



Journal of the Senate

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CONTENTS

Call to Order	9, 16
Co-Introducers	22
House Messages, First Reading	21
Motions	21
Reports of Committees	21
Special Guests	14, 21
Special Order Calendar	9

[See end of Journal for Bill Action Summary]

CALL TO ORDER

The Senate was called to order by President Pruitt at 2:00 p.m. A quorum present—40:

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

PRAYER

The following prayer was offered by Senator Lynn:

Let us pray. Dear God, we thank you for all the blessings you have bestowed upon us. For the natural beauty of our state and nation, for the abundances you have provided, and for the freedoms we enjoy.

We ask for your help today in meeting the needs of the many people who experience so much pain and suffering in their daily lives. We ask that you watch over those in the Armed Forces, who have given and are endangering their lives in a war that seems to defy all understanding and strategy. In this conundrum, we ask that you help us to be tolerant, wise, and patient as we strive to protect people's freedom and safety throughout the world, while on our own shores we remain protected from so many horrors of inhumanity.

Today as we deliberate the problems of the increasing cost of insurance in our state, please know that while we value the contributions of business and the flourishing economy of our state and nation, we ask that you guide us to ensure that we place the needs of the people we serve uppermost in our thoughts and decision making. Help us to find solutions that not only respond to immediate problems, but that also provide insight into solving the long-term insurance problems of our state.

Lord, we pray today that you hear our cry for help and our concern for the people of our state and the world beyond. We recognize more than ever that we are members of a global world in which improving the lives of even a few improves the lives of all.

In your name we pray. Shalom and Amen.

PLEDGE

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

SPECIAL ORDER CALENDAR

SB 4-A—A bill to be entitled An act relating to hurricane preparedness and property insurance; amending s. 20.121, F.S.; removing the Office of Insurance Consumer Advocate from the Department of Financial Services; providing for the powers, records, personnel, property, balances of appropriations and other funds, rules, pending issues, and contracts of the Office of Insurance Consumer Advocate to be transferred from the Department of Financial Services to the Public Counsel; amending s. 163.01, F.S., relating to the Interlocal Cooperation Act; redefining the term “public agency” to include certain legal or administrative entities; authorizing such entities to finance the provision of property coverage contracts for or from local government property insurance pools or property coverage contracts; authorizing certain hospitals and hospital systems to borrow funds, issue bonds, and enter into loan agreements for the purpose of providing property coverage; providing for validating such bonds; providing an exemption from taxation; amending s. 215.555, F.S.; limiting the activities of the Florida Hurricane Fund Finance Corporation with respect to funding obligations; providing for revenue bonds to be issued to fund the obligations of the Florida Hurricane Excess Loss Program (FHELP); providing legislative findings; creating the Florida Hurricane Excess Loss Program Finance Corporation; providing for a board of directors; providing powers and duties; providing for the corporation to issue bonds that are not a debt of the state or any political subdivision; providing an exemption from taxation; providing for the protection of bondholders; limiting the activities of the Florida Hurricane Excess Loss Program Finance Corporation with respect to the obligations incurred by the Florida Hurricane Catastrophe Fund; authorizing the board of the Florida Hurricane Catastrophe Fund to enter into capital market transactions; authorizing temporary emergency options for additional coverage; providing a system under which insurers may procure additional reinsurance from the fund; defining terms; providing guidelines for such coverage; prescribing premiums for such coverage; providing a temporary increase in coverage limit options; providing legislative findings; defining terms; creating the Florida Hurricane Excess Loss Program, which shall be administered by the State Board of Administration; authorizing the board to adopt rules and employ or contract with staff; requiring that a contract addendum be executed by participating insurers; requiring that the state assume a portion of liability for losses under a covered policy; requiring that such coverage be funded separately from the obligations of the Florida Hurricane Catastrophe Fund and proceeds of bonds issued by the Florida Hurricane Catastrophe Fund Finance Corporation; requiring insurers obtaining certain coverages offered by the Florida Hurricane Catastrophe Fund to make rate filings that reflect savings or reduction in loss exposure; requiring that the Office of Insurance Regulation specify, by order, the dates on which such filings must be made; providing limitations for an insurer in implementing a rate change following a rate filing; amending s. 350.012, F.S.; redesignating the Committee on Public Service Commission Oversight as the “Committee on Public Service Commission and Insurance Oversight”; requiring that the committee confirm or reject the appointment of the Insurance Consumer Advocate by the Chief Financial Officer; amending s. 350.0611, F.S., relating to the Public Counsel; providing duties with respect to the Insurance Consumer Advocate; amending s. 350.0613, F.S.; authorizing the Public Counsel to represent the public before the Office of Insurance Regulation, the Financial Services Commission, and the Department of Financial Services; including certain proceedings related to rules and rate filings for insurance; authorizing the Public Counsel to have access to files of the

