admissibility.

Section 26. Paragraph (b) of subsection (5) of section 627.311, Florida Statutes, is amended to read:

627.311 Joint underwriters and joint reinsurers; public records and public meetings exemptions.—

(5)

(b) The operation of the plan is subject to the supervision of a 9-member board of governors. The board of governors shall be comprised of:

1. Three members appointed by the Financial Services Commission. Each member appointed by the commission shall serve at the pleasure of the commission;

2. Two of the 20 domestic insurers, as defined in s. 624.06(1), having the largest voluntary direct premiums written in this state for workers' compensation and employer's liability insurance, which shall be elected by those 20 domestic insurers;

3. Two of the 20 foreign insurers as defined in s. 624.06(2) having the largest voluntary direct premiums written in this state for workers' compensation and employer's liability insurance, which shall be elected by those 20 foreign insurers;

4. One person appointed by the largest property and casualty insurance agents' association in this state; and

5. The *Insurance* Consumer Advocate appointed under *s. 350.0615* ~~s. 627.0613~~ or the *Insurance* Consumer Advocate's designee.

Each board member shall serve a 4-year term and may serve consecutive terms. A vacancy on the board shall be filled in the same manner as the original appointment for the unexpired portion of the term. The Financial Services Commission shall designate a member of the board to serve as chair. No board member shall be an insurer which provides services to the plan or which has an affiliate which provides services to the plan or which is serviced by a service company or third-party administrator which provides services to the plan or which has an affiliate which provides services to the plan. The minutes, audits, and procedures of the board of governors are subject to chapter 119.

Section 27. Paragraphs (a), (b), (c), (m), (p), and (s) of subsection (6) of section 627.351, Florida Statutes, are amended, and paragraph (ee) is added to that section, to read:

627.351 Insurance risk apportionment plans.—

(6) CITIZENS PROPERTY INSURANCE CORPORATION.—

(a)1. The Legislature finds that actual and threatened catastrophic losses to property in this state from hurricanes have caused insurers to be unwilling or unable to provide property insurance coverage to the extent sought and needed. It is in the public interest and a public purpose to assist in assuring that property in the state is insured so as to facilitate the remediation, reconstruction, and replacement of damaged or destroyed property in order to reduce or avoid the negative effects otherwise resulting to the public health, safety, and welfare; to the economy of the state; and to the revenues of the state and local governments needed to provide for the public welfare. It is necessary, therefore, to provide property insurance to applicants who are in good faith entitled to procure insurance through the voluntary market but are unable to do so. The Legislature intends by this subsection that property insurance be provided and that it continues, as long as necessary, through an entity organized to achieve efficiencies and economies, while providing service to policyholders, applicants, and agents that is no less than the quality generally provided in the voluntary market, all toward the achievement of the foregoing public purposes. Because it is essential for the corporation to have the maximum financial resources to pay claims following a catastrophic hurricane, it is the intent of the Legislature that the income of the corporation be exempt from federal income taxation and that interest on the debt obligations issued by the corporation be exempt from federal income taxation.

2. The Residential Property and Casualty Joint Underwriting Association originally created by this statute shall be known, as of July 1, 2002, as the Citizens Property Insurance Corporation. The corporation shall provide insurance for residential and commercial property, for applicants who are in good faith entitled, but are unable, to procure insurance through the voluntary market. The corporation shall operate pursuant to a plan of operation approved by order of the Financial Services Commission. The plan is subject to continuous review by the commission. The commission may, by order, withdraw approval of all or part of a plan if the commission determines that conditions have changed since approval was granted and that the purposes of the plan require changes in the plan. The corporation shall continue to operate pursuant to the plan of operation approved by the Office of Insurance Regulation until October 1, 2006. For the purposes of this subsection, residential coverage includes both personal lines residential coverage, which consists of the type of coverage provided by homeowner's, mobile home owner's, dwelling, tenant's, condominium unit owner's, and similar policies, and commercial lines residential coverage, which consists of the type of coverage provided by condominium association, apartment building, and similar policies.

3. For the purposes of this subsection, the term "homestead property" means:

a. Property that has been granted a homestead exemption under chapter 196;

b. Property for which the owner has a current, written lease with a renter for a term of at least 7 months and for which the dwelling is insured by the corporation for $200,000 or less;

c. An owner-occupied mobile home or manufactured home, as defined in s. 320.01, which is permanently affixed to real property, is owned by a Florida resident, and has been granted a homestead exemption under chapter 196 or, if the owner does not own the real property, the owner certifies that the mobile home or manufactured home is his or her principal place of residence.

d. Tenant's coverage;

e. Commercial lines residential property; or

f. Any county, district, or municipal hospital; a hospital licensed by any not-for-profit corporation qualified under s. 501(c)(3) of the United States Internal Revenue Code; or a continuing care retirement community that is certified under chapter 651 and that receives an exemption from ad valorem taxes under chapter 196.

4. For the purposes of this subsection, the term "nonhomestead property" means property that is not homestead property.

5. Effective July 1, 2008, a personal lines residential structure that has a dwelling replacement cost of $1 million or more, or a single condominium unit that has a combined dwelling and content replacement cost of $1 million or more is not eligible for coverage by the corporation. Such dwellings insured by the corporation on June 30, 2008, may continue to be covered by the corporation until the end of the policy term. However, such dwellings that are insured by the corporation and become ineligible for coverage due to the provisions of this subparagraph may reapply and obtain coverage in the high-risk account and be considered "nonhomestead property" if the property owner provides the corporation with a sworn affidavit from one or more insurance agents, on a form provided by the corporation, stating that the agents have made their best efforts to obtain coverage and that the property has been rejected for coverage by at least one authorized insurer and at least three surplus lines insurers. If such conditions are met, the dwelling may be insured by the corporation for up to 3 years, after which time the dwelling is ineligible for coverage. The office shall approve the method used by the corporation for valuing the dwelling replacement cost for the purposes of this subparagraph. If a policyholder is insured by the corporation prior to being determined to be ineligible pursuant to this subparagraph and such policyholder files a lawsuit challenging the determination, the policyholder may remain insured by the corporation until the conclusion of the litigation.

~~6. Effective March 1, 2007, nonhomestead property is not eligible for coverage by the corporation and is not eligible for renewal of such coverage unless the property owner provides the corporation with a sworn affidavit from one or more insurance agents, on a form provided by the~~

~~corporation, stating that the agents have made their best efforts to obtain coverage and that the property has been rejected for coverage by at least one authorized insurer and at least three surplus lines insurers.~~

6.~~7.~~ It is the intent of the Legislature that policyholders, applicants, and agents of the corporation receive service and treatment of the highest possible level but never less than that generally provided in the voluntary market. It also is intended that the corporation be held to service standards no less than those applied to insurers in the voluntary market by the office with respect to responsiveness, timeliness, customer courtesy, and overall dealings with policyholders, applicants, or agents of the corporation.

(b)1. All insurers authorized to write one or more subject lines of business in this state are subject to assessment by the corporation and, for the purposes of this subsection, are referred to collectively as "assessable insurers." Insurers writing one or more subject lines of business in this state pursuant to part VIII of chapter 626 are not assessable insurers, but insureds who procure one or more subject lines of business in this state pursuant to part VIII of chapter 626 are subject to assessment by the corporation and are referred to collectively as "assessable insureds." An authorized insurer's assessment liability shall begin on the first day of the calendar year following the year in which the insurer was issued a certificate of authority to transact insurance for subject lines of business in this state and shall terminate 1 year after the end of the first calendar year during which the insurer no longer holds a certificate of authority to transact insurance for subject lines of business in this state.

2.a. All revenues, assets, liabilities, losses, and expenses of the corporation shall be divided into three separate accounts as follows:

(I) A personal lines account for personal residential policies issued by the corporation or issued by the Residential Property and Casualty Joint Underwriting Association and renewed by the corporation that provide comprehensive, multiperil coverage on risks that are not located in areas eligible for coverage in the Florida Windstorm Underwriting Association as those areas were defined on January 1, 2002, and for such policies that do not provide coverage for the peril of wind on risks that are located in such areas;

(II) A commercial lines account for commercial residential *and commercial nonresidential* policies issued by the corporation or issued by the Residential Property and Casualty Joint Underwriting Association and renewed by the corporation that provide coverage for basic property perils on risks that are not located in areas eligible for coverage in the Florida Windstorm Underwriting Association as those areas were defined on January 1, 2002, and for such policies that do not provide coverage for the peril of wind on risks that are located in such areas; and

(III) A high-risk account for personal residential policies and commercial residential and commercial nonresidential property policies issued by the corporation or transferred to the corporation that provide coverage for the peril of wind on risks that are located in areas eligible for coverage in the Florida Windstorm Underwriting Association as those areas were defined on January 1, 2002. *Beginning April 1, 2007, the corporation may offer multiperil coverage, wind-only coverage, or both types of coverage in the high-risk account. In issuing multiperil coverage, the corporation may use its approved policy forms and rates for personal lines accounts through December 31, 2007. It is the intent of the Legislature that the offer of multiperil coverage in the high-risk account be made and implemented in a manner that does not adversely affect the creditworthiness of or security for currently outstanding financing obligations or credit facilities of the high-risk account, the personal lines account, or the commercial lines account.* The high-risk account must also include quota share primary insurance under subparagraph (c)2. The area eligible for coverage under the high-risk account also includes the area within Port Canaveral, which is bordered on the south by the City of Cape Canaveral, bordered on the west by the Banana River, and bordered on the north by Federal Government property. ~~The office may remove territory from the area eligible for wind-only and quota share coverage if, after a public hearing, the office finds that authorized insurers in the voluntary market are willing and able to write sufficient amounts of personal and commercial residential coverage for all perils in the territory, including coverage for the peril of wind, such that risks covered by wind-only policies in the removed territory could be issued a policy by the corporation in either the personal lines or commercial lines account without a significant increase in the corporation's probable maximum loss in such account. Removal of territory from the area eligible for wind-only or quota share coverage does not alter the assignment of wind coverage written in such areas to the high-risk account.~~

b. The three separate accounts must be maintained as long as financing obligations entered into by the Florida Windstorm Underwriting Association or Residential Property and Casualty Joint Underwriting Association are outstanding, in accordance with the terms of the corresponding financing documents. When the financing obligations are no longer outstanding, in accordance with the terms of the corresponding financing documents, the corporation may use a single account for all revenues, assets, liabilities, losses, and expenses of the corporation. Consistent with the requirement of this subparagraph and prudent investment policies that minimize the cost of carrying debt, the board shall exercise its best efforts to retire existing debt or to obtain approval of necessary parties to amend the terms of existing debt, so as to structure the most efficient plan to consolidate the three separate accounts into a single account. By February 1, 2007, the board shall submit a report to the Financial Services Commission, the President of the Senate, and the Speaker of the House of Representatives which includes an analysis of consolidating the accounts, the actions the board has taken to minimize the cost of carrying debt, and its recommendations for executing the most efficient plan.

c. Creditors of the Residential Property and Casualty Joint Underwriting Association shall have a claim against, and recourse to, the accounts referred to in sub-sub-subparagraphs a.(I) and (II) and shall have no claim against, or recourse to, the account referred to in sub-sub-subparagraph a.(III). Creditors of the Florida Windstorm Underwriting Association shall have a claim against, and recourse to, the account referred to in sub-sub-subparagraph a.(III) and shall have no claim against, or recourse to, the accounts referred to in sub-sub-subparagraphs a.(I) and (II).

d. Revenues, assets, liabilities, losses, and expenses not attributable to particular accounts shall be prorated among the accounts.

e. The Legislature finds that the revenues of the corporation are revenues that are necessary to meet the requirements set forth in documents authorizing the issuance of bonds under this subsection.

f. No part of the income of the corporation may inure to the benefit of any private person.

3. With respect to a deficit in an account:

a. When the deficit incurred in a particular calendar year is not greater than 10 percent of the aggregate statewide direct written premium for the subject lines of business for the prior calendar year, the entire deficit shall be recovered through regular assessments of assessable insurers under paragraph (p) and assessable insureds.

b. When the deficit incurred in a particular calendar year exceeds 10 percent of the aggregate statewide direct written premium for the subject lines of business for the prior calendar year, the corporation shall levy regular assessments on assessable insurers under paragraph (p) and on assessable insureds in an amount equal to the greater of 10 percent of the deficit or 10 percent of the aggregate statewide direct written premium for the subject lines of business for the prior calendar year. Any remaining deficit shall be recovered through emergency assessments under sub-subparagraph d.

c. Each assessable insurer's share of the amount being assessed under sub-subparagraph a. or sub-subparagraph b. shall be in the proportion that the assessable insurer's direct written premium for the subject lines of business for the year preceding the assessment bears to the aggregate statewide direct written premium for the subject lines of business for that year. The assessment percentage applicable to each assessable insured is the ratio of the amount being assessed under sub-subparagraph a. or sub-subparagraph b. to the aggregate statewide direct written premium for the subject lines of business for the prior year. Assessments levied by the corporation on assessable insurers under sub-subparagraphs a. and b. shall be paid as required by the corporation's plan of operation and paragraph (p). Notwithstanding any other provision of this subsection, the aggregate amount of a regular assessment for a deficit incurred in a particular calendar year shall be reduced by the estimated amount to be received by the corporation from the Citizens policyholder surcharge under subparagraph (c)11. and the amount collected or estimated to be collected from the assessment on Citizens policyholders pursuant to sub-subparagraph i. Assessments levied by

the corporation on assessable insureds under sub-subparagraphs a. and b. shall be collected by the surplus lines agent at the time the surplus lines agent collects the surplus lines tax required by s. 626.932 and shall be paid to the Florida Surplus Lines Service Office at the time the surplus lines agent pays the surplus lines tax to the Florida Surplus Lines Service Office. Upon receipt of regular assessments from surplus lines agents, the Florida Surplus Lines Service Office shall transfer the assessments directly to the corporation as determined by the corporation.

d. Upon a determination by the board of governors that a deficit in an account exceeds the amount that will be recovered through regular assessments under sub-subparagraph a. or sub-subparagraph b., the board shall levy, after verification by the office, emergency assessments, for as many years as necessary to cover the deficits, to be collected by assessable insurers and the corporation and collected from assessable insureds upon issuance or renewal of policies for subject lines of business, excluding National Flood Insurance policies. The amount of the emergency assessment collected in a particular year shall be a uniform percentage of that year's direct written premium for subject lines of business and all accounts of the corporation, excluding National Flood Insurance Program policy premiums, as annually determined by the board and verified by the office. The office shall verify the arithmetic calculations involved in the board's determination within 30 days after receipt of the information on which the determination was based. Notwithstanding any other provision of law, the corporation and each assessable insurer that writes subject lines of business shall collect emergency assessments from its policyholders without such obligation being affected by any credit, limitation, exemption, or deferment. Emergency assessments levied by the corporation on assessable insureds shall be collected by the surplus lines agent at the time the surplus lines agent collects the surplus lines tax required by s. 626.932 and shall be paid to the Florida Surplus Lines Service Office at the time the surplus lines agent pays the surplus lines tax to the Florida Surplus Lines Service Office. The emergency assessments so collected shall be transferred directly to the corporation on a periodic basis as determined by the corporation and shall be held by the corporation solely in the applicable account. The aggregate amount of emergency assessments levied for an account under this sub-subparagraph in any calendar year may not exceed the greater of 10 percent of the amount needed to cover the original deficit, plus interest, fees, commissions, required reserves, and other costs associated with financing of the original deficit, or 10 percent of the aggregate statewide direct written premium for subject lines of business and for all accounts of the corporation for the prior year, plus interest, fees, commissions, required reserves, and other costs associated with financing the original deficit.

e. The corporation may pledge the proceeds of assessments, projected recoveries from the Florida Hurricane Catastrophe Fund, other insurance and reinsurance recoverables, policyholder surcharges and other surcharges, and other funds available to the corporation as the source of revenue for and to secure bonds issued under paragraph (p), bonds or other indebtedness issued under subparagraph (c)3., or lines of credit or other financing mechanisms issued or created under this subsection, or to retire any other debt incurred as a result of deficits or events giving rise to deficits, or in any other way that the board determines will efficiently recover such deficits. The purpose of the lines of credit or other financing mechanisms is to provide additional resources to assist the corporation in covering claims and expenses attributable to a catastrophe. As used in this subsection, the term "assessments" includes regular assessments under sub-subparagraph a., sub-subparagraph b., or subparagraph (p)1. and emergency assessments under sub-subparagraph d. Emergency assessments collected under sub-subparagraph d. are not part of an insurer's rates, are not premium, and are not subject to premium tax, fees, or commissions; however, failure to pay the emergency assessment shall be treated as failure to pay premium. The emergency assessments under sub-subparagraph d. shall continue as long as any bonds issued or other indebtedness incurred with respect to a deficit for which the assessment was imposed remain outstanding, unless adequate provision has been made for the payment of such bonds or other indebtedness pursuant to the documents governing such bonds or other indebtedness.

f. As used in this subsection, the term "subject lines of business" means insurance written by assessable insurers or procured by assessable insureds *for all property and casualty lines of business in this state, but not including workers' compensation or medical malpractice. As used in the sub-subparagraph, the term "property and casualty lines of business" includes all lines of business identified on Form 2, Exhibit of Premiums and Losses, in the annual statement required of authorized insurers by s. 624.424 and any rule adopted under this section, except for those lines identified as accident and health insurance and except for policies written under the National Flood Insurance program or the Federal Crop Insurance Program. For purposes of this sub-subparagraph, the term "workers' compensation" includes both workers' compensation insurance and excess workers' compensation insurance.* ~~on real or personal property, as defined in s. 624.604, including insurance for fire, industrial fire, allied lines, farmowners multiperil, homeowners multiperil, commercial multiperil, and mobile homes, and including liability coverage on all such insurance, but excluding inland marine as defined in s. 624.607(3) and excluding vehicle insurance as defined in s. 624.605(1) other than insurance on mobile homes used as permanent dwellings.~~

g. The Florida Surplus Lines Service Office shall determine annually the aggregate statewide written premium in subject lines of business procured by assessable insureds and shall report that information to the corporation in a form and at a time the corporation specifies to ensure that the corporation can meet the requirements of this subsection and the corporation's financing obligations.

h. The Florida Surplus Lines Service Office shall verify the proper application by surplus lines agents of assessment percentages for regular assessments and emergency assessments levied under this subparagraph on assessable insureds and shall assist the corporation in ensuring the accurate, timely collection and payment of assessments by surplus lines agents as required by the corporation.

i. If a deficit is incurred in any account *in 2008 or thereafter*, the board of governors shall levy an immediate assessment against the premium of each nonhomestead property policyholder in all accounts of the corporation, as a uniform percentage of the premium of the policy of up to 10 percent of such premium, which funds shall be used to offset the deficit. If this assessment is insufficient to eliminate the deficit, the board of governors shall levy an additional assessment against all policyholders of the corporation, which shall be collected at the time of issuance or renewal of a policy, as a uniform percentage of the premium for the policy of up to 10 percent of such premium, which funds shall be used to further offset the deficit.

j. The board of governors shall maintain separate accounting records that consolidate data for nonhomestead properties, including, but not limited to, number of policies, insured values, premiums written, and losses. The board of governors shall annually report to the office and the Legislature a summary of such data.

(c) The plan of operation of the corporation:

1. Must provide for adoption of residential property and casualty insurance policy forms and commercial residential and nonresidential property insurance forms, which forms must be approved by the office prior to use. The corporation shall adopt the following policy forms:

a. Standard personal lines policy forms that are comprehensive multiperil policies providing full coverage of a residential property equivalent to the coverage provided in the private insurance market under an HO-3, HO-4, or HO-6 policy.

b. Basic personal lines policy forms that are policies similar to an HO-8 policy or a dwelling fire policy that provide coverage meeting the requirements of the secondary mortgage market, but which coverage is more limited than the coverage under a standard policy.

c. Commercial lines residential *and nonresidential* policy forms that are generally similar to the basic perils of full coverage obtainable for commercial residential structures *and commercial nonresidential structures* in the admitted voluntary market.

d. Personal lines and commercial lines residential property insurance forms that cover the peril of wind only. The forms are applicable only to residential properties located in areas eligible for coverage under the high-risk account referred to in sub-subparagraph (b)2.a.

e. Commercial lines nonresidential property insurance forms that cover the peril of wind only. The forms are applicable only to nonresidential properties located in areas eligible for coverage under the high-risk account referred to in sub-subparagraph (b)2.a.

f. The corporation may adopt variations of the policy forms listed in sub-subparagraphs a.-e. that contain more restrictive coverage.

2.a. Must provide that the corporation adopt a program in which the corporation and authorized insurers enter into quota share primary insurance agreements for hurricane coverage, as defined in s. 627.4025(2)(a), for eligible risks, and adopt property insurance forms for eligible risks which cover the peril of wind only. As used in this subsection, the term:

(I) "Quota share primary insurance" means an arrangement in which the primary hurricane coverage of an eligible risk is provided in specified percentages by the corporation and an authorized insurer. The corporation and authorized insurer are each solely responsible for a specified percentage of hurricane coverage of an eligible risk as set forth in a quota share primary insurance agreement between the corporation and an authorized insurer and the insurance contract. The responsibility of the corporation or authorized insurer to pay its specified percentage of hurricane losses of an eligible risk, as set forth in the quota share primary insurance agreement, may not be altered by the inability of the other party to the agreement to pay its specified percentage of hurricane losses. Eligible risks that are provided hurricane coverage through a quota share primary insurance arrangement must be provided policy forms that set forth the obligations of the corporation and authorized insurer under the arrangement, clearly specify the percentages of quota share primary insurance provided by the corporation and authorized insurer, and conspicuously and clearly state that neither the authorized insurer nor the corporation may be held responsible beyond its specified percentage of coverage of hurricane losses.

(II) "Eligible risks" means personal lines residential and commercial lines residential risks that meet the underwriting criteria of the corporation and are located in areas that were eligible for coverage by the Florida Windstorm Underwriting Association on January 1, 2002.

b. The corporation may enter into quota share primary insurance agreements with authorized insurers at corporation coverage levels of 90 percent and 50 percent.

c. If the corporation determines that additional coverage levels are necessary to maximize participation in quota share primary insurance agreements by authorized insurers, the corporation may establish additional coverage levels. However, the corporation's quota share primary insurance coverage level may not exceed 90 percent.

d. Any quota share primary insurance agreement entered into between an authorized insurer and the corporation must provide for a uniform specified percentage of coverage of hurricane losses, by county or territory as set forth by the corporation board, for all eligible risks of the authorized insurer covered under the quota share primary insurance agreement.

e. Any quota share primary insurance agreement entered into between an authorized insurer and the corporation is subject to review and approval by the office. However, such agreement shall be authorized only as to insurance contracts entered into between an authorized insurer and an insured who is already insured by the corporation for wind coverage.

f. For all eligible risks covered under quota share primary insurance agreements, the exposure and coverage levels for both the corporation and authorized insurers shall be reported by the corporation to the Florida Hurricane Catastrophe Fund. For all policies of eligible risks covered under quota share primary insurance agreements, the corporation and the authorized insurer shall maintain complete and accurate records for the purpose of exposure and loss reimbursement audits as required by Florida Hurricane Catastrophe Fund rules. The corporation and the authorized insurer shall each maintain duplicate copies of policy declaration pages and supporting claims documents.

g. The corporation board shall establish in its plan of operation standards for quota share agreements which ensure that there is no discriminatory application among insurers as to the terms of quota share agreements, pricing of quota share agreements, incentive provisions if any, and consideration paid for servicing policies or adjusting claims.

h. The quota share primary insurance agreement between the corporation and an authorized insurer must set forth the specific terms under which coverage is provided, including, but not limited to, the sale and servicing of policies issued under the agreement by the insurance agent of the authorized insurer producing the business, the reporting of information concerning eligible risks, the payment of premium to the corporation, and arrangements for the adjustment and payment of hurricane claims incurred on eligible risks by the claims adjuster and personnel of the authorized insurer. Entering into a quota sharing insurance agreement between the corporation and an authorized insurer shall be voluntary and at the discretion of the authorized insurer.

3. May provide that the corporation may employ or otherwise contract with individuals or other entities to provide administrative or professional services that may be appropriate to effectuate the plan. The corporation shall have the power to borrow funds, by issuing bonds or by incurring other indebtedness, and shall have other powers reasonably necessary to effectuate the requirements of this subsection, including, without limitation, the power to issue bonds and incur other indebtedness in order to refinance outstanding bonds or other indebtedness. The corporation may, but is not required to, seek judicial validation of its bonds or other indebtedness under chapter 75. The corporation may issue bonds or incur other indebtedness, or have bonds issued on its behalf by a unit of local government pursuant to subparagraph (g)2., in the absence of a hurricane or other weather-related event, upon a determination by the corporation, subject to approval by the office, that such action would enable it to efficiently meet the financial obligations of the corporation and that such financings are reasonably necessary to effectuate the requirements of this subsection. The corporation is authorized to take all actions needed to facilitate tax-free status for any such bonds or indebtedness, including formation of trusts or other affiliated entities. The corporation shall have the authority to pledge assessments, projected recoveries from the Florida Hurricane Catastrophe Fund, other reinsurance recoverables, market equalization and other surcharges, and other funds available to the corporation as security for bonds or other indebtedness. In recognition of s. 10, Art. I of the State Constitution, prohibiting the impairment of obligations of contracts, it is the intent of the Legislature that no action be taken whose purpose is to impair any bond indenture or financing agreement or any revenue source committed by contract to such bond or other indebtedness.

4.a. Must require that the corporation operate subject to the supervision and approval of a board of governors consisting of eight individuals who are residents of this state, from different geographical areas of this state. The Governor, the Chief Financial Officer, the President of the Senate, and the Speaker of the House of Representatives shall each appoint two members of the board. At least one of the two members appointed by each appointing officer must have demonstrated expertise in insurance. The Chief Financial Officer shall designate one of the appointees as chair. All board members serve at the pleasure of the appointing officer. All board members, including the chair, must be appointed to serve for 3-year terms beginning annually on a date designated by the plan. Any board vacancy shall be filled for the unexpired term by the appointing officer. The Chief Financial Officer shall appoint a technical advisory group to provide information and advice to the board of governors in connection with the board's duties under this subsection. The executive director and senior managers of the corporation shall be engaged by the board and serve at the pleasure of the board. Any executive director appointed on or after July 1, 2006, is subject to confirmation by the Senate. The executive director is responsible for employing other staff as the corporation may require, subject to review and concurrence by the board.

b. The board shall create a Market Accountability Advisory Committee to assist the corporation in developing awareness of its rates and its customer and agent service levels in relationship to the voluntary market insurers writing similar coverage. The members of the advisory committee shall consist of the following 11 persons, one of whom must be elected chair by the members of the committee: four representatives, one appointed by the Florida Association of Insurance Agents, one by the Florida Association of Insurance and Financial Advisors, one by the Professional Insurance Agents of Florida, and one by the Latin American Association of Insurance Agencies; three representatives appointed by the insurers with the three highest voluntary market share of residential property insurance business in the state; one representative from the Office of Insurance Regulation; one consumer appointed by the board who is insured by the corporation at the time of appointment to the committee; one representative appointed by the Florida Association of Realtors; and one representative appointed by the Florida Bankers Association. All members must serve for 3-year terms and may serve for

consecutive terms. The committee shall report to the corporation at each board meeting on insurance market issues which may include rates and rate competition with the voluntary market; service, including policy issuance, claims processing, and general responsiveness to policyholders, applicants, and agents; and matters relating to depopulation.

5. Must provide a procedure for determining the eligibility of a risk for coverage, as follows:

a. Subject to the provisions of s. 627.3517, with respect to personal lines residential risks, if the risk is offered coverage from an authorized insurer at the insurer's approved rate under either a standard policy including wind coverage or, if consistent with the insurer's underwriting rules as filed with the office, a basic policy including wind coverage, the risk is not eligible for any policy issued by the corporation *unless the premium for coverage from the authorized insurer is more than 25 percent greater than the premium for comparable coverage from the corporation*. If the risk is not able to obtain any such offer, the risk is eligible for either a standard policy including wind coverage or a basic policy including wind coverage issued by the corporation; however, if the risk could not be insured under a standard policy including wind coverage regardless of market conditions, the risk shall be eligible for a basic policy including wind coverage unless rejected under subparagraph 8. The corporation shall determine the type of policy to be provided on the basis of objective standards specified in the underwriting manual and based on generally accepted underwriting practices.

(I) If the risk accepts an offer of coverage through the market assistance plan or an offer of coverage through a mechanism established by the corporation before a policy is issued to the risk by the corporation or during the first 30 days of coverage by the corporation, and the producing agent who submitted the application to the plan or to the corporation is not currently appointed by the insurer, the insurer shall:

(A) Pay to the producing agent of record of the policy, for the first year, an amount that is the greater of the insurer's usual and customary commission for the type of policy written or a fee equal to the usual and customary commission of the corporation; or

(B) Offer to allow the producing agent of record of the policy to continue servicing the policy for a period of not less than 1 year and offer to pay the agent the greater of the insurer's or the corporation's usual and customary commission for the type of policy written.

If the producing agent is unwilling or unable to accept appointment, the new insurer shall pay the agent in accordance with sub-sub-sub-subparagraph (A).

(II) When the corporation enters into a contractual agreement for a take-out plan, the producing agent of record of the corporation policy is entitled to retain any unearned commission on the policy, and the insurer shall:

(A) Pay to the producing agent of record of the corporation policy, for the first year, an amount that is the greater of the insurer's usual and customary commission for the type of policy written or a fee equal to the usual and customary commission of the corporation; or

(B) Offer to allow the producing agent of record of the corporation policy to continue servicing the policy for a period of not less than 1 year and offer to pay the agent the greater of the insurer's or the corporation's usual and customary commission for the type of policy written.

If the producing agent is unwilling or unable to accept appointment, the new insurer shall pay the agent in accordance with sub-sub-sub-subparagraph (A).

b. With respect to commercial lines residential risks, if the risk is offered coverage under a policy including wind coverage from an authorized insurer at its approved rate, the risk is not eligible for any policy issued by the corporation *unless the premium for coverage from the authorized insurer is more than 25 percent greater than the premium for comparable coverage from the corporation*. If the risk is not able to obtain any such offer, the risk is eligible for a policy including wind coverage issued by the corporation.

(I) If the risk accepts an offer of coverage through the market assistance plan or an offer of coverage through a mechanism established by the corporation before a policy is issued to the risk by the corporation or during the first 30 days of coverage by the corporation, and the producing agent who submitted the application to the plan or the corporation is not currently appointed by the insurer, the insurer shall:

(A) Pay to the producing agent of record of the policy, for the first year, an amount that is the greater of the insurer's usual and customary commission for the type of policy written or a fee equal to the usual and customary commission of the corporation; or

(B) Offer to allow the producing agent of record of the policy to continue servicing the policy for a period of not less than 1 year and offer to pay the agent the greater of the insurer's or the corporation's usual and customary commission for the type of policy written.

If the producing agent is unwilling or unable to accept appointment, the new insurer shall pay the agent in accordance with sub-sub-sub-subparagraph (A).

(II) When the corporation enters into a contractual agreement for a take-out plan, the producing agent of record of the corporation policy is entitled to retain any unearned commission on the policy, and the insurer shall:

(A) Pay to the producing agent of record of the corporation policy, for the first year, an amount that is the greater of the insurer's usual and customary commission for the type of policy written or a fee equal to the usual and customary commission of the corporation; or

(B) Offer to allow the producing agent of record of the corporation policy to continue servicing the policy for a period of not less than 1 year and offer to pay the agent the greater of the insurer's or the corporation's usual and customary commission for the type of policy written.

If the producing agent is unwilling or unable to accept appointment, the new insurer shall pay the agent in accordance with sub-sub-sub-subparagraph (A).

6. Must provide by July 1, 2007, that an application for coverage for a new policy is subject to a waiting period of 10 days before coverage is effective, during which time the corporation shall make such application available for review by general lines agents and authorized property and casualty insurers. The board may approve exceptions that allow for coverage to be effective before the end of the 10-day waiting period, for coverage issued in conjunction with a real estate closing, and for such other exceptions as the board determines are necessary to prevent lapses in coverage.

7. Must include rules for classifications of risks and rates therefor.

8. Must provide that if premium and investment income for an account attributable to a particular calendar year are in excess of projected losses and expenses for the account attributable to that year, such excess shall be held in surplus in the account. Such surplus shall be available to defray deficits in that account as to future years and shall be used for that purpose prior to assessing assessable insurers and assessable insureds as to any calendar year.

9. Must provide objective criteria and procedures to be uniformly applied for all applicants in determining whether an individual risk is so hazardous as to be uninsurable. In making this determination and in establishing the criteria and procedures, the following shall be considered:

a. Whether the likelihood of a loss for the individual risk is substantially higher than for other risks of the same class; and

b. Whether the uncertainty associated with the individual risk is such that an appropriate premium cannot be determined.

The acceptance or rejection of a risk by the corporation shall be construed as the private placement of insurance, and the provisions of chapter 120 shall not apply.

10. Must provide that the corporation shall make its best efforts to procure catastrophe reinsurance at reasonable rates, to cover its projected 100-year probable maximum loss as determined by the board of governors.

11. Must provide that in the event of regular deficit assessments under sub-subparagraph (b)3.a. or sub-subparagraph (b)3.b., in the personal lines account, the commercial lines residential account, or the high-risk account, the corporation shall levy upon corporation policyholders in its next rate filing, or by a separate rate filing solely for this purpose, a Citizens policyholder surcharge arising from a regular assessment in such account in a percentage equal to the total amount of such

regular assessments divided by the aggregate statewide direct written premium for subject lines of business for the prior calendar year. For purposes of calculating the Citizens policyholder surcharge to be levied under this subparagraph, the total amount of the regular assessment to which this surcharge is related shall be determined as set forth in subparagraph (b)3., without deducting the estimated Citizens policyholder surcharge. Citizens policyholder surcharges under this subparagraph are not considered premium and are not subject to commissions, fees, or premium taxes; however, failure to pay a market equalization surcharge shall be treated as failure to pay premium.

12. The policies issued by the corporation must provide that, if the corporation or the market assistance plan obtains an offer from an authorized insurer to cover the risk at its approved rates, the risk is no longer eligible for renewal through the corporation*, except as otherwise provided in this subsection*.

13. Corporation policies and applications must include a notice that the corporation policy could, under this section, be replaced with a policy issued by an authorized insurer that does not provide coverage identical to the coverage provided by the corporation. The notice shall also specify that acceptance of corporation coverage creates a conclusive presumption that the applicant or policyholder is aware of this potential.

14. May establish, subject to approval by the office, different eligibility requirements and operational procedures for any line or type of coverage for any specified county or area if the board determines that such changes to the eligibility requirements and operational procedures are justified due to the voluntary market being sufficiently stable and competitive in such area or for such line or type of coverage and that consumers who, in good faith, are unable to obtain insurance through the voluntary market through ordinary methods would continue to have access to coverage from the corporation. When coverage is sought in connection with a real property transfer, such requirements and procedures shall not provide for an effective date of coverage later than the date of the closing of the transfer as established by the transferor, the transferee, and, if applicable, the lender.

15. Must provide that, with respect to the high-risk account, any assessable insurer with a surplus as to policyholders of $25 million or less writing 25 percent or more of its total countrywide property insurance premiums in this state may petition the office, within the first 90 days of each calendar year, to qualify as a limited apportionment company. A regular assessment levied by the corporation on a limited apportionment company for a deficit incurred by the corporation for the high-risk account in 2006 or thereafter may be paid to the corporation on a monthly basis as the assessments are collected by the limited apportionment company from its insureds pursuant to s. 627.3512, but the regular assessment must be paid in full within 12 months after being levied by the corporation. A limited apportionment company shall collect from its policyholders any emergency assessment imposed under sub-subparagraph (b)3.d. The plan shall provide that, if the office determines that any regular assessment will result in an impairment of the surplus of a limited apportionment company, the office may direct that all or part of such assessment be deferred as provided in subparagraph (g)4. However, there shall be no limitation or deferment of an emergency assessment to be collected from policyholders under sub-subparagraph (b)3.d.

16. Must provide that the corporation appoint as its licensed agents only those agents who also hold an appointment as defined in s. 626.015(3) with an insurer who at the time of the agent's initial appointment by the corporation is authorized to write and is actually writing personal lines residential property coverage, commercial residential property coverage, or commercial nonresidential property coverage within the state.

17. Must provide, by July 1, 2007, a premium payment plan option to its policyholders which allows for quarterly and semiannual payment of premiums.

18. Must provide, effective June 1, 2007, that the corporation contract with each insurer providing the non-wind coverage for risks insured by the corporation in the high-risk account, requiring that the insurer provide claims adjusting services for the wind coverage provided by the corporation for such risks. An insurer is required to enter into this contract as a condition of providing non-wind coverage for a risk that is insured by the corporation in the high-risk account unless the board finds, after a hearing, that the insurer is not capable of providing adjusting services at an acceptable level of quality to corporation policyholders. The terms and conditions of such contracts must be substantially the same as the contracts that the corporation executed with insurers under the "adjust-your-own" program in 2006, except as may be mutually agreed to by the parties and except for such changes that the board determines are necessary to ensure that claims are adjusted appropriately. The corporation shall provide a process for neutral arbitration of any dispute between the corporation and the insurer regarding the terms of the contract. The corporation shall review and monitor the performance of insurers under these contracts.

19. Must limit coverage on mobile homes or manufactured homes built prior to 1994 to actual cash value of the dwelling rather than replacement costs of the dwelling.

20. May provide such limits of coverage as the board determines, consistent with the requirements of this subsection.

21. May require commercial property to meet specified hurricane mitigation construction features as a condition of eligibility for coverage.

(m)1.

~~a.~~ Rates for coverage provided by the corporation shall be actuarially sound and *subject to the requirements of s. 627.062, except as otherwise provided in this paragraph. The corporation shall file its recommended rates with the office at least annually. The corporation shall provide any additional information regarding the rates which the office requires. The office shall consider the recommendations of the board and issue a final order establishing the rates for the corporation within 45 days after the recommended rates are filed. The corporation may not pursue an administrative challenge or judicial review of the final order of the office.* ~~not competitive with approved rates charged in the admitted voluntary market, so that the corporation functions as a residual market mechanism to provide insurance only when the insurance cannot be procured in the voluntary market. Rates shall include an appropriate catastrophe loading factor that reflects the actual catastrophic exposure of the corporation. For policies in the personal lines account and the commercial lines account issued or renewed on or after March 1, 2007, a rate is deemed inadequate if the rate, including investment income, is not sufficient to provide for the procurement of coverage under the Florida Hurricane Catastrophe Fund and private reinsurance costs, whether or not reinsurance is procured, and to pay all claims and expenses reasonably expected to result from a 100-year probable maximum loss event without resort to any regular or emergency assessments, long-term debt, state revenues, or other funding sources. For policies in the high-risk account issued or renewed on or after March 1, 2007, a rate is deemed inadequate if the rate, including investment income, is not sufficient to provide for the procurement of coverage under the Florida Hurricane Catastrophe Fund and private reinsurance costs, whether or not reinsurance is procured, and to pay all claims and expenses reasonably expected to result from a 70-year probable maximum loss event with resort to any regular or emergency assessments, long-term debt, state revenues, or other funding sources. For policies in the high-risk account issued or renewed in 2008 and 2009, the rate must be based upon an 85-year and 100-year probable maximum loss event, respectively.~~

~~b. It is the intent of the Legislature to reaffirm the requirement of rate adequacy in the residual market. Recognizing that rates may comply with the intent expressed in sub-subparagraph a. and yet be inadequate and recognizing the public need to limit subsidies within the residual market, it is the further intent of the Legislature to establish statutory standards for rate adequacy. Such standards are intended to supplement the standard specified in s. 627.062(2)(e)3., providing that rates are inadequate if they are clearly insufficient to sustain projected losses and expenses in the class of business to which they apply.~~

~~2. For each county, the average rates of the corporation for each line of business for personal lines residential policies excluding rates for wind-only policies shall be no lower than the average rates charged by the insurer that had the highest average rate in that county among the 20 insurers with the greatest total direct written premium in the state for that line of business in the preceding year, except that with respect to mobile home coverages, the average rates of the corporation shall be no lower than the average rates charged by the insurer that had the highest average rate in that county among the 5 insurers with the greatest total written premium for mobile home owner's policies in the state in the preceding year.~~

~~3. Rates for personal lines residential wind-only policies must be actuarially sound and not competitive with approved rates charged by authorized insurers. If the filing under this subparagraph is made at least 90 days before the proposed effective date and the filing is not implemented during the office's review of the filing and any proceeding and judicial review, such filing shall be considered a "file and use" filing. In such case, the office shall finalize its review by issuance of a notice of intent to approve or a notice of intent to disapprove within 90 days after receipt of the filing. The notice of intent to approve and the notice of intent to disapprove constitute agency action for purposes of the Administrative Procedure Act. Requests for supporting information, requests for mathematical or mechanical corrections, or notification to the insurer by the office of its preliminary findings shall not toll the 90-day period during any such proceedings and subsequent judicial review. The rate shall be deemed approved if the office does not issue a notice of intent to approve or a notice of intent to disapprove within 90 days after receipt of the filing. Corporation rate manuals shall include a rate surcharge for seasonal occupancy. To ensure that personal lines residential wind-only rates are not competitive with approved rates charged by authorized insurers, the corporation, in conjunction with the office, shall develop a wind-only ratemaking methodology, which methodology shall be contained in each rate filing made by the corporation with the office. If the office determines that the wind-only rates or rating factors filed by the corporation fail to comply with the wind-only ratemaking methodology provided for in this subsection, it shall so notify the corporation and require the corporation to amend its rates or rating factors to come into compliance within 90 days of notice from the office.~~

~~4. The requirements of this paragraph that rates not be competitive with approved rates charged by authorized insurers do not apply in a county or area for which the office determines that no authorized insurer is offering coverage. The corporation shall amend its rates or rating factors for the affected county or area in conjunction with its next rate filing after such determination is made.~~

~~5. For the purposes of establishing a pilot program to evaluate issues relating to the availability and affordability of insurance in an area where historically there has been little market competition, the provisions of subparagraph 2. do not apply to coverage provided by the corporation in Monroe County if the office determines that a reasonable degree of competition does not exist for personal lines residential policies. The provisions of subparagraph 3. do not apply to coverage provided by the corporation in Monroe County if the office determines that a reasonable degree of competition does not exist for personal lines residential policies in the area of that county which is eligible for wind-only coverage. In this county, the rates for personal lines residential coverage shall be actuarially sound and not excessive, inadequate, or unfairly discriminatory and are subject to the other provisions of the paragraph and s. 627.062. The commission shall adopt rules establishing the criteria for determining whether a reasonable degree of competition exists for personal lines residential policies in Monroe County. By March 1, 2006, the office shall submit a report to the Legislature providing an evaluation of the implementation of the pilot program affecting Monroe County.~~

~~6. Rates for commercial lines coverage shall not be subject to the requirements of subparagraph 2., but shall be subject to all other requirements of this paragraph and s. 627.062.~~

~~7. Nothing in this paragraph shall require or allow the corporation to adopt a rate that is inadequate under s. 627.062.~~

~~8. The corporation shall certify to the office at least twice annually that its personal lines rates comply with the requirements of subparagraphs 1., 2., and 3. If any adjustment in the rates or rating factors of the corporation is necessary to ensure such compliance, the corporation shall make and implement such adjustments and file its revised rates and rating factors with the office. If the office thereafter determines that the revised rates and rating factors fail to comply with the provisions of subparagraphs 1., 2., and 3., it shall notify the corporation and require the corporation to amend its rates or rating factors in conjunction with its next rate filing. The office must notify the corporation by electronic means of any rate filing it approves for any insurer among the insurers referred to in subparagraph 2.~~

2.~~9.~~ In addition to the rates otherwise determined pursuant to this paragraph, the corporation shall impose and collect an amount equal to the premium tax provided for in s. 624.509 to augment the financial resources of the corporation.

~~10. The corporation shall develop a notice to policyholders or applicants that the rates of Citizens Property Insurance Corporation are intended to be higher than the rates of any admitted carrier and providing other information the corporation deems necessary to assist consumers in finding other voluntary admitted insurers willing to insure their property.~~

3.~~11.~~ After the public hurricane loss-projection model under s. 627.06281 has been found to be accurate and reliable by the Florida Commission on Hurricane Loss Projection Methodology, that model shall serve as the minimum benchmark for determining the windstorm portion of the corporation's rates. This subparagraph does not require or allow the corporation to adopt rates lower than the rates otherwise required or allowed by this paragraph.

4. The rate filings for the corporation which were approved by the office and which took effect January 1, 2007, are rescinded, except for those rates that were lowered. As soon as possible, the corporation shall begin using the lower rates that were in effect on December 31, 2006, and shall provide refunds to policyholders who have paid higher rates as a result of that rate filing. The rates in effect on December 31, 2006, shall remain in effect for the 2007 calendar year except for any rate change that results in a lower rate. The next rate change that may increase rates shall take effect January 1, 2008, pursuant to a new rate filing recommended by the corporation and established by the office, subject to the requirements of this paragraph.

(p)1. The corporation shall certify to the office its needs for annual assessments as to a particular calendar year, and for any interim assessments that it deems to be necessary to sustain operations as to a particular year pending the receipt of annual assessments. Upon verification, the office shall approve such certification, and the corporation shall levy such annual or interim assessments. Such assessments shall be prorated as provided in paragraph (b). The corporation shall take all reasonable and prudent steps necessary to collect the amount of assessment due from each assessable insurer, including, if prudent, filing suit to collect such assessment. If the corporation is unable to collect an assessment from any assessable insurer, the uncollected assessments shall be levied as an additional assessment against the assessable insurers and any assessable insurer required to pay an additional assessment as a result of such failure to pay shall have a cause of action against such nonpaying assessable insurer. Assessments shall be included as an appropriate factor in the making of rates. The failure of a surplus lines agent to collect and remit any regular or emergency assessment levied by the corporation is considered to be a violation of s. 626.936 and subjects the surplus lines agent to the penalties provided in that section.

2. The governing body of any unit of local government, any residents of which are insured by the corporation, may issue bonds as defined in s. 125.013 or s. 166.101 from time to time to fund an assistance program, in conjunction with the corporation, for the purpose of defraying deficits of the corporation. In order to avoid needless and indiscriminate proliferation, duplication, and fragmentation of such assistance programs, any unit of local government, any residents of which are insured by the corporation, may provide for the payment of losses, regardless of whether or not the losses occurred within or outside of the territorial jurisdiction of the local government. Revenue bonds under this subparagraph may not be issued until validated pursuant to chapter 75, unless a state of emergency is declared by executive order or proclamation of the Governor pursuant to s. 252.36 making such findings as are necessary to determine that it is in the best interests of, and necessary for, the protection of the public health, safety, and general welfare of residents of this state and declaring it an essential public purpose to permit certain municipalities or counties to issue such bonds as will permit relief to claimants and policyholders of the corporation. Any such unit of local government may enter into such contracts with the corporation and with any other entity created pursuant to this subsection as are necessary to carry out this paragraph. Any bonds issued under this subparagraph shall be payable from and secured by moneys received by the corporation from emergency assessments under sub-subparagraph (b)3.d., and assigned and pledged to or on behalf of the unit of local government for the benefit of the holders of such bonds. The funds, credit, property, and taxing power of the state or of the unit of local government shall not be pledged for the payment of such bonds. If any of the bonds remain unsold 60 days after issuance, the office shall require all insurers subject to assessment to purchase the bonds, which shall be treated as admitted assets; each insurer shall be required to purchase that percentage of the unsold portion of the bond issue that equals the insurer's relative share

of assessment liability under this subsection. An insurer shall not be required to purchase the bonds to the extent that the office determines that the purchase would endanger or impair the solvency of the insurer.

3.a. The corporation shall adopt one or more programs subject to approval by the office for the reduction of both new and renewal writings in the corporation. Beginning January 1, 2008, any program the corporation adopts for the payment of bonuses to an insurer for each risk the insurer removes from the corporation shall comply with s. 627.3511(2) and may not exceed the amount referenced in s. 627.3511(2) for each risk removed. The corporation may consider any prudent and not unfairly discriminatory approach to reducing corporation writings, and may adopt a credit against assessment liability or other liability that provides an incentive for insurers to take risks out of the corporation and to keep risks out of the corporation by maintaining or increasing voluntary writings in counties or areas in which corporation risks are highly concentrated and a program to provide a formula under which an insurer voluntarily taking risks out of the corporation by maintaining or increasing voluntary writings will be relieved wholly or partially from assessments under sub-subparagraphs (b)3.a. and b. However, any "take-out bonus" or payment to an insurer must be conditioned on the property being insured for at least 5 years by the insurer, unless canceled or nonrenewed by the policyholder. If the policy is canceled or nonrenewed by the policyholder before the end of the 5-year period, the amount of the take-out bonus must be prorated for the time period the policy was insured. When the corporation enters into a contractual agreement for a take-out plan, the producing agent of record of the corporation policy is entitled to retain any unearned commission on such policy, and the insurer shall either:

(I) Pay to the producing agent of record of the policy, for the first year, an amount which is the greater of the insurer's usual and customary commission for the type of policy written or a policy fee equal to the usual and customary commission of the corporation; or

(II) Offer to allow the producing agent of record of the policy to continue servicing the policy for a period of not less than 1 year and offer to pay the agent the insurer's usual and customary commission for the type of policy written. If the producing agent is unwilling or unable to accept appointment by the new insurer, the new insurer shall pay the agent in accordance with sub-sub-subparagraph (I).

b. Any credit or exemption from regular assessments adopted under this subparagraph shall last no longer than the 3 years following the cancellation or expiration of the policy by the corporation. With the approval of the office, the board may extend such credits for an additional year if the insurer guarantees an additional year of renewability for all policies removed from the corporation, or for 2 additional years if the insurer guarantees 2 additional years of renewability for all policies so removed.

c. There shall be no credit, limitation, exemption, or deferment from emergency assessments to be collected from policyholders pursuant to sub-subparagraph (b)3.d.

4. The plan shall provide for the deferment, in whole or in part, of the assessment of an assessable insurer, other than an emergency assessment collected from policyholders pursuant to sub-subparagraph (b)3.d., if the office finds that payment of the assessment would endanger or impair the solvency of the insurer. In the event an assessment against an assessable insurer is deferred in whole or in part, the amount by which such assessment is deferred may be assessed against the other assessable insurers in a manner consistent with the basis for assessments set forth in paragraph (b).

5. Effective July 1, 2007, in order to evaluate the costs and benefits of approved take-out plans, if the corporation pays a bonus or other payment to an insurer for an approved take-out plan, it shall maintain a record of the address or such other identifying information on the property or risk removed in order to track if and when the property or risk is later insured by the corporation.

6. Any policy taken out, assumed, or removed from the corporation is, as of the effective date of the take-out, assumption, or removal, direct insurance issued by the insurer and not by the corporation, even if the corporation continues to service the policies. This subparagraph applies to policies of the corporation and not policies taken out, assumed, or removed from any other entity.

(s) For the purposes of s. 199.183(1), the corporation shall be considered a political subdivision of the state and shall be exempt from the corporate income tax. The premiums, assessments, investment income, and other revenue of the corporation are funds received for providing property insurance coverage as required by this subsection, paying claims for Florida citizens insured by the corporation, securing and repaying debt obligations issued by the corporation, and conducting all other activities of the corporation, and shall not be considered taxes, fees, licenses, or charges for services imposed by the Legislature on individuals, businesses, or agencies outside state government. Bonds and other debt obligations issued by or on behalf of the corporation are not to be considered "state bonds" within the meaning of s. 215.58(8). The corporation is not subject to the procurement provisions of chapter 287, and policies and decisions of the corporation relating to incurring debt, levying of assessments and the sale, issuance, continuation, terms and claims under corporation policies, and all services relating thereto, are not subject to the provisions of chapter 120. The corporation is not required to obtain or to hold a certificate of authority issued by the office, nor is it required to participate as a member insurer of the Florida Insurance Guaranty Association. However, the corporation is required to pay, in the same manner as an authorized insurer, assessments *levied* ~~pledged~~ by the Florida Insurance Guaranty Association ~~to secure bonds issued or other indebtedness incurred to pay covered claims arising from insurer insolvencies caused by, or proximately related to, hurricane losses~~. It is the intent of the Legislature that the tax exemptions provided in this paragraph will augment the financial resources of the corporation to better enable the corporation to fulfill its public purposes. Any debt obligations issued by the corporation, their transfer, and the income therefrom, including any profit made on the sale thereof, shall at all times be free from taxation of every kind by the state and any political subdivision or local unit or other instrumentality thereof; however, this exemption does not apply to any tax imposed by chapter 220 on interest, income, or profits on debt obligations owned by corporations other than the corporation.

(ee) The assets of the corporation may be invested and managed by the State Board of Administration.

Section 28. *It is the intent of the Legislature that commercial nonresidential property insurance coverage be made available from Citizens Property Insurance Corporation (Citizens), under s. 627.351(6), Florida Statutes, as amended by this act, rather than from the Property and Casualty Joint Underwriting Association (PCJUA), under s. 627.351(5), Florida Statutes. As soon as it is reasonably able to do so, Citizens shall adopt, subject to approval of the Office of Insurance Regulation, a plan providing for the transition of such coverage from the PCJUA to Citizens under such forms, rates, terms, and conditions as the board of Citizens considers appropriate. The plan shall include any contractual agreements between Citizens and the PCJUA which are required to effect the transition. In the transition plan, Citizens may assume policies or otherwise provide coverage for the commercial nonresidential policyholders of the PCJUA and may also provide for allocating to the appropriate account or accounts of Citizens the revenues, assets, liabilities, losses, and expenses associated with policies of the PCJUA which are assumed or otherwise covered by Citizens. It is the intent of the Legislature that the transition plan be implemented in a manner that does not adversely affect the creditworthiness of or security for currently outstanding financing obligations or credit facilities of the high-risk account, the personal lines account, or the commercial lines account. The order issued by the Office of Insurance Regulation may allow the PCJUA to continue to issue such coverage until the time that Citizens begins issuing such coverage.*

Section 29. Subsections (3), (4), (5), and (7) of section 627.701, Florida Statutes, are amended to read:

627.701 Liability of insureds; coinsurance; deductibles.—

(3)~~(a) A policy of residential property insurance shall include a deductible amount applicable to hurricane losses no lower than $500 and no higher than 2 percent of the policy dwelling limits with respect to personal lines residential risks, and no higher than 3 percent of the policy limits with respect to commercial lines residential risks; however, if a risk was covered on August 24, 1992, under a policy having a higher deductible than the deductibles allowed by this paragraph, a policy covering such risk may include a deductible no higher than the deductible in effect on August 24, 1992. Notwithstanding the other provisions of this paragraph, a personal lines residential policy covering a risk valued at $50,000 or less may include a deductible amount attributable~~

~~to hurricane losses no lower than $250, and a personal lines residential policy covering a risk valued at $100,000 or more may include a deductible amount attributable to hurricane losses no higher than 10 percent of the policy limits unless subject to a higher deductible on August 24, 1992; however, no maximum deductible is required with respect to a personal lines residential policy covering a risk valued at more than $500,000. An insurer may require a higher deductible, provided such deductible is the same as or similar to a deductible program lawfully in effect on June 14, 1995. In addition to the deductible amounts authorized by this paragraph, an insurer may also offer policies with a copayment provision under which, after exhaustion of the deductible, the policyholder is responsible for 10 percent of the next $10,000 of insured hurricane losses.~~

(a)~~(b)~~1. Except as otherwise provided in this paragraph, prior to issuing a personal lines residential property insurance policy ~~on or after January 1, 2006, or prior to the first renewal of a residential property insurance policy on or after January 1, 2006~~, the insurer must offer alternative deductible amounts applicable to hurricane losses equal to $500, 2 percent, 5 percent, and 10 percent of the policy dwelling limits, unless the specific percentage deductible is less than $500. The written notice of the offer shall specify the hurricane or wind deductible to be applied in the event that the applicant or policyholder fails to affirmatively choose a hurricane deductible. The insurer must provide such policyholder with notice of the availability of the deductible amounts specified in this paragraph in a form approved by the office in conjunction with each renewal of the policy. The failure to provide such notice constitutes a violation of this code but does not affect the coverage provided under the policy.

2. For policies issued or renewed on or after July 1, 2007, an insurer that is subject to subparagraph 1. must also offer a deductible applicable to hurricane losses which covers 50 percent of the policyholder's equity in a structure that is subject to a mortgage or lien. As a condition of making this offer, the insurer may require the policyholder or financial institution or other lienholder that holds the mortgage to provide documentation annually to the insurer identifying the amount of the policyholder's equity projected for the policy year. The deductible may be structured to cover 50 percent of the policyholder's equity as of the effective date of the policy renewal or the deductible may be scheduled to reflect a monthly adjustment that tracks the change in the policyholder's equity. The commission may adopt rules to administer this subparagraph.

3.~~2.~~ This paragraph does not apply with respect to a deductible program lawfully in effect on June 14, 1995, or to any similar deductible program, if the deductible program requires a minimum deductible amount of no less than 2 percent of the policy limits.

4.~~3.~~ With respect to a policy covering a risk with dwelling limits of at least $100,000, but less than $250,000, the insurer may, in lieu of offering a policy with a $500 hurricane or wind deductible as required by subparagraph 1., offer a policy that the insurer guarantees it will not nonrenew for reasons of reducing hurricane loss for one renewal period and that contains up to a 2 percent hurricane or wind deductible as required by subparagraph 1.

5.~~4.~~ With respect to a policy covering a risk with dwelling limits of $250,000 or more, the insurer need not offer the $500 hurricane deductible as required by subparagraph 1., but must, except as otherwise provided in this subsection, offer the other hurricane deductibles as required by subparagraph 1.

(4)(a) Any policy that contains a separate hurricane deductible must on its face include in boldfaced type no smaller than 18 points the following statement: "THIS POLICY CONTAINS A SEPARATE DEDUCTIBLE FOR HURRICANE LOSSES, WHICH MAY RESULT IN HIGH OUT-OF-POCKET EXPENSES TO YOU." A policy containing a coinsurance provision applicable to hurricane losses must on its face include in boldfaced type no smaller than 18 points the following statement: "THIS POLICY CONTAINS A CO-PAY PROVISION THAT MAY RESULT IN HIGH OUT-OF-POCKET EXPENSES TO YOU."

(b) ~~Beginning October 1, 2005,~~ For any personal lines residential property insurance policy containing a separate hurricane deductible, the insurer shall compute and prominently display the actual dollar value of the hurricane deductible on the declarations page of the policy at issuance and, for renewal, on the renewal declarations page of the policy or on the premium renewal notice.

(c) ~~Beginning October 1, 2005,~~ For any personal lines residential property insurance policy containing an inflation guard rider, the insurer shall compute and prominently display the actual dollar value of the hurricane deductible on the declarations page of the policy at issuance and, for renewal, on the renewal declarations page of the policy or on the premium renewal notice. In addition, ~~beginning October 1, 2005,~~ for any personal lines residential property insurance policy containing an inflation guard rider, the insurer shall notify the policyholder of the possibility that the hurricane deductible may be higher than indicated when loss occurs due to application of the inflation guard rider. Such notification shall be made on the declarations page of the policy at issuance and, for renewal, on the renewal declarations page of the policy or on the premium renewal notice.

(d)1. A personal lines residential property insurance policy covering a risk valued at less than $500,000 may not have a hurricane deductible in excess of 10 percent of the policy dwelling limits, unless the following conditions are met:

a. The policyholder must personally write and provide to the insurer the following statement in his or her own handwriting and signs his or her name, which must also be signed by every other named insured on the policy, and dated: "I do not want the insurance on my home to pay for the first (specify dollar value) of damage from hurricanes. I will pay those costs. My insurance will not."

b. If the structure insured by the policy is subject to a mortgage or lien, the policyholder must provide the insurer with a written statement from the mortgageholder or lienholder indicating that the mortgageholder or lienholder approves the policyholder electing to have the specified deductible.

2. A deductible subject to the requirements of this paragraph applies only for the term of the policy and must be newly executed upon each renewal pursuant to the requirements of this paragraph.

3. An insurer shall keep the original copy of the signed statement required by this paragraph and provide a copy to the policyholder providing the signed statement. A signed statement meeting the requirements of this paragraph creates a presumption that there was an informed, knowing election of coverage.

4. The commission shall adopt rules providing appropriate alternative methods for providing the statements required by this section for policyholders who have a handicapping or disabling condition that prevents them from providing a handwritten statement.

(5)(a) The hurricane deductible of any personal lines residential property insurance policy ~~issued or renewed on or after May 1, 2005,~~ shall be applied as follows:

1. The hurricane deductible shall apply on an annual basis to all covered hurricane losses that occur during the calendar year for losses that are covered under one or more policies issued by the same insurer or an insurer in the same insurer group.

2. If a hurricane deductible applies separately to each of one or more structures insured under a single policy, the requirements of this paragraph apply with respect to the deductible for each structure.

3. If there was a hurricane loss for a prior hurricane or hurricanes during the calendar year, the insurer may apply a deductible to a subsequent hurricane which is the greater of the remaining amount of the hurricane deductible or the amount of the deductible that applies to perils other than a hurricane. Insurers may require policyholders to report hurricane losses that are below the hurricane deductible or to maintain receipts or other records of such hurricane losses in order to apply such losses to subsequent hurricane claims.

4. If there are hurricane losses in a calendar year on more than one policy issued by the same insurer or an insurer in the same insurer group, the hurricane deductible shall be the highest amount stated in any one of the policies. If a policyholder who had a hurricane loss under the prior policy is provided or offered a lower hurricane deductible under the new or renewal policy, the insurer must notify the policyholder, in writing, at the time the lower hurricane deductible is provided or offered, that the lower hurricane deductible will not apply until January 1 of the following calendar year.

(b) For commercial residential property insurance policies ~~issued or renewed on or after January 1, 2006~~, the insurer must offer the policyholder the following alternative hurricane deductibles:

1. A hurricane deductible that applies on an annual basis as provided in paragraph (a); and

2. A hurricane deductible that applies to each hurricane.

(7) Prior to issuing a personal lines residential property insurance policy ~~on or after April 1, 1997, or prior to the first renewal of a residential property insurance policy on or after April 1, 1997~~, the insurer must offer a deductible equal to $500 applicable to losses from perils other than hurricane. The insurer must provide the policyholder with notice of the availability of the deductible specified in this subsection in a form approved by the office at least once every 3 years. The failure to provide such notice constitutes a violation of this code but does not affect the coverage provided under the policy. An insurer may require a higher deductible only as part of a deductible program lawfully in effect on June 1, 1996, or as part of a similar deductible program.

Section 30. Effective July 1, 2007, section 627.706, Florida Statutes, is amended to read:

627.706 Sinkhole insurance; definitions.—

(1) Every insurer authorized to transact property insurance in this state shall *provide coverage for a catastrophic ground cover collapse and shall* make available*, for an appropriate additional premium,* coverage for ~~insurable~~ sinkhole losses on any structure, including contents of personal property contained therein, to the extent provided in the form to which the ~~sinkhole~~ coverage attaches. A policy for residential property insurance may include a deductible amount applicable to sinkhole losses equal to 1 percent, 2 percent, 5 percent, or 10 percent of the policy dwelling limits, with appropriate premium discounts offered with each deductible amount.

(2) As used in ss. 627.706-627.7074, and as used in connection with any policy providing coverage for *a catastrophic ground cover collapse or for* sinkhole losses:

(a) "Catastrophic ground cover collapse" means geological activity that results in the collapse of the ground cover and the insured structure being condemned and ordered to be vacated by the governmental agency authorized by law to issue such an order for that structure.

(b)~~(a)~~ "Sinkhole" means a landform created by subsidence of soil, sediment, or rock as underlying strata are dissolved by groundwater. A sinkhole may form by collapse into subterranean voids created by dissolution of limestone or dolostone or by subsidence as these strata are dissolved.

(c)~~(b)~~ "Sinkhole loss" means structural damage to the building, including the foundation, caused by sinkhole activity. Contents coverage shall apply only if there is structural damage to the building caused by sinkhole activity.

(d)~~(c)~~ "Sinkhole activity" means settlement or systematic weakening of the earth supporting such property only when such settlement or systematic weakening results from movement or raveling of soils, sediments, or rock materials into subterranean voids created by the effect of water on a limestone or similar rock formation.

(e)~~(d)~~ "Professional engineer" means a person, as defined in s. 471.005, who has a bachelor's degree or higher in engineering with a specialty in the geotechnical engineering field. A professional engineer must have geotechnical experience and expertise in the identification of sinkhole activity as well as other potential causes of damage to the structure.

(f)~~(e)~~ "Professional geologist" means a person, as defined by s. 492.102, who has a bachelor's degree or higher in geology or related earth science with expertise in the geology of Florida. A professional geologist must have geological experience and expertise in the identification of sinkhole activity as well as other potential geologic causes of damage to the structure.

(3) Every insurer authorized to transact property insurance in this state shall make a proper filing with the office for the purpose of extending the appropriate forms of property insurance to include coverage for *catastrophic ground cover collapse or for* sinkhole losses.

Section 31. Subsection (2) of section 627.7065, Florida Statutes, is amended to read:

627.7065 Database of information relating to sinkholes; the Department of Financial Services and the Department of Environmental Protection.—

(2) The Department of Financial Services, including the employee of the Division of Consumer Services designated as the primary contact for consumers on issues relating to sinkholes, and the ~~Office of the~~ Insurance Consumer Advocate shall consult with the Florida Geological Survey and the Department of Environmental Protection to implement a statewide automated database of sinkholes and related activity identified in the state.

Section 32. Effective July 1, 2007, section 627.712, Florida Statutes, is created to read:

627.712 Residential hurricane coverage required; availability of exclusions for windstorm or contents.—

(1) An insurer issuing a residential property insurance policy must provide hurricane or windstorm coverage as defined in s. 627.4025. This subsection does not apply with respect to risks that are eligible for wind-only coverage from Citizens Property Insurance Corporation under s. 627.351(6).

(2) An insurer that is subject to subsection (1) must make available, at the option of the policyholder, an exclusion of hurricane coverage or windstorm coverage. The coverage may be excluded only if:

(a) The policyholder personally writes and provides to the insurer the following statement in his or her own handwriting and signs his or her name, which must also be signed by every other named insured on the policy, and dated: "I do not want the insurance on my (home / mobile home / condominium unit) to pay for damage from windstorms or hurricanes. I will pay those costs. My insurance will not."

(b) If the structure insured by the policy is subject to a mortgage or lien, the policyholder must provide the insurer with a written statement from the mortgageholder or lienholder indicating that the mortgageholder or lienholder approves the policyholder electing to exclude windstorm coverage or hurricane coverage from his or her residential property insurance policy.

(3) An insurer issuing a residential property insurance policy, except for a condominium unit owner's policy, must make available, at the option of the policyholder, an exclusion of coverage for the contents. The coverage may be excluded only if the policyholder personally writes and provides to the insurer the following statement in his or her own handwriting and signs his or her signature, which must also be signed by every other named insured on the policy, and dated: "I do not want the insurance on my (home / mobile home) to pay for the costs to repair or replace any contents that are damaged. I will pay those costs. My insurance will not."

(4) An insurer shall keep the original copy of a signed statement required by this section and provide a copy to the policyholder providing the signed statement. A signed statement meeting the requirements of this section creates a presumption that there was an informed, knowing rejection of coverage.

(5) The exclusions authorized by this section are valid only for the term of the contract and must be newly executed upon each contract renewal pursuant to the requirements of this section.

(6) The commission shall adopt rules providing appropriate alternative methods for providing the statements required by this section for policyholders who have a handicapping or disabling condition that prevents them from providing a handwritten statement.

Section 33. Section 627.713, Florida Statutes, is created to read:

627.713 Report of hurricane loss data.—

(1) The office may require property insurers to report data regarding hurricane claims and underwriting costs, including, but not limited to:

(a) Number of claims;

(b) Amount of claim payments made;

(c) Number and amount of total-loss claims;

(d) Amount and percentage of losses covered by reinsurance or other loss-transfer agreements;

(e) Amount of losses covered under specified deductibles;

(f) Claims and payments for specified insured values;

(g) Claims and payments for specified dollar values;

(h) Claims and payments for specified types of construction or mitigation features;

(i) Claims and payments for policies under specified underwriting criteria;

(j) Claims and payments for contents, additional living expense, and other specified coverages;

(k) Claims and payments by county for the information specified in this section; and

(l) Any other data that the office requires.

