

Draft Bill for Workshop Discussion
Senate Banking and Insurance Committee (1/9/07)

A bill to be entitled

1
2 An act relating to hurricane preparedness and
3 property insurance; amending s. 20.121, F.S.;
4 removing the Office of Insurance Consumer
5 Advocate from the Department of Financial
6 Services; providing for the powers, records,
7 personnel, property, balances of appropriations
8 and other funds, rules, pending issues, and
9 contracts of the Office of Insurance Consumer
10 Advocate to be transferred from the Department
11 of Financial Services to the Public Counsel in
12 the Public Service Commission; amending s.
13 163.01, F.S., relating to the Interlocal
14 Cooperation Act; redefining the term "public
15 agency" to include certain legal or
16 administrative entities; authorizing such
17 entities to finance the provision of property
18 coverage contracts for or from local government
19 property insurance pools or property coverage
20 contracts; authorizing certain hospitals and
21 hospital systems to borrow funds, issue bonds,
22 and enter into loan agreements for the purpose
23 of providing windstorm property coverage;
24 amending s. 215.555, F.S.; prescribing the
25 effective dates of reimbursement contracts
26 under the Florida Hurricane Catastrophe Fund;
27 authorizing the fund board to enter into
28 capital market transactions; authorizing
29 temporary emergency options for additional
30 coverage; providing a system under which
31 insurers may procure additional reinsurance

1 from the fund; defining terms; providing
2 guidelines for such coverage; prescribing
3 premiums for such coverage; providing a
4 temporary increase in coverage limit options;
5 requiring insurers electing optional coverages
6 offered by the Florida Hurricane Catastrophe
7 Fund to make rate filings that reflect savings
8 or reduction in loss exposure; requiring that
9 the Office of Insurance Regulation specify, by
10 order, the dates on which such filings must be
11 made; amending s. 350.012, F.S.; redesignating
12 the Committee on Public Service Commission
13 Oversight as the "Committee on Public Service
14 Commission and Insurance Oversight"; requiring
15 that the committee appoint the Insurance
16 Consumer Advocate; amending s. 350.0611, F.S.,
17 relating to the Public Counsel; providing
18 duties with respect to the Insurance Consumer
19 Advocate; amending s. 350.0613, F.S.;
20 authorizing the Public Counsel to represent the
21 public before the Office of Insurance
22 Regulation, the Financial Services Commission,
23 and the Department of Financial Services;
24 including certain proceedings related to rules
25 and rate filings for insurance; authorizing the
26 Public Counsel to have access to files of the
27 Office of Insurance Regulation, the Financial
28 Services Commission, and the Department of
29 Financial Services, to seek review of orders of
30 the office and the commission, and to issue
31 reports, recommendations, and proposed orders

1 to the office and the commission; authorizing
2 the Committee on Public Service Commission and
3 Insurance Oversight to authorize the Public
4 Counsel to employ certain types of employees;
5 requiring the Office of Insurance Regulation,
6 the Financial Services Commission, and the
7 Department of Financial Services to provide
8 copies of certain filings to the Public
9 Counsel; creating s. 350.0615, F.S.; creating
10 the office of Insurance Consumer Advocate to
11 represent the public on matters relating to the
12 regulation of insurance; providing for the
13 consumer advocate to report directly to and be
14 employed by the Public Counsel; specifying the
15 powers and duties of the Insurance Consumer
16 Advocate; amending s. 553.73, F.S.; prohibiting
17 the Florida Building Commission from modifying
18 certain foundation codes relating to wind
19 resistance or the prevention of water intrusion
20 unless the modification enhances such
21 provisions; amending s. 553.775, F.S., relating
22 to interpretations of the Florida Building
23 Code; conforming a cross-reference; requiring
24 jurisdictions having authority to enforce the
25 Florida Building Code to require
26 wind-borne-debris protection according to
27 specified requirements; requiring that the
28 Florida Building Commission amend the Florida
29 Building Code to reflect the requirements of
30 the act and eliminate certain less stringent
31 requirements; providing an exception; requiring

1 an amendment to the code with respect to
2 certain provisions governing new residential
3 construction; requiring the commission to
4 develop voluntary guidelines for increasing the
5 hurricane resistance of buildings; requiring
6 that the guidelines be included in the
7 commission's report to the 2008 Legislature;
8 amending s. 624.319, F.S.; authorizing the
9 Insurance Consumer Advocate to have access to
10 certain confidential information held by the
11 Department of Financial Services or the Office
12 of Insurance Regulation; amending s. 624.462,
13 F.S.; revising requirements for the
14 establishment of a commercial self-insurance
15 fund by a not-for-profit group; amending s.
16 624.4622, F.S.; authorizing local government
17 self-insurance funds to insure or self-insure
18 real or personal property against loss or
19 damage; creating s. 624.4624, F.S.; providing
20 for risk pooling, with respect to windstorm
21 property exposure, by certain hospitals and
22 hospital systems; exempting entities formed to
23 do so from the Insurance Code; amending s.
24 624.610, F.S.; specifying additional
25 circumstances under which the Office of
26 Insurance Regulation may allow credit when
27 reinsurance is ceded to an assuming insurer;
28 repealing s. 627.0613, F.S., relating to the
29 consumer advocate appointed by the Chief
30 Financial Officer; amending s. 627.062, F.S.;
31 deleting provisions authorizing an insurer to

1 require the arbitration of a rate filing
2 following agency action under the
3 Administrative Procedure Act; requiring that an
4 insurer include with a rate filing a
5 certification attesting that the information in
6 the filing is accurate; amending s. 627.0628,
7 F.S., relating to hurricane loss projection;
8 conforming references to changes made by the
9 act; amending s. 627.351, F.S., relating to the
10 Citizens Property Insurance Corporation;
11 deleting provisions that deny certain
12 nonhomestead property eligibility for coverage
13 by the corporation; including commercial
14 nonresidential policies into an account of the
15 corporation; authorizing the corporation to
16 issue multiperil and wind-only coverage in the
17 high-risk account after a specified date;
18 deleting provisions authorizing the Office of
19 Insurance Regulation to remove territory from
20 the area eligible for wind-only and quota share
21 coverage; redefining the term "subject lines of
22 business"; requiring the board of governors of
23 the corporation to levy an assessment against
24 nonhomestead property policyholders if certain
25 deficits occur after a specified date;
26 requiring that the corporation annually file
27 recommended rates; requiring that the office
28 issue a final order establishing the rates
29 within a specified period; prohibiting the
30 corporation from pursuing administrative or
31 judicial review of such order; deleting

1 provisions specifying circumstances under which
2 a rate is deemed inadequate; deleting
3 legislative intent concerning rate adequacy in
4 the residual market; deleting provisions
5 providing requirements for personal lines
6 residential policies and residential wind-only
7 policies; deleting an exemption provided for
8 coverage provided by the corporation in Monroe
9 County under certain circumstances; deleting a
10 requirement that the corporation certify to the
11 office that its rates comply with certain
12 requirements; deleting a requirement for a
13 notice to policyholders and applicants;
14 rescinding the rate filing by the corporation
15 which took effect January 1, 2007; reinstating
16 the rates in effect on December 31, 2006;
17 providing legislative intent that commercial
18 nonresidential property insurance be made
19 available from Citizens Property Insurance
20 Corporation; requiring that the Office of
21 Insurance Regulation issue an order providing
22 for the transition of such coverage from the
23 Property and Casualty Joint Underwriting
24 Association to Citizens; amending s. 627.701,
25 F.S.; revising requirements for the deductible
26 amount applicable to hurricane loss for
27 policies of residential property insurance and
28 personal lines residential property insurance;
29 deleting obsolete provisions; amending s.
30 627.706, F.S., relating to sinkhole insurance;
31 redefining the term "sinkhole loss"; creating

1 s. 627.712, F.S.; requiring insurers issuing
2 residential property insurance to provide
3 hurricane or windstorm coverage; authorizing a
4 policyholder to make a written rejection of
5 such coverage on a form approved by the office;
6 providing requirements for the form; requiring
7 insurers issuing residential property insurance
8 to make available an exclusion of coverage for
9 contents; providing for the policyholder to
10 make a written rejection of such coverage;
11 authorizing an insurer to make available an
12 exclusion of coverage for contents from only
13 the windstorm coverage of the policy; creating
14 s. 627.713, F.S.; authorizing the office to
15 require property insurers to report data
16 regarding hurricane claims and underwriting
17 costs; repealing s. 627.0629(6), F.S., relating
18 to requirements for hurricane or windstorm
19 coverage; creating the Windstorm Mitigation
20 Study Commission for the purpose of analyzing
21 solutions and programs that could address the
22 state's need to mitigate the effects of
23 windstorms on structures; providing for
24 membership and qualifications; providing that
25 the members are entitled to reimbursement for
26 expenses incurred in connection with their
27 duties; requiring the Department of Financial
28 Services, the Office of Insurance Regulation,
29 the Citizens Property Insurance Corporation,
30 and other state agencies to supply information,
31 assistance, and facilities to the commission;

1 requiring that the Executive Office of the
2 Governor provide staff assistance; specifying
3 duties of the commission; requiring that the
4 commission report to the Governor, the
5 Legislature, the Chief Financial Officer, and
6 the Commissioner of Insurance Regulation by a
7 specified date; providing effective dates.

8
9 WHEREAS, homeowners in the State of Florida are
10 struggling under increased insurance costs and increased
11 housing prices as a result of damage caused by hurricanes and
12 tropical storms, and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29
30 Be It Enacted by the Legislature of the State of Florida:
31

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

3 20.121 Department of Financial Services.--There is
4 created a Department of Financial Services.

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

7 ~~(m)--The-Office-of-Insurance-Consumer-Advocate-~~

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

10 Section 2. All of the powers, duties, functions,
11 records, personnel, and property; unexpended balances of
12 appropriations, allocations, and other funds; administrative
13 authority; administrative rules; pending issues; and existing
14 contracts of the consumer advocate and the Office of Insurance
15 Consumer Advocate are transferred by a type two transfer,
16 pursuant to s. 20.06(2), Florida Statutes, from the Chief
17 Financial Officer and the Department of Financial Services to
18 the Public Counsel in the Public Service Commission.

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

23 163.01 Florida Interlocal Cooperation Act of 1969.--

24 (3) As used in this section:

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

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

5 (7)

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

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

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

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

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

1 this paragraph shall mature no later than 7 years following
2 the date of issuance thereof.

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

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

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

30 (h)1. For purposes of this subsection, the term
31 "alliance" has the meaning as defined in s. 624.4624(2)(a). An

1 alliance may, for the purpose of providing windstorm property
2 coverage for eligible entities under s. 624.4624, exercise all
3 powers under this subsection in connection with borrowing
4 funds for such purposes, including the authorization,
5 issuance, and sale of bonds. Borrowed funds, including bonds
6 issued by such alliance, shall be deemed issued on behalf of
7 eligible entities as defined in s. 624.4624(2)(b) which enter
8 into loan agreements with such alliance as provided in this
9 paragraph.

10 2. An alliance is authorized to borrow funds,
11 including the issuance of bonds, for the purpose of providing
12 windstorm property insurance coverage to eligible entities.
13 Eligible entities are authorized to enter into loan agreements
14 with any alliance created pursuant to s. 624.4624 for the
15 purpose of obtaining debt proceeds with which to finance
16 windstorm property insurance coverage or claims. Obligations
17 of any eligible entity pursuant to a loan agreement as
18 described above may be validated as provided in chapter 75.

19 3. In addition, the governing body of such alliance
20 may also authorize bonds to be issued and sold from time to
21 time and may delegate, to such officer, official, or agent of
22 such alliance as the governing body of such alliance selects,
23 the power to determine the time; manner of sale, public or
24 private; maturities; rate or rates of interest, which may be
25 fixed or may vary at such time or times and in accordance with
26 a specified formula or method of determination; and other
27 terms and conditions as are deemed appropriate by the officer,
28 official, or agent so designated by the governing body of such
29 alliance. However, the amounts and maturities of such bonds
30 and the interest rate or rates of such bonds shall be within
31 the limits prescribed by the governing body of such alliance

1 and its resolution delegating to such officer, official, or
2 agent the power to authorize the issuance and sale of such
3 bonds. Any series of bonds issued pursuant to this paragraph
4 shall mature no later than 30 years following the date of
5 issuance thereof.

6 4. Bonds issued pursuant to this paragraph may be
7 validated as provided in chapter 75. The complaint in any
8 action to validate such bonds shall be filed in any circuit
9 court where the alliance issuing the bonds is located. The
10 notice required to be published by s. 75.06 shall be published
11 in the circuit where the complaint is filed and, if the
12 circuit encompasses more than one county, in each county
13 within the circuit. The complaint and order of the circuit
14 court shall be served only on the state attorney of the
15 judicial circuit in which an alliance issuing the bonds is
16 located.

17 Section 4. Paragraph (a) of subsection (4) and
18 paragraph (a) of subsection (7) of section 215.555, Florida
19 Statutes, are amended, and subsections (16) and (17) are added
20 to that section, to read:

21 215.555 Florida Hurricane Catastrophe Fund.--

22 (4) REIMBURSEMENT CONTRACTS.--

23 (a) The board shall enter into a contract with each
24 insurer writing covered policies in this state to provide to
25 the insurer the reimbursement described in paragraphs (b) and
26 (d), in exchange for the reimbursement premium paid into the
27 fund under subsection (5). The 2007 contract shall be for a
28 10-month term beginning June 1, 2007, and ending March 31,
29 2008. Beginning in 2008, the contract shall be for a 1-year
30 term beginning April 1 and ending March 31 each year. As a
31

1 condition of doing business in this state, each such insurer
2 shall enter into such a contract.

3 (7) ADDITIONAL POWERS AND DUTIES.--

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

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

14 (a) Findings and intent.--

15 1. The Legislature finds that:

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

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

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

1 2. It is the intent of the Legislature to create a
2 temporary emergency program, applicable to the 2007 and 2008
3 hurricane seasons, to address these market disruptions and
4 enable insurers, at their option, to procure additional
5 coverage from the Florida Hurricane Catastrophe Fund. It is
6 the further intent of the Legislature to structure this
7 program in a manner that requires insurers to pay premiums for
8 this coverage which are comparable to the premiums the insurer
9 would have paid for comparable reinsurance coverage but for
10 the current emergency in the reinsurance market and also in a
11 manner that minimizes subsidies from the general public.

12 (b) Applicability of other provisions of this
13 section.--All provisions of this section and the rules adopted
14 under this section apply to the program created by this
15 subsection unless specifically superseded by this subsection.