Office of Insurance Regulation, the Financial Services Commission, and the Department of Financial Services, to seek review of orders of the office and the commission, and to issue reports, recommendations, and proposed orders to the office and the commission; authorizing the Committee on Public Service Commission and Insurance Oversight to authorize the Public Counsel to employ certain types of employees; requiring the Office of Insurance Regulation, the Financial Services Commission, and the Department of Financial Services to provide copies of certain filings to the Public Counsel; creating s. 350.0615, F.S.; creating the office of Insurance Consumer Advocate to represent the public on matters relating to the regulation of insurance; requiring the Chief Financial Officer to appoint the Insurance Consumer Advocate, who is subject to confirmation by the Committee on Public Service Commission and Insurance Oversight; providing for the Insurance Consumer Advocate to report directly to and be employed by the Public Counsel; specifying the powers and duties of the Insurance Consumer Advocate; creating s. 395.1060, F.S.; providing for risk pooling, with respect to property exposure, by certain hospitals and hospital systems; exempting entities formed to do so from the Florida Insurance Code; amending s. 553.73, F.S.; prohibiting the Florida Building Commission from modifying certain foundation codes relating to wind resistance or the prevention of water intrusion unless the modification enhances such provisions; amending s. 553.775, F.S., relating to interpretations of the Florida Building Code; conforming a cross-reference; requiring jurisdictions having authority to enforce the Florida Building Code to require wind-borne-debris protection according to specified requirements; requiring that the Florida Building Commission amend the Florida Building Code to reflect the requirements of the act and eliminate certain less stringent requirements; providing an exception; requiring an amendment to the code with respect to certain provisions governing new residential construction; requiring the commission to develop voluntary guidelines for increasing the hurricane resistance of buildings; requiring that the guidelines be included in the commission's report to the 2008 Legislature; amending s. 624.319, F.S.; authorizing the Public Counsel and the Insurance Consumer Advocate to have access to certain confidential information held by the Department of Financial Services or the Office of Insurance Regulation; amending s. 624.462, F.S.; revising requirements for the establishment of a commercial self-insurance fund by a not-for-profit group; amending s. 624.4622, F.S.; authorizing local government self-insurance funds to insure or self-insure real or personal property against loss or damage; amending s. 624.610, F.S.; specifying additional circumstances under which the Office of Insurance Regulation may allow credit when reinsurance is ceded to an assuming insurer; repealing s. 627.0613, F.S., relating to the consumer advocate appointed by the Chief Financial Officer; amending s. 627.062, F.S.; deleting provisions exempting certain rate filings from review by the Office of Insurance Regulation; deleting provisions authorizing an insurer to require the arbitration of a rate filing following agency action under the Administrative Procedure Act; requiring the chief executive officer, chief financial officer, or chief actuary of a property insurer to certify the information contained in a rate filing; providing penalties for knowingly making a false certification; authorizing the Financial Services Commission to adopt rules; deleting provisions placing the burden on the Office of Insurance Regulation to establish that certain rates are excessive; amending s. 627.0628, F.S., relating to hurricane loss projection; conforming references to changes made by the act; amending s. 627.311, F.S.; providing for the Insurance Consumer Advocate to be a member of the board of governors supervising joint underwriting associations; amending s. 627.351, F.S., relating to the Citizens Property Insurance Corporation; deleting provisions that deny certain nonhomestead property eligibility for coverage by the corporation; including commercial nonresidential policies into an account of the corporation; authorizing the corporation to issue multiperil coverage, wind-only coverage, or both in the high-risk account after a specified date; deleting provisions authorizing the Office of Insurance Regulation to remove territory from the area eligible for wind-only and quota share coverage; redefining the term "subject lines of business" subject to assessments for deficits; requiring the board of governors of the corporation to levy an assessment against nonhomestead property policyholders if certain deficits occur after a specified date; restricting the eligibility of a risk for a policy issued by the corporation under certain circumstances; authorizing the plan of operation to establish limits of coverage and to require commercial property to meet specified hurricane-mitigation features; requiring that the corporation annually file recommended rates; requiring that the office issue a final order establishing the rates within a specified period; prohibiting the corporation from pursuing administrative or judicial review of such order; deleting provisions specifying circumstances under which a rate is deemed inadequate; deleting legislative intent concerning rate

adequacy in the residual market; deleting provisions providing requirements for personal lines residential policies and residential wind-only policies; deleting an exemption provided for coverage provided by the corporation in Monroe County under certain circumstances; deleting a requirement that the corporation certify to the office that its rates comply with certain requirements; deleting a requirement for a notice to policyholders and applicants; rescinding certain rate filings by the corporation which took effect January 1, 2007; reinstating certain rates in effect on December 31, 2006; clarifying the effect of a policy that is taken out, assumed, or removed from the corporation; providing legislative intent that commercial nonresidential property insurance be made available from Citizens Property Insurance Corporation; requiring that Citizens Property Insurance Corporation adopt a plan providing for the transition of such coverage from the Property and Casualty Joint Underwriting Association to Citizens; providing requirements for the plan; amending s. 627.701, F.S.; revising requirements for the deductible amount applicable to hurricane loss for policies of residential property insurance and personal lines residential property insurance; prohibiting a hurricane deductible in excess of a specified percentage for personal lines residential property insurance policies of less than a certain value unless the policyholder signs a statement acknowledging the lack of insurance or provides a statement from the mortgageholder or lienholder; requiring that the insurer keep documentation of such statements; requiring the Financial Services Commission to adopt rules; deleting obsolete provisions; amending s. 627.706, F.S., relating to sink-hole insurance; defining the term "catastrophic ground cover collapse"; amending s. 627.7065, F.S., relating to a database of sinkhole information; conforming a reference to changes made by the act; creating s. 627.712, F.S.; requiring insurers issuing residential property insurance to provide hurricane or windstorm coverage; authorizing a policyholder to make a written rejection of such coverage by signing a statement acknowledging the lack of insurance or providing a statement from the mortgageholder or lienholder; requiring insurers issuing residential property insurance to make available an exclusion of coverage for contents; providing for the policyholder to make a written rejection of such coverage; requiring that the insurer keep documentation of such statements; requiring the Financial Services Commission to adopt rules; creating s. 627.713, F.S.; authorizing the office to require property insurers to report data regarding hurricane claims and underwriting costs; providing for the adoption of rules; amending s. 631.57, F.S.; specifying certain additional circumstances under which the board of directors of the Florida Insurance Guaranty Association, Inc., may levy emergency and regular assessments; clarifying that authorization exists for the Florida Insurance Guaranty Association to certify and for the Office of Insurance Regulation to levy an emergency assessment; amending s. 631.912, F.S., relating to the board of directors of the Florida Workers' Compensation Insurance Guaranty Association, Inc.; conforming provisions to changes made by the act; repealing s. 627.0629(6), F.S., relating to requirements for hurricane or windstorm coverage; creating the Windstorm Mitigation Study Commission for the purpose of analyzing solutions and programs that could address the state's need to mitigate the effects of windstorms on structures; providing for membership and qualifications; providing that the members are entitled to reimbursement for expenses incurred in connection with their duties; requiring the Department of Financial Services, the Office of Insurance Regulation, the Citizens Property Insurance Corporation, and other state agencies to supply information, assistance, and facilities to the commission; requiring that the Executive Office of the Governor provide staff assistance; specifying duties of the commission; requiring that the commission report to the Governor, the Legislature, the Chief Financial Officer, and the Commissioner of Insurance Regulation by a specified date; establishing the Florida Disaster Recovery Initiative within the Department of Community Affairs for the purpose of assisting local governments in hardening affordable housing against the effects of hurricanes; specifying that the act does not create an entitlement or obligate the state; providing for program administration; specifying the entities that are eligible to apply for funding; providing components and requirements of the initiative; providing an appropriation; providing effective dates.