(2) The commission may adopt rules pursuant to ss. 120.536(1) and 120.54 to administer this section.

Section 34. Paragraph (e) of subsection (3) and subsection (4) of section 631.57, Florida Statutes, are amended to read:

631.57 Powers and duties of the association.—

(3)

(e)1.

a. In addition to assessments otherwise authorized in paragraph (a) and to the extent necessary to secure the funds for the account specified in s. 631.55(2)(c) *for the direct payment of covered claims and to pay the reasonable costs to administer such claims,* or to retire indebtedness, including, without limitation, the principal, redemption premium, if any, and interest on, and related costs of issuance of, bonds issued under s. 631.695 and the funding of any reserves and other payments required under the bond resolution or trust indenture pursuant to which such bonds have been issued, the office, upon certification of the board of directors, shall levy emergency assessments upon insurers holding a certificate of authority. The emergency assessments payable under this paragraph by any insurer shall not exceed in any single year more than 2 percent of that insurer's direct written premiums, net of refunds, in this state during the preceding calendar year for the kinds of insurance within the account specified in s. 631.55(2)(c).

b. Any emergency assessments authorized under this paragraph shall be levied by the office upon insurers referred to in sub-subparagraph a., upon certification as to the need for such assessments by the board of directors. *In the event the board of directors participates in the issuance of bonds in accordance with s. 631.695, emergency assessments shall be levied,* in each year that bonds issued under s. 631.695 and secured by such emergency assessments are outstanding, in such amounts up to such 2-percent limit as required in order to provide for the full and timely payment of the principal of, redemption premium, if any, and interest on, and related costs of issuance of, such bonds. The emergency assessments provided for in this paragraph are assigned and pledged to the municipality, county, or legal entity issuing bonds under s. 631.695 for the benefit of the holders of such bonds, in order to enable such municipality, county, or legal entity to provide for the payment of the principal of, redemption premium, if any, and interest on such bonds, the cost of issuance of such bonds, and the funding of any reserves and other payments required under the bond resolution or trust indenture pursuant to which such bonds have been issued, without the necessity of any further action by the association, the office, or any other party. To the extent bonds are issued under s. 631.695 and the association determines to secure such bonds by a pledge of revenues received from the emergency assessments, such bonds, upon such pledge of revenues, shall be secured by and payable from the proceeds of such emergency assessments, and the proceeds of emergency assessments levied under this paragraph shall be remitted directly to and administered by the trustee or custodian appointed for such bonds.

c. Emergency assessments under this paragraph may be payable in a single payment or, at the option of the association, may be payable in 12 monthly installments with the first installment being due and payable at the end of the month after an emergency assessment is levied and subsequent installments being due not later than the end of each succeeding month.

d. If emergency assessments are imposed, the report required by s. 631.695(7) shall include an analysis of the revenues generated from the emergency assessments imposed under this paragraph.

e. If emergency assessments are imposed, the references in sub-subparagraph (1)(a)3.b. and s. 631.695(2) and (7) to assessments levied under paragraph (a) shall include emergency assessments imposed under this paragraph.

2. In order to ensure that insurers paying emergency assessments levied under this paragraph continue to charge rates that are neither inadequate nor excessive, within 90 days after being notified of such assessments, each insurer that is to be assessed pursuant to this paragraph shall submit a rate filing for coverage included within the account specified in s. 631.55(2)(c) and for which rates are required to be filed under s. 627.062. If the filing reflects a rate change that, as a percentage, is equal to the difference between the rate of such assessment and the rate of the previous year's assessment under this paragraph, the filing shall consist of a certification so stating and shall be deemed approved when made. Any rate change of a different percentage shall be subject to the standards and procedures of s. 627.062.

3. *In the event the board of directors participates in the issuance of bonds in accordance with s. 631.695,* an annual assessment under this paragraph shall continue while the bonds issued with respect to which the assessment was imposed are outstanding, including any bonds the proceeds of which were used to refund bonds issued pursuant to s. 631.695, unless adequate provision has been made for the payment of the bonds in the documents authorizing the issuance of such bonds.

4. Emergency assessments under this paragraph are not premium and are not subject to the premium tax, to any fees, or to any commissions. An insurer is liable for all emergency assessments that the insurer collects and shall treat the failure of an insured to pay an emergency assessment as a failure to pay the premium. An insurer is not liable for uncollectible emergency assessments.

(4) The department may exempt any insurer from *any regular or emergency* ~~an~~ assessment if an assessment would result in such insurer's financial statement reflecting an amount of capital or surplus less than the sum of the minimum amount required by any jurisdiction in which the insurer is authorized to transact insurance.

Section 35. *The amendments to section 34 of chapter 2006-12, Laws of Florida, authorized the Florida Insurance Guaranty Association to certify, and the Office of Insurance Regulation to levy, an emergency assessment of up to 2 percent to either directly pay the covered claims out of the account specified in s. 631.55(2)(c), Florida Statutes, or to use the proceeds of such emergency assessment to retire the indebtedness and the costs of bonds issued to pay such claims and reasonable claims-administration costs.*

Section 36. Subsection (1) of section 631.912, Florida Statutes, is amended to read:

631.912 Board of directors.—

(1) The board of directors of the corporation shall consist of 11 persons, 1 of whom is the Insurance Consumer Advocate appointed under *s. 350.0615* ~~s. 627.0613~~ or designee and 1 of whom is designated by the Chief Financial Officer. The department shall appoint to the board 6 persons selected by private carriers from among the 20 workers' compensation insurers with the largest amount of net direct written premium as determined by the department, and 3 persons selected by the self-insurance funds. At least two of the private carriers shall be foreign carriers authorized to do business in this state. The board shall elect a chairperson from among its members. The Chief Financial Officer may remove any board member for cause. Each board member shall serve for

a 4-year term and may be reappointed. A vacancy on the board shall be filled for the remaining period of the term in the same manner by which the original appointment was made.

Section 37. *Effective July 1, 2007, subsection (6) of section 627.0629, Florida Statutes, is repealed.*

Section 38. *Windstorm Mitigation Study Commission.—*

(1)(a) The Windstorm Mitigation Study Commission is created and shall be composed of five members as follows:

1. Three members shall be appointed by the Governor, with one designated by the Governor to serve as chair.

2. One member shall be appointed by the Chief Financial Officer.

3. One member shall be appointed by the Commissioner of Insurance Regulation.

(b) Each member must be knowledgeable of issues concerning the mitigation of the effects of windstorms on structures in this state and at least one member must represent primarily the interests of homeowners.

(2)(a) The members of the commission shall serve without compensation, but are entitled to reimbursement for all necessary expenses incurred in performing their duties, including travel expenses, in accordance with s. 112.061, Florida Statutes.

(b) The commission shall meet as necessary, at the call of the chair, and at the time and place designated by the chair. The commission may conduct its meetings through teleconferences or other similar means.

(3) The Department of Financial Services, the Office of Insurance Regulation, the Citizens Property Insurance Corporation, and other agencies of this state shall supply any information, assistance, and facilities that are considered necessary by the commission to carry out its duties under this section. The Executive Office of the Governor shall provide staff assistance as necessary in order to carry out the required clerical and administrative functions of the commission.

(4) The commission shall analyze those solutions and programs that address the state's acute need to mitigate the effects of windstorms on structures, especially residential property that is located in areas at greatest risk of windstorm damage, including programs or proposals that provide for:

(a) The availability of home inspections for windstorm resistance;

(b) Grants to assist homeowners, and possibly other groups of property owners, to harden their property against windstorm damage;

(c) The full actuarial value to be reflected in premium credits for windstorm mitigation;

(d) The most effective way to inform policyholders of the availability of and means by which to obtain premium credits for windstorm mitigation;

(e) Coordination among federal, local, and private initiatives;

(f) Streamlining or strengthening applicable state, regional, and local regulations;

(g) The stimulation of public and private efforts to mitigate against windstorm injury and damage;

(h) The discovery and assessment of funding sources for windstorm mitigation;

(i) Tax incentives for windstorm mitigation;

(j) Consumer information concerning the benefits of windstorm mitigation, including personal safety as well as property security;

(k) Research on windstorm mitigation; and

(l) The development of a form for uniform mitigation verification inspection to be used by insurers when factoring discounts for wind insurance which clearly specifies the procedures necessary to receive the full value of a discount.

The commission may develop any other solutions and programs that it considers appropriate.

(5) In performing its analysis, the commission shall consider both the safety of the residents of this state and the protection of real property, especially residential. In addition, the commission shall consider both short-term and long-term solutions and programs.

(6) The commission shall review, evaluate, and make recommendations regarding existing and proposed programs and initiatives for mitigating windstorm damage.

(7) The commission shall provide recommendations, including proposed legislation, to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Chief Financial Officer, and the Commissioner of Insurance Regulation by March 30, 2007.

Section 39. *Florida Disaster Recovery Initiative.—*

(1) There is established within the Department of Community Affairs the Florida Disaster Recovery Initiative for the purpose of assisting local governments in satisfying disaster-recovery needs in the areas of low-income housing and infrastructure, with a primary focus on the hardening of single-family and multifamily housing units, not only to ensure that affordable housing can withstand the effects of hurricane-force winds, but also to mitigate the increasing costs of insurance, which may ultimately render existing affordable homes unaffordable or uninsurable. This section does not create an entitlement for local governments or property owners or obligate the state in any way to fund disaster-recovery needs. Implementation of this initiative is subject to annual legislative appropriations.

(2) The Department of Community Affairs shall administer the initiative using funds provided through the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006, and those funds shall be used to assist local governments in satisfying their disaster-recovery needs in the areas of housing and infrastructure.

(3) Entitlement and nonentitlement counties identified under the Federal Disaster Declaration (FEMA-1609-DR), federally recognized Indian tribes, and nonprofit organizations are eligible to apply for funding.

(4) Up to 78 percent of these funds may be used to complement the grants awarded by the Department of Financial Services under s. 215.5586, Florida Statutes, and fund other eligible disaster-related activities supporting housing rehabilitation, hardening, mitigation, and infrastructure improvements at the request of the local governments in order to assist the State of Florida in better serving low-income homeowners in single-family housing units or condominiums. Up to 20 percent of the funds may be used to provide inspections and mitigation improvements to multifamily units receiving rental assistance under projects of the United States Department of Housing and Urban Development or the Rural Development Division of the United States Department of Agriculture.

Section 40. *For the 2006-2007 fiscal year, the sum of $100,066,518 is appropriated in a Grant in Aid—Fixed Capital Outlay appropriation category from the Florida Small Cities Community Development Block Grant Program Fund to the Department of Community Affairs for the purpose of implementing the provisions of section 39 of this act. These funds shall be used in a manner consistent with Federal Register, Vol. 71, No. 209, Docket No. FR-5089-N-01, and the State of Florida Action Plan for Disaster Recovery as approved by the United States Department of Housing and Urban Development.*

Section 41. Subsection (11) of section 718.111, Florida Statutes, is amended to read:

718.111 The association.—

(11) INSURANCE.—In order to protect the safety, health, and welfare of the people of the State of Florida and to ensure consistency in the provision of insurance coverage to condominiums and their unit owners, paragraphs (b) and (c) are deemed to apply to every *residential* condominium in the state, regardless of the date of its declaration of condominium. It is the intent of the Legislature to encourage lower or stable insurance premiums for associations described in this section. Therefore, the Legislature requires a report to be prepared by the Office of

Insurance Regulation of the Department of Financial Services for publication 18 months from the effective date of this act, evaluating premium increases or decreases for associations, unit owner premium increases or decreases, recommended changes to better define common areas, or any other information the Office of Insurance Regulation deems appropriate.

(a) A unit-owner controlled association *operating a residential condominium* shall use its best efforts to obtain and maintain adequate insurance to protect the association, the association property, the common elements, and the condominium property required to be insured by the association pursuant to paragraph (b). If the association is developer controlled, the association shall exercise due diligence to obtain and maintain such insurance. Failure to obtain and maintain adequate insurance during any period of developer control shall constitute a breach of fiduciary responsibility by the developer-appointed members of the board of directors of the association, unless said members can show that despite such failure, they have exercised due diligence. The declaration of condominium as originally recorded, or amended pursuant to procedures provided therein, may require that condominium property consisting of freestanding buildings where there is no more than one building in or on such unit need not be insured by the association if the declaration requires the unit owner to obtain adequate insurance for the condominium property. An association may also obtain and maintain liability insurance for directors and officers, insurance for the benefit of association employees, and flood insurance for common elements, association property, and units. Adequate insurance, regardless of any requirement in the declaration of condominium for coverage by the association for "full insurable value," "replacement cost," or the like, may include reasonable deductibles as determined by the board *based upon available funds or predetermined assessment authority at the time that the insurance is obtained.*

1. Windstorm insurance coverage for a group of no fewer than three communities created and operating under chapter 718, chapter 719, chapter 720, or chapter 721 may be obtained and maintained for the communities if the insurance coverage is sufficient to cover an amount equal to the probable maximum loss for the communities for a 250-year windstorm event. Such probable maximum loss must be determined through the use of a competent model that has been accepted by the Florida Commission on Hurricane Loss Project Methodology. Such insurance coverage is deemed adequate windstorm insurance for the purposes of this section.

2. An association or group of associations may self-insure against claims against the association, the association property, and the condominium property required to be insured by an association, upon compliance with *the applicable provisions of* ss. 624.460-624.488*, which shall be considered adequate insurance for the purposes of this section*. A copy of each policy of insurance in effect shall be made available for inspection by unit owners at reasonable times.

(b) Every hazard insurance policy issued or renewed on or after January 1, 2004, to protect the condominium shall provide primary coverage for:

1. All portions of the condominium property located outside the units;

2. The condominium property located inside the units as such property was initially installed, or replacements thereof of like kind and quality and in accordance with the original plans and specifications or, if the original plans and specifications are not available, as they existed at the time the unit was initially conveyed; and

3. All portions of the condominium property for which the declaration of condominium requires coverage by the association.

Anything to the contrary notwithstanding, the terms "condominium property," "building," "improvements," "insurable improvements," "common elements," "association property," or any other term found in the declaration of condominium which defines the scope of property or casualty insurance that a condominium association must obtain shall exclude all floor, wall, and ceiling coverings, electrical fixtures, appliances, air conditioner or heating equipment, water heaters, water filters, built-in cabinets and countertops, and window treatments, including curtains, drapes, blinds, hardware, and similar window treatment components, or replacements of any of the foregoing which are located within the boundaries of a unit and serve only one unit and all air conditioning compressors that service only an individual unit, whether or not located within the unit boundaries. The foregoing is intended to establish the property or casualty insuring responsibilities of the association and those of the individual unit owner and do not serve to broaden or extend the perils of coverage afforded by any insurance contract provided to the individual unit owner. Beginning January 1, 2004, the association shall have the authority to amend the declaration of condominium, without regard to any requirement for mortgagee approval of amendments affecting insurance requirements, to conform the declaration of condominium to the coverage requirements of this section.

(c) Every hazard insurance policy issued or renewed on or after January 1, 2004, to an individual unit owner shall provide that the coverage afforded by such policy is excess over the amount recoverable under any other policy covering the same property. Each insurance policy issued to an individual unit owner providing such coverage shall be without rights of subrogation against the condominium association that operates the condominium in which such unit owner's unit is located. All real or personal property located within the boundaries of the unit owner's unit which is excluded from the coverage to be provided by the association as set forth in paragraph (b) shall be insured by the individual unit owner.

(d) The association shall obtain and maintain adequate insurance or fidelity bonding of all persons who control or disburse funds of the association. The insurance policy or fidelity bond must cover the maximum funds that will be in the custody of the association or its management agent at any one time. As used in this paragraph, the term "persons who control or disburse funds of the association" includes, but is not limited to, those individuals authorized to sign checks and the president, secretary, and treasurer of the association. The association shall bear the cost of bonding.

Section 42. Section 627.711, Florida Statutes, is amended to read:

627.711 Notice of premium discounts for hurricane loss mitigation*; uniform mitigation verification inspection form*.—

(1) Using a form prescribed by the Office of Insurance Regulation, the insurer shall clearly notify the applicant or policyholder of any personal lines residential property insurance policy, at the time of the issuance of the policy and at each renewal, of the availability and the range of each premium discount, credit, other rate differential, or reduction in deductibles for properties on which fixtures or construction techniques demonstrated to reduce the amount of loss in a windstorm can be or have been installed or implemented. The prescribed form shall describe generally what actions the policyholders may be able to take to reduce their windstorm premium. The prescribed form and a list of such ranges approved by the office for each insurer licensed in the state and providing such discounts, credits, other rate differentials, or reductions in deductibles for properties described in this subsection shall be available for electronic viewing and download from the Department of Financial Services' or the Office of Insurance Regulation's Internet website. The Financial Services Commission may adopt rules to implement this subsection.

(2) The Financial Services Commission shall develop by rule a uniform mitigation verification inspection form that shall be used by all insurers when factoring discounts for wind insurance. In developing the form, the commission shall seek input from insurance, construction, and building code representatives. Further, the commission shall provide guidance as to the length of time the inspection results are valid.

Section 43. *It is the intent of the Legislature to create during the 2007 Legislative Session a grant program to assist persons whose income does not exceed that of "low-income persons" as defined in s. 420.602(8), Florida Statutes, for the purpose of purchasing property insurance to protect their homestead property.*

Section 44. Section 350.06151, Florida Statutes, is created to read:

350.06151 Beginning July 1, 2007, funds shall be transferred by the Department of Financial Services from the Insurance Regulatory Trust Fund to the Grants and Donations Trust Fund in the legislative branch for the purpose of funding the Office of Insurance Consumer Advocate. The transfer amount is equal to the approved operating budget for the Office of Insurance Consumer Advocate within the Office of Public Counsel.

Section 45. Except as otherwise expressly provided in this act, this act shall take effect upon becoming a law.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to hurricane preparedness and property insurance; amending s. 20.121, F.S.; removing the Office of Insurance Consumer Advocate from the Department of Financial Services; providing for the powers, records, personnel, property, balances of appropriations and other funds, rules, pending issues, and contracts of the Office of Insurance Consumer Advocate to be transferred from the Department of Financial Services to the Public Counsel; amending s. 163.01, F.S., relating to the Interlocal Cooperation Act; redefining the term "public agency" to include certain legal or administrative entities; authorizing such entities to finance the provision of property coverage contracts for or from local government property insurance pools or property coverage contracts; authorizing certain hospitals and hospital systems to borrow funds, issue bonds, and enter into loan agreements for the purpose of providing property coverage; providing for validating such bonds; providing an exemption from taxation; amending s. 215.555, F.S.; limiting the activities of the Florida Hurricane Fund Finance Corporation with respect to funding obligations; providing for revenue bonds to be issued to fund the obligations of the Florida Hurricane Excess Loss Program (FHELP); providing legislative findings; creating the Florida Hurricane Excess Loss Program Finance Corporation; providing for a board of directors; providing powers and duties; providing for the corporation to issue bonds that are not a debt of the state or any political subdivision; providing an exemption from taxation; providing for the protection of bondholders; limiting the activities of the Florida Hurricane Excess Loss Program Finance Corporation with respect to the obligations incurred by the Florida Hurricane Catastrophe Fund; authorizing the board of the Florida Hurricane Catastrophe Fund to enter into capital market transactions; authorizing temporary emergency options for additional coverage; providing a system under which insurers may procure additional reinsurance from the fund; defining terms; providing guidelines for such coverage; prescribing premiums for such coverage; providing a temporary increase in coverage limit options; providing legislative findings; defining terms; creating the Florida Hurricane Excess Loss Program, which shall be administered by the State Board of Administration; authorizing the board to adopt rules and employ or contract with staff; requiring that a contract addendum be executed by participating insurers; requiring that the state assume a portion of liability for losses under a covered policy; requiring that such coverage be funded separately from the obligations of the Florida Hurricane Catastrophe Fund and proceeds of bonds issued by the Florida Hurricane Catastrophe Fund Finance Corporation; requiring insurers obtaining certain coverages offered by the Florida Hurricane Catastrophe Fund to make rate filings that reflect savings or reduction in loss exposure; requiring that the Office of Insurance Regulation specify, by order, the dates on which such filings must be made; providing limitations for an insurer in implementing a rate change following a rate filing; requiring the Office of Insurance Regulation to calculate a presumed factor to reflect the impact on rates resulting from this act; providing an appropriation; amending s. 215.5586, F.S., relating to the Florida Comprehensive Hurricane Damage Mitigation Program; providing for grants to homeowners to protect rather than retrofit their properties; revising certain other eligibility criteria for a grant; authorizing the use of grants for roof-protection systems; amending s. 215.559, F.S., relating to the Hurricane Loss Mitigation Program; providing for a certain portion of the appropriation under the program to be used for securing fixtures for mobile homes; amending s. 350.012, F.S.; redesignating the Committee on Public Service Commission Oversight as the "Committee on Public Service Commission and Insurance Oversight"; requiring that the committee confirm or reject the appointment of the Insurance Consumer Advocate by the Chief Financial Officer; amending s. 350.0611, F.S., relating to the Public Counsel; providing duties with respect to the Insurance Consumer Advocate; amending s. 350.0613, F.S.; authorizing the Public Counsel to represent the public before the Office of Insurance Regulation, the Financial Services Commission, and the Department of Financial Services; including certain proceedings related to rules and rate filings for insurance; authorizing the Public Counsel to have access to files of the Office of Insurance Regulation, the Financial Services Commission, and the Department of Financial Services, to seek review of orders of the office and the commission, and to issue reports, recommendations, and proposed orders to the office and the commission; authorizing the Committee on Public Service Commission and Insurance Oversight to authorize the Public Counsel to employ certain types of employees; requiring the Office of Insurance Regulation, the Financial Services Commission, and the Department of Financial Services to provide copies of certain filings to the Public Counsel; creating s. 350.0615, F.S.; creating the office of Insurance Consumer Advocate to represent the public on matters relating to the regulation of insurance; requiring the Chief Financial Officer to appoint the Insurance Consumer Advocate, who is subject to confirmation by the Committee on Public Service Commission and Insurance Oversight; providing for the Insurance Consumer Advocate to report directly to and be employed by the Public Counsel; specifying the powers and duties of the Insurance Consumer Advocate; creating s. 395.1060, F.S.; providing for risk pooling, with respect to property exposure, by certain hospitals and hospital systems; exempting entities formed to do so from the Florida Insurance Code; amending s. 553.73, F.S.; prohibiting the Florida Building Commission from modifying certain foundation codes relating to wind resistance or the prevention of water intrusion unless the modification enhances such provisions; amending s. 553.775, F.S., relating to interpretations of the Florida Building Code; conforming a cross-reference; requiring jurisdictions having authority to enforce the Florida Building Code to require wind-borne-debris protection according to specified requirements; requiring that the Florida Building Commission amend the Florida Building Code to reflect the requirements of the act and eliminate certain less stringent requirements; providing an exception; requiring an amendment to the code with respect to certain provisions governing new residential construction; requiring the commission to develop voluntary guidelines for increasing the hurricane resistance of buildings; requiring that the guidelines be included in the commission's report to the 2008 Legislature; amending s. 624.319, F.S.; authorizing the Public Counsel and the Insurance Consumer Advocate to have access to certain confidential information held by the Department of Financial Services or the Office of Insurance Regulation; amending s. 624.462, F.S.; revising requirements for the establishment of a commercial self-insurance fund by a not-for-profit group; amending s. 624.4622, F.S.; authorizing local government self-insurance funds to insure or self-insure real or personal property against loss or damage; creating s. 624.4625, F.S.; authorizing two or more corporations not for profit to form a self-insurance fund for certain purposes; providing specific requirements; providing a definition; providing limitations; providing for application of certain provisions to certain premiums, contributions, and assessments; providing for payment of insurance premium tax at a reduced rate by corporation not-for-profit self-insurance funds; subjecting a corporation not for profit self-insurance fund to certain group self-insurance fund provisions under certain circumstances; amending s. 624.610, F.S.; specifying additional circumstances under which the Office of Insurance Regulation may allow credit when reinsurance is ceded to an assuming insurer; amending s. 626.9541, F.S.; providing that an insurer's failure to offer in this state any kind or line of insurance which all insurers or affiliated insurers offer in another jurisdiction constitutes an unfair method of competition and unfair or deceptive act; providing penalties; providing for rules; repealing s. 627.0613, F.S., relating to the consumer advocate appointed by the Chief Financial Officer; amending s. 627.062, F.S.; deleting provisions allowing property and casualty insurers to use and file rates; deleting provisions exempting certain rate filings from review by the Office of Insurance Regulation; deleting provisions authorizing an insurer to require the arbitration of a rate filing following agency action under the Administrative Procedure Act; requiring the chief executive officer, chief financial officer, or chief actuary of a property insurer to certify the information contained in a rate filing; providing penalties for knowingly making a false certification; authorizing the Financial Services Commission to adopt rules; deleting provisions placing the burden on the Office of Insurance Regulation to establish that certain rates are excessive; amending s. 627.0628, F.S., relating to hurricane loss projection; conforming references to changes made by the act; amending s. 627.311, F.S.; providing for the Insurance Consumer Advocate to be a member of the board of governors supervising joint underwriting associations; amending s. 627.351, F.S., relating to the Citizens Property Insurance Corporation; deleting provisions that deny certain nonhomestead property eligibility for coverage by the corporation; including commercial nonresidential policies into an account of the corporation; authorizing the corporation to issue multiperil coverage, wind-only coverage, or both in the high-risk account after a specified date; deleting provisions authorizing the Office of Insurance Regulation to remove territory from the area eligible for wind-only and quota share coverage; redefining the term "subject lines of business" subject to assessments for deficits; requiring the board of governors of the corporation to levy an assessment against nonhomestead property policyholders if certain deficits occur after a specified date; restricting the eligibility of a risk for a policy issued by the corporation under certain circumstances; authorizing the plan of operation to establish limits of coverage

and to require commercial property to meet specified hurricane-mitigation features; requiring that the corporation annually file recommended rates; requiring that the office issue a final order establishing the rates within a specified period; prohibiting the corporation from pursuing administrative or judicial review of such order; deleting provisions specifying circumstances under which a rate is deemed inadequate; deleting legislative intent concerning rate adequacy in the residual market; deleting provisions providing requirements for personal lines residential policies and residential wind-only policies; deleting an exemption provided for coverage provided by the corporation in Monroe County under certain circumstances; deleting a requirement that the corporation certify to the office that its rates comply with certain requirements; deleting a requirement for a notice to policyholders and applicants; rescinding certain rate filings by the corporation which took effect January 1, 2007; reinstating certain rates in effect on December 31, 2006; clarifying the effect of a policy that is taken out, assumed, or removed from the corporation; providing legislative intent that commercial nonresidential property insurance be made available from Citizens Property Insurance Corporation; requiring that Citizens Property Insurance Corporation adopt a plan providing for the transition of such coverage from the Property and Casualty Joint Underwriting Association to Citizens; providing requirements for the plan; amending s. 627.701, F.S.; revising requirements for the deductible amount applicable to hurricane loss for policies of residential property insurance and personal lines residential property insurance; prohibiting a hurricane deductible in excess of a specified percentage for personal lines residential property insurance policies of less than a certain value unless the policyholder signs a statement acknowledging the lack of insurance or provides a statement from the mortgageholder or lienholder; requiring that the insurer keep documentation of such statements; requiring the Financial Services Commission to adopt rules; deleting obsolete provisions; amending s. 627.706, F.S., relating to sinkhole insurance; defining the term "catastrophic ground cover collapse"; amending s. 627.7065, F.S., relating to a database of sinkhole information; conforming a reference to changes made by the act; creating s. 627.712, F.S.; requiring insurers issuing residential property insurance to provide hurricane or windstorm coverage; authorizing a policyholder to make a written rejection of such coverage by signing a statement acknowledging the lack of insurance or providing a statement from the mortgageholder or lienholder; requiring insurers issuing residential property insurance to make available an exclusion of coverage for contents; providing for the policyholder to make a written rejection of such coverage; requiring that the insurer keep documentation of such statements; requiring the Financial Services commission to adopt rules; creating s. 627.713, F.S.; authorizing the office to require property insurers to report data regarding hurricane claims and underwriting costs; providing for the adoption of rules; amending s. 631.57, F.S.; specifying certain additional circumstances under which the board of directors of the Florida Insurance Guaranty Association, Inc., may levy emergency and regular assessments; clarifying that authorization exists for the Florida Insurance Guaranty Association to certify and for the Office of Insurance Regulation to levy an emergency assessment; amending s. 631.912, F.S., relating to the board of directors of the Florida Workers' Compensation Insurance Guaranty Association, Inc.; conforming provisions to changes made by the act; amending s. 718.111, F.S.; providing for windstorm insurance for condominium associations; repealing s. 627.0629(6), F.S., relating to requirements for hurricane or windstorm coverage; creating the Windstorm Mitigation Study Commission for the purpose of analyzing solutions and programs that could address the state's need to mitigate the effects of windstorms on structures; providing for membership and qualifications; providing that the members are entitled to reimbursement for expenses incurred in connection with their duties; requiring the Department of Financial Services, the Office of Insurance Regulation, the Citizens Property Insurance Corporation, and other state agencies to supply information, assistance, and facilities to the commission; requiring that the Executive Office of the Governor provide staff assistance; specifying duties of the commission; requiring that the commission report to the Governor, the Legislature, the Chief Financial Officer, and the Commissioner of Insurance Regulation by a specified date; establishing the Florida Disaster Recovery Initiative within the Department of Community Affairs for the purpose of assisting local governments in hardening affordable housing against the effects of hurricanes; specifying that the act does not create an entitlement or obligate the state; providing for program administration; specifying the entities that are eligible to apply for funding; providing components and requirements of the initiative; providing an appropriation; amending s. 627.711, F.S.; requiring the Financial Services Commission to develop uniform mitigation verification inspection forms; providing duties of the commission; expressing the intent of the Legislature to create a grant program to assist low-income persons in purchasing property insurance; creating s. 350.06151, F.S.; providing for transfer of funds from the Insurance Regulatory Trust Fund to the Grants and Donations Trust Fund of the legislative branch to fund the Office of Insurance Consumer Advocate; providing effective dates.

WHEREAS, homeowners in the State of Florida are struggling under increased insurance costs and increased housing prices as a result of damage caused by hurricanes and tropical storms, and

WHEREAS, this increase in the cost of property insurance for the state's residents demands immediate attention, and

WHEREAS, the affordability of property insurance creates financial burdens for Florida's residents and financial crises for some property owners, and

WHEREAS, in addition to affordability, the availability and stability of property insurance rates are critical issues to the residents of this state, and

WHEREAS, because there is no single, quick, or easy solution to the current crisis, a comprehensive and creative approach is required, and

WHEREAS, property insurance is so interwoven with other forms of insurance, through business, regulation, advocacy, purchasing, and other interactions, that the viability of the insurance market in Florida is at risk, and

WHEREAS, expanding coverage offered by the Florida Hurricane Catastrophe Fund can help to address this crisis, and

WHEREAS, taking steps to control or reduce the premiums charged by Citizens Property Insurance Corporation can help to address this crisis, and

WHEREAS, strengthening the Florida Building Code and providing for voluntary guidelines in addition to the requirements of the code can help to address this crisis, and

WHEREAS, sinkhole coverage is a critical part of the crisis in certain areas of the state and must be addressed as part of any comprehensive solution, and

WHEREAS, requiring property insurers to offer additional deductibles and exclusions that apply at the option of the property owner can help to address this crisis, and

WHEREAS, authorizing various groups of public and private entities to enter into forms of self-insurance or guaranty groups can help to address this crisis, and

WHEREAS, strengthening the processes for establishing property insurance rates can help to address this crisis, and

WHEREAS, the role of consumer advocacy is a critical part of addressing this crisis and consumer advocacy for property insurance is a critical, if not the predominant, part of consumer advocacy regarding insurance, and

WHEREAS, promoting, through financial and regulatory methods, the ability of property insurers and reinsurers to do business in Florida can help to address this crisis, and

WHEREAS, promoting, through financial and regulatory incentives for property owners, the strengthening of property to withstand the effects of windstorm damage can help to address this crisis, NOW, THEREFORE,

On motion by Senator Geller, by two-thirds vote **CS for CS for HB 5-A** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38

Mr. President	Aronberg	Bennett
Alexander	Atwater	Bullard
Argenziano	Baker	Carlton

Constantine	Jones	Rich
Crist	Joyner	Ring
Deutch	Justice	Saunders
Dockery	King	Siplin
Fasano	Lawson	Storms
Gaetz	Lynn	Villalobos
Garcia	Margolis	Webster
Geller	Oelrich	Wilson
Haridopolos	Peaden	Wise
Hill	Posey	

Nays—None

Vote after roll call:

Yea—Diaz de la Portilla

MOTION

On motion by Senator Posey, the House was requested to concur in the Senate amendment to **CS for CS for HB 5-A** and in the event the House refuses to concur, moved that a conference committee be appointed.

HB 7-A—A bill to be entitled An act relating to building code hurricane preparedness; providing a short title; amending s. 553.73, F.S.; providing intent with respect to the effect of building code modifications on wind protection; requiring uniform application of certain standards relating to wind-borne debris and structural guidelines; prohibiting code modification that diminishes construction requirements; prescribing a date by which counties and municipalities must enforce certain wind-borne debris protections and structural guidelines; requiring the Florida Building Commission to develop voluntary guidelines for increasing the hurricane resistance of buildings; requiring that the guidelines be included in the commission's report to the 2008 Legislature; providing an effective date.

—was read the second time by title.

Senator Posey moved the following amendment which was adopted:

Amendment 1 (693270)(with title amendment)—Delete everything after the enacting clause and insert:

Section 1. Paragraphs (m) and (n) of subsection (2) of section 20.121, Florida Statutes, are amended to read:

20.121 Department of Financial Services.—There is created a Department of Financial Services.

(2) DIVISIONS.—The Department of Financial Services shall consist of the following divisions:

~~(m) The Office of Insurance Consumer Advocate.~~

(m)~~(n)~~ The Division of Funeral, Cemetery, and Consumer Services.

Section 2. *All of the powers, duties, functions, records, personnel, and property; unexpended balances of appropriations, allocations, and other funds; administrative authority; administrative rules; pending issues; and existing contracts of the consumer advocate and the Office of Insurance Consumer Advocate are transferred by a type two transfer, pursuant to s. 20.06(2), Florida Statutes, from the Chief Financial Officer and the Department of Financial Services to the Public Counsel. Funds shall be transferred by the Department of Financial Services from the Insurance Regulatory Trust Fund to the Grants and Donations Trust Fund in the legislative branch for the purpose of funding the Office of Insurance Consumer Advocate. The transfer amount for the 2006-2007 fiscal year is equal to the remaining unobligated approved operating budget for the Office of Insurance Consumer Advocate within the Department of Financial Services.*

Section 3. 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),* an independently elected county officer, any agency of the United States Government, a federally recognized Native American tribe, and any similar entity of any other state of the United States.

(7)

(e)1. Notwithstanding the provisions of paragraph (c), any separate legal entity, created pursuant to the provisions of this section and controlled by counties or municipalities of this state, the membership of which consists or is to consist only of public agencies of this state, may, for the purpose of financing *the provision or* acquisition of liability *or property* coverage contracts *for or* from one or more local government liability *or property* pools to provide liability *or property* coverage for counties, municipalities, or other public agencies of this state, exercise all powers in connection with the authorization, issuance, and sale of bonds. All of the privileges, benefits, powers, and terms of s. 125.01 relating to counties and s. 166.021 relating to municipalities shall be fully applicable to such entity and such entity shall be considered a unit of local government for all of the privileges, benefits, powers, and terms of part I of chapter 159. Bonds issued by such entity shall be deemed issued on behalf of counties, municipalities, or public agencies which enter into loan agreements with such entity as provided in this paragraph. Proceeds of bonds issued by such entity may be loaned to counties, municipalities, or other public agencies of this state, whether or not such counties, municipalities, or other public agencies are also members of the entity issuing the bonds, and such counties, municipalities, or other public agencies may in turn deposit such loan proceeds with a separate local government liability *or property* pool for purposes of *providing or* acquiring liability *or property* coverage contracts.

2. Counties or municipalities of this state are authorized pursuant to this section, in addition to the authority provided by s. 125.01, part II of chapter 166, and other applicable law, to issue bonds for the purpose of acquiring liability coverage contracts from a local government liability pool. Any individual county or municipality may, by entering into interlocal agreements with other counties, municipalities, or public agencies of this state, issue bonds on behalf of itself and other counties, municipalities, or other public agencies, for purposes of acquiring a liability coverage contract or contracts from a local government liability pool. Counties, municipalities, or other public agencies are also authorized to enter into loan agreements with any entity created pursuant to subparagraph 1., or with any county or municipality issuing bonds pursuant to this subparagraph, for the purpose of obtaining bond proceeds with which to acquire liability coverage contracts from a local government liability pool. No county, municipality, or other public agency shall at any time have more than one loan agreement outstanding for the purpose of obtaining bond proceeds with which to acquire liability coverage contracts from a local government liability pool. Obligations of any county, municipality, or other public agency of this state pursuant to a loan agreement as described above may be validated as provided in chapter 75. Prior to the issuance of any bonds pursuant to subparagraph 1. or this subparagraph for the purpose of acquiring liability coverage contracts from a local government liability pool, the reciprocal insurer or the manager of any self-insurance program shall demonstrate to the satisfaction of the Office of Insurance Regulation of the Financial Services Commission that excess liability coverage for counties, municipalities, or other public agencies is reasonably unobtainable in the amounts provided by such pool or that the liability coverage obtained through acquiring contracts from a local government liability pool, after taking into account costs of issuance of bonds and any other administrative fees, is less expensive to counties, municipalities, or special districts than similar commercial coverage then reasonably available.

3. Any entity created pursuant to this section or any county or municipality may also issue bond anticipation notes, as provided by s. 215.431, in connection with the authorization, issuance, and sale of such bonds. In addition, the governing body of such legal entity or the governing body of such county or municipality may also authorize bonds to be issued and sold from time to time and may delegate, to such officer, official, or agent of such legal entity as the governing body of such legal

entity may select, the power to determine the time; manner of sale, public or private; maturities; rate or rates of interest, which may be fixed or may vary at such time or times and in accordance with a specified formula or method of determination; and other terms and conditions as may be deemed appropriate by the officer, official, or agent so designated by the governing body of such legal entity. However, the amounts and maturities of such bonds and the interest rate or rates of such bonds shall be within the limits prescribed by the governing body of such legal entity and its resolution delegating to such officer, official, or agent the power to authorize the issuance and sale of such bonds. Any series of bonds issued pursuant to this paragraph *for liability coverage* shall mature no later than 7 years following the date of issuance ~~thereof~~. *Any series of bonds issued pursuant to this paragraph for property coverage shall mature no later than 30 years following the date of issuance.*

4. Bonds issued pursuant to subparagraph 1. may be validated as provided in chapter 75. The complaint in any action to validate such bonds shall be filed only in the Circuit Court for Leon County. The notice required to be published by s. 75.06 shall be published in Leon County and in each county which is an owner of the entity issuing the bonds, or in which a member of the entity is located, and the complaint and order of the circuit court shall be served only on the State Attorney of the Second Judicial Circuit and on the state attorney of each circuit in each county or municipality which is an owner of the entity issuing the bonds or in which a member of the entity is located.

5. Bonds issued pursuant to subparagraph 2. may be validated as provided in chapter 75. The complaint in any action to validate such bonds shall be filed in the circuit court of the county or municipality which will issue the bonds. The notice required to be published by s. 75.06 shall be published only in the county where the complaint is filed, and the complaint and order of the circuit court shall be served only on the state attorney of the circuit in the county or municipality which will issue the bonds.

6. The participation by any county, municipality, or other public agency of this state in a local government liability pool shall not be deemed a waiver of immunity to the extent of liability coverage, nor shall any contract entered regarding such a local government liability pool be required to contain any provision for waiver.

(h)1. Notwithstanding the provisions of paragraph (c), any separate legal entity consisting of an alliance, as defined in s. 395.1060(2)(a), which is created pursuant to this paragraph and controlled by and whose members consist of the following eligible entities: special districts created pursuant to a special act and having the authority to own or operate one or more Florida-licensed hospitals, or Florida-licensed hospitals that are owned, operated, or funded by a county or municipality, may, for the purpose of providing property insurance coverage as defined in s. 395.1060(2)(c), for such eligible entities, exercise all powers under this subsection in connection with borrowing funds for such purposes, including, without limitation, the authorization, issuance, and sale of bonds, notes, or other obligations of indebtedness. Borrowed funds, including bonds issued by such alliance, shall be deemed issued on behalf of such eligible entities that enter into loan agreements with such separate entity as provided in this paragraph.

2. Any such separate entity shall have all the powers that are provided by the interlocal agreement under which it is created or that are necessary to finance, operate, or manage the alliance's property insurance coverage program. Proceeds of bonds, notes, or other obligations issued by such an entity may be loaned to any one or more eligible entities. Eligible entities are authorized to enter into loan agreements with any separate entity created pursuant to this paragraph for the purpose of obtaining moneys with which to finance property insurance coverage or claims. Obligations of any eligible entity pursuant to a loan agreement as described in this paragraph may be validated as provided in chapter 75.

3. Any bonds, notes, or other obligations to be issued or incurred by a separate entity created pursuant to this paragraph shall be authorized by resolution of the governing body of such entity and bear the date or dates; mature at the time or times, not exceeding 30 years from their respective dates; bear interest at the rate or rates, which may be fixed or vary at such time or times and in accordance with a specified formula or method of determination; be payable at the time or times; be in the denomination; be in the form; carry the registration privileges; be executed in the manner; be payable from the sources and in the medium of payment and at the place; and be subject to redemption, including redemption prior to maturity, as the resolution may provide. The bonds, notes, or other obligations may be sold at public or private sale for such price as the governing body of the separate entity shall determine. The bonds may be secured by such credit enhancement, if any, as the governing body of the separate entity deems appropriate. The bonds may be secured by an indenture of trust or trust agreement. In addition, the governing body of the separate entity may delegate, to such officer or official of such entity as the governing body may select, the power to determine the time; manner of sale, public or private; maturities; rate or rates of interest, which may be fixed or may vary at such time or times and in accordance with a specified formula or method of determination; and other terms and conditions as may be deemed appropriate by the officer or official so designated by the governing body of such separate entity. However, the amounts and maturities of such bonds, the interest rate or rates, and the purchase price of such bonds shall be within the limits prescribed by the governing body of such separate entity in its resolution delegating to such officer or official the power to authorize the issuance and sale of such bonds.

4. Bonds issued pursuant to this paragraph may be validated as provided in chapter 75. The complaint in any action to validate such bonds shall be filed only in the Circuit Court for Leon County. The notice required to be published by s. 75.06 shall be published in Leon County and in each county in which an eligible entity that is a member of an alliance is located. The complaint and order of the circuit court shall be served only on the state attorney of the Second Judicial Circuit and on the state attorney of each circuit in each county in which an eligible entity receiving bond proceeds is located.

5. The accomplishment of the authorized purposes of a separate entity created under this paragraph is in all respects for the benefit of the people of the state, for the increase of their commerce and prosperity, and for the improvement of their health and living conditions. Since the separate entity will perform essential public functions in accomplishing its purposes, the separate entity is not required to pay any taxes or assessments of any kind whatsoever upon any property acquired or used by it for such purposes or upon any revenues at any time received by it. The bonds, notes, and other obligations of such separate entity, their transfer, and the income therefrom, including any profits made on the sale thereof, are at all times free from taxation of any kind of the state or by any political subdivision or other agency or instrumentality thereof. The exemption granted in this paragraph is not applicable to any tax imposed by chapter 220 on interest, income, or profits on debt obligations owned by corporations.

6. The participation by any eligible entity in an alliance or a separate entity created pursuant to this paragraph may not be deemed a waiver of immunity to the extent of liability or any other coverage, and a contract entered regarding such alliance is not required to contain any provision for waiver.

Section 4. Paragraph (c) of subsection (4), subsection (6), and paragraph (a) of present subsection (7) of section 215.555, Florida Statutes, are amended, present subsections (7) through (15) of that section are redesignated as subsections (8) through (16), respectively, a new subsection (7) is added to that section, and subsections (17), (18), and (19) are added to that section, to read:

215.555 Florida Hurricane Catastrophe Fund.—

(4) REIMBURSEMENT CONTRACTS.—

(c)1. The contract shall also provide that the obligation of the board with respect to all contracts covering a particular contract year shall not exceed the actual claims-paying capacity of the fund up to a limit of $15 billion for that contract year adjusted based upon the reported exposure from the prior contract year to reflect the percentage growth in exposure to the fund for covered policies since 2003, provided the dollar growth in the limit may not increase in any year by an amount greater than the dollar growth of the balance of the fund as of December 31*, less any premiums or interest attributable to optional coverage selected by insurers pursuant to subsection (17) or subsection (18),* as defined by rule which occurred over the prior calendar year.

2. In May before the start of the upcoming contract year and in October during the contract year, the board shall publish in the Florida Administrative Weekly a statement of the fund's estimated borrowing capacity and the projected balance of the fund as of December 31. After

the end of each calendar year, the board shall notify insurers of the estimated borrowing capacity and the balance of the fund as of December 31 to provide insurers with data necessary to assist them in determining their retention and projected payout from the fund for loss reimbursement purposes. In conjunction with the development of the premium formula, as provided for in subsection (5), the board shall publish factors or multiples that assist insurers in determining their retention and projected payout for the next contract year. For all regulatory and reinsurance purposes, an insurer may calculate its projected payout from the fund as its share of the total fund premium for the current contract year multiplied by the sum of the projected balance of the fund as of December 31 and the estimated borrowing capacity for that contract year as reported under this subparagraph.

(6) REVENUE BONDS *FOR FUNDING OBLIGATIONS OF THE FLORIDA HURRICANE CATASTROPHE FUND*.—

(a) General provisions.—

1. Upon the occurrence of a hurricane and a determination that the moneys in the fund are or will be insufficient to pay reimbursement at the levels promised in the reimbursement contracts, the board may take the necessary steps under paragraph (c) or paragraph (d) for the issuance of revenue bonds for the benefit of the fund. The proceeds of such revenue bonds may be used to make reimbursement payments under reimbursement contracts; to refinance or replace previously existing borrowings or financial arrangements; to pay interest on bonds; to fund reserves for the bonds; to pay expenses incident to the issuance or sale of any bond issued under this section, including costs of validating, printing, and delivering the bonds, costs of printing the official statement, costs of publishing notices of sale of the bonds, and related administrative expenses; or for such other purposes related to the financial obligations of the fund as the board may determine. The term of the bonds may not exceed 30 years. The board may pledge or authorize the corporation to pledge all or a portion of all revenues under subsection (5) and under paragraph (b) to secure such revenue bonds and the board may execute such agreements between the board and the issuer of any revenue bonds and providers of other financing arrangements under paragraph *(8)(b)* ~~(7)(b)~~ as the board deems necessary to evidence, secure, preserve, and protect such pledge. If reimbursement premiums received under subsection (5) or earnings on such premiums are used to pay debt service on revenue bonds, such premiums and earnings shall be used only after the use of the moneys derived from assessments under paragraph (b). The funds, credit, property, or taxing power of the state or political subdivisions of the state shall not be pledged for the payment of such bonds. The board may also enter into agreements under paragraph (c) or paragraph (d) for the purpose of issuing revenue bonds in the absence of a hurricane upon a determination that such action would maximize the ability of the fund to meet future obligations.

2. The Legislature finds and declares that the issuance of bonds under this subsection is for the public purpose of paying the proceeds of the bonds to insurers, thereby enabling insurers to pay the claims of policyholders to assure that policyholders are able to pay the cost of construction, reconstruction, repair, restoration, and other costs associated with damage to property of policyholders of covered policies after the occurrence of a hurricane.

(b) Emergency assessments.—

1. If the board determines that the amount of revenue produced under subsection (5) is insufficient to fund the obligations, costs, and expenses of the fund and the corporation, including repayment of revenue bonds and that portion of the debt service coverage not met by reimbursement premiums, the board shall direct the Office of Insurance Regulation to levy, by order, an emergency assessment on direct premiums for all property and casualty lines of business in this state, including property and casualty business of surplus lines insurers regulated under part VIII of chapter 626, but not including any workers' compensation premiums or medical malpractice premiums. As used in this subsection, the term "property and casualty business" includes all lines of business identified on Form 2, Exhibit of Premiums and Losses, in the annual statement required of authorized insurers by s. 624.424 and any rule adopted under this section, except for those lines identified as accident and health insurance and except for policies written under the National Flood Insurance Program. The assessment shall be specified as a percentage of direct written premium and is subject to annual adjustments by the board in order to meet debt obligations. The same percentage shall apply to all policies in lines of business subject to the assessment issued or renewed during the 12-month period beginning on the effective date of the assessment.

2. A premium is not subject to an annual assessment under this paragraph in excess of 6 percent of premium with respect to obligations arising out of losses attributable to any one contract year, and a premium is not subject to an aggregate annual assessment under this paragraph in excess of 10 percent of premium. An annual assessment under this paragraph shall continue as long as the revenue bonds issued with respect to which the assessment was imposed are outstanding, including any bonds the proceeds of which were used to refund the revenue bonds, unless adequate provision has been made for the payment of the bonds under the documents authorizing issuance of the bonds.

3. Emergency assessments shall be collected from policyholders. Emergency assessments shall be remitted by insurers as a percentage of direct written premium for the preceding calendar quarter as specified in the order from the Office of Insurance Regulation. The office shall verify the accurate and timely collection and remittance of emergency assessments and shall report the information to the board in a form and at a time specified by the board. Each insurer collecting assessments shall provide the information with respect to premiums and collections as may be required by the office to enable the office to monitor and verify compliance with this paragraph.

4. With respect to assessments of surplus lines premiums, each surplus lines agent shall collect the assessment at the same time as the agent collects the surplus lines tax required by s. 626.932, and the surplus lines agent shall remit the assessment to the Florida Surplus Lines Service Office created by s. 626.921 at the same time as the agent remits the surplus lines tax to the Florida Surplus Lines Service Office. The emergency assessment on each insured procuring coverage and filing under s. 626.938 shall be remitted by the insured to the Florida Surplus Lines Service Office at the time the insured pays the surplus lines tax to the Florida Surplus Lines Service Office. The Florida Surplus Lines Service Office shall remit the collected assessments to the fund or corporation as provided in the order levied by the Office of Insurance Regulation. The Florida Surplus Lines Service Office shall verify the proper application of such emergency assessments and shall assist the board in ensuring the accurate and timely collection and remittance of assessments as required by the board. The Florida Surplus Lines Service Office shall annually calculate the aggregate written premium on property and casualty business, other than workers' compensation and medical malpractice, procured through surplus lines agents and insureds procuring coverage and filing under s. 626.938 and shall report the information to the board in a form and at a time specified by the board.

5. Any assessment authority not used for a particular contract year may be used for a subsequent contract year. If, for a subsequent contract year, the board determines that the amount of revenue produced under subsection (5) is insufficient to fund the obligations, costs, and expenses of the fund and the corporation, including repayment of revenue bonds and that portion of the debt service coverage not met by reimbursement premiums, the board shall direct the Office of Insurance Regulation to levy an emergency assessment up to an amount not exceeding the amount of unused assessment authority from a previous contract year or years, plus an additional 4 percent provided that the assessments in the aggregate do not exceed the limits specified in subparagraph 2.

6. The assessments otherwise payable to the corporation under this paragraph shall be paid to the fund unless and until the Office of Insurance Regulation and the Florida Surplus Lines Service Office have received from the corporation and the fund a notice, which shall be conclusive and upon which they may rely without further inquiry, that the corporation has issued bonds and the fund has no agreements in effect with local governments under paragraph (c). On or after the date of the notice and until the date the corporation has no bonds outstanding, the fund shall have no right, title, or interest in or to the assessments, except as provided in the fund's agreement with the corporation.

7. Emergency assessments are not premium and are not subject to the premium tax, to the surplus lines tax, to any fees, or to any commissions. An insurer is liable for all assessments that it collects and must treat the failure of an insured to pay an assessment as a failure to pay the premium. An insurer is not liable for uncollectible assessments.

8. When an insurer is required to return an unearned premium, it shall also return any collected assessment attributable to the unearned premium. A credit adjustment to the collected assessment may be made by the insurer with regard to future remittances that are payable to the fund or corporation, but the insurer is not entitled to a refund.

9. When a surplus lines insured or an insured who has procured coverage and filed under s. 626.938 is entitled to the return of an unearned premium, the Florida Surplus Lines Service Office shall provide a credit or refund to the agent or such insured for the collected assessment attributable to the unearned premium prior to remitting the emergency assessment collected to the fund or corporation.

10. The exemption of medical malpractice insurance premiums from emergency assessments under this paragraph is repealed May 31, 2007, and medical malpractice insurance premiums shall be subject to emergency assessments attributable to loss events occurring in the contract years commencing on June 1, 2007.

(c) Revenue bond issuance through counties or municipalities.—

1. If the board elects to enter into agreements with local governments for the issuance of revenue bonds for the benefit of the fund, the board shall enter into such contracts with one or more local governments, including agreements providing for the pledge of revenues, as are necessary to effect such issuance. The governing body of a county or municipality is authorized to issue bonds as defined in s. 125.013 or s. 166.101 from time to time to fund an assistance program, in conjunction with the Florida Hurricane Catastrophe Fund, for the purposes set forth in this section or for the purpose of paying the costs of construction, reconstruction, repair, restoration, and other costs associated with damage to properties of policyholders of covered policies due to the occurrence of a hurricane by assuring that policyholders located in this state are able to recover claims under property insurance policies after a covered event.

2. In order to avoid needless and indiscriminate proliferation, duplication, and fragmentation of such assistance programs, any local government may provide for the payment of fund reimbursements, regardless of whether or not the losses for which reimbursement is made occurred within or outside of the territorial jurisdiction of the local government.

3. The state hereby covenants with holders of bonds issued under this paragraph that the state will not repeal or abrogate the power of the board to direct the Office of Insurance Regulation to levy the assessments and to collect the proceeds of the revenues pledged to the payment of such bonds as long as any such bonds remain outstanding unless adequate provision has been made for the payment of such bonds pursuant to the documents authorizing the issuance of such bonds.

4. There shall be no liability on the part of, and no cause of action shall arise against any members or employees of the governing body of a local government for any actions taken by them in the performance of their duties under this paragraph.

(d) Florida Hurricane Catastrophe Fund Finance Corporation.—

1. In addition to the findings and declarations in subsection (1), the Legislature also finds and declares that:

a. The public benefits corporation created under this paragraph will provide a mechanism necessary for the cost-effective and efficient issuance of bonds. This mechanism will eliminate unnecessary costs in the bond issuance process, thereby increasing the amounts available to pay reimbursement for losses to property sustained as a result of hurricane damage.

b. The purpose of such bonds is to fund reimbursements through the Florida Hurricane Catastrophe Fund to pay for the costs of construction, reconstruction, repair, restoration, and other costs associated with damage to properties of policyholders of covered policies due to the occurrence of a hurricane.

c. The efficacy of the financing mechanism will be enhanced by the corporation's ownership of the assessments, by the insulation of the assessments from possible bankruptcy proceedings, and by covenants of the state with the corporation's bondholders.

2.a. There is created a public benefits corporation, which is an instrumentality of the state, to be known as the Florida Hurricane Catastrophe Fund Finance Corporation.

b. The corporation shall operate under a five-member board of directors consisting of the Governor or a designee, the Chief Financial Officer or a designee, the Attorney General or a designee, the director of the Division of Bond Finance of the State Board of Administration, and the senior employee of the State Board of Administration responsible for operations of the Florida Hurricane Catastrophe Fund.

c. The corporation has all of the powers of corporations under chapter 607 and under chapter 617, subject only to the provisions of this subsection.

d. The corporation may issue bonds and engage in such other financial transactions as are necessary to provide sufficient funds to achieve the purposes of this section.

e. The corporation may invest in any of the investments authorized under s. 215.47.

f. There shall be no liability on the part of, and no cause of action shall arise against, any board members or employees of the corporation for any actions taken by them in the performance of their duties under this paragraph.

3.a. In actions under chapter 75 to validate any bonds issued by the corporation, the notice required by s. 75.06 shall be published only in Leon County and in two newspapers of general circulation in the state, and the complaint and order of the court shall be served only on the State Attorney of the Second Judicial Circuit.

b. The state hereby covenants with holders of bonds of the corporation that the state will not repeal or abrogate the power of the board to direct the Office of Insurance Regulation to levy the assessments and to collect the proceeds of the revenues pledged to the payment of such bonds as long as any such bonds remain outstanding unless adequate provision has been made for the payment of such bonds pursuant to the documents authorizing the issuance of such bonds.

4. The bonds of the corporation are not a debt of the state or of any political subdivision, and neither the state nor any political subdivision is liable on such bonds. The corporation does not have the power to pledge the credit, the revenues, or the taxing power of the state or of any political subdivision. The credit, revenues, or taxing power of the state or of any political subdivision shall not be deemed to be pledged to the payment of any bonds of the corporation.

5.a. The property, revenues, and other assets of the corporation; the transactions and operations of the corporation and the income from such transactions and operations; and all bonds issued under this paragraph and interest on such bonds are exempt from taxation by the state and any political subdivision, including the intangibles tax under chapter 199 and the income tax under chapter 220. This exemption does not apply to any tax imposed by chapter 220 on interest, income, or profits on debt obligations owned by corporations other than the Florida Hurricane Catastrophe Fund Finance Corporation.

b. All bonds of the corporation shall be and constitute legal investments without limitation for all public bodies of this state; for all banks, trust companies, savings banks, savings associations, savings and loan associations, and investment companies; for all administrators, executors, trustees, and other fiduciaries; for all insurance companies and associations and other persons carrying on an insurance business; and for all other persons who are now or may hereafter be authorized to invest in bonds or other obligations of the state and shall be and constitute eligible securities to be deposited as collateral for the security of any state, county, municipal, or other public funds. This sub-subparagraph shall be considered as additional and supplemental authority and shall not be limited without specific reference to this sub-subparagraph.

6. The corporation and its corporate existence shall continue until terminated by law; however, no such law shall take effect as long as the corporation has bonds outstanding unless adequate provision has been made for the payment of such bonds pursuant to the documents authorizing the issuance of such bonds. Upon termination of the existence of the corporation, all of its rights and properties in excess of its obligations shall pass to and be vested in the state.

(e) Protection of bondholders.—

1. As long as the corporation has any bonds outstanding, neither the fund nor the corporation shall have the authority to file a voluntary

petition under chapter 9 of the federal Bankruptcy Code or such corresponding chapter or sections as may be in effect, from time to time, and neither any public officer nor any organization, entity, or other person shall authorize the fund or the corporation to be or become a debtor under chapter 9 of the federal Bankruptcy Code or such corresponding chapter or sections as may be in effect, from time to time, during any such period.

2. The state hereby covenants with holders of bonds of the corporation that the state will not limit or alter the denial of authority under this paragraph or the rights under this section vested in the fund or the corporation to fulfill the terms of any agreements made with such bondholders or in any way impair the rights and remedies of such bondholders as long as any such bonds remain outstanding unless adequate provision has been made for the payment of such bonds pursuant to the documents authorizing the issuance of such bonds.

3. Notwithstanding any other provision of law, any pledge of or other security interest in revenue, money, accounts, contract rights, general intangibles, or other personal property made or created by the fund or the corporation shall be valid, binding, and perfected from the time such pledge is made or other security interest attaches without any physical delivery of the collateral or further act and the lien of any such pledge or other security interest shall be valid, binding, and perfected against all parties having claims of any kind in tort, contract, or otherwise against the fund or the corporation irrespective of whether or not such parties have notice of such claims. No instrument by which such a pledge or security interest is created nor any financing statement need be recorded or filed.

(f) Limitation.—The Florida Hurricane Fund Finance Corporation may not be used to fund obligations under subsection (19).

(7) REVENUE BONDS FOR FUNDING OBLIGATIONS OF THE FLORIDA HURRICANE EXCESS LOSS PROGRAM.—

(a) General provisions.—

1. Upon a determination by law that any moneys dedicated or otherwise available to the Florida Hurricane Excess Loss Program (FHELP) are or will be insufficient to pay for the amount of the state's liability for losses under the FHELP, and a designation by law of a source of revenue from which appropriations will be made to satisfy loan obligations or to secure bonds, the board may take the necessary steps under paragraph (b) to authorize the Florida Hurricane Excess Loss Program Finance Corporation to satisfy loan obligations or to issue bonds for the payment of such losses. The proceeds of such bonds may be used to make payments for such losses; to refinance or replace previously existing borrowings or financial arrangements; to pay interest on bonds; to fund reserves for the bonds; to pay expenses incident to the issuance or sale of any bond issued under this paragraph, including costs of validating, printing, and delivering the bonds, costs of printing the official statement, costs of publishing notices of sale of the bonds, and related administrative expenses; or for such other purposes related to the financial obligations of the FHELP as the board may determine. The term of the bonds may not exceed 30 years. The board and the Florida Hurricane Excess Loss Program Finance Corporation may pledge all or a portion of all revenues available from appropriations from the source designated by law to secure such bonds and the board may execute such agreements between the board and such corporation as the board considers necessary to evidence, secure, preserve, and protect such pledge. The credit, property, or taxing power of the state or political subdivisions of the state may not be pledged for the payment of such bonds. The bonds shall be payable only from revenues specifically appropriated for such purpose or from any other funds or revenues of the Florida Hurricane Excess Loss Program Finance Corporation which are pledged for such purpose. It is the intent of the Legislature that initial funding for the FHELP shall be provided from up to 10 percent of state revenues, which may include covenants to appropriate and budget, as may be necessary.

2. The Legislature finds and declares that the issuance of bonds under this subsection is for the public purpose of paying the proceeds of the bonds to insured policyholders and to ensure that such policyholders are able to pay the cost of construction, reconstruction, repair, restoration, and other costs associated with damage to their residential property after the occurrence of a hurricane, and that the issuance of the bonds is essential to protect the health, safety, and welfare of citizens of the state.

(b) Florida Hurricane Excess Loss Program Finance Corporation.—

1. In addition to the findings and declarations in paragraph (a) and subsection (19), the Legislature also finds and declares that:

a. The public benefits corporation created under this paragraph will provide a mechanism necessary for the cost-effective and efficient issuance of bonds. This mechanism will eliminate unnecessary costs in the bond-issuance process, thereby increasing the amounts available to pay reimbursement for losses to property sustained as a result of hurricane damage.

b. The purpose of such bonds is to fund reimbursements through the FHELP to pay for the costs of construction, reconstruction, repair, restoration, and other costs associated with damage to properties of policyholders of covered policies due to the occurrence of a hurricane.

c. The efficacy of the financing mechanism will be enhanced by the corporation's ownership of the assessments, by the insulation of the assessments from possible bankruptcy proceedings, and by covenants of the state with the corporation's bondholders.

2.a. There is created a public benefits corporation, which is an instrumentality of the state, to be known as the Florida Hurricane Excess Loss Program Finance Corporation.

b. The corporation shall operate under a five-member board of directors consisting of the Governor or a designee, the Chief Financial Officer or a designee, the Attorney General or a designee, the director of the Division of Bond Finance of the Florida Board of Administration, and the senior employee of the Florida Board of Administration responsible for operations of the Florida Hurricane Catastrophe Fund.

c. The corporation has all of the powers of corporations under chapter 607 and under chapter 617, subject only to the provisions of this subsection.

d. The corporation may issue bonds and engage in such other financial transactions as are necessary to provide sufficient funds to achieve the purposes of this section.

e. The corporation may invest in any of the investments authorized under s. 215.47.

f. There shall be no liability on the part of, and no cause of action shall arise against, any board members or employees of the corporation for any actions taken by them in the performance of their duties under this paragraph.

3.a. In actions under chapter 75 to validate any bonds issued by the corporation, the notice required by s. 75.06 shall be published only in Leon County and in two newspapers of general circulation in the state, and the complaint and order of the court shall be served only on the State Attorney of the Second Judicial Circuit.

b. The state hereby covenants with holders of bonds of the corporation that the state will not repeal or abrogate the power of the board to collect the proceeds of the revenues pledged to the payment of such bonds as long as any such bonds remain outstanding unless adequate provision has been made for the payment of such bonds pursuant to the documents authorizing the issuance of such bonds.

4. The bonds of the corporation are not a debt of the state or of any political subdivision, and neither the state nor any political subdivision is liable on such bonds. The corporation does not have the power to pledge the credit, the revenues, or the taxing power of the state or of any political subdivision. The credit, revenues, or taxing power of the state or of any political subdivision shall not be deemed to be pledged to the payment of any bonds of the corporation.

5.a. The property, revenues, and other assets of the corporation, the transactions and operations of the corporation and the income from such transactions and operations, and all bonds issued under this paragraph and interest on such bonds are exempt from taxation by the state and any political subdivision, including the intangibles tax under chapter 199 and the income tax under chapter 220. This exemption does not apply to any tax imposed by chapter 220 on interest, income, or profits on debt obligations owned by corporations other than the Florida Hurricane Excess Loss Program Finance Corporation.

b. All bonds of the corporation shall be and constitute legal investments without limitation for all public bodies of this state; for all banks, trust companies, savings banks, savings associations, savings and loan associations, and investment companies; for all administrators, executors, trustees, and other fiduciaries; for all insurance companies and associations and other persons carrying on an insurance business; and for all other persons who are now or may hereafter be authorized to invest in bonds or other obligations of the state and shall be and constitute eligible securities to be deposited as collateral for the security of any state, county, municipal, or other public funds. This sub-subparagraph shall be considered as additional and supplemental authority and may not be limited without specific reference to this sub-subparagraph.

6. The corporation and its corporate existence shall continue until terminated by law; however, such law may not take effect as long as the corporation has bonds outstanding unless adequate provision has been made for the payment of such bonds pursuant to the documents authorizing the issuance of such bonds. Upon termination of the existence of the corporation, all of its rights and properties in excess of its obligations shall pass to and be vested in the state.

(c) Protection of bondholders.—

1. As long as the corporation has any bonds outstanding, neither the fund nor the corporation shall have the authority to file a voluntary petition under chapter 9 of the federal Bankruptcy Code or such corresponding chapter or sections as may be in effect, from time to time, and neither any public officer nor any organization, entity, or other person shall authorize the fund or the corporation to be or become a debtor under chapter 9 of the federal Bankruptcy Code or such corresponding chapter or sections as may be in effect, from time to time, during any such period.

2. The state hereby covenants with holders of bonds of the corporation that the state will not limit or alter the denial of authority under this paragraph or the rights under this section vested in the fund or the corporation to fulfill the terms of any agreements made with such bondholders or in any way impair the rights and remedies of such bondholders as long as any such bonds remain outstanding unless adequate provision has been made for the payment of such bonds pursuant to the documents authorizing the issuance of such bonds.

3. Notwithstanding any other provision of law, any pledge of or other security interest in revenue, money, accounts, contract rights, general intangibles, or other personal property made or created by the fund or the corporation shall be valid, binding, and perfected from the time such pledge is made or other security interest attaches without any physical delivery of the collateral or further act and the lien of any such pledge or other security interest shall be valid, binding, and perfected against all parties having claims of any kind in tort, contract, or otherwise against the fund or the corporation irrespective of whether or not such parties have notice of such claims. No instrument by which such a pledge or security interest is created nor any financing statement need be recorded or filed.

(d) The Florida Hurricane Excess Loss Program Finance Corporation may not be used to fund obligations that are incurred by the coverage afforded under the Florida Hurricane Catastrophe Fund, including any retention levels or copayments, whether for mandatory coverage or optional coverages.

(8)~~(7)~~ ADDITIONAL POWERS AND DUTIES.—

(a) The board may procure reinsurance from reinsurers acceptable to the Office of Insurance Regulation for the purpose of maximizing the capacity of the fund *and may enter into capital market transactions, including, but not limited to, industry loss warranties, catastrophe bonds, side car arrangements, or financial contracts permissible for the board's usage under s. 215.47(10) and (11), consistent with prudent management of the fund.*

(17) TEMPORARY INCREASE IN COVERAGE LIMIT OPTIONS.—

(a) Findings and intent.—

1. The Legislature finds that:

a. Because of temporary disruptions in the market for catastrophic reinsurance, many property insurers were unable to procure sufficient amounts of such reinsurance for the 2006 hurricane season or were able to procure such reinsurance only by incurring substantially higher costs than in prior years.

b. The reinsurance market problems were responsible, at least in part, for substantial premium increases to many consumers and increases in the number of policies issued by Citizens Property Insurance Corporation.

c. It is likely that the reinsurance market disruptions will not significantly abate prior to the 2007 hurricane season.