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

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

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

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

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

31

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

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

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

28 d. For TEACO insurers who experience multiple covered
29 events causing loss during the contract term beginning June 1,
30 2007, and ending March 31, 2008, or the contract year
31 beginning April 1, 2008, the insurer's full TEACO retention

1 shall be applied to each of the covered events causing the two
2 largest losses for that insurer. For other covered events
3 resulting in losses, the TEACO option does not apply and the
4 insurer's retention shall be one-third of the full retention
5 as calculated under paragraph (2) (e).

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

10 (d) TEACO addendum.--

11 1. The TEACO addendum shall provide for reimbursement
12 of TEACO insurers for covered events occurring between June 1,
13 2007, and March 31, 2008, and between April 1, 2008, and March
14 31, 2009, in exchange for the TEACO reimbursement premium paid
15 into the fund under paragraph (e). Any insurer writing covered
16 policies have the option of choosing to accept the TEACO
17 addendum.

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

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

28 4. The TEACO addendum shall also provide that the
29 obligation of the board with respect to all TEACO addenda
30 shall not exceed an amount equal to two times the difference
31 between the industry retention level calculated under

1 paragraph (2) (e) and the \$3 billion, \$4 billion, or \$5 billion
2 industry TEACO retention level options actually selected, but
3 in no event may the board's obligation exceed the actual
4 claims-paying capacity of the fund plus the additional
5 capacity created in paragraph (f). If the actual claims-paying
6 capacity and the additional capacity created under paragraph
7 (f) fall short of the board's obligations under the
8 reimbursement contract, each insurer's share of the fund's
9 capacity shall be pro rated based on the premium an insurer
10 pays for its normal reimbursement coverage and the premium
11 paid for its optional TEACO coverage as each such premium
12 bears to the total premiums paid to the fund times the
13 available capacity.

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

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

26 (e) TEACO reimbursement premiums.--

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

1 2. The TEACO reimbursement premiums shall be
2 calculated based on the assumption that, if all insurers
3 entering into reimbursement contracts under subsection (4)
4 also accepted the TEACO option, the industry TEACO
5 reimbursement premium associated with the \$3 billion retention
6 option would be equal to 40 percent of the difference between
7 the industry retention level calculated under paragraph (2)(e)
8 and the \$3 billion industry TEACO retention level, the TEACO
9 reimbursement premium associated with the \$4 billion retention
10 option would be equal to 35 percent of the difference between
11 the industry retention level calculated under paragraph (2)(e)
12 and the \$4 billion industry TEACO retention level, and the
13 TEACO premium associated with the \$5 billion retention option
14 would be equal to 30 percent of the difference between the
15 industry retention level calculated under paragraph (2)(e) and
16 the \$5 billion industry TEACO retention level.

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

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

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

2 (a) Findings and intent.--

3 1. The Legislature finds that:

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

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

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

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

30 (b) Applicability of other provisions of this
31 section.--All provisions of this section and the rules adopted

1 under this section apply to the coverage created by this
2 subsection unless specifically superseded by provisions in
3 this subsection.

4 (c) Additional definitions.--As used in this
5 subsection, the term:

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

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

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

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

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

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

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

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

30 9. "TICL coverage" means the coverage for an insurer's
31 losses above the insurer's statutorily determined

1 claims-paying capacity based on the claims-paying limit in
 2 subparagraph (4)(c)1., which an insurer selects as its
 3 temporary increase in coverage from the fund under the TICL
 4 options selected. A TICL insurer's increased coverage limit
 5 options shall be calculated as follows:

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

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

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

27 (d) TICL options addendum.--

28 1. The TICL options addendum shall provide for
 29 reimbursement of TICL insurers for covered events occurring
 30 between June 1, 2007, and March 31, 2008, and between April 1,
 31 2008, and March 31, 2009, in exchange for the TICL

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

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

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

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

19 (e) TICL reimbursement premiums.--

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

24 2. Each insurer's TICL premium shall be calculated
25 based on the additional limit of increased coverage that it
26 selects. Such limit is determined by multiplying the TICL
27 multiple associated with one of the three options times the
28 insurer's FHCF reimbursement premium. For the amount of
29 increased coverage based on the option of using \$1 billion to
30 derive the TICL multiple, the rate-on-line for such coverage
31 shall be 20 percent. For the option using \$2 billion, the

1 rate-on-line shall be 17.5 percent and for the option using \$3
 2 billion, the rate-on-line shall be 15 percent.

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

15 Section 5. An insurer that elects the TEACO or TICL
 16 coverage options offered by the Florida Hurricane Catastrophe
 17 Fund, as required to be offered by this act, must make a rate
 18 filing with the Office of Insurance Regulation which reflects
 19 any savings or reduction in loss exposure to the insurer. The
 20 office shall specify, by order, the date or dates on which
 21 such filings must be made, in order to provide rate relief to
 22 policyholders as soon as practicable.

23 Section 6. Section 350.012, Florida Statutes, is
 24 amended to read:

25 350.012 Committee on Public Service Commission and
 26 Insurance Oversight; creation; membership; powers and
 27 duties.--

28 (1) There is created a standing joint committee of the
 29 Legislature, designated the Committee on Public Service
 30 Commission and Insurance Oversight, and composed of 12 members
 31 appointed as follows: six members of the Senate appointed by

1 the President of the Senate, two of whom must be members of
2 the minority party; and six members of the House of
3 Representatives appointed by the Speaker of the House of
4 Representatives, two of whom must be members of the minority
5 party. The terms of members shall be for 2 years and shall run
6 from the organization of one Legislature to the organization
7 of the next Legislature. The President shall appoint the chair
8 of the committee in even-numbered years and the vice chair in
9 odd-numbered years, and the Speaker of the House of
10 Representatives shall appoint the chair of the committee in
11 odd-numbered years and the vice chair in even-numbered years,
12 from among the committee membership. Vacancies shall be filled
13 in the same manner as the original appointment. Members shall
14 serve without additional compensation, but shall be reimbursed
15 for expenses.

16 (2) The committee shall:

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

20 (b) Appoint a Public Counsel as provided by general
21 law; ~~and~~

22 (c) Appoint the Insurance Consumer Advocate, as
23 provided in s. 350.0615.

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

29 (4) The committee will not have a permanent staff, but
30 the President of the Senate and the Speaker of the House of
31

1 Representatives shall select staff members from among existing
2 legislative staff, when and as needed.

3 Section 7. Section 350.0611, Florida Statutes, is
4 amended to read:

5 350.0611 Public Counsel; duties and powers.--It shall
6 be the duty of the Public Counsel to provide legal
7 representation for the people of the state in proceedings
8 before the commission and in proceedings before counties
9 pursuant to s. 367.171(8). The Public Counsel shall have such
10 powers as are necessary to carry out the duties of his or her
11 office, including, but not limited to, the following specific
12 powers:

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

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

29 (3) In any proceeding in which he or she has
30 participated as a party, to seek review of any determination,
31 finding, or order of the commission or the counties, or of any

1 hearing examiner designated by the commission or the counties,
2 in the name of the state or its citizens;

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

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

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

18 Section 8. Section 350.0613, Florida Statutes, is
19 amended to read:

20 350.0613 Public Counsel; employees; receipt of
21 pleadings.--The committee may authorize the Public Counsel to
22 employ clerical and technical assistants whose qualifications,
23 duties, and responsibilities the committee shall from time to
24 time prescribe. The committee may from time to time authorize
25 retention of the services of additional attorneys, actuaries,
26 economists, or experts to the extent that the best interests
27 of the people of the state will be better served thereby,
28 including the retention of expert witnesses and other
29 technical personnel for participation in contested proceedings
30 before the Public Service Commission, the Office of Insurance
31 Regulation, the Department of Financial Services, or the

1 Financial Services Commission. The commission shall furnish
2 the Public Counsel with copies of the initial pleadings in all
3 proceedings before the commission. The Office of Insurance
4 Regulation, the Financial Services Commission, and the
5 Department of Financial Services shall furnish the Public
6 Counsel with copies of all filings that relate to the
7 jurisdiction of the Insurance Consumer Advocate pursuant to s.
8 350.0615.7--and If the Public Counsel or Insurance Consumer
9 Advocate intervenes as a party in any proceeding he or she
10 shall be served with copies of all subsequent pleadings,
11 exhibits, and prepared testimony, if used. Upon filing notice
12 of intervention, the Public Counsel or Insurance Consumer
13 Advocate shall serve all interested parties with copies of
14 such notice and all of his or her subsequent pleadings and
15 exhibits.

16 Section 9. Section 350.0615, Florida Statutes, is
17 created to read:

18 350.0615 Insurance Consumer Advocate.--The Insurance
19 Consumer Advocate, as appointed pursuant to s. 350.012, shall
20 represent the general public of the state on matters related
21 to the regulation of insurance before the Office of Insurance
22 Regulation, the Department of Financial Services, and the
23 Financial Services Commission. The Insurance Consumer Advocate
24 shall report directly to and be engaged as an employee of the
25 Public Counsel. The Public Counsel shall provide
26 administrative and staff support to the Insurance Consumer
27 Advocate. The Insurance Consumer Advocate has all powers that
28 are necessary to carry out his or her duties, including, but
29 not limited to, the powers to:

30 (1) Recommend to the office, department, or
31 commission, by petition, the commencement of any proceeding or

1 action; to appear in any proceeding or action before the
2 office, department, or commission; and to appear in any
3 proceeding before the Division of Administrative Hearings
4 relating to insurance matters under the jurisdiction of the
5 office, department, or commission.

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

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

13 Section 10. Section 553.73, Florida Statutes, is
14 amended to read:

15 553.73 Florida Building Code.--

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

24 (b) The technical portions of the Florida
25 Accessibility Code for Building Construction shall be
26 contained in their entirety in the Florida Building Code. The
27 civil rights portions and the technical portions of the
28 accessibility laws of this state shall remain as currently
29 provided by law. Any revision or amendments to the Florida
30 Accessibility Code for Building Construction pursuant to part
31 II shall be considered adopted by the commission as part of

1 the Florida Building Code. Neither the commission nor any
2 local government shall revise or amend any standard of the
3 Florida Accessibility Code for Building Construction except as
4 provided for in part II.

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

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

29 (e) Subject to the provisions of this act,
30 responsibility for enforcement, interpretation, and regulation
31 of the Florida Building Code shall be vested in a specified

1 local board or agency, and the words "local government" and
2 "local governing body" as used in this part shall be construed
3 to refer exclusively to such local board or agency.

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

1 Florida Building Code by amendment. This restriction applies
2 to both initial development and amendment of the Florida
3 Building Code.

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

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

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

31

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

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

9
10 The commission shall incorporate within sections of the
11 Florida Building Code provisions which address regional and
12 local concerns and variations. The commission shall make every
13 effort to minimize conflicts between the Florida Building
14 Code, the Florida Fire Prevention Code, and the Life Safety
15 Code.

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

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

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

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

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

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

30 5. Any amendment to the Florida Building Code shall be
31 transmitted within 30 days by the adopting local government to

1 the commission. The commission shall maintain copies of all
2 such amendments in a format that is usable and obtainable by
3 the public. Local technical amendments shall not become
4 effective until 30 days after the amendment has been received
5 and published by the commission.

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

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

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

29 9. An amendment adopted under this paragraph shall
30 include a fiscal impact statement which documents the costs
31 and benefits of the proposed amendment. Criteria for the

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

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

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

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

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

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

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

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

30 (d) The commission shall further consider the
31 commission's own interpretations, declaratory statements,

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

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

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

29 (7){f} Upon the conclusion of a triennial update to
30 the Florida Building Code, notwithstanding the provisions of
31 ~~this-subsection-or~~ subsection (3) or subsection (6), the

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

16 (a)1- Conflicts within the updated code;

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

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

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

27 (8)7(a) The commission may approve technical
 28 amendments to the Florida Building Code once each year for
 29 statewide or regional application upon a finding that the
 30 amendment:

31

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

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

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

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

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

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

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

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

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

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

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

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

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

31 (c) Nonresidential farm buildings on farms.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 Section 11. Subsection (2) of section 553.775, Florida
4 Statutes, is amended to read:

5 553.775 Interpretations.--

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

14 Section 12. Upon the effective date of this act, each
15 jurisdiction having authority to enforce the Florida Building
16 Code shall, at a minimum, require wind-borne-debris protection
17 in accordance with s. 1609.1, International Building Code
18 (2006) within the "wind-borne-debris region" as that term is
19 defined in s. 1609.2, International Building Code (2006).

20 Section 13. (1) The Florida Building Commission shall
21 amend the Florida Building Code to reflect the application of
22 provisions identified in section 553.73, Florida Statutes, and
23 to eliminate all exceptions that provide less stringent
24 requirements. The amendments by the commission shall apply
25 throughout the state with the exception of the High Velocity
26 Hurricane Zone, which shall be governed as currently provided
27 within the Florida Building Code. The commission shall, in
28 addition, amend the code to require that, at a minimum, in
29 areas where the applicable design wind speed is less than 120
30 miles per hour, all new residences are designed and
31 constructed to withstand internal pressures. The commission

1 shall fulfill these obligations before July 1, 2007, pursuant
2 only to the provisions of chapter 120, Florida Statutes.

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

11 Section 14. Paragraph (b) of subsection (3) of section
12 624.319, Florida Statutes, is amended to read:

13 624.319 Examination and investigation reports.--

14 (3)

15 (b) Workpapers and other information held by the
16 department or office, and workpapers and other information
17 received from another governmental entity or the National
18 Association of Insurance Commissioners, for the department's
19 or office's use in the performance of its examination or
20 investigation duties pursuant to this section and ss. 624.316,
21 624.3161, 624.317, and 624.318 are confidential and exempt
22 from the provisions of s. 119.07(1) and s. 24(a), Art. I of
23 the State Constitution. This exemption applies to workpapers
24 and other information held by the department or office before,
25 on, or after the effective date of this exemption. Such
26 confidential and exempt information may be disclosed to
27 another governmental entity, if disclosure is necessary for
28 the receiving entity to perform its duties and
29 responsibilities, and may be disclosed to the National
30 Association of Insurance Commissioners. The Insurance Consumer
31 Advocate shall have access to such confidential and exempt

1 information pertaining to insurance at any time. The receiving
2 governmental entity or the association must maintain the
3 confidential and exempt status of the information. The
4 information made confidential and exempt by this paragraph may
5 be used in a criminal, civil, or administrative proceeding so
6 long as the confidential and exempt status of such information
7 is maintained. This paragraph is subject to the Open
8 Government Sunset Review Act of 1995 in accordance with s.
9 119.15 and shall stand repealed on October 2, 2007, unless
10 reviewed and saved from repeal through reenactment by the
11 Legislature.