—was read the second time by title.

SENATOR GARCIA PRESIDING

The Committee on Banking and Insurance recommended the following amendments which were moved by Senator Posey and adopted:

Amendment 1 (132262)—On page 13, line 25, following the period insert: *Funds shall be transferred by the Department of Financial Ser-*

vides from the Insurance Regulatory Trust Fund to the Grants and Donations Trust Fund in the legislative branch for the purpose of funding the Office of Insurance Consumer Advocate. The transfer amount for the 2006-2007 fiscal year is equal to the remaining unobligated approved operating budget for the Office of Insurance Consumer Advocate within the Department of Financial Services.

Amendment 2 (815206)—On page 22, lines 26-31, delete those lines

Amendment 3 (111250)—On page 53, lines 21-25, delete those lines and insert: *coverage limit. For the 2007 contract year, the industry FHELP coverage limit is \$23 billion in excess of the industry FHELP retention. The industry FHELP coverage limit shall be adjusted each year based upon the reported exposure from the prior contract year to reflect the percentage growth in exposure to the fund.*

Amendment 4 (715220)—On page 79, lines 14 and 15, delete those lines and insert: *(2006) and the International Residential Code (2006) within the “wind-borne-debris region” as that term is defined in s. 1609.2, International Building Code (2006), and s. R301.2, International Residential Code (2006).*

Amendment 5 (505724)—On page 82, line 5, following the word “associations” insert: *, or a not-for-profit group comprised of one or more community associations having at least 50 residential properties cumulatively valued at over \$25 million,*

Amendment 6 (482314)(with title amendment)—On page 83, between lines 6 and 7, insert:

Section 18. Section 624.4625, Florida Statutes, is created to read:

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

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

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

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

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

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

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

1. Purchase excess insurance from authorized insurance carriers.
2. Retain a per-loss occurrence that does not exceed \$350,000.

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

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

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

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

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

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

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

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

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

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

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

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 6, line 1, after the first semicolon (;) insert: *creating s. 624.4625, F.S.; authorizing two or more corporations not for profit to form a self-insurance fund for certain purposes; providing specific requirements; providing a definition; providing limitations; providing for application of certain provisions to certain premiums, contributions, and assessments; providing for payment of insurance premium tax at a reduced rate by corporation not-for-profit self-insurance funds; subjecting a corporation not for profit self-insurance fund to certain group self-insurance fund provisions under certain circumstances;*

Amendment 7 (650864)(with title amendment)—On page 91, line 11, through page 97, line 15, delete those lines and insert:

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

627.062 Rate standards.—

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

(2) As to all such classes of insurance:

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

~~1. If the filing is made at least 90 days before the proposed effective date and the filing may not be is not implemented during the office's review of the filing and any proceeding and judicial review, then such filing shall be considered a “file and use” filing. In such case, The office~~

shall finalize its review by issuance of a notice of intent to approve or a notice of intent to disapprove within 90 days after receipt of the filing. The notice of intent to approve and the notice of intent to disapprove constitute agency action for purposes of the Administrative Procedure Act. Requests for supporting information, requests for mathematical or mechanical corrections, or notification to the insurer by the office of its preliminary findings shall not toll the 90-day period during any such proceedings and subsequent judicial review. The rate shall be deemed approved if the office does not issue a notice of intent to approve or a notice of intent to disapprove within 90 days after receipt of the filing.