2. It is the intent of the Legislature to create options for insurers to purchase a temporary increased coverage limit above the statutorily determined limit in subparagraph (4)(c)1., applicable for the 2007 and 2008 hurricane seasons, to address market disruptions and enable insurers, at their option, to procure additional coverage from the Florida Hurricane Catastrophe Fund. It is the further intent of the Legislature to structure this coverage in a manner that requires insurers to pay premiums that are comparable to the premiums the insurer would have paid for comparable reinsurance coverage but for the current emergency in the reinsurance market and also in a manner that minimizes subsidies from the general public over the long run by providing the optional increase in coverage limit for 2 years.

(b) Applicability of other provisions of this section.—All provisions of this section and the rules adopted under this section apply to the coverage created by this subsection unless specifically superseded by provisions in this subsection.

(c) Additional definitions.—As used in this subsection, the term:

1. "FHCF" means Florida Hurricane Catastrophe Fund.

2. "FHCF reimbursement premium" means the premium paid by an insurer for its coverage as a mandatory participant in the FHCF, but does not include additional premiums for optional coverages.

3. "Payout multiple" means defined as the number or multiple created by dividing the statutorily defined claims-paying capacity as determined in subparagraph (4)(c)1. by the aggregate reimbursement premiums paid by all insurers estimated or projected as of calendar year-end.

4. "TICL" means the temporary increase in coverage limit.

5. "TICL options" means the temporary increase in coverage options created under this subsection.

6. "TICL insurer" means an insurer that has opted to obtain coverage under the TICL options addendum in addition to the coverage provided to the insurer under its FHCF reimbursement contract.

7. "TICL reimbursement premium" means the premium charged by the fund for coverage provided under the TICL option.

8. "TICL coverage multiple" means the coverage multiple when multiplied by an insurer's reimbursement premium that defines the temporary increase in coverage limit.

9. "TICL coverage" means the coverage for an insurer's losses above the insurer's statutorily determined claims-paying capacity based on the claims-paying limit in subparagraph (4)(c)1., which an insurer selects as its temporary increase in coverage from the fund under the TICL options selected. A TICL insurer's increased coverage limit options shall be calculated as follows:

a. The board shall calculate and report to each TICL insurer the TICL coverage multiples based on three options for increasing the insurer's FHCF coverage limit. Each TICL coverage multiple shall be calculated by dividing $1 billion, $2 billion, or $3 billion by the total estimated aggregate FHCF reimbursement premiums for the 2007-2008 reimbursement contract year and for the 2008-2009 reimbursement contract year.

b. The TICL insurer's increased coverage shall be the FHCF reimbursement premium multiplied by the TICL coverage multiple. In order to determine an insurer's total limit of coverage, an insurer shall add its TICL coverage multiple to its payout multiple. The total shall represent a number that, when multiplied by an insurer's FHCF reimbursement premium for a given reimbursement contract year, defines an insurer's

total limit of FHCF reimbursement coverage for that reimbursement contract year.

10. "TICL options addendum" means an addendum to the reimbursement contract reflecting the obligations of the fund and insurers selecting an option to increase an insurer's FHCF coverage limit.

(d) TICL options addendum.—

1. The TICL options addendum shall provide for reimbursement of TICL insurers for covered events occurring between June 1, 2007, and May 31, 2008, and between June 1, 2008, and May 31, 2009, in exchange for the TICL reimbursement premium paid into the fund under paragraph (e). Any insurer writing covered policies has the option of selecting an increased limit of coverage under the TICL options addendum and shall select such coverage at the time that it executes the FHCF reimbursement contract.

2. The TICL addendum shall contain a promise by the board to reimburse the TICL insurer for 45 percent, 75 percent, or 90 percent of its losses from each covered event in excess of the insurer's retention, plus 5 percent of the reimbursed losses to cover loss adjustment expenses. The percentage shall be the same as the coverage level selected by the insurer under paragraph (4)(b).

3. The TICL addendum shall provide that reimbursement amounts shall not be reduced by reinsurance paid or payable to the insurer from other sources.

4. The priorities, schedule, and method of reimbursements under the TICL addendum shall be the same as provided under subsection (4).

(e) TICL reimbursement premiums.—

1. Each TICL insurer shall pay to the fund, in the manner and at the time provided in the reimbursement contract for payment of reimbursement premiums, a TICL reimbursement premium calculated as specified in this paragraph.

2. Each insurer's TICL premium shall be calculated based on the additional limit of increased coverage that it selects. Such limit is determined by multiplying the TICL multiple associated with one of the three options times the insurer's FHCF reimbursement premium. For the amount of increased coverage based on the option of using $1 billion to derive the TICL multiple, the rate-on-line for such coverage shall be 20 percent. For the option using $2 billion, the rate-on-line shall be 17.5 percent and for the option using $3 billion, the rate-on-line shall be 15 percent.

(f) Effect on claims-paying capacity of the fund.—For the contract terms commencing June 1, 2007, and April 1, 2008, the program created by this subsection shall increase the claims-paying capacity of the fund as provided in subparagraph (4)(c)1. by an amount not to exceed $3 billion dollars and shall depend on the TICL coverage options selected and the number of insurers that select the TICL optional coverage. The additional capacity shall apply only to the additional coverage provided under the TICL options and shall not otherwise affect any insurer's reimbursement from the fund if the insurer chooses not to select the temporary option to increase its limit of coverage under the FHCF.

(18) FLORIDA HURRICANE EXCESS LOSS PROGRAM.—

(a) The Legislature finds and declares as follows:

1. There is a compelling state interest in maintaining a viable and orderly private-sector market for property insurance in this state and ensuring that premiums for property insurance are affordable. Increased premiums and assessments may force policyholders to sell their homes and even leave the state, which poses a serious threat to the economy of the state and the essential economic value of home ownership.

2. As a result of unprecedented levels of catastrophic insured losses in recent years, and especially as a result of Hurricanes Charlie, Jeanne, Francis, Ivan, Dennis, Katrina, Rita, and Wilma, insurers are facing increased demands from regulators, rating agencies, and investors to obtain reinsurance to cover multiple catastrophic events at a time when reinsurance availability has been limited, reinsurance costs have substantially increased, and hurricane loss-projection models are reportedly being revised to increase expected hurricane losses, all causing further disruption in the reinsurance and property insurance market.

3. Providing a limitation of liability on property insurers above amounts that are covered by the Florida Hurricane Catastrophe Fund and assuming state liability for such amounts will enable insurers to limit its purchase of reinsurance and limit their exposure to losses under such amounts, with corresponding premium savings to residential property insurance policyholders in the state.

(b) All provisions of this section and rules adopted under this section apply to the program created by this subsection, except as otherwise provided in this section or as superseded by this subsection.

(c) As used in this subsection, the term:

1. "FHCF" means Florida Hurricane Catastrophe Fund.

2. "FHELP" means Florida Hurricane Excess Loss Program.

3. "FHELP retention" means the sum of the insurer's FHCF retention as defined in paragraph (2)(e), plus the insurer's limit of FHCF coverage as determined in subparagraph (4)(c)2., plus the insurer's copayments associated with the coverage selected as provided for in paragraph (4)(b), including the maximum limits of coverage available to the insurer under the Temporary Increased Coverage Limit (TICL) option pursuant to subsection (18), whether or not selected by the insurer, but only for those years when the TICL option is available.

4. "FHELP payout multiple" means the factor or number derived by dividing the difference in the industry FHELP coverage limit and the industry FHELP retention by the estimated aggregate FHCF premium paid by all insurers for the mandatory FHCF coverage for the contract year calculated at the time the premium formula is determined.

(d) There is created the Florida Hurricane Excess Loss Program to be administered by the State Board of Administration. The board may adopt such rules as are reasonable and necessary to administer this subsection and provide for the operation of the FHELP. The board may employ or contract with such staff and professionals as the board considers necessary for the administration of the FHELP. The board shall administer the FHELP in conjunction with the FHCF; however, in all other respects, the operation, accounts, assets, liabilities, rights, and obligations of the FHELP shall be segregated from those of the FHCF and shall not in any way affect the operation, accounts, assets, liabilities, rights, and obligations of the FHCF. Any moneys attributable to the FHELP shall be subject to the same limitations and investment restrictions as provide for under subsection (3).

(e)1. Beginning with the FHCF reimbursement contract year on June 1, 2007, the board shall require a contract addendum be executed by each FHCF participating insurer that obligates the state to provide FHELP coverage in exchange for the insurer's obligation to pay and service all claims covered by FHELP. The execution of the addendum shall be a requirement and a condition of doing business in this state for all insurers writing covered policies.

2. The FHELP addendum shall require that the state assume liability under the FHELP for 90 percent of losses under a covered policy from each covered event in excess of the insurer's FHELP retention up to the insurer's FHELP limit. The insurer's FHELP limit is determined by multiplying the insurer's FHCF reimbursement premium by the FHELP payout multiple. The FHELP addendum shall also require that the state reimburse the insurer for 5 percent of the reimbursed losses to cover loss-adjustment expenses.

3. The FHELP addendum shall also provide that the obligation of the board with respect to all contracts covering a particular contract year shall not exceed the industry FHELP coverage limit. For the 2007 contract year, the industry FHELP coverage limit is $23 billion in excess of the industry FHELP retention. The industry FHELP coverage limit shall be adjusted each year based upon the reported exposure from the prior contract year to reflect the percentage growth in exposure to the fund.

4. The FHELP addendum shall provide that reimbursement amounts shall not be reduced by reinsurance paid or payable to the insurer from other sources.

5. The priorities, schedule, and method of reimbursements under the FHELP addendum shall be the same as provided under subsection (4).

(f) Insurers are not be required to pay premiums for FHELP coverage, which shall be funded pursuant to subsection (7). Such coverage shall be

funded separately and apart from the obligations of the Florida Hurricane Catastrophe Fund and any revenue bonds issued by the Florida Hurricane Catastrophe Fund Finance Corporation.

Section 5. *(1) An insurer that elects the TEACO or TICL coverage options offered by the Florida Hurricane Catastrophe Fund, as required to be offered by this act, must make a rate filing with the Office of Insurance Regulation, pursuant to the "file and use" provisions of s. 627.062(2)(a)1., Florida Statutes, which reflects any savings or reduction in loss exposure to the insurer. An insurer may not obtain a rate increase due to the election of the TEACO or TICL coverage options.*

(2) All residential property insurers must make a rate filing with the Office of Insurance Regulation, pursuant to the "file and use" provisions of s. 627.062(2)(a)1., Florida Statutes, to decrease rates to reflect the reduction in loss exposure due to the state assumption of liability for hurricane losses pursuant to the Florida Hurricane Excess Loss Program, as created by this act.

(3) The office shall specify, by order, the date or dates on which the rate filings required by this section must be made and be effective in order to provide rate relief to policyholders a soon as practicable.

(4) An insurer may not implement a rate change under the "use and file" rate procedures of s. 627.062(2)(a)2., Florida Statutes, for a period of 1 year after the effective date of a rate filing required by this section for a policy that is subject to such a rate filing.

(5) By March 15, 2007, the Office of Insurance Regulation shall calculate a presumed factor to be used in the rate filings required by this section to reflect the impact to rates of the changes made by section 4 and this section.

(6) In determining the presumed factor, the Office of Insurance Regulation shall use generally accepted actuarial techniques and standards in determining the expected impact on losses, expenses, and investment income of insurers.

(7) The office may contract with an appropriate vendor to determine the presumed factor.

(8) Each residential property insurer shall reflect a rate change that takes into account the presumed factor determined under subsection (5) for any policy written or renewed on or after June 1, 2007.

(9) The sum of $250,000 in nonrecurring funds is appropriated from the Insurance Regulatory Trust Fund in the Department of Financial Services to the Office of Insurance Regulation for the 2006-2007 fiscal year for the purpose of implementing this section.

Section 6. Subsection (2) of section 215.5586, Florida Statutes, is amended to read:

215.5586 Florida Comprehensive Hurricane Damage Mitigation Program.—There is established within the Department of Financial Services the Florida Comprehensive Hurricane Damage Mitigation Program. This section does not create an entitlement for property owners or obligate the state in any way to fund the inspection or retrofitting of residential property in this state. Implementation of this program is subject to annual legislative appropriations. The program shall be administered by an individual with prior executive experience in the private sector in the areas of insurance, business, or construction. The program shall develop and implement a comprehensive and coordinated approach for hurricane damage mitigation that shall include the following:

(2) GRANTS.—Financial grants shall be used to encourage single-family, site-built, owner-occupied, residential property owners to *protect* ~~retrofit~~ their properties to make them less vulnerable to hurricane damage.

(a) To be eligible for a grant, a residential property must:

1. Have been granted a homestead exemption under chapter 196.

2. Be a dwelling with an insured value of $500,000 or less.

3. Have undergone an acceptable wind certification and hurricane mitigation inspection *or use hurricane-protection products tested by the International Hurricane Research Center at Florida International University*.

A residential property which is part of a multifamily residential unit may receive a grant only if all homeowners participate and the total number of units does not exceed four.

(b) All grants must be matched on a dollar-for-dollar basis for a total of $10,000 for the mitigation project with the state's contribution not to exceed $5,000.

(c) The program shall create a process in which mitigation contractors agree to participate and seek reimbursement from the state and homeowners select from a list of participating contractors. All mitigation must be based upon the securing of all required local permits and inspections. Mitigation projects are subject to random reinspection of up to at least 10 percent of all projects.

(d) Matching fund grants shall also be made available to local governments and nonprofit entities for projects that will reduce hurricane damage to single-family, site-built, owner-occupied, residential property.

(e) Grants may be used for the following improvements:

1. Roof deck attachment;

2. Secondary water barrier;

3. Roof covering*, including a weighted roof-protection system that may be installed by an approved contractor or homeowner*;

4. Brace gable ends;

5. Reinforce roof-to-wall connections;

6. Opening protection; and

7. Exterior doors, including garage doors.

(f) Low-income homeowners, as defined in s. 420.0004(9), who otherwise meet the requirements of paragraphs (a) and (c) are eligible for a grant of up to $5,000 and are not required to provide a matching amount to receive the grant. Such grants shall be used to retrofit single-family, site-built, owner-occupied, residential properties in order to make them less vulnerable to hurricane damage.

Section 7. Paragraph (a) of subsection (3) of section 215.559, Florida Statutes, is amended to read:

215.559 Hurricane Loss Mitigation Program.—

(3)(a) Forty percent of the total appropriation in paragraph (2)(a) shall be used to inspect and improve tie-downs *or other securing fixtures* for mobile homes.

Section 8. Section 350.012, Florida Statutes, is amended to read:

350.012 Committee on Public Service Commission *and Insurance* Oversight; creation; membership; powers and duties.—

(1) There is created a standing joint committee of the Legislature, designated the Committee on Public Service Commission *and Insurance* Oversight, and composed of 12 members appointed as follows: six members of the Senate appointed by the President of the Senate, two of whom must be members of the minority party; and six members of the House of Representatives appointed by the Speaker of the House of Representatives, two of whom must be members of the minority party. The terms of members shall be for 2 years and shall run from the organization of one Legislature to the organization of the next Legislature. The President shall appoint the chair of the committee in even-numbered years and the vice chair in odd-numbered years, and the Speaker of the House of Representatives shall appoint the chair of the committee in odd-numbered years and the vice chair in even-numbered years, from among the committee membership. Vacancies shall be filled in the same manner as the original appointment. Members shall serve without additional compensation, but shall be reimbursed for expenses.

(2) The committee shall:

(a) Recommend to the Governor nominees to fill a vacancy on the Public Service Commission, as provided by general law; ~~and~~

(b) Appoint a Public Counsel as provided by general law*; and*~~.~~

(c) Confirm or reject the appointment by the Chief Financial Officer of the Insurance Consumer Advocate, as provided in s. 350.0615.

(3) The committee is authorized to file a complaint with the Commission on Ethics alleging a violation of this chapter by a commissioner, former commissioner, former commission employee, or member of the Public Service Commission Nominating Council.

(4) The committee will not have a permanent staff, but the President of the Senate and the Speaker of the House of Representatives shall select staff members from among existing legislative staff, when and as needed.

Section 9. Section 350.0611, Florida Statutes, is amended to read:

350.0611 Public Counsel; duties and powers.—It shall be the duty of the Public Counsel to provide legal representation for the people of the state in proceedings before the commission and in proceedings before counties pursuant to s. 367.171(8). The Public Counsel shall have such powers as are necessary to carry out the duties of his or her office, including, but not limited to, the following specific powers:

(1) To recommend to the commission or the counties, by petition, the commencement of any proceeding or action or to appear, in the name of the state or its citizens, in any proceeding or action before the commission or the counties and urge therein any position which he or she deems to be in the public interest, whether consistent or inconsistent with positions previously adopted by the commission or the counties, and utilize therein all forms of discovery available to attorneys in civil actions generally, subject to protective orders of the commission or the counties which shall be reviewable by summary procedure in the circuit courts of this state;

(2) To have access to and use of all files, records, and data of the commission or the counties available to any other attorney representing parties in a proceeding before the commission or the counties;

(3) In any proceeding in which he or she has participated as a party, to seek review of any determination, finding, or order of the commission or the counties, or of any hearing examiner designated by the commission or the counties, in the name of the state or its citizens;

(4) To prepare and issue reports, recommendations, and proposed orders to the commission, the Governor, and the Legislature on any matter or subject within the jurisdiction of the commission, and to make such recommendations as he or she deems appropriate for legislation relative to commission procedures, rules, jurisdiction, personnel, and functions; ~~and~~

(5) To appear before other state agencies, federal agencies, and state and federal courts in connection with matters under the jurisdiction of the commission, in the name of the state or its citizens*; and*~~.~~

(6) To represent, through the Insurance Consumer Advocate, the general public of the state on matters related to the regulation of insurance before the Office of Insurance Regulation, the Department of Financial Services, and the Financial Services Commission, as provided in s. 350.0615.

Section 10. Section 350.0613, Florida Statutes, is amended to read:

350.0613 Public Counsel; employees; receipt of pleadings.—The committee may authorize the Public Counsel to employ clerical and technical assistants whose qualifications, duties, and responsibilities the committee shall from time to time prescribe. The committee may from time to time authorize retention of the services of additional attorneys*, actuaries, economists,* or experts to the extent that the best interests of the people of the state will be better served thereby, including the retention of expert witnesses and other technical personnel for participation in contested proceedings before the *Public Service* Commission*, the Office of Insurance Regulation, the Department of Financial Services, or the Financial Services Commission*. The *Public Service* Commission shall furnish the Public Counsel with copies of the initial pleadings in all proceedings before the commission. *The Office of Insurance Regulation, the Financial Services Commission, and the Department of Financial Services shall furnish the Public Counsel with copies of all filings, as requested by the Public Counsel or under such criteria as requested by the Public Counsel, which relate to the jurisdiction of the Insurance Consumer Advocate pursuant to s. 350.0615.*~~, and~~ If the Public Counsel *or Insurance Consumer Advocate* intervenes as a party in any proceeding he or she shall be served with copies of all subsequent pleadings, exhibits, and prepared testimony, if used. Upon filing notice of intervention, the Public Counsel *or Insurance Consumer Advocate* shall serve all interested parties with copies of such notice and all of his or her subsequent pleadings and exhibits.

Section 11. Section 350.0615, Florida Statutes, is created to read:

350.0615 Insurance Consumer Advocate.—The Chief Financial Officer shall appoint the Insurance Consumer Advocate, who shall be subject to confirmation by the Committee on Public Service Commission and Insurance Oversight. The Insurance Consumer Advocate shall represent the general public of the state on matters related to the regulation of insurance before the Office of Insurance Regulation, the Department of Financial Services, and the Financial Services Commission. The Insurance Consumer Advocate shall report directly to and be engaged as an employee of the Public Counsel as a Deputy Public Counsel. The Public Counsel shall provide administrative and staff support to the Insurance Consumer Advocate. The Insurance Consumer Advocate has all powers that are necessary to carry out his or her duties, including, but not limited to, the powers to:

(1) Recommend to the office, department, or commission, by petition, the commencement of any proceeding or action; to appear in any proceeding or action before the office, department, or commission; and to appear in any proceeding before the Division of Administrative Hearings relating to insurance matters under the jurisdiction of the office, department, or commission.

(2) Have access to and use of all files, records, and data of the office, department, or commission.

(3) Examine all rate and form filings submitted to the office, hire consultants as necessary to aid in the review process, and recommend to the office, department, commission, or Legislature any position considered by the Insurance Consumer Advocate to be in the public interest.

Section 12. Section 395.1060, Florida Statutes, is created to read:

395.1060 Risk pooling by certain hospitals and hospital systems.—

(1) Notwithstanding any other provision of law, any two or more Florida-licensed hospitals located in this state may form an alliance for the purpose of pooling and spreading liabilities of its members relative to property exposure or securing such property insurance coverage for the benefit of its members, provided the alliance that is created must:

(a) Have annual premiums in excess of $3 million;

(b) Maintain a continuing program of premium calculation and evaluation and reserve evaluation to protect the financial stability of the alliance in an amount and manner determined by consultants using catastrophic (CAT) modeling criteria or other risk-estimating methodologies, including those used by qualified and independent actuaries;

(c) Cause to be prepared annually a fiscal year-end financial statement in accordance with generally accepted accounting principles and audited by an independent certified public accountant within 6 months after the end of the fiscal year; and

(d) Have a governing body comprised entirely of member entities whose representatives on such governing body are specified by the organizational documents of the alliance.

(2) For purposes of this section, the term:

(a) "Alliance" means a corporation, association, limited liability company, or partnership or any other legal entity formed by a group of eligible entities.

(b) "Property coverage" means coverage provided by self-insurance or insurance for real or personal property of every kind and every interest in such property against loss or damage from any hazard or cause and against any loss consequential to such loss or damage.

(3) An alliance that meets the requirements of this section is not subject to any provision of the Florida Insurance Code.

(4) An alliance that meets the requirements of this section is not an insurer for purposes of participation in or coverage by the Florida Insurance Guaranty Association established in part II of chapter 631. Alliance self-insured coverage is not subject to insurance premium tax, nor shall any such alliance pursuant to this section be assessed for purposes of s. 627.351 or s. 215.555.

Section 13. Section 553.73, Florida Statutes, is amended to read:

553.73 Florida Building Code.—

(1)(a) The commission shall adopt, by rule pursuant to ss. 120.536(1) and 120.54, the Florida Building Code which shall contain or incorporate by reference all laws and rules which pertain to and govern the design, construction, erection, alteration, modification, repair, and demolition of public and private buildings, structures, and facilities and enforcement of such laws and rules, except as otherwise provided in this section.

(b) The technical portions of the Florida Accessibility Code for Building Construction shall be contained in their entirety in the Florida Building Code. The civil rights portions and the technical portions of the accessibility laws of this state shall remain as currently provided by law. Any revision or amendments to the Florida Accessibility Code for Building Construction pursuant to part II shall be considered adopted by the commission as part of the Florida Building Code. Neither the commission nor any local government shall revise or amend any standard of the Florida Accessibility Code for Building Construction except as provided for in part II.

(c) The Florida Fire Prevention Code and the Life Safety Code shall be referenced in the Florida Building Code, but shall be adopted, modified, revised, or amended, interpreted, and maintained by the Department of Financial Services by rule adopted pursuant to ss. 120.536(1) and 120.54. The Florida Building Commission may not adopt a fire prevention or lifesafety code, and nothing in the Florida Building Code shall affect the statutory powers, duties, and responsibilities of any fire official or the Department of Financial Services.

(d) Conflicting requirements between the Florida Building Code and the Florida Fire Prevention Code and Life Safety Code of the state established pursuant to ss. 633.022 and 633.025 shall be resolved by agreement between the commission and the State Fire Marshal in favor of the requirement that offers the greatest degree of lifesafety or alternatives that would provide an equivalent degree of lifesafety and an equivalent method of construction. If the commission and State Fire Marshal are unable to agree on a resolution, the question shall be referred to a mediator, mutually agreeable to both parties, to resolve the conflict in favor of the provision that offers the greatest lifesafety, or alternatives that would provide an equivalent degree of lifesafety and an equivalent method of construction.

(e) Subject to the provisions of this act, responsibility for enforcement, interpretation, and regulation of the Florida Building Code shall be vested in a specified local board or agency, and the words "local government" and "local governing body" as used in this part shall be construed to refer exclusively to such local board or agency.

(2) The Florida Building Code shall contain provisions or requirements for public and private buildings, structures, and facilities relative to structural, mechanical, electrical, plumbing, energy, and gas systems, existing buildings, historical buildings, manufactured buildings, elevators, coastal construction, lodging facilities, food sales and food service facilities, health care facilities, including assisted living facilities, adult day care facilities, hospice residential and inpatient facilities and units, and facilities for the control of radiation hazards, public or private educational facilities, swimming pools, and correctional facilities and enforcement of and compliance with such provisions or requirements. Further, the Florida Building Code must provide for uniform implementation of ss. 515.25, 515.27, and 515.29 by including standards and criteria for residential swimming pool barriers, pool covers, latching devices, door and window exit alarms, and other equipment required therein, which are consistent with the intent of s. 515.23. Technical provisions to be contained within the Florida Building Code are restricted to requirements related to the types of materials used and construction methods and standards employed in order to meet criteria specified in the Florida Building Code. Provisions relating to the personnel, supervision or training of personnel, or any other professional qualification requirements relating to contractors or their workforce may not be included within the Florida Building Code, and subsections (4), (5), (6), ~~and~~ (7)*, and (8)* are not to be construed to allow the inclusion of such provisions within the Florida Building Code by amendment. This restriction applies to both initial development and amendment of the Florida Building Code.

(3) The commission shall select from available national or international model building codes, or other available building codes and standards currently recognized by the laws of this state, to form the foundation for the Florida Building Code. The commission may modify the selected model codes and standards as needed to accommodate the specific needs of this state. Standards or criteria referenced by the selected model codes shall be similarly incorporated by reference. If a referenced standard or criterion requires amplification or modification to be appropriate for use in this state, only the amplification or modification shall be specifically set forth in the Florida Building Code. The Florida Building Commission may approve technical amendments to the code*, subject to the requirements of subsections (7) and (8),* after the amendments have been subject to the following conditions:

(a) The proposed amendment has been published on the commission's website for a minimum of 45 days and all the associated documentation has been made available to any interested party before any consideration by any Technical Advisory Committee;

(b) In order for a Technical Advisory Committee to make a favorable recommendation to the commission, the proposal must receive a three-fourths vote of the members present at the Technical Advisory Committee meeting and at least half of the regular members must be present in order to conduct a meeting;

(c) After Technical Advisory Committee consideration and a recommendation for approval of any proposed amendment, the proposal must be published on the commission's website for not less than 45 days before any consideration by the commission; and

(d) Any proposal may be modified by the commission based on public testimony and evidence from a public hearing held in accordance with chapter 120.

The commission shall incorporate within sections of the Florida Building Code provisions which address regional and local concerns and variations. The commission shall make every effort to minimize conflicts between the Florida Building Code, the Florida Fire Prevention Code, and the Life Safety Code.

(4)(a) All entities authorized to enforce the Florida Building Code pursuant to s. 553.80 shall comply with applicable standards for issuance of mandatory certificates of occupancy, minimum types of inspections, and procedures for plans review and inspections as established by the commission by rule. Local governments may adopt amendments to the administrative provisions of the Florida Building Code, subject to the limitations of this paragraph. Local amendments shall be more stringent than the minimum standards described herein and shall be transmitted to the commission within 30 days after enactment. The local government shall make such amendments available to the general public in a usable format. The State Fire Marshal is responsible for establishing the standards and procedures required in this paragraph for governmental entities with respect to applying the Florida Fire Prevention Code and the Life Safety Code.

(b) Local governments may, subject to the limitations of this section, adopt amendments to the technical provisions of the Florida Building Code which apply solely within the jurisdiction of such government and which provide for more stringent requirements than those specified in the Florida Building Code, not more than once every 6 months. A local government may adopt technical amendments that address local needs if:

1. The local governing body determines, following a public hearing which has been advertised in a newspaper of general circulation at least 10 days before the hearing, that there is a need to strengthen the requirements of the Florida Building Code. The determination must be based upon a review of local conditions by the local governing body, which review demonstrates by evidence or data that the geographical jurisdiction governed by the local governing body exhibits a local need

to strengthen the Florida Building Code beyond the needs or regional variation addressed by the Florida Building Code, that the local need is addressed by the proposed local amendment, and that the amendment is no more stringent than necessary to address the local need.

2. Such additional requirements are not discriminatory against materials, products, or construction techniques of demonstrated capabilities.

3. Such additional requirements may not introduce a new subject not addressed in the Florida Building Code.

4. The enforcing agency shall make readily available, in a usable format, all amendments adopted pursuant to this section.

5. Any amendment to the Florida Building Code shall be transmitted within 30 days by the adopting local government to the commission. The commission shall maintain copies of all such amendments in a format that is usable and obtainable by the public. Local technical amendments shall not become effective until 30 days after the amendment has been received and published by the commission.

6. Any amendment to the Florida Building Code adopted by a local government pursuant to this paragraph shall be effective only until the adoption by the commission of the new edition of the Florida Building Code every third year. At such time, the commission shall review such amendment for consistency with the criteria in paragraph *(8)(a)* ~~(7)(a)~~ and adopt such amendment as part of the Florida Building Code or rescind the amendment. The commission shall immediately notify the respective local government of the rescission of any amendment. After receiving such notice, the respective local government may readopt the rescinded amendment pursuant to the provisions of this paragraph.

7. Each county and municipality desiring to make local technical amendments to the Florida Building Code shall by interlocal agreement establish a countywide compliance review board to review any amendment to the Florida Building Code, adopted by a local government within the county pursuant to this paragraph, that is challenged by any substantially affected party for purposes of determining the amendment's compliance with this paragraph. If challenged, the local technical amendments shall not become effective until time for filing an appeal pursuant to subparagraph 8. has expired or, if there is an appeal, until the commission issues its final order determining the adopted amendment is in compliance with this subsection.

8. If the compliance review board determines such amendment is not in compliance with this paragraph, the compliance review board shall notify such local government of the noncompliance and that the amendment is invalid and unenforceable until the local government corrects the amendment to bring it into compliance. The local government may appeal the decision of the compliance review board to the commission. If the compliance review board determines such amendment to be in compliance with this paragraph, any substantially affected party may appeal such determination to the commission. Any such appeal shall be filed with the commission within 14 days of the board's written determination. The commission shall promptly refer the appeal to the Division of Administrative Hearings for the assignment of an administrative law judge. The administrative law judge shall conduct the required hearing within 30 days, and shall enter a recommended order within 30 days of the conclusion of such hearing. The commission shall enter a final order within 30 days thereafter. The provisions of chapter 120 and the uniform rules of procedure shall apply to such proceedings. The local government adopting the amendment that is subject to challenge has the burden of proving that the amendment complies with this paragraph in proceedings before the compliance review board and the commission, as applicable. Actions of the commission are subject to judicial review pursuant to s. 120.68. The compliance review board shall determine whether its decisions apply to a respective local jurisdiction or apply countywide.

9. An amendment adopted under this paragraph shall include a fiscal impact statement which documents the costs and benefits of the proposed amendment. Criteria for the fiscal impact statement shall include the impact to local government relative to enforcement, the impact to property and building owners, as well as to industry, relative to the cost of compliance. The fiscal impact statement may not be used as a basis for challenging the amendment for compliance.

10. In addition to subparagraphs 7. and 9., the commission may review any amendments adopted pursuant to this subsection and make nonbinding recommendations related to compliance of such amendments with this subsection.

(c) Any amendment adopted by a local enforcing agency pursuant to this subsection shall not apply to state or school district owned buildings, manufactured buildings or factory-built school buildings approved by the commission, or prototype buildings approved pursuant to s. 553.77(3). The respective responsible entities shall consider the physical performance parameters substantiating such amendments when designing, specifying, and constructing such exempt buildings.

(5) The initial adoption of, and any subsequent update or amendment to, the Florida Building Code by the commission is deemed adopted for use statewide without adoptions by local government. For a building permit for which an application is submitted prior to the effective date of the Florida Building Code, the state minimum building code in effect in the permitting jurisdiction on the date of the application governs the permitted work for the life of the permit and any extension granted to the permit.

(6)(a) The commission, by rule adopted pursuant to ss. 120.536(1) and 120.54, shall update the Florida Building Code every 3 years. When updating the Florida Building Code, the commission shall select the most current version of the International Building Code, the International Fuel Gas Code, the International Mechanical Code, the International Plumbing Code, and the International Residential Code, all of which are adopted by the International Code Council, and the National Electrical Code, which is adopted by the National Fire Protection Association, to form the foundation codes of the updated Florida Building Code, if the version has been adopted by the applicable model code entity and made available to the public at least 6 months prior to its selection by the commission.

(b) Codes regarding noise contour lines shall be reviewed annually, and the most current federal guidelines shall be adopted.

(c) The commission may modify any portion of the foundation codes only as needed to accommodate the specific needs of this state, maintaining Florida-specific amendments previously adopted by the commission and not addressed by the updated foundation code. Standards or criteria referenced by the codes shall be incorporated by reference. If a referenced standard or criterion requires amplification or modification to be appropriate for use in this state, only the amplification or modification shall be set forth in the Florida Building Code. The commission may approve technical amendments to the updated Florida Building Code after the amendments have been subject to the conditions set forth in paragraphs (3)(a)-(d). Amendments to the foundation codes which are adopted in accordance with this subsection shall be clearly marked in printed versions of the Florida Building Code so that the fact that the provisions are Florida-specific amendments to the foundation codes is readily apparent.

(d) The commission shall further consider the commission's own interpretations, declaratory statements, appellate decisions, and approved statewide and local technical amendments and shall incorporate such interpretations, statements, decisions, and amendments into the updated Florida Building Code only to the extent that they are needed to modify the foundation codes to accommodate the specific needs of the state. A change made by an institute or standards organization to any standard or criterion that is adopted by reference in the Florida Building Code does not become effective statewide until it has been adopted by the commission. Furthermore, the edition of the Florida Building Code which is in effect on the date of application for any permit authorized by the code governs the permitted work for the life of the permit and any extension granted to the permit.

(e) A rule updating the Florida Building Code in accordance with this subsection shall take effect no sooner than 6 months after publication of the updated code. Any amendment to the Florida Building Code which is adopted upon a finding by the commission that the amendment is necessary to protect the public from immediate threat of harm takes effect immediately.

(f) Provisions of the foundation codes, including those contained in referenced standards and criteria, relating to wind resistance or the prevention of water intrusion may not be modified to diminish those construction requirements; however, the commission may, subject to conditions in this subsection, modify the provisions to enhance those construction requirements.

(7)~~(f)~~ Upon the conclusion of a triennial update to the Florida Building Code, notwithstanding the provisions of ~~this subsection or~~ subsection (3) *or subsection (6)*, the commission may address issues identified in this *subsection* ~~paragraph~~ by amending the code pursuant only to the rule adoption procedures contained in chapter 120. *Provisions of the Florida Building Code, including those contained in referenced standards and criteria, relating to wind resistance or the prevention of water intrusion may not be amended pursuant to this subsection to diminish those construction requirements; however, the commission may, subject to conditions in this subsection, amend the provisions to enhance those construction requirements.* Following the approval of any amendments to the Florida Building Code by the commission and publication of the amendments on the commission's website, authorities having jurisdiction to enforce the Florida Building Code may enforce the amendments. The commission may approve amendments that are needed to address:

(a)~~1.~~ Conflicts within the updated code;

(b)~~2.~~ Conflicts between the updated code and the Florida Fire Prevention Code adopted pursuant to chapter 633;

(c)~~3.~~ The omission of previously adopted Florida-specific amendments to the updated code if such omission is not supported by a specific recommendation of a technical advisory committee or particular action by the commission; or

(d)~~4.~~ Unintended results from the integration of previously adopted Florida-specific amendments with the model code.

(8)~~(7)~~(a) The commission may approve technical amendments to the Florida Building Code once each year for statewide or regional application upon a finding that the amendment:

1. Is needed in order to accommodate the specific needs of this state.

2. Has a reasonable and substantial connection with the health, safety, and welfare of the general public.

3. Strengthens or improves the Florida Building Code, or in the case of innovation or new technology, will provide equivalent or better products or methods or systems of construction.

4. Does not discriminate against materials, products, methods, or systems of construction of demonstrated capabilities.

5. Does not degrade the effectiveness of the Florida Building Code.

Furthermore, the Florida Building Commission may approve technical amendments to the code once each year to incorporate into the Florida Building Code its own interpretations of the code which are embodied in its opinions, final orders, declaratory statements, and interpretations of hearing officer panels under s. 553.775(3)(c), but shall do so only to the extent that incorporation of interpretations is needed to modify the foundation codes to accommodate the specific needs of this state. Amendments approved under this paragraph shall be adopted by rule pursuant to ss. 120.536(1) and 120.54, after the amendments have been subjected to the provisions of subsection (3).

(b) A proposed amendment shall include a fiscal impact statement which documents the costs and benefits of the proposed amendment. Criteria for the fiscal impact statement shall be established by rule by the commission and shall include the impact to local government relative to enforcement, the impact to property and building owners, as well as to industry, relative to the cost of compliance.

(c) The commission may not approve any proposed amendment that does not accurately and completely address all requirements for amendment which are set forth in this section. The commission shall require all proposed amendments and information submitted with proposed amendments to be reviewed by commission staff prior to consideration by any technical advisory committee. These reviews shall be for sufficiency only and are not intended to be qualitative in nature. Staff members shall reject any proposed amendment that fails to include a fiscal impact statement. Proposed amendments rejected by members of the staff may not be considered by the commission or any technical advisory committee.

(d) Provisions of the Florida Building Code, including those contained in referenced standards and criteria, relating to wind resistance or the prevention of water intrusion may not be amended pursuant to this subsection to diminish those construction requirements; however, the commission may, subject to conditions in this subsection, amend the provisions to enhance those construction requirements.

(9)~~(8)~~ The following buildings, structures, and facilities are exempt from the Florida Building Code as provided by law, and any further exemptions shall be as determined by the Legislature and provided by law:

(a) Buildings and structures specifically regulated and preempted by the Federal Government.

(b) Railroads and ancillary facilities associated with the railroad.

(c) Nonresidential farm buildings on farms.

(d) Temporary buildings or sheds used exclusively for construction purposes.

(e) Mobile or modular structures used as temporary offices, except that the provisions of part II relating to accessibility by persons with disabilities shall apply to such mobile or modular structures.

(f) Those structures or facilities of electric utilities, as defined in s. 366.02, which are directly involved in the generation, transmission, or distribution of electricity.

(g) Temporary sets, assemblies, or structures used in commercial motion picture or television production, or any sound-recording equipment used in such production, on or off the premises.

(h) Storage sheds that are not designed for human habitation and that have a floor area of 720 square feet or less are not required to comply with the mandatory wind-borne-debris-impact standards of the Florida Building Code.

(i) Chickees constructed by the Miccosukee Tribe of Indians of Florida or the Seminole Tribe of Florida. As used in this paragraph, the term "chickee" means an open-sided wooden hut that has a thatched roof of palm or palmetto or other traditional materials, and that does not incorporate any electrical, plumbing, or other nonwood features.

With the exception of paragraphs (a), (b), (c), and (f), in order to preserve the health, safety, and welfare of the public, the Florida Building Commission may, by rule adopted pursuant to chapter 120, provide for exceptions to the broad categories of buildings exempted in this section, including exceptions for application of specific sections of the code or standards adopted therein. The Department of Agriculture and Consumer Services shall have exclusive authority to adopt by rule, pursuant to chapter 120, exceptions to nonresidential farm buildings exempted in paragraph (c) when reasonably necessary to preserve public health, safety, and welfare. The exceptions must be based upon specific criteria, such as under-roof floor area, aggregate electrical service capacity, HVAC system capacity, or other building requirements. Further, the commission may recommend to the Legislature additional categories of buildings, structures, or facilities which should be exempted from the Florida Building Code, to be provided by law.

(10)~~(9)~~(a) In the event of a conflict between the Florida Building Code and the Florida Fire Prevention Code and the Life Safety Code as applied to a specific project, the conflict shall be resolved by agreement between the local building code enforcement official and the local fire code enforcement official in favor of the requirement of the code which offers the greatest degree of lifesafety or alternatives which would provide an equivalent degree of lifesafety and an equivalent method of construction.

(b) Any decision made by the local fire official and the local building official may be appealed to a local administrative board designated by the municipality, county, or special district having firesafety responsibilities. If the decision of the local fire official and the local building official is to apply the provisions of either the Florida Building Code or the Florida Fire Prevention Code and the Life Safety Code, the board may not alter the decision unless the board determines that the application of such code is not reasonable. If the decision of the local fire official and the local building official is to adopt an alternative to the codes, the local administrative board shall give due regard to the decision rendered by the local officials and may modify that decision if the administrative board adopts a better alternative, taking into consideration all relevant

circumstances. In any case in which the local administrative board adopts alternatives to the decision rendered by the local fire official and the local building official, such alternatives shall provide an equivalent degree of lifesafety and an equivalent method of construction as the decision rendered by the local officials.

(c) If the local building official and the local fire official are unable to agree on a resolution of the conflict between the Florida Building Code and the Florida Fire Prevention Code and the Life Safety Code, the local administrative board shall resolve the conflict in favor of the code which offers the greatest degree of lifesafety or alternatives which would provide an equivalent degree of lifesafety and an equivalent method of construction.

(d) All decisions of the local administrative board, or if none exists, the decisions of the local building official and the local fire official, are subject to review by a joint committee composed of members of the Florida Building Commission and the Fire Code Advisory Council. If the joint committee is unable to resolve conflicts between the codes as applied to a specific project, the matter shall be resolved pursuant to the provisions of paragraph (1)(d).

(e) The local administrative board shall, to the greatest extent possible, be composed of members with expertise in building construction and firesafety standards.

(f) All decisions of the local building official and local fire official and all decisions of the administrative board shall be in writing and shall be binding upon all persons but shall not limit the authority of the State Fire Marshal or the Florida Building Commission pursuant to paragraph (1)(d) and ss. 663.01 and 633.161. Decisions of general application shall be indexed by building and fire code sections and shall be available for inspection during normal business hours.

(11)~~(10)~~ Except within coastal building zones as defined in s. 161.54, specification standards developed by nationally recognized code promulgation organizations to determine compliance with engineering criteria of the Florida Building Code for wind load design shall not apply to one or two family dwellings which are two stories or less in height unless approved by the commission for use or unless expressly made subject to said standards and criteria by local ordinance adopted in accordance with the provisions of subsection (4).

(12)~~(11)~~ The Florida Building Code does not apply to, and no code enforcement action shall be brought with respect to, zoning requirements, land use requirements, and owner specifications or programmatic requirements which do not pertain to and govern the design, construction, erection, alteration, modification, repair, or demolition of public or private buildings, structures, or facilities or to programmatic requirements that do not pertain to enforcement of the Florida Building Code. Additionally, a local code enforcement agency may not administer or enforce the Florida Building Code to prevent the siting of any publicly owned facility, including, but not limited to, correctional facilities, juvenile justice facilities, or state universities, community colleges, or public education facilities, as provided by law.

Section 14. Subsection (2) of section 553.775, Florida Statutes, is amended to read:

553.775 Interpretations.—

(2) Local enforcement agencies, local building officials, state agencies, and the commission shall interpret provisions of the Florida Building Code in a manner that is consistent with declaratory statements and interpretations entered by the commission, except that conflicts between the Florida Fire Prevention Code and the Florida Building Code shall be resolved in accordance with *s. 553.73(10)(c) and (d)* ~~s. 553.73(9)(c) and (d)~~.

Section 15. *Upon the effective date of this act, each jurisdiction having authority to enforce the Florida Building Code shall, at a minimum, require wind-borne-debris protection in accordance with s. 1609.1, International Building Code (2006) and the International Residential Code (2006) within the "wind-borne-debris region" as that term is defined in s. 1609.2, International Building Code (2006), and s. R301.2, International Residential Code (2006).*

Section 16. *(1) The Florida Building Commission shall amend the Florida Building Code to reflect the application of provisions identified in section 553.73, Florida Statutes, and to eliminate all exceptions that provide less stringent requirements. The amendments by the commission shall apply throughout the state with the exception of the High Velocity Hurricane Zone, which shall be governed as currently provided within the Florida Building Code. The commission shall, in addition, amend the code to require that, at a minimum, in areas where the applicable design wind speed is less than 120 miles per hour, all new residences are designed and constructed to withstand internal pressures. The commission shall fulfill these obligations before July 1, 2007, pursuant only to the provisions of chapter 120, Florida Statutes.*

(2) The Florida Building Commission shall develop voluntary "Code Plus" guidelines for increasing the hurricane resistance of buildings. The guidelines must be modeled on the requirements for the High Velocity Hurricane Zone and must identify products, systems, and methods of construction that the commission anticipates could result in stronger construction. The commission shall include these guidelines in its report to the 2008 Legislature.

Section 17. Paragraph (b) of subsection (3) of section 624.319, Florida Statutes, is amended to read:

624.319 Examination and investigation reports.—

(3)

(b) Workpapers and other information held by the department or office, and workpapers and other information received from another governmental entity or the National Association of Insurance Commissioners, for the department's or office's use in the performance of its examination or investigation duties pursuant to this section and ss. 624.316, 624.3161, 624.317, and 624.318 are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to workpapers and other information held by the department or office before, on, or after the effective date of this exemption. Such confidential and exempt information may be disclosed to another governmental entity, if disclosure is necessary for the receiving entity to perform its duties and responsibilities, and may be disclosed to the National Association of Insurance Commissioners. *The Public Counsel and the Insurance Consumer Advocate shall have access to such confidential and exempt information pertaining to insurance at any time.* The receiving governmental entity or the association must maintain the confidential and exempt status of the information. The information made confidential and exempt by this paragraph may be used in a criminal, civil, or administrative proceeding so long as the confidential and exempt status of such information is maintained. This paragraph is subject to the Open Government Sunset Review Act of 1995 in accordance with s. 119.15 and shall stand repealed on October 2, 2007, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 18. Paragraph (a) of subsection (2) of section 624.462, Florida Statutes, is amended to read:

624.462 Commercial self-insurance funds.—

(2) As used in ss. 624.460-624.488, "commercial self-insurance fund" or "fund" means a group of members, operating individually and collectively through a trust or corporation, that must be:

(a) Established by:

1. A not-for-profit trade association, industry association, or professional association of employers or professionals which has a constitution or bylaws, which is incorporated under the laws of this state, and which has been organized for purposes other than that of obtaining or providing insurance and operated in good faith for a continuous period of 1 year;

2. A self-insurance trust fund organized pursuant to s. 627.357 and maintained in good faith for a continuous period of 1 year for purposes other than that of obtaining or providing insurance pursuant to this section. Each member of a commercial self-insurance trust fund established pursuant to this subsection must maintain membership in the self-insurance trust fund organized pursuant to s. 627.357;

3. A group of 10 or more health care providers, as defined in s. 627.351(4)(h), for purposes of providing medical malpractice coverage; or

4. A not-for-profit group comprised of no *fewer* ~~less~~ than 10 *community* ~~condominium~~ associations*, or a not-for-profit group comprised of one or more community associations having at least 50 residential properties cumulatively valued at over $25 million, created and operating under chapter 718, chapter 719, chapter 720, chapter 721, or chapter 723* ~~as defined in s. 718.103(2), which is incorporated under the laws of this state,~~ which restricts its membership to *community* ~~condominium~~ associations only~~,~~ and which has been organized and maintained in good faith for *the purpose of pooling and spreading the liabilities of its group members relating to property or casualty risk or surety insurance* ~~a continuous period of 1 year for purposes other than that of obtaining or providing insurance~~.

Section 19. Subsection (1) of section 624.4622, Florida Statutes, is amended to read:

624.4622 Local government self-insurance funds.—

(1) Any two or more local governmental entities may enter into interlocal agreements for the purpose of securing the payment of benefits under chapter 440, *or insuring or self-insuring real or personal property of every kind and every interest in such property against loss or damage from any hazard or cause and against any loss consequential to such loss or damage,* provided the local government self-insurance fund that is created must:

(a) Have annual normal premiums in excess of $5 million;

(b) Maintain a continuing program of excess insurance coverage and reserve evaluation to protect the financial stability of the fund in an amount and manner determined by a qualified and independent actuary;

(c) Submit annually an audited fiscal year-end financial statement by an independent certified public accountant within 6 months after the end of the fiscal year to the office; and

(d) Have a governing body which is comprised entirely of local elected officials.

Section 20. Section 624.4625, Florida Statutes, is created to read:

624.4625 Corporation not-for-profit self-insurance funds.—

(1) Notwithstanding any other provision of law, any two or more corporations not for profit located in and organized under the laws of this state may form a self-insurance fund for the purpose of pooling and spreading liabilities of its group members in any one or combination of property or casualty risk, provided the corporation not for profit self-insurance fund that is created:

(a) Has annual normal premiums in excess of $5 million.

(b) Requires for qualification that each participating member receive at least 75 percent of its revenues from local, state, or federal governmental sources or a combination of such sources.

(c) Uses a qualified actuary to determine rates using accepted actuarial principles and annually submits to the office a certification by the actuary that the rates are actuarially sound and are not inadequate, as defined in s. 627.062.

(d) Uses a qualified actuary to establish reserves for loss and loss adjustment expenses and annually submits to the office a certification by the actuary that the loss and loss adjustment expense reserves are adequate. If the actuary determines that reserves are not adequate, the fund shall file with the office a remedial plan for increasing the reserves or otherwise addressing the financial condition of the fund, subject to a determination by the office that the fund will operate on an actuarially sound basis and the fund does not pose a significant risk of insolvency.

(e) Maintains a continuing program of excess insurance coverage and reserve evaluation to protect the financial stability of the fund in an amount and manner determined by a qualified actuary. At a minimum, this program must:

1. Purchase excess insurance from authorized insurance carriers.

2. Retain a per-loss occurrence that does not exceed $350,000.

(f) Submits to the office annually an audited fiscal year-end financial statement by an independent certified public accountant within 6 months after the end of the fiscal year.

(g) Has a governing body that is comprised entirely of officials from corporations not for profit that are members of the corporation not-for-profit self-insurance fund.

(h) Uses knowledgeable persons or business entities to administer or service the fund in the areas of claims administration, claims adjusting, underwriting, risk management, loss control, policy administration, financial audit, and legal areas. Such persons must meet all applicable requirements of law for state licensure and must have at least 5 years' experience with commercial self-insurance funds formed under s. 624.462, self-insurance funds formed under s. 624.4622, or domestic insurers.

(i) Submits to the office copies of contracts used for its members that clearly establish the liability of each member for the obligations of the fund.

(j) Annually submits to the office a certification by the governing body of the fund that, to the best of its knowledge, the requirements of this section are met.

(2) As used in this section, the term "qualified actuary" means an actuary that is a member of the Casualty Actuarial Society or the American Academy of Actuaries.

(3) A corporation not-for-profit self-insurance fund that meets the requirements of this section is not:

(a) An insurer for purposes of participation in or coverage by any insurance guaranty association established by chapter 631; or

(b) Subject to s. 624.4621 and is not required to file any report with the department under s. 440.38(2)(b) that is uniquely required of group self-insurer funds qualified under s. 624.4621.

(4) Premiums, contributions, and assessments received by a corporation not-for-profit self-insurance fund are subject to ss. 624.509(1) and (2) and 624.5092, except that the tax rate shall be 1.6 percent of the gross amount of such premiums, contributions, and assessments.

(5) If any of the requirements of subsection (1) are not met, a corporation not-for-profit self-insurance fund is subject to the requirements of s. 624.4621 if the fund provides only workers' compensation coverage or is subject to the requirements of ss. 624.460-624.488 if the fund provides coverage for other property, casualty, or surety risks.

Section 21. Subsection (3) of section 624.610, Florida Statutes, is amended to read:

624.610 Reinsurance.—

(3)(a) Credit must be allowed when the reinsurance is ceded to an assuming insurer that is authorized to transact insurance or reinsurance in this state.

(b)1. Credit must be allowed when the reinsurance is ceded to an assuming insurer that is accredited as a reinsurer in this state. An accredited reinsurer is one that:

a. Files with the office evidence of its submission to this state's jurisdiction;

b. Submits to this state's authority to examine its books and records;

c. Is licensed or authorized to transact insurance or reinsurance in at least one state or, in the case of a United States branch of an alien assuming insurer, is entered through, licensed, or authorized to transact insurance or reinsurance in at least one state;

d. Files annually with the office a copy of its annual statement filed with the insurance department of its state of domicile any quarterly statements if required by its state of domicile or such quarterly statements if specifically requested by the office, and a copy of its most recent audited financial statement; and

(I) Maintains a surplus as regards policyholders in an amount not less than $20 million and whose accreditation has not been denied by the office within 90 days after its submission; or

(II) Maintains a surplus as regards policyholders in an amount not less than $20 million and whose accreditation has been approved by the office.

2. The office may deny or revoke an assuming insurer's accreditation if the assuming insurer does not submit the required documentation pursuant to subparagraph 1., if the assuming insurer fails to meet all of the standards required of an accredited reinsurer, or if the assuming insurer's accreditation would be hazardous to the policyholders of this state. In determining whether to deny or revoke accreditation, the office may consider the qualifications of the assuming insurer with respect to all the following subjects:

a. Its financial stability;

b. The lawfulness and quality of its investments;

c. The competency, character, and integrity of its management;

d. The competency, character, and integrity of persons who own or have a controlling interest in the assuming insurer; and

e. Whether claims under its contracts are promptly and fairly adjusted and are promptly and fairly paid in accordance with the law and the terms of the contracts.

3. Credit must not be allowed a ceding insurer if the assuming insurer's accreditation has been revoked by the office after notice and the opportunity for a hearing.

4. The actual costs and expenses incurred by the office to review a reinsurer's request for accreditation and subsequent reviews must be charged to and collected from the requesting reinsurer. If the reinsurer fails to pay the actual costs and expenses promptly when due, the office may refuse to accredit the reinsurer or may revoke the reinsurer's accreditation.

(c)1. Credit must be allowed when the reinsurance is ceded to an assuming insurer that maintains a trust fund in a qualified United States financial institution, as defined in paragraph (5)(b), for the payment of the valid claims of its United States ceding insurers and their assigns and successors in interest. To enable the office to determine the sufficiency of the trust fund, the assuming insurer shall report annually to the office information substantially the same as that required to be reported on the NAIC Annual Statement form by authorized insurers. The assuming insurer shall submit to examination of its books and records by the office and bear the expense of examination.

2.a. Credit for reinsurance must not be granted under this subsection unless the form of the trust and any amendments to the trust have been approved by:

(I) The insurance regulator of the state in which the trust is domiciled; or

(II) The insurance regulator of another state who, pursuant to the terms of the trust instrument, has accepted principal regulatory oversight of the trust.

b. The form of the trust and any trust amendments must be filed with the insurance regulator of every state in which the ceding insurer beneficiaries of the trust are domiciled. The trust instrument must provide that contested claims are valid and enforceable upon the final order of any court of competent jurisdiction in the United States. The trust must vest legal title to its assets in its trustees for the benefit of the assuming insurer's United States ceding insurers and their assigns and successors in interest. The trust and the assuming insurer are subject to examination as determined by the insurance regulator.

c. The trust remains in effect for as long as the assuming insurer has outstanding obligations due under the reinsurance agreements subject to the trust. No later than February 28 of each year, the trustee of the trust shall report to the insurance regulator in writing the balance of the trust and list the trust's investments at the preceding year end, and shall certify that the trust will not expire prior to the following December 31.

3. The following requirements apply to the following categories of assuming insurer:

a. The trust fund for a single assuming insurer consists of funds in trust in an amount not less than the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers, and, in addition, the assuming insurer shall maintain a trusteed surplus of not less than $20 million. Not less than 50 percent of the funds in the trust covering the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers and trusteed surplus shall consist of assets of a quality substantially similar to that required in part II of chapter 625. Clean, irrevocable, unconditional, and evergreen letters of credit, issued or confirmed by a qualified United States financial institution, as defined in paragraph (5)(a), effective no later than December 31 of the year for which the filing is made and in the possession of the trust on or before the filing date of its annual statement, may be used to fund the remainder of the trust and trusteed surplus.

b.(I) In the case of a group including incorporated and individual unincorporated underwriters:

(A) For reinsurance ceded under reinsurance agreements with an inception, amendment, or renewal date on or after August 1, 1995, the trust consists of a trusteed account in an amount not less than the group's several liabilities attributable to business ceded by United States domiciled ceding insurers to any member of the group;

(B) For reinsurance ceded under reinsurance agreements with an inception date on or before July 31, 1995, and not amended or renewed after that date, notwithstanding the other provisions of this section, the trust consists of a trusteed account in an amount not less than the group's several insurance and reinsurance liabilities attributable to business written in the United States; and

(C) In addition to these trusts, the group shall maintain in trust a trusteed surplus of which $100 million must be held jointly for the benefit of the United States domiciled ceding insurers of any member of the group for all years of account.

(II) The incorporated members of the group must not be engaged in any business other than underwriting of a member of the group, and are subject to the same level of regulation and solvency control by the group's domiciliary regulator as the unincorporated members.

(III) Within 90 days after its financial statements are due to be filed with the group's domiciliary regulator, the group shall provide to the insurance regulator an annual certification by the group's domiciliary regulator of the solvency of each underwriter member or, if a certification is unavailable, financial statements, prepared by independent public accountants, of each underwriter member of the group.

(d) Credit must be allowed when the reinsurance is ceded to an assuming insurer not meeting the requirements of paragraph (a), paragraph (b), or paragraph (c), but only as to the insurance of risks located in jurisdictions in which the reinsurance is required to be purchased by a particular entity by applicable law or regulation of that jurisdiction.

(e) If the reinsurance is ceded to an assuming insurer not meeting the requirements of paragraph (a), paragraph (b), paragraph (c), or paragraph (d), the office may allow credit, but only if the assuming insurer holds surplus in excess of $100 million and has a secure financial strength rating from at least two nationally recognized statistical rating organizations deemed acceptable by the commissioner. In determining whether credit should be allowed, the office shall consider the following:

1. The domiciliary regulatory jurisdiction of the assuming insurer;

2. The structure and authority of the domiciliary regulator with regard to solvency regulation requirements and the financial surveillance of the reinsurer;

3. The substance of financial and operating standards for reinsurers in the domiciliary jurisdiction;

4. The form and substance of financial reports required to be filed by the reinsurers in the domiciliary jurisdiction or other public financial statements filed in accordance with generally accepted accounting principles;

5. The domiciliary regulator's willingness to cooperate with United States regulators in general and the office in particular;

6. The history of performance by reinsurers in the domiciliary jurisdiction;

7. Any documented evidence of substantial problems with the enforcement of valid United States judgments in the domiciliary jurisdiction; and

8. Any other matters deemed relevant by the commissioner. The commissioner shall give appropriate consideration to insurer group ratings that may have been issued. The commissioner may, in lieu of granting full credit under this subsection, reduce the amount required to be held in trust under paragraph (c).

(f)~~(e)~~ If the assuming insurer is not authorized or accredited to transact insurance or reinsurance in this state pursuant to paragraph (a) or paragraph (b), the credit permitted by paragraph (c) *or paragraph (d)* must not be allowed unless the assuming insurer agrees in the reinsurance agreements:

1.a. That in the event of the failure of the assuming insurer to perform its obligations under the terms of the reinsurance agreement, the assuming insurer, at the request of the ceding insurer, shall submit to the jurisdiction of any court of competent jurisdiction in any state of the United States, will comply with all requirements necessary to give the court jurisdiction, and will abide by the final decision of the court or of any appellate court in the event of an appeal; and

b. To designate the Chief Financial Officer, pursuant to s. 48.151, or a designated attorney as its true and lawful attorney upon whom may be served any lawful process in any action, suit, or proceeding instituted by or on behalf of the ceding company.

2. This paragraph is not intended to conflict with or override the obligation of the parties to a reinsurance agreement to arbitrate their disputes, if this obligation is created in the agreement.

(g)~~(f)~~ If the assuming insurer does not meet the requirements of paragraph (a) or paragraph (b), the credit permitted by paragraph (c) *or paragraph (d)* is not allowed unless the assuming insurer agrees in the trust agreements, in substance, to the following conditions:

1. Notwithstanding any other provisions in the trust instrument, if the trust fund is inadequate because it contains an amount less than the amount required by paragraph (c), or if the grantor of the trust has been declared insolvent or placed into receivership, rehabilitation, liquidation, or similar proceedings under the laws of its state or country of domicile, the trustee shall comply with an order of the insurance regulator with regulatory oversight over the trust or with an order of a United States court of competent jurisdiction directing the trustee to transfer to the insurance regulator with regulatory oversight all of the assets of the trust fund.

2. The assets must be distributed by and claims must be filed with and valued by the insurance regulator with regulatory oversight in accordance with the laws of the state in which the trust is domiciled which are applicable to the liquidation of domestic insurance companies.

3. If the insurance regulator with regulatory oversight determines that the assets of the trust fund or any part thereof are not necessary to satisfy the claims of the United States ceding insurers of the grantor of the trust, the assets or part thereof must be returned by the insurance regulator with regulatory oversight to the trustee for distribution in accordance with the trust agreement.

4. The grantor shall waive any right otherwise available to it under United States law which is inconsistent with this provision.

Section 22. *Section 627.0613, Florida Statutes, is repealed.*

Section 23. Section 627.062, Florida Statutes, is amended to read:

627.062 Rate standards.—

(1) The rates for all classes of insurance to which the provisions of this part are applicable shall not be excessive, inadequate, or unfairly discriminatory.

(2) As to all such classes of insurance:

(a) Insurers or rating organizations shall establish and use rates, rating schedules, or rating manuals to allow the insurer a reasonable rate of return on such classes of insurance written in this state. A copy of rates, rating schedules, rating manuals, premium credits or discount schedules, and surcharge schedules, and changes thereto, shall be filed with the office ~~under one of the following procedures:~~

~~1. If the filing is made~~ at least 90 days before the proposed effective date and the filing *may not be* ~~is not~~ implemented during the office's review of the filing and any proceeding and judicial review~~, then such filing shall be considered a "file and use" filing~~. ~~In such case,~~ The office shall finalize its review by issuance of a notice of intent to approve or a notice of intent to disapprove within 90 days after receipt of the filing. The notice of intent to approve and the notice of intent to disapprove constitute agency action for purposes of the Administrative Procedure Act. Requests for supporting information, requests for mathematical or mechanical corrections, or notification to the insurer by the office of its preliminary findings shall not toll the 90-day period during any such proceedings and subsequent judicial review. The rate shall be deemed approved if the office does not issue a notice of intent to approve or a notice of intent to disapprove within 90 days after receipt of the filing.

~~2. If the filing is not made in accordance with the provisions of subparagraph 1., such filing shall be made as soon as practicable, but no later than 30 days after the effective date, and shall be considered a "use and file" filing. An insurer making a "use and file" filing is potentially subject to an order by the office to return to policyholders portions of rates found to be excessive, as provided in paragraph (b).~~

(b) Upon receiving a rate filing, the office shall review the rate filing to determine if a rate is excessive, inadequate, or unfairly discriminatory. In making that determination, the office shall, in accordance with generally accepted and reasonable actuarial techniques, consider the following factors:

1. Past and prospective loss experience within and without this state.

2. Past and prospective expenses.

3. The degree of competition among insurers for the risk insured.

4. Investment income reasonably expected by the insurer, consistent with the insurer's investment practices, from investable premiums anticipated in the filing, plus any other expected income from currently invested assets representing the amount expected on unearned premium reserves and loss reserves. The commission may adopt rules utilizing reasonable techniques of actuarial science and economics to specify the manner in which insurers shall calculate investment income attributable to such classes of insurance written in this state and the manner in which such investment income shall be used in the calculation of insurance rates. Such manner shall contemplate allowances for an underwriting profit factor and full consideration of investment income which produce a reasonable rate of return; however, investment income from invested surplus shall not be considered.

5. The reasonableness of the judgment reflected in the filing.

6. Dividends, savings, or unabsorbed premium deposits allowed or returned to Florida policyholders, members, or subscribers.

7. The adequacy of loss reserves.

8. The cost of reinsurance.

9. Trend factors, including trends in actual losses per insured unit for the insurer making the filing.

10. Conflagration and catastrophe hazards, if applicable.

11. A reasonable margin for underwriting profit and contingencies. For that portion of the rate covering the risk of hurricanes and other catastrophic losses for which the insurer has not purchased reinsurance and has exposed its capital and surplus to such risk, the office must approve a rating factor that provides the insurer a reasonable rate of return that is commensurate with such risk.

12. The cost of medical services, if applicable.

13. Other relevant factors which impact upon the frequency or severity of claims or upon expenses.

(c) In the case of fire insurance rates, consideration shall be given to the availability of water supplies and the experience of the fire insurance business during a period of not less than the most recent 5-year period for which such experience is available.

(d) If conflagration or catastrophe hazards are given consideration by an insurer in its rates or rating plan, including surcharges and discounts, the insurer shall establish a reserve for that portion of the premium allocated to such hazard and shall maintain the premium in a catastrophe reserve. Any removal of such premiums from the reserve for purposes other than paying claims associated with a catastrophe or purchasing reinsurance for catastrophes shall be subject to approval of the office. Any ceding commission received by an insurer purchasing reinsurance for catastrophes shall be placed in the catastrophe reserve.

(e) After consideration of the rate factors provided in paragraphs (b), (c), and (d), a rate may be found by the office to be excessive, inadequate, or unfairly discriminatory based upon the following standards:

1. Rates shall be deemed excessive if they are likely to produce a profit from Florida business that is unreasonably high in relation to the risk involved in the class of business or if expenses are unreasonably high in relation to services rendered.

2. Rates shall be deemed excessive if, among other things, the rate structure established by a stock insurance company provides for replenishment of surpluses from premiums, when the replenishment is attributable to investment losses.

3. Rates shall be deemed inadequate if they are clearly insufficient, together with the investment income attributable to them, to sustain projected losses and expenses in the class of business to which they apply.

4. A rating plan, including discounts, credits, or surcharges, shall be deemed unfairly discriminatory if it fails to clearly and equitably reflect consideration of the policyholder's participation in a risk management program adopted pursuant to s. 627.0625.

5. A rate shall be deemed inadequate as to the premium charged to a risk or group of risks if discounts or credits are allowed which exceed a reasonable reflection of expense savings and reasonably expected loss experience from the risk or group of risks.

6. A rate shall be deemed unfairly discriminatory as to a risk or group of risks if the application of premium discounts, credits, or surcharges among such risks does not bear a reasonable relationship to the expected loss and expense experience among the various risks.

(f) In reviewing a rate filing, the office may require the insurer to provide at the insurer's expense all information necessary to evaluate the condition of the company and the reasonableness of the filing according to the criteria enumerated in this section.

(g) The office may at any time review a rate, rating schedule, rating manual, or rate change; the pertinent records of the insurer; and market conditions. If the office finds on a preliminary basis that a rate may be excessive, inadequate, or unfairly discriminatory, the office shall initiate proceedings to disapprove the rate and shall so notify the insurer. However, the office may not disapprove as excessive any rate for which it has given final approval or which has been deemed approved for a period of 1 year after the effective date of the filing unless the office finds that a material misrepresentation or material error was made by the insurer or was contained in the filing. Upon being so notified, the insurer or rating organization shall, within 60 days, file with the office all information which, in the belief of the insurer or organization, proves the reasonableness, adequacy, and fairness of the rate or rate change. The office shall issue a notice of intent to approve or a notice of intent to disapprove pursuant to the procedures of paragraph (a) within 90 days after receipt of the insurer's initial response. In such instances and in any administrative proceeding relating to the legality of the rate, the insurer or rating organization shall carry the burden of proof by a preponderance of the evidence to show that the rate is not excessive, inadequate, or unfairly discriminatory. After the office notifies an insurer that a rate may be excessive, inadequate, or unfairly discriminatory, unless the office withdraws the notification, the insurer shall not alter the rate except to conform with the office's notice until the earlier of 120 days after the date the notification was provided or 180 days after the date of the implementation of the rate. The office may, subject to chapter 120, disapprove without the 60-day notification any rate increase filed by an insurer within the prohibited time period or during the time that the legality of the increased rate is being contested.