12 Section 15. Paragraph (a) of subsection (2) of section
13 624.462, Florida Statutes, is amended to read:

14 624.462 Commercial self-insurance funds.--

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

19 (a) Established by:

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

27 2. A self-insurance trust fund organized pursuant to
28 s. 627.357 and maintained in good faith for a continuous
29 period of 1 year for purposes other than that of obtaining or
30 providing insurance pursuant to this section. Each member of a
31 commercial self-insurance trust fund established pursuant to

1 this subsection must maintain membership in the self-insurance
2 trust fund organized pursuant to s. 627.357;

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

6 4. A not-for-profit group comprised of no fewer ~~less~~
7 than 10 community condominium associations created and
8 operating under chapter 718, chapter 719, chapter 720, chapter
9 721, or chapter 723 as defined in s. 718.103(2), which is
10 ~~incorporated under the laws of this state,~~ which restricts its
11 membership to community condominium associations only, and
12 which has been organized and maintained in good faith for the
13 purpose of pooling and spreading the liabilities of its group
14 members relating to property or casualty risk or surety
15 insurance a continuous period of 1-year for purposes other
16 than that of obtaining or providing insurance.

17 Section 16. Subsection (1) of section 624.4622,
18 Florida Statutes, is amended to read:

19 624.4622 Local government self-insurance funds.--

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

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

30 (b) Maintain a continuing program of excess insurance
31 coverage and reserve evaluation to protect the financial

1 stability of the fund in an amount and manner determined by a
2 qualified and independent actuary;

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

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

9 Section 17. Section 624.4624, Florida Statutes, is
10 created to read:

11 624.4624 Risk pooling by certain hospitals and
12 hospital systems.--

13 (1) Any two or more eligible entities located in this
14 state may form an alliance for the purpose of pooling and
15 spreading liabilities of its members relative to windstorm
16 property exposure or securing such windstorm property
17 insurance coverage for the benefit of its members, provided
18 the alliance that is created must:

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

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

26 (c) Cause to be prepared annually a fiscal year-end
27 financial statement based upon generally accepted accounting
28 principles and audited by an independent certified public
29 accountant within 6 months after the end of the fiscal year;
30 and

31

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

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

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

8 (b) "Eligible entity" means a county hospital
9 regulated under chapter 155; a hospital funded, owned, or
10 operated by an independent special taxing district created
11 pursuant to the Laws of Florida or the Florida Statutes; a
12 teaching hospital defined in s. 408.07(45); or a children's
13 hospital defined in s. 408.07(45). A hospital may not qualify
14 as an eligible entity unless it maintains tax-exempt status
15 under s. 501(c)(3) of the Internal Revenue Code.

16 (c) "Windstorm property exposure" or "windstorm
17 property insurance coverage" includes coverage for all
18 property and other losses attributable to damage from a named
19 windstorm event, including a hurricane, and includes, but is
20 not limited to, property, business interruption, and other
21 appropriate coverages.

22 (3) An alliance that meets the requirements of this
23 section is not subject to any other provision of the Insurance
24 Code. If any of the requirements of this section are not met,
25 the alliance is subject to the requirements of s. 624.401.

26 (4) An alliance that meets the requirements of this
27 section is not an insurer for purposes of participation in or
28 coverage by the Florida Insurance Guaranty Association
29 established in part II of chapter 631. Alliance self-insured
30 coverage is not subject to insurance premium tax, nor shall
31

1 any such alliance pursuant to this section be assessed for
2 purposes of s. 627.351 or s. 215.555.

3 Section 18. Subsection (3) of section 624.610, Florida
4 Statutes, is amended to read:

5 624.610 Reinsurance.--

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

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

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

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

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

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

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

31

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

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

13 a. Its financial stability;

14 b. The lawfulness and quality of its investments;

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

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

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

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

26 4. The actual costs and expenses incurred by the
27 office to review a reinsurer's request for accreditation and
28 subsequent reviews must be charged to and collected from the
29 requesting reinsurer. If the reinsurer fails to pay the actual
30 costs and expenses promptly when due, the office may refuse to
31

1 accredit the reinsurer or may revoke the reinsurer's
2 accreditation.

3 (c)1. Credit must be allowed when the reinsurance is
4 ceded to an assuming insurer that maintains a trust fund in a
5 qualified United States financial institution, as defined in
6 paragraph (5)(b), for the payment of the valid claims of its
7 United States ceding insurers and their assigns and successors
8 in interest. To enable the office to determine the sufficiency
9 of the trust fund, the assuming insurer shall report annually
10 to the office information substantially the same as that
11 required to be reported on the NAIC Annual Statement form by
12 authorized insurers. The assuming insurer shall submit to
13 examination of its books and records by the office and bear
14 the expense of examination.

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

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

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

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

1 assuming insurer are subject to examination as determined by
2 the insurance regulator.

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

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

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

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

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

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

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

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

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

31

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

7 (e) If the reinsurance is ceded to an assuming insurer
8 not meeting the requirements of paragraph (a), paragraph (b),
9 paragraph (c), or paragraph (d), the office may allow credit,
10 but only if the assuming insurer holds surplus in excess of
11 \$100 million and has a secure financial strength rating from
12 at least two nationally recognized statistical rating
13 organizations deemed acceptable by the commissioner. In
14 determining whether credit should be allowed, the office shall
15 consider the following:

16 1. The domiciliary regulatory jurisdiction of the
17 assuming insurer;

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

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

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

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

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

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

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

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

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

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

30 2. This paragraph is not intended to conflict with or
31 override the obligation of the parties to a reinsurance

1 agreement to arbitrate their disputes, if this obligation is
2 created in the agreement.

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

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

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

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

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

4 Section 19. Section 627.0613, Florida Statutes, is
5 repealed.

6 Section 20. Section 627.062, Florida Statutes, is
7 amended to read:

8 627.062 Rate standards.--

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

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

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

21 1. If the filing is made at least 90 days before the
22 proposed effective date and the filing is not implemented
23 during the office's review of the filing and any proceeding
24 and judicial review, then such filing shall be considered a
25 "file and use" filing. In such case, the office shall
26 finalize its review by issuance of a notice of intent to
27 approve or a notice of intent to disapprove within 90 days
28 after receipt of the filing. The notice of intent to approve
29 and the notice of intent to disapprove constitute agency
30 action for purposes of the Administrative Procedure Act.
31 Requests for supporting information, requests for mathematical

1 or mechanical corrections, or notification to the insurer by
2 the office of its preliminary findings shall not toll the
3 90-day period during any such proceedings and subsequent
4 judicial review. The rate shall be deemed approved if the
5 office does not issue a notice of intent to approve or a
6 notice of intent to disapprove within 90 days after receipt of
7 the filing.

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

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

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

24 2. Past and prospective expenses.

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

27 4. Investment income reasonably expected by the
28 insurer, consistent with the insurer's investment practices,
29 from investable premiums anticipated in the filing, plus any
30 other expected income from currently invested assets
31 representing the amount expected on unearned premium reserves

1 and loss reserves. The commission may adopt rules utilizing
2 reasonable techniques of actuarial science and economics to
3 specify the manner in which insurers shall calculate
4 investment income attributable to such classes of insurance
5 written in this state and the manner in which such investment
6 income shall be used in the calculation of insurance rates.
7 Such manner shall contemplate allowances for an underwriting
8 profit factor and full consideration of investment income
9 which produce a reasonable rate of return; however, investment
10 income from invested surplus shall not be considered.

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

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

16 7. The adequacy of loss reserves.

17 8. The cost of reinsurance.

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

20 10. Conflagration and catastrophe hazards, if
21 applicable.

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

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

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

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

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

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

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

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

30 3. Rates shall be deemed inadequate if they are
31 clearly insufficient, together with the investment income

1 attributable to them, to sustain projected losses and expenses
2 in the class of business to which they apply.

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

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

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

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

23 (g) The office may at any time review a rate, rating
24 schedule, rating manual, or rate change; the pertinent records
25 of the insurer; and market conditions. If the office finds on
26 a preliminary basis that a rate may be excessive, inadequate,
27 or unfairly discriminatory, the office shall initiate
28 proceedings to disapprove the rate and shall so notify the
29 insurer. However, the office may not disapprove as excessive
30 any rate for which it has given final approval or which has
31 been deemed approved for a period of 1 year after the

1 effective date of the filing unless the office finds that a
2 material misrepresentation or material error was made by the
3 insurer or was contained in the filing. Upon being so
4 notified, the insurer or rating organization shall, within 60
5 days, file with the office all information which, in the
6 belief of the insurer or organization, proves the
7 reasonableness, adequacy, and fairness of the rate or rate
8 change. The office shall issue a notice of intent to approve
9 or a notice of intent to disapprove pursuant to the procedures
10 of paragraph (a) within 90 days after receipt of the insurer's
11 initial response. In such instances and in any administrative
12 proceeding relating to the legality of the rate, the insurer
13 or rating organization shall carry the burden of proof by a
14 preponderance of the evidence to show that the rate is not
15 excessive, inadequate, or unfairly discriminatory. After the
16 office notifies an insurer that a rate may be excessive,
17 inadequate, or unfairly discriminatory, unless the office
18 withdraws the notification, the insurer shall not alter the
19 rate except to conform with the office's notice until the
20 earlier of 120 days after the date the notification was
21 provided or 180 days after the date of the implementation of
22 the rate. The office may, subject to chapter 120, disapprove
23 without the 60-day notification any rate increase filed by an
24 insurer within the prohibited time period or during the time
25 that the legality of the increased rate is being contested.

26 (h) In the event the office finds that a rate or rate
27 change is excessive, inadequate, or unfairly discriminatory,
28 the office shall issue an order of disapproval specifying that
29 a new rate or rate schedule which responds to the findings of
30 the office be filed by the insurer. The office shall further
31 order, for any "use and file" filing made in accordance with

1 subparagraph (a)2., that premiums charged each policyholder
2 constituting the portion of the rate above that which was
3 actuarially justified be returned to such policyholder in the
4 form of a credit or refund. If the office finds that an
5 insurer's rate or rate change is inadequate, the new rate or
6 rate schedule filed with the office in response to such a
7 finding shall be applicable only to new or renewal business of
8 the insurer written on or after the effective date of the
9 responsive filing.

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

17 (j) Effective July 1, 2007, notwithstanding any other
18 provision of this section:

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

1 changes specified in the filing do not result in an overall
2 premium increase of more than 10 percent for any one
3 territory, for reasons related solely to the rate change. As
4 used in this subparagraph, the term "insurer's rates then in
5 effect" includes only rates that have been lawfully in effect
6 under this section or rates that have been determined to be
7 lawful through administrative proceedings or judicial
8 proceedings.

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

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

1 insurer's solvency, the office shall suspend the rate
 2 decrease. If the insurer is implementing an overall rate
 3 increase, the results of which continue to produce an
 4 inadequate rate, such increase shall proceed pending
 5 additional action by the office to ensure the adequacy of the
 6 rate.

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

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

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

25 (b) Individual risk rates and modifications to
 26 existing approved forms are not subject to this part or part
 27 II, except for paragraph (a) and ss. 627.402, 627.403,
 28 627.4035, 627.404, 627.405, 627.406, 627.407, 627.4085,
 29 627.409, 627.4132, 627.4133, 627.415, 627.416, 627.417,
 30 627.419, 627.425, 627.426, 627.4265, 627.427, and 627.428, but
 31

1 are subject to all other applicable provisions of this code
2 and rules adopted thereunder.

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

5 (4) The establishment of any rate, rating
6 classification, rating plan or schedule, or variation thereof
7 in violation of part IX of chapter 626 is also in violation of
8 this section. In order to enhance the ability of consumers to
9 compare premiums and to increase the accuracy and usefulness
10 of rate-comparison information provided by the office to the
11 public, the office shall develop a proposed standard rating
12 territory plan to be used by all authorized property and
13 casualty insurers for residential property insurance. In
14 adopting the proposed plan, the office may consider
15 geographical characteristics relevant to risk, county lines,
16 major roadways, existing rating territories used by a
17 significant segment of the market, and other relevant factors.
18 Such plan shall be submitted to the President of the Senate
19 and the Speaker of the House of Representatives by January 15,
20 2006. The plan may not be implemented unless authorized by
21 further act of the Legislature.

22 (5) With respect to a rate filing involving coverage
23 of the type for which the insurer is required to pay a
24 reimbursement premium to the Florida Hurricane Catastrophe
25 Fund, the insurer may fully recoup in its property insurance
26 premiums any reimbursement premiums paid to the Florida
27 Hurricane Catastrophe Fund, together with reasonable costs of
28 other reinsurance, but may not recoup reinsurance costs that
29 duplicate coverage provided by the Florida Hurricane
30 Catastrophe Fund. An insurer may not recoup more than 1 year
31 of reimbursement premium at a time. Any under-recoupment from

1 the prior year may be added to the following year's
 2 reimbursement premium and any over-recoupment shall be
 3 subtracted from the following year's reimbursement premium.

4 ~~(6)(a)--After any action with respect to a rate filing~~
 5 ~~that constitutes agency action for purposes of the~~
 6 ~~Administrative Procedure Act, except for a rate filing for~~
 7 ~~medical malpractice, an insurer may, in lieu of demanding a~~
 8 ~~hearing under s. 20.57, require arbitration of the rate~~
 9 ~~filing. Arbitration shall be conducted by a board of~~
 10 ~~arbitrators consisting of an arbitrator selected by the~~
 11 ~~office, an arbitrator selected by the insurer, and an~~
 12 ~~arbitrator selected jointly by the other two arbitrators. Each~~
 13 ~~arbitrator must be certified by the American Arbitration~~
 14 ~~Association. A decision is valid only upon the affirmative~~
 15 ~~vote of at least two of the arbitrators. No arbitrator may be~~
 16 ~~an employee of any insurance regulator or regulatory body or~~
 17 ~~of any insurer, regardless of whether or not the employing~~
 18 ~~insurer does business in this state. The office and the~~
 19 ~~insurer must treat the decision of the arbitrators as the~~
 20 ~~final approval of a rate filing. Costs of arbitration shall be~~
 21 ~~paid by the insurer.~~

22 ~~(b)--Arbitration under this subsection shall be~~
 23 ~~conducted pursuant to the procedures specified in ss.~~
 24 ~~682.06-682.10. Either party may apply to the circuit court to~~
 25 ~~vacate or modify the decision pursuant to s. 682.13 or s.~~
 26 ~~682.14. The commission shall adopt rules for arbitration under~~
 27 ~~this subsection, which rules may not be inconsistent with the~~
 28 ~~arbitration rules of the American Arbitration Association as~~
 29 ~~of January 1, 1996.~~

30 ~~(c)--Upon initiation of the arbitration process, the~~
 31 ~~insurer waives all rights to challenge the action of the~~

1 ~~office-under-the-Administrative-Procedure-Act-or-any-other~~
2 ~~provision-of-law;-however;-such-rights-are-restored-to-the~~
3 ~~insurer-if-the-arbitrators-fail-to-render-a-decision-within-90~~
4 ~~days-after-initiation-of-the-arbitration-process-~~

5 (6)~~(7)~~(a) The provisions of this subsection apply only
6 with respect to rates for medical malpractice insurance and
7 shall control to the extent of any conflict with other
8 provisions of this section.