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

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

1. Past and prospective loss experience within and without this state.
2. Past and prospective expenses.
3. The degree of competition among insurers for the risk insured.
4. Investment income reasonably expected by the insurer, consistent with the insurer's investment practices, from investable premiums anticipated in the filing, plus any other expected income from currently invested assets representing the amount expected on unearned premium reserves and loss reserves. The commission may adopt rules utilizing reasonable techniques of actuarial science and economics to specify the manner in which insurers shall calculate investment income attributable to such classes of insurance written in this state and the manner in which such investment income shall be used in the calculation of insurance rates. Such manner shall contemplate allowances for an underwriting profit factor and full consideration of investment income which produce a reasonable rate of return; however, investment income from invested surplus shall not be considered.
5. The reasonableness of the judgment reflected in the filing.
6. Dividends, savings, or unabsorbed premium deposits allowed or returned to Florida policyholders, members, or subscribers.
7. The adequacy of loss reserves.
8. The cost of reinsurance.
9. Trend factors, including trends in actual losses per insured unit for the insurer making the filing.
10. Conflagration and catastrophe hazards, if applicable.
11. A reasonable margin for underwriting profit and contingencies. For that portion of the rate covering the risk of hurricanes and other catastrophic losses for which the insurer has not purchased reinsurance and has exposed its capital and surplus to such risk, the office must approve a rating factor that provides the insurer a reasonable rate of return that is commensurate with such risk.
12. The cost of medical services, if applicable.
13. Other relevant factors which impact upon the frequency or severity of claims or upon expenses.

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

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

catastrophe reserve. Any removal of such premiums from the reserve for purposes other than paying claims associated with a catastrophe or purchasing reinsurance for catastrophes shall be subject to approval of the office. Any ceding commission received by an insurer purchasing reinsurance for catastrophes shall be placed in the catastrophe reserve.

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

1. Rates shall be deemed excessive if they are likely to produce a profit from Florida business that is unreasonably high in relation to the risk involved in the class of business or if expenses are unreasonably high in relation to services rendered.
2. Rates shall be deemed excessive if, among other things, the rate structure established by a stock insurance company provides for replenishment of surpluses from premiums, when the replenishment is attributable to investment losses.
3. Rates shall be deemed inadequate if they are clearly insufficient, together with the investment income attributable to them, to sustain projected losses and expenses in the class of business to which they apply.
4. A rating plan, including discounts, credits, or surcharges, shall be deemed unfairly discriminatory if it fails to clearly and equitably reflect consideration of the policyholder's participation in a risk management program adopted pursuant to s. 627.0625.
5. A rate shall be deemed inadequate as to the premium charged to a risk or group of risks if discounts or credits are allowed which exceed a reasonable reflection of expense savings and reasonably expected loss experience from the risk or group of risks.

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

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

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

(h) In the event the office finds that a rate or rate change is excessive, inadequate, or unfairly discriminatory, the office shall issue an order of disapproval specifying that a new rate or rate schedule which responds to the findings of the office be filed by the insurer. ~~The office shall further~~

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

And the title is amended as follows:

On page 6, line 7, after the second semicolon (;) insert: deleting provisions allowing property and casualty insurers to use and file rates;

Amendment 8 (573674)—On page 97, line 23, delete that line and insert:

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

Amendment 9 (104380)—On page 106, lines 2 and 3, delete the word "residential"

Amendment 10 (931584)—On page 106, between lines 14 and 19, delete those lines and insert: *misleading;*

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

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

Amendment 11 (632058)(with title amendment)—On page 171, between lines 4 and 5, insert:

Section 33. Subsection (11) of section 718.111, Florida Statutes, is amended to read:

718.111 The association.—

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

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

property, and units. Adequate insurance, regardless of any requirement in the declaration of condominium for coverage by the association for "full insurable value," "replacement cost," or the like, may include reasonable deductibles as determined by the board *based upon available funds or predetermined assessment authority at the time that the insurance is obtained.*

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

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

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

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

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

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

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

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

(d) The association shall obtain and maintain adequate insurance or fidelity bonding of all persons who control or disburse funds of the association. The insurance policy or fidelity bond must cover the maximum funds that will be in the custody of the association or its management

agent at any one time. As used in this paragraph, the term “persons who control or disburse funds of the association” includes, but is not limited to, those individuals authorized to sign checks and the president, secretary, and treasurer of the association. The association shall bear the cost of bonding.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 10, line 12, after the semicolon (;) insert: amending s. 718.111, F.S.; providing for windstorm insurance for condominium associations;

The Committee on Banking and Insurance recommended the following amendment which was moved by Senator Alexander and adopted:

Amendment 12 (390906)—On page 121, line 15, delete that line and insert: *compensation or medical malpractice. As used in the sub-subparagraph, the term*

INTRODUCTION OF FORMER SENATOR

The President introduced former Senator Javier Soto who was present in the chamber.

The Committee on Banking and Insurance recommended the following amendment which was moved by Senator Posey and failed:

Amendment 13 (884732)—On page 121, line 20, delete the word, “*accident*” and insert: *surety insurance, accident insurance,*

The Committee on Banking and Insurance recommended the following amendments which were moved by Senator Posey and adopted:

Amendment 14 (325298)—On page 168, lines 30-31, delete those lines and insert: *property security;*

(k) *Research on windstorm mitigation; and*

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

Amendment 15 (584856)—On page 170, lines 12 and 19, delete the word “*shall*” and insert: *may*

Amendment 16 (883588)—On page 170, line 19, after the word “*homeowners*” insert: *in single-family housing units or condominiums*

Amendment 17 (543466)—On page 170, line 30, delete the phrase “*section 1*” and insert: *section 35*

Amendment 18 (080242)(with title amendment)—On page 171, between lines 4 and 5, insert:

Section 37. Section 627.711, Florida Statutes, is amended to read:

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

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

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

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 11, line 14, after the semicolon (;) insert: amending s. 627.711, F.S.; requiring the Financial Services Commission to develop uniform mitigation verification inspection forms; providing duties of the commission;