(h) In the event the office finds that a rate or rate change is excessive, inadequate, or unfairly discriminatory, the office shall issue an order of disapproval specifying that a new rate or rate schedule which responds to the findings of the office be filed by the insurer. ~~The office shall further order, for any "use and file" filing made in accordance with subparagraph (a)2., that premiums charged each policyholder constituting the portion of the rate above that which was actuarially justified be returned to such policyholder in the form of a credit or refund. If the office finds that an insurer's rate or rate change is inadequate, the new rate or rate schedule filed with the office in response to such a finding shall be applicable only to new or renewal business of the insurer written on or after the effective date of the responsive filing.~~

(i) Except as otherwise specifically provided in this chapter, the office shall not prohibit any insurer, including any residual market plan or joint underwriting association, from paying acquisition costs based on the full amount of premium, as defined in s. 627.403, applicable to any policy, or prohibit any such insurer from including the full amount of acquisition costs in a rate filing.

(j) *Within 24 months after an insurer receives approval of a rate increase of 10 percent or more, the insurer must file and the office must review the insurer's rate based on a rate filing that addresses all elements of the current rate.* ~~Effective July 1, 2007, notwithstanding any other provision of this section:~~

~~1. With respect to any residential property insurance subject to regulation under this section for any area for which the office determines a reasonable degree of competition exists, a rate filing, including, but not limited to, any rate changes, rating factors, territories, classification, discounts, and credits, with respect to any policy form, including endorsements issued with the form, that results in an overall average statewide premium increase or decrease of no more than 5 percent above or below the premium that would result from the insurer's rates then in effect shall not be subject to a determination by the office that the rate is excessive or unfairly discriminatory except as provided in subparagraph 3., or any other provision of law, provided all changes specified in the filing do not result in an overall premium increase of more than 10 percent for any one territory, for reasons related solely to the rate change. As used in this subparagraph, the term "insurer's rates then in effect" includes only rates that have been lawfully in effect under this section or rates that have been determined to be lawful through administrative proceedings or judicial proceedings.~~

~~2. An insurer may not make filings under this paragraph with respect to any policy form, including endorsements issued with the form, if the overall premium changes resulting from such filings exceed the amounts specified in this paragraph in any 12-month period. An insurer may proceed under other provisions of this section or other provisions of law if the insurer seeks to exceed the premium or rate limitations of this paragraph.~~

~~3. This paragraph does not affect the authority of the office to disapprove a rate as inadequate or to disapprove a filing for the unlawful use of unfairly discriminatory rating factors that are prohibited by the laws of this state. An insurer electing to implement a rate change under this paragraph shall submit a filing to the office at least 40 days prior to the effective date of the rate change. The office shall have 30 days after the filing's submission to review the filing and determine if the rate is inadequate or uses unfairly discriminatory rating factors. Absent a finding by the office within such 30-day period that the rate is inadequate or that the insurer has used unfairly discriminatory rating factors, the filing is deemed approved. If the office finds during the 30-day period that the filing will result in inadequate premiums or otherwise endanger the insurer's solvency, the office shall suspend the rate decrease. If the insurer is implementing an overall rate increase, the results of which continue to produce an inadequate rate, such increase shall proceed pending additional action by the office to ensure the adequacy of the rate.~~

~~4. This paragraph does not apply to rate filings for any insurance other than residential property insurance.~~

The provisions of this subsection shall not apply to workers' compensation and employer's liability insurance and to motor vehicle insurance.

(3)(a) For individual risks that are not rated in accordance with the insurer's rates, rating schedules, rating manuals, and underwriting rules filed with the office and which have been submitted to the insurer for individual rating, the insurer must maintain documentation on each risk subject to individual risk rating. The documentation must identify the named insured and specify the characteristics and classification of the risk supporting the reason for the risk being individually risk rated, including any modifications to existing approved forms to be used on the risk. The insurer must maintain these records for a period of at least 5 years after the effective date of the policy.

(b) Individual risk rates and modifications to existing approved forms are not subject to this part or part II, except for paragraph (a) and ss. 627.402, 627.403, 627.4035, 627.404, 627.405, 627.406, 627.407, 627.4085, 627.409, 627.4132, 627.4133, 627.415, 627.416, 627.417, 627.419, 627.425, 627.426, 627.4265, 627.427, and 627.428, but are subject to all other applicable provisions of this code and rules adopted thereunder.

(c) This subsection does not apply to private passenger motor vehicle insurance.

(4) The establishment of any rate, rating classification, rating plan or schedule, or variation thereof in violation of part IX of chapter 626 is also in violation of this section. In order to enhance the ability of consumers to compare premiums and to increase the accuracy and usefulness of rate-comparison information provided by the office to the public, the office shall develop a proposed standard rating territory plan to be used by all authorized property and casualty insurers for residential property insurance. In adopting the proposed plan, the office may consider geographical characteristics relevant to risk, county lines, major roadways, existing rating territories used by a significant segment of the market, and other relevant factors. Such plan shall be submitted to the President of the Senate and the Speaker of the House of Representatives by January 15, 2006. The plan may not be implemented unless authorized by further act of the Legislature.

(5) With respect to a rate filing involving coverage of the type for which the insurer is required to pay a reimbursement premium to the Florida Hurricane Catastrophe Fund, the insurer may fully recoup in its property insurance premiums any reimbursement premiums paid to the Florida Hurricane Catastrophe Fund, together with reasonable costs of other reinsurance, but may not recoup reinsurance costs that duplicate coverage provided by the Florida Hurricane Catastrophe Fund. An insurer may not recoup more than 1 year of reimbursement premium at a time. Any under-recoupment from the prior year may be added to the following year's reimbursement premium and any over-recoupment shall be subtracted from the following year's reimbursement premium.

~~(6)(a) After any action with respect to a rate filing that constitutes agency action for purposes of the Administrative Procedure Act, except for a rate filing for medical malpractice, an insurer may, in lieu of demanding a hearing under s. 120.57, require arbitration of the rate filing. Arbitration shall be conducted by a board of arbitrators consisting of an arbitrator selected by the office, an arbitrator selected by the insurer, and an arbitrator selected jointly by the other two arbitrators. Each arbitrator must be certified by the American Arbitration Association. A decision is valid only upon the affirmative vote of at least two of the arbitrators. No arbitrator may be an employee of any insurance regulator or regulatory body or of any insurer, regardless of whether or not the employing insurer does business in this state. The office and the insurer must treat the decision of the arbitrators as the final approval of a rate filing. Costs of arbitration shall be paid by the insurer.~~

~~(b) Arbitration under this subsection shall be conducted pursuant to the procedures specified in ss. 682.06-682.10. Either party may apply to the circuit court to vacate or modify the decision pursuant to s. 682.13 or s. 682.14. The commission shall adopt rules for arbitration under this subsection, which rules may not be inconsistent with the arbitration rules of the American Arbitration Association as of January 1, 1996.~~

~~(c) Upon initiation of the arbitration process, the insurer waives all rights to challenge the action of the office under the Administrative Procedure Act or any other provision of law; however, such rights are restored to the insurer if the arbitrators fail to render a decision within 90 days after initiation of the arbitration process.~~

(6)~~(7)~~(a) The provisions of this subsection apply only with respect to rates for medical malpractice insurance and shall control to the extent of any conflict with other provisions of this section.

(b) Any portion of a judgment entered or settlement paid as a result of a statutory or common-law bad faith action and any portion of a judgment entered which awards punitive damages against an insurer may not be included in the insurer's rate base, and shall not be used to justify a rate or rate change. Any common-law bad faith action identified as such, any portion of a settlement entered as a result of a statutory or common-law action, or any portion of a settlement wherein an insurer agrees to pay specific punitive damages may not be used to justify a rate or rate change. The portion of the taxable costs and attorney's fees which is identified as being related to the bad faith and punitive damages in these judgments and settlements may not be included in the insurer's rate base and may not be utilized to justify a rate or rate change.

(c) Upon reviewing a rate filing and determining whether the rate is excessive, inadequate, or unfairly discriminatory, the office shall consider, in accordance with generally accepted and reasonable actuarial techniques, past and present prospective loss experience, either using loss experience solely for this state or giving greater credibility to this state's loss data after applying actuarially sound methods of assigning credibility to such data.

(d) Rates shall be deemed excessive if, among other standards established by this section, the rate structure provides for replenishment of reserves or surpluses from premiums when the replenishment is attributable to investment losses.

(e) The insurer must apply a discount or surcharge based on the health care provider's loss experience or shall establish an alternative method giving due consideration to the provider's loss experience. The insurer must include in the filing a copy of the surcharge or discount schedule or a description of the alternative method used, and must provide a copy of such schedule or description, as approved by the office, to policyholders at the time of renewal and to prospective policyholders at the time of application for coverage.

(f) Each medical malpractice insurer must make a rate filing under this section, sworn to by at least two executive officers of the insurer, at least once each calendar year.

(7)~~(8)~~(a)1. No later than 60 days after the effective date of medical malpractice legislation enacted during the 2003 Special Session D of the Florida Legislature, the office shall calculate a presumed factor that reflects the impact that the changes contained in such legislation will have on rates for medical malpractice insurance and shall issue a notice informing all insurers writing medical malpractice coverage of such presumed factor. In determining the presumed factor, the office shall use generally accepted actuarial techniques and standards provided in this section in determining the expected impact on losses, expenses, and investment income of the insurer. To the extent that the operation of a provision of medical malpractice legislation enacted during the 2003 Special Session D of the Florida Legislature is stayed pending a constitutional challenge, the impact of that provision shall not be included in the calculation of a presumed factor under this subparagraph.

2. No later than 60 days after the office issues its notice of the presumed rate change factor under subparagraph 1., each insurer writing medical malpractice coverage in this state shall submit to the office a rate filing for medical malpractice insurance, which will take effect no later than January 1, 2004, and apply retroactively to policies issued or renewed on or after the effective date of medical malpractice legislation enacted during the 2003 Special Session D of the Florida Legislature. Except as authorized under paragraph (b), the filing shall reflect an overall rate reduction at least as great as the presumed factor determined under subparagraph 1. With respect to policies issued on or after the effective date of such legislation and prior to the effective date of the rate filing required by this subsection, the office shall order the insurer to make a refund of the amount that was charged in excess of the rate that is approved.

(b) Any insurer or rating organization that contends that the rate provided for in paragraph (a) is excessive, inadequate, or unfairly discriminatory shall separately state in its filing the rate it contends is appropriate and shall state with specificity the factors or data that it contends should be considered in order to produce such appropriate rate. The insurer or rating organization shall be permitted to use all of the

generally accepted actuarial techniques provided in this section in making any filing pursuant to this subsection. The office shall review each such exception and approve or disapprove it prior to use. It shall be the insurer's burden to actuarially justify any deviations from the rates required to be filed under paragraph (a). The insurer making a filing under this paragraph shall include in the filing the expected impact of medical malpractice legislation enacted during the 2003 Special Session D of the Florida Legislature on losses, expenses, and rates.

(c) If any provision of medical malpractice legislation enacted during the 2003 Special Session D of the Florida Legislature is held invalid by a court of competent jurisdiction, the office shall permit an adjustment of all medical malpractice rates filed under this section to reflect the impact of such holding on such rates so as to ensure that the rates are not excessive, inadequate, or unfairly discriminatory.

(d) Rates approved on or before July 1, 2003, for medical malpractice insurance shall remain in effect until the effective date of a new rate filing approved under this subsection.

(e) The calculation and notice by the office of the presumed factor pursuant to paragraph (a) is not an order or rule that is subject to chapter 120. If the office enters into a contract with an independent consultant to assist the office in calculating the presumed factor, such contract shall not be subject to the competitive solicitation requirements of s. 287.057.

(8)(a) The chief executive officer or chief financial officer of a property insurer and the chief actuary of a property insurer must certify under oath and subject to the penalty of perjury, on a form approved by the commission, the following information, which must accompany a rate filing:

1. The signing officer and actuary have reviewed the rate filing;

2. Based on the signing officer's and actuary's knowledge, the rate filing does not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which such statements were made, not misleading;

3. Based on the signing officer's and actuary's knowledge, the information and other factors described in s. 627.062(2)(b), including, but not limited to, investment income, fairly present in all material respects the basis of the rate filing for the periods presented in the filing; and

4. Based on the signing officer's and actuary's knowledge, the rate filing reflects all premium savings that are reasonably expected to result from legislative enactments and are in accordance with generally accepted and reasonable actuarial techniques.

(b) A signing officer or actuary knowingly making a false certification under this subsection commits a violation of s. 626.9541(1)(e) and is subject to the penalties under s. 626.9521.

(c) Failure to provide such certification by the officer and actuary shall result in the rate filing being disapproved without prejudice to be refiled.

(d) The commission may adopt rules and forms pursuant to ss. 120.536(1) and 120.54 to administer this subsection.

~~(9) The burden is on the office to establish that rates are excessive for personal lines residential coverage with a dwelling replacement cost of $1 million or more or for a single condominium unit with a combined dwelling and contents replacement cost of $1 million or more. Upon request of the office, the insurer shall provide to the office such loss and expense information as the office reasonably needs to meet this burden.~~

Section 24. Paragraph (ee) is added to subsection (1) of section 626.9541, Florida Statutes, to read:

626.9541 Unfair methods of competition and unfair or deceptive acts or practices defined.—

(1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE ACTS.—The following are defined as unfair methods of competition and unfair or deceptive acts or practices:

(ee) Selectively limiting insurance offerings.—Failing to offer in this state a kind or line of insurance which all insurers or affiliated insurers, as defined by the Financial Services Commission, offer in another jurisdiction. An insurer need not offer every kind or line of insurance, or any particular kind or line of insurance, in this state; however, if, on July 1, 2007, an insurer offers a particular kind or line of insurance anywhere it does business, it must offer the same kind or line in this state. The commission shall adopt rules to administer this paragraph.

Section 25. Paragraph (c) of subsection (3) of section 627.0628, Florida Statutes, is amended to read:

627.0628 Florida Commission on Hurricane Loss Projection Methodology; public records exemption; public meetings exemption.—

(3) ADOPTION AND EFFECT OF STANDARDS AND GUIDELINES.—

(c) With respect to a rate filing under s. 627.062, an insurer may employ actuarial methods, principles, standards, models, or output ranges found by the commission to be accurate or reliable to determine hurricane loss factors for use in a rate filing under s. 627.062. Such findings and factors are admissible and relevant in consideration of a rate filing by the office or in any arbitration or administrative or judicial review only if the office and the *Insurance* Consumer Advocate appointed pursuant to *s. 350.0615* ~~s. 627.0613~~ have access to all of the assumptions and factors that were used in developing the actuarial methods, principles, standards, models, or output ranges, and are not precluded from disclosing such information in a rate proceeding. In any rate hearing under s. 120.57 ~~or in any arbitration proceeding under s. 627.062(6)~~, the hearing officer *or*~~,~~ judge~~, or arbitration panel~~ may determine whether the office and the *Insurance* Consumer Advocate were provided with access to all of the assumptions and factors that were used in developing the actuarial methods, principles, standards, models, or output ranges and to determine their admissibility.

Section 26. Paragraph (b) of subsection (5) of section 627.311, Florida Statutes, is amended to read:

627.311 Joint underwriters and joint reinsurers; public records and public meetings exemptions.—

(5)

(b) The operation of the plan is subject to the supervision of a 9-member board of governors. The board of governors shall be comprised of:

1. Three members appointed by the Financial Services Commission. Each member appointed by the commission shall serve at the pleasure of the commission;

2. Two of the 20 domestic insurers, as defined in s. 624.06(1), having the largest voluntary direct premiums written in this state for workers' compensation and employer's liability insurance, which shall be elected by those 20 domestic insurers;

3. Two of the 20 foreign insurers as defined in s. 624.06(2) having the largest voluntary direct premiums written in this state for workers' compensation and employer's liability insurance, which shall be elected by those 20 foreign insurers;

4. One person appointed by the largest property and casualty insurance agents' association in this state; and

5. The *Insurance* Consumer Advocate appointed under *s. 350.0615* ~~s. 627.0613~~ or the *Insurance* Consumer Advocate's designee.

Each board member shall serve a 4-year term and may serve consecutive terms. A vacancy on the board shall be filled in the same manner as the original appointment for the unexpired portion of the term. The Financial Services Commission shall designate a member of the board to serve as chair. No board member shall be an insurer which provides services to the plan or which has an affiliate which provides services to the plan or which is serviced by a service company or third-party administrator which provides services to the plan or which has an affiliate which provides services to the plan. The minutes, audits, and procedures of the board of governors are subject to chapter 119.

Section 27. Paragraphs (a), (b), (c), (m), (p), and (s) of subsection (6) of section 627.351, Florida Statutes, are amended, and paragraph (ee) is added to that section, to read:

627.351 Insurance risk apportionment plans.—

(6) CITIZENS PROPERTY INSURANCE CORPORATION.—

(a)1. The Legislature finds that actual and threatened catastrophic losses to property in this state from hurricanes have caused insurers to be unwilling or unable to provide property insurance coverage to the extent sought and needed. It is in the public interest and a public purpose to assist in assuring that property in the state is insured so as to facilitate the remediation, reconstruction, and replacement of damaged or destroyed property in order to reduce or avoid the negative effects otherwise resulting to the public health, safety, and welfare; to the economy of the state; and to the revenues of the state and local governments needed to provide for the public welfare. It is necessary, therefore, to provide property insurance to applicants who are in good faith entitled to procure insurance through the voluntary market but are unable to do so. The Legislature intends by this subsection that property insurance be provided and that it continues, as long as necessary, through an entity organized to achieve efficiencies and economies, while providing service to policyholders, applicants, and agents that is no less than the quality generally provided in the voluntary market, all toward the achievement of the foregoing public purposes. Because it is essential for the corporation to have the maximum financial resources to pay claims following a catastrophic hurricane, it is the intent of the Legislature that the income of the corporation be exempt from federal income taxation and that interest on the debt obligations issued by the corporation be exempt from federal income taxation.

2. The Residential Property and Casualty Joint Underwriting Association originally created by this statute shall be known, as of July 1, 2002, as the Citizens Property Insurance Corporation. The corporation shall provide insurance for residential and commercial property, for applicants who are in good faith entitled, but are unable, to procure insurance through the voluntary market. The corporation shall operate pursuant to a plan of operation approved by order of the Financial Services Commission. The plan is subject to continuous review by the commission. The commission may, by order, withdraw approval of all or part of a plan if the commission determines that conditions have changed since approval was granted and that the purposes of the plan require changes in the plan. The corporation shall continue to operate pursuant to the plan of operation approved by the Office of Insurance Regulation until October 1, 2006. For the purposes of this subsection, residential coverage includes both personal lines residential coverage, which consists of the type of coverage provided by homeowner's, mobile home owner's, dwelling, tenant's, condominium unit owner's, and similar policies, and commercial lines residential coverage, which consists of the type of coverage provided by condominium association, apartment building, and similar policies.

3. For the purposes of this subsection, the term "homestead property" means:

a. Property that has been granted a homestead exemption under chapter 196;

b. Property for which the owner has a current, written lease with a renter for a term of at least 7 months and for which the dwelling is insured by the corporation for $200,000 or less;

c. An owner-occupied mobile home or manufactured home, as defined in s. 320.01, which is permanently affixed to real property, is owned by a Florida resident, and has been granted a homestead exemption under chapter 196 or, if the owner does not own the real property, the owner certifies that the mobile home or manufactured home is his or her principal place of residence.

d. Tenant's coverage;

e. Commercial lines residential property; or

f. Any county, district, or municipal hospital; a hospital licensed by any not-for-profit corporation qualified under s. 501(c)(3) of the United States Internal Revenue Code; or a continuing care retirement community that is certified under chapter 651 and that receives an exemption from ad valorem taxes under chapter 196.

4. For the purposes of this subsection, the term "nonhomestead property" means property that is not homestead property.

5. Effective July 1, 2008, a personal lines residential structure that has a dwelling replacement cost of $1 million or more, or a single condominium unit that has a combined dwelling and content replacement cost of $1 million or more is not eligible for coverage by the corporation. Such dwellings insured by the corporation on June 30, 2008, may continue to be covered by the corporation until the end of the policy term. However, such dwellings that are insured by the corporation and become ineligible for coverage due to the provisions of this subparagraph may reapply and obtain coverage in the high-risk account and be considered "nonhomestead property" if the property owner provides the corporation with a sworn affidavit from one or more insurance agents, on a form provided by the corporation, stating that the agents have made their best efforts to obtain coverage and that the property has been rejected for coverage by at least one authorized insurer and at least three surplus lines insurers. If such conditions are met, the dwelling may be insured by the corporation for up to 3 years, after which time the dwelling is ineligible for coverage. The office shall approve the method used by the corporation for valuing the dwelling replacement cost for the purposes of this subparagraph. If a policyholder is insured by the corporation prior to being determined to be ineligible pursuant to this subparagraph and such policyholder files a lawsuit challenging the determination, the policyholder may remain insured by the corporation until the conclusion of the litigation.

~~6. Effective March 1, 2007, nonhomestead property is not eligible for coverage by the corporation and is not eligible for renewal of such coverage unless the property owner provides the corporation with a sworn affidavit from one or more insurance agents, on a form provided by the corporation, stating that the agents have made their best efforts to obtain coverage and that the property has been rejected for coverage by at least one authorized insurer and at least three surplus lines insurers.~~

6.~~7.~~ It is the intent of the Legislature that policyholders, applicants, and agents of the corporation receive service and treatment of the highest possible level but never less than that generally provided in the voluntary market. It also is intended that the corporation be held to service standards no less than those applied to insurers in the voluntary market by the office with respect to responsiveness, timeliness, customer courtesy, and overall dealings with policyholders, applicants, or agents of the corporation.

(b)1. All insurers authorized to write one or more subject lines of business in this state are subject to assessment by the corporation and, for the purposes of this subsection, are referred to collectively as "assessable insurers." Insurers writing one or more subject lines of business in this state pursuant to part VIII of chapter 626 are not assessable insurers, but insureds who procure one or more subject lines of business in this state pursuant to part VIII of chapter 626 are subject to assessment by the corporation and are referred to collectively as "assessable insureds." An authorized insurer's assessment liability shall begin on the first day of the calendar year following the year in which the insurer was issued a certificate of authority to transact insurance for subject lines of business in this state and shall terminate 1 year after the end of the first calendar year during which the insurer no longer holds a certificate of authority to transact insurance for subject lines of business in this state.

2.a. All revenues, assets, liabilities, losses, and expenses of the corporation shall be divided into three separate accounts as follows:

(I) A personal lines account for personal residential policies issued by the corporation or issued by the Residential Property and Casualty Joint Underwriting Association and renewed by the corporation that provide comprehensive, multiperil coverage on risks that are not located in areas eligible for coverage in the Florida Windstorm Underwriting Association as those areas were defined on January 1, 2002, and for such policies that do not provide coverage for the peril of wind on risks that are located in such areas;

(II) A commercial lines account for commercial residential *and commercial nonresidential* policies issued by the corporation or issued by the Residential Property and Casualty Joint Underwriting Association and renewed by the corporation that provide coverage for basic property perils on risks that are not located in areas eligible for coverage in the Florida Windstorm Underwriting Association as those areas were defined on January 1, 2002, and for such policies that do not provide coverage for the peril of wind on risks that are located in such areas; and

(III) A high-risk account for personal residential policies and commercial residential and commercial nonresidential property policies issued by the corporation or transferred to the corporation that provide coverage for the peril of wind on risks that are located in areas eligible for coverage in the Florida Windstorm Underwriting Association as those areas were defined on January 1, 2002. *Beginning April 1, 2007, the corporation may offer multiperil coverage, wind-only coverage, or both types of coverage in the high-risk account. In issuing multiperil coverage, the corporation may use its approved policy forms and rates for personal lines accounts through December 31, 2007. It is the intent of the Legislature that the offer of multiperil coverage in the high-risk account be made and implemented in a manner that does not adversely affect the creditworthiness of or security for currently outstanding financing obligations or credit facilities of the high-risk account, the personal lines account, or the commercial lines account.* The high-risk account must also include quota share primary insurance under subparagraph (c)2. The area eligible for coverage under the high-risk account also includes the area within Port Canaveral, which is bordered on the south by the City of Cape Canaveral, bordered on the west by the Banana River, and bordered on the north by Federal Government property. ~~The office may remove territory from the area eligible for wind-only and quota share coverage if, after a public hearing, the office finds that authorized insurers in the voluntary market are willing and able to write sufficient amounts of personal and commercial residential coverage for all perils in the territory, including coverage for the peril of wind, such that risks covered by wind-only policies in the removed territory could be issued a policy by the corporation in either the personal lines or commercial lines account without a significant increase in the corporation's probable maximum loss in such account. Removal of territory from the area eligible for wind-only or quota share coverage does not alter the assignment of wind coverage written in such areas to the high-risk account.~~

b. The three separate accounts must be maintained as long as financing obligations entered into by the Florida Windstorm Underwriting Association or Residential Property and Casualty Joint Underwriting Association are outstanding, in accordance with the terms of the corresponding financing documents. When the financing obligations are no longer outstanding, in accordance with the terms of the corresponding financing documents, the corporation may use a single account for all revenues, assets, liabilities, losses, and expenses of the corporation. Consistent with the requirement of this subparagraph and prudent investment policies that minimize the cost of carrying debt, the board shall exercise its best efforts to retire existing debt or to obtain approval of necessary parties to amend the terms of existing debt, so as to structure the most efficient plan to consolidate the three separate accounts into a single account. By February 1, 2007, the board shall submit a report to the Financial Services Commission, the President of the Senate, and the Speaker of the House of Representatives which includes an analysis of consolidating the accounts, the actions the board has taken to minimize the cost of carrying debt, and its recommendations for executing the most efficient plan.

c. Creditors of the Residential Property and Casualty Joint Underwriting Association shall have a claim against, and recourse to, the accounts referred to in sub-sub-subparagraphs a.(I) and (II) and shall have no claim against, or recourse to, the account referred to in sub-sub-subparagraph a.(III). Creditors of the Florida Windstorm Underwriting Association shall have a claim against, and recourse to, the account referred to in sub-sub-subparagraph a.(III) and shall have no claim against, or recourse to, the accounts referred to in sub-sub-subparagraphs a.(I) and (II).

d. Revenues, assets, liabilities, losses, and expenses not attributable to particular accounts shall be prorated among the accounts.

e. The Legislature finds that the revenues of the corporation are revenues that are necessary to meet the requirements set forth in documents authorizing the issuance of bonds under this subsection.

f. No part of the income of the corporation may inure to the benefit of any private person.

3. With respect to a deficit in an account:

a. When the deficit incurred in a particular calendar year is not greater than 10 percent of the aggregate statewide direct written premium for the subject lines of business for the prior calendar year, the entire deficit shall be recovered through regular assessments of assessable insurers under paragraph (p) and assessable insureds.

b. When the deficit incurred in a particular calendar year exceeds 10 percent of the aggregate statewide direct written premium for the subject lines of business for the prior calendar year, the corporation shall levy regular assessments on assessable insurers under paragraph (p) and on assessable insureds in an amount equal to the greater of 10 percent of the deficit or 10 percent of the aggregate statewide direct written premium for the subject lines of business for the prior calendar year. Any remaining deficit shall be recovered through emergency assessments under sub-subparagraph d.

c. Each assessable insurer's share of the amount being assessed under sub-subparagraph a. or sub-subparagraph b. shall be in the proportion that the assessable insurer's direct written premium for the subject lines of business for the year preceding the assessment bears to the aggregate statewide direct written premium for the subject lines of business for that year. The assessment percentage applicable to each assessable insured is the ratio of the amount being assessed under sub-subparagraph a. or sub-subparagraph b. to the aggregate statewide direct written premium for the subject lines of business for the prior year. Assessments levied by the corporation on assessable insurers under sub-subparagraphs a. and b. shall be paid as required by the corporation's plan of operation and paragraph (p). Notwithstanding any other provision of this subsection, the aggregate amount of a regular assessment for a deficit incurred in a particular calendar year shall be reduced by the estimated amount to be received by the corporation from the Citizens policyholder surcharge under subparagraph (c)11. and the amount collected or estimated to be collected from the assessment on Citizens policyholders pursuant to sub-subparagraph i. Assessments levied by the corporation on assessable insureds under sub-subparagraphs a. and b. shall be collected by the surplus lines agent at the time the surplus lines agent collects the surplus lines tax required by s. 626.932 and shall be paid to the Florida Surplus Lines Service Office at the time the surplus lines agent pays the surplus lines tax to the Florida Surplus Lines Service Office. Upon receipt of regular assessments from surplus lines agents, the Florida Surplus Lines Service Office shall transfer the assessments directly to the corporation as determined by the corporation.

d. Upon a determination by the board of governors that a deficit in an account exceeds the amount that will be recovered through regular assessments under sub-subparagraph a. or sub-subparagraph b., the board shall levy, after verification by the office, emergency assessments, for as many years as necessary to cover the deficits, to be collected by assessable insurers and the corporation and collected from assessable insureds upon issuance or renewal of policies for subject lines of business, excluding National Flood Insurance policies. The amount of the emergency assessment collected in a particular year shall be a uniform percentage of that year's direct written premium for subject lines of business and all accounts of the corporation, excluding National Flood Insurance Program policy premiums, as annually determined by the board and verified by the office. The office shall verify the arithmetic calculations involved in the board's determination within 30 days after receipt of the information on which the determination was based. Notwithstanding any other provision of law, the corporation and each assessable insurer that writes subject lines of business shall collect emergency assessments from its policyholders without such obligation being affected by any credit, limitation, exemption, or deferment. Emergency assessments levied by the corporation on assessable insureds shall be collected by the surplus lines agent at the time the surplus lines agent collects the surplus lines tax required by s. 626.932 and shall be paid to the Florida Surplus Lines Service Office at the time the surplus lines agent pays the surplus lines tax to the Florida Surplus Lines Service Office. The emergency assessments so collected shall be transferred directly to the corporation on a periodic basis as determined by the corporation and shall be held by the corporation solely in the applicable account. The aggregate amount of emergency assessments levied for an account under this sub-subparagraph in any calendar year may not exceed the greater of 10 percent of the amount needed to cover the original deficit, plus interest, fees, commissions, required reserves, and other costs associated with financing of the original deficit, or 10 percent of the aggregate statewide direct written premium for subject lines of business and for all accounts of the corporation for the prior year, plus interest, fees, commissions, required reserves, and other costs associated with financing the original deficit.

e. The corporation may pledge the proceeds of assessments, projected recoveries from the Florida Hurricane Catastrophe Fund, other insurance and reinsurance recoverables, policyholder surcharges and

other surcharges, and other funds available to the corporation as the source of revenue for and to secure bonds issued under paragraph (p), bonds or other indebtedness issued under subparagraph (c)3., or lines of credit or other financing mechanisms issued or created under this subsection, or to retire any other debt incurred as a result of deficits or events giving rise to deficits, or in any other way that the board determines will efficiently recover such deficits. The purpose of the lines of credit or other financing mechanisms is to provide additional resources to assist the corporation in covering claims and expenses attributable to a catastrophe. As used in this subsection, the term "assessments" includes regular assessments under sub-subparagraph a., sub-subparagraph b., or subparagraph (p)1. and emergency assessments under sub-subparagraph d. Emergency assessments collected under sub-subparagraph d. are not part of an insurer's rates, are not premium, and are not subject to premium tax, fees, or commissions; however, failure to pay the emergency assessment shall be treated as failure to pay premium. The emergency assessments under sub-subparagraph d. shall continue as long as any bonds issued or other indebtedness incurred with respect to a deficit for which the assessment was imposed remain outstanding, unless adequate provision has been made for the payment of such bonds or other indebtedness pursuant to the documents governing such bonds or other indebtedness.

f. As used in this subsection, the term "subject lines of business" means insurance written by assessable insurers or procured by assessable insureds *for all property and casualty lines of business in this state, but not including workers' compensation or medical malpractice. As used in the sub-subparagraph, the term "property and casualty lines of business" includes all lines of business identified on Form 2, Exhibit of Premiums and Losses, in the annual statement required of authorized insurers by s. 624.424 and any rule adopted under this section, except for those lines identified as accident and health insurance and except for policies written under the National Flood Insurance program or the Federal Crop Insurance Program. For purposes of this sub-subparagraph, the term "workers' compensation" includes both workers' compensation insurance and excess workers' compensation insurance.* ~~on real or personal property, as defined in s. 624.604, including insurance for fire, industrial fire, allied lines, farmowners multiperil, homeowners multiperil, commercial multiperil, and mobile homes, and including liability coverage on all such insurance, but excluding inland marine as defined in s. 624.607(3) and excluding vehicle insurance as defined in s. 624.605(1) other than insurance on mobile homes used as permanent dwellings.~~

g. The Florida Surplus Lines Service Office shall determine annually the aggregate statewide written premium in subject lines of business procured by assessable insureds and shall report that information to the corporation in a form and at a time the corporation specifies to ensure that the corporation can meet the requirements of this subsection and the corporation's financing obligations.

h. The Florida Surplus Lines Service Office shall verify the proper application by surplus lines agents of assessment percentages for regular assessments and emergency assessments levied under this subparagraph on assessable insureds and shall assist the corporation in ensuring the accurate, timely collection and payment of assessments by surplus lines agents as required by the corporation.

i. If a deficit is incurred in any account *in 2008 or thereafter*, the board of governors shall levy an immediate assessment against the premium of each nonhomestead property policyholder in all accounts of the corporation, as a uniform percentage of the premium of the policy of up to 10 percent of such premium, which funds shall be used to offset the deficit. If this assessment is insufficient to eliminate the deficit, the board of governors shall levy an additional assessment against all policyholders of the corporation, which shall be collected at the time of issuance or renewal of a policy, as a uniform percentage of the premium for the policy of up to 10 percent of such premium, which funds shall be used to further offset the deficit.

j. The board of governors shall maintain separate accounting records that consolidate data for nonhomestead properties, including, but not limited to, number of policies, insured values, premiums written, and losses. The board of governors shall annually report to the office and the Legislature a summary of such data.

(c) The plan of operation of the corporation:

1. Must provide for adoption of residential property and casualty insurance policy forms and commercial residential and nonresidential property insurance forms, which forms must be approved by the office prior to use. The corporation shall adopt the following policy forms:

a. Standard personal lines policy forms that are comprehensive multiperil policies providing full coverage of a residential property equivalent to the coverage provided in the private insurance market under an HO-3, HO-4, or HO-6 policy.

b. Basic personal lines policy forms that are policies similar to an HO-8 policy or a dwelling fire policy that provide coverage meeting the requirements of the secondary mortgage market, but which coverage is more limited than the coverage under a standard policy.

c. Commercial lines residential *and nonresidential* policy forms that are generally similar to the basic perils of full coverage obtainable for commercial residential structures *and commercial nonresidential structures* in the admitted voluntary market.

d. Personal lines and commercial lines residential property insurance forms that cover the peril of wind only. The forms are applicable only to residential properties located in areas eligible for coverage under the high-risk account referred to in sub-subparagraph (b)2.a.

e. Commercial lines nonresidential property insurance forms that cover the peril of wind only. The forms are applicable only to nonresidential properties located in areas eligible for coverage under the high-risk account referred to in sub-subparagraph (b)2.a.

f. The corporation may adopt variations of the policy forms listed in sub-subparagraphs a.-e. that contain more restrictive coverage.

2.a. Must provide that the corporation adopt a program in which the corporation and authorized insurers enter into quota share primary insurance agreements for hurricane coverage, as defined in s. 627.4025(2)(a), for eligible risks, and adopt property insurance forms for eligible risks which cover the peril of wind only. As used in this subsection, the term:

(I) "Quota share primary insurance" means an arrangement in which the primary hurricane coverage of an eligible risk is provided in specified percentages by the corporation and an authorized insurer. The corporation and authorized insurer are each solely responsible for a specified percentage of hurricane coverage of an eligible risk as set forth in a quota share primary insurance agreement between the corporation and an authorized insurer and the insurance contract. The responsibility of the corporation or authorized insurer to pay its specified percentage of hurricane losses of an eligible risk, as set forth in the quota share primary insurance agreement, may not be altered by the inability of the other party to the agreement to pay its specified percentage of hurricane losses. Eligible risks that are provided hurricane coverage through a quota share primary insurance arrangement must be provided policy forms that set forth the obligations of the corporation and authorized insurer under the arrangement, clearly specify the percentages of quota share primary insurance provided by the corporation and authorized insurer, and conspicuously and clearly state that neither the authorized insurer nor the corporation may be held responsible beyond its specified percentage of coverage of hurricane losses.

(II) "Eligible risks" means personal lines residential and commercial lines residential risks that meet the underwriting criteria of the corporation and are located in areas that were eligible for coverage by the Florida Windstorm Underwriting Association on January 1, 2002.

b. The corporation may enter into quota share primary insurance agreements with authorized insurers at corporation coverage levels of 90 percent and 50 percent.

c. If the corporation determines that additional coverage levels are necessary to maximize participation in quota share primary insurance agreements by authorized insurers, the corporation may establish additional coverage levels. However, the corporation's quota share primary insurance coverage level may not exceed 90 percent.

d. Any quota share primary insurance agreement entered into between an authorized insurer and the corporation must provide for a uniform specified percentage of coverage of hurricane losses, by county or territory as set forth by the corporation board, for all eligible risks of the authorized insurer covered under the quota share primary insurance agreement.

e. Any quota share primary insurance agreement entered into between an authorized insurer and the corporation is subject to review and approval by the office. However, such agreement shall be authorized only as to insurance contracts entered into between an authorized insurer and an insured who is already insured by the corporation for wind coverage.

f. For all eligible risks covered under quota share primary insurance agreements, the exposure and coverage levels for both the corporation and authorized insurers shall be reported by the corporation to the Florida Hurricane Catastrophe Fund. For all policies of eligible risks covered under quota share primary insurance agreements, the corporation and the authorized insurer shall maintain complete and accurate records for the purpose of exposure and loss reimbursement audits as required by Florida Hurricane Catastrophe Fund rules. The corporation and the authorized insurer shall each maintain duplicate copies of policy declaration pages and supporting claims documents.

g. The corporation board shall establish in its plan of operation standards for quota share agreements which ensure that there is no discriminatory application among insurers as to the terms of quota share agreements, pricing of quota share agreements, incentive provisions if any, and consideration paid for servicing policies or adjusting claims.

h. The quota share primary insurance agreement between the corporation and an authorized insurer must set forth the specific terms under which coverage is provided, including, but not limited to, the sale and servicing of policies issued under the agreement by the insurance agent of the authorized insurer producing the business, the reporting of information concerning eligible risks, the payment of premium to the corporation, and arrangements for the adjustment and payment of hurricane claims incurred on eligible risks by the claims adjuster and personnel of the authorized insurer. Entering into a quota sharing insurance agreement between the corporation and an authorized insurer shall be voluntary and at the discretion of the authorized insurer.

3. May provide that the corporation may employ or otherwise contract with individuals or other entities to provide administrative or professional services that may be appropriate to effectuate the plan. The corporation shall have the power to borrow funds, by issuing bonds or by incurring other indebtedness, and shall have other powers reasonably necessary to effectuate the requirements of this subsection, including, without limitation, the power to issue bonds and incur other indebtedness in order to refinance outstanding bonds or other indebtedness. The corporation may, but is not required to, seek judicial validation of its bonds or other indebtedness under chapter 75. The corporation may issue bonds or incur other indebtedness, or have bonds issued on its behalf by a unit of local government pursuant to subparagraph (g)2., in the absence of a hurricane or other weather-related event, upon a determination by the corporation, subject to approval by the office, that such action would enable it to efficiently meet the financial obligations of the corporation and that such financings are reasonably necessary to effectuate the requirements of this subsection. The corporation is authorized to take all actions needed to facilitate tax-free status for any such bonds or indebtedness, including formation of trusts or other affiliated entities. The corporation shall have the authority to pledge assessments, projected recoveries from the Florida Hurricane Catastrophe Fund, other reinsurance recoverables, market equalization and other surcharges, and other funds available to the corporation as security for bonds or other indebtedness. In recognition of s. 10, Art. I of the State Constitution, prohibiting the impairment of obligations of contracts, it is the intent of the Legislature that no action be taken whose purpose is to impair any bond indenture or financing agreement or any revenue source committed by contract to such bond or other indebtedness.

4.a. Must require that the corporation operate subject to the supervision and approval of a board of governors consisting of eight individuals who are residents of this state, from different geographical areas of this state. The Governor, the Chief Financial Officer, the President of the Senate, and the Speaker of the House of Representatives shall each appoint two members of the board. At least one of the two members appointed by each appointing officer must have demonstrated expertise in insurance. The Chief Financial Officer shall designate one of the appointees as chair. All board members serve at the pleasure of the appointing officer. All board members, including the chair, must be appointed to serve for 3-year terms beginning annually on a date designated by the plan. Any board vacancy shall be filled for the unexpired term by the appointing officer. The Chief Financial Officer shall appoint a technical advisory group to provide information and advice to the board of governors in connection with the board's duties under this subsection. The executive director and senior managers of the corporation shall be engaged by the board and serve at the pleasure of the board. Any executive director appointed on or after July 1, 2006, is subject to confirmation by the Senate. The executive director is responsible for employing other staff as the corporation may require, subject to review and concurrence by the board.

b. The board shall create a Market Accountability Advisory Committee to assist the corporation in developing awareness of its rates and its customer and agent service levels in relationship to the voluntary market insurers writing similar coverage. The members of the advisory committee shall consist of the following 11 persons, one of whom must be elected chair by the members of the committee: four representatives, one appointed by the Florida Association of Insurance Agents, one by the Florida Association of Insurance and Financial Advisors, one by the Professional Insurance Agents of Florida, and one by the Latin American Association of Insurance Agencies; three representatives appointed by the insurers with the three highest voluntary market share of residential property insurance business in the state; one representative from the Office of Insurance Regulation; one consumer appointed by the board who is insured by the corporation at the time of appointment to the committee; one representative appointed by the Florida Association of Realtors; and one representative appointed by the Florida Bankers Association. All members must serve for 3-year terms and may serve for consecutive terms. The committee shall report to the corporation at each board meeting on insurance market issues which may include rates and rate competition with the voluntary market; service, including policy issuance, claims processing, and general responsiveness to policyholders, applicants, and agents; and matters relating to depopulation.

5. Must provide a procedure for determining the eligibility of a risk for coverage, as follows:

a. Subject to the provisions of s. 627.3517, with respect to personal lines residential risks, if the risk is offered coverage from an authorized insurer at the insurer's approved rate under either a standard policy including wind coverage or, if consistent with the insurer's underwriting rules as filed with the office, a basic policy including wind coverage, the risk is not eligible for any policy issued by the corporation *unless the premium for coverage from the authorized insurer is more than 25 percent greater than the premium for comparable coverage from the corporation*. If the risk is not able to obtain any such offer, the risk is eligible for either a standard policy including wind coverage or a basic policy including wind coverage issued by the corporation; however, if the risk could not be insured under a standard policy including wind coverage regardless of market conditions, the risk shall be eligible for a basic policy including wind coverage unless rejected under subparagraph 8. The corporation shall determine the type of policy to be provided on the basis of objective standards specified in the underwriting manual and based on generally accepted underwriting practices.

(I) If the risk accepts an offer of coverage through the market assistance plan or an offer of coverage through a mechanism established by the corporation before a policy is issued to the risk by the corporation or during the first 30 days of coverage by the corporation, and the producing agent who submitted the application to the plan or to the corporation is not currently appointed by the insurer, the insurer shall:

(A) Pay to the producing agent of record of the policy, for the first year, an amount that is the greater of the insurer's usual and customary commission for the type of policy written or a fee equal to the usual and customary commission of the corporation; or

(B) Offer to allow the producing agent of record of the policy to continue servicing the policy for a period of not less than 1 year and offer to pay the agent the greater of the insurer's or the corporation's usual and customary commission for the type of policy written.

If the producing agent is unwilling or unable to accept appointment, the new insurer shall pay the agent in accordance with sub-sub-subparagraph (A).

(II) When the corporation enters into a contractual agreement for a take-out plan, the producing agent of record of the corporation policy is entitled to retain any unearned commission on the policy, and the insurer shall:

(A) Pay to the producing agent of record of the corporation policy, for the first year, an amount that is the greater of the insurer's usual and customary commission for the type of policy written or a fee equal to the usual and customary commission of the corporation; or

(B) Offer to allow the producing agent of record of the corporation policy to continue servicing the policy for a period of not less than 1 year and offer to pay the agent the greater of the insurer's or the corporation's usual and customary commission for the type of policy written.

If the producing agent is unwilling or unable to accept appointment, the new insurer shall pay the agent in accordance with sub-sub-sub-subparagraph (A).

b. With respect to commercial lines residential risks, if the risk is offered coverage under a policy including wind coverage from an authorized insurer at its approved rate, the risk is not eligible for any policy issued by the corporation *unless the premium for coverage from the authorized insurer is more than 25 percent greater than the premium for comparable coverage from the corporation*. If the risk is not able to obtain any such offer, the risk is eligible for a policy including wind coverage issued by the corporation.

(I) If the risk accepts an offer of coverage through the market assistance plan or an offer of coverage through a mechanism established by the corporation before a policy is issued to the risk by the corporation or during the first 30 days of coverage by the corporation, and the producing agent who submitted the application to the plan or the corporation is not currently appointed by the insurer, the insurer shall:

(A) Pay to the producing agent of record of the policy, for the first year, an amount that is the greater of the insurer's usual and customary commission for the type of policy written or a fee equal to the usual and customary commission of the corporation; or

(B) Offer to allow the producing agent of record of the policy to continue servicing the policy for a period of not less than 1 year and offer to pay the agent the greater of the insurer's or the corporation's usual and customary commission for the type of policy written.

If the producing agent is unwilling or unable to accept appointment, the new insurer shall pay the agent in accordance with sub-sub-sub-subparagraph (A).

(II) When the corporation enters into a contractual agreement for a take-out plan, the producing agent of record of the corporation policy is entitled to retain any unearned commission on the policy, and the insurer shall:

(A) Pay to the producing agent of record of the corporation policy, for the first year, an amount that is the greater of the insurer's usual and customary commission for the type of policy written or a fee equal to the usual and customary commission of the corporation; or

(B) Offer to allow the producing agent of record of the corporation policy to continue servicing the policy for a period of not less than 1 year and offer to pay the agent the greater of the insurer's or the corporation's usual and customary commission for the type of policy written.

If the producing agent is unwilling or unable to accept appointment, the new insurer shall pay the agent in accordance with sub-sub-sub-subparagraph (A).

6. Must provide by July 1, 2007, that an application for coverage for a new policy is subject to a waiting period of 10 days before coverage is effective, during which time the corporation shall make such application available for review by general lines agents and authorized property and casualty insurers. The board may approve exceptions that allow for coverage to be effective before the end of the 10-day waiting period, for coverage issued in conjunction with a real estate closing, and for such other exceptions as the board determines are necessary to prevent lapses in coverage.

7. Must include rules for classifications of risks and rates therefor.

8. Must provide that if premium and investment income for an account attributable to a particular calendar year are in excess of projected losses and expenses for the account attributable to that year, such excess shall be held in surplus in the account. Such surplus shall be available to defray deficits in that account as to future years and shall be used for that purpose prior to assessing assessable insurers and assessable insureds as to any calendar year.

9. Must provide objective criteria and procedures to be uniformly applied for all applicants in determining whether an individual risk is so hazardous as to be uninsurable. In making this determination and in establishing the criteria and procedures, the following shall be considered:

a. Whether the likelihood of a loss for the individual risk is substantially higher than for other risks of the same class; and

b. Whether the uncertainty associated with the individual risk is such that an appropriate premium cannot be determined.

The acceptance or rejection of a risk by the corporation shall be construed as the private placement of insurance, and the provisions of chapter 120 shall not apply.

10. Must provide that the corporation shall make its best efforts to procure catastrophe reinsurance at reasonable rates, to cover its projected 100-year probable maximum loss as determined by the board of governors.

11. Must provide that in the event of regular deficit assessments under sub-subparagraph (b)3.a. or sub-subparagraph (b)3.b., in the personal lines account, the commercial lines residential account, or the high-risk account, the corporation shall levy upon corporation policyholders in its next rate filing, or by a separate rate filing solely for this purpose, a Citizens policyholder surcharge arising from a regular assessment in such account in a percentage equal to the total amount of such regular assessments divided by the aggregate statewide direct written premium for subject lines of business for the prior calendar year. For purposes of calculating the Citizens policyholder surcharge to be levied under this subparagraph, the total amount of the regular assessment to which this surcharge is related shall be determined as set forth in subparagraph (b)3., without deducting the estimated Citizens policyholder surcharge. Citizens policyholder surcharges under this subparagraph are not considered premium and are not subject to commissions, fees, or premium taxes; however, failure to pay a market equalization surcharge shall be treated as failure to pay premium.

12. The policies issued by the corporation must provide that, if the corporation or the market assistance plan obtains an offer from an authorized insurer to cover the risk at its approved rates, the risk is no longer eligible for renewal through the corporation*, except as otherwise provided in this subsection*.

13. Corporation policies and applications must include a notice that the corporation policy could, under this section, be replaced with a policy issued by an authorized insurer that does not provide coverage identical to the coverage provided by the corporation. The notice shall also specify that acceptance of corporation coverage creates a conclusive presumption that the applicant or policyholder is aware of this potential.

14. May establish, subject to approval by the office, different eligibility requirements and operational procedures for any line or type of coverage for any specified county or area if the board determines that such changes to the eligibility requirements and operational procedures are justified due to the voluntary market being sufficiently stable and competitive in such area or for such line or type of coverage and that consumers who, in good faith, are unable to obtain insurance through the voluntary market through ordinary methods would continue to have access to coverage from the corporation. When coverage is sought in connection with a real property transfer, such requirements and procedures shall not provide for an effective date of coverage later than the date of the closing of the transfer as established by the transferor, the transferee, and, if applicable, the lender.

15. Must provide that, with respect to the high-risk account, any assessable insurer with a surplus as to policyholders of $25 million or less writing 25 percent or more of its total countrywide property insurance premiums in this state may petition the office, within the first 90 days of each calendar year, to qualify as a limited apportionment company. A regular assessment levied by the corporation on a limited apportionment company for a deficit incurred by the corporation for the high-risk account in 2006 or thereafter may be paid to the corporation on a monthly basis as the assessments are collected by the limited apportionment company from its insureds pursuant to s. 627.3512, but the regular assessment must be paid in full within 12 months after being levied by the corporation. A limited apportionment company shall collect from its policyholders any emergency assessment imposed under sub-subparagraph (b)3.d. The plan shall provide that, if the office determines

that any regular assessment will result in an impairment of the surplus of a limited apportionment company, the office may direct that all or part of such assessment be deferred as provided in subparagraph (g)4. However, there shall be no limitation or deferment of an emergency assessment to be collected from policyholders under sub-subparagraph (b)3.d.

16. Must provide that the corporation appoint as its licensed agents only those agents who also hold an appointment as defined in s. 626.015(3) with an insurer who at the time of the agent's initial appointment by the corporation is authorized to write and is actually writing personal lines residential property coverage, commercial residential property coverage, or commercial nonresidential property coverage within the state.

17. Must provide, by July 1, 2007, a premium payment plan option to its policyholders which allows for quarterly and semiannual payment of premiums.

18. Must provide, effective June 1, 2007, that the corporation contract with each insurer providing the non-wind coverage for risks insured by the corporation in the high-risk account, requiring that the insurer provide claims adjusting services for the wind coverage provided by the corporation for such risks. An insurer is required to enter into this contract as a condition of providing non-wind coverage for a risk that is insured by the corporation in the high-risk account unless the board finds, after a hearing, that the insurer is not capable of providing adjusting services at an acceptable level of quality to corporation policyholders. The terms and conditions of such contracts must be substantially the same as the contracts that the corporation executed with insurers under the "adjust-your-own" program in 2006, except as may be mutually agreed to by the parties and except for such changes that the board determines are necessary to ensure that claims are adjusted appropriately. The corporation shall provide a process for neutral arbitration of any dispute between the corporation and the insurer regarding the terms of the contract. The corporation shall review and monitor the performance of insurers under these contracts.

19. Must limit coverage on mobile homes or manufactured homes built prior to 1994 to actual cash value of the dwelling rather than replacement costs of the dwelling.

20. May provide such limits of coverage as the board determines, consistent with the requirements of this subsection.

21. May require commercial property to meet specified hurricane mitigation construction features as a condition of eligibility for coverage.

(m)1.

~~a.~~ Rates for coverage provided by the corporation shall be actuarially sound and *subject to the requirements of s. 627.062, except as otherwise provided in this paragraph. The corporation shall file its recommended rates with the office at least annually. The corporation shall provide any additional information regarding the rates which the office requires. The office shall consider the recommendations of the board and issue a final order establishing the rates for the corporation within 45 days after the recommended rates are filed. The corporation may not pursue an administrative challenge or judicial review of the final order of the office.* ~~not competitive with approved rates charged in the admitted voluntary market, so that the corporation functions as a residual market mechanism to provide insurance only when the insurance cannot be procured in the voluntary market. Rates shall include an appropriate catastrophe loading factor that reflects the actual catastrophic exposure of the corporation. For policies in the personal lines account and the commercial lines account issued or renewed on or after March 1, 2007, a rate is deemed inadequate if the rate, including investment income, is not sufficient to provide for the procurement of coverage under the Florida Hurricane Catastrophe Fund and private reinsurance costs, whether or not reinsurance is procured, and to pay all claims and expenses reasonably expected to result from a 100-year probable maximum loss event without resort to any regular or emergency assessments, long-term debt, state revenues, or other funding sources. For policies in the high-risk account issued or renewed on or after March 1, 2007, a rate is deemed inadequate if the rate, including investment income, is not sufficient to provide for the procurement of coverage under the Florida Hurricane Catastrophe Fund and private reinsurance costs, whether or not reinsurance is procured, and to pay all claims and expenses reasonably expected to result from a 70-year probable maximum loss event with resort to any regular or emergency assessments, long-term debt, state revenues, or other funding sources. For policies in the high-risk account issued or renewed in 2008 and 2009, the rate must be based upon an 85-year and 100-year probable maximum loss event, respectively.~~

~~b. It is the intent of the Legislature to reaffirm the requirement of rate adequacy in the residual market. Recognizing that rates may comply with the intent expressed in sub-subparagraph a. and yet be inadequate and recognizing the public need to limit subsidies within the residual market, it is the further intent of the Legislature to establish statutory standards for rate adequacy. Such standards are intended to supplement the standard specified in s. 627.062(2)(c)3., providing that rates are inadequate if they are clearly insufficient to sustain projected losses and expenses in the class of business to which they apply.~~

~~2. For each county, the average rates of the corporation for each line of business for personal lines residential policies excluding rates for wind-only policies shall be no lower than the average rates charged by the insurer that had the highest average rate in that county among the 20 insurers with the greatest total direct written premium in the state for that line of business in the preceding year, except that with respect to mobile home coverages, the average rates of the corporation shall be no lower than the average rates charged by the insurer that had the highest average rate in that county among the 5 insurers with the greatest total written premium for mobile home owner's policies in the state in the preceding year.~~

~~3. Rates for personal lines residential wind-only policies must be actuarially sound and not competitive with approved rates charged by authorized insurers. If the filing under this subparagraph is made at least 90 days before the proposed effective date and the filing is not implemented during the office's review of the filing and any proceeding and judicial review, such filing shall be considered a "file and use" filing. In such case, the office shall finalize its review by issuance of a notice of intent to approve or a notice of intent to disapprove within 90 days after receipt of the filing. The notice of intent to approve and the notice of intent to disapprove constitute agency action for purposes of the Administrative Procedure Act. Requests for supporting information, requests for mathematical or mechanical corrections, or notification to the insurer by the office of its preliminary findings shall not toll the 90-day period during any such proceedings and subsequent judicial review. The rate shall be deemed approved if the office does not issue a notice of intent to approve or a notice of intent to disapprove within 90 days after receipt of the filing. Corporation rate manuals shall include a rate surcharge for seasonal occupancy. To ensure that personal lines residential wind-only rates are not competitive with approved rates charged by authorized insurers, the corporation, in conjunction with the office, shall develop a wind-only ratemaking methodology, which methodology shall be contained in each rate filing made by the corporation with the office. If the office determines that the wind-only rates or rating factors filed by the corporation fail to comply with the wind-only ratemaking methodology provided for in this subsection, it shall so notify the corporation and require the corporation to amend its rates or rating factors to come into compliance within 90 days of notice from the office.~~

~~4. The requirements of this paragraph that rates not be competitive with approved rates charged by authorized insurers do not apply in a county or area for which the office determines that no authorized insurer is offering coverage. The corporation shall amend its rates or rating factors for the affected county or area in conjunction with its next rate filing after such determination is made.~~

~~5. For the purposes of establishing a pilot program to evaluate issues relating to the availability and affordability of insurance in an area where historically there has been little market competition, the provisions of subparagraph 2. do not apply to coverage provided by the corporation in Monroe County if the office determines that a reasonable degree of competition does not exist for personal lines residential policies. The provisions of subparagraph 3. do not apply to coverage provided by the corporation in Monroe County if the office determines that a reasonable degree of competition does not exist for personal lines residential policies in the area of that county which is eligible for wind-only coverage. In this county, the rates for personal lines residential coverage shall be actuarially sound and not excessive, inadequate, or unfairly discriminatory and are subject to the other provisions of the paragraph and s. 627.062. The commission shall adopt rules establishing the criteria for determining whether a reasonable degree of competition exists for personal lines residential policies in Monroe County. By March 1, 2006, the office shall submit a report to the Legislature providing an evaluation of the implementation of the pilot program affecting Monroe County.~~

~~6. Rates for commercial lines coverage shall not be subject to the requirements of subparagraph 2., but shall be subject to all other requirements of this paragraph and s. 627.062.~~

~~7. Nothing in this paragraph shall require or allow the corporation to adopt a rate that is inadequate under s. 627.062.~~

~~8. The corporation shall certify to the office at least twice annually that its personal lines rates comply with the requirements of subparagraphs 1., 2., and 3. If any adjustment in the rates or rating factors of the corporation is necessary to ensure such compliance, the corporation shall make and implement such adjustments and file its revised rates and rating factors with the office. If the office thereafter determines that the revised rates and rating factors fail to comply with the provisions of subparagraphs 1., 2., and 3., it shall notify the corporation and require the corporation to amend its rates or rating factors in conjunction with its next rate filing. The office must notify the corporation by electronic means of any rate filing it approves for any insurer among the insurers referred to in subparagraph 2.~~

2.~~9.~~ In addition to the rates otherwise determined pursuant to this paragraph, the corporation shall impose and collect an amount equal to the premium tax provided for in s. 624.509 to augment the financial resources of the corporation.

~~10. The corporation shall develop a notice to policyholders or applicants that the rates of Citizens Property Insurance Corporation are intended to be higher than the rates of any admitted carrier and providing other information the corporation deems necessary to assist consumers in finding other voluntary admitted insurers willing to insure their property.~~

3.~~11.~~ After the public hurricane loss-projection model under s. 627.06281 has been found to be accurate and reliable by the Florida Commission on Hurricane Loss Projection Methodology, that model shall serve as the minimum benchmark for determining the windstorm portion of the corporation's rates. This subparagraph does not require or allow the corporation to adopt rates lower than the rates otherwise required or allowed by this paragraph.

4. The rate filings for the corporation which were approved by the office and which took effect January 1, 2007, are rescinded, except for those rates that were lowered. As soon as possible, the corporation shall begin using the lower rates that were in effect on December 31, 2006, and shall provide refunds to policyholders who have paid higher rates as a result of that rate filing. The rates in effect on December 31, 2006, shall remain in effect for the 2007 calendar year except for any rate change that results in a lower rate. The next rate change that may increase rates shall take effect January 1, 2008, pursuant to a new rate filing recommended by the corporation and established by the office, subject to the requirements of this paragraph.

(p)1. The corporation shall certify to the office its needs for annual assessments as to a particular calendar year, and for any interim assessments that it deems to be necessary to sustain operations as to a particular year pending the receipt of annual assessments. Upon verification, the office shall approve such certification, and the corporation shall levy such annual or interim assessments. Such assessments shall be prorated as provided in paragraph (b). The corporation shall take all reasonable and prudent steps necessary to collect the amount of assessment due from each assessable insurer, including, if prudent, filing suit to collect such assessment. If the corporation is unable to collect an assessment from any assessable insurer, the uncollected assessments shall be levied as an additional assessment against the assessable insurers and any assessable insurer required to pay an additional assessment as a result of such failure to pay shall have a cause of action against such nonpaying assessable insurer. Assessments shall be included as an appropriate factor in the making of rates. The failure of a surplus lines agent to collect and remit any regular or emergency assessment levied by the corporation is considered to be a violation of s. 626.936 and subjects the surplus lines agent to the penalties provided in that section.

2. The governing body of any unit of local government, any residents of which are insured by the corporation, may issue bonds as defined in s. 125.013 or s. 166.101 from time to time to fund an assistance program, in conjunction with the corporation, for the purpose of defraying deficits of the corporation. In order to avoid needless and indiscriminate proliferation, duplication, and fragmentation of such assistance programs, any unit of local government, any residents of which are insured by the corporation, may provide for the payment of losses, regardless of whether or not the losses occurred within or outside of the territorial jurisdiction of the local government. Revenue bonds under this subparagraph may not be issued until validated pursuant to chapter 75, unless a state of emergency is declared by executive order or proclamation of the Governor pursuant to s. 252.36 making such findings as are necessary to determine that it is in the best interests of, and necessary for, the protection of the public health, safety, and general welfare of residents of this state and declaring it an essential public purpose to permit certain municipalities or counties to issue such bonds as will permit relief to claimants and policyholders of the corporation. Any such unit of local government may enter into such contracts with the corporation and with any other entity created pursuant to this subsection as are necessary to carry out this paragraph. Any bonds issued under this subparagraph shall be payable from and secured by moneys received by the corporation from emergency assessments under sub-subparagraph (b)3.d., and assigned and pledged to or on behalf of the unit of local government for the benefit of the holders of such bonds. The funds, credit, property, and taxing power of the state or of the unit of local government shall not be pledged for the payment of such bonds. If any of the bonds remain unsold 60 days after issuance, the office shall require all insurers subject to assessment to purchase the bonds, which shall be treated as admitted assets; each insurer shall be required to purchase that percentage of the unsold portion of the bond issue that equals the insurer's relative share of assessment liability under this subsection. An insurer shall not be required to purchase the bonds to the extent that the office determines that the purchase would endanger or impair the solvency of the insurer.

3.a. The corporation shall adopt one or more programs subject to approval by the office for the reduction of both new and renewal writings in the corporation. Beginning January 1, 2008, any program the corporation adopts for the payment of bonuses to an insurer for each risk the insurer removes from the corporation shall comply with s. 627.3511(2) and may not exceed the amount referenced in s. 627.3511(2) for each risk removed. The corporation may consider any prudent and not unfairly discriminatory approach to reducing corporation writings, and may adopt a credit against assessment liability or other liability that provides an incentive for insurers to take risks out of the corporation and to keep risks out of the corporation by maintaining or increasing voluntary writings in counties or areas in which corporation risks are highly concentrated and a program to provide a formula under which an insurer voluntarily taking risks out of the corporation by maintaining or increasing voluntary writings will be relieved wholly or partially from assessments under sub-subparagraphs (b)3.a. and b. However, any "take-out bonus" or payment to an insurer must be conditioned on the property being insured for at least 5 years by the insurer, unless canceled or nonrenewed by the policyholder. If the policy is canceled or nonrenewed by the policyholder before the end of the 5-year period, the amount of the take-out bonus must be prorated for the time period the policy was insured. When the corporation enters into a contractual agreement for a take-out plan, the producing agent of record of the corporation policy is entitled to retain any unearned commission on such policy, and the insurer shall either:

(I) Pay to the producing agent of record of the policy, for the first year, an amount which is the greater of the insurer's usual and customary commission for the type of policy written or a policy fee equal to the usual and customary commission of the corporation; or

(II) Offer to allow the producing agent of record of the policy to continue servicing the policy for a period of not less than 1 year and offer to pay the agent the insurer's usual and customary commission for the type of policy written. If the producing agent is unwilling or unable to accept appointment by the new insurer, the new insurer shall pay the agent in accordance with sub-sub-subparagraph (I).

b. Any credit or exemption from regular assessments adopted under this subparagraph shall last no longer than the 3 years following the cancellation or expiration of the policy by the corporation. With the approval of the office, the board may extend such credits for an additional year if the insurer guarantees an additional year of renewability for all policies removed from the corporation, or for 2 additional years if the insurer guarantees 2 additional years of renewability for all policies so removed.

c. There shall be no credit, limitation, exemption, or deferment from emergency assessments to be collected from policyholders pursuant to sub-subparagraph (b)3.d.

4. The plan shall provide for the deferment, in whole or in part, of the assessment of an assessable insurer, other than an emergency assessment collected from policyholders pursuant to sub-subparagraph (b)3.d., if the office finds that payment of the assessment would endanger or impair the solvency of the insurer. In the event an assessment against an assessable insurer is deferred in whole or in part, the amount by which such assessment is deferred may be assessed against the other assessable insurers in a manner consistent with the basis for assessments set forth in paragraph (b).

5. Effective July 1, 2007, in order to evaluate the costs and benefits of approved take-out plans, if the corporation pays a bonus or other payment to an insurer for an approved take-out plan, it shall maintain a record of the address or such other identifying information on the property or risk removed in order to track if and when the property or risk is later insured by the corporation.

6. Any policy taken out, assumed, or removed from the corporation is, as of the effective date of the take-out, assumption, or removal, direct insurance issued by the insurer and not by the corporation, even if the corporation continues to service the policies. This subparagraph applies to policies of the corporation and not policies taken out, assumed, or removed from any other entity.

(s) For the purposes of s. 199.183(1), the corporation shall be considered a political subdivision of the state and shall be exempt from the corporate income tax. The premiums, assessments, investment income, and other revenue of the corporation are funds received for providing property insurance coverage as required by this subsection, paying claims for Florida citizens insured by the corporation, securing and repaying debt obligations issued by the corporation, and conducting all other activities of the corporation, and shall not be considered taxes, fees, licenses, or charges for services imposed by the Legislature on individuals, businesses, or agencies outside state government. Bonds and other debt obligations issued by or on behalf of the corporation are not to be considered "state bonds" within the meaning of s. 215.58(8). The corporation is not subject to the procurement provisions of chapter 287, and policies and decisions of the corporation relating to incurring debt, levying of assessments and the sale, issuance, continuation, terms and claims under corporation policies, and all services relating thereto, are not subject to the provisions of chapter 120. The corporation is not required to obtain or to hold a certificate of authority issued by the office, nor is it required to participate as a member insurer of the Florida Insurance Guaranty Association. However, the corporation is required to pay, in the same manner as an authorized insurer, assessments *levied* ~~pledged~~ by the Florida Insurance Guaranty Association ~~to secure bonds issued or other indebtedness incurred to pay covered claims arising from insurer insolvencies caused by, or proximately related to, hurricane losses~~. It is the intent of the Legislature that the tax exemptions provided in this paragraph will augment the financial resources of the corporation to better enable the corporation to fulfill its public purposes. Any debt obligations issued by the corporation, their transfer, and the income therefrom, including any profit made on the sale thereof, shall at all times be free from taxation of every kind by the state and any political subdivision or local unit or other instrumentality thereof; however, this exemption does not apply to any tax imposed by chapter 220 on interest, income, or profits on debt obligations owned by corporations other than the corporation.

(ee) The assets of the corporation may be invested and managed by the State Board of Administration.