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

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

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

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

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

19 (7)~~(8)~~(a)1. No later than 60 days after the effective
20 date of medical malpractice legislation enacted during the
21 2003 Special Session D of the Florida Legislature, the office
22 shall calculate a presumed factor that reflects the impact
23 that the changes contained in such legislation will have on
24 rates for medical malpractice insurance and shall issue a
25 notice informing all insurers writing medical malpractice
26 coverage of such presumed factor. In determining the presumed
27 factor, the office shall use generally accepted actuarial
28 techniques and standards provided in this section in
29 determining the expected impact on losses, expenses, and
30 investment income of the insurer. To the extent that the
31 operation of a provision of medical malpractice legislation

1 enacted during the 2003 Special Session D of the Florida
2 Legislature is stayed pending a constitutional challenge, the
3 impact of that provision shall not be included in the
4 calculation of a presumed factor under this subparagraph.

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

21 (b) Any insurer or rating organization that contends
22 that the rate provided for in paragraph (a) is excessive,
23 inadequate, or unfairly discriminatory shall separately state
24 in its filing the rate it contends is appropriate and shall
25 state with specificity the factors or data that it contends
26 should be considered in order to produce such appropriate
27 rate. The insurer or rating organization shall be permitted to
28 use all of the generally accepted actuarial techniques
29 provided in this section in making any filing pursuant to this
30 subsection. The office shall review each such exception and
31 approve or disapprove it prior to use. It shall be the

1 insurer's burden to actuarially justify any deviations from
2 the rates required to be filed under paragraph (a). The
3 insurer making a filing under this paragraph shall include in
4 the filing the expected impact of medical malpractice
5 legislation enacted during the 2003 Special Session D of the
6 Florida Legislature on losses, expenses, and rates.

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

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

19 (e) The calculation and notice by the office of the
20 presumed factor pursuant to paragraph (a) is not an order or
21 rule that is subject to chapter 120. If the office enters into
22 a contract with an independent consultant to assist the office
23 in calculating the presumed factor, such contract shall not be
24 subject to the competitive solicitation requirements of s.
25 287.057.

26 (8) An insurer making a rate filing for residential
27 property insurance must include a certification under oath, on
28 a form approved by the office, that the information contained
29 in the filing is accurate and consistent with accepted
30 actuarial principles. The certification must be signed by the
31 chief actuary and a senior officer of the insurer.

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

9 Section 21. Paragraph (c) of subsection (3) of section
 10 627.0628, Florida Statutes, is amended to read:

11 627.0628 Florida Commission on Hurricane Loss
 12 Projection Methodology; public records exemption; public
 13 meetings exemption.--

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

15 (c) With respect to a rate filing under s. 627.062, an
 16 insurer may employ actuarial methods, principles, standards,
 17 models, or output ranges found by the commission to be
 18 accurate or reliable to determine hurricane loss factors for
 19 use in a rate filing under s. 627.062. Such findings and
 20 factors are admissible and relevant in consideration of a rate
 21 filing by the office or in any arbitration or administrative
 22 or judicial review only if the office and the Insurance
 23 Consumer Advocate appointed pursuant to s. 350.0615 ~~s-~~
 24 ~~627-0613~~ have access to all of the assumptions and factors
 25 that were used in developing the actuarial methods,
 26 principles, standards, models, or output ranges, and are not
 27 precluded from disclosing such information in a rate
 28 proceeding. In any rate hearing under s. 120.57 ~~or-in-any~~
 29 ~~arbitration-proceeding-under-s--627-062(6)~~, the hearing
 30 officer or, judge, ~~or-arbitration-panel~~ may determine whether
 31 the office and the Insurance Consumer Advocate were provided

1 with access to all of the assumptions and factors that were
2 used in developing the actuarial methods, principles,
3 standards, models, or output ranges and to determine their
4 admissibility.

5 Section 22. Subsection (6) of section 627.351, Florida
6 Statutes, is amended to read:

7 627.351 Insurance risk apportionment plans.--

8 (6) CITIZENS PROPERTY INSURANCE CORPORATION.--

9 (a)1. The Legislature finds that actual and threatened
10 catastrophic losses to property in this state from hurricanes
11 have caused insurers to be unwilling or unable to provide
12 property insurance coverage to the extent sought and needed.
13 It is in the public interest and a public purpose to assist in
14 assuring that property in the state is insured so as to
15 facilitate the remediation, reconstruction, and replacement of
16 damaged or destroyed property in order to reduce or avoid the
17 negative effects otherwise resulting to the public health,
18 safety, and welfare; to the economy of the state; and to the
19 revenues of the state and local governments needed to provide
20 for the public welfare. It is necessary, therefore, to provide
21 property insurance to applicants who are in good faith
22 entitled to procure insurance through the voluntary market but
23 are unable to do so. The Legislature intends by this
24 subsection that property insurance be provided and that it
25 continues, as long as necessary, through an entity organized
26 to achieve efficiencies and economies, while providing service
27 to policyholders, applicants, and agents that is no less than
28 the quality generally provided in the voluntary market, all
29 toward the achievement of the foregoing public purposes.
30 Because it is essential for the corporation to have the
31 maximum financial resources to pay claims following a

1 catastrophic hurricane, it is the intent of the Legislature
2 that the income of the corporation be exempt from federal
3 income taxation and that interest on the debt obligations
4 issued by the corporation be exempt from federal income
5 taxation.

6 2. The Residential Property and Casualty Joint
7 Underwriting Association originally created by this statute
8 shall be known, as of July 1, 2002, as the Citizens Property
9 Insurance Corporation. The corporation shall provide insurance
10 for residential and commercial property, for applicants who
11 are in good faith entitled, but are unable, to procure
12 insurance through the voluntary market. The corporation shall
13 operate pursuant to a plan of operation approved by order of
14 the Financial Services Commission. The plan is subject to
15 continuous review by the commission. The commission may, by
16 order, withdraw approval of all or part of a plan if the
17 commission determines that conditions have changed since
18 approval was granted and that the purposes of the plan require
19 changes in the plan. The corporation shall continue to operate
20 pursuant to the plan of operation approved by the Office of
21 Insurance Regulation until October 1, 2006. For the purposes
22 of this subsection, residential coverage includes both
23 personal lines residential coverage, which consists of the
24 type of coverage provided by homeowner's, mobile home owner's,
25 dwelling, tenant's, condominium unit owner's, and similar
26 policies, and commercial lines residential coverage, which
27 consists of the type of coverage provided by condominium
28 association, apartment building, and similar policies.

29 3. For the purposes of this subsection, the term
30 "homestead property" means:
31

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

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

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

14 d. Tenant's coverage;

15 e. Commercial lines residential property; or

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

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

25 5. Effective July 1, 2008, a personal lines
26 residential structure that has a dwelling replacement cost of
27 \$1 million or more, or a single condominium unit that has a
28 combined dwelling and content replacement cost of \$1 million
29 or more is not eligible for coverage by the corporation. Such
30 dwellings insured by the corporation on June 30, 2008, may
31 continue to be covered by the corporation until the end of the

1 policy term. However, such dwellings that are insured by the
2 corporation and become ineligible for coverage due to the
3 provisions of this subparagraph may reapply and obtain
4 coverage in the high-risk account and be considered
5 "nonhomestead property" if the property owner provides the
6 corporation with a sworn affidavit from one or more insurance
7 agents, on a form provided by the corporation, stating that
8 the agents have made their best efforts to obtain coverage and
9 that the property has been rejected for coverage by at least
10 one authorized insurer and at least three surplus lines
11 insurers. If such conditions are met, the dwelling may be
12 insured by the corporation for up to 3 years, after which time
13 the dwelling is ineligible for coverage. The office shall
14 approve the method used by the corporation for valuing the
15 dwelling replacement cost for the purposes of this
16 subparagraph. If a policyholder is insured by the corporation
17 prior to being determined to be ineligible pursuant to this
18 subparagraph and such policyholder files a lawsuit challenging
19 the determination, the policyholder may remain insured by the
20 corporation until the conclusion of the litigation.

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

30 6.7- It is the intent of the Legislature that
31 policyholders, applicants, and agents of the corporation

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

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

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

30 (I) A personal lines account for personal residential
31 policies issued by the corporation or issued by the

1 Residential Property and Casualty Joint Underwriting
2 Association and renewed by the corporation that provide
3 comprehensive, multiperil coverage on risks that are not
4 located in areas eligible for coverage in the Florida
5 Windstorm Underwriting Association as those areas were defined
6 on January 1, 2002, and for such policies that do not provide
7 coverage for the peril of wind on risks that are located in
8 such areas;

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

19 (III) A high-risk account for personal residential
20 policies and commercial residential and commercial
21 nonresidential property policies issued by the corporation or
22 transferred to the corporation that provide coverage for the
23 peril of wind on risks that are located in areas eligible for
24 coverage in the Florida Windstorm Underwriting Association as
25 those areas were defined on January 1, 2002. Beginning July 1,
26 2007, the corporation may offer multiperil coverage and
27 wind-only coverage in the high-risk account. In issuing
28 multiperil coverage, the corporation shall use its approved
29 policy forms and rates for personal lines accounts. It is the
30 intent of the Legislature that such offer of coverage be made
31 and implemented in a manner that does not result in a default

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31

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

30 f. As used in this subsection, the term "subject lines
31 of business" means insurance written by assessable insurers or

1 procured by assessable insureds for all property and casualty
 2 lines of business in this state, but not including workers'
 3 compensation. As used in this sub-subparagraph, the term
 4 "property and casualty lines of business" includes all lines
 5 of business identified on Form 2, Exhibit of Premiums and
 6 Losses, in the annual statement required of authorized
 7 insurers by s. 624.424 and any rule adopted under this
 8 section, except for those lines identified as accident and
 9 health insurance and except for policies written under the
 10 National Flood Insurance program. For purposes of this
 11 sub-subparagraph, the term "workers' compensation" includes
 12 both workers' compensation insurance and excess workers'
 13 compensation insurance. ~~on-real-er-personal-property,-as~~
 14 ~~defined-in-s.-624-604,-including-insurance-for-fire,~~
 15 ~~industrial-fire,-allied-lines,-farmowners-multiperil,~~
 16 ~~homeowners-multiperil,-commercial-multiperil,-and-mobile~~
 17 ~~homes,-and-including-liability-coverage-on-all-such-insurance,~~
 18 ~~but-excluding-inland-marine-as-defined-in-s.-624-607(3)-and~~
 19 ~~excluding-vehicle-insurance-as-defined-in-s.-624-605(1)-other~~
 20 ~~than-insurance-on-mobile-homes-used-as-permanent-dwellings-~~

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

28 h. The Florida Surplus Lines Service Office shall
 29 verify the proper application by surplus lines agents of
 30 assessment percentages for regular assessments and emergency
 31 assessments levied under this subparagraph on assessable

1 insureds and shall assist the corporation in ensuring the
2 accurate, timely collection and payment of assessments by
3 surplus lines agents as required by the corporation.

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

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

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

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

29 a. Standard personal lines policy forms that are
30 comprehensive multiperil policies providing full coverage of a
31 residential property equivalent to the coverage provided in

1 the private insurance market under an HO-3, HO-4, or HO-6
2 policy.

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

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

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

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

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

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

1 cover the peril of wind only. As used in this subsection, the
2 term:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 a. Subject to the provisions of s. 627.3517, with
18 respect to personal lines residential risks, if the risk is
19 offered coverage from an authorized insurer at the insurer's
20 approved rate under either a standard policy including wind
21 coverage or, if consistent with the insurer's underwriting
22 rules as filed with the office, a basic policy including wind
23 coverage, the risk is not eligible for any policy issued by
24 the corporation. If the risk is not able to obtain any such
25 offer, the risk is eligible for either a standard policy
26 including wind coverage or a basic policy including wind
27 coverage issued by the corporation; however, if the risk could
28 not be insured under a standard policy including wind coverage
29 regardless of market conditions, the risk shall be eligible
30 for a basic policy including wind coverage unless rejected
31 under subparagraph 8. The corporation shall determine the type

1 of policy to be provided on the basis of objective standards
2 specified in the underwriting manual and based on generally
3 accepted underwriting practices.

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

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

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

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

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

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

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

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

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

13 b. With respect to commercial lines residential risks,
14 if the risk is offered coverage under a policy including wind
15 coverage from an authorized insurer at its approved rate, the
16 risk is not eligible for any policy issued by the corporation.
17 If the risk is not able to obtain any such offer, the risk is
18 eligible for a policy including wind coverage issued by the
19 corporation.

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

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

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

6
7 If the producing agent is unwilling or unable to accept
8 appointment, the new insurer shall pay the agent in accordance
9 with sub-sub-sub-subparagraph (A).

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

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

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

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

28 6. Must provide by July 1, 2007, that an application
29 for coverage for a new policy is subject to a waiting period
30 of 10 days before coverage is effective, during which time the
31 corporation shall make such application available for review

1 by general lines agents and authorized property and casualty
2 insurers. The board may approve exceptions that allow for
3 coverage to be effective before the end of the 10-day waiting
4 period, for coverage issued in conjunction with a real estate
5 closing, and for such other exceptions as the board determines
6 are necessary to prevent lapses in coverage.

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

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

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

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

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

28
29 The acceptance or rejection of a risk by the corporation shall
30 be construed as the private placement of insurance, and the
31 provisions of chapter 120 shall not apply.

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

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

25 12. The policies issued by the corporation must
26 provide that, if the corporation or the market assistance plan
27 obtains an offer from an authorized insurer to cover the risk
28 at its approved rates, the risk is no longer eligible for
29 renewal through the corporation.

30 13. Corporation policies and applications must include
31 a notice that the corporation policy could, under this

1 section, be replaced with a policy issued by an authorized
2 insurer that does not provide coverage identical to the
3 coverage provided by the corporation. The notice shall also
4 specify that acceptance of corporation coverage creates a
5 conclusive presumption that the applicant or policyholder is
6 aware of this potential.