Amendment 19 (451392)(with title amendment)—On page 171 between lines 4 and 5, insert:

Section 37. *It is the intent of the Legislature to create during the 2007 Legislative Session a grant program to assist persons whose income does not exceed that of “low-income persons” as defined in s. 420.602(8), Florida Statutes, for the purpose of purchasing property insurance to protect their homestead property.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 11, line 14, after the semicolon (;) insert: expressing the intent of the Legislature to create a grant program to assist low-income persons in purchasing property insurance;

Amendment 20 (952700)(with title amendment)—On page 171, between lines 4 and 5, insert:

Section 37. Section 350.06151, Florida Statutes, is created to read:

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

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 11, line 14, following the semicolon (;) insert: creating s. 350.06151, F.S.; providing for transfer of funds from the Insurance Regulatory Trust Fund to the Grants and Donations Trust Fund of the legislative branch to fund the Office of Insurance Consumer Advocate;

Senators Webster and Geller offered the following amendment which was moved by Senator Webster and adopted:

Amendment 21 (610330)—On page 40, line 24, through page 50, line 27, delete those lines and insert:

(17) *TEMPORARY INCREASE IN COVERAGE LIMIT OPTIONS.*—

(a) *Findings and intent.*—

1. *The Legislature finds that:*

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

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

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

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

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

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

1. “FHCF” means Florida Hurricane Catastrophe Fund.
2. “FHCF reimbursement premium” means the premium paid by an insurer for its coverage as a mandatory participant in the FHCF, but does not include additional premiums for optional coverages.
3. “Payout multiple” means defined as the number or multiple created by dividing the statutorily defined claims-paying capacity as determined in subparagraph (4)(c)1. by the aggregate reimbursement premiums paid by all insurers estimated or projected as of calendar year-end.
4. “TICL” means the temporary increase in coverage limit.
5. “TICL options” means the temporary increase in coverage options created under this subsection.
6. “TICL insurer” means an insurer that has opted to obtain coverage under the TICL options addendum in addition to the coverage provided to the insurer under its FHCF reimbursement contract.
7. “TICL reimbursement premium” means the premium charged by the fund for coverage provided under the TICL option.
8. “TICL coverage multiple” means the coverage multiple when multiplied by an insurer’s reimbursement premium that defines the temporary increase in coverage limit.
9. “TICL coverage” means the coverage for an insurer’s losses above the insurer’s statutorily determined claims-paying capacity based on the claims-paying limit in subparagraph (4)(c)1., which an insurer selects as its temporary increase in coverage from the fund under the TICL options selected. A TICL insurer’s increased coverage limit options shall be calculated as follows:
 - a. The board shall calculate and report to each TICL insurer the TICL coverage multiples based on three options for increasing the insurer’s FHCF coverage limit. Each TICL coverage multiple shall be calculated by dividing \$1 billion, \$2 billion, or \$3 billion by the total estimated aggregate FHCF reimbursement premiums for the 2007-2008 reimbursement contract year and for the 2008-2009 reimbursement contract year.
 - b. The TICL insurer’s increased coverage shall be the FHCF reimbursement premium multiplied by the TICL coverage multiple. In order to determine an insurer’s total limit of coverage, an insurer shall add its TICL coverage multiple to its payout multiple. The total shall represent a number that, when multiplied by an insurer’s FHCF reimbursement premium for a given reimbursement contract year, defines an insurer’s total limit of FHCF reimbursement coverage for that reimbursement contract year.

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

(d) *TICL options addendum.*—

1. The TICL options addendum shall provide for reimbursement of TICL insurers for covered events occurring between June 1, 2007, and May 31, 2008, and between June 1, 2008, and May 31, 2009, in exchange

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

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

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

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

(e) *TICL reimbursement premiums.*—

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

2. Each insurer’s TICL premium shall be calculated based on the additional limit of increased coverage that it selects. Such limit is determined by multiplying the TICL multiple associated with one of the three options times the insurer’s FHCF reimbursement premium. For the amount of increased coverage based on the option of using \$1 billion to derive the TICL multiple, the rate-on-line for such coverage shall be 20 percent. For the option using \$2 billion, the rate-on-line shall be 17.5 percent and for the option using \$3 billion, the rate-on-line shall be 15 percent.

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

(18) *FLORIDA HURRICANE EXCESS LOSS PROGRAM.*—

Senators Fasano and Crist offered the following amendment which was moved by Senator Fasano:

Amendment 22 (800362)(with directory and title amendments)—On page 54, between lines 6 and 7, insert:

(20)(a) An insurer issuing personal lines residential and commercial property policies in this state who is otherwise eligible for coverage under the Florida Hurricane Catastrophe Fund is eligible only for the level of coverage under such fund as was available during the contract year ending May 31, 2006, if during the period of January 1, 2005, through December 31, 2007, such insurer nonrenews 5 percent or more of its personal lines residential policies in this state, 5 percent or more of its personal lines commercial policies in this state, 10 percent or more of its personal lines residential policies in any one territory in this state, or 10 percent or more of its personal lines commercial policies in any one territory in this state.