Section 28. *It is the intent of the Legislature that commercial nonresidential property insurance coverage be made available from Citizens Property Insurance Corporation (Citizens), under s. 627.351(6), Florida Statutes, as amended by this act, rather than from the Property and Casualty Joint Underwriting Association (PCJUA), under s. 627.351(5), Florida Statutes. As soon as it is reasonably able to do so, Citizens shall adopt, subject to approval of the Office of Insurance Regulation, a plan providing for the transition of such coverage from the PCJUA to Citizens under such forms, rates, terms, and conditions as the board of Citizens considers appropriate. The plan shall include any contractual agreements between Citizens and the PCJUA which are required to effect the transition. In the transition plan, Citizens may assume policies or otherwise provide coverage for the commercial nonresidential policyholders of the PCJUA and may also provide for allocating to the appropriate account or accounts of Citizens the revenues, assets, liabilities, losses, and expenses associated with policies of the PCJUA which are assumed or otherwise covered by Citizens. It is the intent of the Legislature that the transition plan be implemented in a manner that does not adversely affect the creditworthiness of or security for currently outstanding financing obligations or credit facilities of the high-risk account, the personal lines account, or the commercial lines account. The order issued by the Office of Insurance Regulation may allow the PCJUA to continue to issue such coverage until the time that Citizens begins issuing such coverage.*

Section 29. Subsections (3), (4), (5), and (7) of section 627.701, Florida Statutes, are amended to read:

627.701 Liability of insureds; coinsurance; deductibles.—

(3)~~(a) A policy of residential property insurance shall include a deductible amount applicable to hurricane losses no lower than $500 and no higher than 2 percent of the policy dwelling limits with respect to personal lines residential risks, and no higher than 3 percent of the policy limits with respect to commercial lines residential risks; however, if a risk was covered on August 24, 1992, under a policy having a higher deductible than the deductibles allowed by this paragraph, a policy covering such risk may include a deductible no higher than the deductible in effect on August 24, 1992. Notwithstanding the other provisions of this paragraph, a personal lines residential policy covering a risk valued at $50,000 or less may include a deductible amount attributable to hurricane losses no lower than $250, and a personal lines residential policy covering a risk valued at $100,000 or more may include a deductible amount attributable to hurricane losses no higher than 10 percent of the policy limits unless subject to a higher deductible on August 24, 1992; however, no maximum deductible is required with respect to a personal lines residential policy covering a risk valued at more than $500,000. An insurer may require a higher deductible, provided such deductible is the same as or similar to a deductible program lawfully in effect on June 14, 1995. In addition to the deductible amounts authorized by this paragraph, an insurer may also offer policies with a copayment provision under which, after exhaustion of the deductible, the policyholder is responsible for 10 percent of the next $10,000 of insured hurricane losses.~~

(a)~~(b)~~1. Except as otherwise provided in this paragraph, prior to issuing a personal lines residential property insurance policy ~~on or after January 1, 2006, or prior to the first renewal of a residential property insurance policy on or after January 1, 2006~~, the insurer must offer alternative deductible amounts applicable to hurricane losses equal to $500, 2 percent, 5 percent, and 10 percent of the policy dwelling limits, unless the specific percentage deductible is less than $500. The written notice of the offer shall specify the hurricane or wind deductible to be applied in the event that the applicant or policyholder fails to affirmatively choose a hurricane deductible. The insurer must provide such policyholder with notice of the availability of the deductible amounts specified in this paragraph in a form approved by the office in conjunction with each renewal of the policy. The failure to provide such notice constitutes a violation of this code but does not affect the coverage provided under the policy.

2. For policies issued or renewed on or after July 1, 2007, an insurer that is subject to subparagraph 1. must also offer a deductible applicable to hurricane losses which covers 50 percent of the policyholder's equity in a structure that is subject to a mortgage or lien. As a condition of making this offer, the insurer may require the policyholder or financial institution or other lienholder that holds the mortgage to provide documentation annually to the insurer identifying the amount of the policyholder's equity projected for the policy year. The deductible may be structured to cover 50 percent of the policyholder's equity as of the effective date of the policy renewal or the deductible may be scheduled to reflect a monthly adjustment that tracks the change in the policyholder's equity. The commission may adopt rules to administer this subparagraph.

3.~~2.~~ This paragraph does not apply with respect to a deductible program lawfully in effect on June 14, 1995, or to any similar deductible program, if the deductible program requires a minimum deductible amount of no less than 2 percent of the policy limits.

4.~~3.~~ With respect to a policy covering a risk with dwelling limits of at least $100,000, but less than $250,000, the insurer may, in lieu of offering a policy with a $500 hurricane or wind deductible as required by subparagraph 1., offer a policy that the insurer guarantees it will not nonrenew for reasons of reducing hurricane loss for one renewal period and that contains up to a 2 percent hurricane or wind deductible as required by subparagraph 1.

5.~~4.~~ With respect to a policy covering a risk with dwelling limits of $250,000 or more, the insurer need not offer the $500 hurricane deductible as required by subparagraph 1., but must, except as otherwise provided in this subsection, offer the other hurricane deductibles as required by subparagraph 1.

(4)(a) Any policy that contains a separate hurricane deductible must on its face include in boldfaced type no smaller than 18 points the following statement: "THIS POLICY CONTAINS A SEPARATE DEDUCTIBLE FOR HURRICANE LOSSES, WHICH MAY RESULT IN HIGH OUT-OF-POCKET EXPENSES TO YOU." A policy containing a coinsurance provision applicable to hurricane losses must on its face include in boldfaced type no smaller than 18 points the following statement: "THIS POLICY CONTAINS A CO-PAY PROVISION THAT MAY RESULT IN HIGH OUT-OF-POCKET EXPENSES TO YOU."

(b) ~~Beginning October 1, 2005,~~ For any personal lines residential property insurance policy containing a separate hurricane deductible, the insurer shall compute and prominently display the actual dollar value of the hurricane deductible on the declarations page of the policy at issuance and, for renewal, on the renewal declarations page of the policy or on the premium renewal notice.

(c) ~~Beginning October 1, 2005,~~ For any personal lines residential property insurance policy containing an inflation guard rider, the insurer shall compute and prominently display the actual dollar value of the hurricane deductible on the declarations page of the policy at issuance and, for renewal, on the renewal declarations page of the policy or on the premium renewal notice. In addition, ~~beginning October 1, 2005,~~ for any personal lines residential property insurance policy containing an inflation guard rider, the insurer shall notify the policyholder of the possibility that the hurricane deductible may be higher than indicated when loss occurs due to application of the inflation guard rider. Such notification shall be made on the declarations page of the policy at issuance and, for renewal, on the renewal declarations page of the policy or on the premium renewal notice.

(d)1. A personal lines residential property insurance policy covering a risk valued at less than $500,000 may not have a hurricane deductible in excess of 10 percent of the policy dwelling limits, unless the following conditions are met:

a. The policyholder must personally write and provide to the insurer the following statement in his or her own handwriting and signs his or her name, which must also be signed by every other named insured on the policy, and dated: "I do not want the insurance on my home to pay for the first (specify dollar value) of damage from hurricanes. I will pay those costs. My insurance will not."

b. If the structure insured by the policy is subject to a mortgage or lien, the policyholder must provide the insurer with a written statement from the mortgageholder or lienholder indicating that the mortgageholder or lienholder approves the policyholder electing to have the specified deductible.

2. A deductible subject to the requirements of this paragraph applies only for the term of the policy and must be newly executed upon each renewal pursuant to the requirements of this paragraph.

3. An insurer shall keep the original copy of the signed statement required by this paragraph and provide a copy to the policyholder providing the signed statement. A signed statement meeting the requirements of this paragraph creates a presumption that there was an informed, knowing election of coverage.

4. The commission shall adopt rules providing appropriate alternative methods for providing the statements required by this section for policyholders who have a handicapping or disabling condition that prevents them from providing a handwritten statement.

(5)(a) The hurricane deductible of any personal lines residential property insurance policy ~~issued or renewed on or after May 1, 2005,~~ shall be applied as follows:

1. The hurricane deductible shall apply on an annual basis to all covered hurricane losses that occur during the calendar year for losses that are covered under one or more policies issued by the same insurer or an insurer in the same insurer group.

2. If a hurricane deductible applies separately to each of one or more structures insured under a single policy, the requirements of this paragraph apply with respect to the deductible for each structure.

3. If there was a hurricane loss for a prior hurricane or hurricanes during the calendar year, the insurer may apply a deductible to a subsequent hurricane which is the greater of the remaining amount of the hurricane deductible or the amount of the deductible that applies to perils other than a hurricane. Insurers may require policyholders to report hurricane losses that are below the hurricane deductible or to maintain receipts or other records of such hurricane losses in order to apply such losses to subsequent hurricane claims.

4. If there are hurricane losses in a calendar year on more than one policy issued by the same insurer or an insurer in the same insurer group, the hurricane deductible shall be the highest amount stated in any one of the policies. If a policyholder who had a hurricane loss under the prior policy is provided or offered a lower hurricane deductible under the new or renewal policy, the insurer must notify the policyholder, in writing, at the time the lower hurricane deductible is provided or offered, that the lower hurricane deductible will not apply until January 1 of the following calendar year.

(b) For commercial residential property insurance policies ~~issued or renewed on or after January 1, 2006~~, the insurer must offer the policyholder the following alternative hurricane deductibles:

1. A hurricane deductible that applies on an annual basis as provided in paragraph (a); and

2. A hurricane deductible that applies to each hurricane.

(7) Prior to issuing a personal lines residential property insurance policy ~~on or after April 1, 1997, or prior to the first renewal of a residential property insurance policy on or after April 1, 1997~~, the insurer must offer a deductible equal to $500 applicable to losses from perils other than hurricane. The insurer must provide the policyholder with notice of the availability of the deductible specified in this subsection in a form approved by the office at least once every 3 years. The failure to provide such notice constitutes a violation of this code but does not affect the coverage provided under the policy. An insurer may require a higher deductible only as part of a deductible program lawfully in effect on June 1, 1996, or as part of a similar deductible program.

Section 30. Effective July 1, 2007, section 627.706, Florida Statutes, is amended to read:

627.706 Sinkhole insurance; definitions.—

(1) Every insurer authorized to transact property insurance in this state shall *provide coverage for a catastrophic ground cover collapse and shall* make available*, for an appropriate additional premium,* coverage for ~~insurable~~ sinkhole losses on any structure, including contents of personal property contained therein, to the extent provided in the form to which the ~~sinkhole~~ coverage attaches. A policy for residential property insurance may include a deductible amount applicable to sinkhole losses equal to 1 percent, 2 percent, 5 percent, or 10 percent of the policy dwelling limits, with appropriate premium discounts offered with each deductible amount.

(2) As used in ss. 627.706-627.7074, and as used in connection with any policy providing coverage for *a catastrophic ground cover collapse or for* sinkhole losses:

(a) "Catastrophic ground cover collapse" means geological activity that results in the collapse of the ground cover and the insured structure being condemned and ordered to be vacated by the governmental agency authorized by law to issue such an order for that structure.

(b)~~(a)~~ "Sinkhole" means a landform created by subsidence of soil, sediment, or rock as underlying strata are dissolved by groundwater. A sinkhole may form by collapse into subterranean voids created by dissolution of limestone or dolostone or by subsidence as these strata are dissolved.

(c)~~(b)~~ "Sinkhole loss" means structural damage to the building, including the foundation, caused by sinkhole activity. Contents coverage shall apply only if there is structural damage to the building caused by sinkhole activity.

(d)~~(c)~~ "Sinkhole activity" means settlement or systematic weakening of the earth supporting such property only when such settlement or systematic weakening results from movement or raveling of soils, sediments, or rock materials into subterranean voids created by the effect of water on a limestone or similar rock formation.

(e)~~(d)~~ "Professional engineer" means a person, as defined in s. 471.005, who has a bachelor's degree or higher in engineering with a specialty in the geotechnical engineering field. A professional engineer must have geotechnical experience and expertise in the identification of sinkhole activity as well as other potential causes of damage to the structure.

(f)~~(e)~~ "Professional geologist" means a person, as defined by s. 492.102, who has a bachelor's degree or higher in geology or related earth science with expertise in the geology of Florida. A professional geologist must have geological experience and expertise in the identification of sinkhole activity as well as other potential geologic causes of damage to the structure.

(3) Every insurer authorized to transact property insurance in this state shall make a proper filing with the office for the purpose of extending the appropriate forms of property insurance to include coverage for *catastrophic ground cover collapse or for* sinkhole losses.

Section 31. Subsection (2) of section 627.7065, Florida Statutes, is amended to read:

627.7065 Database of information relating to sinkholes; the Department of Financial Services and the Department of Environmental Protection.—

(2) The Department of Financial Services, including the employee of the Division of Consumer Services designated as the primary contact for consumers on issues relating to sinkholes, and the ~~Office of the~~ Insurance Consumer Advocate shall consult with the Florida Geological Survey and the Department of Environmental Protection to implement a statewide automated database of sinkholes and related activity identified in the state.

Section 32. Effective July 1, 2007, section 627.712, Florida Statutes, is created to read:

627.712 Residential hurricane coverage required; availability of exclusions for windstorm or contents.—

(1) An insurer issuing a residential property insurance policy must provide hurricane or windstorm coverage as defined in s. 627.4025. This subsection does not apply with respect to risks that are eligible for wind-only coverage from Citizens Property Insurance Corporation under s. 627.351(6).

(2) An insurer that is subject to subsection (1) must make available, at the option of the policyholder, an exclusion of hurricane coverage or windstorm coverage. The coverage may be excluded only if:

(a) The policyholder personally writes and provides to the insurer the following statement in his or her own handwriting and signs his or her name, which must also be signed by every other named insured on the policy, and dated: "I do not want the insurance on my (home / mobile home / condominium unit) to pay for damage from windstorms or hurricanes. I will pay those costs. My insurance will not."

(b) If the structure insured by the policy is subject to a mortgage or lien, the policyholder must provide the insurer with a written statement from the mortgageholder or lienholder indicating that the mortgageholder or lienholder approves the policyholder electing to exclude windstorm coverage or hurricane coverage from his or her residential property insurance policy.

(3) An insurer issuing a residential property insurance policy, except for a condominium unit owner's policy, must make available, at the option of the policyholder, an exclusion of coverage for the contents. The coverage may be excluded only if the policyholder personally writes and provides to the insurer the following statement in his or her own handwriting and signs his or her signature, which must also be signed by every other named insured on the policy, and dated: "I do not want the insurance on my (home / mobile home) to pay for the costs to repair or replace any contents that are damaged. I will pay those costs. My insurance will not."

(4) An insurer shall keep the original copy of a signed statement required by this section and provide a copy to the policyholder providing the signed statement. A signed statement meeting the requirements of this section creates a presumption that there was an informed, knowing rejection of coverage.

(5) The exclusions authorized by this section are valid only for the term of the contract and must be newly executed upon each contract renewal pursuant to the requirements of this section.

(6) The commission shall adopt rules providing appropriate alternative methods for providing the statements required by this section for policyholders who have a handicapping or disabling condition that prevents them from providing a handwritten statement.

Section 33. Section 627.713, Florida Statutes, is created to read:

627.713 Report of hurricane loss data.—

(1) The office may require property insurers to report data regarding hurricane claims and underwriting costs, including, but not limited to:

(a) Number of claims;

(b) Amount of claim payments made;

(c) Number and amount of total-loss claims;

(d) Amount and percentage of losses covered by reinsurance or other loss-transfer agreements;

(e) Amount of losses covered under specified deductibles;

(f) Claims and payments for specified insured values;

(g) Claims and payments for specified dollar values;

(h) Claims and payments for specified types of construction or mitigation features;

(i) Claims and payments for policies under specified underwriting criteria;

(j) Claims and payments for contents, additional living expense, and other specified coverages;

(k) Claims and payments by county for the information specified in this section; and

(l) Any other data that the office requires.

(2) The commission may adopt rules pursuant to ss. 120.536(1) and 120.54 to administer this section.

Section 34. Paragraph (e) of subsection (3) and subsection (4) of section 631.57, Florida Statutes, are amended to read:

631.57 Powers and duties of the association.—

(3)

(e)1.

a. In addition to assessments otherwise authorized in paragraph (a) and to the extent necessary to secure the funds for the account specified in s. 631.55(2)(c) *for the direct payment of covered claims and to pay the reasonable costs to administer such claims,* or to retire indebtedness, including, without limitation, the principal, redemption premium, if any, and interest on, and related costs of issuance of, bonds issued under s. 631.695 and the funding of any reserves and other payments required under the bond resolution or trust indenture pursuant to which such bonds have been issued, the office, upon certification of the board of directors, shall levy emergency assessments upon insurers holding a certificate of authority. The emergency assessments payable under this paragraph by any insurer shall not exceed in any single year more than 2 percent of that insurer's direct written premiums, net of refunds, in this state during the preceding calendar year for the kinds of insurance within the account specified in s. 631.55(2)(c).

b. Any emergency assessments authorized under this paragraph shall be levied by the office upon insurers referred to in sub-

subparagraph a., upon certification as to the need for such assessments by the board of directors. *In the event the board of directors participates in the issuance of bonds in accordance with s. 631.695, emergency assessments shall be levied*~~,~~ in each year that bonds issued under s. 631.695 and secured by such emergency assessments are outstanding, in such amounts up to such 2-percent limit as required in order to provide for the full and timely payment of the principal of, redemption premium, if any, and interest on, and related costs of issuance of, such bonds. The emergency assessments provided for in this paragraph are assigned and pledged to the municipality, county, or legal entity issuing bonds under s. 631.695 for the benefit of the holders of such bonds, in order to enable such municipality, county, or legal entity to provide for the payment of the principal of, redemption premium, if any, and interest on such bonds, the cost of issuance of such bonds, and the funding of any reserves and other payments required under the bond resolution or trust indenture pursuant to which such bonds have been issued, without the necessity of any further action by the association, the office, or any other party. To the extent bonds are issued under s. 631.695 and the association determines to secure such bonds by a pledge of revenues received from the emergency assessments, such bonds, upon such pledge of revenues, shall be secured by and payable from the proceeds of such emergency assessments, and the proceeds of emergency assessments levied under this paragraph shall be remitted directly to and administered by the trustee or custodian appointed for such bonds.

c. Emergency assessments under this paragraph may be payable in a single payment or, at the option of the association, may be payable in 12 monthly installments with the first installment being due and payable at the end of the month after an emergency assessment is levied and subsequent installments being due not later than the end of each succeeding month.

d. If emergency assessments are imposed, the report required by s. 631.695(7) shall include an analysis of the revenues generated from the emergency assessments imposed under this paragraph.

e. If emergency assessments are imposed, the references in subsubparagraph (1)(a)3.b. and s. 631.695(2) and (7) to assessments levied under paragraph (a) shall include emergency assessments imposed under this paragraph.

2. In order to ensure that insurers paying emergency assessments levied under this paragraph continue to charge rates that are neither inadequate nor excessive, within 90 days after being notified of such assessments, each insurer that is to be assessed pursuant to this paragraph shall submit a rate filing for coverage included within the account specified in s. 631.55(2)(c) and for which rates are required to be filed under s. 627.062. If the filing reflects a rate change that, as a percentage, is equal to the difference between the rate of such assessment and the rate of the previous year's assessment under this paragraph, the filing shall consist of a certification so stating and shall be deemed approved when made. Any rate change of a different percentage shall be subject to the standards and procedures of s. 627.062.

3. *In the event the board of directors participates in the issuance of bonds in accordance with s. 631.695,* an annual assessment under this paragraph shall continue while the bonds issued with respect to which the assessment was imposed are outstanding, including any bonds the proceeds of which were used to refund bonds issued pursuant to s. 631.695, unless adequate provision has been made for the payment of the bonds in the documents authorizing the issuance of such bonds.

4. Emergency assessments under this paragraph are not premium and are not subject to the premium tax, to any fees, or to any commissions. An insurer is liable for all emergency assessments that the insurer collects and shall treat the failure of an insured to pay an emergency assessment as a failure to pay the premium. An insurer is not liable for uncollectible emergency assessments.

(4) The department may exempt any insurer from *any regular or emergency* ~~an~~ assessment if an assessment would result in such insurer's financial statement reflecting an amount of capital or surplus less than the sum of the minimum amount required by any jurisdiction in which the insurer is authorized to transact insurance.

Section 35. *The amendments to section 34 of chapter 2006-12, Laws of Florida, authorized the Florida Insurance Guaranty Association to certify, and the Office of Insurance Regulation to levy, an emergency assessment of up to 2 percent to either directly pay the covered claims out of the account specified in s. 631.55(2)(c), Florida Statutes, or to use the proceeds of such emergency assessment to retire the indebtedness and the costs of bonds issued to pay such claims and reasonable claims-administration costs.*

Section 36. Subsection (1) of section 631.912, Florida Statutes, is amended to read:

631.912 Board of directors.—

(1) The board of directors of the corporation shall consist of 11 persons, 1 of whom is the Insurance Consumer Advocate appointed under *s. 350.0615* ~~s. 627.0613~~ or designee and 1 of whom is designated by the Chief Financial Officer. The department shall appoint to the board 6 persons selected by private carriers from among the 20 workers' compensation insurers with the largest amount of net direct written premium as determined by the department, and 3 persons selected by the self-insurance funds. At least two of the private carriers shall be foreign carriers authorized to do business in this state. The board shall elect a chairperson from among its members. The Chief Financial Officer may remove any board member for cause. Each board member shall serve for a 4-year term and may be reappointed. A vacancy on the board shall be filled for the remaining period of the term in the same manner by which the original appointment was made.

Section 37. *Effective July 1, 2007, subsection (6) of section 627.0629, Florida Statutes, is repealed.*

Section 38. *Windstorm Mitigation Study Commission.—*

(1)(a) The Windstorm Mitigation Study Commission is created and shall be composed of five members as follows:

1. Three members shall be appointed by the Governor, with one designated by the Governor to serve as chair.

2. One member shall be appointed by the Chief Financial Officer.

3. One member shall be appointed by the Commissioner of Insurance Regulation.

(b) Each member must be knowledgeable of issues concerning the mitigation of the effects of windstorms on structures in this state and at least one member must represent primarily the interests of homeowners.

(2)(a) The members of the commission shall serve without compensation, but are entitled to reimbursement for all necessary expenses incurred in performing their duties, including travel expenses, in accordance with s. 112.061, Florida Statutes.

(b) The commission shall meet as necessary, at the call of the chair, and at the time and place designated by the chair. The commission may conduct its meetings through teleconferences or other similar means.

(3) The Department of Financial Services, the Office of Insurance Regulation, the Citizens Property Insurance Corporation, and other agencies of this state shall supply any information, assistance, and facilities that are considered necessary by the commission to carry out its duties under this section. The Executive Office of the Governor shall provide staff assistance as necessary in order to carry out the required clerical and administrative functions of the commission.

(4) The commission shall analyze those solutions and programs that address the state's acute need to mitigate the effects of windstorms on structures, especially residential property that is located in areas at greatest risk of windstorm damage, including programs or proposals that provide for:

(a) The availability of home inspections for windstorm resistance;

(b) Grants to assist homeowners, and possibly other groups of property owners, to harden their property against windstorm damage;

(c) The full actuarial value to be reflected in premium credits for windstorm mitigation;

(d) The most effective way to inform policyholders of the availability of and means by which to obtain premium credits for windstorm mitigation;

(e) Coordination among federal, local, and private initiatives;

(f) Streamlining or strengthening applicable state, regional, and local regulations;

(g) The stimulation of public and private efforts to mitigate against windstorm injury and damage;

(h) The discovery and assessment of funding sources for windstorm mitigation;

(i) Tax incentives for windstorm mitigation;

(j) Consumer information concerning the benefits of windstorm mitigation, including personal safety as well as property security;

(k) Research on windstorm mitigation; and

(l) The development of a form for uniform mitigation verification inspection to be used by insurers when factoring discounts for wind insurance which clearly specifies the procedures necessary to receive the full value of a discount.

The commission may develop any other solutions and programs that it considers appropriate.

(5) In performing its analysis, the commission shall consider both the safety of the residents of this state and the protection of real property, especially residential. In addition, the commission shall consider both short-term and long-term solutions and programs.

(6) The commission shall review, evaluate, and make recommendations regarding existing and proposed programs and initiatives for mitigating windstorm damage.

(7) The commission shall provide recommendations, including proposed legislation, to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Chief Financial Officer, and the Commissioner of Insurance Regulation by March 30, 2007.

Section 39. *Florida Disaster Recovery Initiative.—*

(1) There is established within the Department of Community Affairs the Florida Disaster Recovery Initiative for the purpose of assisting local governments in satisfying disaster-recovery needs in the areas of low-income housing and infrastructure, with a primary focus on the hardening of single-family and multifamily housing units, not only to ensure that affordable housing can withstand the effects of hurricane-force winds, but also to mitigate the increasing costs of insurance, which may ultimately render existing affordable homes unaffordable or uninsurable. This section does not create an entitlement for local governments or property owners or obligate the state in any way to fund disaster-recovery needs. Implementation of this initiative is subject to annual legislative appropriations.

(2) The Department of Community Affairs shall administer the initiative using funds provided through the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006, and those funds shall be used to assist local governments in satisfying their disaster-recovery needs in the areas of housing and infrastructure.

(3) Entitlement and nonentitlement counties identified under the Federal Disaster Declaration (FEMA-1609-DR), federally recognized Indian tribes, and nonprofit organizations are eligible to apply for funding.

(4) Up to 78 percent of these funds may be used to complement the grants awarded by the Department of Financial Services under s. 215.5586, Florida Statutes, and fund other eligible disaster-related activities supporting housing rehabilitation, hardening, mitigation, and infrastructure improvements at the request of the local governments in order to assist the State of Florida in better serving low-income homeowners in single-family housing units or condominiums. Up to 20 percent of the funds may be used to provide inspections and mitigation improvements to multifamily units receiving rental assistance under projects of the United States Department of Housing and Urban Development or the Rural Development Division of the United States Department of Agriculture.

Section 40. *For the 2006-2007 fiscal year, the sum of $100,066,518 is appropriated in a Grant in Aid—Fixed Capital Outlay appropriation category from the Florida Small Cities Community Development Block Grant Program Fund to the Department of Community Affairs for the purpose of implementing the provisions of section 39 of this act. These funds shall be used in a manner consistent with Federal Register, Vol. 71, No. 209, Docket No. FR-5089-N-01, and the State of Florida Action Plan for Disaster Recovery as approved by the United States Department of Housing and Urban Development.*

Section 41. Subsection (11) of section 718.111, Florida Statutes, is amended to read:

718.111 The association.—

(11) INSURANCE.—In order to protect the safety, health, and welfare of the people of the State of Florida and to ensure consistency in the provision of insurance coverage to condominiums and their unit owners, paragraphs (b) and (c) are deemed to apply to every *residential* condominium in the state, regardless of the date of its declaration of condominium. It is the intent of the Legislature to encourage lower or stable insurance premiums for associations described in this section. Therefore, the Legislature requires a report to be prepared by the Office of Insurance Regulation of the Department of Financial Services for publication 18 months from the effective date of this act, evaluating premium increases or decreases for associations, unit owner premium increases or decreases, recommended changes to better define common areas, or any other information the Office of Insurance Regulation deems appropriate.

(a) A unit-owner controlled association *operating a residential condominium* shall use its best efforts to obtain and maintain adequate insurance to protect the association, the association property, the common elements, and the condominium property required to be insured by the association pursuant to paragraph (b). If the association is developer controlled, the association shall exercise due diligence to obtain and maintain such insurance. Failure to obtain and maintain adequate insurance during any period of developer control shall constitute a breach of fiduciary responsibility by the developer-appointed members of the board of directors of the association, unless said members can show that despite such failure, they have exercised due diligence. The declaration of condominium as originally recorded, or amended pursuant to procedures provided therein, may require that condominium property consisting of freestanding buildings where there is no more than one building in or on such unit need not be insured by the association if the declaration requires the unit owner to obtain adequate insurance for the condominium property. An association may also obtain and maintain liability insurance for directors and officers, insurance for the benefit of association employees, and flood insurance for common elements, association property, and units. Adequate insurance, regardless of any requirement in the declaration of condominium for coverage by the association for "full insurable value," "replacement cost," or the like, may include reasonable deductibles as determined by the board *based upon available funds or predetermined assessment authority at the time that the insurance is obtained.*

1. Windstorm insurance coverage for a group of no fewer than three communities created and operating under chapter 718, chapter 719, chapter 720, or chapter 721 may be obtained and maintained for the communities if the insurance coverage is sufficient to cover an amount equal to the probable maximum loss for the communities for a 250-year windstorm event. Such probable maximum loss must be determined through the use of a competent model that has been accepted by the Florida Commission on Hurricane Loss Project Methodology. Such insurance coverage is deemed adequate windstorm insurance for the purposes of this section.

2. An association or group of associations may self-insure against claims against the association, the association property, and the condominium property required to be insured by an association, upon compliance with *the applicable provisions of* ss. 624.460-624.488*, which shall be considered adequate insurance for the purposes of this section*. A copy of each policy of insurance in effect shall be made available for inspection by unit owners at reasonable times.

(b) Every hazard insurance policy issued or renewed on or after January 1, 2004, to protect the condominium shall provide primary coverage for:

1. All portions of the condominium property located outside the units;

2. The condominium property located inside the units as such property was initially installed, or replacements thereof of like kind and quality and in accordance with the original plans and specifications or, if the original plans and specifications are not available, as they existed at the time the unit was initially conveyed; and

3. All portions of the condominium property for which the declaration of condominium requires coverage by the association.

Anything to the contrary notwithstanding, the terms "condominium property," "building," "improvements," "insurable improvements," "common elements," "association property," or any other term found in the declaration of condominium which defines the scope of property or casualty insurance that a condominium association must obtain shall exclude all floor, wall, and ceiling coverings, electrical fixtures, appliances, air conditioner or heating equipment, water heaters, water filters, built-in cabinets and countertops, and window treatments, including curtains, drapes, blinds, hardware, and similar window treatment components, or replacements of any of the foregoing which are located within the boundaries of a unit and serve only one unit and all air conditioning compressors that service only an individual unit, whether or not located within the unit boundaries. The foregoing is intended to establish the property or casualty insuring responsibilities of the association and those of the individual unit owner and do not serve to broaden or extend the perils of coverage afforded by any insurance contract provided to the individual unit owner. Beginning January 1, 2004, the association shall have the authority to amend the declaration of condominium, without regard to any requirement for mortgagee approval of amendments affecting insurance requirements, to conform the declaration of condominium to the coverage requirements of this section.

(c) Every hazard insurance policy issued or renewed on or after January 1, 2004, to an individual unit owner shall provide that the coverage afforded by such policy is excess over the amount recoverable under any other policy covering the same property. Each insurance policy issued to an individual unit owner providing such coverage shall be without rights of subrogation against the condominium association that operates the condominium in which such unit owner's unit is located. All real or personal property located within the boundaries of the unit owner's unit which is excluded from the coverage to be provided by the association as set forth in paragraph (b) shall be insured by the individual unit owner.

(d) The association shall obtain and maintain adequate insurance or fidelity bonding of all persons who control or disburse funds of the association. The insurance policy or fidelity bond must cover the maximum funds that will be in the custody of the association or its management agent at any one time. As used in this paragraph, the term "persons who control or disburse funds of the association" includes, but is not limited to, those individuals authorized to sign checks and the president, secretary, and treasurer of the association. The association shall bear the cost of bonding.

Section 42. Section 627.711, Florida Statutes, is amended to read:

627.711 Notice of premium discounts for hurricane loss mitigation*; uniform mitigation verification inspection form*.—

(1) Using a form prescribed by the Office of Insurance Regulation, the insurer shall clearly notify the applicant or policyholder of any personal lines residential property insurance policy, at the time of the issuance of the policy and at each renewal, of the availability and the range of each premium discount, credit, other rate differential, or reduction in deductibles for properties on which fixtures or construction techniques demonstrated to reduce the amount of loss in a windstorm can be or have been installed or implemented. The prescribed form shall describe generally what actions the policyholders may be able to take to reduce their windstorm premium. The prescribed form and a list of such ranges approved by the office for each insurer licensed in the state and providing such discounts, credits, other rate differentials, or reductions in deductibles for properties described in this subsection shall be available for electronic viewing and download from the Department of Financial Services' or the Office of Insurance Regulation's Internet website. The Financial Services Commission may adopt rules to implement this subsection.

(2) The Financial Services Commission shall develop by rule a uniform mitigation verification inspection form that shall be used by all insurers when factoring discounts for wind insurance. In developing the form, the commission shall seek input from insurance, construction, and building code representatives. Further, the commission shall provide guidance as to the length of time the inspection results are valid.

Section 43. *It is the intent of the Legislature to create during the 2007 Legislative Session a grant program to assist persons whose income does not exceed that of "low-income persons" as defined in s. 420.602(8), Florida Statutes, for the purpose of purchasing property insurance to protect their homestead property.*

Section 44. Section 350.06151, Florida Statutes, is created to read:

350.06151 Beginning July 1, 2007, funds shall be transferred by the Department of Financial Services from the Insurance Regulatory Trust Fund to the Grants and Donations Trust Fund in the legislative branch for the purpose of funding the Office of Insurance Consumer Advocate. The transfer amount is equal to the approved operating budget for the Office of Insurance Consumer Advocate within the Office of Public Counsel.

Section 45. Except as otherwise expressly provided in this act, this act shall take effect upon becoming a law.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to hurricane preparedness and property insurance; amending s. 20.121, F.S.; removing the Office of Insurance Consumer Advocate from the Department of Financial Services; providing for the powers, records, personnel, property, balances of appropriations and other funds, rules, pending issues, and contracts of the Office of Insurance Consumer Advocate to be transferred from the Department of Financial Services to the Public Counsel; amending s. 163.01, F.S., relating to the Interlocal Cooperation Act; redefining the term "public agency" to include certain legal or administrative entities; authorizing such entities to finance the provision of property coverage contracts for or from local government property insurance pools or property coverage contracts; authorizing certain hospitals and hospital systems to borrow funds, issue bonds, and enter into loan agreements for the purpose of providing property coverage; providing for validating such bonds; providing an exemption from taxation; amending s. 215.555, F.S.; limiting the activities of the Florida Hurricane Fund Finance Corporation with respect to funding obligations; providing for revenue bonds to be issued to fund the obligations of the Florida Hurricane Excess Loss Program (FHELP); providing legislative findings; creating the Florida Hurricane Excess Loss Program Finance Corporation; providing for a board of directors; providing powers and duties; providing for the corporation to issue bonds that are not a debt of the state or any political subdivision; providing an exemption from taxation; providing for the protection of bondholders; limiting the activities of the Florida Hurricane Excess Loss Program Finance Corporation with respect to the obligations incurred by the Florida Hurricane Catastrophe Fund; authorizing the board of the Florida Hurricane Catastrophe Fund to enter into capital market transactions; authorizing temporary emergency options for additional coverage; providing a system under which insurers may procure additional reinsurance from the fund; defining terms; providing guidelines for such coverage; prescribing premiums for such coverage; providing a temporary increase in coverage limit options; providing legislative findings; defining terms; creating the Florida Hurricane Excess Loss Program, which shall be administered by the State Board of Administration; authorizing the board to adopt rules and employ or contract with staff; requiring that a contract addendum be executed by participating insurers; requiring that the state assume a portion of liability for losses under a covered policy; requiring that such coverage be funded separately from the obligations of the Florida Hurricane Catastrophe Fund and proceeds of bonds issued by the Florida Hurricane Catastrophe Fund Finance Corporation; requiring insurers obtaining certain coverages offered by the Florida Hurricane Catastrophe Fund to make rate filings that reflect savings or reduction in loss exposure; requiring that the Office of Insurance Regulation specify, by order, the dates on which such filings must be made; providing limitations for an insurer in implementing a rate change following a rate filing; requiring the Office of Insurance Regulation to calculate a presumed factor to reflect the impact on rates resulting from this act; providing an appropriation; amending s. 215.5586, F.S., relating to the Florida Comprehensive Hurricane Damage Mitigation Program; providing for grants to homeowners to protect rather than retrofit their properties; revising certain other eligibility criteria for a

grant; authorizing the use of grants for roof-protection systems; amending s. 215.559, F.S., relating to the Hurricane Loss Mitigation Program; providing for a certain portion of the appropriation under the program to be used for securing fixtures for mobile homes; amending s. 350.012, F.S.; redesignating the Committee on Public Service Commission Oversight as the "Committee on Public Service Commission and Insurance Oversight"; requiring that the committee confirm or reject the appointment of the Insurance Consumer Advocate by the Chief Financial Officer; amending s. 350.0611, F.S., relating to the Public Counsel; providing duties with respect to the Insurance Consumer Advocate; amending s. 350.0613, F.S.; authorizing the Public Counsel to represent the public before the Office of Insurance Regulation, the Financial Services Commission, and the Department of Financial Services; including certain proceedings related to rules and rate filings for insurance; authorizing the Public Counsel to have access to files of the Office of Insurance Regulation, the Financial Services Commission, and the Department of Financial Services, to seek review of orders of the office and the commission, and to issue reports, recommendations, and proposed orders to the office and the commission; authorizing the Committee on Public Service Commission and Insurance Oversight to authorize the Public Counsel to employ certain types of employees; requiring the Office of Insurance Regulation, the Financial Services Commission, and the Department of Financial Services to provide copies of certain filings to the Public Counsel; creating s. 350.0615, F.S.; creating the office of Insurance Consumer Advocate to represent the public on matters relating to the regulation of insurance; requiring the Chief Financial Officer to appoint the Insurance Consumer Advocate, who is subject to confirmation by the Committee on Public Service Commission and Insurance Oversight; providing for the Insurance Consumer Advocate to report directly to and be employed by the Public Counsel; specifying the powers and duties of the Insurance Consumer Advocate; creating s. 395.1060, F.S.; providing for risk pooling, with respect to property exposure, by certain hospitals and hospital systems; exempting entities formed to do so from the Florida Insurance Code; amending s. 553.73, F.S.; prohibiting the Florida Building Commission from modifying certain foundation codes relating to wind resistance or the prevention of water intrusion unless the modification enhances such provisions; amending s. 553.775, F.S., relating to interpretations of the Florida Building Code; conforming a cross-reference; requiring jurisdictions having authority to enforce the Florida Building Code to require wind-borne-debris protection according to specified requirements; requiring that the Florida Building Commission amend the Florida Building Code to reflect the requirements of the act and eliminate certain less stringent requirements; providing an exception; requiring an amendment to the code with respect to certain provisions governing new residential construction; requiring the commission to develop voluntary guidelines for increasing the hurricane resistance of buildings; requiring that the guidelines be included in the commission's report to the 2008 Legislature; amending s. 624.319, F.S.; authorizing the Public Counsel and the Insurance Consumer Advocate to have access to certain confidential information held by the Department of Financial Services or the Office of Insurance Regulation; amending s. 624.462, F.S.; revising requirements for the establishment of a commercial self-insurance fund by a not-for-profit group; amending s. 624.4622, F.S.; authorizing local government self-insurance funds to insure or self-insure real or personal property against loss or damage; creating s. 624.4625, F.S.; authorizing two or more corporations not for profit to form a self-insurance fund for certain purposes; providing specific requirements; providing a definition; providing limitations; providing for application of certain provisions to certain premiums, contributions, and assessments; providing for payment of insurance premium tax at a reduced rate by corporation not-for-profit self-insurance funds; subjecting a corporation not for profit self-insurance fund to certain group self-insurance fund provisions under certain circumstances; amending s. 624.610, F.S.; specifying additional circumstances under which the Office of Insurance Regulation may allow credit when reinsurance is ceded to an assuming insurer; amending s. 626.9541, F.S.; providing that an insurer's failure to offer in this state any kind or line of insurance which all insurers or affiliated insurers offer in another jurisdiction constitutes an unfair method of competition and unfair or deceptive act; providing penalties; providing for rules; repealing s. 627.0613, F.S., relating to the consumer advocate appointed by the Chief Financial Officer; amending s. 627.062, F.S.; deleting provisions allowing property and casualty insurers to use and file rates; deleting provisions exempting certain rate filings from review by the Office of Insurance Regulation; deleting provisions authorizing an insurer to require the arbitration of a rate filing following agency action under the Administrative Procedure Act; requiring the chief executive officer, chief financial officer, or chief actuary of a property insurer to certify the information contained in a rate filing; providing penalties for knowingly making a false certification; authorizing the Financial Services Commission to adopt rules; deleting provisions placing the burden on the Office of Insurance Regulation to establish that certain rates are excessive; amending s. 627.0628, F.S., relating to hurricane loss projection; conforming references to changes made by the act; amending s. 627.311, F.S.; providing for the Insurance Consumer Advocate to be a member of the board of governors supervising joint underwriting associations; amending s. 627.351, F.S., relating to the Citizens Property Insurance Corporation; deleting provisions that deny certain nonhomestead property eligibility for coverage by the corporation; including commercial nonresidential policies into an account of the corporation; authorizing the corporation to issue multiperil coverage, wind-only coverage, or both in the high-risk account after a specified date; deleting provisions authorizing the Office of Insurance Regulation to remove territory from the area eligible for wind-only and quota share coverage; redefining the term "subject lines of business" subject to assessments for deficits; requiring the board of governors of the corporation to levy an assessment against nonhomestead property policyholders if certain deficits occur after a specified date; restricting the eligibility of a risk for a policy issued by the corporation under certain circumstances; authorizing the plan of operation to establish limits of coverage and to require commercial property to meet specified hurricane-mitigation features; requiring that the corporation annually file recommended rates; requiring that the office issue a final order establishing the rates within a specified period; prohibiting the corporation from pursuing administrative or judicial review of such order; deleting provisions specifying circumstances under which a rate is deemed inadequate; deleting legislative intent concerning rate adequacy in the residual market; deleting provisions providing requirements for personal lines residential policies and residential wind-only policies; deleting an exemption provided for coverage provided by the corporation in Monroe County under certain circumstances; deleting a requirement that the corporation certify to the office that its rates comply with certain requirements; deleting a requirement for a notice to policyholders and applicants; rescinding certain rate filings by the corporation which took effect January 1, 2007; reinstating certain rates in effect on December 31, 2006; clarifying the effect of a policy that is taken out, assumed, or removed from the corporation; providing legislative intent that commercial nonresidential property insurance be made available from Citizens Property Insurance Corporation; requiring that Citizens Property Insurance Corporation adopt a plan providing for the transition of such coverage from the Property and Casualty Joint Underwriting Association to Citizens; providing requirements for the plan; amending s. 627.701, F.S.; revising requirements for the deductible amount applicable to hurricane loss for policies of residential property insurance and personal lines residential property insurance; prohibiting a hurricane deductible in excess of a specified percentage for personal lines residential property insurance policies of less than a certain value unless the policyholder signs a statement acknowledging the lack of insurance or provides a statement from the mortgageholder or lienholder; requiring that the insurer keep documentation of such statements; requiring the Financial Services Commission to adopt rules; deleting obsolete provisions; amending s. 627.706, F.S., relating to sinkhole insurance; defining the term "catastrophic ground cover collapse"; amending s. 627.7065, F.S., relating to a database of sinkhole information; conforming a reference to changes made by the act; creating s. 627.712, F.S.; requiring insurers issuing residential property insurance to provide hurricane or windstorm coverage; authorizing a policyholder to make a written rejection of such coverage by signing a statement acknowledging the lack of insurance or providing a statement from the mortgageholder or lienholder; requiring insurers issuing residential property insurance to make available an exclusion of coverage for contents; providing for the policyholder to make a written rejection of such coverage; requiring that the insurer keep documentation of such statements; requiring the Financial Services commission to adopt rules; creating s. 627.713, F.S.; authorizing the office to require property insurers to report data regarding hurricane claims and underwriting costs; providing for the adoption of rules; amending s. 631.57, F.S.; specifying certain additional circumstances under which the board of directors of the Florida Insurance Guaranty Association, Inc., may levy emergency and regular assessments; clarifying that authorization exists for the Florida Insurance Guaranty Association to certify and for the Office of Insurance Regulation to levy an emergency assessment; amending s. 631.912, F.S., relating to the board of directors of the Florida Workers' Compensation Insurance Guaranty Association, Inc.; conforming provisions to changes made by the act; amending s. 718.111, F.S.; providing for windstorm insurance for condominium associations; repealing s. 627.0629(6), F.S., relating to requirements for hurricane or windstorm coverage; creating the Windstorm

Mitigation Study Commission for the purpose of analyzing solutions and programs that could address the state's need to mitigate the effects of windstorms on structures; providing for membership and qualifications; providing that the members are entitled to reimbursement for expenses incurred in connection with their duties; requiring the Department of Financial Services, the Office of Insurance Regulation, the Citizens Property Insurance Corporation, and other state agencies to supply information, assistance, and facilities to the commission; requiring that the Executive Office of the Governor provide staff assistance; specifying duties of the commission; requiring that the commission report to the Governor, the Legislature, the Chief Financial Officer, and the Commissioner of Insurance Regulation by a specified date; establishing the Florida Disaster Recovery Initiative within the Department of Community Affairs for the purpose of assisting local governments in hardening affordable housing against the effects of hurricanes; specifying that the act does not create an entitlement or obligate the state; providing for program administration; specifying the entities that are eligible to apply for funding; providing components and requirements of the initiative; providing an appropriation; amending s. 627.711, F.S.; requiring the Financial Services Commission to develop uniform mitigation verification inspection forms; providing duties of the commission; expressing the intent of the Legislature to create a grant program to assist low-income persons in purchasing property insurance; creating s. 350.06151, F.S.; providing for transfer of funds from the Insurance Regulatory Trust Fund to the Grants and Donations Trust Fund of the legislative branch to fund the Office of Insurance Consumer Advocate; providing effective dates.

WHEREAS, homeowners in the State of Florida are struggling under increased insurance costs and increased housing prices as a result of damage caused by hurricanes and tropical storms, and

WHEREAS, this increase in the cost of property insurance for the state's residents demands immediate attention, and

WHEREAS, the affordability of property insurance creates financial burdens for Florida's residents and financial crises for some property owners, and

WHEREAS, in addition to affordability, the availability and stability of property insurance rates are critical issues to the residents of this state, and

WHEREAS, because there is no single, quick, or easy solution to the current crisis, a comprehensive and creative approach is required, and

WHEREAS, property insurance is so interwoven with other forms of insurance, through business, regulation, advocacy, purchasing, and other interactions, that the viability of the insurance market in Florida is at risk, and

WHEREAS, expanding coverage offered by the Florida Hurricane Catastrophe Fund can help to address this crisis, and

WHEREAS, taking steps to control or reduce the premiums charged by Citizens Property Insurance Corporation can help to address this crisis, and

WHEREAS, strengthening the Florida Building Code and providing for voluntary guidelines in addition to the requirements of the code can help to address this crisis, and

WHEREAS, sinkhole coverage is a critical part of the crisis in certain areas of the state and must be addressed as part of any comprehensive solution, and

WHEREAS, requiring property insurers to offer additional deductibles and exclusions that apply at the option of the property owner can help to address this crisis, and

WHEREAS, authorizing various groups of public and private entities to enter into forms of self-insurance or guaranty groups can help to address this crisis, and

WHEREAS, strengthening the processes for establishing property insurance rates can help to address this crisis, and

WHEREAS, the role of consumer advocacy is a critical part of addressing this crisis and consumer advocacy for property insurance is a critical, if not the predominant, part of consumer advocacy regarding insurance, and

WHEREAS, promoting, through financial and regulatory methods, the ability of property insurers and reinsurers to do business in Florida can help to address this crisis, and

WHEREAS, promoting, through financial and regulatory incentives for property owners, the strengthening of property to withstand the effects of windstorm damage can help to address this crisis, NOW, THEREFORE,

On motion by Senator Geller, by two-thirds vote **HB 7-A** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38

Mr. President	Fasano	Oelrich
Alexander	Gaetz	Peaden
Argenziano	Garcia	Posey
Aronberg	Geller	Rich
Atwater	Haridopolos	Ring
Baker	Hill	Saunders
Bennett	Jones	Siplin
Bullard	Joyner	Storms
Carlton	Justice	Villalobos
Constantine	King	Webster
Crist	Lawson	Wilson
Deutch	Lynn	Wise
Dockery	Margolis	

Nays—None

Vote after roll call:

Yea—Diaz de la Portilla

MOTION

On motion by Senator Posey, the House was requested to concur in the Senate amendment to **HB 7-A** and in the event the House refuses to concur, moved that a conference committee be appointed.

CS for HB 9-A—A bill to be entitled An act relating to hurricane preparedness and insurance; providing a short title; amending s. 163.01, F.S., relating to the Florida Interlocal Cooperation Act; redefining the term "public agency" to include certain legal or administrative entities; authorizing such entities to finance the provision of property coverage contracts for or from local government property insurance pools or property coverage contracts; providing a definition; authorizing certain hospitals to jointly issue bonds to finance windstorm coverages and claims; granting authority to individual hospitals and teaching hospitals to jointly issue bond anticipation notes; authorizing validation of bonds issued to certain hospital entities; specifying that a hospital's immunity caps are not waived through issuance of bonds to pay windstorm coverage or claims; amending s. 215.5595, F.S.; including manufactured housing insurers in the Insurance Capital Build-Up Incentive Program; providing manufactured housing insurer program contribution requirements; providing surplus requirements; prioritizing funding for manufactured housing insurers; providing premium to surplus ratio requirements for certain manufactured housing insurers; amending s. 624.462, F.S.; revising requirements for the establishment of a commercial self-insurance fund by a not-for-profit group; specifying required rules of the commission; amending s. 624.4622, F.S.; authorizing local government self-insurance funds to insure or self-insure real or personal property against loss or damage; creating s. 395.106, F.S.; authorizing certain hospitals and hospital systems to pool and spread windstorm property exposure risk among members; providing criteria for participation; providing definitions; subjecting alliances not in compliance with risk pooling requirements to the Insurance Code; excluding an alliance meeting provision requirements from participation in or coverage by an insurance guaranty association established by ch. 631, F.S.; creating s. 624.4625, F.S.; authorizing two or more corporations not for profit to form a self-insurance fund for certain purposes; providing specific requirements; providing a definition; providing limitations; providing for application of certain provisions to certain premiums, contributions, and

assessments; providing for payment of insurance premium tax at a reduced rate by corporation not-for-profit self-insurance funds; subjecting a corporation not for profit self-insurance fund to certain group self-insurance fund provisions under certain circumstances; amending s. 624.610, F.S.; prescribing responsibilities of the Commissioner of Insurance Regulation relating to allowing credit for reinsurance; amending s. 627.062, F.S.; delaying the effective date of certain provisions relating to residential property insurance rate filings; amending s. 627.351, F.S.; prohibiting the Property and Casualty Joint Underwriting Association and Citizens Property Insurance Corporation from insuring certain properties under certain circumstances; providing exceptions; requiring that Citizens' rates must be adequate; rescinding certain rate filings of the corporation; requiring the corporation to use certain other rates; requiring the corporation to refund certain portions of rates; providing for effect of certain rates; providing for new rate filings; requiring the Department of Financial Services to review the corporation's insurance agent commission structure and make recommendations for commission standards; requiring a report; creating the Task Force on Citizens Property Insurance Claims Handling and Resolution; providing for administration of the task force; providing for membership; providing for reimbursement of expenses but no compensation; providing purpose and intent; requiring the task force to address certain issues; requiring reports and recommendations; providing additional responsibilities of the task force; providing for expiration of the task force; abolishing the existing board of governors of Citizens Property Insurance Corporation; providing for appointment of new members; amending s. 631.57, F.S.; revising criteria and requirements for levy of emergency assessments by the Florida Insurance Guaranty Association; revising characterizations of emergency assessments; providing legislative intent; amending s. 627.706, F.S.; revising sinkhole insurance provisions to include coverage for losses due to catastrophic ground cover collapse; authorizing certain deductibles; revising definitions; specifying requirements for certain sinkhole insurance disclosures; requiring insurers to offer certain additional coverage; specifying requirements for additional coverage; providing an effective date.

—was read the second time by title.

Senator Posey moved the following amendment which was adopted:

Amendment 1 (525002)(with title amendment)—Delete everything after the enacting clause and insert:

Section 1. Paragraphs (m) and (n) of subsection (2) of section 20.121, Florida Statutes, are amended to read:

20.121 Department of Financial Services.—There is created a Department of Financial Services.

(2) DIVISIONS.—The Department of Financial Services shall consist of the following divisions:

~~(m) The Office of Insurance Consumer Advocate.~~

(m)~~(n)~~ The Division of Funeral, Cemetery, and Consumer Services.

Section 2. *All of the powers, duties, functions, records, personnel, and property; unexpended balances of appropriations, allocations, and other funds; administrative authority; administrative rules; pending issues; and existing contracts of the consumer advocate and the Office of Insurance Consumer Advocate are transferred by a type two transfer, pursuant to s. 20.06(2), Florida Statutes, from the Chief Financial Officer and the Department of Financial Services to the Public Counsel. Funds shall be transferred by the Department of Financial Services from the Insurance Regulatory Trust Fund to the Grants and Donations Trust Fund in the legislative branch for the purpose of funding the Office of Insurance Consumer Advocate. The transfer amount for the 2006-2007 fiscal year is equal to the remaining unobligated approved operating budget for the Office of Insurance Consumer Advocate within the Department of Financial Services.*

Section 3. 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),* an independently elected county officer, any agency of the United States Government, a federally recognized Native American tribe, and any similar entity of any other state of the United States.

(7)

(e)1. Notwithstanding the provisions of paragraph (c), any separate legal entity, created pursuant to the provisions of this section and controlled by counties or municipalities of this state, the membership of which consists or is to consist only of public agencies of this state, may, for the purpose of financing *the provision or* acquisition of liability *or property* coverage contracts *for or* from one or more local government liability *or property* pools to provide liability *or property* coverage for counties, municipalities, or other public agencies of this state, exercise all powers in connection with the authorization, issuance, and sale of bonds. All of the privileges, benefits, powers, and terms of s. 125.01 relating to counties and s. 166.021 relating to municipalities shall be fully applicable to such entity and such entity shall be considered a unit of local government for all of the privileges, benefits, powers, and terms of part I of chapter 159. Bonds issued by such entity shall be deemed issued on behalf of counties, municipalities, or public agencies which enter into loan agreements with such entity as provided in this paragraph. Proceeds of bonds issued by such entity may be loaned to counties, municipalities, or other public agencies of this state, whether or not such counties, municipalities, or other public agencies are also members of the entity issuing the bonds, and such counties, municipalities, or other public agencies may in turn deposit such loan proceeds with a separate local government liability *or property* pool for purposes of *providing or* acquiring liability *or property* coverage contracts.

2. Counties or municipalities of this state are authorized pursuant to this section, in addition to the authority provided by s. 125.01, part II of chapter 166, and other applicable law, to issue bonds for the purpose of acquiring liability coverage contracts from a local government liability pool. Any individual county or municipality may, by entering into interlocal agreements with other counties, municipalities, or public agencies of this state, issue bonds on behalf of itself and other counties, municipalities, or other public agencies, for purposes of acquiring a liability coverage contract or contracts from a local government liability pool. Counties, municipalities, or other public agencies are also authorized to enter into loan agreements with any entity created pursuant to subparagraph 1., or with any county or municipality issuing bonds pursuant to this subparagraph, for the purpose of obtaining bond proceeds with which to acquire liability coverage contracts from a local government liability pool. No county, municipality, or other public agency shall at any time have more than one loan agreement outstanding for the purpose of obtaining bond proceeds with which to acquire liability coverage contracts from a local government liability pool. Obligations of any county, municipality, or other public agency of this state pursuant to a loan agreement as described above may be validated as provided in chapter 75. Prior to the issuance of any bonds pursuant to subparagraph 1. or this subparagraph for the purpose of acquiring liability coverage contracts from a local government liability pool, the reciprocal insurer or the manager of any self-insurance program shall demonstrate to the satisfaction of the Office of Insurance Regulation of the Financial Services Commission that excess liability coverage for counties, municipalities, or other public agencies is reasonably unobtainable in the amounts provided by such pool or that the liability coverage obtained through acquiring contracts from a local government liability pool, after taking into account costs of issuance of bonds and any other administrative fees, is less expensive to counties, municipalities, or special districts than similar commercial coverage then reasonably available.

3. Any entity created pursuant to this section or any county or municipality may also issue bond anticipation notes, as provided by s. 215.431, in connection with the authorization, issuance, and sale of such bonds. In addition, the governing body of such legal entity or the governing body of such county or municipality may also authorize bonds to be issued and sold from time to time and may delegate, to such officer, official, or agent of such legal entity as the governing body of such legal entity may select, the power to determine the time; manner of sale, public or private; maturities; rate or rates of interest, which may be fixed

or may vary at such time or times and in accordance with a specified formula or method of determination; and other terms and conditions as may be deemed appropriate by the officer, official, or agent so designated by the governing body of such legal entity. However, the amounts and maturities of such bonds and the interest rate or rates of such bonds shall be within the limits prescribed by the governing body of such legal entity and its resolution delegating to such officer, official, or agent the power to authorize the issuance and sale of such bonds. Any series of bonds issued pursuant to this paragraph *for liability coverage* shall mature no later than 7 years following the date of issuance ~~thereof~~. *Any series of bonds issued pursuant to this paragraph for property coverage shall mature no later than 30 years following the date of issuance.*

4. Bonds issued pursuant to subparagraph 1. may be validated as provided in chapter 75. The complaint in any action to validate such bonds shall be filed only in the Circuit Court for Leon County. The notice required to be published by s. 75.06 shall be published in Leon County and in each county which is an owner of the entity issuing the bonds, or in which a member of the entity is located, and the complaint and order of the circuit court shall be served only on the State Attorney of the Second Judicial Circuit and on the state attorney of each circuit in each county or municipality which is an owner of the entity issuing the bonds or in which a member of the entity is located.

5. Bonds issued pursuant to subparagraph 2. may be validated as provided in chapter 75. The complaint in any action to validate such bonds shall be filed in the circuit court of the county or municipality which will issue the bonds. The notice required to be published by s. 75.06 shall be published only in the county where the complaint is filed, and the complaint and order of the circuit court shall be served only on the state attorney of the circuit in the county or municipality which will issue the bonds.

6. The participation by any county, municipality, or other public agency of this state in a local government liability pool shall not be deemed a waiver of immunity to the extent of liability coverage, nor shall any contract entered regarding such a local government liability pool be required to contain any provision for waiver.

(h)1. Notwithstanding the provisions of paragraph (c), any separate legal entity consisting of an alliance, as defined in s. 395.1060(2)(a), which is created pursuant to this paragraph and controlled by and whose members consist of the following eligible entities: special districts created pursuant to a special act and having the authority to own or operate one or more Florida-licensed hospitals, or Florida-licensed hospitals that are owned, operated, or funded by a county or municipality, may, for the purpose of providing property insurance coverage as defined in s. 395.1060(2)(c), for such eligible entities, exercise all powers under this subsection in connection with borrowing funds for such purposes, including, without limitation, the authorization, issuance, and sale of bonds, notes, or other obligations of indebtedness. Borrowed funds, including bonds issued by such alliance, shall be deemed issued on behalf of such eligible entities that enter into loan agreements with such separate entity as provided in this paragraph.

2. Any such separate entity shall have all the powers that are provided by the interlocal agreement under which it is created or that are necessary to finance, operate, or manage the alliance's property insurance coverage program. Proceeds of bonds, notes, or other obligations issued by such an entity may be loaned to any one or more eligible entities. Eligible entities are authorized to enter into loan agreements with any separate entity created pursuant to this paragraph for the purpose of obtaining moneys with which to finance property insurance coverage or claims. Obligations of any eligible entity pursuant to a loan agreement as described in this paragraph may be validated as provided in chapter 75.

3. Any bonds, notes, or other obligations to be issued or incurred by a separate entity created pursuant to this paragraph shall be authorized by resolution of the governing body of such entity and bear the date or dates; mature at the time or times, not exceeding 30 years from their respective dates; bear interest at the rate or rates, which may be fixed or vary at such time or times and in accordance with a specified formula or method of determination; be payable at the time or times; be in the denomination; be in the form; carry the registration privileges; be executed in the manner; be payable from the sources and in the medium of payment and at the place; and be subject to redemption, including redemption prior to maturity, as the resolution may provide. The bonds, notes, or other obligations may be sold at public or private sale for such price as the governing body of the separate entity shall determine. The bonds may be secured by such credit enhancement, if any, as the governing body of the separate entity deems appropriate. The bonds may be secured by an indenture of trust or trust agreement. In addition, the governing body of the separate entity may delegate, to such officer or official of such entity as the governing body may select, the power to determine the time; manner of sale, public or private; maturities; rate or rates of interest, which may be fixed or may vary at such time or times and in accordance with a specified formula or method of determination; and other terms and conditions as may be deemed appropriate by the officer or official so designated by the governing body of such separate entity. However, the amounts and maturities of such bonds, the interest rate or rates, and the purchase price of such bonds shall be within the limits prescribed by the governing body of such separate entity in its resolution delegating to such officer or official the power to authorize the issuance and sale of such bonds.

4. Bonds issued pursuant to this paragraph may be validated as provided in chapter 75. The complaint in any action to validate such bonds shall be filed only in the Circuit Court for Leon County. The notice required to be published by s. 75.06 shall be published in Leon County and in each county in which an eligible entity that is a member of an alliance is located. The complaint and order of the circuit court shall be served only on the state attorney of the Second Judicial Circuit and on the state attorney of each circuit in each county in which an eligible entity receiving bond proceeds is located.

5. The accomplishment of the authorized purposes of a separate entity created under this paragraph is in all respects for the benefit of the people of the state, for the increase of their commerce and prosperity, and for the improvement of their health and living conditions. Since the separate entity will perform essential public functions in accomplishing its purposes, the separate entity is not required to pay any taxes or assessments of any kind whatsoever upon any property acquired or used by it for such purposes or upon any revenues at any time received by it. The bonds, notes, and other obligations of such separate entity, their transfer, and the income therefrom, including any profits made on the sale thereof, are at all times free from taxation of any kind of the state or by any political subdivision or other agency or instrumentality thereof. The exemption granted in this paragraph is not applicable to any tax imposed by chapter 220 on interest, income, or profits on debt obligations owned by corporations.

6. The participation by any eligible entity in an alliance or a separate entity created pursuant to this paragraph may not be deemed a waiver of immunity to the extent of liability or any other coverage, and a contract entered regarding such alliance is not required to contain any provision for waiver.

Section 4. Paragraph (c) of subsection (4), subsection (6), and paragraph (a) of present subsection (7) of section 215.555, Florida Statutes, are amended, present subsections (7) through (15) of that section are redesignated as subsections (8) through (16), respectively, a new subsection (7) is added to that section, and subsections (17), (18), and (19) are added to that section, to read:

215.555 Florida Hurricane Catastrophe Fund.—

(4) REIMBURSEMENT CONTRACTS.—

(c)1. The contract shall also provide that the obligation of the board with respect to all contracts covering a particular contract year shall not exceed the actual claims-paying capacity of the fund up to a limit of $15 billion for that contract year adjusted based upon the reported exposure from the prior contract year to reflect the percentage growth in exposure to the fund for covered policies since 2003, provided the dollar growth in the limit may not increase in any year by an amount greater than the dollar growth of the balance of the fund as of December 31*, less any premiums or interest attributable to optional coverage selected by insurers pursuant to subsection (17) or subsection (18),* as defined by rule which occurred over the prior calendar year.

2. In May before the start of the upcoming contract year and in October during the contract year, the board shall publish in the Florida Administrative Weekly a statement of the fund's estimated borrowing capacity and the projected balance of the fund as of December 31. After the end of each calendar year, the board shall notify insurers of the

estimated borrowing capacity and the balance of the fund as of December 31 to provide insurers with data necessary to assist them in determining their retention and projected payout from the fund for loss reimbursement purposes. In conjunction with the development of the premium formula, as provided for in subsection (5), the board shall publish factors or multiples that assist insurers in determining their retention and projected payout for the next contract year. For all regulatory and reinsurance purposes, an insurer may calculate its projected payout from the fund as its share of the total fund premium for the current contract year multiplied by the sum of the projected balance of the fund as of December 31 and the estimated borrowing capacity for that contract year as reported under this subparagraph.

(6) REVENUE BONDS *FOR FUNDING OBLIGATIONS OF THE FLORIDA HURRICANE CATASTROPHE FUND.*—

(a) General provisions.—

1. Upon the occurrence of a hurricane and a determination that the moneys in the fund are or will be insufficient to pay reimbursement at the levels promised in the reimbursement contracts, the board may take the necessary steps under paragraph (c) or paragraph (d) for the issuance of revenue bonds for the benefit of the fund. The proceeds of such revenue bonds may be used to make reimbursement payments under reimbursement contracts; to refinance or replace previously existing borrowings or financial arrangements; to pay interest on bonds; to fund reserves for the bonds; to pay expenses incident to the issuance or sale of any bond issued under this section, including costs of validating, printing, and delivering the bonds, costs of printing the official statement, costs of publishing notices of sale of the bonds, and related administrative expenses; or for such other purposes related to the financial obligations of the fund as the board may determine. The term of the bonds may not exceed 30 years. The board may pledge or authorize the corporation to pledge all or a portion of all revenues under subsection (5) and under paragraph (b) to secure such revenue bonds and the board may execute such agreements between the board and the issuer of any revenue bonds and providers of other financing arrangements under paragraph *(8)(b)* ~~(7)(b)~~ as the board deems necessary to evidence, secure, preserve, and protect such pledge. If reimbursement premiums received under subsection (5) or earnings on such premiums are used to pay debt service on revenue bonds, such premiums and earnings shall be used only after the use of the moneys derived from assessments under paragraph (b). The funds, credit, property, or taxing power of the state or political subdivisions of the state shall not be pledged for the payment of such bonds. The board may also enter into agreements under paragraph (c) or paragraph (d) for the purpose of issuing revenue bonds in the absence of a hurricane upon a determination that such action would maximize the ability of the fund to meet future obligations.

2. The Legislature finds and declares that the issuance of bonds under this subsection is for the public purpose of paying the proceeds of the bonds to insurers, thereby enabling insurers to pay the claims of policyholders to assure that policyholders are able to pay the cost of construction, reconstruction, repair, restoration, and other costs associated with damage to property of policyholders of covered policies after the occurrence of a hurricane.

(b) Emergency assessments.—

1. If the board determines that the amount of revenue produced under subsection (5) is insufficient to fund the obligations, costs, and expenses of the fund and the corporation, including repayment of revenue bonds and that portion of the debt service coverage not met by reimbursement premiums, the board shall direct the Office of Insurance Regulation to levy, by order, an emergency assessment on direct premiums for all property and casualty lines of business in this state, including property and casualty business of surplus lines insurers regulated under part VIII of chapter 626, but not including any workers' compensation premiums or medical malpractice premiums. As used in this subsection, the term "property and casualty business" includes all lines of business identified on Form 2, Exhibit of Premiums and Losses, in the annual statement required of authorized insurers by s. 624.424 and any rule adopted under this section, except for those lines identified as accident and health insurance and except for policies written under the National Flood Insurance Program. The assessment shall be specified as a percentage of direct written premium and is subject to annual adjustments by the board in order to meet debt obligations. The same percentage shall apply to all policies in lines of business subject to the assessment issued or renewed during the 12-month period beginning on the effective date of the assessment.

2. A premium is not subject to an annual assessment under this paragraph in excess of 6 percent of premium with respect to obligations arising out of losses attributable to any one contract year, and a premium is not subject to an aggregate annual assessment under this paragraph in excess of 10 percent of premium. An annual assessment under this paragraph shall continue as long as the revenue bonds issued with respect to which the assessment was imposed are outstanding, including any bonds the proceeds of which were used to refund the revenue bonds, unless adequate provision has been made for the payment of the bonds under the documents authorizing issuance of the bonds.

3. Emergency assessments shall be collected from policyholders. Emergency assessments shall be remitted by insurers as a percentage of direct written premium for the preceding calendar quarter as specified in the order from the Office of Insurance Regulation. The office shall verify the accurate and timely collection and remittance of emergency assessments and shall report the information to the board in a form and at a time specified by the board. Each insurer collecting assessments shall provide the information with respect to premiums and collections as may be required by the office to enable the office to monitor and verify compliance with this paragraph.