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

23 15. Must provide that, with respect to the high-risk
24 account, any assessable insurer with a surplus as to
25 policyholders of \$25 million or less writing 25 percent or
26 more of its total countrywide property insurance premiums in
27 this state may petition the office, within the first 90 days
28 of each calendar year, to qualify as a limited apportionment
29 company. A regular assessment levied by the corporation on a
30 limited apportionment company for a deficit incurred by the
31 corporation for the high-risk account in 2006 or thereafter

1 may be paid to the corporation on a monthly basis as the
2 assessments are collected by the limited apportionment company
3 from its insureds pursuant to s. 627.3512, but the regular
4 assessment must be paid in full within 12 months after being
5 levied by the corporation. A limited apportionment company
6 shall collect from its policyholders any emergency assessment
7 imposed under sub-subparagraph (b)3.d. The plan shall provide
8 that, if the office determines that any regular assessment
9 will result in an impairment of the surplus of a limited
10 apportionment company, the office may direct that all or part
11 of such assessment be deferred as provided in subparagraph
12 (g)4. However, there shall be no limitation or deferment of an
13 emergency assessment to be collected from policyholders under
14 sub-subparagraph (b)3.d.

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

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

26 18. Must provide, effective June 1, 2007, that the
27 corporation contract with each insurer providing the non-wind
28 coverage for risks insured by the corporation in the high-risk
29 account, requiring that the insurer provide claims adjusting
30 services for the wind coverage provided by the corporation for
31 such risks. An insurer is required to enter into this contract

1 as a condition of providing non-wind coverage for a risk that
2 is insured by the corporation in the high-risk account unless
3 the board finds, after a hearing, that the insurer is not
4 capable of providing adjusting services at an acceptable level
5 of quality to corporation policyholders. The terms and
6 conditions of such contracts must be substantially the same as
7 the contracts that the corporation executed with insurers
8 under the "adjust-your-own" program in 2006, except as may be
9 mutually agreed to by the parties and except for such changes
10 that the board determines are necessary to ensure that claims
11 are adjusted appropriately. The corporation shall provide a
12 process for neutral arbitration of any dispute between the
13 corporation and the insurer regarding the terms of the
14 contract. The corporation shall review and monitor the
15 performance of insurers under these contracts.

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

19 (d)1. All prospective employees for senior management
20 positions, as defined by the plan of operation, are subject to
21 background checks as a prerequisite for employment. The office
22 shall conduct background checks on such prospective employees
23 pursuant to ss. 624.34, 624.404(3), and 628.261.

24 2. On or before July 1 of each year, employees of the
25 corporation are required to sign and submit a statement
26 attesting that they do not have a conflict of interest, as
27 defined in part III of chapter 112. As a condition of
28 employment, all prospective employees are required to sign and
29 submit to the corporation a conflict-of-interest statement.

30 3. Senior managers and members of the board of
31 governors are subject to the provisions of part III of chapter

1 112, including, but not limited to, the code of ethics and
2 public disclosure and reporting of financial interests,
3 pursuant to s. 112.3145. Senior managers and board members are
4 also required to file such disclosures with the Office of
5 Insurance Regulation. The executive director of the
6 corporation or his or her designee shall notify each newly
7 appointed and existing appointed member of the board of
8 governors and senior managers of their duty to comply with the
9 reporting requirements of part III of chapter 112. At least
10 quarterly, the executive director or his or her designee shall
11 submit to the Commission on Ethics a list of names of the
12 senior managers and members of the board of governors who are
13 subject to the public disclosure requirements under s.
14 112.3145.

15 4. Notwithstanding s. 112.3148 or s. 112.3149, or any
16 other provision of law, an employee or board member may not
17 knowingly accept, directly or indirectly, any gift or
18 expenditure from a person or entity, or an employee or
19 representative of such person or entity, that has a
20 contractual relationship with the corporation or who is under
21 consideration for a contract. An employee or board member who
22 fails to comply with this subparagraph is subject to penalties
23 provided under ss. 112.317 and 112.3173.

24 5. Any senior manager of the corporation who is
25 employed on or after January 1, 2007, regardless of the date
26 of hire, who subsequently retires or terminates employment is
27 prohibited from representing another person or entity before
28 the corporation for 2 years after retirement or termination of
29 employment from the corporation.

30 6. Any employee of the corporation who is employed on
31 or after January 1, 2007, regardless of the date of hire, who

1 subsequently retires or terminates employment is prohibited
2 from having any employment or contractual relationship for 2
3 years with an insurer that has received a take-out bonus from
4 the corporation.

5 (e) Purchases that equal or exceed \$2,500, but are
6 less than \$25,000, shall be made by receipt of written quotes,
7 written record of telephone quotes, or informal bids, whenever
8 practical. The procurement of goods or services valued at or
9 over \$25,000 shall be subject to competitive solicitation,
10 except in situations where the goods or services are provided
11 by a sole source or are deemed an emergency purchase; the
12 services are exempted from competitive solicitation
13 requirements under s. 287.057(5)(f); or the procurement of
14 services is subject to s. 627.3513. Justification for the
15 sole-sourcing or emergency procurement must be documented.
16 Contracts for goods or services valued at or over \$100,000 are
17 subject to approval by the board.

18 (f) The board shall determine whether it is more
19 cost-effective and in the best interests of the corporation to
20 use legal services provided by in-house attorneys employed by
21 the corporation rather than contracting with outside counsel.
22 In making such determination, the board shall document its
23 findings and shall consider: the expertise needed; whether
24 time commitments exceed in-house staff resources; whether
25 local representation is needed; the travel, lodging and other
26 costs associated with in-house representation; and such other
27 factors that the board determines are relevant.

28 (g) The corporation may not retain a lobbyist to
29 represent it before the legislative branch or executive
30 branch. However, full-time employees of the corporation may
31

1 register as lobbyists and represent the corporation before the
2 legislative branch or executive branch.

3 (h)1. The Office of the Internal Auditor is
4 established within the corporation to provide a central point
5 for coordination of and responsibility for activities that
6 promote accountability, integrity, and efficiency to the
7 policyholders and to the taxpayers of this state. The internal
8 auditor shall be appointed by the board of governors, shall
9 report to and be under the general supervision of the board of
10 governors, and is not subject to supervision by any employee
11 of the corporation. Administrative staff and support shall be
12 provided by the corporation. The internal auditor shall be
13 appointed without regard to political affiliation. It is the
14 duty and responsibility of the internal auditor to:

15 a. Provide direction for, supervise, conduct, and
16 coordinate audits, investigations, and management reviews
17 relating to the programs and operations of the corporation.

18 b. Conduct, supervise, or coordinate other activities
19 carried out or financed by the corporation for the purpose of
20 promoting efficiency in the administration of, or preventing
21 and detecting fraud, abuse, and mismanagement in, its programs
22 and operations.

23 c. Submit final audit reports, reviews, or
24 investigative reports to the board of governors, the executive
25 director, the members of the Financial Services Commission,
26 and the President of the Senate and the Speaker of the House
27 of Representatives.

28 d. Keep the board of governors informed concerning
29 fraud, abuses, and internal control deficiencies relating to
30 programs and operations administered or financed by the
31

1 corporation, recommend corrective action, and report on the
2 progress made in implementing corrective action.

3 e. Report expeditiously to the Department of Law
4 Enforcement or other law enforcement agencies, as appropriate,
5 whenever the internal auditor has reasonable grounds to
6 believe there has been a violation of criminal law.

7 2. On or before February 15, the internal auditor
8 shall prepare an annual report evaluating the effectiveness of
9 the internal controls of the corporation and providing
10 recommendations for corrective action, if necessary, and
11 summarizing the audits, reviews, and investigations conducted
12 by the office during the preceding fiscal year. The final
13 report shall be furnished to the board of governors and the
14 executive director, the President of the Senate, the Speaker
15 of the House of Representatives, and the Financial Services
16 Commission.

17 (i) All records of the corporation, except as
18 otherwise provided by law, are subject to the record retention
19 requirements of s. 119.021.

20 (j)1. The corporation shall establish and maintain a
21 unit or division to investigate possible fraudulent claims by
22 insureds or by persons making claims for services or repairs
23 against policies held by insureds; or it may contract with
24 others to investigate possible fraudulent claims for services
25 or repairs against policies held by the corporation pursuant
26 to s. 626.9891. The corporation must comply with reporting
27 requirements of s. 626.9891. An employee of the corporation
28 shall notify the Division of Insurance Fraud within 48 hours
29 after having information that would lead a reasonable person
30 to suspect that fraud may have been committed by any employee
31 of the corporation.

1 2. The corporation shall establish a unit or division
2 responsible for receiving and responding to consumer
3 complaints, which unit or division is the sole responsibility
4 of a senior manager of the corporation.

5 (k) The office shall conduct a comprehensive market
6 conduct examination of the corporation every 2 years to
7 determine compliance with its plan of operation and internal
8 operations procedures. The first market conduct examination
9 report shall be submitted to the President of the Senate and
10 the Speaker of the House of Representatives no later than
11 February 1, 2009. Subsequent reports shall be submitted on or
12 before February 1 every 2 years thereafter.

13 (l) The Auditor General shall conduct an operational
14 audit of the corporation every 3 years to evaluate
15 management's performance in administering laws, policies, and
16 procedures governing the operations of the corporation in an
17 efficient and effective manner. The scope of the review shall
18 include, but is not limited to, evaluating claims handling,
19 customer service, take-out programs and bonuses, financing
20 arrangements, procurement of goods and services, internal
21 controls, and the internal audit function. The initial audit
22 must be completed by February 1, 2009.

23 (m) 1.

24 a- Rates for coverage provided by the corporation
25 shall be actuarially sound and subject to the requirements of
26 s. 627.062, except as otherwise provided in this paragraph.
27 The corporation shall file its recommended rates with the
28 office at least annually. The corporation shall provide any
29 additional information regarding the rates which the office
30 requires. The office shall consider the recommendations of the
31 board and issue a final order establishing the rates for the

1 corporation within 45 days after the recommended rates are
2 filed. The corporation may not pursue an administrative
3 challenge or judicial review of the final order of the office.
4 ~~not-competitive-with-approved-rates-charged-in-the-admitted~~
5 ~~voluntary-market,-so-that-the-corporation-functions-as-a~~
6 ~~residual-market-mechanism-to-provide-insurance-only-when-the~~
7 ~~insurance-cannot-be-procured-in-the-voluntary-market.-Rates~~
8 ~~shall-include-an-appropriate-catastrophe-loading-factor-that~~
9 ~~reflects-the-actual-catastrophic-exposure-of-the-corporation.~~
10 ~~For-policies-in-the-personal-lines-account-and-the-commercial~~
11 ~~lines-account-issued-or-renewed-on-or-after-March-1,-2007,-a~~
12 ~~rate-is-deemed-inadequate-if-the-rate,-including-investment~~
13 ~~income,-is-not-sufficient-to-provide-for-the-procurement-of~~
14 ~~coverage-under-the-Florida-Hurricane-Catastrophe-Fund-and~~
15 ~~private-reinsurance-costs,-whether-or-not-reinsurance-is~~
16 ~~procured,-and-to-pay-all-claims-and-expenses-reasonably~~
17 ~~expected-to-result-from-a-100-year-probable-maximum-loss-event~~
18 ~~without-resort-to-any-regular-or-emergency-assessments,~~
19 ~~long-term-debt,-state-revenues,-or-other-funding-sources.-For~~
20 ~~policies-in-the-high-risk-account-issued-or-renewed-on-or~~
21 ~~after-March-1,-2007,-a-rate-is-deemed-inadequate-if-the-rate,~~
22 ~~including-investment-income,-is-not-sufficient-to-provide-for~~
23 ~~the-procurement-of-coverage-under-the-Florida-Hurricane~~
24 ~~Catastrophe-Fund-and-private-reinsurance-costs,-whether-or-not~~
25 ~~reinsurance-is-procured,-and-to-pay-all-claims-and-expenses~~
26 ~~reasonably-expected-to-result-from-a-70-year-probable-maximum~~
27 ~~loss-event-with-resort-to-any-regular-or-emergency~~
28 ~~assessments,-long-term-debt,-state-revenues,-or-other-funding~~
29 ~~sources.-For-policies-in-the-high-risk-account-issued-or~~
30 ~~renewed-in-2008-and-2009,-the-rate-must-be-based-upon-an~~
31

1 85-year-and-100-year-probable-maximum-loss-event,
2 respectively:

3 b.--It-is-the-intent-of-the-Legislature-to-reaffirm-the
4 requirement-of-rate-adequacy-in-the-residual-market:

5 Recognizing-that-rates-may-comply-with-the-intent-expressed-in
6 sub-subparagraph-a.-and-yet-be-inadequate-and-recognizing-the
7 public-need-to-limit-subsidies-within-the-residual-market,-it
8 is-the-further-intent-of-the-Legislature-to-establish
9 statutory-standards-for-rate-adequacy.-Such-standards-are
10 intended-to-supplement-the-standard-specified-in-s.
11 627-062(2)(e)3.-providing-that-rates-are-inadequate-if-they
12 are-clearly-insufficient-to-sustain-projected-losses-and
13 expenses-in-the-class-of-business-to-which-they-apply:

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

27 3.--Rates-for-personal-lines-residential-wind-only
28 policies-must-be-actuarially-sound-and-not-competitive-with
29 approved-rates-charged-by-authorized-insurers.-If-the-filing
30 under-this-subparagraph-is-made-at-least-90-days-before-the
31 proposed-effective-date-and-the-filing-is-not-implemented

1 during-the-office's-review-of-the-filing-and-any-proceeding
 2 and-judicial-review,-such-filing-shall-be-considered-a-"file
 3 and-use"-filing.-In-such-case,-the-office-shall-finalize-its
 4 review-by-issuance-of-a-notice-of-intent-to-approve-or-a
 5 notice-of-intent-to-disapprove-within-90-days-after-receipt-of
 6 the-filing.-The-notice-of-intent-to-approve-and-the-notice-of
 7 intent-to-disapprove-constitute-agency-action-for-purposes-of
 8 the-Administrative-Procedure-Act.-Requests-for-supporting
 9 information,-requests-for-mathematical-or-mechanical
 10 corrections,-or-notification-to-the-insurer-by-the-office-of
 11 its-preliminary-findings-shall-not-toll-the-90-day-period
 12 during-any-such-proceedings-and-subsequent-judicial-review.
 13 The-rate-shall-be-deemed-approved-if-the-office-does-not-issue
 14 a-notice-of-intent-to-approve-or-a-notice-of-intent-to
 15 disapprove-within-90-days-after-receipt-of-the-filing.
 16 Corporation-rate-manuals-shall-include-a-rate-surcharge-for
 17 seasonal-occupancy.-To-ensure-that-personal-lines-residential
 18 wind-only-rates-are-not-competitive-with-approved-rates
 19 charged-by-authorized-insurers,-the-corporation,-in
 20 conjunction-with-the-office,-shall-develop-a-wind-only
 21 ratemaking-methodology,-which-methodology-shall-be-contained
 22 in-each-rate-filing-made-by-the-corporation-with-the-office.
 23 If-the-office-determines-that-the-wind-only-rates-or-rating
 24 factors-filed-by-the-corporation-fail-to-comply-with-the
 25 wind-only-ratemaking-methodology-provided-for-in-this
 26 subsection,-it-shall-so-notify-the-corporation-and-require-the
 27 corporation-to-amend-its-rates-or-rating-factors-to-come-into
 28 compliance-within-90-days-of-notice-from-the-office.