(b) An insurer writing personal lines residential and commercial property policies in this state who is otherwise eligible for coverage under the Florida Hurricane Catastrophe Fund is eligible only for the level of coverage under such fund as was available during the contract year ending May 31, 2006, if during the period of January 1, 2007, through December 31, 2008, such insurer:

1. Nonrenews 5 percent or more of its personal lines residential policies in this state, 5 percent or more of its personal lines commercial policies in this state, 10 percent or more of its personal lines residential policies in any one territory in this state, or 10 percent or more of its personal lines commercial policies in any one territory in this state; or

2. *Files a withdrawal plan with the Office of Insurance Regulation.*

And the directory clause is amended as follows:

On page 21, lines 19 and 20, delete “and (19)” and insert: (19), and (20)

And the title is amended as follows:

On page 3, line 3, after the semicolon (;) insert: specifying criteria concerning the level of funding from the Florida Hurricane Catastrophe Fund for which certain insurers are eligible;

On motion by Senator Posey, further consideration of **SB 4-A** with pending **Amendment 22 (800362)** was deferred.

RECESS

The President declared the Senate in recess at 3:04 p.m. to reconvene at 3:30 p.m.

AFTERNOON SESSION

The Senate was called to order by the President at 3:30 p.m. A quorum present—40:

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

The Senate resumed consideration of—

SB 4-A—A bill to be entitled An act relating to hurricane preparedness and property insurance; amending s. 20.121, F.S.; removing the Office of Insurance Consumer Advocate from the Department of Financial Services; providing for the powers, records, personnel, property, balances of appropriations and other funds, rules, pending issues, and contracts of the Office of Insurance Consumer Advocate to be transferred from the Department of Financial Services to the Public Counsel; amending s. 163.01, F.S., relating to the Interlocal Cooperation Act; redefining the term “public agency” to include certain legal or administrative entities; authorizing such entities to finance the provision of property coverage contracts for or from local government property insurance pools or property coverage contracts; authorizing certain hospitals and hospital systems to borrow funds, issue bonds, and enter into loan agreements for the purpose of providing property coverage; providing for validating such bonds; providing an exemption from taxation; amending s. 215.555, F.S.; limiting the activities of the Florida Hurricane Fund Finance Corporation with respect to funding obligations; providing for revenue bonds to be issued to fund the obligations of the Florida Hurricane Excess Loss Program (FHELP); providing legislative findings; creating the Florida Hurricane Excess Loss Program Finance Corporation; providing for a board of directors; providing powers and duties; providing for the corporation to issue bonds that are not a debt of the state or any political subdivision; providing an exemption from taxation; providing for the protection of bondholders; limiting the activities of the Florida Hurricane Excess Loss Program Finance Corporation with respect to the obligations incurred by the Florida Hurricane Catastrophe Fund; authorizing the board of the Florida Hurricane Catastrophe Fund to enter into capital market transactions; authorizing temporary emergency options for additional coverage; providing a system under which insurers may procure additional reinsurance from the fund; defining terms; providing guidelines for such coverage; prescribing premiums for such coverage; providing a temporary increase in coverage limit options; providing legislative findings; defining terms; creating the Florida Hurricane Excess Loss Program, which shall be administered by the State

Board of Administration; authorizing the board to adopt rules and employ or contract with staff; requiring that a contract addendum be executed by participating insurers; requiring that the state assume a portion of liability for losses under a covered policy; requiring that such coverage be funded separately from the obligations of the Florida Hurricane Catastrophe Fund and proceeds of bonds issued by the Florida Hurricane Catastrophe Fund Finance Corporation; requiring insurers obtaining certain coverages offered by the Florida Hurricane Catastrophe Fund to make rate filings that reflect savings or reduction in loss exposure; requiring that the Office of Insurance Regulation specify, by order, the dates on which such filings must be made; providing limitations for an insurer in implementing a rate change following a rate filing; amending s. 350.012, F.S.; redesignating the Committee on Public Service Commission Oversight as the “Committee on Public Service Commission and Insurance Oversight”; requiring that the committee confirm or reject the appointment of the Insurance Consumer Advocate by the Chief Financial Officer; amending s. 350.0611, F.S., relating to the Public Counsel; providing duties with respect to the Insurance Consumer Advocate; amending s. 350.0613, F.S.; authorizing the Public Counsel to represent the public before the Office of Insurance Regulation, the Financial Services Commission, and the Department of Financial Services, to seek review of orders of the office and the commission, and to issue reports, recommendations, and proposed orders to the office and the commission; authorizing the Committee on Public Service Commission and Insurance Oversight to authorize the Public Counsel to employ certain types of employees; requiring the Office of Insurance Regulation, the Financial Services Commission, and the Department of Financial Services to provide copies of certain filings to the Public Counsel; creating s. 350.0615, F.S.; creating the office of Insurance Consumer Advocate to represent the public on matters relating to the regulation of insurance; requiring the Chief Financial Officer to appoint the Insurance Consumer Advocate, who is subject to confirmation by the Committee on Public Service Commission and Insurance Oversight; providing for the Insurance Consumer Advocate to report directly to and be employed by the Public Counsel; specifying the powers and duties of the Insurance Consumer Advocate; creating s. 395.1060, F.S.; providing for risk pooling, with respect to property exposure, by certain hospitals and hospital systems; exempting entities formed to do so from the Florida Insurance Code; amending s. 553.73, F.S.; prohibiting the Florida Building Commission from modifying certain foundation codes relating to wind resistance or the prevention of water intrusion unless the modification enhances such provisions; amending s. 553.775, F.S., relating to interpretations of the Florida Building Code; conforming a cross-reference; requiring jurisdictions having authority to enforce the Florida Building Code to require windborne-debris protection according to specified requirements; requiring that the Florida Building Commission amend the Florida Building Code to reflect the requirements of the act and eliminate certain less stringent requirements; providing an exception; requiring an amendment to the code with respect to certain provisions governing new residential construction; requiring the commission to develop voluntary guidelines for increasing the hurricane resistance of buildings; requiring that the guidelines be included in the commission’s report to the 2008 Legislature; amending s. 624.319, F.S.; authorizing the Public Counsel and the Insurance Consumer Advocate to have access to certain confidential information held by the Department of Financial Services or the Office of Insurance Regulation; amending s. 624.462, F.S.; revising requirements for the establishment of a commercial self-insurance fund by a not-for-profit group; amending s. 624.4622, F.S.; authorizing local government self-insurance funds to insure or self-insure real or personal property against loss or damage; amending s. 624.610, F.S.; specifying additional circumstances under which the Office of Insurance Regulation may allow credit when reinsurance is ceded to an assuming insurer; repealing s. 627.0613, F.S., relating to the consumer advocate appointed by the Chief Financial Officer; amending s. 627.062, F.S.; deleting provisions exempting certain rate filings from review by the Office of Insurance Regulation; deleting provisions authorizing an insurer to require the arbitration of a rate filing following agency action under the Administrative Procedure Act; requiring the chief executive officer, chief financial officer, or chief actuary of a property insurer to certify the information contained in a rate filing; providing penalties for knowingly making a false certification; authorizing the Financial Services Commission to adopt rules; deleting provisions placing the burden on the Office of Insurance Regulation to establish that certain rates are excessive;