4. With respect to assessments of surplus lines premiums, each surplus lines agent shall collect the assessment at the same time as the agent collects the surplus lines tax required by s. 626.932, and the surplus lines agent shall remit the assessment to the Florida Surplus Lines Service Office created by s. 626.921 at the same time as the agent remits the surplus lines tax to the Florida Surplus Lines Service Office. The emergency assessment on each insured procuring coverage and filing under s. 626.938 shall be remitted by the insured to the Florida Surplus Lines Service Office at the time the insured pays the surplus lines tax to the Florida Surplus Lines Service Office. The Florida Surplus Lines Service Office shall remit the collected assessments to the fund or corporation as provided in the order levied by the Office of Insurance Regulation. The Florida Surplus Lines Service Office shall verify the proper application of such emergency assessments and shall assist the board in ensuring the accurate and timely collection and remittance of assessments as required by the board. The Florida Surplus Lines Service Office shall annually calculate the aggregate written premium on property and casualty business, other than workers' compensation and medical malpractice, procured through surplus lines agents and insureds procuring coverage and filing under s. 626.938 and shall report the information to the board in a form and at a time specified by the board.

5. Any assessment authority not used for a particular contract year may be used for a subsequent contract year. If, for a subsequent contract year, the board determines that the amount of revenue produced under subsection (5) is insufficient to fund the obligations, costs, and expenses of the fund and the corporation, including repayment of revenue bonds and that portion of the debt service coverage not met by reimbursement premiums, the board shall direct the Office of Insurance Regulation to levy an emergency assessment up to an amount not exceeding the amount of unused assessment authority from a previous contract year or years, plus an additional 4 percent provided that the assessments in the aggregate do not exceed the limits specified in subparagraph 2.

6. The assessments otherwise payable to the corporation under this paragraph shall be paid to the fund unless and until the Office of Insurance Regulation and the Florida Surplus Lines Service Office have received from the corporation and the fund a notice, which shall be conclusive and upon which they may rely without further inquiry, that the corporation has issued bonds and the fund has no agreements in effect with local governments under paragraph (c). On or after the date of the notice and until the date the corporation has no bonds outstanding, the fund shall have no right, title, or interest in or to the assessments, except as provided in the fund's agreement with the corporation.

7. Emergency assessments are not premium and are not subject to the premium tax, to the surplus lines tax, to any fees, or to any commissions. An insurer is liable for all assessments that it collects and must treat the failure of an insured to pay an assessment as a failure to pay the premium. An insurer is not liable for uncollectible assessments.

8. When an insurer is required to return an unearned premium, it shall also return any collected assessment attributable to the unearned

premium. A credit adjustment to the collected assessment may be made by the insurer with regard to future remittances that are payable to the fund or corporation, but the insurer is not entitled to a refund.

9. When a surplus lines insured or an insured who has procured coverage and filed under s. 626.938 is entitled to the return of an unearned premium, the Florida Surplus Lines Service Office shall provide a credit or refund to the agent or such insured for the collected assessment attributable to the unearned premium prior to remitting the emergency assessment collected to the fund or corporation.

10. The exemption of medical malpractice insurance premiums from emergency assessments under this paragraph is repealed May 31, 2007, and medical malpractice insurance premiums shall be subject to emergency assessments attributable to loss events occurring in the contract years commencing on June 1, 2007.

(c) Revenue bond issuance through counties or municipalities.—

1. If the board elects to enter into agreements with local governments for the issuance of revenue bonds for the benefit of the fund, the board shall enter into such contracts with one or more local governments, including agreements providing for the pledge of revenues, as are necessary to effect such issuance. The governing body of a county or municipality is authorized to issue bonds as defined in s. 125.013 or s. 166.101 from time to time to fund an assistance program, in conjunction with the Florida Hurricane Catastrophe Fund, for the purposes set forth in this section or for the purpose of paying the costs of construction, reconstruction, repair, restoration, and other costs associated with damage to properties of policyholders of covered policies due to the occurrence of a hurricane by assuring that policyholders located in this state are able to recover claims under property insurance policies after a covered event.

2. In order to avoid needless and indiscriminate proliferation, duplication, and fragmentation of such assistance programs, any local government may provide for the payment of fund reimbursements, regardless of whether or not the losses for which reimbursement is made occurred within or outside of the territorial jurisdiction of the local government.

3. The state hereby covenants with holders of bonds issued under this paragraph that the state will not repeal or abrogate the power of the board to direct the Office of Insurance Regulation to levy the assessments and to collect the proceeds of the revenues pledged to the payment of such bonds as long as any such bonds remain outstanding unless adequate provision has been made for the payment of such bonds pursuant to the documents authorizing the issuance of such bonds.

4. There shall be no liability on the part of, and no cause of action shall arise against any members or employees of the governing body of a local government for any actions taken by them in the performance of their duties under this paragraph.

(d) Florida Hurricane Catastrophe Fund Finance Corporation.—

1. In addition to the findings and declarations in subsection (1), the Legislature also finds and declares that:

a. The public benefits corporation created under this paragraph will provide a mechanism necessary for the cost-effective and efficient issuance of bonds. This mechanism will eliminate unnecessary costs in the bond issuance process, thereby increasing the amounts available to pay reimbursement for losses to property sustained as a result of hurricane damage.

b. The purpose of such bonds is to fund reimbursements through the Florida Hurricane Catastrophe Fund to pay for the costs of construction, reconstruction, repair, restoration, and other costs associated with damage to properties of policyholders of covered policies due to the occurrence of a hurricane.

c. The efficacy of the financing mechanism will be enhanced by the corporation's ownership of the assessments, by the insulation of the assessments from possible bankruptcy proceedings, and by covenants of the state with the corporation's bondholders.

2.a. There is created a public benefits corporation, which is an instrumentality of the state, to be known as the Florida Hurricane Catastrophe Fund Finance Corporation.

b. The corporation shall operate under a five-member board of directors consisting of the Governor or a designee, the Chief Financial Officer or a designee, the Attorney General or a designee, the director of the Division of Bond Finance of the State Board of Administration, and the senior employee of the State Board of Administration responsible for operations of the Florida Hurricane Catastrophe Fund.

c. The corporation has all of the powers of corporations under chapter 607 and under chapter 617, subject only to the provisions of this subsection.

d. The corporation may issue bonds and engage in such other financial transactions as are necessary to provide sufficient funds to achieve the purposes of this section.

e. The corporation may invest in any of the investments authorized under s. 215.47.

f. There shall be no liability on the part of, and no cause of action shall arise against, any board members or employees of the corporation for any actions taken by them in the performance of their duties under this paragraph.

3.a. In actions under chapter 75 to validate any bonds issued by the corporation, the notice required by s. 75.06 shall be published only in Leon County and in two newspapers of general circulation in the state, and the complaint and order of the court shall be served only on the State Attorney of the Second Judicial Circuit.

b. The state hereby covenants with holders of bonds of the corporation that the state will not repeal or abrogate the power of the board to direct the Office of Insurance Regulation to levy the assessments and to collect the proceeds of the revenues pledged to the payment of such bonds as long as any such bonds remain outstanding unless adequate provision has been made for the payment of such bonds pursuant to the documents authorizing the issuance of such bonds.

4. The bonds of the corporation are not a debt of the state or of any political subdivision, and neither the state nor any political subdivision is liable on such bonds. The corporation does not have the power to pledge the credit, the revenues, or the taxing power of the state or of any political subdivision. The credit, revenues, or taxing power of the state or of any political subdivision shall not be deemed to be pledged to the payment of any bonds of the corporation.

5.a. The property, revenues, and other assets of the corporation; the transactions and operations of the corporation and the income from such transactions and operations; and all bonds issued under this paragraph and interest on such bonds are exempt from taxation by the state and any political subdivision, including the intangibles tax under chapter 199 and the income tax under chapter 220. This exemption does not apply to any tax imposed by chapter 220 on interest, income, or profits on debt obligations owned by corporations other than the Florida Hurricane Catastrophe Fund Finance Corporation.

b. All bonds of the corporation shall be and constitute legal investments without limitation for all public bodies of this state; for all banks, trust companies, savings banks, savings associations, savings and loan associations, and investment companies; for all administrators, executors, trustees, and other fiduciaries; for all insurance companies and associations and other persons carrying on an insurance business; and for all other persons who are now or may hereafter be authorized to invest in bonds or other obligations of the state and shall be and constitute eligible securities to be deposited as collateral for the security of any state, county, municipal, or other public funds. This sub-subparagraph shall be considered as additional and supplemental authority and shall not be limited without specific reference to this sub-subparagraph.

6. The corporation and its corporate existence shall continue until terminated by law; however, no such law shall take effect as long as the corporation has bonds outstanding unless adequate provision has been made for the payment of such bonds pursuant to the documents authorizing the issuance of such bonds. Upon termination of the existence of the corporation, all of its rights and properties in excess of its obligations shall pass to and be vested in the state.

(e) Protection of bondholders.—

1. As long as the corporation has any bonds outstanding, neither the fund nor the corporation shall have the authority to file a voluntary

petition under chapter 9 of the federal Bankruptcy Code or such corresponding chapter or sections as may be in effect, from time to time, and neither any public officer nor any organization, entity, or other person shall authorize the fund or the corporation to be or become a debtor under chapter 9 of the federal Bankruptcy Code or such corresponding chapter or sections as may be in effect, from time to time, during any such period.

2. The state hereby covenants with holders of bonds of the corporation that the state will not limit or alter the denial of authority under this paragraph or the rights under this section vested in the fund or the corporation to fulfill the terms of any agreements made with such bondholders or in any way impair the rights and remedies of such bondholders as long as any such bonds remain outstanding unless adequate provision has been made for the payment of such bonds pursuant to the documents authorizing the issuance of such bonds.

3. Notwithstanding any other provision of law, any pledge of or other security interest in revenue, money, accounts, contract rights, general intangibles, or other personal property made or created by the fund or the corporation shall be valid, binding, and perfected from the time such pledge is made or other security interest attaches without any physical delivery of the collateral or further act and the lien of any such pledge or other security interest shall be valid, binding, and perfected against all parties having claims of any kind in tort, contract, or otherwise against the fund or the corporation irrespective of whether or not such parties have notice of such claims. No instrument by which such a pledge or security interest is created nor any financing statement need be recorded or filed.

(f) Limitation.—The Florida Hurricane Fund Finance Corporation may not be used to fund obligations under subsection (19).

(7) REVENUE BONDS FOR FUNDING OBLIGATIONS OF THE FLORIDA HURRICANE EXCESS LOSS PROGRAM.—

(a) General provisions.—

1. Upon a determination by law that any moneys dedicated or otherwise available to the Florida Hurricane Excess Loss Program (FHELP) are or will be insufficient to pay for the amount of the state's liability for losses under the FHELP, and a designation by law of a source of revenue from which appropriations will be made to satisfy loan obligations or to secure bonds, the board may take the necessary steps under paragraph (b) to authorize the Florida Hurricane Excess Loss Program Finance Corporation to satisfy loan obligations or to issue bonds for the payment of such losses. The proceeds of such bonds may be used to make payments for such losses; to refinance or replace previously existing borrowings or financial arrangements; to pay interest on bonds; to fund reserves for the bonds; to pay expenses incident to the issuance or sale of any bond issued under this paragraph, including costs of validating, printing, and delivering the bonds, costs of printing the official statement, costs of publishing notices of sale of the bonds, and related administrative expenses; or for such other purposes related to the financial obligations of the FHELP as the board may determine. The term of the bonds may not exceed 30 years. The board and the Florida Hurricane Excess Loss Program Finance Corporation may pledge all or a portion of all revenues available from appropriations from the source designated by law to secure such bonds and the board may execute such agreements between the board and such corporation as the board considers necessary to evidence, secure, preserve, and protect such pledge. The credit, property, or taxing power of the state or political subdivisions of the state may not be pledged for the payment of such bonds. The bonds shall be payable only from revenues specifically appropriated for such purpose or from any other funds or revenues of the Florida Hurricane Excess Loss Program Finance Corporation which are pledged for such purpose. It is the intent of the Legislature that initial funding for the FHELP shall be provided from up to 10 percent of state revenues, which may include covenants to appropriate and budget, as may be necessary.

2. The Legislature finds and declares that the issuance of bonds under this subsection is for the public purpose of paying the proceeds of the bonds to insured policyholders and to ensure that such policyholders are able to pay the cost of construction, reconstruction, repair, restoration, and other costs associated with damage to their residential property after the occurrence of a hurricane, and that the issuance of the bonds is essential to protect the health, safety, and welfare of citizens of the state.

(b) Florida Hurricane Excess Loss Program Finance Corporation.—

1. In addition to the findings and declarations in paragraph (a) and subsection (19), the Legislature also finds and declares that:

a. The public benefits corporation created under this paragraph will provide a mechanism necessary for the cost-effective and efficient issuance of bonds. This mechanism will eliminate unnecessary costs in the bond-issuance process, thereby increasing the amounts available to pay reimbursement for losses to property sustained as a result of hurricane damage.

b. The purpose of such bonds is to fund reimbursements through the FHELP to pay for the costs of construction, reconstruction, repair, restoration, and other costs associated with damage to properties of policyholders of covered policies due to the occurrence of a hurricane.

c. The efficacy of the financing mechanism will be enhanced by the corporation's ownership of the assessments, by the insulation of the assessments from possible bankruptcy proceedings, and by covenants of the state with the corporation's bondholders.

2.a. There is created a public benefits corporation, which is an instrumentality of the state, to be known as the Florida Hurricane Excess Loss Program Finance Corporation.

b. The corporation shall operate under a five-member board of directors consisting of the Governor or a designee, the Chief Financial Officer or a designee, the Attorney General or a designee, the director of the Division of Bond Finance of the Florida Board of Administration, and the senior employee of the Florida Board of Administration responsible for operations of the Florida Hurricane Catastrophe Fund.

c. The corporation has all of the powers of corporations under chapter 607 and under chapter 617, subject only to the provisions of this subsection.

d. The corporation may issue bonds and engage in such other financial transactions as are necessary to provide sufficient funds to achieve the purposes of this section.

e. The corporation may invest in any of the investments authorized under s. 215.47.

f. There shall be no liability on the part of, and no cause of action shall arise against, any board members or employees of the corporation for any actions taken by them in the performance of their duties under this paragraph.

3.a. In actions under chapter 75 to validate any bonds issued by the corporation, the notice required by s. 75.06 shall be published only in Leon County and in two newspapers of general circulation in the state, and the complaint and order of the court shall be served only on the State Attorney of the Second Judicial Circuit.

b. The state hereby covenants with holders of bonds of the corporation that the state will not repeal or abrogate the power of the board to collect the proceeds of the revenues pledged to the payment of such bonds as long as any such bonds remain outstanding unless adequate provision has been made for the payment of such bonds pursuant to the documents authorizing the issuance of such bonds.

4. The bonds of the corporation are not a debt of the state or of any political subdivision, and neither the state nor any political subdivision is liable on such bonds. The corporation does not have the power to pledge the credit, the revenues, or the taxing power of the state or of any political subdivision. The credit, revenues, or taxing power of the state or of any political subdivision shall not be deemed to be pledged to the payment of any bonds of the corporation.

5.a. The property, revenues, and other assets of the corporation, the transactions and operations of the corporation and the income from such transactions and operations, and all bonds issued under this paragraph and interest on such bonds are exempt from taxation by the state and any political subdivision, including the intangibles tax under chapter 199 and the income tax under chapter 220. This exemption does not apply to any tax imposed by chapter 220 on interest, income, or profits on debt obligations owned by corporations other than the Florida Hurricane Excess Loss Program Finance Corporation.

b. All bonds of the corporation shall be and constitute legal investments without limitation for all public bodies of this state; for all banks, trust companies, savings banks, savings associations, savings and loan associations, and investment companies; for all administrators, executors, trustees, and other fiduciaries; for all insurance companies and associations and other persons carrying on an insurance business; and for all other persons who are now or may hereafter be authorized to invest in bonds or other obligations of the state and shall be and constitute eligible securities to be deposited as collateral for the security of any state, county, municipal, or other public funds. This sub-subparagraph shall be considered as additional and supplemental authority and may not be limited without specific reference to this sub-subparagraph.

6. The corporation and its corporate existence shall continue until terminated by law; however, such law may not take effect as long as the corporation has bonds outstanding unless adequate provision has been made for the payment of such bonds pursuant to the documents authorizing the issuance of such bonds. Upon termination of the existence of the corporation, all of its rights and properties in excess of its obligations shall pass to and be vested in the state.

(c) Protection of bondholders.—

1. As long as the corporation has any bonds outstanding, neither the fund nor the corporation shall have the authority to file a voluntary petition under chapter 9 of the federal Bankruptcy Code or such corresponding chapter or sections as may be in effect, from time to time, and neither any public officer nor any organization, entity, or other person shall authorize the fund or the corporation to be or become a debtor under chapter 9 of the federal Bankruptcy Code or such corresponding chapter or sections as may be in effect, from time to time, during any such period.

2. The state hereby covenants with holders of bonds of the corporation that the state will not limit or alter the denial of authority under this paragraph or the rights under this section vested in the fund or the corporation to fulfill the terms of any agreements made with such bondholders or in any way impair the rights and remedies of such bondholders as long as any such bonds remain outstanding unless adequate provision has been made for the payment of such bonds pursuant to the documents authorizing the issuance of such bonds.

3. Notwithstanding any other provision of law, any pledge of or other security interest in revenue, money, accounts, contract rights, general intangibles, or other personal property made or created by the fund or the corporation shall be valid, binding, and perfected from the time such pledge is made or other security interest attaches without any physical delivery of the collateral or further act and the lien of any such pledge or other security interest shall be valid, binding, and perfected against all parties having claims of any kind in tort, contract, or otherwise against the fund or the corporation irrespective of whether or not such parties have notice of such claims. No instrument by which such a pledge or security interest is created nor any financing statement need be recorded or filed.

(d) The Florida Hurricane Excess Loss Program Finance Corporation may not be used to fund obligations that are incurred by the coverage afforded under the Florida Hurricane Catastrophe Fund, including any retention levels or copayments, whether for mandatory coverage or optional coverages.

(8)~~(7)~~ ADDITIONAL POWERS AND DUTIES.—

(a) The board may procure reinsurance from reinsurers acceptable to the Office of Insurance Regulation for the purpose of maximizing the capacity of the fund *and may enter into capital market transactions, including, but not limited to, industry loss warranties, catastrophe bonds, side car arrangements, or financial contracts permissible for the board's usage under s. 215.47(10) and (11), consistent with prudent management of the fund*.

(17) TEMPORARY INCREASE IN COVERAGE LIMIT OPTIONS.—

(a) Findings and intent.—

1. The Legislature finds that:

a. Because of temporary disruptions in the market for catastrophic reinsurance, many property insurers were unable to procure sufficient amounts of such reinsurance for the 2006 hurricane season or were able to procure such reinsurance only by incurring substantially higher costs than in prior years.

b. The reinsurance market problems were responsible, at least in part, for substantial premium increases to many consumers and increases in the number of policies issued by Citizens Property Insurance Corporation.

c. It is likely that the reinsurance market disruptions will not significantly abate prior to the 2007 hurricane season.

2. It is the intent of the Legislature to create options for insurers to purchase a temporary increased coverage limit above the statutorily determined limit in subparagraph (4)(c)1., applicable for the 2007 and 2008 hurricane seasons, to address market disruptions and enable insurers, at their option, to procure additional coverage from the Florida Hurricane Catastrophe Fund. It is the further intent of the Legislature to structure this coverage in a manner that requires insurers to pay premiums that are comparable to the premiums the insurer would have paid for comparable reinsurance coverage but for the current emergency in the reinsurance market and also in a manner that minimizes subsidies from the general public over the long run by providing the optional increase in coverage limit for 2 years.

(b) Applicability of other provisions of this section.—All provisions of this section and the rules adopted under this section apply to the coverage created by this subsection unless specifically superseded by provisions in this subsection.

(c) Additional definitions.—As used in this subsection, the term:

1. "FHCF" means Florida Hurricane Catastrophe Fund.

2. "FHCF reimbursement premium" means the premium paid by an insurer for its coverage as a mandatory participant in the FHCF, but does not include additional premiums for optional coverages.

3. "Payout multiple" means defined as the number or multiple created by dividing the statutorily defined claims-paying capacity as determined in subparagraph (4)(c)1. by the aggregate reimbursement premiums paid by all insurers estimated or projected as of calendar year-end.

4. "TICL" means the temporary increase in coverage limit.

5. "TICL options" means the temporary increase in coverage options created under this subsection.

6. "TICL insurer" means an insurer that has opted to obtain coverage under the TICL options addendum in addition to the coverage provided to the insurer under its FHCF reimbursement contract.

7. "TICL reimbursement premium" means the premium charged by the fund for coverage provided under the TICL option.

8. "TICL coverage multiple" means the coverage multiple when multiplied by an insurer's reimbursement premium that defines the temporary increase in coverage limit.

9. "TICL coverage" means the coverage for an insurer's losses above the insurer's statutorily determined claims-paying capacity based on the claims-paying limit in subparagraph (4)(c)1., which an insurer selects as its temporary increase in coverage from the fund under the TICL options selected. A TICL insurer's increased coverage limit options shall be calculated as follows:

a. The board shall calculate and report to each TICL insurer the TICL coverage multiples based on three options for increasing the insurer's FHCF coverage limit. Each TICL coverage multiple shall be calculated by dividing $1 billion, $2 billion, or $3 billion by the total estimated aggregate FHCF reimbursement premiums for the 2007-2008 reimbursement contract year and for the 2008-2009 reimbursement contract year.

b. The TICL insurer's increased coverage shall be the FHCF reimbursement premium multiplied by the TICL coverage multiple. In order to determine an insurer's total limit of coverage, an insurer shall add its TICL coverage multiple to its payout multiple. The total shall represent a number that, when multiplied by an insurer's FHCF reimbursement premium for a given reimbursement contract year, defines an insurer's

total limit of FHCF reimbursement coverage for that reimbursement contract year.

10. "TICL options addendum" means an addendum to the reimbursement contract reflecting the obligations of the fund and insurers selecting an option to increase an insurer's FHCF coverage limit.

(d) TICL options addendum.—

1. The TICL options addendum shall provide for reimbursement of TICL insurers for covered events occurring between June 1, 2007, and May 31, 2008, and between June 1, 2008, and May 31, 2009, in exchange for the TICL reimbursement premium paid into the fund under paragraph (e). Any insurer writing covered policies has the option of selecting an increased limit of coverage under the TICL options addendum and shall select such coverage at the time that it executes the FHCF reimbursement contract.

2. The TICL addendum shall contain a promise by the board to reimburse the TICL insurer for 45 percent, 75 percent, or 90 percent of its losses from each covered event in excess of the insurer's retention, plus 5 percent of the reimbursed losses to cover loss adjustment expenses. The percentage shall be the same as the coverage level selected by the insurer under paragraph (4)(b).

3. The TICL addendum shall provide that reimbursement amounts shall not be reduced by reinsurance paid or payable to the insurer from other sources.

4. The priorities, schedule, and method of reimbursements under the TICL addendum shall be the same as provided under subsection (4).

(e) TICL reimbursement premiums.—

1. Each TICL insurer shall pay to the fund, in the manner and at the time provided in the reimbursement contract for payment of reimbursement premiums, a TICL reimbursement premium calculated as specified in this paragraph.

2. Each insurer's TICL premium shall be calculated based on the additional limit of increased coverage that it selects. Such limit is determined by multiplying the TICL multiple associated with one of the three options times the insurer's FHCF reimbursement premium. For the amount of increased coverage based on the option of using $1 billion to derive the TICL multiple, the rate-on-line for such coverage shall be 20 percent. For the option using $2 billion, the rate-on-line shall be 17.5 percent and for the option using $3 billion, the rate-on-line shall be 15 percent.

(f) Effect on claims-paying capacity of the fund.—For the contract terms commencing June 1, 2007, and April 1, 2008, the program created by this subsection shall increase the claims-paying capacity of the fund as provided in subparagraph (4)(c)1. by an amount not to exceed $3 billion dollars and shall depend on the TICL coverage options selected and the number of insurers that select the TICL optional coverage. The additional capacity shall apply only to the additional coverage provided under the TICL options and shall not otherwise affect any insurer's reimbursement from the fund if the insurer chooses not to select the temporary option to increase its limit of coverage under the FHCF.

(18) FLORIDA HURRICANE EXCESS LOSS PROGRAM.—

(a) The Legislature finds and declares as follows:

1. There is a compelling state interest in maintaining a viable and orderly private-sector market for property insurance in this state and ensuring that premiums for property insurance are affordable. Increased premiums and assessments may force policyholders to sell their homes and even leave the state, which poses a serious threat to the economy of the state and the essential economic value of home ownership.

2. As a result of unprecedented levels of catastrophic insured losses in recent years, and especially as a result of Hurricanes Charlie, Jeanne, Francis, Ivan, Dennis, Katrina, Rita, and Wilma, insurers are facing increased demands from regulators, rating agencies, and investors to obtain reinsurance to cover multiple catastrophic events at a time when reinsurance availability has been limited, reinsurance costs have substantially increased, and hurricane loss-projection models are reportedly being revised to increase expected hurricane losses, all causing further disruption in the reinsurance and property insurance market.

3. Providing a limitation of liability on property insurers above amounts that are covered by the Florida Hurricane Catastrophe Fund and assuming state liability for such amounts will enable insurers to limit its purchase of reinsurance and limit their exposure to losses under such amounts, with corresponding premium savings to residential property insurance policyholders in the state.

(b) All provisions of this section and rules adopted under this section apply to the program created by this subsection, except as otherwise provided in this section or as superseded by this subsection.

(c) As used in this subsection, the term:

1. "FHCF" means Florida Hurricane Catastrophe Fund.

2. "FHELP" means Florida Hurricane Excess Loss Program.

3. "FHELP retention" means the sum of the insurer's FHCF retention as defined in paragraph (2)(e), plus the insurer's limit of FHCF coverage as determined in subparagraph (4)(c)2., plus the insurer's copayments associated with the coverage selected as provided for in paragraph (4)(b), including the maximum limits of coverage available to the insurer under the Temporary Increased Coverage Limit (TICL) option pursuant to subsection (18), whether or not selected by the insurer, but only for those years when the TICL option is available.

4. "FHELP payout multiple" means the factor or number derived by dividing the difference in the industry FHELP coverage limit and the industry FHELP retention by the estimated aggregate FHCF premium paid by all insurers for the mandatory FHCF coverage for the contract year calculated at the time the premium formula is determined.

(d) There is created the Florida Hurricane Excess Loss Program to be administered by the State Board of Administration. The board may adopt such rules as are reasonable and necessary to administer this subsection and provide for the operation of the FHELP. The board may employ or contract with such staff and professionals as the board considers necessary for the administration of the FHELP. The board shall administer the FHELP in conjunction with the FHCF; however, in all other respects, the operation, accounts, assets, liabilities, rights, and obligations of the FHELP shall be segregated from those of the FHCF and shall not in any way affect the operation, accounts, assets, liabilities, rights, and obligations of the FHCF. Any moneys attributable to the FHELP shall be subject to the same limitations and investment restrictions as provide for under subsection (3).

(e)1. Beginning with the FHCF reimbursement contract year on June 1, 2007, the board shall require a contract addendum be executed by each FHCF participating insurer that obligates the state to provide FHELP coverage in exchange for the insurer's obligation to pay and service all claims covered by FHELP. The execution of the addendum shall be a requirement and a condition of doing business in this state for all insurers writing covered policies.

2. The FHELP addendum shall require that the state assume liability under the FHELP for 90 percent of losses under a covered policy from each covered event in excess of the insurer's FHELP retention up to the insurer's FHELP limit. The insurer's FHELP limit is determined by multiplying the insurer's FHCF reimbursement premium by the FHELP payout multiple. The FHELP addendum shall also require that the state reimburse the insurer for 5 percent of the reimbursed losses to cover loss-adjustment expenses.

3. The FHELP addendum shall also provide that the obligation of the board with respect to all contracts covering a particular contract year shall not exceed the industry FHELP coverage limit. For the 2007 contract year, the industry FHELP coverage limit is $23 billion in excess of the industry FHELP retention. The industry FHELP coverage limit shall be adjusted each year based upon the reported exposure from the prior contract year to reflect the percentage growth in exposure to the fund.

4. The FHELP addendum shall provide that reimbursement amounts shall not be reduced by reinsurance paid or payable to the insurer from other sources.

5. The priorities, schedule, and method of reimbursements under the FHELP addendum shall be the same as provided under subsection (4).

(f) Insurers are not be required to pay premiums for FHELP coverage, which shall be funded pursuant to subsection (7). Such coverage shall be

funded separately and apart from the obligations of the Florida Hurricane Catastrophe Fund and any revenue bonds issued by the Florida Hurricane Catastrophe Fund Finance Corporation.

Section 5. *(1) An insurer that elects the TEACO or TICL coverage options offered by the Florida Hurricane Catastrophe Fund, as required to be offered by this act, must make a rate filing with the Office of Insurance Regulation, pursuant to the "file and use" provisions of s. 627.062(2)(a)1., Florida Statutes, which reflects any savings or reduction in loss exposure to the insurer. An insurer may not obtain a rate increase due to the election of the TEACO or TICL coverage options.*

(2) All residential property insurers must make a rate filing with the Office of Insurance Regulation, pursuant to the "file and use" provisions of s. 627.062(2)(a)1., Florida Statutes, to decrease rates to reflect the reduction in loss exposure due to the state assumption of liability for hurricane losses pursuant to the Florida Hurricane Excess Loss Program, as created by this act.

(3) The office shall specify, by order, the date or dates on which the rate filings required by this section must be made and be effective in order to provide rate relief to policyholders a soon as practicable.

(4) An insurer may not implement a rate change under the "use and file" rate procedures of s. 627.062(2)(a)2., Florida Statutes, for a period of 1 year after the effective date of a rate filing required by this section for a policy that is subject to such a rate filing.

(5) By March 15, 2007, the Office of Insurance Regulation shall calculate a presumed factor to be used in the rate filings required by this section to reflect the impact to rates of the changes made by section 4 and this section.

(6) In determining the presumed factor, the Office of Insurance Regulation shall use generally accepted actuarial techniques and standards in determining the expected impact on losses, expenses, and investment income of insurers.

(7) The office may contract with an appropriate vendor to determine the presumed factor.

(8) Each residential property insurer shall reflect a rate change that takes into account the presumed factor determined under subsection (5) for any policy written or renewed on or after June 1, 2007.

(9) The sum of $250,000 in nonrecurring funds is appropriated from the Insurance Regulatory Trust Fund in the Department of Financial Services to the Office of Insurance Regulation for the 2006-2007 fiscal year for the purpose of implementing this section.

Section 6. Subsection (2) of section 215.5586, Florida Statutes, is amended to read:

215.5586 Florida Comprehensive Hurricane Damage Mitigation Program.—There is established within the Department of Financial Services the Florida Comprehensive Hurricane Damage Mitigation Program. This section does not create an entitlement for property owners or obligate the state in any way to fund the inspection or retrofitting of residential property in this state. Implementation of this program is subject to annual legislative appropriations. The program shall be administered by an individual with prior executive experience in the private sector in the areas of insurance, business, or construction. The program shall develop and implement a comprehensive and coordinated approach for hurricane damage mitigation that shall include the following:

(2) GRANTS.—Financial grants shall be used to encourage single-family, site-built, owner-occupied, residential property owners to *protect* ~~retrofit~~ their properties to make them less vulnerable to hurricane damage.

(a) To be eligible for a grant, a residential property must:

1. Have been granted a homestead exemption under chapter 196.

2. Be a dwelling with an insured value of $500,000 or less.

3. Have undergone an acceptable wind certification and hurricane mitigation inspection *or use hurricane-protection products tested by the International Hurricane Research Center at Florida International University*.

A residential property which is part of a multifamily residential unit may receive a grant only if all homeowners participate and the total number of units does not exceed four.

(b) All grants must be matched on a dollar-for-dollar basis for a total of $10,000 for the mitigation project with the state's contribution not to exceed $5,000.

(c) The program shall create a process in which mitigation contractors agree to participate and seek reimbursement from the state and homeowners select from a list of participating contractors. All mitigation must be based upon the securing of all required local permits and inspections. Mitigation projects are subject to random reinspection of up to at least 10 percent of all projects.

(d) Matching fund grants shall also be made available to local governments and nonprofit entities for projects that will reduce hurricane damage to single-family, site-built, owner-occupied, residential property.

(e) Grants may be used for the following improvements:

1. Roof deck attachment;

2. Secondary water barrier;

3. Roof covering*, including a weighted roof-protection system that may be installed by an approved contractor or homeowner*;

4. Brace gable ends;

5. Reinforce roof-to-wall connections;

6. Opening protection; and

7. Exterior doors, including garage doors.

(f) Low-income homeowners, as defined in s. 420.0004(9), who otherwise meet the requirements of paragraphs (a) and (c) are eligible for a grant of up to $5,000 and are not required to provide a matching amount to receive the grant. Such grants shall be used to retrofit single-family, site-built, owner-occupied, residential properties in order to make them less vulnerable to hurricane damage.

Section 7. Paragraph (a) of subsection (3) of section 215.559, Florida Statutes, is amended to read:

215.559 Hurricane Loss Mitigation Program.—

(3)(a) Forty percent of the total appropriation in paragraph (2)(a) shall be used to inspect and improve tie-downs *or other securing fixtures* for mobile homes.

Section 8. Section 350.012, Florida Statutes, is amended to read:

350.012 Committee on Public Service Commission *and Insurance* Oversight; creation; membership; powers and duties.—

(1) There is created a standing joint committee of the Legislature, designated the Committee on Public Service Commission *and Insurance* Oversight, and composed of 12 members appointed as follows: six members of the Senate appointed by the President of the Senate, two of whom must be members of the minority party; and six members of the House of Representatives appointed by the Speaker of the House of Representatives, two of whom must be members of the minority party. The terms of members shall be for 2 years and shall run from the organization of one Legislature to the organization of the next Legislature. The President shall appoint the chair of the committee in even-numbered years and the vice chair in odd-numbered years, and the Speaker of the House of Representatives shall appoint the chair of the committee in odd-numbered years and the vice chair in even-numbered years, from among the committee membership. Vacancies shall be filled in the same manner as the original appointment. Members shall serve without additional compensation, but shall be reimbursed for expenses.

(2) The committee shall:

(a) Recommend to the Governor nominees to fill a vacancy on the Public Service Commission, as provided by general law; ~~and~~

(b) Appoint a Public Counsel as provided by general law*; and*~~.~~

(c) Confirm or reject the appointment by the Chief Financial Officer of the Insurance Consumer Advocate, as provided in s. 350.0615.

(3) The committee is authorized to file a complaint with the Commission on Ethics alleging a violation of this chapter by a commissioner, former commissioner, former commission employee, or member of the Public Service Commission Nominating Council.

(4) The committee will not have a permanent staff, but the President of the Senate and the Speaker of the House of Representatives shall select staff members from among existing legislative staff, when and as needed.

Section 9. Section 350.0611, Florida Statutes, is amended to read:

350.0611 Public Counsel; duties and powers.—It shall be the duty of the Public Counsel to provide legal representation for the people of the state in proceedings before the commission and in proceedings before counties pursuant to s. 367.171(8). The Public Counsel shall have such powers as are necessary to carry out the duties of his or her office, including, but not limited to, the following specific powers:

(1) To recommend to the commission or the counties, by petition, the commencement of any proceeding or action or to appear, in the name of the state or its citizens, in any proceeding or action before the commission or the counties and urge therein any position which he or she deems to be in the public interest, whether consistent or inconsistent with positions previously adopted by the commission or the counties, and utilize therein all forms of discovery available to attorneys in civil actions generally, subject to protective orders of the commission or the counties which shall be reviewable by summary procedure in the circuit courts of this state;

(2) To have access to and use of all files, records, and data of the commission or the counties available to any other attorney representing parties in a proceeding before the commission or the counties;

(3) In any proceeding in which he or she has participated as a party, to seek review of any determination, finding, or order of the commission or the counties, or of any hearing examiner designated by the commission or the counties, in the name of the state or its citizens;

(4) To prepare and issue reports, recommendations, and proposed orders to the commission, the Governor, and the Legislature on any matter or subject within the jurisdiction of the commission, and to make such recommendations as he or she deems appropriate for legislation relative to commission procedures, rules, jurisdiction, personnel, and functions; ~~and~~

(5) To appear before other state agencies, federal agencies, and state and federal courts in connection with matters under the jurisdiction of the commission, in the name of the state or its citizens*; and*~~.~~

(6) To represent, through the Insurance Consumer Advocate, the general public of the state on matters related to the regulation of insurance before the Office of Insurance Regulation, the Department of Financial Services, and the Financial Services Commission, as provided in s. 350.0615.

Section 10. Section 350.0613, Florida Statutes, is amended to read:

350.0613 Public Counsel; employees; receipt of pleadings.—The committee may authorize the Public Counsel to employ clerical and technical assistants whose qualifications, duties, and responsibilities the committee shall from time to time prescribe. The committee may from time to time authorize retention of the services of additional attorneys*, actuaries, economists,* or experts to the extent that the best interests of the people of the state will be better served thereby, including the retention of expert witnesses and other technical personnel for participation in contested proceedings before the *Public Service* Commission*, the Office of Insurance Regulation, the Department of Financial Services, or the Financial Services Commission*. The *Public Service* Commission shall furnish the Public Counsel with copies of the initial pleadings in all proceedings before the commission. *The Office of Insurance Regulation, the Financial Services Commission, and the Department of Financial Services shall furnish the Public Counsel with copies of all filings, as requested by the Public Counsel or under such criteria as requested by the Public Counsel, which relate to the jurisdiction of the Insurance Consumer Advocate pursuant to s. 350.0615.*~~, and~~ If the Public Counsel *or Insurance Consumer Advocate* intervenes as a party in any proceeding he or she shall be served with copies of all subsequent pleadings, exhibits, and prepared testimony, if used. Upon filing notice of intervention, the Public Counsel *or Insurance Consumer Advocate* shall serve all interested parties with copies of such notice and all of his or her subsequent pleadings and exhibits.

Section 11. Section 350.0615, Florida Statutes, is created to read:

350.0615 Insurance Consumer Advocate.—The Chief Financial Officer shall appoint the Insurance Consumer Advocate, who shall be subject to confirmation by the Committee on Public Service Commission and Insurance Oversight. The Insurance Consumer Advocate shall represent the general public of the state on matters related to the regulation of insurance before the Office of Insurance Regulation, the Department of Financial Services, and the Financial Services Commission. The Insurance Consumer Advocate shall report directly to and be engaged as an employee of the Public Counsel as a Deputy Public Counsel. The Public Counsel shall provide administrative and staff support to the Insurance Consumer Advocate. The Insurance Consumer Advocate has all powers that are necessary to carry out his or her duties, including, but not limited to, the powers to:

(1) Recommend to the office, department, or commission, by petition, the commencement of any proceeding or action; to appear in any proceeding or action before the office, department, or commission; and to appear in any proceeding before the Division of Administrative Hearings relating to insurance matters under the jurisdiction of the office, department, or commission.

(2) Have access to and use of all files, records, and data of the office, department, or commission.

(3) Examine all rate and form filings submitted to the office, hire consultants as necessary to aid in the review process, and recommend to the office, department, commission, or Legislature any position considered by the Insurance Consumer Advocate to be in the public interest.

Section 12. Section 395.1060, Florida Statutes, is created to read:

395.1060 Risk pooling by certain hospitals and hospital systems.—

(1) Notwithstanding any other provision of law, any two or more Florida-licensed hospitals located in this state may form an alliance for the purpose of pooling and spreading liabilities of its members relative to property exposure or securing such property insurance coverage for the benefit of its members, provided the alliance that is created must:

(a) Have annual premiums in excess of $3 million;

(b) Maintain a continuing program of premium calculation and evaluation and reserve evaluation to protect the financial stability of the alliance in an amount and manner determined by consultants using catastrophic (CAT) modeling criteria or other risk-estimating methodologies, including those used by qualified and independent actuaries;

(c) Cause to be prepared annually a fiscal year-end financial statement in accordance with generally accepted accounting principles and audited by an independent certified public accountant within 6 months after the end of the fiscal year; and

(d) Have a governing body comprised entirely of member entities whose representatives on such governing body are specified by the organizational documents of the alliance.

(2) For purposes of this section, the term:

(a) "Alliance" means a corporation, association, limited liability company, or partnership or any other legal entity formed by a group of eligible entities.

(b) "Property coverage" means coverage provided by self-insurance or insurance for real or personal property of every kind and every interest in such property against loss or damage from any hazard or cause and against any loss consequential to such loss or damage.

(3) An alliance that meets the requirements of this section is not subject to any provision of the Florida Insurance Code.

(4) An alliance that meets the requirements of this section is not an insurer for purposes of participation in or coverage by the Florida Insurance Guaranty Association established in part II of chapter 631. Alliance self-insured coverage is not subject to insurance premium tax, nor shall any such alliance pursuant to this section be assessed for purposes of s. 627.351 or s. 215.555.

Section 13. Section 553.73, Florida Statutes, is amended to read:

553.73 Florida Building Code.—

(1)(a) The commission shall adopt, by rule pursuant to ss. 120.536(1) and 120.54, the Florida Building Code which shall contain or incorporate by reference all laws and rules which pertain to and govern the design, construction, erection, alteration, modification, repair, and demolition of public and private buildings, structures, and facilities and enforcement of such laws and rules, except as otherwise provided in this section.

(b) The technical portions of the Florida Accessibility Code for Building Construction shall be contained in their entirety in the Florida Building Code. The civil rights portions and the technical portions of the accessibility laws of this state shall remain as currently provided by law. Any revision or amendments to the Florida Accessibility Code for Building Construction pursuant to part II shall be considered adopted by the commission as part of the Florida Building Code. Neither the commission nor any local government shall revise or amend any standard of the Florida Accessibility Code for Building Construction except as provided for in part II.

(c) The Florida Fire Prevention Code and the Life Safety Code shall be referenced in the Florida Building Code, but shall be adopted, modified, revised, or amended, interpreted, and maintained by the Department of Financial Services by rule adopted pursuant to ss. 120.536(1) and 120.54. The Florida Building Commission may not adopt a fire prevention or lifesafety code, and nothing in the Florida Building Code shall affect the statutory powers, duties, and responsibilities of any fire official or the Department of Financial Services.

(d) Conflicting requirements between the Florida Building Code and the Florida Fire Prevention Code and Life Safety Code of the state established pursuant to ss. 633.022 and 633.025 shall be resolved by agreement between the commission and the State Fire Marshal in favor of the requirement that offers the greatest degree of lifesafety or alternatives that would provide an equivalent degree of lifesafety and an equivalent method of construction. If the commission and State Fire Marshal are unable to agree on a resolution, the question shall be referred to a mediator, mutually agreeable to both parties, to resolve the conflict in favor of the provision that offers the greatest lifesafety, or alternatives that would provide an equivalent degree of lifesafety and an equivalent method of construction.

(e) Subject to the provisions of this act, responsibility for enforcement, interpretation, and regulation of the Florida Building Code shall be vested in a specified local board or agency, and the words "local government" and "local governing body" as used in this part shall be construed to refer exclusively to such local board or agency.

(2) The Florida Building Code shall contain provisions or requirements for public and private buildings, structures, and facilities relative to structural, mechanical, electrical, plumbing, energy, and gas systems, existing buildings, historical buildings, manufactured buildings, elevators, coastal construction, lodging facilities, food sales and food service facilities, health care facilities, including assisted living facilities, adult day care facilities, hospice residential and inpatient facilities and units, and facilities for the control of radiation hazards, public or private educational facilities, swimming pools, and correctional facilities and enforcement of and compliance with such provisions or requirements. Further, the Florida Building Code must provide for uniform implementation of ss. 515.25, 515.27, and 515.29 by including standards and criteria for residential swimming pool barriers, pool covers, latching devices, door and window exit alarms, and other equipment required therein, which are consistent with the intent of s. 515.23. Technical provisions to be contained within the Florida Building Code are restricted to requirements related to the types of materials used and construction methods and standards employed in order to meet criteria specified in the Florida Building Code. Provisions relating to the personnel, supervision or training of personnel, or any other professional qualification requirements relating to contractors or their workforce may not be included within the Florida Building Code, and subsections (4), (5), (6), ~~and~~ (7)*, and (8)* are not to be construed to allow the inclusion of such provisions within the Florida Building Code by amendment. This restriction applies to both initial development and amendment of the Florida Building Code.

(3) The commission shall select from available national or international model building codes, or other available building codes and standards currently recognized by the laws of this state, to form the foundation for the Florida Building Code. The commission may modify the selected model codes and standards as needed to accommodate the specific needs of this state. Standards or criteria referenced by the selected model codes shall be similarly incorporated by reference. If a referenced standard or criterion requires amplification or modification to be appropriate for use in this state, only the amplification or modification shall be specifically set forth in the Florida Building Code. The Florida Building Commission may approve technical amendments to the code*, subject to the requirements of subsections (7) and (8),* after the amendments have been subject to the following conditions:

(a) The proposed amendment has been published on the commission's website for a minimum of 45 days and all the associated documentation has been made available to any interested party before any consideration by any Technical Advisory Committee;

(b) In order for a Technical Advisory Committee to make a favorable recommendation to the commission, the proposal must receive a three-fourths vote of the members present at the Technical Advisory Committee meeting and at least half of the regular members must be present in order to conduct a meeting;

(c) After Technical Advisory Committee consideration and a recommendation for approval of any proposed amendment, the proposal must be published on the commission's website for not less than 45 days before any consideration by the commission; and

(d) Any proposal may be modified by the commission based on public testimony and evidence from a public hearing held in accordance with chapter 120.

The commission shall incorporate within sections of the Florida Building Code provisions which address regional and local concerns and variations. The commission shall make every effort to minimize conflicts between the Florida Building Code, the Florida Fire Prevention Code, and the Life Safety Code.

(4)(a) All entities authorized to enforce the Florida Building Code pursuant to s. 553.80 shall comply with applicable standards for issuance of mandatory certificates of occupancy, minimum types of inspections, and procedures for plans review and inspections as established by the commission by rule. Local governments may adopt amendments to the administrative provisions of the Florida Building Code, subject to the limitations of this paragraph. Local amendments shall be more stringent than the minimum standards described herein and shall be transmitted to the commission within 30 days after enactment. The local government shall make such amendments available to the general public in a usable format. The State Fire Marshal is responsible for establishing the standards and procedures required in this paragraph for governmental entities with respect to applying the Florida Fire Prevention Code and the Life Safety Code.

(b) Local governments may, subject to the limitations of this section, adopt amendments to the technical provisions of the Florida Building Code which apply solely within the jurisdiction of such government and which provide for more stringent requirements than those specified in the Florida Building Code, not more than once every 6 months. A local government may adopt technical amendments that address local needs if:

1. The local governing body determines, following a public hearing which has been advertised in a newspaper of general circulation at least 10 days before the hearing, that there is a need to strengthen the requirements of the Florida Building Code. The determination must be based upon a review of local conditions by the local governing body, which review demonstrates by evidence or data that the geographical jurisdiction governed by the local governing body exhibits a local need

to strengthen the Florida Building Code beyond the needs or regional variation addressed by the Florida Building Code, that the local need is addressed by the proposed local amendment, and that the amendment is no more stringent than necessary to address the local need.

2. Such additional requirements are not discriminatory against materials, products, or construction techniques of demonstrated capabilities.

3. Such additional requirements may not introduce a new subject not addressed in the Florida Building Code.

4. The enforcing agency shall make readily available, in a usable format, all amendments adopted pursuant to this section.

5. Any amendment to the Florida Building Code shall be transmitted within 30 days by the adopting local government to the commission. The commission shall maintain copies of all such amendments in a format that is usable and obtainable by the public. Local technical amendments shall not become effective until 30 days after the amendment has been received and published by the commission.

6. Any amendment to the Florida Building Code adopted by a local government pursuant to this paragraph shall be effective only until the adoption by the commission of the new edition of the Florida Building Code every third year. At such time, the commission shall review such amendment for consistency with the criteria in paragraph *(8)(a)* ~~(7)(a)~~ and adopt such amendment as part of the Florida Building Code or rescind the amendment. The commission shall immediately notify the respective local government of the rescission of any amendment. After receiving such notice, the respective local government may readopt the rescinded amendment pursuant to the provisions of this paragraph.

7. Each county and municipality desiring to make local technical amendments to the Florida Building Code shall by interlocal agreement establish a countywide compliance review board to review any amendment to the Florida Building Code, adopted by a local government within the county pursuant to this paragraph, that is challenged by any substantially affected party for purposes of determining the amendment's compliance with this paragraph. If challenged, the local technical amendments shall not become effective until time for filing an appeal pursuant to subparagraph 8. has expired or, if there is an appeal, until the commission issues its final order determining the adopted amendment is in compliance with this subsection.

8. If the compliance review board determines such amendment is not in compliance with this paragraph, the compliance review board shall notify such local government of the noncompliance and that the amendment is invalid and unenforceable until the local government corrects the amendment to bring it into compliance. The local government may appeal the decision of the compliance review board to the commission. If the compliance review board determines such amendment to be in compliance with this paragraph, any substantially affected party may appeal such determination to the commission. Any such appeal shall be filed with the commission within 14 days of the board's written determination. The commission shall promptly refer the appeal to the Division of Administrative Hearings for the assignment of an administrative law judge. The administrative law judge shall conduct the required hearing within 30 days, and shall enter a recommended order within 30 days of the conclusion of such hearing. The commission shall enter a final order within 30 days thereafter. The provisions of chapter 120 and the uniform rules of procedure shall apply to such proceedings. The local government adopting the amendment that is subject to challenge has the burden of proving that the amendment complies with this paragraph in proceedings before the compliance review board and the commission, as applicable. Actions of the commission are subject to judicial review pursuant to s. 120.68. The compliance review board shall determine whether its decisions apply to a respective local jurisdiction or apply countywide.

9. An amendment adopted under this paragraph shall include a fiscal impact statement which documents the costs and benefits of the proposed amendment. Criteria for the fiscal impact statement shall include the impact to local government relative to enforcement, the impact to property and building owners, as well as to industry, relative to the cost of compliance. The fiscal impact statement may not be used as a basis for challenging the amendment for compliance.

10. In addition to subparagraphs 7. and 9., the commission may review any amendments adopted pursuant to this subsection and make nonbinding recommendations related to compliance of such amendments with this subsection.

(c) Any amendment adopted by a local enforcing agency pursuant to this subsection shall not apply to state or school district owned buildings, manufactured buildings or factory-built school buildings approved by the commission, or prototype buildings approved pursuant to s. 553.77(3). The respective responsible entities shall consider the physical performance parameters substantiating such amendments when designing, specifying, and constructing such exempt buildings.

(5) The initial adoption of, and any subsequent update or amendment to, the Florida Building Code by the commission is deemed adopted for use statewide without adoptions by local government. For a building permit for which an application is submitted prior to the effective date of the Florida Building Code, the state minimum building code in effect in the permitting jurisdiction on the date of the application governs the permitted work for the life of the permit and any extension granted to the permit.

(6)(a) The commission, by rule adopted pursuant to ss. 120.536(1) and 120.54, shall update the Florida Building Code every 3 years. When updating the Florida Building Code, the commission shall select the most current version of the International Building Code, the International Fuel Gas Code, the International Mechanical Code, the International Plumbing Code, and the International Residential Code, all of which are adopted by the International Code Council, and the National Electrical Code, which is adopted by the National Fire Protection Association, to form the foundation codes of the updated Florida Building Code, if the version has been adopted by the applicable model code entity and made available to the public at least 6 months prior to its selection by the commission.

(b) Codes regarding noise contour lines shall be reviewed annually, and the most current federal guidelines shall be adopted.

(c) The commission may modify any portion of the foundation codes only as needed to accommodate the specific needs of this state, maintaining Florida-specific amendments previously adopted by the commission and not addressed by the updated foundation code. Standards or criteria referenced by the codes shall be incorporated by reference. If a referenced standard or criterion requires amplification or modification to be appropriate for use in this state, only the amplification or modification shall be set forth in the Florida Building Code. The commission may approve technical amendments to the updated Florida Building Code after the amendments have been subject to the conditions set forth in paragraphs (3)(a)-(d). Amendments to the foundation codes which are adopted in accordance with this subsection shall be clearly marked in printed versions of the Florida Building Code so that the fact that the provisions are Florida-specific amendments to the foundation codes is readily apparent.

(d) The commission shall further consider the commission's own interpretations, declaratory statements, appellate decisions, and approved statewide and local technical amendments and shall incorporate such interpretations, statements, decisions, and amendments into the updated Florida Building Code only to the extent that they are needed to modify the foundation codes to accommodate the specific needs of the state. A change made by an institute or standards organization to any standard or criterion that is adopted by reference in the Florida Building Code does not become effective statewide until it has been adopted by the commission. Furthermore, the edition of the Florida Building Code which is in effect on the date of application for any permit authorized by the code governs the permitted work for the life of the permit and any extension granted to the permit.

(e) A rule updating the Florida Building Code in accordance with this subsection shall take effect no sooner than 6 months after publication of the updated code. Any amendment to the Florida Building Code which is adopted upon a finding by the commission that the amendment is necessary to protect the public from immediate threat of harm takes effect immediately.

(f) Provisions of the foundation codes, including those contained in referenced standards and criteria, relating to wind resistance or the prevention of water intrusion may not be modified to diminish those construction requirements; however, the commission may, subject to conditions in this subsection, modify the provisions to enhance those construction requirements.

(7)~~(f)~~ Upon the conclusion of a triennial update to the Florida Building Code, notwithstanding the provisions of ~~this subsection or~~ subsection (3) *or subsection (6)*, the commission may address issues identified in this *subsection* ~~paragraph~~ by amending the code pursuant only to the rule adoption procedures contained in chapter 120. *Provisions of the Florida Building Code, including those contained in referenced standards and criteria, relating to wind resistance or the prevention of water intrusion may not be amended pursuant to this subsection to diminish those construction requirements; however, the commission may, subject to conditions in this subsection, amend the provisions to enhance those construction requirements.* Following the approval of any amendments to the Florida Building Code by the commission and publication of the amendments on the commission's website, authorities having jurisdiction to enforce the Florida Building Code may enforce the amendments. The commission may approve amendments that are needed to address:

(a)~~1.~~ Conflicts within the updated code;

(b)~~2.~~ Conflicts between the updated code and the Florida Fire Prevention Code adopted pursuant to chapter 633;

(c)~~3.~~ The omission of previously adopted Florida-specific amendments to the updated code if such omission is not supported by a specific recommendation of a technical advisory committee or particular action by the commission; or

(d)~~4.~~ Unintended results from the integration of previously adopted Florida-specific amendments with the model code.

(8)~~(7)~~(a) The commission may approve technical amendments to the Florida Building Code once each year for statewide or regional application upon a finding that the amendment:

1. Is needed in order to accommodate the specific needs of this state.

2. Has a reasonable and substantial connection with the health, safety, and welfare of the general public.

3. Strengthens or improves the Florida Building Code, or in the case of innovation or new technology, will provide equivalent or better products or methods or systems of construction.

4. Does not discriminate against materials, products, methods, or systems of construction of demonstrated capabilities.

5. Does not degrade the effectiveness of the Florida Building Code.

Furthermore, the Florida Building Commission may approve technical amendments to the code once each year to incorporate into the Florida Building Code its own interpretations of the code which are embodied in its opinions, final orders, declaratory statements, and interpretations of hearing officer panels under s. 553.775(3)(c), but shall do so only to the extent that incorporation of interpretations is needed to modify the foundation codes to accommodate the specific needs of this state. Amendments approved under this paragraph shall be adopted by rule pursuant to ss. 120.536(1) and 120.54, after the amendments have been subjected to the provisions of subsection (3).

(b) A proposed amendment shall include a fiscal impact statement which documents the costs and benefits of the proposed amendment. Criteria for the fiscal impact statement shall be established by rule by the commission and shall include the impact to local government relative to enforcement, the impact to property and building owners, as well as to industry, relative to the cost of compliance.

(c) The commission may not approve any proposed amendment that does not accurately and completely address all requirements for amendment which are set forth in this section. The commission shall require all proposed amendments and information submitted with proposed amendments to be reviewed by commission staff prior to consideration by any technical advisory committee. These reviews shall be for sufficiency only and are not intended to be qualitative in nature. Staff members shall reject any proposed amendment that fails to include a fiscal impact statement. Proposed amendments rejected by members of the staff may not be considered by the commission or any technical advisory committee.

(d) Provisions of the Florida Building Code, including those contained in referenced standards and criteria, relating to wind resistance or the prevention of water intrusion may not be amended pursuant to this subsection to diminish those construction requirements; however, the commission may, subject to conditions in this subsection, amend the provisions to enhance those construction requirements.

(9)~~(8)~~ The following buildings, structures, and facilities are exempt from the Florida Building Code as provided by law, and any further exemptions shall be as determined by the Legislature and provided by law:

(a) Buildings and structures specifically regulated and preempted by the Federal Government.

(b) Railroads and ancillary facilities associated with the railroad.

(c) Nonresidential farm buildings on farms.

(d) Temporary buildings or sheds used exclusively for construction purposes.

(e) Mobile or modular structures used as temporary offices, except that the provisions of part II relating to accessibility by persons with disabilities shall apply to such mobile or modular structures.

(f) Those structures or facilities of electric utilities, as defined in s. 366.02, which are directly involved in the generation, transmission, or distribution of electricity.

(g) Temporary sets, assemblies, or structures used in commercial motion picture or television production, or any sound-recording equipment used in such production, on or off the premises.

(h) Storage sheds that are not designed for human habitation and that have a floor area of 720 square feet or less are not required to comply with the mandatory wind-borne-debris-impact standards of the Florida Building Code.

(i) Chickees constructed by the Miccosukee Tribe of Indians of Florida or the Seminole Tribe of Florida. As used in this paragraph, the term "chickee" means an open-sided wooden hut that has a thatched roof of palm or palmetto or other traditional materials, and that does not incorporate any electrical, plumbing, or other nonwood features.

With the exception of paragraphs (a), (b), (c), and (f), in order to preserve the health, safety, and welfare of the public, the Florida Building Commission may, by rule adopted pursuant to chapter 120, provide for exceptions to the broad categories of buildings exempted in this section, including exceptions for application of specific sections of the code or standards adopted therein. The Department of Agriculture and Consumer Services shall have exclusive authority to adopt by rule, pursuant to chapter 120, exceptions to nonresidential farm buildings exempted in paragraph (c) when reasonably necessary to preserve public health, safety, and welfare. The exceptions must be based upon specific criteria, such as under-roof floor area, aggregate electrical service capacity, HVAC system capacity, or other building requirements. Further, the commission may recommend to the Legislature additional categories of buildings, structures, or facilities which should be exempted from the Florida Building Code, to be provided by law.

(10)~~(9)~~(a) In the event of a conflict between the Florida Building Code and the Florida Fire Prevention Code and the Life Safety Code as applied to a specific project, the conflict shall be resolved by agreement between the local building code enforcement official and the local fire code enforcement official in favor of the requirement of the code which offers the greatest degree of lifesafety or alternatives which would provide an equivalent degree of lifesafety and an equivalent method of construction.

(b) Any decision made by the local fire official and the local building official may be appealed to a local administrative board designated by the municipality, county, or special district having firesafety responsibilities. If the decision of the local fire official and the local building official is to apply the provisions of either the Florida Building Code or the Florida Fire Prevention Code and the Life Safety Code, the board may not alter the decision unless the board determines that the application of such code is not reasonable. If the decision of the local fire official and the local building official is to adopt an alternative to the codes, the local administrative board shall give due regard to the decision rendered by the local officials and may modify that decision if the administrative board adopts a better alternative, taking into consideration all relevant

circumstances. In any case in which the local administrative board adopts alternatives to the decision rendered by the local fire official and the local building official, such alternatives shall provide an equivalent degree of lifesafety and an equivalent method of construction as the decision rendered by the local officials.

(c) If the local building official and the local fire official are unable to agree on a resolution of the conflict between the Florida Building Code and the Florida Fire Prevention Code and the Life Safety Code, the local administrative board shall resolve the conflict in favor of the code which offers the greatest degree of lifesafety or alternatives which would provide an equivalent degree of lifesafety and an equivalent method of construction.

(d) All decisions of the local administrative board, or if none exists, the decisions of the local building official and the local fire official, are subject to review by a joint committee composed of members of the Florida Building Commission and the Fire Code Advisory Council. If the joint committee is unable to resolve conflicts between the codes as applied to a specific project, the matter shall be resolved pursuant to the provisions of paragraph (1)(d).

(e) The local administrative board shall, to the greatest extent possible, be composed of members with expertise in building construction and firesafety standards.

(f) All decisions of the local building official and local fire official and all decisions of the administrative board shall be in writing and shall be binding upon all persons but shall not limit the authority of the State Fire Marshal or the Florida Building Commission pursuant to paragraph (1)(d) and ss. 663.01 and 633.161. Decisions of general application shall be indexed by building and fire code sections and shall be available for inspection during normal business hours.

(11)~~(10)~~ Except within coastal building zones as defined in s. 161.54, specification standards developed by nationally recognized code promulgation organizations to determine compliance with engineering criteria of the Florida Building Code for wind load design shall not apply to one or two family dwellings which are two stories or less in height unless approved by the commission for use or unless expressly made subject to said standards and criteria by local ordinance adopted in accordance with the provisions of subsection (4).

(12)~~(11)~~ The Florida Building Code does not apply to, and no code enforcement action shall be brought with respect to, zoning requirements, land use requirements, and owner specifications or programmatic requirements which do not pertain to and govern the design, construction, erection, alteration, modification, repair, or demolition of public or private buildings, structures, or facilities or to programmatic requirements that do not pertain to enforcement of the Florida Building Code. Additionally, a local code enforcement agency may not administer or enforce the Florida Building Code to prevent the siting of any publicly owned facility, including, but not limited to, correctional facilities, juvenile justice facilities, or state universities, community colleges, or public education facilities, as provided by law.

Section 14. Subsection (2) of section 553.775, Florida Statutes, is amended to read:

553.775 Interpretations.—

(2) Local enforcement agencies, local building officials, state agencies, and the commission shall interpret provisions of the Florida Building Code in a manner that is consistent with declaratory statements and interpretations entered by the commission, except that conflicts between the Florida Fire Prevention Code and the Florida Building Code shall be resolved in accordance with *s. 553.73(10)(c) and (d)* ~~s. 553.73(9)(c) and (d)~~.

Section 15. *Upon the effective date of this act, each jurisdiction having authority to enforce the Florida Building Code shall, at a minimum, require wind-borne-debris protection in accordance with s. 1609.1, International Building Code (2006) and the International Residential Code (2006) within the "wind-borne-debris region" as that term is defined in s. 1609.2, International Building Code (2006), and s. R301.2, International Residential Code (2006).*

Section 16. *(1) The Florida Building Commission shall amend the Florida Building Code to reflect the application of provisions identified in section 553.73, Florida Statutes, and to eliminate all exceptions that provide less stringent requirements. The amendments by the commission shall apply throughout the state with the exception of the High Velocity Hurricane Zone, which shall be governed as currently provided within the Florida Building Code. The commission shall, in addition, amend the code to require that, at a minimum, in areas where the applicable design wind speed is less than 120 miles per hour, all new residences are designed and constructed to withstand internal pressures. The commission shall fulfill these obligations before July 1, 2007, pursuant only to the provisions of chapter 120, Florida Statutes.*

(2) The Florida Building Commission shall develop voluntary "Code Plus" guidelines for increasing the hurricane resistance of buildings. The guidelines must be modeled on the requirements for the High Velocity Hurricane Zone and must identify products, systems, and methods of construction that the commission anticipates could result in stronger construction. The commission shall include these guidelines in its report to the 2008 Legislature.

Section 17. Paragraph (b) of subsection (3) of section 624.319, Florida Statutes, is amended to read:

624.319 Examination and investigation reports.—

(3)

(b) Workpapers and other information held by the department or office, and workpapers and other information received from another governmental entity or the National Association of Insurance Commissioners, for the department's or office's use in the performance of its examination or investigation duties pursuant to this section and ss. 624.316, 624.3161, 624.317, and 624.318 are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to workpapers and other information held by the department or office before, on, or after the effective date of this exemption. Such confidential and exempt information may be disclosed to another governmental entity, if disclosure is necessary for the receiving entity to perform its duties and responsibilities, and may be disclosed to the National Association of Insurance Commissioners. *The Public Counsel and the Insurance Consumer Advocate shall have access to such confidential and exempt information pertaining to insurance at any time.* The receiving governmental entity or the association must maintain the confidential and exempt status of the information. The information made confidential and exempt by this paragraph may be used in a criminal, civil, or administrative proceeding so long as the confidential and exempt status of such information is maintained. This paragraph is subject to the Open Government Sunset Review Act of 1995 in accordance with s. 119.15 and shall stand repealed on October 2, 2007, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 18. Paragraph (a) of subsection (2) of section 624.462, Florida Statutes, is amended to read:

624.462 Commercial self-insurance funds.—

(2) As used in ss. 624.460-624.488, "commercial self-insurance fund" or "fund" means a group of members, operating individually and collectively through a trust or corporation, that must be:

(a) Established by:

1. A not-for-profit trade association, industry association, or professional association of employers or professionals which has a constitution or bylaws, which is incorporated under the laws of this state, and which has been organized for purposes other than that of obtaining or providing insurance and operated in good faith for a continuous period of 1 year;

2. A self-insurance trust fund organized pursuant to s. 627.357 and maintained in good faith for a continuous period of 1 year for purposes other than that of obtaining or providing insurance pursuant to this section. Each member of a commercial self-insurance trust fund established pursuant to this subsection must maintain membership in the self-insurance trust fund organized pursuant to s. 627.357;

3. A group of 10 or more health care providers, as defined in s. 627.351(4)(h), for purposes of providing medical malpractice coverage; or

4. A not-for-profit group comprised of no *fewer* ~~less~~ than 10 *community* ~~condominium~~ associations*, or a not-for-profit group comprised of one or more community associations having at least 50 residential properties cumulatively valued at over $25 million, created and operating under chapter 718, chapter 719, chapter 720, chapter 721, or chapter 723* ~~as defined in s. 718.103(2), which is incorporated under the laws of this state,~~ which restricts its membership to *community* ~~condominium~~ associations only~~,~~ and which has been organized and maintained in good faith for *the purpose of pooling and spreading the liabilities of its group members relating to property or casualty risk or surety insurance* ~~a continuous period of 1 year for purposes other than that of obtaining or providing insurance~~.

Section 19. Subsection (1) of section 624.4622, Florida Statutes, is amended to read:

624.4622 Local government self-insurance funds.—

(1) Any two or more local governmental entities may enter into interlocal agreements for the purpose of securing the payment of benefits under chapter 440, *or insuring or self-insuring real or personal property of every kind and every interest in such property against loss or damage from any hazard or cause and against any loss consequential to such loss or damage,* provided the local government self-insurance fund that is created must:

(a) Have annual normal premiums in excess of $5 million;

(b) Maintain a continuing program of excess insurance coverage and reserve evaluation to protect the financial stability of the fund in an amount and manner determined by a qualified and independent actuary;

(c) Submit annually an audited fiscal year-end financial statement by an independent certified public accountant within 6 months after the end of the fiscal year to the office; and

(d) Have a governing body which is comprised entirely of local elected officials.

Section 20. Section 624.4625, Florida Statutes, is created to read:

624.4625 Corporation not-for-profit self-insurance funds.—

(1) Notwithstanding any other provision of law, any two or more corporations not for profit located in and organized under the laws of this state may form a self-insurance fund for the purpose of pooling and spreading liabilities of its group members in any one or combination of property or casualty risk, provided the corporation not for profit self-insurance fund that is created:

(a) Has annual normal premiums in excess of $5 million.

(b) Requires for qualification that each participating member receive at least 75 percent of its revenues from local, state, or federal governmental sources or a combination of such sources.

(c) Uses a qualified actuary to determine rates using accepted actuarial principles and annually submits to the office a certification by the actuary that the rates are actuarially sound and are not inadequate, as defined in s. 627.062.

(d) Uses a qualified actuary to establish reserves for loss and loss adjustment expenses and annually submits to the office a certification by the actuary that the loss and loss adjustment expense reserves are adequate. If the actuary determines that reserves are not adequate, the fund shall file with the office a remedial plan for increasing the reserves or otherwise addressing the financial condition of the fund, subject to a determination by the office that the fund will operate on an actuarially sound basis and the fund does not pose a significant risk of insolvency.

(e) Maintains a continuing program of excess insurance coverage and reserve evaluation to protect the financial stability of the fund in an amount and manner determined by a qualified actuary. At a minimum, this program must:

1. Purchase excess insurance from authorized insurance carriers.

2. Retain a per-loss occurrence that does not exceed $350,000.

(f) Submits to the office annually an audited fiscal year-end financial statement by an independent certified public accountant within 6 months after the end of the fiscal year.