29 4.-.-The-requirements-of-this-paragraph-that-rates-not
 30 be-competitive-with-approved-rates-charged-by-authorized
 31 insurers-do-not-apply-in-a-county-or-area-for-which-the-office

1 ~~determines that no authorized insurer is offering coverage.~~
2 ~~The corporation shall amend its rates or rating factors for~~
3 ~~the affected county or area in conjunction with its next rate~~
4 ~~filing after such determination is made.~~

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

27 6.--~~Rates for commercial lines coverage shall not be~~
28 ~~subject to the requirements of subparagraph 2., but shall be~~
29 ~~subject to all other requirements of this paragraph and s.~~
30 ~~627.062.~~

31

1 ~~7.--Nothing-in-this-paragraph-shall-require-or-allow~~
 2 ~~the-corporation-to-adopt-a-rate-that-is-inadequate-under-s.~~
 3 ~~627.062-~~

4 ~~8.--The-corporation-shall-certify-to-the-office-at~~
 5 ~~least-twice-annually-that-its-personal-lines-rates-comply-with~~
 6 ~~the-requirements-of-subparagraphs-1.7-2.7-and-3.--If-any~~
 7 ~~adjustment-in-the-rates-or-rating-factors-of-the-corporation~~
 8 ~~is-necessary-to-ensure-such-compliance,7-the-corporation-shall~~
 9 ~~make-and-implement-such-adjustments-and-file-its-revised-rates~~
 10 ~~and-rating-factors-with-the-office.-If-the-office-thereafter~~
 11 ~~determines-that-the-revised-rates-and-rating-factors-fail-to~~
 12 ~~comply-with-the-provisions-of-subparagraphs-1.7-2.7-and-3.7-it~~
 13 ~~shall-notify-the-corporation-and-require-the-corporation-to~~
 14 ~~amend-its-rates-or-rating-factors-in-conjunction-with-its-next~~
 15 ~~rate-filing.-The-office-must-notify-the-corporation-by~~
 16 ~~electronic-means-of-any-rate-filing-it-approves-for-any~~
 17 ~~insurer-among-the-insurers-referred-to-in-subparagraph-2-~~

18 2.9- In addition to the rates otherwise determined
 19 pursuant to this paragraph, the corporation shall impose and
 20 collect an amount equal to the premium tax provided for in s.
 21 624.509 to augment the financial resources of the corporation.

22 ~~10.--The-corporation-shall-develop-a-notice-to~~
 23 ~~policyholders-or-applicants-that-the-rates-of-Citizens~~
 24 ~~Property-Insurance-Corporation-are-intended-to-be-higher-than~~
 25 ~~the-rates-of-any-admitted-carrier-and-providing-other~~
 26 ~~information-the-corporation-deems-necessary-to-assist~~
 27 ~~consumers-in-finding-other-voluntary-admitted-insurers-willing~~
 28 ~~to-insure-their-property-~~

29 3.11- After the public hurricane loss-projection model
 30 under s. 627.06281 has been found to be accurate and reliable
 31 by the Florida Commission on Hurricane Loss Projection

1 Methodology, that model shall serve as the minimum benchmark
2 for determining the windstorm portion of the corporation's
3 rates. This subparagraph does not require or allow the
4 corporation to adopt rates lower than the rates otherwise
5 required or allowed by this paragraph.

6 4. The rate filing for the corporation which was
7 approved by the office and which took effect January 1, 2007,
8 is rescinded. As soon as possible, the corporation shall begin
9 using the rates that were in effect on December 31, 2006, and
10 shall provide refunds to policyholders who have paid higher
11 rates as a result of that rate filing. The rates in effect on
12 December 31, 2006, shall remain in effect for the 2007
13 calendar year. The next rate change shall take effect January
14 1, 2008, pursuant to a new rate filing recommended by the
15 corporation and established by the office, subject to the
16 requirements of this paragraph.

17 (n) If coverage in an account is deactivated pursuant
18 to paragraph (f), coverage through the corporation shall be
19 reactivated by order of the office only under one of the
20 following circumstances:

21 1. If the market assistance plan receives a minimum of
22 100 applications for coverage within a 3-month period, or 200
23 applications for coverage within a 1-year period or less for
24 residential coverage, unless the market assistance plan
25 provides a quotation from admitted carriers at their filed
26 rates for at least 90 percent of such applicants. Any market
27 assistance plan application that is rejected because an
28 individual risk is so hazardous as to be uninsurable using the
29 criteria specified in subparagraph (c)8. shall not be included
30 in the minimum percentage calculation provided herein. In the
31 event that there is a legal or administrative challenge to a

1 determination by the office that the conditions of this
2 subparagraph have been met for eligibility for coverage in the
3 corporation, any eligible risk may obtain coverage during the
4 pendency of such challenge.

5 2. In response to a state of emergency declared by the
6 Governor under s. 252.36, the office may activate coverage by
7 order for the period of the emergency upon a finding by the
8 office that the emergency significantly affects the
9 availability of residential property insurance.

10 (o)1. The corporation shall file with the office
11 quarterly statements of financial condition, an annual
12 statement of financial condition, and audited financial
13 statements in the manner prescribed by law. In addition, the
14 corporation shall report to the office monthly on the types,
15 premium, exposure, and distribution by county of its policies
16 in force, and shall submit other reports as the office
17 requires to carry out its oversight of the corporation.

18 2. The activities of the corporation shall be reviewed
19 at least annually by the office to determine whether coverage
20 shall be deactivated in an account on the basis that the
21 conditions giving rise to its activation no longer exist.

22 (p)1. The corporation shall certify to the office its
23 needs for annual assessments as to a particular calendar year,
24 and for any interim assessments that it deems to be necessary
25 to sustain operations as to a particular year pending the
26 receipt of annual assessments. Upon verification, the office
27 shall approve such certification, and the corporation shall
28 levy such annual or interim assessments. Such assessments
29 shall be prorated as provided in paragraph (b). The
30 corporation shall take all reasonable and prudent steps
31 necessary to collect the amount of assessment due from each

1 assessable insurer, including, if prudent, filing suit to
2 collect such assessment. If the corporation is unable to
3 collect an assessment from any assessable insurer, the
4 uncollected assessments shall be levied as an additional
5 assessment against the assessable insurers and any assessable
6 insurer required to pay an additional assessment as a result
7 of such failure to pay shall have a cause of action against
8 such nonpaying assessable insurer. Assessments shall be
9 included as an appropriate factor in the making of rates. The
10 failure of a surplus lines agent to collect and remit any
11 regular or emergency assessment levied by the corporation is
12 considered to be a violation of s. 626.936 and subjects the
13 surplus lines agent to the penalties provided in that section.

14 2. The governing body of any unit of local government,
15 any residents of which are insured by the corporation, may
16 issue bonds as defined in s. 125.013 or s. 166.101 from time
17 to time to fund an assistance program, in conjunction with the
18 corporation, for the purpose of defraying deficits of the
19 corporation. In order to avoid needless and indiscriminate
20 proliferation, duplication, and fragmentation of such
21 assistance programs, any unit of local government, any
22 residents of which are insured by the corporation, may provide
23 for the payment of losses, regardless of whether or not the
24 losses occurred within or outside of the territorial
25 jurisdiction of the local government. Revenue bonds under this
26 subparagraph may not be issued until validated pursuant to
27 chapter 75, unless a state of emergency is declared by
28 executive order or proclamation of the Governor pursuant to s.
29 252.36 making such findings as are necessary to determine that
30 it is in the best interests of, and necessary for, the
31 protection of the public health, safety, and general welfare

1 of residents of this state and declaring it an essential
2 public purpose to permit certain municipalities or counties to
3 issue such bonds as will permit relief to claimants and
4 policyholders of the corporation. Any such unit of local
5 government may enter into such contracts with the corporation
6 and with any other entity created pursuant to this subsection
7 as are necessary to carry out this paragraph. Any bonds issued
8 under this subparagraph shall be payable from and secured by
9 moneys received by the corporation from emergency assessments
10 under sub-subparagraph (b)3.d., and assigned and pledged to or
11 on behalf of the unit of local government for the benefit of
12 the holders of such bonds. The funds, credit, property, and
13 taxing power of the state or of the unit of local government
14 shall not be pledged for the payment of such bonds. If any of
15 the bonds remain unsold 60 days after issuance, the office
16 shall require all insurers subject to assessment to purchase
17 the bonds, which shall be treated as admitted assets; each
18 insurer shall be required to purchase that percentage of the
19 unsold portion of the bond issue that equals the insurer's
20 relative share of assessment liability under this subsection.
21 An insurer shall not be required to purchase the bonds to the
22 extent that the office determines that the purchase would
23 endanger or impair the solvency of the insurer.

24 3.a. The corporation shall adopt one or more programs
25 subject to approval by the office for the reduction of both
26 new and renewal writings in the corporation. Beginning January
27 1, 2008, any program the corporation adopts for the payment of
28 bonuses to an insurer for each risk the insurer removes from
29 the corporation shall comply with s. 627.3511(2) and may not
30 exceed the amount referenced in s. 627.3511(2) for each risk
31 removed. The corporation may consider any prudent and not

1 unfairly discriminatory approach to reducing corporation
2 writings, and may adopt a credit against assessment liability
3 or other liability that provides an incentive for insurers to
4 take risks out of the corporation and to keep risks out of the
5 corporation by maintaining or increasing voluntary writings in
6 counties or areas in which corporation risks are highly
7 concentrated and a program to provide a formula under which an
8 insurer voluntarily taking risks out of the corporation by
9 maintaining or increasing voluntary writings will be relieved
10 wholly or partially from assessments under sub-subparagraphs
11 (b)3.a. and b. However, any "take-out bonus" or payment to an
12 insurer must be conditioned on the property being insured for
13 at least 5 years by the insurer, unless canceled or nonrenewed
14 by the policyholder. If the policy is canceled or nonrenewed
15 by the policyholder before the end of the 5-year period, the
16 amount of the take-out bonus must be prorated for the time
17 period the policy was insured. When the corporation enters
18 into a contractual agreement for a take-out plan, the
19 producing agent of record of the corporation policy is
20 entitled to retain any unearned commission on such policy, and
21 the insurer shall either:

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

27 (II) Offer to allow the producing agent of record of
28 the policy to continue servicing the policy for a period of
29 not less than 1 year and offer to pay the agent the insurer's
30 usual and customary commission for the type of policy written.
31 If the producing agent is unwilling or unable to accept

1 appointment by the new insurer, the new insurer shall pay the
2 agent in accordance with sub-sub-subparagraph (I).

3 b. Any credit or exemption from regular assessments
4 adopted under this subparagraph shall last no longer than the
5 3 years following the cancellation or expiration of the policy
6 by the corporation. With the approval of the office, the board
7 may extend such credits for an additional year if the insurer
8 guarantees an additional year of renewability for all policies
9 removed from the corporation, or for 2 additional years if the
10 insurer guarantees 2 additional years of renewability for all
11 policies so removed.

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

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

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

1 (q) Nothing in this subsection shall be construed to
2 preclude the issuance of residential property insurance
3 coverage pursuant to part VIII of chapter 626.

4 (r) There shall be no liability on the part of, and no
5 cause of action of any nature shall arise against, any
6 assessable insurer or its agents or employees, the corporation
7 or its agents or employees, members of the board of governors
8 or their respective designees at a board meeting, corporation
9 committee members, or the office or its representatives, for
10 any action taken by them in the performance of their duties or
11 responsibilities under this subsection. Such immunity does not
12 apply to:

13 1. Any of the foregoing persons or entities for any
14 willful tort;

15 2. The corporation or its producing agents for breach
16 of any contract or agreement pertaining to insurance coverage;

17 3. The corporation with respect to issuance or payment
18 of debt; or

19 4. Any assessable insurer with respect to any action
20 to enforce an assessable insurer's obligations to the
21 corporation under this subsection.

22 (s) For the purposes of s. 199.183(1), the corporation
23 shall be considered a political subdivision of the state and
24 shall be exempt from the corporate income tax. The premiums,
25 assessments, investment income, and other revenue of the
26 corporation are funds received for providing property
27 insurance coverage as required by this subsection, paying
28 claims for Florida citizens insured by the corporation,
29 securing and repaying debt obligations issued by the
30 corporation, and conducting all other activities of the
31 corporation, and shall not be considered taxes, fees,

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

1 (t) Upon a determination by the office that the
2 conditions giving rise to the establishment and activation of
3 the corporation no longer exist, the corporation is dissolved.
4 Upon dissolution, the assets of the corporation shall be
5 applied first to pay all debts, liabilities, and obligations
6 of the corporation, including the establishment of reasonable
7 reserves for any contingent liabilities or obligations, and
8 all remaining assets of the corporation shall become property
9 of the state and shall be deposited in the Florida Hurricane
10 Catastrophe Fund. However, no dissolution shall take effect as
11 long as the corporation has bonds or other financial
12 obligations outstanding unless adequate provision has been
13 made for the payment of the bonds or other financial
14 obligations pursuant to the documents authorizing the issuance
15 of the bonds or other financial obligations.

16 (u)1. Effective July 1, 2002, policies of the
17 Residential Property and Casualty Joint Underwriting
18 Association shall become policies of the corporation. All
19 obligations, rights, assets and liabilities of the Residential
20 Property and Casualty Joint Underwriting Association,
21 including bonds, note and debt obligations, and the financing
22 documents pertaining to them become those of the corporation
23 as of July 1, 2002. The corporation is not required to issue
24 endorsements or certificates of assumption to insureds during
25 the remaining term of in-force transferred policies.