amending s. 627.0628, F.S., relating to hurricane loss projection; conforming references to changes made by the act; amending s. 627.311, F.S.; providing for the Insurance Consumer Advocate to be a member of the board of governors supervising joint underwriting associations; amending s. 627.351, F.S., relating to the Citizens Property Insurance Corporation; deleting provisions that deny certain nonhomestead property eligibility for coverage by the corporation; including commercial nonresidential policies into an account of the corporation; authorizing the corporation to issue multiperil coverage, wind-only coverage, or both in the high-risk account after a specified date; deleting provisions authorizing the Office of Insurance Regulation to remove territory from the area eligible for wind-only and quota share coverage; redefining the term "subject lines of business" subject to assessments for deficits; requiring the board of governors of the corporation to levy an assessment against nonhomestead property policyholders if certain deficits occur after a specified date; restricting the eligibility of a risk for a policy issued by the corporation under certain circumstances; authorizing the plan of operation to establish limits of coverage and to require commercial property to meet specified hurricane-mitigation features; requiring that the corporation annually file recommended rates; requiring that the office issue a final order establishing the rates within a specified period; prohibiting the corporation from pursuing administrative or judicial review of such order; deleting provisions specifying circumstances under which a rate is deemed inadequate; deleting legislative intent concerning rate adequacy in the residual market; deleting provisions providing requirements for personal lines residential policies and residential wind-only policies; deleting an exemption provided for coverage provided by the corporation in Monroe County under certain circumstances; deleting a requirement that the corporation certify to the office that its rates comply with certain requirements; deleting a requirement for a notice to policyholders and applicants; rescinding certain rate filings by the corporation which took effect January 1, 2007; reinstating certain rates in effect on December 31, 2006; clarifying the effect of a policy that is taken out, assumed, or removed from the corporation; providing legislative intent that commercial nonresidential property insurance be made available from Citizens Property Insurance Corporation; requiring that Citizens Property Insurance Corporation adopt a plan providing for the transition of such coverage from the Property and Casualty Joint Underwriting Association to Citizens; providing requirements for the plan; amending s. 627.701, F.S.; revising requirements for the deductible amount applicable to hurricane loss for policies of residential property insurance and personal lines residential property insurance; prohibiting a hurricane deductible in excess of a specified percentage for personal lines residential property insurance policies of less than a certain value unless the policyholder signs a statement acknowledging the lack of insurance or provides a statement from the mortgageholder or lienholder; requiring that the insurer keep documentation of such statements; requiring the Financial Services Commission to adopt rules; deleting obsolete provisions; amending s. 627.706, F.S., relating to sinkhole insurance; defining the term "catastrophic ground cover collapse"; amending s. 627.7065, F.S., relating to a database of sinkhole information; conforming a reference to changes made by the act; creating s. 627.712, F.S.; requiring insurers issuing residential property insurance to provide hurricane or windstorm coverage; authorizing a policyholder to make a written rejection of such coverage by signing a statement acknowledging the lack of insurance or providing a statement from the mortgageholder or lienholder; requiring insurers issuing residential property insurance to make available an exclusion of coverage for contents; providing for the policyholder to make a written rejection of such coverage; requiring that the insurer keep documentation of such statements; requiring the Financial Services Commission to adopt rules; creating s. 627.713, F.S.; authorizing the office to require property insurers to report data regarding hurricane claims and underwriting costs; providing for the adoption of rules; amending s. 631.57, F.S.; specifying certain additional circumstances under which the board of directors of the Florida Insurance Guaranty Association, Inc., may levy emergency and regular assessments; clarifying that authorization exists for the Florida Insurance Guaranty Association to certify and for the Office of Insurance Regulation to levy an emergency assessment; amending s. 631.912, F.S., relating to the board of directors of the Florida Workers' Compensation Insurance Guaranty Association, Inc.; conforming provisions to changes made by the act; repealing s. 627.0629(6), F.S., relating to requirements for hurricane or windstorm coverage; creating the Windstorm Mitigation Study Commission for the purpose of analyzing solutions and programs that could address the state's need to mitigate the effects of windstorms on structures; providing for membership and qualifications; providing that the members are entitled to reimbursement for expenses incurred in connection with their duties; requiring the

Department of Financial Services, the Office of Insurance Regulation, the Citizens Property Insurance Corporation, and other state agencies to supply information, assistance, and facilities to the commission; requiring that the Executive Office of the Governor provide staff assistance; specifying duties of the commission; requiring that the commission report to the Governor, the Legislature, the Chief Financial Officer, and the Commissioner of Insurance Regulation by a specified date; establishing the Florida Disaster Recovery Initiative within the Department of Community Affairs for the purpose of assisting local governments in hardening affordable housing against the effects of hurricanes; specifying that the act does not create an entitlement or obligate the state; providing for program administration; specifying the entities that are eligible to apply for funding; providing components and requirements of the initiative; providing an appropriation; providing effective dates.