(g) Has a governing body that is comprised entirely of officials from corporations not for profit that are members of the corporation not-for-profit self-insurance fund.

(h) Uses knowledgeable persons or business entities to administer or service the fund in the areas of claims administration, claims adjusting, underwriting, risk management, loss control, policy administration, financial audit, and legal areas. Such persons must meet all applicable requirements of law for state licensure and must have at least 5 years' experience with commercial self-insurance funds formed under s. 624.462, self-insurance funds formed under s. 624.4622, or domestic insurers.

(i) Submits to the office copies of contracts used for its members that clearly establish the liability of each member for the obligations of the fund.

(j) Annually submits to the office a certification by the governing body of the fund that, to the best of its knowledge, the requirements of this section are met.

(2) As used in this section, the term "qualified actuary" means an actuary that is a member of the Casualty Actuarial Society or the American Academy of Actuaries.

(3) A corporation not-for-profit self-insurance fund that meets the requirements of this section is not:

(a) An insurer for purposes of participation in or coverage by any insurance guaranty association established by chapter 631; or

(b) Subject to s. 624.4621 and is not required to file any report with the department under s. 440.38(2)(b) that is uniquely required of group self-insurer funds qualified under s. 624.4621.

(4) Premiums, contributions, and assessments received by a corporation not-for-profit self-insurance fund are subject to ss. 624.509(1) and (2) and 624.5092, except that the tax rate shall be 1.6 percent of the gross amount of such premiums, contributions, and assessments.

(5) If any of the requirements of subsection (1) are not met, a corporation not-for-profit self-insurance fund is subject to the requirements of s. 624.4621 if the fund provides only workers' compensation coverage or is subject to the requirements of ss. 624.460-624.488 if the fund provides coverage for other property, casualty, or surety risks.

Section 21. Subsection (3) of section 624.610, Florida Statutes, is amended to read:

624.610 Reinsurance.—

(3)(a) Credit must be allowed when the reinsurance is ceded to an assuming insurer that is authorized to transact insurance or reinsurance in this state.

(b)1. Credit must be allowed when the reinsurance is ceded to an assuming insurer that is accredited as a reinsurer in this state. An accredited reinsurer is one that:

a. Files with the office evidence of its submission to this state's jurisdiction;

b. Submits to this state's authority to examine its books and records;

c. Is licensed or authorized to transact insurance or reinsurance in at least one state or, in the case of a United States branch of an alien assuming insurer, is entered through, licensed, or authorized to transact insurance or reinsurance in at least one state;

d. Files annually with the office a copy of its annual statement filed with the insurance department of its state of domicile any quarterly statements if required by its state of domicile or such quarterly statements if specifically requested by the office, and a copy of its most recent audited financial statement; and

(I) Maintains a surplus as regards policyholders in an amount not less than $20 million and whose accreditation has not been denied by the office within 90 days after its submission; or

(II) Maintains a surplus as regards policyholders in an amount not less than $20 million and whose accreditation has been approved by the office.

2. The office may deny or revoke an assuming insurer's accreditation if the assuming insurer does not submit the required documentation pursuant to subparagraph 1., if the assuming insurer fails to meet all of the standards required of an accredited reinsurer, or if the assuming insurer's accreditation would be hazardous to the policyholders of this state. In determining whether to deny or revoke accreditation, the office may consider the qualifications of the assuming insurer with respect to all the following subjects:

a. Its financial stability;

b. The lawfulness and quality of its investments;

c. The competency, character, and integrity of its management;

d. The competency, character, and integrity of persons who own or have a controlling interest in the assuming insurer; and

e. Whether claims under its contracts are promptly and fairly adjusted and are promptly and fairly paid in accordance with the law and the terms of the contracts.

3. Credit must not be allowed a ceding insurer if the assuming insurer's accreditation has been revoked by the office after notice and the opportunity for a hearing.

4. The actual costs and expenses incurred by the office to review a reinsurer's request for accreditation and subsequent reviews must be charged to and collected from the requesting reinsurer. If the reinsurer fails to pay the actual costs and expenses promptly when due, the office may refuse to accredit the reinsurer or may revoke the reinsurer's accreditation.

(c)1. Credit must be allowed when the reinsurance is ceded to an assuming insurer that maintains a trust fund in a qualified United States financial institution, as defined in paragraph (5)(b), for the payment of the valid claims of its United States ceding insurers and their assigns and successors in interest. To enable the office to determine the sufficiency of the trust fund, the assuming insurer shall report annually to the office information substantially the same as that required to be reported on the NAIC Annual Statement form by authorized insurers. The assuming insurer shall submit to examination of its books and records by the office and bear the expense of examination.

2.a. Credit for reinsurance must not be granted under this subsection unless the form of the trust and any amendments to the trust have been approved by:

(I) The insurance regulator of the state in which the trust is domiciled; or

(II) The insurance regulator of another state who, pursuant to the terms of the trust instrument, has accepted principal regulatory oversight of the trust.

b. The form of the trust and any trust amendments must be filed with the insurance regulator of every state in which the ceding insurer beneficiaries of the trust are domiciled. The trust instrument must provide that contested claims are valid and enforceable upon the final order of any court of competent jurisdiction in the United States. The trust must vest legal title to its assets in its trustees for the benefit of the assuming insurer's United States ceding insurers and their assigns and successors in interest. The trust and the assuming insurer are subject to examination as determined by the insurance regulator.

c. The trust remains in effect for as long as the assuming insurer has outstanding obligations due under the reinsurance agreements subject to the trust. No later than February 28 of each year, the trustee of the trust shall report to the insurance regulator in writing the balance of the trust and list the trust's investments at the preceding year end, and shall certify that the trust will not expire prior to the following December 31.

3. The following requirements apply to the following categories of assuming insurer:

a. The trust fund for a single assuming insurer consists of funds in trust in an amount not less than the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers, and, in addition, the assuming insurer shall maintain a trusteed surplus of not less than $20 million. Not less than 50 percent of the funds in the trust covering the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers and trusteed surplus shall consist of assets of a quality substantially similar to that required in part II of chapter 625. Clean, irrevocable, unconditional, and evergreen letters of credit, issued or confirmed by a qualified United States financial institution, as defined in paragraph (5)(a), effective no later than December 31 of the year for which the filing is made and in the possession of the trust on or before the filing date of its annual statement, may be used to fund the remainder of the trust and trusteed surplus.

b.(I) In the case of a group including incorporated and individual unincorporated underwriters:

(A) For reinsurance ceded under reinsurance agreements with an inception, amendment, or renewal date on or after August 1, 1995, the trust consists of a trusteed account in an amount not less than the group's several liabilities attributable to business ceded by United States domiciled ceding insurers to any member of the group;

(B) For reinsurance ceded under reinsurance agreements with an inception date on or before July 31, 1995, and not amended or renewed after that date, notwithstanding the other provisions of this section, the trust consists of a trusteed account in an amount not less than the group's several insurance and reinsurance liabilities attributable to business written in the United States; and

(C) In addition to these trusts, the group shall maintain in trust a trusteed surplus of which $100 million must be held jointly for the benefit of the United States domiciled ceding insurers of any member of the group for all years of account.

(II) The incorporated members of the group must not be engaged in any business other than underwriting of a member of the group, and are subject to the same level of regulation and solvency control by the group's domiciliary regulator as the unincorporated members.

(III) Within 90 days after its financial statements are due to be filed with the group's domiciliary regulator, the group shall provide to the insurance regulator an annual certification by the group's domiciliary regulator of the solvency of each underwriter member or, if a certification is unavailable, financial statements, prepared by independent public accountants, of each underwriter member of the group.

(d) Credit must be allowed when the reinsurance is ceded to an assuming insurer not meeting the requirements of paragraph (a), paragraph (b), or paragraph (c), but only as to the insurance of risks located in jurisdictions in which the reinsurance is required to be purchased by a particular entity by applicable law or regulation of that jurisdiction.

(e) If the reinsurance is ceded to an assuming insurer not meeting the requirements of paragraph (a), paragraph (b), paragraph (c), or paragraph (d), the office may allow credit, but only if the assuming insurer holds surplus in excess of $100 million and has a secure financial strength rating from at least two nationally recognized statistical rating organizations deemed acceptable by the commissioner. In determining whether credit should be allowed, the office shall consider the following:

1. The domiciliary regulatory jurisdiction of the assuming insurer;

2. The structure and authority of the domiciliary regulator with regard to solvency regulation requirements and the financial surveillance of the reinsurer;

3. The substance of financial and operating standards for reinsurers in the domiciliary jurisdiction;

4. The form and substance of financial reports required to be filed by the reinsurers in the domiciliary jurisdiction or other public financial statements filed in accordance with generally accepted accounting principles;

5. The domiciliary regulator's willingness to cooperate with United States regulators in general and the office in particular;

6. The history of performance by reinsurers in the domiciliary jurisdiction;

7. Any documented evidence of substantial problems with the enforcement of valid United States judgments in the domiciliary jurisdiction; and

8. Any other matters deemed relevant by the commissioner. The commissioner shall give appropriate consideration to insurer group ratings that may have been issued. The commissioner may, in lieu of granting full credit under this subsection, reduce the amount required to be held in trust under paragraph (c).

(f)~~(e)~~ If the assuming insurer is not authorized or accredited to transact insurance or reinsurance in this state pursuant to paragraph (a) or paragraph (b), the credit permitted by paragraph (c) *or paragraph (d)* must not be allowed unless the assuming insurer agrees in the reinsurance agreements:

1.a. That in the event of the failure of the assuming insurer to perform its obligations under the terms of the reinsurance agreement, the assuming insurer, at the request of the ceding insurer, shall submit to the jurisdiction of any court of competent jurisdiction in any state of the United States, will comply with all requirements necessary to give the court jurisdiction, and will abide by the final decision of the court or of any appellate court in the event of an appeal; and

b. To designate the Chief Financial Officer, pursuant to s. 48.151, or a designated attorney as its true and lawful attorney upon whom may be served any lawful process in any action, suit, or proceeding instituted by or on behalf of the ceding company.

2. This paragraph is not intended to conflict with or override the obligation of the parties to a reinsurance agreement to arbitrate their disputes, if this obligation is created in the agreement.

(g)~~(f)~~ If the assuming insurer does not meet the requirements of paragraph (a) or paragraph (b), the credit permitted by paragraph (c) *or paragraph (d)* is not allowed unless the assuming insurer agrees in the trust agreements, in substance, to the following conditions:

1. Notwithstanding any other provisions in the trust instrument, if the trust fund is inadequate because it contains an amount less than the amount required by paragraph (c), or if the grantor of the trust has been declared insolvent or placed into receivership, rehabilitation, liquidation, or similar proceedings under the laws of its state or country of domicile, the trustee shall comply with an order of the insurance regulator with regulatory oversight over the trust or with an order of a United States court of competent jurisdiction directing the trustee to transfer to the insurance regulator with regulatory oversight all of the assets of the trust fund.

2. The assets must be distributed by and claims must be filed with and valued by the insurance regulator with regulatory oversight in accordance with the laws of the state in which the trust is domiciled which are applicable to the liquidation of domestic insurance companies.

3. If the insurance regulator with regulatory oversight determines that the assets of the trust fund or any part thereof are not necessary to satisfy the claims of the United States ceding insurers of the grantor of the trust, the assets or part thereof must be returned by the insurance regulator with regulatory oversight to the trustee for distribution in accordance with the trust agreement.

4. The grantor shall waive any right otherwise available to it under United States law which is inconsistent with this provision.

Section 22. *Section 627.0613, Florida Statutes, is repealed.*

Section 23. Section 627.062, Florida Statutes, is amended to read:

627.062 Rate standards.—

(1) The rates for all classes of insurance to which the provisions of this part are applicable shall not be excessive, inadequate, or unfairly discriminatory.

(2) As to all such classes of insurance:

(a) Insurers or rating organizations shall establish and use rates, rating schedules, or rating manuals to allow the insurer a reasonable rate of return on such classes of insurance written in this state. A copy of rates, rating schedules, rating manuals, premium credits or discount schedules, and surcharge schedules, and changes thereto, shall be filed with the office ~~under one of the following procedures:~~

~~1. If the filing is made~~ at least 90 days before the proposed effective date and the filing *may not be* ~~is not~~ implemented during the office's review of the filing and any proceeding and judicial review~~, then such filing shall be considered a "file and use" filing~~. ~~In such case,~~ The office shall finalize its review by issuance of a notice of intent to approve or a notice of intent to disapprove within 90 days after receipt of the filing. The notice of intent to approve and the notice of intent to disapprove constitute agency action for purposes of the Administrative Procedure Act. Requests for supporting information, requests for mathematical or mechanical corrections, or notification to the insurer by the office of its preliminary findings shall not toll the 90-day period during any such proceedings and subsequent judicial review. The rate shall be deemed approved if the office does not issue a notice of intent to approve or a notice of intent to disapprove within 90 days after receipt of the filing.

~~2. If the filing is not made in accordance with the provisions of subparagraph 1., such filing shall be made as soon as practicable, but no later than 30 days after the effective date, and shall be considered a "use and file" filing. An insurer making a "use and file" filing is potentially subject to an order by the office to return to policyholders portions of rates found to be excessive, as provided in paragraph (b).~~

(b) Upon receiving a rate filing, the office shall review the rate filing to determine if a rate is excessive, inadequate, or unfairly discriminatory. In making that determination, the office shall, in accordance with generally accepted and reasonable actuarial techniques, consider the following factors:

1. Past and prospective loss experience within and without this state.

2. Past and prospective expenses.

3. The degree of competition among insurers for the risk insured.

4. Investment income reasonably expected by the insurer, consistent with the insurer's investment practices, from investable premiums anticipated in the filing, plus any other expected income from currently invested assets representing the amount expected on unearned premium reserves and loss reserves. The commission may adopt rules utilizing reasonable techniques of actuarial science and economics to specify the manner in which insurers shall calculate investment income attributable to such classes of insurance written in this state and the manner in which such investment income shall be used in the calculation of insurance rates. Such manner shall contemplate allowances for an underwriting profit factor and full consideration of investment income which produce a reasonable rate of return; however, investment income from invested surplus shall not be considered.

5. The reasonableness of the judgment reflected in the filing.

6. Dividends, savings, or unabsorbed premium deposits allowed or returned to Florida policyholders, members, or subscribers.

7. The adequacy of loss reserves.

8. The cost of reinsurance.

9. Trend factors, including trends in actual losses per insured unit for the insurer making the filing.

10. Conflagration and catastrophe hazards, if applicable.

11. A reasonable margin for underwriting profit and contingencies. For that portion of the rate covering the risk of hurricanes and other catastrophic losses for which the insurer has not purchased reinsurance and has exposed its capital and surplus to such risk, the office must approve a rating factor that provides the insurer a reasonable rate of return that is commensurate with such risk.

12. The cost of medical services, if applicable.

13. Other relevant factors which impact upon the frequency or severity of claims or upon expenses.

(c) In the case of fire insurance rates, consideration shall be given to the availability of water supplies and the experience of the fire insurance business during a period of not less than the most recent 5-year period for which such experience is available.

(d) If conflagration or catastrophe hazards are given consideration by an insurer in its rates or rating plan, including surcharges and discounts, the insurer shall establish a reserve for that portion of the premium allocated to such hazard and shall maintain the premium in a catastrophe reserve. Any removal of such premiums from the reserve for purposes other than paying claims associated with a catastrophe or purchasing reinsurance for catastrophes shall be subject to approval of the office. Any ceding commission received by an insurer purchasing reinsurance for catastrophes shall be placed in the catastrophe reserve.

(e) After consideration of the rate factors provided in paragraphs (b), (c), and (d), a rate may be found by the office to be excessive, inadequate, or unfairly discriminatory based upon the following standards:

1. Rates shall be deemed excessive if they are likely to produce a profit from Florida business that is unreasonably high in relation to the risk involved in the class of business or if expenses are unreasonably high in relation to services rendered.

2. Rates shall be deemed excessive if, among other things, the rate structure established by a stock insurance company provides for replenishment of surpluses from premiums, when the replenishment is attributable to investment losses.

3. Rates shall be deemed inadequate if they are clearly insufficient, together with the investment income attributable to them, to sustain projected losses and expenses in the class of business to which they apply.

4. A rating plan, including discounts, credits, or surcharges, shall be deemed unfairly discriminatory if it fails to clearly and equitably reflect consideration of the policyholder's participation in a risk management program adopted pursuant to s. 627.0625.

5. A rate shall be deemed inadequate as to the premium charged to a risk or group of risks if discounts or credits are allowed which exceed a reasonable reflection of expense savings and reasonably expected loss experience from the risk or group of risks.

6. A rate shall be deemed unfairly discriminatory as to a risk or group of risks if the application of premium discounts, credits, or surcharges among such risks does not bear a reasonable relationship to the expected loss and expense experience among the various risks.

(f) In reviewing a rate filing, the office may require the insurer to provide at the insurer's expense all information necessary to evaluate the condition of the company and the reasonableness of the filing according to the criteria enumerated in this section.

(g) The office may at any time review a rate, rating schedule, rating manual, or rate change; the pertinent records of the insurer; and market conditions. If the office finds on a preliminary basis that a rate may be excessive, inadequate, or unfairly discriminatory, the office shall initiate proceedings to disapprove the rate and shall so notify the insurer. However, the office may not disapprove as excessive any rate for which it has given final approval or which has been deemed approved for a period of 1 year after the effective date of the filing unless the office finds that a material misrepresentation or material error was made by the insurer or was contained in the filing. Upon being so notified, the insurer or rating organization shall, within 60 days, file with the office all information which, in the belief of the insurer or organization, proves the reasonableness, adequacy, and fairness of the rate or rate change. The office shall issue a notice of intent to approve or a notice of intent to disapprove pursuant to the procedures of paragraph (a) within 90 days after receipt of the insurer's initial response. In such instances and in any administrative proceeding relating to the legality of the rate, the insurer or rating organization shall carry the burden of proof by a preponderance of the evidence to show that the rate is not excessive, inadequate, or unfairly discriminatory. After the office notifies an insurer that a rate may be excessive, inadequate, or unfairly discriminatory, unless the office withdraws the notification, the insurer shall not alter the rate except to conform with the office's notice until the earlier of 120 days after the date the notification was provided or 180 days after the date of the implementation of the rate. The office may, subject to chapter 120, disapprove without the 60-day notification any rate increase filed by an insurer within the prohibited time period or during the time that the legality of the increased rate is being contested.

(h) In the event the office finds that a rate or rate change is excessive, inadequate, or unfairly discriminatory, the office shall issue an order of disapproval specifying that a new rate or rate schedule which responds to the findings of the office be filed by the insurer. ~~The office shall further order, for any "use and file" filing made in accordance with subparagraph (a)2., that premiums charged each policyholder constituting the portion of the rate above that which was actuarially justified be returned to such policyholder in the form of a credit or refund. If the office finds that an insurer's rate or rate change is inadequate, the new rate or rate schedule filed with the office in response to such a finding shall be applicable only to new or renewal business of the insurer written on or after the effective date of the responsive filing.~~

(i) Except as otherwise specifically provided in this chapter, the office shall not prohibit any insurer, including any residual market plan or joint underwriting association, from paying acquisition costs based on the full amount of premium, as defined in s. 627.403, applicable to any policy, or prohibit any such insurer from including the full amount of acquisition costs in a rate filing.

(j) *Within 24 months after an insurer receives approval of a rate increase of 10 percent or more, the insurer must file and the office must review the insurer's rate based on a rate filing that addresses all elements of the current rate.* ~~Effective July 1, 2007, notwithstanding any other provision of this section:~~

~~1. With respect to any residential property insurance subject to regulation under this section for any area for which the office determines a reasonable degree of competition exists, a rate filing, including, but not limited to, any rate changes, rating factors, territories, classification, discounts, and credits, with respect to any policy form, including endorsements issued with the form, that results in an overall average statewide premium increase or decrease of no more than 5 percent above or below the premium that would result from the insurer's rates then in effect shall not be subject to a determination by the office that the rate is excessive or unfairly discriminatory except as provided in subparagraph 3., or any other provision of law, provided all changes specified in the filing do not result in an overall premium increase of more than 10 percent for any one territory, for reasons related solely to the rate change. As used in this subparagraph, the term "insurer's rates then in effect" includes only rates that have been lawfully in effect under this section or rates that have been determined to be lawful through administrative proceedings or judicial proceedings.~~

~~2. An insurer may not make filings under this paragraph with respect to any policy form, including endorsements issued with the form, if the overall premium changes resulting from such filings exceed the amounts specified in this paragraph in any 12-month period. An insurer may proceed under other provisions of this section or other provisions of law if the insurer seeks to exceed the premium or rate limitations of this paragraph.~~

~~3. This paragraph does not affect the authority of the office to disapprove a rate as inadequate or to disapprove a filing for the unlawful use of unfairly discriminatory rating factors that are prohibited by the laws of this state. An insurer electing to implement a rate change under this paragraph shall submit a filing to the office at least 40 days prior to the effective date of the rate change. The office shall have 30 days after the filing's submission to review the filing and determine if the rate is inadequate or uses unfairly discriminatory rating factors. Absent a finding by the office within such 30-day period that the rate is inadequate or that the insurer has used unfairly discriminatory rating factors, the filing is deemed approved. If the office finds during the 30-day period that the filing will result in inadequate premiums or otherwise endanger the insurer's solvency, the office shall suspend the rate decrease. If the insurer is implementing an overall rate increase, the results of which continue to produce an inadequate rate, such increase shall proceed pending additional action by the office to ensure the adequacy of the rate.~~

~~4. This paragraph does not apply to rate filings for any insurance other than residential property insurance.~~

The provisions of this subsection shall not apply to workers' compensation and employer's liability insurance and to motor vehicle insurance.

(3)(a) For individual risks that are not rated in accordance with the insurer's rates, rating schedules, rating manuals, and underwriting rules filed with the office and which have been submitted to the insurer for individual rating, the insurer must maintain documentation on each risk subject to individual risk rating. The documentation must identify the named insured and specify the characteristics and classification of the risk supporting the reason for the risk being individually risk rated, including any modifications to existing approved forms to be used on the risk. The insurer must maintain these records for a period of at least 5 years after the effective date of the policy.

(b) Individual risk rates and modifications to existing approved forms are not subject to this part or part II, except for paragraph (a) and ss. 627.402, 627.403, 627.4035, 627.404, 627.405, 627.406, 627.407, 627.4085, 627.409, 627.4132, 627.4133, 627.415, 627.416, 627.417, 627.419, 627.425, 627.426, 627.4265, 627.427, and 627.428, but are subject to all other applicable provisions of this code and rules adopted thereunder.

(c) This subsection does not apply to private passenger motor vehicle insurance.

(4) The establishment of any rate, rating classification, rating plan or schedule, or variation thereof in violation of part IX of chapter 626 is also in violation of this section. In order to enhance the ability of consumers to compare premiums and to increase the accuracy and usefulness of rate-comparison information provided by the office to the public, the office shall develop a proposed standard rating territory plan to be used by all authorized property and casualty insurers for residential property insurance. In adopting the proposed plan, the office may consider geographical characteristics relevant to risk, county lines, major roadways, existing rating territories used by a significant segment of the market, and other relevant factors. Such plan shall be submitted to the President of the Senate and the Speaker of the House of Representatives by January 15, 2006. The plan may not be implemented unless authorized by further act of the Legislature.

(5) With respect to a rate filing involving coverage of the type for which the insurer is required to pay a reimbursement premium to the Florida Hurricane Catastrophe Fund, the insurer may fully recoup in its property insurance premiums any reimbursement premiums paid to the Florida Hurricane Catastrophe Fund, together with reasonable costs of other reinsurance, but may not recoup reinsurance costs that duplicate coverage provided by the Florida Hurricane Catastrophe Fund. An insurer may not recoup more than 1 year of reimbursement premium at a time. Any under-recoupment from the prior year may be added to the following year's reimbursement premium and any over-recoupment shall be subtracted from the following year's reimbursement premium.

~~(6)(a) After any action with respect to a rate filing that constitutes agency action for purposes of the Administrative Procedure Act, except for a rate filing for medical malpractice, an insurer may, in lieu of demanding a hearing under s. 120.57, require arbitration of the rate filing. Arbitration shall be conducted by a board of arbitrators consisting of an arbitrator selected by the office, an arbitrator selected by the insurer, and an arbitrator selected jointly by the other two arbitrators. Each arbitrator must be certified by the American Arbitration Association. A decision is valid only upon the affirmative vote of at least two of the arbitrators. No arbitrator may be an employee of any insurance regulator or regulatory body or of any insurer, regardless of whether or not the employing insurer does business in this state. The office and the insurer must treat the decision of the arbitrators as the final approval of a rate filing. Costs of arbitration shall be paid by the insurer.~~

~~(b) Arbitration under this subsection shall be conducted pursuant to the procedures specified in ss. 682.06-682.10. Either party may apply to the circuit court to vacate or modify the decision pursuant to s. 682.13 or s. 682.14. The commission shall adopt rules for arbitration under this subsection, which rules may not be inconsistent with the arbitration rules of the American Arbitration Association as of January 1, 1996.~~

~~(c) Upon initiation of the arbitration process, the insurer waives all rights to challenge the action of the office under the Administrative Procedure Act or any other provision of law; however, such rights are restored to the insurer if the arbitrators fail to render a decision within 90 days after initiation of the arbitration process.~~

(6)~~(7)~~(a) The provisions of this subsection apply only with respect to rates for medical malpractice insurance and shall control to the extent of any conflict with other provisions of this section.

(b) Any portion of a judgment entered or settlement paid as a result of a statutory or common-law bad faith action and any portion of a judgment entered which awards punitive damages against an insurer may not be included in the insurer's rate base, and shall not be used to justify a rate or rate change. Any common-law bad faith action identified as such, any portion of a settlement entered as a result of a statutory or common-law action, or any portion of a settlement wherein an insurer agrees to pay specific punitive damages may not be used to justify a rate or rate change. The portion of the taxable costs and attorney's fees which is identified as being related to the bad faith and punitive damages in these judgments and settlements may not be included in the insurer's rate base and may not be utilized to justify a rate or rate change.

(c) Upon reviewing a rate filing and determining whether the rate is excessive, inadequate, or unfairly discriminatory, the office shall consider, in accordance with generally accepted and reasonable actuarial techniques, past and present prospective loss experience, either using loss experience solely for this state or giving greater credibility to this state's loss data after applying actuarially sound methods of assigning credibility to such data.

(d) Rates shall be deemed excessive if, among other standards established by this section, the rate structure provides for replenishment of reserves or surpluses from premiums when the replenishment is attributable to investment losses.

(e) The insurer must apply a discount or surcharge based on the health care provider's loss experience or shall establish an alternative method giving due consideration to the provider's loss experience. The insurer must include in the filing a copy of the surcharge or discount schedule or a description of the alternative method used, and must provide a copy of such schedule or description, as approved by the office, to policyholders at the time of renewal and to prospective policyholders at the time of application for coverage.

(f) Each medical malpractice insurer must make a rate filing under this section, sworn to by at least two executive officers of the insurer, at least once each calendar year.

(7)~~(8)~~(a)1. No later than 60 days after the effective date of medical malpractice legislation enacted during the 2003 Special Session D of the Florida Legislature, the office shall calculate a presumed factor that reflects the impact that the changes contained in such legislation will have on rates for medical malpractice insurance and shall issue a notice informing all insurers writing medical malpractice coverage of such presumed factor. In determining the presumed factor, the office shall use generally accepted actuarial techniques and standards provided in this section in determining the expected impact on losses, expenses, and investment income of the insurer. To the extent that the operation of a provision of medical malpractice legislation enacted during the 2003 Special Session D of the Florida Legislature is stayed pending a constitutional challenge, the impact of that provision shall not be included in the calculation of a presumed factor under this subparagraph.

2. No later than 60 days after the office issues its notice of the presumed rate change factor under subparagraph 1., each insurer writing medical malpractice coverage in this state shall submit to the office a rate filing for medical malpractice insurance, which will take effect no later than January 1, 2004, and apply retroactively to policies issued or renewed on or after the effective date of medical malpractice legislation enacted during the 2003 Special Session D of the Florida Legislature. Except as authorized under paragraph (b), the filing shall reflect an overall rate reduction at least as great as the presumed factor determined under subparagraph 1. With respect to policies issued on or after the effective date of such legislation and prior to the effective date of the rate filing required by this subsection, the office shall order the insurer to make a refund of the amount that was charged in excess of the rate that is approved.

(b) Any insurer or rating organization that contends that the rate provided for in paragraph (a) is excessive, inadequate, or unfairly discriminatory shall separately state in its filing the rate it contends is appropriate and shall state with specificity the factors or data that it contends should be considered in order to produce such appropriate rate. The insurer or rating organization shall be permitted to use all of the

generally accepted actuarial techniques provided in this section in making any filing pursuant to this subsection. The office shall review each such exception and approve or disapprove it prior to use. It shall be the insurer's burden to actuarially justify any deviations from the rates required to be filed under paragraph (a). The insurer making a filing under this paragraph shall include in the filing the expected impact of medical malpractice legislation enacted during the 2003 Special Session D of the Florida Legislature on losses, expenses, and rates.

(c) If any provision of medical malpractice legislation enacted during the 2003 Special Session D of the Florida Legislature is held invalid by a court of competent jurisdiction, the office shall permit an adjustment of all medical malpractice rates filed under this section to reflect the impact of such holding on such rates so as to ensure that the rates are not excessive, inadequate, or unfairly discriminatory.

(d) Rates approved on or before July 1, 2003, for medical malpractice insurance shall remain in effect until the effective date of a new rate filing approved under this subsection.

(e) The calculation and notice by the office of the presumed factor pursuant to paragraph (a) is not an order or rule that is subject to chapter 120. If the office enters into a contract with an independent consultant to assist the office in calculating the presumed factor, such contract shall not be subject to the competitive solicitation requirements of s. 287.057.

(8)(a) The chief executive officer or chief financial officer of a property insurer and the chief actuary of a property insurer must certify under oath and subject to the penalty of perjury, on a form approved by the commission, the following information, which must accompany a rate filing:

1. The signing officer and actuary have reviewed the rate filing;

2. Based on the signing officer's and actuary's knowledge, the rate filing does not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which such statements were made, not misleading;

3. Based on the signing officer's and actuary's knowledge, the information and other factors described in s. 627.062(2)(b), including, but not limited to, investment income, fairly present in all material respects the basis of the rate filing for the periods presented in the filing; and

4. Based on the signing officer's and actuary's knowledge, the rate filing reflects all premium savings that are reasonably expected to result from legislative enactments and are in accordance with generally accepted and reasonable actuarial techniques.

(b) A signing officer or actuary knowingly making a false certification under this subsection commits a violation of s. 626.9541(1)(e) and is subject to the penalties under s. 626.9521.

(c) Failure to provide such certification by the officer and actuary shall result in the rate filing being disapproved without prejudice to be refiled.

(d) The commission may adopt rules and forms pursuant to ss. 120.536(1) and 120.54 to administer this subsection.

~~(9) The burden is on the office to establish that rates are excessive for personal lines residential coverage with a dwelling replacement cost of $1 million or more or for a single condominium unit with a combined dwelling and contents replacement cost of $1 million or more. Upon request of the office, the insurer shall provide to the office such loss and expense information as the office reasonably needs to meet this burden.~~

Section 24. Paragraph (ee) is added to subsection (1) of section 626.9541, Florida Statutes, to read:

626.9541 Unfair methods of competition and unfair or deceptive acts or practices defined.—

(1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE ACTS.—The following are defined as unfair methods of competition and unfair or deceptive acts or practices:

(ee) Selectively limiting insurance offerings.—Failing to offer in this state a kind or line of insurance which all insurers or affiliated insurers, as defined by the Financial Services Commission, offer in another jurisdiction. An insurer need not offer every kind or line of insurance, or any particular kind or line of insurance, in this state; however, if, on July 1, 2007, an insurer offers a particular kind or line of insurance anywhere it does business, it must offer the same kind or line in this state. The commission shall adopt rules to administer this paragraph.

Section 25. Paragraph (c) of subsection (3) of section 627.0628, Florida Statutes, is amended to read:

627.0628 Florida Commission on Hurricane Loss Projection Methodology; public records exemption; public meetings exemption.—

(3) ADOPTION AND EFFECT OF STANDARDS AND GUIDELINES.—

(c) With respect to a rate filing under s. 627.062, an insurer may employ actuarial methods, principles, standards, models, or output ranges found by the commission to be accurate or reliable to determine hurricane loss factors for use in a rate filing under s. 627.062. Such findings and factors are admissible and relevant in consideration of a rate filing by the office or in any arbitration or administrative or judicial review only if the office and the *Insurance* Consumer Advocate appointed pursuant to *s. 350.0615* ~~s. 627.0613~~ have access to all of the assumptions and factors that were used in developing the actuarial methods, principles, standards, models, or output ranges, and are not precluded from disclosing such information in a rate proceeding. In any rate hearing under s. 120.57 ~~or in any arbitration proceeding under s. 627.062(6)~~, the hearing officer *or*~~,~~ judge~~, or arbitration panel~~ may determine whether the office and the *Insurance* Consumer Advocate were provided with access to all of the assumptions and factors that were used in developing the actuarial methods, principles, standards, models, or output ranges and to determine their admissibility.

Section 26. Paragraph (b) of subsection (5) of section 627.311, Florida Statutes, is amended to read:

627.311 Joint underwriters and joint reinsurers; public records and public meetings exemptions.—

(5)

(b) The operation of the plan is subject to the supervision of a 9-member board of governors. The board of governors shall be comprised of:

1. Three members appointed by the Financial Services Commission. Each member appointed by the commission shall serve at the pleasure of the commission;

2. Two of the 20 domestic insurers, as defined in s. 624.06(1), having the largest voluntary direct premiums written in this state for workers' compensation and employer's liability insurance, which shall be elected by those 20 domestic insurers;

3. Two of the 20 foreign insurers as defined in s. 624.06(2) having the largest voluntary direct premiums written in this state for workers' compensation and employer's liability insurance, which shall be elected by those 20 foreign insurers;

4. One person appointed by the largest property and casualty insurance agents' association in this state; and

5. The *Insurance* Consumer Advocate appointed under *s. 350.0615* ~~s. 627.0613~~ or the *Insurance* Consumer Advocate's designee.

Each board member shall serve a 4-year term and may serve consecutive terms. A vacancy on the board shall be filled in the same manner as the original appointment for the unexpired portion of the term. The Financial Services Commission shall designate a member of the board to serve as chair. No board member shall be an insurer which provides services to the plan or which has an affiliate which provides services to the plan or which is serviced by a service company or third-party administrator which provides services to the plan or which has an affiliate which provides services to the plan. The minutes, audits, and procedures of the board of governors are subject to chapter 119.

Section 27. Paragraphs (a), (b), (c), (m), (p), and (s) of subsection (6) of section 627.351, Florida Statutes, are amended, and paragraph (ee) is added to that section, to read:

627.351 Insurance risk apportionment plans.—

(6) CITIZENS PROPERTY INSURANCE CORPORATION.—

(a)1. The Legislature finds that actual and threatened catastrophic losses to property in this state from hurricanes have caused insurers to be unwilling or unable to provide property insurance coverage to the extent sought and needed. It is in the public interest and a public purpose to assist in assuring that property in the state is insured so as to facilitate the remediation, reconstruction, and replacement of damaged or destroyed property in order to reduce or avoid the negative effects otherwise resulting to the public health, safety, and welfare; to the economy of the state; and to the revenues of the state and local governments needed to provide for the public welfare. It is necessary, therefore, to provide property insurance to applicants who are in good faith entitled to procure insurance through the voluntary market but are unable to do so. The Legislature intends by this subsection that property insurance be provided and that it continues, as long as necessary, through an entity organized to achieve efficiencies and economies, while providing service to policyholders, applicants, and agents that is no less than the quality generally provided in the voluntary market, all toward the achievement of the foregoing public purposes. Because it is essential for the corporation to have the maximum financial resources to pay claims following a catastrophic hurricane, it is the intent of the Legislature that the income of the corporation be exempt from federal income taxation and that interest on the debt obligations issued by the corporation be exempt from federal income taxation.

2. The Residential Property and Casualty Joint Underwriting Association originally created by this statute shall be known, as of July 1, 2002, as the Citizens Property Insurance Corporation. The corporation shall provide insurance for residential and commercial property, for applicants who are in good faith entitled, but are unable, to procure insurance through the voluntary market. The corporation shall operate pursuant to a plan of operation approved by order of the Financial Services Commission. The plan is subject to continuous review by the commission. The commission may, by order, withdraw approval of all or part of a plan if the commission determines that conditions have changed since approval was granted and that the purposes of the plan require changes in the plan. The corporation shall continue to operate pursuant to the plan of operation approved by the Office of Insurance Regulation until October 1, 2006. For the purposes of this subsection, residential coverage includes both personal lines residential coverage, which consists of the type of coverage provided by homeowner's, mobile home owner's, dwelling, tenant's, condominium unit owner's, and similar policies, and commercial lines residential coverage, which consists of the type of coverage provided by condominium association, apartment building, and similar policies.

3. For the purposes of this subsection, the term "homestead property" means:

a. Property that has been granted a homestead exemption under chapter 196;

b. Property for which the owner has a current, written lease with a renter for a term of at least 7 months and for which the dwelling is insured by the corporation for $200,000 or less;

c. An owner-occupied mobile home or manufactured home, as defined in s. 320.01, which is permanently affixed to real property, is owned by a Florida resident, and has been granted a homestead exemption under chapter 196 or, if the owner does not own the real property, the owner certifies that the mobile home or manufactured home is his or her principal place of residence.

d. Tenant's coverage;

e. Commercial lines residential property; or

f. Any county, district, or municipal hospital; a hospital licensed by any not-for-profit corporation qualified under s. 501(c)(3) of the United States Internal Revenue Code; or a continuing care retirement community that is certified under chapter 651 and that receives an exemption from ad valorem taxes under chapter 196.

4. For the purposes of this subsection, the term "nonhomestead property" means property that is not homestead property.

5. Effective July 1, 2008, a personal lines residential structure that has a dwelling replacement cost of $1 million or more, or a single condominium unit that has a combined dwelling and content replacement cost of $1 million or more is not eligible for coverage by the corporation. Such dwellings insured by the corporation on June 30, 2008, may continue to be covered by the corporation until the end of the policy term. However, such dwellings that are insured by the corporation and become ineligible for coverage due to the provisions of this subparagraph may reapply and obtain coverage in the high-risk account and be considered "nonhomestead property" if the property owner provides the corporation with a sworn affidavit from one or more insurance agents, on a form provided by the corporation, stating that the agents have made their best efforts to obtain coverage and that the property has been rejected for coverage by at least one authorized insurer and at least three surplus lines insurers. If such conditions are met, the dwelling may be insured by the corporation for up to 3 years, after which time the dwelling is ineligible for coverage. The office shall approve the method used by the corporation for valuing the dwelling replacement cost for the purposes of this subparagraph. If a policyholder is insured by the corporation prior to being determined to be ineligible pursuant to this subparagraph and such policyholder files a lawsuit challenging the determination, the policyholder may remain insured by the corporation until the conclusion of the litigation.

~~6. Effective March 1, 2007, nonhomestead property is not eligible for coverage by the corporation and is not eligible for renewal of such coverage unless the property owner provides the corporation with a sworn affidavit from one or more insurance agents, on a form provided by the corporation, stating that the agents have made their best efforts to obtain coverage and that the property has been rejected for coverage by at least one authorized insurer and at least three surplus lines insurers.~~

6.~~7.~~ It is the intent of the Legislature that policyholders, applicants, and agents of the corporation receive service and treatment of the highest possible level but never less than that generally provided in the voluntary market. It also is intended that the corporation be held to service standards no less than those applied to insurers in the voluntary market by the office with respect to responsiveness, timeliness, customer courtesy, and overall dealings with policyholders, applicants, or agents of the corporation.

(b)1. All insurers authorized to write one or more subject lines of business in this state are subject to assessment by the corporation and, for the purposes of this subsection, are referred to collectively as "assessable insurers." Insurers writing one or more subject lines of business in this state pursuant to part VIII of chapter 626 are not assessable insurers, but insureds who procure one or more subject lines of business in this state pursuant to part VIII of chapter 626 are subject to assessment by the corporation and are referred to collectively as "assessable insureds." An authorized insurer's assessment liability shall begin on the first day of the calendar year following the year in which the insurer was issued a certificate of authority to transact insurance for subject lines of business in this state and shall terminate 1 year after the end of the first calendar year during which the insurer no longer holds a certificate of authority to transact insurance for subject lines of business in this state.

2.a. All revenues, assets, liabilities, losses, and expenses of the corporation shall be divided into three separate accounts as follows:

(I) A personal lines account for personal residential policies issued by the corporation or issued by the Residential Property and Casualty Joint Underwriting Association and renewed by the corporation that provide comprehensive, multiperil coverage on risks that are not located in areas eligible for coverage in the Florida Windstorm Underwriting Association as those areas were defined on January 1, 2002, and for such policies that do not provide coverage for the peril of wind on risks that are located in such areas;

(II) A commercial lines account for commercial residential *and commercial nonresidential* policies issued by the corporation or issued by the Residential Property and Casualty Joint Underwriting Association and renewed by the corporation that provide coverage for basic property perils on risks that are not located in areas eligible for coverage in the Florida Windstorm Underwriting Association as those areas were defined on January 1, 2002, and for such policies that do not provide coverage for the peril of wind on risks that are located in such areas; and

(III) A high-risk account for personal residential policies and commercial residential and commercial nonresidential property policies issued by the corporation or transferred to the corporation that provide coverage for the peril of wind on risks that are located in areas eligible for coverage in the Florida Windstorm Underwriting Association as those areas were defined on January 1, 2002. *Beginning April 1, 2007, the corporation may offer multiperil coverage, wind-only coverage, or both types of coverage in the high-risk account. In issuing multiperil coverage, the corporation may use its approved policy forms and rates for personal lines accounts through December 31, 2007. It is the intent of the Legislature that the offer of multiperil coverage in the high-risk account be made and implemented in a manner that does not adversely affect the creditworthiness of or security for currently outstanding financing obligations or credit facilities of the high-risk account, the personal lines account, or the commercial lines account.* The high-risk account must also include quota share primary insurance under subparagraph (c)2. The area eligible for coverage under the high-risk account also includes the area within Port Canaveral, which is bordered on the south by the City of Cape Canaveral, bordered on the west by the Banana River, and bordered on the north by Federal Government property. ~~The office may remove territory from the area eligible for wind-only and quota share coverage if, after a public hearing, the office finds that authorized insurers in the voluntary market are willing and able to write sufficient amounts of personal and commercial residential coverage for all perils in the territory, including coverage for the peril of wind, such that risks covered by wind-only policies in the removed territory could be issued a policy by the corporation in either the personal lines or commercial lines account without a significant increase in the corporation's probable maximum loss in such account. Removal of territory from the area eligible for wind-only or quota share coverage does not alter the assignment of wind coverage written in such areas to the high-risk account.~~

b. The three separate accounts must be maintained as long as financing obligations entered into by the Florida Windstorm Underwriting Association or Residential Property and Casualty Joint Underwriting Association are outstanding, in accordance with the terms of the corresponding financing documents. When the financing obligations are no longer outstanding, in accordance with the terms of the corresponding financing documents, the corporation may use a single account for all revenues, assets, liabilities, losses, and expenses of the corporation. Consistent with the requirement of this subparagraph and prudent investment policies that minimize the cost of carrying debt, the board shall exercise its best efforts to retire existing debt or to obtain approval of necessary parties to amend the terms of existing debt, so as to structure the most efficient plan to consolidate the three separate accounts into a single account. By February 1, 2007, the board shall submit a report to the Financial Services Commission, the President of the Senate, and the Speaker of the House of Representatives which includes an analysis of consolidating the accounts, the actions the board has taken to minimize the cost of carrying debt, and its recommendations for executing the most efficient plan.

c. Creditors of the Residential Property and Casualty Joint Underwriting Association shall have a claim against, and recourse to, the accounts referred to in sub-sub-subparagraphs a.(I) and (II) and shall have no claim against, or recourse to, the account referred to in sub-sub-subparagraph a.(III). Creditors of the Florida Windstorm Underwriting Association shall have a claim against, and recourse to, the account referred to in sub-sub-subparagraph a.(III) and shall have no claim against, or recourse to, the accounts referred to in sub-sub-subparagraphs a.(I) and (II).

d. Revenues, assets, liabilities, losses, and expenses not attributable to particular accounts shall be prorated among the accounts.

e. The Legislature finds that the revenues of the corporation are revenues that are necessary to meet the requirements set forth in documents authorizing the issuance of bonds under this subsection.

f. No part of the income of the corporation may inure to the benefit of any private person.

3. With respect to a deficit in an account:

a. When the deficit incurred in a particular calendar year is not greater than 10 percent of the aggregate statewide direct written premium for the subject lines of business for the prior calendar year, the entire deficit shall be recovered through regular assessments of assessable insurers under paragraph (p) and assessable insureds.

b. When the deficit incurred in a particular calendar year exceeds 10 percent of the aggregate statewide direct written premium for the subject lines of business for the prior calendar year, the corporation shall levy regular assessments on assessable insurers under paragraph (p) and on assessable insureds in an amount equal to the greater of 10 percent of the deficit or 10 percent of the aggregate statewide direct written premium for the subject lines of business for the prior calendar year. Any remaining deficit shall be recovered through emergency assessments under sub-subparagraph d.

c. Each assessable insurer's share of the amount being assessed under sub-subparagraph a. or sub-subparagraph b. shall be in the proportion that the assessable insurer's direct written premium for the subject lines of business for the year preceding the assessment bears to the aggregate statewide direct written premium for the subject lines of business for that year. The assessment percentage applicable to each assessable insured is the ratio of the amount being assessed under sub-subparagraph a. or sub-subparagraph b. to the aggregate statewide direct written premium for the subject lines of business for the prior year. Assessments levied by the corporation on assessable insurers under sub-subparagraphs a. and b. shall be paid as required by the corporation's plan of operation and paragraph (p). Notwithstanding any other provision of this subsection, the aggregate amount of a regular assessment for a deficit incurred in a particular calendar year shall be reduced by the estimated amount to be received by the corporation from the Citizens policyholder surcharge under subparagraph (c)11. and the amount collected or estimated to be collected from the assessment on Citizens policyholders pursuant to sub-subparagraph i. Assessments levied by the corporation on assessable insureds under sub-subparagraphs a. and b. shall be collected by the surplus lines agent at the time the surplus lines agent collects the surplus lines tax required by s. 626.932 and shall be paid to the Florida Surplus Lines Service Office at the time the surplus lines agent pays the surplus lines tax to the Florida Surplus Lines Service Office. Upon receipt of regular assessments from surplus lines agents, the Florida Surplus Lines Service Office shall transfer the assessments directly to the corporation as determined by the corporation.

d. Upon a determination by the board of governors that a deficit in an account exceeds the amount that will be recovered through regular assessments under sub-subparagraph a. or sub-subparagraph b., the board shall levy, after verification by the office, emergency assessments, for as many years as necessary to cover the deficits, to be collected by assessable insurers and the corporation and collected from assessable insureds upon issuance or renewal of policies for subject lines of business, excluding National Flood Insurance policies. The amount of the emergency assessment collected in a particular year shall be a uniform percentage of that year's direct written premium for subject lines of business and all accounts of the corporation, excluding National Flood Insurance Program policy premiums, as annually determined by the board and verified by the office. The office shall verify the arithmetic calculations involved in the board's determination within 30 days after receipt of the information on which the determination was based. Notwithstanding any other provision of law, the corporation and each assessable insurer that writes subject lines of business shall collect emergency assessments from its policyholders without such obligation being affected by any credit, limitation, exemption, or deferment. Emergency assessments levied by the corporation on assessable insureds shall be collected by the surplus lines agent at the time the surplus lines agent collects the surplus lines tax required by s. 626.932 and shall be paid to the Florida Surplus Lines Service Office at the time the surplus lines agent pays the surplus lines tax to the Florida Surplus Lines Service Office. The emergency assessments so collected shall be transferred directly to the corporation on a periodic basis as determined by the corporation and shall be held by the corporation solely in the applicable account. The aggregate amount of emergency assessments levied for an account under this sub-subparagraph in any calendar year may not exceed the greater of 10 percent of the amount needed to cover the original deficit, plus interest, fees, commissions, required reserves, and other costs associated with financing of the original deficit, or 10 percent of the aggregate statewide direct written premium for subject lines of business and for all accounts of the corporation for the prior year, plus interest, fees, commissions, required reserves, and other costs associated with financing the original deficit.

e. The corporation may pledge the proceeds of assessments, projected recoveries from the Florida Hurricane Catastrophe Fund, other insurance and reinsurance recoverables, policyholder surcharges and

other surcharges, and other funds available to the corporation as the source of revenue for and to secure bonds issued under paragraph (p), bonds or other indebtedness issued under subparagraph (c)3., or lines of credit or other financing mechanisms issued or created under this subsection, or to retire any other debt incurred as a result of deficits or events giving rise to deficits, or in any other way that the board determines will efficiently recover such deficits. The purpose of the lines of credit or other financing mechanisms is to provide additional resources to assist the corporation in covering claims and expenses attributable to a catastrophe. As used in this subsection, the term "assessments" includes regular assessments under sub-subparagraph a., sub-subparagraph b., or subparagraph (p)1. and emergency assessments under sub-subparagraph d. Emergency assessments collected under sub-subparagraph d. are not part of an insurer's rates, are not premium, and are not subject to premium tax, fees, or commissions; however, failure to pay the emergency assessment shall be treated as failure to pay premium. The emergency assessments under sub-subparagraph d. shall continue as long as any bonds issued or other indebtedness incurred with respect to a deficit for which the assessment was imposed remain outstanding, unless adequate provision has been made for the payment of such bonds or other indebtedness pursuant to the documents governing such bonds or other indebtedness.

f. As used in this subsection, the term "subject lines of business" means insurance written by assessable insurers or procured by assessable insureds *for all property and casualty lines of business in this state, but not including workers' compensation or medical malpractice. As used in the sub-subparagraph, the term "property and casualty lines of business" includes all lines of business identified on Form 2, Exhibit of Premiums and Losses, in the annual statement required of authorized insurers by s. 624.424 and any rule adopted under this section, except for those lines identified as accident and health insurance and except for policies written under the National Flood Insurance program or the Federal Crop Insurance Program. For purposes of this sub-subparagraph, the term "workers' compensation" includes both workers' compensation insurance and excess workers' compensation insurance.* ~~on real or personal property, as defined in s. 624.604, including insurance for fire, industrial fire, allied lines, farmowners multiperil, homeowners multiperil, commercial multiperil, and mobile homes, and including liability coverage on all such insurance, but excluding inland marine as defined in s. 624.607(3) and excluding vehicle insurance as defined in s. 624.605(1) other than insurance on mobile homes used as permanent dwellings.~~

g. The Florida Surplus Lines Service Office shall determine annually the aggregate statewide written premium in subject lines of business procured by assessable insureds and shall report that information to the corporation in a form and at a time the corporation specifies to ensure that the corporation can meet the requirements of this subsection and the corporation's financing obligations.

h. The Florida Surplus Lines Service Office shall verify the proper application by surplus lines agents of assessment percentages for regular assessments and emergency assessments levied under this subparagraph on assessable insureds and shall assist the corporation in ensuring the accurate, timely collection and payment of assessments by surplus lines agents as required by the corporation.

i. If a deficit is incurred in any account *in 2008 or thereafter*, the board of governors shall levy an immediate assessment against the premium of each nonhomestead property policyholder in all accounts of the corporation, as a uniform percentage of the premium of the policy of up to 10 percent of such premium, which funds shall be used to offset the deficit. If this assessment is insufficient to eliminate the deficit, the board of governors shall levy an additional assessment against all policyholders of the corporation, which shall be collected at the time of issuance or renewal of a policy, as a uniform percentage of the premium for the policy of up to 10 percent of such premium, which funds shall be used to further offset the deficit.

j. The board of governors shall maintain separate accounting records that consolidate data for nonhomestead properties, including, but not limited to, number of policies, insured values, premiums written, and losses. The board of governors shall annually report to the office and the Legislature a summary of such data.

(c) The plan of operation of the corporation:

1. Must provide for adoption of residential property and casualty insurance policy forms and commercial residential and nonresidential property insurance forms, which forms must be approved by the office prior to use. The corporation shall adopt the following policy forms:

a. Standard personal lines policy forms that are comprehensive multiperil policies providing full coverage of a residential property equivalent to the coverage provided in the private insurance market under an HO-3, HO-4, or HO-6 policy.

b. Basic personal lines policy forms that are policies similar to an HO-8 policy or a dwelling fire policy that provide coverage meeting the requirements of the secondary mortgage market, but which coverage is more limited than the coverage under a standard policy.

c. Commercial lines residential *and nonresidential* policy forms that are generally similar to the basic perils of full coverage obtainable for commercial residential structures *and commercial nonresidential structures* in the admitted voluntary market.

d. Personal lines and commercial lines residential property insurance forms that cover the peril of wind only. The forms are applicable only to residential properties located in areas eligible for coverage under the high-risk account referred to in sub-subparagraph (b)2.a.

e. Commercial lines nonresidential property insurance forms that cover the peril of wind only. The forms are applicable only to nonresidential properties located in areas eligible for coverage under the high-risk account referred to in sub-subparagraph (b)2.a.

f. The corporation may adopt variations of the policy forms listed in sub-subparagraphs a.-e. that contain more restrictive coverage.

2.a. Must provide that the corporation adopt a program in which the corporation and authorized insurers enter into quota share primary insurance agreements for hurricane coverage, as defined in s. 627.4025(2)(a), for eligible risks, and adopt property insurance forms for eligible risks which cover the peril of wind only. As used in this subsection, the term:

(I) "Quota share primary insurance" means an arrangement in which the primary hurricane coverage of an eligible risk is provided in specified percentages by the corporation and an authorized insurer. The corporation and authorized insurer are each solely responsible for a specified percentage of hurricane coverage of an eligible risk as set forth in a quota share primary insurance agreement between the corporation and an authorized insurer and the insurance contract. The responsibility of the corporation or authorized insurer to pay its specified percentage of hurricane losses of an eligible risk, as set forth in the quota share primary insurance agreement, may not be altered by the inability of the other party to the agreement to pay its specified percentage of hurricane losses. Eligible risks that are provided hurricane coverage through a quota share primary insurance arrangement must be provided policy forms that set forth the obligations of the corporation and authorized insurer under the arrangement, clearly specify the percentages of quota share primary insurance provided by the corporation and authorized insurer, and conspicuously and clearly state that neither the authorized insurer nor the corporation may be held responsible beyond its specified percentage of coverage of hurricane losses.

(II) "Eligible risks" means personal lines residential and commercial lines residential risks that meet the underwriting criteria of the corporation and are located in areas that were eligible for coverage by the Florida Windstorm Underwriting Association on January 1, 2002.

b. The corporation may enter into quota share primary insurance agreements with authorized insurers at corporation coverage levels of 90 percent and 50 percent.

c. If the corporation determines that additional coverage levels are necessary to maximize participation in quota share primary insurance agreements by authorized insurers, the corporation may establish additional coverage levels. However, the corporation's quota share primary insurance coverage level may not exceed 90 percent.

d. Any quota share primary insurance agreement entered into between an authorized insurer and the corporation must provide for a uniform specified percentage of coverage of hurricane losses, by county or territory as set forth by the corporation board, for all eligible risks of the authorized insurer covered under the quota share primary insurance agreement.

e. Any quota share primary insurance agreement entered into between an authorized insurer and the corporation is subject to review and approval by the office. However, such agreement shall be authorized only as to insurance contracts entered into between an authorized insurer and an insured who is already insured by the corporation for wind coverage.

f. For all eligible risks covered under quota share primary insurance agreements, the exposure and coverage levels for both the corporation and authorized insurers shall be reported by the corporation to the Florida Hurricane Catastrophe Fund. For all policies of eligible risks covered under quota share primary insurance agreements, the corporation and the authorized insurer shall maintain complete and accurate records for the purpose of exposure and loss reimbursement audits as required by Florida Hurricane Catastrophe Fund rules. The corporation and the authorized insurer shall each maintain duplicate copies of policy declaration pages and supporting claims documents.

g. The corporation board shall establish in its plan of operation standards for quota share agreements which ensure that there is no discriminatory application among insurers as to the terms of quota share agreements, pricing of quota share agreements, incentive provisions if any, and consideration paid for servicing policies or adjusting claims.

h. The quota share primary insurance agreement between the corporation and an authorized insurer must set forth the specific terms under which coverage is provided, including, but not limited to, the sale and servicing of policies issued under the agreement by the insurance agent of the authorized insurer producing the business, the reporting of information concerning eligible risks, the payment of premium to the corporation, and arrangements for the adjustment and payment of hurricane claims incurred on eligible risks by the claims adjuster and personnel of the authorized insurer. Entering into a quota sharing insurance agreement between the corporation and an authorized insurer shall be voluntary and at the discretion of the authorized insurer.

3. May provide that the corporation may employ or otherwise contract with individuals or other entities to provide administrative or professional services that may be appropriate to effectuate the plan. The corporation shall have the power to borrow funds, by issuing bonds or by incurring other indebtedness, and shall have other powers reasonably necessary to effectuate the requirements of this subsection, including, without limitation, the power to issue bonds and incur other indebtedness in order to refinance outstanding bonds or other indebtedness. The corporation may, but is not required to, seek judicial validation of its bonds or other indebtedness under chapter 75. The corporation may issue bonds or incur other indebtedness, or have bonds issued on its behalf by a unit of local government pursuant to subparagraph (g)2., in the absence of a hurricane or other weather-related event, upon a determination by the corporation, subject to approval by the office, that such action would enable it to efficiently meet the financial obligations of the corporation and that such financings are reasonably necessary to effectuate the requirements of this subsection. The corporation is authorized to take all actions needed to facilitate tax-free status for any such bonds or indebtedness, including formation of trusts or other affiliated entities. The corporation shall have the authority to pledge assessments, projected recoveries from the Florida Hurricane Catastrophe Fund, other reinsurance recoverables, market equalization and other surcharges, and other funds available to the corporation as security for bonds or other indebtedness. In recognition of s. 10, Art. I of the State Constitution, prohibiting the impairment of obligations of contracts, it is the intent of the Legislature that no action be taken whose purpose is to impair any bond indenture or financing agreement or any revenue source committed by contract to such bond or other indebtedness.

4.a. Must require that the corporation operate subject to the supervision and approval of a board of governors consisting of eight individuals who are residents of this state, from different geographical areas of this state. The Governor, the Chief Financial Officer, the President of the Senate, and the Speaker of the House of Representatives shall each appoint two members of the board. At least one of the two members appointed by each appointing officer must have demonstrated expertise in insurance. The Chief Financial Officer shall designate one of the appointees as chair. All board members serve at the pleasure of the appointing officer. All board members, including the chair, must be appointed to serve for 3-year terms beginning annually on a date designated by the plan. Any board vacancy shall be filled for the unexpired term by the appointing officer. The Chief Financial Officer shall appoint a technical advisory group to provide information and advice to the board of governors in connection with the board's duties under this subsection. The executive director and senior managers of the corporation shall be engaged by the board and serve at the pleasure of the board. Any executive director appointed on or after July 1, 2006, is subject to confirmation by the Senate. The executive director is responsible for employing other staff as the corporation may require, subject to review and concurrence by the board.

b. The board shall create a Market Accountability Advisory Committee to assist the corporation in developing awareness of its rates and its customer and agent service levels in relationship to the voluntary market insurers writing similar coverage. The members of the advisory committee shall consist of the following 11 persons, one of whom must be elected chair by the members of the committee: four representatives, one appointed by the Florida Association of Insurance Agents, one by the Florida Association of Insurance and Financial Advisors, one by the Professional Insurance Agents of Florida, and one by the Latin American Association of Insurance Agencies; three representatives appointed by the insurers with the three highest voluntary market share of residential property insurance business in the state; one representative from the Office of Insurance Regulation; one consumer appointed by the board who is insured by the corporation at the time of appointment to the committee; one representative appointed by the Florida Association of Realtors; and one representative appointed by the Florida Bankers Association. All members must serve for 3-year terms and may serve for consecutive terms. The committee shall report to the corporation at each board meeting on insurance market issues which may include rates and rate competition with the voluntary market; service, including policy issuance, claims processing, and general responsiveness to policyholders, applicants, and agents; and matters relating to depopulation.

5. Must provide a procedure for determining the eligibility of a risk for coverage, as follows:

a. Subject to the provisions of s. 627.3517, with respect to personal lines residential risks, if the risk is offered coverage from an authorized insurer at the insurer's approved rate under either a standard policy including wind coverage or, if consistent with the insurer's underwriting rules as filed with the office, a basic policy including wind coverage, the risk is not eligible for any policy issued by the corporation *unless the premium for coverage from the authorized insurer is more than 25 percent greater than the premium for comparable coverage from the corporation*. If the risk is not able to obtain any such offer, the risk is eligible for either a standard policy including wind coverage or a basic policy including wind coverage issued by the corporation; however, if the risk could not be insured under a standard policy including wind coverage regardless of market conditions, the risk shall be eligible for a basic policy including wind coverage unless rejected under subparagraph 8. The corporation shall determine the type of policy to be provided on the basis of objective standards specified in the underwriting manual and based on generally accepted underwriting practices.

(I) If the risk accepts an offer of coverage through the market assistance plan or an offer of coverage through a mechanism established by the corporation before a policy is issued to the risk by the corporation or during the first 30 days of coverage by the corporation, and the producing agent who submitted the application to the plan or to the corporation is not currently appointed by the insurer, the insurer shall:

(A) Pay to the producing agent of record of the policy, for the first year, an amount that is the greater of the insurer's usual and customary commission for the type of policy written or a fee equal to the usual and customary commission of the corporation; or

(B) Offer to allow the producing agent of record of the policy to continue servicing the policy for a period of not less than 1 year and offer to pay the agent the greater of the insurer's or the corporation's usual and customary commission for the type of policy written.

If the producing agent is unwilling or unable to accept appointment, the new insurer shall pay the agent in accordance with sub-sub-subparagraph (A).

(II) When the corporation enters into a contractual agreement for a take-out plan, the producing agent of record of the corporation policy is entitled to retain any unearned commission on the policy, and the insurer shall:

(A) Pay to the producing agent of record of the corporation policy, for the first year, an amount that is the greater of the insurer's usual and customary commission for the type of policy written or a fee equal to the usual and customary commission of the corporation; or

(B) Offer to allow the producing agent of record of the corporation policy to continue servicing the policy for a period of not less than 1 year and offer to pay the agent the greater of the insurer's or the corporation's usual and customary commission for the type of policy written.

If the producing agent is unwilling or unable to accept appointment, the new insurer shall pay the agent in accordance with sub-sub-sub-subparagraph (A).

b. With respect to commercial lines residential risks, if the risk is offered coverage under a policy including wind coverage from an authorized insurer at its approved rate, the risk is not eligible for any policy issued by the corporation *unless the premium for coverage from the authorized insurer is more than 25 percent greater than the premium for comparable coverage from the corporation*. If the risk is not able to obtain any such offer, the risk is eligible for a policy including wind coverage issued by the corporation.

(I) If the risk accepts an offer of coverage through the market assistance plan or an offer of coverage through a mechanism established by the corporation before a policy is issued to the risk by the corporation or during the first 30 days of coverage by the corporation, and the producing agent who submitted the application to the plan or the corporation is not currently appointed by the insurer, the insurer shall:

(A) Pay to the producing agent of record of the policy, for the first year, an amount that is the greater of the insurer's usual and customary commission for the type of policy written or a fee equal to the usual and customary commission of the corporation; or

(B) Offer to allow the producing agent of record of the policy to continue servicing the policy for a period of not less than 1 year and offer to pay the agent the greater of the insurer's or the corporation's usual and customary commission for the type of policy written.

If the producing agent is unwilling or unable to accept appointment, the new insurer shall pay the agent in accordance with sub-sub-sub-subparagraph (A).

(II) When the corporation enters into a contractual agreement for a take-out plan, the producing agent of record of the corporation policy is entitled to retain any unearned commission on the policy, and the insurer shall:

(A) Pay to the producing agent of record of the corporation policy, for the first year, an amount that is the greater of the insurer's usual and customary commission for the type of policy written or a fee equal to the usual and customary commission of the corporation; or

(B) Offer to allow the producing agent of record of the corporation policy to continue servicing the policy for a period of not less than 1 year and offer to pay the agent the greater of the insurer's or the corporation's usual and customary commission for the type of policy written.

If the producing agent is unwilling or unable to accept appointment, the new insurer shall pay the agent in accordance with sub-sub-sub-subparagraph (A).

6. Must provide by July 1, 2007, that an application for coverage for a new policy is subject to a waiting period of 10 days before coverage is effective, during which time the corporation shall make such application available for review by general lines agents and authorized property and casualty insurers. The board may approve exceptions that allow for coverage to be effective before the end of the 10-day waiting period, for coverage issued in conjunction with a real estate closing, and for such other exceptions as the board determines are necessary to prevent lapses in coverage.

7. Must include rules for classifications of risks and rates therefor.

8. Must provide that if premium and investment income for an account attributable to a particular calendar year are in excess of projected losses and expenses for the account attributable to that year, such excess shall be held in surplus in the account. Such surplus shall be available to defray deficits in that account as to future years and shall be used for that purpose prior to assessing assessable insurers and assessable insureds as to any calendar year.

9. Must provide objective criteria and procedures to be uniformly applied for all applicants in determining whether an individual risk is so hazardous as to be uninsurable. In making this determination and in establishing the criteria and procedures, the following shall be considered:

a. Whether the likelihood of a loss for the individual risk is substantially higher than for other risks of the same class; and

b. Whether the uncertainty associated with the individual risk is such that an appropriate premium cannot be determined.

The acceptance or rejection of a risk by the corporation shall be construed as the private placement of insurance, and the provisions of chapter 120 shall not apply.

10. Must provide that the corporation shall make its best efforts to procure catastrophe reinsurance at reasonable rates, to cover its projected 100-year probable maximum loss as determined by the board of governors.

11. Must provide that in the event of regular deficit assessments under sub-subparagraph (b)3.a. or sub-subparagraph (b)3.b., in the personal lines account, the commercial lines residential account, or the high-risk account, the corporation shall levy upon corporation policyholders in its next rate filing, or by a separate rate filing solely for this purpose, a Citizens policyholder surcharge arising from a regular assessment in such account in a percentage equal to the total amount of such regular assessments divided by the aggregate statewide direct written premium for subject lines of business for the prior calendar year. For purposes of calculating the Citizens policyholder surcharge to be levied under this subparagraph, the total amount of the regular assessment to which this surcharge is related shall be determined as set forth in subparagraph (b)3., without deducting the estimated Citizens policyholder surcharge. Citizens policyholder surcharges under this subparagraph are not considered premium and are not subject to commissions, fees, or premium taxes; however, failure to pay a market equalization surcharge shall be treated as failure to pay premium.

12. The policies issued by the corporation must provide that, if the corporation or the market assistance plan obtains an offer from an authorized insurer to cover the risk at its approved rates, the risk is no longer eligible for renewal through the corporation*, except as otherwise provided in this subsection*.

13. Corporation policies and applications must include a notice that the corporation policy could, under this section, be replaced with a policy issued by an authorized insurer that does not provide coverage identical to the coverage provided by the corporation. The notice shall also specify that acceptance of corporation coverage creates a conclusive presumption that the applicant or policyholder is aware of this potential.

14. May establish, subject to approval by the office, different eligibility requirements and operational procedures for any line or type of coverage for any specified county or area if the board determines that such changes to the eligibility requirements and operational procedures are justified due to the voluntary market being sufficiently stable and competitive in such area or for such line or type of coverage and that consumers who, in good faith, are unable to obtain insurance through the voluntary market through ordinary methods would continue to have access to coverage from the corporation. When coverage is sought in connection with a real property transfer, such requirements and procedures shall not provide for an effective date of coverage later than the date of the closing of the transfer as established by the transferor, the transferee, and, if applicable, the lender.