26 2. Effective July 1, 2002, policies of the Florida
27 Windstorm Underwriting Association are transferred to the
28 corporation and shall become policies of the corporation. All
29 obligations, rights, assets, and liabilities of the Florida
30 Windstorm Underwriting Association, including bonds, note and
31 debt obligations, and the financing documents pertaining to

1 | them are transferred to and assumed by the corporation on July
2 | 1, 2002. The corporation is not required to issue endorsements
3 | or certificates of assumption to insureds during the remaining
4 | term of in-force transferred policies.

5 | 3. The Florida Windstorm Underwriting Association and
6 | the Residential Property and Casualty Joint Underwriting
7 | Association shall take all actions as may be proper to further
8 | evidence the transfers and shall provide the documents and
9 | instruments of further assurance as may reasonably be
10 | requested by the corporation for that purpose. The corporation
11 | shall execute assumptions and instruments as the trustees or
12 | other parties to the financing documents of the Florida
13 | Windstorm Underwriting Association or the Residential Property
14 | and Casualty Joint Underwriting Association may reasonably
15 | request to further evidence the transfers and assumptions,
16 | which transfers and assumptions, however, are effective on the
17 | date provided under this paragraph whether or not, and
18 | regardless of the date on which, the assumptions or
19 | instruments are executed by the corporation. Subject to the
20 | relevant financing documents pertaining to their outstanding
21 | bonds, notes, indebtedness, or other financing obligations,
22 | the moneys, investments, receivables, choses in action, and
23 | other intangibles of the Florida Windstorm Underwriting
24 | Association shall be credited to the high-risk account of the
25 | corporation, and those of the personal lines residential
26 | coverage account and the commercial lines residential coverage
27 | account of the Residential Property and Casualty Joint
28 | Underwriting Association shall be credited to the personal
29 | lines account and the commercial lines account, respectively,
30 | of the corporation.

31 |

1 4. Effective July 1, 2002, a new applicant for
2 property insurance coverage who would otherwise have been
3 eligible for coverage in the Florida Windstorm Underwriting
4 Association is eligible for coverage from the corporation as
5 provided in this subsection.

6 5. The transfer of all policies, obligations, rights,
7 assets, and liabilities from the Florida Windstorm
8 Underwriting Association to the corporation and the renaming
9 of the Residential Property and Casualty Joint Underwriting
10 Association as the corporation shall in no way affect the
11 coverage with respect to covered policies as defined in s.
12 215.555(2)(c) provided to these entities by the Florida
13 Hurricane Catastrophe Fund. The coverage provided by the
14 Florida Hurricane Catastrophe Fund to the Florida Windstorm
15 Underwriting Association based on its exposures as of June 30,
16 2002, and each June 30 thereafter shall be redesignated as
17 coverage for the high-risk account of the corporation.
18 Notwithstanding any other provision of law, the coverage
19 provided by the Florida Hurricane Catastrophe Fund to the
20 Residential Property and Casualty Joint Underwriting
21 Association based on its exposures as of June 30, 2002, and
22 each June 30 thereafter shall be transferred to the personal
23 lines account and the commercial lines account of the
24 corporation. Notwithstanding any other provision of law, the
25 high-risk account shall be treated, for all Florida Hurricane
26 Catastrophe Fund purposes, as if it were a separate
27 participating insurer with its own exposures, reimbursement
28 premium, and loss reimbursement. Likewise, the personal lines
29 and commercial lines accounts shall be viewed together, for
30 all Florida Hurricane Catastrophe Fund purposes, as if the two
31 accounts were one and represent a single, separate

1 participating insurer with its own exposures, reimbursement
2 premium, and loss reimbursement. The coverage provided by the
3 Florida Hurricane Catastrophe Fund to the corporation shall
4 constitute and operate as a full transfer of coverage from the
5 Florida Windstorm Underwriting Association and Residential
6 Property and Casualty Joint Underwriting to the corporation.

7 (v) Notwithstanding any other provision of law:

8 1. The pledge or sale of, the lien upon, and the
9 security interest in any rights, revenues, or other assets of
10 the corporation created or purported to be created pursuant to
11 any financing documents to secure any bonds or other
12 indebtedness of the corporation shall be and remain valid and
13 enforceable, notwithstanding the commencement of and during
14 the continuation of, and after, any rehabilitation,
15 insolvency, liquidation, bankruptcy, receivership,
16 conservatorship, reorganization, or similar proceeding against
17 the corporation under the laws of this state.

18 2. No such proceeding shall relieve the corporation of
19 its obligation, or otherwise affect its ability to perform its
20 obligation, to continue to collect, or levy and collect,
21 assessments, market equalization or other surcharges under
22 subparagraph (c)10., or any other rights, revenues, or other
23 assets of the corporation pledged pursuant to any financing
24 documents.

25 3. Each such pledge or sale of, lien upon, and
26 security interest in, including the priority of such pledge,
27 lien, or security interest, any such assessments, market
28 equalization or other surcharges, or other rights, revenues,
29 or other assets which are collected, or levied and collected,
30 after the commencement of and during the pendency of, or
31 after, any such proceeding shall continue unaffected by such

1 proceeding. As used in this subsection, the term "financing
2 documents" means any agreement or agreements, instrument or
3 instruments, or other document or documents now existing or
4 hereafter created evidencing any bonds or other indebtedness
5 of the corporation or pursuant to which any such bonds or
6 other indebtedness has been or may be issued and pursuant to
7 which any rights, revenues, or other assets of the corporation
8 are pledged or sold to secure the repayment of such bonds or
9 indebtedness, together with the payment of interest on such
10 bonds or such indebtedness, or the payment of any other
11 obligation or financial product, as defined in the plan of
12 operation of the corporation related to such bonds or
13 indebtedness.

14 4. Any such pledge or sale of assessments, revenues,
15 contract rights, or other rights or assets of the corporation
16 shall constitute a lien and security interest, or sale, as the
17 case may be, that is immediately effective and attaches to
18 such assessments, revenues, or contract rights or other rights
19 or assets, whether or not imposed or collected at the time the
20 pledge or sale is made. Any such pledge or sale is effective,
21 valid, binding, and enforceable against the corporation or
22 other entity making such pledge or sale, and valid and binding
23 against and superior to any competing claims or obligations
24 owed to any other person or entity, including policyholders in
25 this state, asserting rights in any such assessments,
26 revenues, or contract rights or other rights or assets to the
27 extent set forth in and in accordance with the terms of the
28 pledge or sale contained in the applicable financing
29 documents, whether or not any such person or entity has notice
30 of such pledge or sale and without the need for any physical
31 delivery, recordation, filing, or other action.

1 5. As long as the corporation has any bonds
2 outstanding, the corporation may not file a voluntary petition
3 under chapter 9 of the federal Bankruptcy Code or such
4 corresponding chapter or sections as may be in effect, from
5 time to time, and a public officer or any organization,
6 entity, or other person may not authorize the corporation to
7 be or become a debtor under chapter 9 of the federal
8 Bankruptcy Code or such corresponding chapter or sections as
9 may be in effect, from time to time, during any such period.

10 6. If ordered by a court of competent jurisdiction,
11 the corporation may assume policies or otherwise provide
12 coverage for policyholders of an insurer placed in liquidation
13 under chapter 631, under such forms, rates, terms, and
14 conditions as the corporation deems appropriate, subject to
15 approval by the office.

16 (w)1. The following records of the corporation are
17 confidential and exempt from the provisions of s. 119.07(1)
18 and s. 24(a), Art. I of the State Constitution:

19 a. Underwriting files, except that a policyholder or
20 an applicant shall have access to his or her own underwriting
21 files.

22 b. Claims files, until termination of all litigation
23 and settlement of all claims arising out of the same incident,
24 although portions of the claims files may remain exempt, as
25 otherwise provided by law. Confidential and exempt claims file
26 records may be released to other governmental agencies upon
27 written request and demonstration of need; such records held
28 by the receiving agency remain confidential and exempt as
29 provided for herein.

30 c. Records obtained or generated by an internal
31 auditor pursuant to a routine audit, until the audit is

1 completed, or if the audit is conducted as part of an
2 investigation, until the investigation is closed or ceases to
3 be active. An investigation is considered "active" while the
4 investigation is being conducted with a reasonable, good faith
5 belief that it could lead to the filing of administrative,
6 civil, or criminal proceedings.

7 d. Matters reasonably encompassed in privileged
8 attorney-client communications.

9 e. Proprietary information licensed to the corporation
10 under contract and the contract provides for the
11 confidentiality of such proprietary information.

12 f. All information relating to the medical condition
13 or medical status of a corporation employee which is not
14 relevant to the employee's capacity to perform his or her
15 duties, except as otherwise provided in this paragraph.
16 Information which is exempt shall include, but is not limited
17 to, information relating to workers' compensation, insurance
18 benefits, and retirement or disability benefits.

19 g. Upon an employee's entrance into the employee
20 assistance program, a program to assist any employee who has a
21 behavioral or medical disorder, substance abuse problem, or
22 emotional difficulty which affects the employee's job
23 performance, all records relative to that participation shall
24 be confidential and exempt from the provisions of s. 119.07(1)
25 and s. 24(a), Art. I of the State Constitution, except as
26 otherwise provided in s. 112.0455(11).

27 h. Information relating to negotiations for financing,
28 reinsurance, depopulation, or contractual services, until the
29 conclusion of the negotiations.

30 i. Minutes of closed meetings regarding underwriting
31 files, and minutes of closed meetings regarding an open claims

1 file until termination of all litigation and settlement of all
2 claims with regard to that claim, except that information
3 otherwise confidential or exempt by law will be redacted.

4
5 When an authorized insurer is considering underwriting a risk
6 insured by the corporation, relevant underwriting files and
7 confidential claims files may be released to the insurer
8 provided the insurer agrees in writing, notarized and under
9 oath, to maintain the confidentiality of such files. When a
10 file is transferred to an insurer that file is no longer a
11 public record because it is not held by an agency subject to
12 the provisions of the public records law. Underwriting files
13 and confidential claims files may also be released to staff of
14 and the board of governors of the market assistance plan
15 established pursuant to s. 627.3515, who must retain the
16 confidentiality of such files, except such files may be
17 released to authorized insurers that are considering assuming
18 the risks to which the files apply, provided the insurer
19 agrees in writing, notarized and under oath, to maintain the
20 confidentiality of such files. Finally, the corporation or
21 the board or staff of the market assistance plan may make the
22 following information obtained from underwriting files and
23 confidential claims files available to licensed general lines
24 insurance agents: name, address, and telephone number of the
25 residential property owner or insured; location of the risk;
26 rating information; loss history; and policy type. The
27 receiving licensed general lines insurance agent must retain
28 the confidentiality of the information received.

29 2. Portions of meetings of the corporation are exempt
30 from the provisions of s. 286.011 and s. 24(b), Art. I of the
31 State Constitution wherein confidential underwriting files or

1 confidential open claims files are discussed. All portions of
2 corporation meetings which are closed to the public shall be
3 recorded by a court reporter. The court reporter shall record
4 the times of commencement and termination of the meeting, all
5 discussion and proceedings, the names of all persons present
6 at any time, and the names of all persons speaking. No
7 portion of any closed meeting shall be off the record.
8 Subject to the provisions hereof and s. 119.07(1)(b)-(d), the
9 court reporter's notes of any closed meeting shall be retained
10 by the corporation for a minimum of 5 years. A copy of the
11 transcript, less any exempt matters, of any closed meeting
12 wherein claims are discussed shall become public as to
13 individual claims after settlement of the claim.

14 (x) It is the intent of the Legislature that the
15 amendments to this subsection enacted in 2002 should, over
16 time, reduce the probable maximum windstorm losses in the
17 residual markets and should reduce the potential assessments
18 to be levied on property insurers and policyholders statewide.
19 In furtherance of this intent:

20 1. The board shall, on or before February 1 of each
21 year, provide a report to the President of the Senate and the
22 Speaker of the House of Representatives showing the reduction
23 or increase in the 100-year probable maximum loss attributable
24 to wind-only coverages and the quota share program under this
25 subsection combined, as compared to the benchmark 100-year
26 probable maximum loss of the Florida Windstorm Underwriting
27 Association. For purposes of this paragraph, the benchmark
28 100-year probable maximum loss of the Florida Windstorm
29 Underwriting Association shall be the calculation dated
30 February 2001 and based on November 30, 2000, exposures. In
31 order to ensure comparability of data, the board shall use the

1 same methods for calculating its probable maximum loss as were
2 used to calculate the benchmark probable maximum loss.

3 2. Beginning February 1, 2010, if the report under
4 subparagraph 1. for any year indicates that the 100-year
5 probable maximum loss attributable to wind-only coverages and
6 the quota share program combined does not reflect a reduction
7 of at least 25 percent from the benchmark, the board shall
8 reduce the boundaries of the high-risk area eligible for
9 wind-only coverages under this subsection in a manner
10 calculated to reduce such probable maximum loss to an amount
11 at least 25 percent below the benchmark.

12 3. Beginning February 1, 2015, if the report under
13 subparagraph 1. for any year indicates that the 100-year
14 probable maximum loss attributable to wind-only coverages and
15 the quota share program combined does not reflect a reduction
16 of at least 50 percent from the benchmark, the boundaries of
17 the high-risk area eligible for wind-only coverages under this
18 subsection shall be reduced by the elimination of any area
19 that is not seaward of a line 1,000 feet inland from the
20 Intracoastal Waterway.