15. Must provide that, with respect to the high-risk account, any assessable insurer with a surplus as to policyholders of $25 million or less writing 25 percent or more of its total countrywide property insurance premiums in this state may petition the office, within the first 90 days of each calendar year, to qualify as a limited apportionment company. A regular assessment levied by the corporation on a limited apportionment company for a deficit incurred by the corporation for the high-risk account in 2006 or thereafter may be paid to the corporation on a monthly basis as the assessments are collected by the limited apportionment company from its insureds pursuant to s. 627.3512, but the regular assessment must be paid in full within 12 months after being levied by the corporation. A limited apportionment company shall collect from its policyholders any emergency assessment imposed under sub-subparagraph (b)3.d. The plan shall provide that, if the office determines

that any regular assessment will result in an impairment of the surplus of a limited apportionment company, the office may direct that all or part of such assessment be deferred as provided in subparagraph (g)4. However, there shall be no limitation or deferment of an emergency assessment to be collected from policyholders under sub-subparagraph (b)3.d.

16. Must provide that the corporation appoint as its licensed agents only those agents who also hold an appointment as defined in s. 626.015(3) with an insurer who at the time of the agent's initial appointment by the corporation is authorized to write and is actually writing personal lines residential property coverage, commercial residential property coverage, or commercial nonresidential property coverage within the state.

17. Must provide, by July 1, 2007, a premium payment plan option to its policyholders which allows for quarterly and semiannual payment of premiums.

18. Must provide, effective June 1, 2007, that the corporation contract with each insurer providing the non-wind coverage for risks insured by the corporation in the high-risk account, requiring that the insurer provide claims adjusting services for the wind coverage provided by the corporation for such risks. An insurer is required to enter into this contract as a condition of providing non-wind coverage for a risk that is insured by the corporation in the high-risk account unless the board finds, after a hearing, that the insurer is not capable of providing adjusting services at an acceptable level of quality to corporation policyholders. The terms and conditions of such contracts must be substantially the same as the contracts that the corporation executed with insurers under the "adjust-your-own" program in 2006, except as may be mutually agreed to by the parties and except for such changes that the board determines are necessary to ensure that claims are adjusted appropriately. The corporation shall provide a process for neutral arbitration of any dispute between the corporation and the insurer regarding the terms of the contract. The corporation shall review and monitor the performance of insurers under these contracts.

19. Must limit coverage on mobile homes or manufactured homes built prior to 1994 to actual cash value of the dwelling rather than replacement costs of the dwelling.

20. May provide such limits of coverage as the board determines, consistent with the requirements of this subsection.

21. May require commercial property to meet specified hurricane mitigation construction features as a condition of eligibility for coverage.

(m)1.

~~a.~~ Rates for coverage provided by the corporation shall be actuarially sound and *subject to the requirements of s. 627.062, except as otherwise provided in this paragraph. The corporation shall file its recommended rates with the office at least annually. The corporation shall provide any additional information regarding the rates which the office requires. The office shall consider the recommendations of the board and issue a final order establishing the rates for the corporation within 45 days after the recommended rates are filed. The corporation may not pursue an administrative challenge or judicial review of the final order of the office.* ~~not competitive with approved rates charged in the admitted voluntary market, so that the corporation functions as a residual market mechanism to provide insurance only when the insurance cannot be procured in the voluntary market. Rates shall include an appropriate catastrophe loading factor that reflects the actual catastrophic exposure of the corporation. For policies in the personal lines account and the commercial lines account issued or renewed on or after March 1, 2007, a rate is deemed inadequate if the rate, including investment income, is not sufficient to provide for the procurement of coverage under the Florida Hurricane Catastrophe Fund and private reinsurance costs, whether or not reinsurance is procured, and to pay all claims and expenses reasonably expected to result from a 100-year probable maximum loss event without resort to any regular or emergency assessments, long-term debt, state revenues, or other funding sources. For policies in the high-risk account issued or renewed on or after March 1, 2007, a rate is deemed inadequate if the rate, including investment income, is not sufficient to provide for the procurement of coverage under the Florida Hurricane Catastrophe Fund and private reinsurance costs, whether or not reinsurance is procured, and to pay all claims and expenses reasonably expected to result from a 70-year probable maximum loss event with resort to any regular or emergency assessments, long-term debt, state revenues, or other funding sources. For policies in the high-risk account issued or renewed in 2008 and 2009, the rate must be based upon an 85-year and 100-year probable maximum loss event, respectively.~~

~~b. It is the intent of the Legislature to reaffirm the requirement of rate adequacy in the residual market. Recognizing that rates may comply with the intent expressed in sub-subparagraph a. and yet be inadequate and recognizing the public need to limit subsidies within the residual market, it is the further intent of the Legislature to establish statutory standards for rate adequacy. Such standards are intended to supplement the standard specified in s. 627.062(2)(c)3., providing that rates are inadequate if they are clearly insufficient to sustain projected losses and expenses in the class of business to which they apply.~~

~~2. For each county, the average rates of the corporation for each line of business for personal lines residential policies excluding rates for wind-only policies shall be no lower than the average rates charged by the insurer that had the highest average rate in that county among the 20 insurers with the greatest total direct written premium in the state for that line of business in the preceding year, except that with respect to mobile home coverages, the average rates of the corporation shall be no lower than the average rates charged by the insurer that had the highest average rate in that county among the 5 insurers with the greatest total written premium for mobile home owner's policies in the state in the preceding year.~~

~~3. Rates for personal lines residential wind-only policies must be actuarially sound and not competitive with approved rates charged by authorized insurers. If the filing under this subparagraph is made at least 90 days before the proposed effective date and the filing is not implemented during the office's review of the filing and any proceeding and judicial review, such filing shall be considered a "file and use" filing. In such case, the office shall finalize its review by issuance of a notice of intent to approve or a notice of intent to disapprove within 90 days after receipt of the filing. The notice of intent to approve and the notice of intent to disapprove constitute agency action for purposes of the Administrative Procedure Act. Requests for supporting information, requests for mathematical or mechanical corrections, or notification to the insurer by the office of its preliminary findings shall not toll the 90-day period during any such proceedings and subsequent judicial review. The rate shall be deemed approved if the office does not issue a notice of intent to approve or a notice of intent to disapprove within 90 days after receipt of the filing. Corporation rate manuals shall include a rate surcharge for seasonal occupancy. To ensure that personal lines residential wind-only rates are not competitive with approved rates charged by authorized insurers, the corporation, in conjunction with the office, shall develop a wind-only ratemaking methodology, which methodology shall be contained in each rate filing made by the corporation with the office. If the office determines that the wind-only rates or rating factors filed by the corporation fail to comply with the wind-only ratemaking methodology provided for in this subsection, it shall so notify the corporation and require the corporation to amend its rates or rating factors to come into compliance within 90 days of notice from the office.~~

~~4. The requirements of this paragraph that rates not be competitive with approved rates charged by authorized insurers do not apply in a county or area for which the office determines that no authorized insurer is offering coverage. The corporation shall amend its rates or rating factors for the affected county or area in conjunction with its next rate filing after such determination is made.~~

~~5. For the purposes of establishing a pilot program to evaluate issues relating to the availability and affordability of insurance in an area where historically there has been little market competition, the provisions of subparagraph 2. do not apply to coverage provided by the corporation in Monroe County if the office determines that a reasonable degree of competition does not exist for personal lines residential policies. The provisions of subparagraph 3. do not apply to coverage provided by the corporation in Monroe County if the office determines that a reasonable degree of competition does not exist for personal lines residential policies in the area of that county which is eligible for wind-only coverage. In this county, the rates for personal lines residential coverage shall be actuarially sound and not excessive, inadequate, or unfairly discriminatory and are subject to the other provisions of the paragraph and s. 627.062. The commission shall adopt rules establishing the criteria for determining whether a reasonable degree of competition exists for personal lines residential policies in Monroe County. By March 1, 2006, the office shall submit a report to the Legislature providing an evaluation of the implementation of the pilot program affecting Monroe County.~~

~~6. Rates for commercial lines coverage shall not be subject to the requirements of subparagraph 2., but shall be subject to all other requirements of this paragraph and s. 627.062.~~

~~7. Nothing in this paragraph shall require or allow the corporation to adopt a rate that is inadequate under s. 627.062.~~

~~8. The corporation shall certify to the office at least twice annually that its personal lines rates comply with the requirements of subparagraphs 1., 2., and 3. If any adjustment in the rates or rating factors of the corporation is necessary to ensure such compliance, the corporation shall make and implement such adjustments and file its revised rates and rating factors with the office. If the office thereafter determines that the revised rates and rating factors fail to comply with the provisions of subparagraphs 1., 2., and 3., it shall notify the corporation and require the corporation to amend its rates or rating factors in conjunction with its next rate filing. The office must notify the corporation by electronic means of any rate filing it approves for any insurer among the insurers referred to in subparagraph 2.~~

2.~~9.~~ In addition to the rates otherwise determined pursuant to this paragraph, the corporation shall impose and collect an amount equal to the premium tax provided for in s. 624.509 to augment the financial resources of the corporation.

~~10. The corporation shall develop a notice to policyholders or applicants that the rates of Citizens Property Insurance Corporation are intended to be higher than the rates of any admitted carrier and providing other information the corporation deems necessary to assist consumers in finding other voluntary admitted insurers willing to insure their property.~~

3.~~11.~~ After the public hurricane loss-projection model under s. 627.06281 has been found to be accurate and reliable by the Florida Commission on Hurricane Loss Projection Methodology, that model shall serve as the minimum benchmark for determining the windstorm portion of the corporation's rates. This subparagraph does not require or allow the corporation to adopt rates lower than the rates otherwise required or allowed by this paragraph.

4. The rate filings for the corporation which were approved by the office and which took effect January 1, 2007, are rescinded, except for those rates that were lowered. As soon as possible, the corporation shall begin using the lower rates that were in effect on December 31, 2006, and shall provide refunds to policyholders who have paid higher rates as a result of that rate filing. The rates in effect on December 31, 2006, shall remain in effect for the 2007 calendar year except for any rate change that results in a lower rate. The next rate change that may increase rates shall take effect January 1, 2008, pursuant to a new rate filing recommended by the corporation and established by the office, subject to the requirements of this paragraph.

(p)1. The corporation shall certify to the office its needs for annual assessments as to a particular calendar year, and for any interim assessments that it deems to be necessary to sustain operations as to a particular year pending the receipt of annual assessments. Upon verification, the office shall approve such certification, and the corporation shall levy such annual or interim assessments. Such assessments shall be prorated as provided in paragraph (b). The corporation shall take all reasonable and prudent steps necessary to collect the amount of assessment due from each assessable insurer, including, if prudent, filing suit to collect such assessment. If the corporation is unable to collect an assessment from any assessable insurer, the uncollected assessments shall be levied as an additional assessment against the assessable insurers and any assessable insurer required to pay an additional assessment as a result of such failure to pay shall have a cause of action against such nonpaying assessable insurer. Assessments shall be included as an appropriate factor in the making of rates. The failure of a surplus lines agent to collect and remit any regular or emergency assessment levied by the corporation is considered to be a violation of s. 626.936 and subjects the surplus lines agent to the penalties provided in that section.

2. The governing body of any unit of local government, any residents of which are insured by the corporation, may issue bonds as defined in s. 125.013 or s. 166.101 from time to time to fund an assistance program, in conjunction with the corporation, for the purpose of defraying deficits of the corporation. In order to avoid needless and indiscriminate proliferation, duplication, and fragmentation of such assistance programs, any unit of local government, any residents of which are insured by the corporation, may provide for the payment of losses, regardless of whether or not the losses occurred within or outside of the territorial jurisdiction of the local government. Revenue bonds under this subparagraph may not be issued until validated pursuant to chapter 75, unless a state of emergency is declared by executive order or proclamation of the Governor pursuant to s. 252.36 making such findings as are necessary to determine that it is in the best interests of, and necessary for, the protection of the public health, safety, and general welfare of residents of this state and declaring it an essential public purpose to permit certain municipalities or counties to issue such bonds as will permit relief to claimants and policyholders of the corporation. Any such unit of local government may enter into such contracts with the corporation and with any other entity created pursuant to this subsection as are necessary to carry out this paragraph. Any bonds issued under this subparagraph shall be payable from and secured by moneys received by the corporation from emergency assessments under sub-subparagraph (b)3.d., and assigned and pledged to or on behalf of the unit of local government for the benefit of the holders of such bonds. The funds, credit, property, and taxing power of the state or of the unit of local government shall not be pledged for the payment of such bonds. If any of the bonds remain unsold 60 days after issuance, the office shall require all insurers subject to assessment to purchase the bonds, which shall be treated as admitted assets; each insurer shall be required to purchase that percentage of the unsold portion of the bond issue that equals the insurer's relative share of assessment liability under this subsection. An insurer shall not be required to purchase the bonds to the extent that the office determines that the purchase would endanger or impair the solvency of the insurer.

3.a. The corporation shall adopt one or more programs subject to approval by the office for the reduction of both new and renewal writings in the corporation. Beginning January 1, 2008, any program the corporation adopts for the payment of bonuses to an insurer for each risk the insurer removes from the corporation shall comply with s. 627.3511(2) and may not exceed the amount referenced in s. 627.3511(2) for each risk removed. The corporation may consider any prudent and not unfairly discriminatory approach to reducing corporation writings, and may adopt a credit against assessment liability or other liability that provides an incentive for insurers to take risks out of the corporation and to keep risks out of the corporation by maintaining or increasing voluntary writings in counties or areas in which corporation risks are highly concentrated and a program to provide a formula under which an insurer voluntarily taking risks out of the corporation by maintaining or increasing voluntary writings will be relieved wholly or partially from assessments under sub-subparagraphs (b)3.a. and b. However, any "take-out bonus" or payment to an insurer must be conditioned on the property being insured for at least 5 years by the insurer, unless canceled or nonrenewed by the policyholder. If the policy is canceled or nonrenewed by the policyholder before the end of the 5-year period, the amount of the take-out bonus must be prorated for the time period the policy was insured. When the corporation enters into a contractual agreement for a take-out plan, the producing agent of record of the corporation policy is entitled to retain any unearned commission on such policy, and the insurer shall either:

(I) Pay to the producing agent of record of the policy, for the first year, an amount which is the greater of the insurer's usual and customary commission for the type of policy written or a policy fee equal to the usual and customary commission of the corporation; or

(II) Offer to allow the producing agent of record of the policy to continue servicing the policy for a period of not less than 1 year and offer to pay the agent the insurer's usual and customary commission for the type of policy written. If the producing agent is unwilling or unable to accept appointment by the new insurer, the new insurer shall pay the agent in accordance with sub-sub-subparagraph (I).

b. Any credit or exemption from regular assessments adopted under this subparagraph shall last no longer than the 3 years following the cancellation or expiration of the policy by the corporation. With the approval of the office, the board may extend such credits for an additional year if the insurer guarantees an additional year of renewability for all policies removed from the corporation, or for 2 additional years if the insurer guarantees 2 additional years of renewability for all policies so removed.

c. There shall be no credit, limitation, exemption, or deferment from emergency assessments to be collected from policyholders pursuant to sub-subparagraph (b)3.d.

4. The plan shall provide for the deferment, in whole or in part, of the assessment of an assessable insurer, other than an emergency assessment collected from policyholders pursuant to sub-subparagraph (b)3.d., if the office finds that payment of the assessment would endanger or impair the solvency of the insurer. In the event an assessment against an assessable insurer is deferred in whole or in part, the amount by which such assessment is deferred may be assessed against the other assessable insurers in a manner consistent with the basis for assessments set forth in paragraph (b).

5. Effective July 1, 2007, in order to evaluate the costs and benefits of approved take-out plans, if the corporation pays a bonus or other payment to an insurer for an approved take-out plan, it shall maintain a record of the address or such other identifying information on the property or risk removed in order to track if and when the property or risk is later insured by the corporation.

6. Any policy taken out, assumed, or removed from the corporation is, as of the effective date of the take-out, assumption, or removal, direct insurance issued by the insurer and not by the corporation, even if the corporation continues to service the policies. This subparagraph applies to policies of the corporation and not policies taken out, assumed, or removed from any other entity.

(s) For the purposes of s. 199.183(1), the corporation shall be considered a political subdivision of the state and shall be exempt from the corporate income tax. The premiums, assessments, investment income, and other revenue of the corporation are funds received for providing property insurance coverage as required by this subsection, paying claims for Florida citizens insured by the corporation, securing and repaying debt obligations issued by the corporation, and conducting all other activities of the corporation, and shall not be considered taxes, fees, licenses, or charges for services imposed by the Legislature on individuals, businesses, or agencies outside state government. Bonds and other debt obligations issued by or on behalf of the corporation are not to be considered "state bonds" within the meaning of s. 215.58(8). The corporation is not subject to the procurement provisions of chapter 287, and policies and decisions of the corporation relating to incurring debt, levying of assessments and the sale, issuance, continuation, terms and claims under corporation policies, and all services relating thereto, are not subject to the provisions of chapter 120. The corporation is not required to obtain or to hold a certificate of authority issued by the office, nor is it required to participate as a member insurer of the Florida Insurance Guaranty Association. However, the corporation is required to pay, in the same manner as an authorized insurer, assessments *levied* ~~pledged~~ by the Florida Insurance Guaranty Association ~~to secure bonds issued or other indebtedness incurred to pay covered claims arising from insurer insolvencies caused by, or proximately related to, hurricane losses~~. It is the intent of the Legislature that the tax exemptions provided in this paragraph will augment the financial resources of the corporation to better enable the corporation to fulfill its public purposes. Any debt obligations issued by the corporation, their transfer, and the income therefrom, including any profit made on the sale thereof, shall at all times be free from taxation of every kind by the state and any political subdivision or local unit or other instrumentality thereof; however, this exemption does not apply to any tax imposed by chapter 220 on interest, income, or profits on debt obligations owned by corporations other than the corporation.

(ee) The assets of the corporation may be invested and managed by the State Board of Administration.

Section 28. *It is the intent of the Legislature that commercial nonresidential property insurance coverage be made available from Citizens Property Insurance Corporation (Citizens), under s. 627.351(6), Florida Statutes, as amended by this act, rather than from the Property and Casualty Joint Underwriting Association (PCJUA), under s. 627.351(5), Florida Statutes. As soon as it is reasonably able to do so, Citizens shall adopt, subject to approval of the Office of Insurance Regulation, a plan providing for the transition of such coverage from the PCJUA to Citizens under such forms, rates, terms, and conditions as the board of Citizens considers appropriate. The plan shall include any contractual agreements between Citizens and the PCJUA which are required to effect the transition. In the transition plan, Citizens may assume policies or otherwise provide coverage for the commercial nonresidential policyholders of the PCJUA and may also provide for allocating to the appropriate account or accounts of Citizens the revenues, assets, liabilities, losses, and expenses associated with policies of the PCJUA which are assumed or otherwise covered by Citizens. It is the intent of the Legislature that the transition plan be implemented in a manner that does not adversely affect the creditworthiness of or security for currently outstanding financing obligations or credit facilities of the high-risk account, the personal lines account, or the commercial lines account. The order issued by the Office of Insurance Regulation may allow the PCJUA to continue to issue such coverage until the time that Citizens begins issuing such coverage.*

Section 29. Subsections (3), (4), (5), and (7) of section 627.701, Florida Statutes, are amended to read:

627.701 Liability of insureds; coinsurance; deductibles.—

(3)~~(a) A policy of residential property insurance shall include a deductible amount applicable to hurricane losses no lower than $500 and no higher than 2 percent of the policy dwelling limits with respect to personal lines residential risks, and no higher than 3 percent of the policy limits with respect to commercial lines residential risks; however, if a risk was covered on August 24, 1992, under a policy having a higher deductible than the deductibles allowed by this paragraph, a policy covering such risk may include a deductible no higher than the deductible in effect on August 24, 1992. Notwithstanding the other provisions of this paragraph, a personal lines residential policy covering a risk valued at $50,000 or less may include a deductible amount attributable to hurricane losses no lower than $250, and a personal lines residential policy covering a risk valued at $100,000 or more may include a deductible amount attributable to hurricane losses no higher than 10 percent of the policy limits unless subject to a higher deductible on August 24, 1992; however, no maximum deductible is required with respect to a personal lines residential policy covering a risk valued at more than $500,000. An insurer may require a higher deductible, provided such deductible is the same as or similar to a deductible program lawfully in effect on June 14, 1995. In addition to the deductible amounts authorized by this paragraph, an insurer may also offer policies with a copayment provision under which, after exhaustion of the deductible, the policyholder is responsible for 10 percent of the next $10,000 of insured hurricane losses.~~

(a)~~(b)~~1. Except as otherwise provided in this paragraph, prior to issuing a personal lines residential property insurance policy ~~on or after January 1, 2006, or prior to the first renewal of a residential property insurance policy on or after January 1, 2006~~, the insurer must offer alternative deductible amounts applicable to hurricane losses equal to $500, 2 percent, 5 percent, and 10 percent of the policy dwelling limits, unless the specific percentage deductible is less than $500. The written notice of the offer shall specify the hurricane or wind deductible to be applied in the event that the applicant or policyholder fails to affirmatively choose a hurricane deductible. The insurer must provide such policyholder with notice of the availability of the deductible amounts specified in this paragraph in a form approved by the office in conjunction with each renewal of the policy. The failure to provide such notice constitutes a violation of this code but does not affect the coverage provided under the policy.

2. For policies issued or renewed on or after July 1, 2007, an insurer that is subject to subparagraph 1. must also offer a deductible applicable to hurricane losses which covers 50 percent of the policyholder's equity in a structure that is subject to a mortgage or lien. As a condition of making this offer, the insurer may require the policyholder or financial institution or other lienholder that holds the mortgage to provide documentation annually to the insurer identifying the amount of the policyholder's equity projected for the policy year. The deductible may be structured to cover 50 percent of the policyholder's equity as of the effective date of the policy renewal or the deductible may be scheduled to reflect a monthly adjustment that tracks the change in the policyholder's equity. The commission may adopt rules to administer this subparagraph.

3.~~2.~~ This paragraph does not apply with respect to a deductible program lawfully in effect on June 14, 1995, or to any similar deductible program, if the deductible program requires a minimum deductible amount of no less than 2 percent of the policy limits.

4.~~3.~~ With respect to a policy covering a risk with dwelling limits of at least $100,000, but less than $250,000, the insurer may, in lieu of offering a policy with a $500 hurricane or wind deductible as required by subparagraph 1., offer a policy that the insurer guarantees it will not nonrenew for reasons of reducing hurricane loss for one renewal period and that contains up to a 2 percent hurricane or wind deductible as required by subparagraph 1.

5.~~4.~~ With respect to a policy covering a risk with dwelling limits of $250,000 or more, the insurer need not offer the $500 hurricane deductible as required by subparagraph 1., but must, except as otherwise provided in this subsection, offer the other hurricane deductibles as required by subparagraph 1.

(4)(a) Any policy that contains a separate hurricane deductible must on its face include in boldfaced type no smaller than 18 points the following statement: "THIS POLICY CONTAINS A SEPARATE DEDUCTIBLE FOR HURRICANE LOSSES, WHICH MAY RESULT IN HIGH OUT-OF-POCKET EXPENSES TO YOU." A policy containing a coinsurance provision applicable to hurricane losses must on its face include in boldfaced type no smaller than 18 points the following statement: "THIS POLICY CONTAINS A CO-PAY PROVISION THAT MAY RESULT IN HIGH OUT-OF-POCKET EXPENSES TO YOU."

(b) ~~Beginning October 1, 2005,~~ For any personal lines residential property insurance policy containing a separate hurricane deductible, the insurer shall compute and prominently display the actual dollar value of the hurricane deductible on the declarations page of the policy at issuance and, for renewal, on the renewal declarations page of the policy or on the premium renewal notice.

(c) ~~Beginning October 1, 2005,~~ For any personal lines residential property insurance policy containing an inflation guard rider, the insurer shall compute and prominently display the actual dollar value of the hurricane deductible on the declarations page of the policy at issuance and, for renewal, on the renewal declarations page of the policy or on the premium renewal notice. In addition, ~~beginning October 1, 2005,~~ for any personal lines residential property insurance policy containing an inflation guard rider, the insurer shall notify the policyholder of the possibility that the hurricane deductible may be higher than indicated when loss occurs due to application of the inflation guard rider. Such notification shall be made on the declarations page of the policy at issuance and, for renewal, on the renewal declarations page of the policy or on the premium renewal notice.

(d)1. A personal lines residential property insurance policy covering a risk valued at less than $500,000 may not have a hurricane deductible in excess of 10 percent of the policy dwelling limits, unless the following conditions are met:

a. The policyholder must personally write and provide to the insurer the following statement in his or her own handwriting and signs his or her name, which must also be signed by every other named insured on the policy, and dated: "I do not want the insurance on my home to pay for the first (specify dollar value) of damage from hurricanes. I will pay those costs. My insurance will not."

b. If the structure insured by the policy is subject to a mortgage or lien, the policyholder must provide the insurer with a written statement from the mortgageholder or lienholder indicating that the mortgageholder or lienholder approves the policyholder electing to have the specified deductible.

2. A deductible subject to the requirements of this paragraph applies only for the term of the policy and must be newly executed upon each renewal pursuant to the requirements of this paragraph.

3. An insurer shall keep the original copy of the signed statement required by this paragraph and provide a copy to the policyholder providing the signed statement. A signed statement meeting the requirements of this paragraph creates a presumption that there was an informed, knowing election of coverage.

4. The commission shall adopt rules providing appropriate alternative methods for providing the statements required by this section for policyholders who have a handicapping or disabling condition that prevents them from providing a handwritten statement.

(5)(a) The hurricane deductible of any personal lines residential property insurance policy ~~issued or renewed on or after May 1, 2005,~~ shall be applied as follows:

1. The hurricane deductible shall apply on an annual basis to all covered hurricane losses that occur during the calendar year for losses that are covered under one or more policies issued by the same insurer or an insurer in the same insurer group.

2. If a hurricane deductible applies separately to each of one or more structures insured under a single policy, the requirements of this paragraph apply with respect to the deductible for each structure.

3. If there was a hurricane loss for a prior hurricane or hurricanes during the calendar year, the insurer may apply a deductible to a subsequent hurricane which is the greater of the remaining amount of the hurricane deductible or the amount of the deductible that applies to perils other than a hurricane. Insurers may require policyholders to report hurricane losses that are below the hurricane deductible or to maintain receipts or other records of such hurricane losses in order to apply such losses to subsequent hurricane claims.

4. If there are hurricane losses in a calendar year on more than one policy issued by the same insurer or an insurer in the same insurer group, the hurricane deductible shall be the highest amount stated in any one of the policies. If a policyholder who had a hurricane loss under the prior policy is provided or offered a lower hurricane deductible under the new or renewal policy, the insurer must notify the policyholder, in writing, at the time the lower hurricane deductible is provided or offered, that the lower hurricane deductible will not apply until January 1 of the following calendar year.

(b) For commercial residential property insurance policies ~~issued or renewed on or after January 1, 2006~~, the insurer must offer the policyholder the following alternative hurricane deductibles:

1. A hurricane deductible that applies on an annual basis as provided in paragraph (a); and

2. A hurricane deductible that applies to each hurricane.

(7) Prior to issuing a personal lines residential property insurance policy ~~on or after April 1, 1997, or prior to the first renewal of a residential property insurance policy on or after April 1, 1997~~, the insurer must offer a deductible equal to $500 applicable to losses from perils other than hurricane. The insurer must provide the policyholder with notice of the availability of the deductible specified in this subsection in a form approved by the office at least once every 3 years. The failure to provide such notice constitutes a violation of this code but does not affect the coverage provided under the policy. An insurer may require a higher deductible only as part of a deductible program lawfully in effect on June 1, 1996, or as part of a similar deductible program.

Section 30. Effective July 1, 2007, section 627.706, Florida Statutes, is amended to read:

627.706 Sinkhole insurance; definitions.—

(1) Every insurer authorized to transact property insurance in this state shall *provide coverage for a catastrophic ground cover collapse and shall* make available*, for an appropriate additional premium,* coverage for ~~insurable~~ sinkhole losses on any structure, including contents of personal property contained therein, to the extent provided in the form to which the ~~sinkhole~~ coverage attaches. A policy for residential property insurance may include a deductible amount applicable to sinkhole losses equal to 1 percent, 2 percent, 5 percent, or 10 percent of the policy dwelling limits, with appropriate premium discounts offered with each deductible amount.

(2) As used in ss. 627.706-627.7074, and as used in connection with any policy providing coverage for *a catastrophic ground cover collapse or for* sinkhole losses:

(a) "Catastrophic ground cover collapse" means geological activity that results in the collapse of the ground cover and the insured structure being condemned and ordered to be vacated by the governmental agency authorized by law to issue such an order for that structure.

(b)~~(a)~~ "Sinkhole" means a landform created by subsidence of soil, sediment, or rock as underlying strata are dissolved by groundwater. A sinkhole may form by collapse into subterranean voids created by dissolution of limestone or dolostone or by subsidence as these strata are dissolved.

(c)~~(b)~~ "Sinkhole loss" means structural damage to the building, including the foundation, caused by sinkhole activity. Contents coverage shall apply only if there is structural damage to the building caused by sinkhole activity.

(d)~~(c)~~ "Sinkhole activity" means settlement or systematic weakening of the earth supporting such property only when such settlement or systematic weakening results from movement or raveling of soils, sediments, or rock materials into subterranean voids created by the effect of water on a limestone or similar rock formation.

(e)~~(d)~~ "Professional engineer" means a person, as defined in s. 471.005, who has a bachelor's degree or higher in engineering with a specialty in the geotechnical engineering field. A professional engineer must have geotechnical experience and expertise in the identification of sinkhole activity as well as other potential causes of damage to the structure.

(f)~~(e)~~ "Professional geologist" means a person, as defined by s. 492.102, who has a bachelor's degree or higher in geology or related earth science with expertise in the geology of Florida. A professional geologist must have geological experience and expertise in the identification of sinkhole activity as well as other potential geologic causes of damage to the structure.

(3) Every insurer authorized to transact property insurance in this state shall make a proper filing with the office for the purpose of extending the appropriate forms of property insurance to include coverage for *catastrophic ground cover collapse or for* sinkhole losses.

Section 31. Subsection (2) of section 627.7065, Florida Statutes, is amended to read:

627.7065 Database of information relating to sinkholes; the Department of Financial Services and the Department of Environmental Protection.—

(2) The Department of Financial Services, including the employee of the Division of Consumer Services designated as the primary contact for consumers on issues relating to sinkholes, and the ~~Office of the~~ Insurance Consumer Advocate shall consult with the Florida Geological Survey and the Department of Environmental Protection to implement a statewide automated database of sinkholes and related activity identified in the state.

Section 32. Effective July 1, 2007, section 627.712, Florida Statutes, is created to read:

627.712 Residential hurricane coverage required; availability of exclusions for windstorm or contents.—

(1) An insurer issuing a residential property insurance policy must provide hurricane or windstorm coverage as defined in s. 627.4025. This subsection does not apply with respect to risks that are eligible for wind-only coverage from Citizens Property Insurance Corporation under s. 627.351(6).

(2) An insurer that is subject to subsection (1) must make available, at the option of the policyholder, an exclusion of hurricane coverage or windstorm coverage. The coverage may be excluded only if:

(a) The policyholder personally writes and provides to the insurer the following statement in his or her own handwriting and signs his or her name, which must also be signed by every other named insured on the policy, and dated: "I do not want the insurance on my (home / mobile home / condominium unit) to pay for damage from windstorms or hurricanes. I will pay those costs. My insurance will not."

(b) If the structure insured by the policy is subject to a mortgage or lien, the policyholder must provide the insurer with a written statement from the mortgageholder or lienholder indicating that the mortgageholder or lienholder approves the policyholder electing to exclude windstorm coverage or hurricane coverage from his or her residential property insurance policy.

(3) An insurer issuing a residential property insurance policy, except for a condominium unit owner's policy, must make available, at the option of the policyholder, an exclusion of coverage for the contents. The coverage may be excluded only if the policyholder personally writes and provides to the insurer the following statement in his or her own handwriting and signs his or her signature, which must also be signed by every other named insured on the policy, and dated: "I do not want the insurance on my (home / mobile home) to pay for the costs to repair or replace any contents that are damaged. I will pay those costs. My insurance will not."

(4) An insurer shall keep the original copy of a signed statement required by this section and provide a copy to the policyholder providing the signed statement. A signed statement meeting the requirements of this section creates a presumption that there was an informed, knowing rejection of coverage.

(5) The exclusions authorized by this section are valid only for the term of the contract and must be newly executed upon each contract renewal pursuant to the requirements of this section.

(6) The commission shall adopt rules providing appropriate alternative methods for providing the statements required by this section for policyholders who have a handicapping or disabling condition that prevents them from providing a handwritten statement.

Section 33. Section 627.713, Florida Statutes, is created to read:

627.713 Report of hurricane loss data.—

(1) The office may require property insurers to report data regarding hurricane claims and underwriting costs, including, but not limited to:

(a) Number of claims;

(b) Amount of claim payments made;

(c) Number and amount of total-loss claims;

(d) Amount and percentage of losses covered by reinsurance or other loss-transfer agreements;

(e) Amount of losses covered under specified deductibles;

(f) Claims and payments for specified insured values;

(g) Claims and payments for specified dollar values;

(h) Claims and payments for specified types of construction or mitigation features;

(i) Claims and payments for policies under specified underwriting criteria;

(j) Claims and payments for contents, additional living expense, and other specified coverages;

(k) Claims and payments by county for the information specified in this section; and

(l) Any other data that the office requires.

(2) The commission may adopt rules pursuant to ss. 120.536(1) and 120.54 to administer this section.

Section 34. Paragraph (e) of subsection (3) and subsection (4) of section 631.57, Florida Statutes, are amended to read:

631.57 Powers and duties of the association.—

(3)

(e)1.

a. In addition to assessments otherwise authorized in paragraph (a) and to the extent necessary to secure the funds for the account specified in s. 631.55(2)(c) *for the direct payment of covered claims and to pay the reasonable costs to administer such claims,* or to retire indebtedness, including, without limitation, the principal, redemption premium, if any, and interest on, and related costs of issuance of, bonds issued under s. 631.695 and the funding of any reserves and other payments required under the bond resolution or trust indenture pursuant to which such bonds have been issued, the office, upon certification of the board of directors, shall levy emergency assessments upon insurers holding a certificate of authority. The emergency assessments payable under this paragraph by any insurer shall not exceed in any single year more than 2 percent of that insurer's direct written premiums, net of refunds, in this state during the preceding calendar year for the kinds of insurance within the account specified in s. 631.55(2)(c).

b. Any emergency assessments authorized under this paragraph shall be levied by the office upon insurers referred to in sub-

subparagraph a., upon certification as to the need for such assessments by the board of directors. *In the event the board of directors participates in the issuance of bonds in accordance with s. 631.695, emergency assessments shall be levied*~~,~~ in each year that bonds issued under s. 631.695 and secured by such emergency assessments are outstanding, in such amounts up to such 2-percent limit as required in order to provide for the full and timely payment of the principal of, redemption premium, if any, and interest on, and related costs of issuance of, such bonds. The emergency assessments provided for in this paragraph are assigned and pledged to the municipality, county, or legal entity issuing bonds under s. 631.695 for the benefit of the holders of such bonds, in order to enable such municipality, county, or legal entity to provide for the payment of the principal of, redemption premium, if any, and interest on such bonds, the cost of issuance of such bonds, and the funding of any reserves and other payments required under the bond resolution or trust indenture pursuant to which such bonds have been issued, without the necessity of any further action by the association, the office, or any other party. To the extent bonds are issued under s. 631.695 and the association determines to secure such bonds by a pledge of revenues received from the emergency assessments, such bonds, upon such pledge of revenues, shall be secured by and payable from the proceeds of such emergency assessments, and the proceeds of emergency assessments levied under this paragraph shall be remitted directly to and administered by the trustee or custodian appointed for such bonds.

c. Emergency assessments under this paragraph may be payable in a single payment or, at the option of the association, may be payable in 12 monthly installments with the first installment being due and payable at the end of the month after an emergency assessment is levied and subsequent installments being due not later than the end of each succeeding month.

d. If emergency assessments are imposed, the report required by s. 631.695(7) shall include an analysis of the revenues generated from the emergency assessments imposed under this paragraph.

e. If emergency assessments are imposed, the references in subsubparagraph (1)(a)3.b. and s. 631.695(2) and (7) to assessments levied under paragraph (a) shall include emergency assessments imposed under this paragraph.

2. In order to ensure that insurers paying emergency assessments levied under this paragraph continue to charge rates that are neither inadequate nor excessive, within 90 days after being notified of such assessments, each insurer that is to be assessed pursuant to this paragraph shall submit a rate filing for coverage included within the account specified in s. 631.55(2)(c) and for which rates are required to be filed under s. 627.062. If the filing reflects a rate change that, as a percentage, is equal to the difference between the rate of such assessment and the rate of the previous year's assessment under this paragraph, the filing shall consist of a certification so stating and shall be deemed approved when made. Any rate change of a different percentage shall be subject to the standards and procedures of s. 627.062.

3. *In the event the board of directors participates in the issuance of bonds in accordance with s. 631.695,* an annual assessment under this paragraph shall continue while the bonds issued with respect to which the assessment was imposed are outstanding, including any bonds the proceeds of which were used to refund bonds issued pursuant to s. 631.695, unless adequate provision has been made for the payment of the bonds in the documents authorizing the issuance of such bonds.

4. Emergency assessments under this paragraph are not premium and are not subject to the premium tax, to any fees, or to any commissions. An insurer is liable for all emergency assessments that the insurer collects and shall treat the failure of an insured to pay an emergency assessment as a failure to pay the premium. An insurer is not liable for uncollectible emergency assessments.

(4) The department may exempt any insurer from *any regular or emergency* ~~an~~ assessment if an assessment would result in such insurer's financial statement reflecting an amount of capital or surplus less than the sum of the minimum amount required by any jurisdiction in which the insurer is authorized to transact insurance.

Section 35. *The amendments to section 34 of chapter 2006-12, Laws of Florida, authorized the Florida Insurance Guaranty Association to certify, and the Office of Insurance Regulation to levy, an emergency assessment of up to 2 percent to either directly pay the covered claims out of the account specified in s. 631.55(2)(c), Florida Statutes, or to use the proceeds of such emergency assessment to retire the indebtedness and the costs of bonds issued to pay such claims and reasonable claims-administration costs.*

Section 36. Subsection (1) of section 631.912, Florida Statutes, is amended to read:

631.912 Board of directors.—

(1) The board of directors of the corporation shall consist of 11 persons, 1 of whom is the Insurance Consumer Advocate appointed under *s. 350.0615* ~~s. 627.0613~~ or designee and 1 of whom is designated by the Chief Financial Officer. The department shall appoint to the board 6 persons selected by private carriers from among the 20 workers' compensation insurers with the largest amount of net direct written premium as determined by the department, and 3 persons selected by the self-insurance funds. At least two of the private carriers shall be foreign carriers authorized to do business in this state. The board shall elect a chairperson from among its members. The Chief Financial Officer may remove any board member for cause. Each board member shall serve for a 4-year term and may be reappointed. A vacancy on the board shall be filled for the remaining period of the term in the same manner by which the original appointment was made.

Section 37. *Effective July 1, 2007, subsection (6) of section 627.0629, Florida Statutes, is repealed.*

Section 38. *Windstorm Mitigation Study Commission.—*

(1)(a) The Windstorm Mitigation Study Commission is created and shall be composed of five members as follows:

1. Three members shall be appointed by the Governor, with one designated by the Governor to serve as chair.

2. One member shall be appointed by the Chief Financial Officer.

3. One member shall be appointed by the Commissioner of Insurance Regulation.

(b) Each member must be knowledgeable of issues concerning the mitigation of the effects of windstorms on structures in this state and at least one member must represent primarily the interests of homeowners.

(2)(a) The members of the commission shall serve without compensation, but are entitled to reimbursement for all necessary expenses incurred in performing their duties, including travel expenses, in accordance with s. 112.061, Florida Statutes.

(b) The commission shall meet as necessary, at the call of the chair, and at the time and place designated by the chair. The commission may conduct its meetings through teleconferences or other similar means.

(3) The Department of Financial Services, the Office of Insurance Regulation, the Citizens Property Insurance Corporation, and other agencies of this state shall supply any information, assistance, and facilities that are considered necessary by the commission to carry out its duties under this section. The Executive Office of the Governor shall provide staff assistance as necessary in order to carry out the required clerical and administrative functions of the commission.

(4) The commission shall analyze those solutions and programs that address the state's acute need to mitigate the effects of windstorms on structures, especially residential property that is located in areas at greatest risk of windstorm damage, including programs or proposals that provide for:

(a) The availability of home inspections for windstorm resistance;

(b) Grants to assist homeowners, and possibly other groups of property owners, to harden their property against windstorm damage;

(c) The full actuarial value to be reflected in premium credits for windstorm mitigation;

(d) The most effective way to inform policyholders of the availability of and means by which to obtain premium credits for windstorm mitigation;

(e) Coordination among federal, local, and private initiatives;

(f) Streamlining or strengthening applicable state, regional, and local regulations;

(g) The stimulation of public and private efforts to mitigate against windstorm injury and damage;

(h) The discovery and assessment of funding sources for windstorm mitigation;

(i) Tax incentives for windstorm mitigation;

(j) Consumer information concerning the benefits of windstorm mitigation, including personal safety as well as property security;

(k) Research on windstorm mitigation; and

(l) The development of a form for uniform mitigation verification inspection to be used by insurers when factoring discounts for wind insurance which clearly specifies the procedures necessary to receive the full value of a discount.

The commission may develop any other solutions and programs that it considers appropriate.

(5) In performing its analysis, the commission shall consider both the safety of the residents of this state and the protection of real property, especially residential. In addition, the commission shall consider both short-term and long-term solutions and programs.

(6) The commission shall review, evaluate, and make recommendations regarding existing and proposed programs and initiatives for mitigating windstorm damage.

(7) The commission shall provide recommendations, including proposed legislation, to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Chief Financial Officer, and the Commissioner of Insurance Regulation by March 30, 2007.

Section 39. *Florida Disaster Recovery Initiative.—*

(1) There is established within the Department of Community Affairs the Florida Disaster Recovery Initiative for the purpose of assisting local governments in satisfying disaster-recovery needs in the areas of low-income housing and infrastructure, with a primary focus on the hardening of single-family and multifamily housing units, not only to ensure that affordable housing can withstand the effects of hurricane-force winds, but also to mitigate the increasing costs of insurance, which may ultimately render existing affordable homes unaffordable or uninsurable. This section does not create an entitlement for local governments or property owners or obligate the state in any way to fund disaster-recovery needs. Implementation of this initiative is subject to annual legislative appropriations.

(2) The Department of Community Affairs shall administer the initiative using funds provided through the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006, and those funds shall be used to assist local governments in satisfying their disaster-recovery needs in the areas of housing and infrastructure.

(3) Entitlement and nonentitlement counties identified under the Federal Disaster Declaration (FEMA-1609-DR), federally recognized Indian tribes, and nonprofit organizations are eligible to apply for funding.

(4) Up to 78 percent of these funds may be used to complement the grants awarded by the Department of Financial Services under s. 215.5586, Florida Statutes, and fund other eligible disaster-related activities supporting housing rehabilitation, hardening, mitigation, and infrastructure improvements at the request of the local governments in order to assist the State of Florida in better serving low-income homeowners in single-family housing units or condominiums. Up to 20 percent of the funds may be used to provide inspections and mitigation improvements to multifamily units receiving rental assistance under projects of the United States Department of Housing and Urban Development or the Rural Development Division of the United States Department of Agriculture.

Section 40. *For the 2006-2007 fiscal year, the sum of $100,066,518 is appropriated in a Grant in Aid—Fixed Capital Outlay appropriation category from the Florida Small Cities Community Development Block Grant Program Fund to the Department of Community Affairs for the purpose of implementing the provisions of section 39 of this act. These funds shall be used in a manner consistent with Federal Register, Vol. 71, No. 209, Docket No. FR-5089-N-01, and the State of Florida Action Plan for Disaster Recovery as approved by the United States Department of Housing and Urban Development.*

Section 41. Subsection (11) of section 718.111, Florida Statutes, is amended to read:

718.111 The association.—

(11) INSURANCE.—In order to protect the safety, health, and welfare of the people of the State of Florida and to ensure consistency in the provision of insurance coverage to condominiums and their unit owners, paragraphs (b) and (c) are deemed to apply to every *residential* condominium in the state, regardless of the date of its declaration of condominium. It is the intent of the Legislature to encourage lower or stable insurance premiums for associations described in this section. Therefore, the Legislature requires a report to be prepared by the Office of Insurance Regulation of the Department of Financial Services for publication 18 months from the effective date of this act, evaluating premium increases or decreases for associations, unit owner premium increases or decreases, recommended changes to better define common areas, or any other information the Office of Insurance Regulation deems appropriate.

(a) A unit-owner controlled association *operating a residential condominium* shall use its best efforts to obtain and maintain adequate insurance to protect the association, the association property, the common elements, and the condominium property required to be insured by the association pursuant to paragraph (b). If the association is developer controlled, the association shall exercise due diligence to obtain and maintain such insurance. Failure to obtain and maintain adequate insurance during any period of developer control shall constitute a breach of fiduciary responsibility by the developer-appointed members of the board of directors of the association, unless said members can show that despite such failure, they have exercised due diligence. The declaration of condominium as originally recorded, or amended pursuant to procedures provided therein, may require that condominium property consisting of freestanding buildings where there is no more than one building in or on such unit need not be insured by the association if the declaration requires the unit owner to obtain adequate insurance for the condominium property. An association may also obtain and maintain liability insurance for directors and officers, insurance for the benefit of association employees, and flood insurance for common elements, association property, and units. Adequate insurance, regardless of any requirement in the declaration of condominium for coverage by the association for "full insurable value," "replacement cost," or the like, may include reasonable deductibles as determined by the board *based upon available funds or predetermined assessment authority at the time that the insurance is obtained.*

1. Windstorm insurance coverage for a group of no fewer than three communities created and operating under chapter 718, chapter 719, chapter 720, or chapter 721 may be obtained and maintained for the communities if the insurance coverage is sufficient to cover an amount equal to the probable maximum loss for the communities for a 250-year windstorm event. Such probable maximum loss must be determined through the use of a competent model that has been accepted by the Florida Commission on Hurricane Loss Project Methodology. Such insurance coverage is deemed adequate windstorm insurance for the purposes of this section.

2. An association or group of associations may self-insure against claims against the association, the association property, and the condominium property required to be insured by an association, upon compliance with *the applicable provisions of* ss. 624.460-624.488*, which shall be considered adequate insurance for the purposes of this section*. A copy of each policy of insurance in effect shall be made available for inspection by unit owners at reasonable times.

(b) Every hazard insurance policy issued or renewed on or after January 1, 2004, to protect the condominium shall provide primary coverage for:

1. All portions of the condominium property located outside the units;

2. The condominium property located inside the units as such property was initially installed, or replacements thereof of like kind and quality and in accordance with the original plans and specifications or, if the original plans and specifications are not available, as they existed at the time the unit was initially conveyed; and

3. All portions of the condominium property for which the declaration of condominium requires coverage by the association.

Anything to the contrary notwithstanding, the terms "condominium property," "building," "improvements," "insurable improvements," "common elements," "association property," or any other term found in the declaration of condominium which defines the scope of property or casualty insurance that a condominium association must obtain shall exclude all floor, wall, and ceiling coverings, electrical fixtures, appliances, air conditioner or heating equipment, water heaters, water filters, built-in cabinets and countertops, and window treatments, including curtains, drapes, blinds, hardware, and similar window treatment components, or replacements of any of the foregoing which are located within the boundaries of a unit and serve only one unit and all air conditioning compressors that service only an individual unit, whether or not located within the unit boundaries. The foregoing is intended to establish the property or casualty insuring responsibilities of the association and those of the individual unit owner and do not serve to broaden or extend the perils of coverage afforded by any insurance contract provided to the individual unit owner. Beginning January 1, 2004, the association shall have the authority to amend the declaration of condominium, without regard to any requirement for mortgagee approval of amendments affecting insurance requirements, to conform the declaration of condominium to the coverage requirements of this section.

(c) Every hazard insurance policy issued or renewed on or after January 1, 2004, to an individual unit owner shall provide that the coverage afforded by such policy is excess over the amount recoverable under any other policy covering the same property. Each insurance policy issued to an individual unit owner providing such coverage shall be without rights of subrogation against the condominium association that operates the condominium in which such unit owner's unit is located. All real or personal property located within the boundaries of the unit owner's unit which is excluded from the coverage to be provided by the association as set forth in paragraph (b) shall be insured by the individual unit owner.

(d) The association shall obtain and maintain adequate insurance or fidelity bonding of all persons who control or disburse funds of the association. The insurance policy or fidelity bond must cover the maximum funds that will be in the custody of the association or its management agent at any one time. As used in this paragraph, the term "persons who control or disburse funds of the association" includes, but is not limited to, those individuals authorized to sign checks and the president, secretary, and treasurer of the association. The association shall bear the cost of bonding.

Section 42. Section 627.711, Florida Statutes, is amended to read:

627.711 Notice of premium discounts for hurricane loss mitigation*; uniform mitigation verification inspection form*.—

(1) Using a form prescribed by the Office of Insurance Regulation, the insurer shall clearly notify the applicant or policyholder of any personal lines residential property insurance policy, at the time of the issuance of the policy and at each renewal, of the availability and the range of each premium discount, credit, other rate differential, or reduction in deductibles for properties on which fixtures or construction techniques demonstrated to reduce the amount of loss in a windstorm can be or have been installed or implemented. The prescribed form shall describe generally what actions the policyholders may be able to take to reduce their windstorm premium. The prescribed form and a list of such ranges approved by the office for each insurer licensed in the state and providing such discounts, credits, other rate differentials, or reductions in deductibles for properties described in this subsection shall be available for electronic viewing and download from the Department of Financial Services' or the Office of Insurance Regulation's Internet website. The Financial Services Commission may adopt rules to implement this subsection.

(2) The Financial Services Commission shall develop by rule a uniform mitigation verification inspection form that shall be used by all insurers when factoring discounts for wind insurance. In developing the form, the commission shall seek input from insurance, construction, and building code representatives. Further, the commission shall provide guidance as to the length of time the inspection results are valid.

Section 43. *It is the intent of the Legislature to create during the 2007 Legislative Session a grant program to assist persons whose income does not exceed that of "low-income persons" as defined in s. 420.602(8), Florida Statutes, for the purpose of purchasing property insurance to protect their homestead property.*

Section 44. Section 350.06151, Florida Statutes, is created to read:

350.06151 Beginning July 1, 2007, funds shall be transferred by the Department of Financial Services from the Insurance Regulatory Trust Fund to the Grants and Donations Trust Fund in the legislative branch for the purpose of funding the Office of Insurance Consumer Advocate. The transfer amount is equal to the approved operating budget for the Office of Insurance Consumer Advocate within the Office of Public Counsel.

Section 45. Except as otherwise expressly provided in this act, this act shall take effect upon becoming a law.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to hurricane preparedness and property insurance; amending s. 20.121, F.S.; removing the Office of Insurance Consumer Advocate from the Department of Financial Services; providing for the powers, records, personnel, property, balances of appropriations and other funds, rules, pending issues, and contracts of the Office of Insurance Consumer Advocate to be transferred from the Department of Financial Services to the Public Counsel; amending s. 163.01, F.S., relating to the Interlocal Cooperation Act; redefining the term "public agency" to include certain legal or administrative entities; authorizing such entities to finance the provision of property coverage contracts for or from local government property insurance pools or property coverage contracts; authorizing certain hospitals and hospital systems to borrow funds, issue bonds, and enter into loan agreements for the purpose of providing property coverage; providing for validating such bonds; providing an exemption from taxation; amending s. 215.555, F.S.; limiting the activities of the Florida Hurricane Fund Finance Corporation with respect to funding obligations; providing for revenue bonds to be issued to fund the obligations of the Florida Hurricane Excess Loss Program (FHELP); providing legislative findings; creating the Florida Hurricane Excess Loss Program Finance Corporation; providing for a board of directors; providing powers and duties; providing for the corporation to issue bonds that are not a debt of the state or any political subdivision; providing an exemption from taxation; providing for the protection of bondholders; limiting the activities of the Florida Hurricane Excess Loss Program Finance Corporation with respect to the obligations incurred by the Florida Hurricane Catastrophe Fund; authorizing the board of the Florida Hurricane Catastrophe Fund to enter into capital market transactions; authorizing temporary emergency options for additional coverage; providing a system under which insurers may procure additional reinsurance from the fund; defining terms; providing guidelines for such coverage; prescribing premiums for such coverage; providing a temporary increase in coverage limit options; providing legislative findings; defining terms; creating the Florida Hurricane Excess Loss Program, which shall be administered by the State Board of Administration; authorizing the board to adopt rules and employ or contract with staff; requiring that a contract addendum be executed by participating insurers; requiring that the state assume a portion of liability for losses under a covered policy; requiring that such coverage be funded separately from the obligations of the Florida Hurricane Catastrophe Fund and proceeds of bonds issued by the Florida Hurricane Catastrophe Fund Finance Corporation; requiring insurers obtaining certain coverages offered by the Florida Hurricane Catastrophe Fund to make rate filings that reflect savings or reduction in loss exposure; requiring that the Office of Insurance Regulation specify, by order, the dates on which such filings must be made; providing limitations for an insurer in implementing a rate change following a rate filing; requiring the Office of Insurance Regulation to calculate a presumed factor to reflect the impact on rates resulting from this act; providing an appropriation; amending s. 215.5586, F.S., relating to the Florida Comprehensive Hurricane Damage Mitigation Program; providing for grants to homeowners to protect rather than retrofit their properties; revising certain other eligibility criteria for a

grant; authorizing the use of grants for roof-protection systems; amending s. 215.559, F.S., relating to the Hurricane Loss Mitigation Program; providing for a certain portion of the appropriation under the program to be used for securing fixtures for mobile homes; amending s. 350.012, F.S.; redesignating the Committee on Public Service Commission Oversight as the "Committee on Public Service Commission and Insurance Oversight"; requiring that the committee confirm or reject the appointment of the Insurance Consumer Advocate by the Chief Financial Officer; amending s. 350.0611, F.S., relating to the Public Counsel; providing duties with respect to the Insurance Consumer Advocate; amending s. 350.0613, F.S.; authorizing the Public Counsel to represent the public before the Office of Insurance Regulation, the Financial Services Commission, and the Department of Financial Services; including certain proceedings related to rules and rate filings for insurance; authorizing the Public Counsel to have access to files of the Office of Insurance Regulation, the Financial Services Commission, and the Department of Financial Services, to seek review of orders of the office and the commission, and to issue reports, recommendations, and proposed orders to the office and the commission; authorizing the Committee on Public Service Commission and Insurance Oversight to authorize the Public Counsel to employ certain types of employees; requiring the Office of Insurance Regulation, the Financial Services Commission, and the Department of Financial Services to provide copies of certain filings to the Public Counsel; creating s. 350.0615, F.S.; creating the office of Insurance Consumer Advocate to represent the public on matters relating to the regulation of insurance; requiring the Chief Financial Officer to appoint the Insurance Consumer Advocate, who is subject to confirmation by the Committee on Public Service Commission and Insurance Oversight; providing for the Insurance Consumer Advocate to report directly to and be employed by the Public Counsel; specifying the powers and duties of the Insurance Consumer Advocate; creating s. 395.1060, F.S.; providing for risk pooling, with respect to property exposure, by certain hospitals and hospital systems; exempting entities formed to do so from the Florida Insurance Code; amending s. 553.73, F.S.; prohibiting the Florida Building Commission from modifying certain foundation codes relating to wind resistance or the prevention of water intrusion unless the modification enhances such provisions; amending s. 553.775, F.S., relating to interpretations of the Florida Building Code; conforming a cross-reference; requiring jurisdictions having authority to enforce the Florida Building Code to require wind-borne-debris protection according to specified requirements; requiring that the Florida Building Commission amend the Florida Building Code to reflect the requirements of the act and eliminate certain less stringent requirements; providing an exception; requiring an amendment to the code with respect to certain provisions governing new residential construction; requiring the commission to develop voluntary guidelines for increasing the hurricane resistance of buildings; requiring that the guidelines be included in the commission's report to the 2008 Legislature; amending s. 624.319, F.S.; authorizing the Public Counsel and the Insurance Consumer Advocate to have access to certain confidential information held by the Department of Financial Services or the Office of Insurance Regulation; amending s. 624.462, F.S.; revising requirements for the establishment of a commercial self-insurance fund by a not-for-profit group; amending s. 624.4622, F.S.; authorizing local government self-insurance funds to insure or self-insure real or personal property against loss or damage; creating s. 624.4625, F.S.; authorizing two or more corporations not for profit to form a self-insurance fund for certain purposes; providing specific requirements; providing a definition; providing limitations; providing for application of certain provisions to certain premiums, contributions, and assessments; providing for payment of insurance premium tax at a reduced rate by corporation not-for-profit self-insurance funds; subjecting a corporation not for profit self-insurance fund to certain group self-insurance fund provisions under certain circumstances; amending s. 624.610, F.S.; specifying additional circumstances under which the Office of Insurance Regulation may allow credit when reinsurance is ceded to an assuming insurer; amending s. 626.9541, F.S.; providing that an insurer's failure to offer in this state any kind or line of insurance which all insurers or affiliated insurers offer in another jurisdiction constitutes an unfair method of competition and unfair or deceptive act; providing penalties; providing for rules; repealing s. 627.0613, F.S., relating to the consumer advocate appointed by the Chief Financial Officer; amending s. 627.062, F.S.; deleting provisions allowing property and casualty insurers to use and file rates; deleting provisions exempting certain rate filings from review by the Office of Insurance Regulation; deleting provisions authorizing an insurer to require the arbitration of a rate filing following agency action under the Administrative Procedure Act; requiring the chief executive officer, chief financial officer, or chief actuary of a property insurer to certify the information contained in a rate filing; providing penalties for knowingly making a false certification; authorizing the Financial Services Commission to adopt rules; deleting provisions placing the burden on the Office of Insurance Regulation to establish that certain rates are excessive; amending s. 627.0628, F.S., relating to hurricane loss projection; conforming references to changes made by the act; amending s. 627.311, F.S.; providing for the Insurance Consumer Advocate to be a member of the board of governors supervising joint underwriting associations; amending s. 627.351, F.S., relating to the Citizens Property Insurance Corporation; deleting provisions that deny certain nonhomestead property eligibility for coverage by the corporation; including commercial nonresidential policies into an account of the corporation; authorizing the corporation to issue multiperil coverage, wind-only coverage, or both in the high-risk account after a specified date; deleting provisions authorizing the Office of Insurance Regulation to remove territory from the area eligible for wind-only and quota share coverage; redefining the term "subject lines of business" subject to assessments for deficits; requiring the board of governors of the corporation to levy an assessment against nonhomestead property policyholders if certain deficits occur after a specified date; restricting the eligibility of a risk for a policy issued by the corporation under certain circumstances; authorizing the plan of operation to establish limits of coverage and to require commercial property to meet specified hurricane-mitigation features; requiring that the corporation annually file recommended rates; requiring that the office issue a final order establishing the rates within a specified period; prohibiting the corporation from pursuing administrative or judicial review of such order; deleting provisions specifying circumstances under which a rate is deemed inadequate; deleting legislative intent concerning rate adequacy in the residual market; deleting provisions providing requirements for personal lines residential policies and residential wind-only policies; deleting an exemption provided for coverage provided by the corporation in Monroe County under certain circumstances; deleting a requirement that the corporation certify to the office that its rates comply with certain requirements; deleting a requirement for a notice to policyholders and applicants; rescinding certain rate filings by the corporation which took effect January 1, 2007; reinstating certain rates in effect on December 31, 2006; clarifying the effect of a policy that is taken out, assumed, or removed from the corporation; providing legislative intent that commercial nonresidential property insurance be made available from Citizens Property Insurance Corporation; requiring that Citizens Property Insurance Corporation adopt a plan providing for the transition of such coverage from the Property and Casualty Joint Underwriting Association to Citizens; providing requirements for the plan; amending s. 627.701, F.S.; revising requirements for the deductible amount applicable to hurricane loss for policies of residential property insurance and personal lines residential property insurance; prohibiting a hurricane deductible in excess of a specified percentage for personal lines residential property insurance policies of less than a certain value unless the policyholder signs a statement acknowledging the lack of insurance or provides a statement from the mortgageholder or lienholder; requiring that the insurer keep documentation of such statements; requiring the Financial Services Commission to adopt rules; deleting obsolete provisions; amending s. 627.706, F.S., relating to sinkhole insurance; defining the term "catastrophic ground cover collapse"; amending s. 627.7065, F.S., relating to a database of sinkhole information; conforming a reference to changes made by the act; creating s. 627.712, F.S.; requiring insurers issuing residential property insurance to provide hurricane or windstorm coverage; authorizing a policyholder to make a written rejection of such coverage by signing a statement acknowledging the lack of insurance or providing a statement from the mortgageholder or lienholder; requiring insurers issuing residential property insurance to make available an exclusion of coverage for contents; providing for the policyholder to make a written rejection of such coverage; requiring that the insurer keep documentation of such statements; requiring the Financial Services commission to adopt rules; creating s. 627.713, F.S.; authorizing the office to require property insurers to report data regarding hurricane claims and underwriting costs; providing for the adoption of rules; amending s. 631.57, F.S.; specifying certain additional circumstances under which the board of directors of the Florida Insurance Guaranty Association, Inc., may levy emergency and regular assessments; clarifying that authorization exists for the Florida Insurance Guaranty Association to certify and for the Office of Insurance Regulation to levy an emergency assessment; amending s. 631.912, F.S., relating to the board of directors of the Florida Workers' Compensation Insurance Guaranty Association, Inc.; conforming provisions to changes made by the act; amending s. 718.111, F.S.; providing for windstorm insurance for condominium associations; repealing s. 627.0629(6), F.S., relating to requirements for hurricane or windstorm coverage; creating the Windstorm

Mitigation Study Commission for the purpose of analyzing solutions and programs that could address the state's need to mitigate the effects of windstorms on structures; providing for membership and qualifications; providing that the members are entitled to reimbursement for expenses incurred in connection with their duties; requiring the Department of Financial Services, the Office of Insurance Regulation, the Citizens Property Insurance Corporation, and other state agencies to supply information, assistance, and facilities to the commission; requiring that the Executive Office of the Governor provide staff assistance; specifying duties of the commission; requiring that the commission report to the Governor, the Legislature, the Chief Financial Officer, and the Commissioner of Insurance Regulation by a specified date; establishing the Florida Disaster Recovery Initiative within the Department of Community Affairs for the purpose of assisting local governments in hardening affordable housing against the effects of hurricanes; specifying that the act does not create an entitlement or obligate the state; providing for program administration; specifying the entities that are eligible to apply for funding; providing components and requirements of the initiative; providing an appropriation; amending s. 627.711, F.S.; requiring the Financial Services Commission to develop uniform mitigation verification inspection forms; providing duties of the commission; expressing the intent of the Legislature to create a grant program to assist low-income persons in purchasing property insurance; creating s. 350.06151, F.S.; providing for transfer of funds from the Insurance Regulatory Trust Fund to the Grants and Donations Trust Fund of the legislative branch to fund the Office of Insurance Consumer Advocate; providing effective dates.

WHEREAS, homeowners in the State of Florida are struggling under increased insurance costs and increased housing prices as a result of damage caused by hurricanes and tropical storms, and

WHEREAS, this increase in the cost of property insurance for the state's residents demands immediate attention, and

WHEREAS, the affordability of property insurance creates financial burdens for Florida's residents and financial crises for some property owners, and

WHEREAS, in addition to affordability, the availability and stability of property insurance rates are critical issues to the residents of this state, and

WHEREAS, because there is no single, quick, or easy solution to the current crisis, a comprehensive and creative approach is required, and

WHEREAS, property insurance is so interwoven with other forms of insurance, through business, regulation, advocacy, purchasing, and other interactions, that the viability of the insurance market in Florida is at risk, and

WHEREAS, expanding coverage offered by the Florida Hurricane Catastrophe Fund can help to address this crisis, and

WHEREAS, taking steps to control or reduce the premiums charged by Citizens Property Insurance Corporation can help to address this crisis, and

WHEREAS, strengthening the Florida Building Code and providing for voluntary guidelines in addition to the requirements of the code can help to address this crisis, and

WHEREAS, sinkhole coverage is a critical part of the crisis in certain areas of the state and must be addressed as part of any comprehensive solution, and

WHEREAS, requiring property insurers to offer additional deductibles and exclusions that apply at the option of the property owner can help to address this crisis, and

WHEREAS, authorizing various groups of public and private entities to enter into forms of self-insurance or guaranty groups can help to address this crisis, and

WHEREAS, strengthening the processes for establishing property insurance rates can help to address this crisis, and

WHEREAS, the role of consumer advocacy is a critical part of addressing this crisis and consumer advocacy for property insurance is a critical, if not the predominant, part of consumer advocacy regarding insurance, and

WHEREAS, promoting, through financial and regulatory methods, the ability of property insurers and reinsurers to do business in Florida can help to address this crisis, and

WHEREAS, promoting, through financial and regulatory incentives for property owners, the strengthening of property to withstand the effects of windstorm damage can help to address this crisis, NOW, THEREFORE,

On motion by Senator Geller, by two-thirds vote **CS for HB 9-A** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38

Mr. President	Fasano	Oelrich
Alexander	Gaetz	Peaden
Argenziano	Garcia	Posey
Aronberg	Geller	Rich
Atwater	Haridopolos	Ring
Baker	Hill	Saunders
Bennett	Jones	Siplin
Bullard	Joyner	Storms
Carlton	Justice	Villalobos
Constantine	King	Webster
Crist	Lawson	Wilson
Deutch	Lynn	Wise
Dockery	Margolis	

Nays—None

Vote after roll call:

Yea—Diaz de la Portilla

MOTION

On motion by Senator Posey, the House was requested to concur in the Senate amendment to **CS for HB 9-A** and in the event the House refuses to concur, moved that a conference committee be appointed.

ADOPTION OF RESOLUTIONS

On motion by Senator Geller—

By Senators Geller and Webster—

SR 18-A—A resolution urging elected officials in this state to inform all United States Presidential candidates that there is a need for a federal natural disaster reinsurance fund and that the officials' support of the candidate depends on the candidate's espousal of such a fund.

—was introduced out of order and read by title. On motion by Senator Geller, **SR 18-A** was read the second time by title and adopted.

MOTION

On motion by Senator Posey, the rules were waived and the Senate Conferees were given the latitude to deal with additional issues which may develop on all the bills included in the conference.

CONFEREES APPOINTED

The President appointed the following conferees on **CS for HB 1-A**, **CS for CS for HB 3-A**, **CS for CS for HB 5-A**, **HB 7-A** and **CS for HB 9-A**: Senator Posey, Chair; Senator Deutch, Vice Chair; Senators Alexander, Atwater, Dawson, Gaetz, Lawson, Peaden, Storms, Wilson, Webster and Geller.

The action of the Senate was certified to the House.

REPORTS OF COMMITTEES

The following bills were established as the Special Order Calendar for Thursday, January 18, 2007: CS for HB 1-A, CS for CS for HB 3-A, CS for CS for HB 5-A, HB 7-A, CS for HB 9-A

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

RETURNING MESSAGES ON HOUSE BILLS

The Honorable Ken Pruitt, President

I am directed to inform the Senate that the House of Representatives has refused to concur in the Senate Amendment to CS for HB 1-A, CS for CS for HB 3-A, CS for CS for HB 5-A, HB 7-A and CS for HB 9-A; and acceded to the request that a conference committee be appointed. The Speaker has appointed the following Representatives as conferees on the part of the House: Rep. Sansom, Chair; Reps. Cannon, Rivera, Bogdanoff, Brown, Reagan, Hasner, Mayfield, Seiler, Richardson, Gelber, Taylor, Coley, Grimsley, Kravitz, Cusack, Sands and Traviesa.

William S. Pittman III, Chief Clerk

CORRECTION AND APPROVAL OF JOURNAL

The Journal of January 17 was corrected and approved.

RECESS

On motion by Senator King, the Senate recessed at 9:23 a.m. for the purpose of holding committee meetings and conducting other Senate business to reconvene at 1:00 p.m., Monday, January 22 or upon call of the President.