21 (y) In enacting the provisions of this section, the
22 Legislature recognizes that both the Florida Windstorm
23 Underwriting Association and the Residential Property and
24 Casualty Joint Underwriting Association have entered into
25 financing arrangements that obligate each entity to service
26 its debts and maintain the capacity to repay funds secured
27 under these financing arrangements. It is the intent of the
28 Legislature that nothing in this section be construed to
29 compromise, diminish, or interfere with the rights of
30 creditors under such financing arrangements. It is further the
31 intent of the Legislature to preserve the obligations of the

1 Florida Windstorm Underwriting Association and Residential
2 Property and Casualty Joint Underwriting Association with
3 regard to outstanding financing arrangements, with such
4 obligations passing entirely and unchanged to the corporation
5 and, specifically, to the applicable account of the
6 corporation. So long as any bonds, notes, indebtedness, or
7 other financing obligations of the Florida Windstorm
8 Underwriting Association or the Residential Property and
9 Casualty Joint Underwriting Association are outstanding, under
10 the terms of the financing documents pertaining to them, the
11 governing board of the corporation shall have and shall
12 exercise the authority to levy, charge, collect, and receive
13 all premiums, assessments, surcharges, charges, revenues, and
14 receipts that the associations had authority to levy, charge,
15 collect, or receive under the provisions of subsection (2) and
16 this subsection, respectively, as they existed on January 1,
17 2002, to provide moneys, without exercise of the authority
18 provided by this subsection, in at least the amounts, and by
19 the times, as would be provided under those former provisions
20 of subsection (2) or this subsection, respectively, so that
21 the value, amount, and collectability of any assets, revenues,
22 or revenue source pledged or committed to, or any lien thereon
23 securing such outstanding bonds, notes, indebtedness, or other
24 financing obligations will not be diminished, impaired, or
25 adversely affected by the amendments made by this act and to
26 permit compliance with all provisions of financing documents
27 pertaining to such bonds, notes, indebtedness, or other
28 financing obligations, or the security or credit enhancement
29 for them, and any reference in this subsection to bonds,
30 notes, indebtedness, financing obligations, or similar
31 obligations, of the corporation shall include like instruments

1 or contracts of the Florida Windstorm Underwriting Association
2 and the Residential Property and Casualty Joint Underwriting
3 Association to the extent not inconsistent with the provisions
4 of the financing documents pertaining to them.

5 (z) The corporation shall not require the securing of
6 flood insurance as a condition of coverage if the insured or
7 applicant executes a form approved by the office affirming
8 that flood insurance is not provided by the corporation and
9 that if flood insurance is not secured by the applicant or
10 insured in addition to coverage by the corporation, the risk
11 will not be covered for flood damage. A corporation
12 policyholder electing not to secure flood insurance and
13 executing a form as provided herein making a claim for water
14 damage against the corporation shall have the burden of
15 proving the damage was not caused by flooding. Notwithstanding
16 other provisions of this subsection, the corporation may deny
17 coverage to an applicant or insured who refuses to execute the
18 form described herein.

19 (aa) A salaried employee of the corporation who
20 performs policy administration services subsequent to the
21 effectuation of a corporation policy is not required to be
22 licensed as an agent under the provisions of s. 626.112.

23 (bb) By February 1, 2007, the corporation shall submit
24 a report to the President of the Senate, the Speaker of the
25 House of Representatives, the minority party leaders of the
26 Senate and the House of Representatives, and the chairs of the
27 standing committees of the Senate and the House of
28 Representatives having jurisdiction over matters relating to
29 property and casualty insurance. In preparing the report, the
30 corporation shall consult with the Office of Insurance
31 Regulation, the Department of Financial Services, and any

1 other party the corporation determines appropriate. The report
2 must include all findings and recommendations on the
3 feasibility of requiring authorized insurers that issue and
4 service personal and commercial residential policies and
5 commercial nonresidential policies that provide coverage for
6 basic property perils except for the peril of wind to issue
7 and service for a fee personal and commercial residential
8 policies and commercial nonresidential policies providing
9 coverage for the peril of wind issued by the corporation. The
10 report must include:

11 1. The expense savings to the corporation of issuing
12 and servicing such policies as determined by a cost-benefit
13 analysis.

14 2. The expenses and liability to authorized insurers
15 associated with issuing and servicing such policies.

16 3. The effect on service to policyholders of the
17 corporation relating to issuing and servicing such policies.

18 4. The effect on the producing agent of the
19 corporation of issuing and servicing such policies.

20 5. Recommendations as to the amount of the fee which
21 should be paid to authorized insurers for issuing and
22 servicing such policies.

23 6. The effect that issuing and servicing such policies
24 will have on the corporation's number of policies, total
25 insured value, and probable maximum loss.

26 (cc) There shall be no liability on the part of, and
27 no cause of action of any nature shall arise against,
28 producing agents of record of the corporation or employees of
29 such agents for insolvency of any take-out insurer.

30 (dd) 1. For policies subject to nonrenewal as a result
31 of the risk being no longer eligible for coverage due to being

1 valued at \$1 million or more, the corporation shall, directly
2 or through the market assistance plan, make information from
3 confidential underwriting and claims files of policyholders
4 available only to licensed general lines agents who register
5 with the corporation to receive such information according to
6 the following procedures:

7 2. By August 1, 2006, the corporation shall provide
8 such policyholders who are not eligible for renewal the
9 opportunity to request in writing, within 30 days after the
10 notification is sent, that information from their confidential
11 underwriting and claims files not be released to licensed
12 general lines agents registered pursuant to this paragraph.

13 3. By August 1, 2006, the corporation shall make
14 available to licensed general lines agents the registration
15 procedures to be used to obtain confidential information from
16 underwriting and claims files for such policies not eligible
17 for renewal. As a condition of registration, the corporation
18 shall require the licensed general lines agent to attest that
19 the agent has the experience and relationships with authorized
20 or surplus lines carriers to attempt to offer replacement
21 coverage for such policies.

22 4. By September 1, 2006, the corporation shall make
23 available through a secured website to licensed general lines
24 agents registered pursuant to this paragraph application,
25 rating, loss history, mitigation, and policy type information
26 relating to such policies not eligible for renewal and for
27 which the policyholder has not requested the corporation
28 withhold such information. The registered licensed general
29 lines agent may use such information to contact and assist the
30 policyholder in securing replacement policies, and the agent
31

1 may disclose to the policyholder that such information was
2 obtained from the corporation.

3 Section 23. It is the intent of the Legislature that
4 commercial nonresidential property insurance coverage be made
5 available from Citizens Property Insurance Corporation
6 (Citizens), under s. 627.351(6), Florida Statutes, as amended
7 by this act, rather than from the Property and Casualty Joint
8 Underwriting Association (PCJUA), under s. 627.351(5), Florida
9 Statutes. The Office of Insurance Regulation shall issue an
10 order providing for the transition of such coverage from the
11 PCJUA to Citizens and may allow the PCJUA to continue to issue
12 such coverage until such time as Citizens begins issuing such
13 coverage.

14 Section 24. Subsection (3), paragraphs (b) and (c) of
15 subsection (4), and subsections (5) and (7) of section
16 627.701, Florida Statutes, are amended to read:

17 627.701 Liability of insureds; coinsurance;
18 deductibles.--

19 ~~(3) (a) -- A policy of residential property insurance~~
20 ~~shall include a deductible amount applicable to hurricane~~
21 ~~losses no lower than \$500 and no higher than 2 percent of the~~
22 ~~policy dwelling limits with respect to personal lines~~
23 ~~residential risks, and no higher than 3 percent of the policy~~
24 ~~limits with respect to commercial lines residential risks,~~
25 ~~however, if a risk was covered on August 24, 1992, under a~~
26 ~~policy having a higher deductible than the deductibles allowed~~
27 ~~by this paragraph, a policy covering such risk may include a~~
28 ~~deductible no higher than the deductible in effect on August~~
29 ~~24, 1992. Notwithstanding the other provisions of this~~
30 ~~paragraph, a personal lines residential policy covering a risk~~
31 ~~valued at \$50,000 or less may include a deductible amount~~

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

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

1 violation of this code but does not affect the coverage
2 provided under the policy.

3 2. An insurer that is subject to subparagraph 1. must
4 also offer a deductible applicable to hurricane losses which
5 covers 50 percent of the policyholder's equity in a structure
6 that is subject to a mortgage or lien. As a condition of
7 making this offer, the insurer may require the policyholder or
8 financial institution or other lienholder that holds the
9 mortgage to provide documentation annually to the insurer
10 identifying the amount of the policyholder's equity projected
11 for the policy year. The deductible may be structured to cover
12 50 percent of the policyholder's equity as of the effective
13 date of the policy renewal or the deductible may be scheduled
14 to reflect a monthly adjustment that tracks the change in the
15 policyholder's equity. The commission may adopt rules to
16 administer this subparagraph.

17 3.2- This paragraph does not apply with respect to a
18 deductible program lawfully in effect on June 14, 1995, or to
19 any similar deductible program, if the deductible program
20 requires a minimum deductible amount of no less than 2 percent
21 of the policy limits.

22 4.3- With respect to a policy covering a risk with
23 dwelling limits of at least \$100,000, but less than \$250,000,
24 the insurer may, in lieu of offering a policy with a \$500
25 hurricane or wind deductible as required by subparagraph 1.,
26 offer a policy that the insurer guarantees it will not
27 nonrenew for reasons of reducing hurricane loss for one
28 renewal period and that contains up to a 2 percent hurricane
29 or wind deductible as required by subparagraph 1.

30 5.4- With respect to a policy covering a risk with
31 dwelling limits of \$250,000 or more, the insurer need not

1 offer the \$500 hurricane deductible as required by
2 subparagraph 1., but must, except as otherwise provided in
3 this subsection, offer the other hurricane deductibles as
4 required by subparagraph 1.

5 (4)

6 (b) ~~Beginning-October-17-2005~~; For any personal lines
7 residential property insurance policy containing a separate
8 hurricane deductible, the insurer shall compute and
9 prominently display the actual dollar value of the hurricane
10 deductible on the declarations page of the policy at issuance
11 and, for renewal, on the renewal declarations page of the
12 policy or on the premium renewal notice.

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

28 (5) (a) The hurricane deductible of any personal lines
29 residential property insurance policy ~~issued-or-renewed-on-or~~
30 ~~after-May-17-2005~~, shall be applied as follows:
31

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

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

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

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

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

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

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

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

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

21 Section 25. Section 627.706, Florida Statutes, is
22 amended to read:

23 627.706 Sinkhole insurance; definitions.--

24 (1) Every insurer authorized to transact property
25 insurance in this state shall make available coverage for
26 insurable sinkhole losses on any structure, including contents
27 of personal property contained therein, to the extent provided
28 in the form to which the sinkhole coverage attaches. A policy
29 for residential property insurance may include a deductible
30 amount applicable to sinkhole losses equal to 1 percent, 2
31 percent, 5 percent, or 10 percent of the policy dwelling

1 limits, with appropriate premium discounts offered with each
2 deductible amount.

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

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

11 (b) "Sinkhole loss" means structural damage to the
12 building, including the foundation, caused by sinkhole
13 activity which results in a collapse of the building or such
14 damage that renders at least 5 percent of the square footage
15 uninhabitable. Contents coverage shall apply only if there is
16 structural damage to the building caused by sinkhole activity.

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

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

30 (e) "Professional geologist" means a person, as
31 defined by s. 492.102, who has a bachelor's degree or higher

1 in geology or related earth science with expertise in the
2 geology of Florida. A professional geologist must have
3 geological experience and expertise in the identification of
4 sinkhole activity as well as other potential geologic causes
5 of damage to the structure.

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

10 Section 26. Effective April 1, 2007, section 627.712,
11 Florida Statutes, is created to read:

12 627.712 Residential hurricane coverage required;
13 availability of exclusions for windstorm or contents.--

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

19 (2) An insurer that is subject to subsection (1) must
20 make available, at the option of the policyholder, an
21 exclusion of hurricane coverage or windstorm coverage. The
22 coverage may be excluded only if all named insureds on the
23 policy make a written rejection of the coverage on a form
24 approved by the office. The form must clearly disclose that:

25 (a) The policy does not cover any damage or loss
26 resulting from a windstorm or hurricane that exposes the
27 policyholder to the risk of significant financial loss; and

28 (b) If the property is subject to a mortgage or lien,
29 failure to obtain windstorm or hurricane coverage is likely to
30 result in the policyholder being in default, which authorizes
31

1 the lender or lienholder to obtain such coverage at the
2 policyholder's expense.

3 (3) (a) An insurer issuing a residential property
4 insurance policy must make available, at the option of the
5 policyholder, an exclusion of coverage for the contents. The
6 coverage may be excluded only if all named insureds on the
7 policy make a written rejection of the coverage on a form
8 approved by the office. The form must clearly disclose that
9 the policy does not cover any loss or damage to the contents
10 such as furniture, clothing, appliances, personal belongings,
11 and any other items and disclosures that the office requires.

12 (b) An insurer that is subject to paragraph (a) may
13 also make available an exclusion of coverage for contents from
14 only the windstorm coverage of the policy, subject to a
15 written rejection on a form approved by the office as provided
16 in paragraph (a).

17 Section 27. Section 627.713, Florida Statutes, is
18 created to read:

19 627.713 Report of hurricane loss data.--The office may
20 require property insurers to report data regarding hurricane
21 claims and underwriting costs, including, but not limited to:

- 22 (1) Number of claims;
23 (2) Amount of claim payments made;
24 (3) Number and amount of total-loss claims;
25 (4) Amount and percentage of losses covered by
26 reinsurance or other loss-transfer agreements;
27 (5) Amount of losses covered under specified
28 deductibles;
29 (6) Claims and payments for specified insured values;
30 (7) Claims and payments for specified dollar values;
31

1 (8) Claims and payments for specified types of
2 construction or mitigation features;

3 (9) Claims and payments for policies under specified
4 underwriting criteria;

5 (10) Claims and payments for contents, additional
6 living expense, and other specified coverages;

7 (11) Claims and payments by county for the information
8 specified in this section; and

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

10 Section 28. Effective April 1, 2007, subsection (6) of
11 section 627.0629, Florida Statutes, is repealed.

12 Section 29. Windstorm Mitigation Study Commission.--

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

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

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

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

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

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

30 (b) The commission shall meet as necessary, at the
31 call of the chair, and at the time and place designated by the

1 chair. The commission may conduct its meetings through
2 teleconferences or other similar means.

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

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

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

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

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

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

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

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

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

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

5 (i) Tax incentives for windstorm mitigation;

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

9 (k) Research on windstorm mitigation.

10
11 The commission may develop any other solutions and programs
12 that it considers appropriate.

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

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

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

26 Section 30. Except as otherwise expressly provided in
27 this act, this act shall take effect upon becoming a law.
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31

SENATE SUMMARY

Transfers the Office of Insurance Consumer Advocate from the Department of Financial Services to the Public Counsel in the Public Service Commission. Provides additional authority for local entities, hospitals, and hospital systems to issue bonds and fund self-insurance programs. Revises provisions of the Florida Hurricane Catastrophe Fund governing reimbursement contracts. Provides for additional reinsurance under the fund. Provides requirements for the Florida Building Commission with respect to modifying the Florida Building Code. Provides for credit when reinsurance is ceded to an assuming insurer. Revises provisions governing the Citizens Property Insurance Corporation. Removes requirements for certain assessments and limitations on coverage. Rescinds the rate filing that took effect January 1, 2007, and reinstates the rate in effect on December 31, 2006. Creates the Windstorm Mitigation Study Commission to study programs to mitigate the effects of windstorms on structures. (See bill for details.)

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