—which was previously considered and amended this day. Pending **Amendment 22 (800362)** by Senators Fasano and Crist failed.

Senators Geller and Deutch offered the following amendment which was moved by Senator Geller and adopted:

Amendment 23 (892546)(with title amendment)—On page 54, following line 31, insert:

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

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

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

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

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

And the title is amended as follows:

On page 3, line 12, following the first semicolon (;) insert: requiring the Office of Insurance Regulation to calculate a presumed factor to reflect the impact on rates resulting from this act; providing an appropriation;

Senator Lawson moved the following amendment which failed:

Amendment 24 (822340)(with title amendment)—On page 61, line 11, through page 79, line 30, delete those lines and insert:

Section 11. *The Florida Building Commission shall develop*

And the title is amended as follows:

On page 4, line 28, through page 5, line 15, delete those lines and insert: Insurance Code; requiring the

Senators Fasano and Crist offered the following amendment which was moved by Senator Fasano and failed:

Amendment 25 (660122)(with title amendment)—On page 81, between lines 7 and 8, insert:

Section 16. Section 624.4096, Florida Statutes, is created to read:

624.4096 *Florida only property subsidiaries or affiliates prohibited.*—

(1) *"Florida-only property insurer" means an insurer who holds a certificate of authority in this state to write property business and who is a member of a holding company group that includes insurers that write property insurance in other states.*

(2) An insurer or insurer group may not form or acquire a subsidiary or an affiliate that is a Florida-only property insurer after March 1, 2007.

(3) An insurer or insurer group may not operate, exercise control of, or otherwise maintain a subsidiary or affiliate that is a Florida-only property insurer 180 days after Mar 1, 2007.

(4) Any existing Florida-only property insurer that is member of a holding company subject to s. 628.801 shall cease writing new policies after March 1, 2007. The Florida-only property insurer shall transfer all Florida policies to an affiliate that is authorized to transact property insurance in other states and this state. The Florida-only property insurer shall file a plan for the transfer of policies with the office for approval, by June 1, 2007. The plan shall provide for the transfer of all policies within eighteen months of the date the plan is approved by the office. A Florida-only property insurer may not cancel or renew any policy except as permitted by the plan which is approved by the office, except for nonpayment of premium or fraud by the policyholder. Upon transfer of all policies, the Florida-only property insurer shall surrender its certificate of authority.

(5) If the holding company or affiliated insurer does not have an affiliated property and casualty insurer authorized to write property and casualty policies in this state, then the Florida-only insurer shall, upon approval of the office, transfer its policies to another insurer. The assuming insurer shall be able to count the additional policies assumed for exposure reporting purposes with the Florida Hurricane Catastrophe Fund.

(6) If no other insurer will accept the transfer of policies, the Florida-only insurer may make a one-time election to transfer its policies to the Citizens Property Insurance Corporation by May 30, 2007. The transfer shall be made by an assumption that includes the payment of all unearned premium from the Florida-only insurer to Citizens for the duration of the policy period. Any insurance holding company group opting to make this one-time election shall surrender the certificate of authority of its Florida-only insurer within 30 days after the transfer of policies, and for 10 years thereafter, a member of the insurance holding company group is not eligible to apply for a new certificate of authority in the state of Florida.

(7) The commission may adopt rules necessary to implement the provisions of this section.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 5, line 25, after the semicolon (;) insert: creating s. 624.4096, F.S.; providing a definition for the term "Florida-only property insurer; prohibiting an insurer from forming a certain subsidiary or affiliate; prohibiting an insurer from operating a certain subsidiary or affiliate for a limited time; providing that certain Florida-only property insurers to cease writing new policies; requiring a Florida-only property insurer to transfer policies to certain affiliates; prohibiting a Florida-only property insurer from canceling or renewing a policy; requiring a Florida-only property insurer to surrender its certificate of authority; requiring a Florida-only property to transfer its policies to another insurer under certain conditions; authorizing a Florida-only insurer to make a one-time election to transfer its policies to the Citizens Property Insurance Corporation; authorizing the commission to adopt rules;

Senators Fasano, Storms and Crist offered the following amendment which was moved by Senator Fasano and adopted:

Amendment 26 (970372)(with title amendment)—On page 107, between lines 5 and 6, insert:

Section 21. Paragraph (ee) is added to subsection (1) of section 626.9541, Florida Statutes, to read:

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

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

(ee) *Selectively limiting insurance offerings.*—Failing to offer in this state a kind or line of insurance which all insurers or affiliated insurers,

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

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 6, line 4, after the semicolon (;) insert: amending s. 626.9541, F.S.; providing that an insurer's failure to offer in this state any kind or line of insurance which all insurers or affiliated insurers offer in another jurisdiction constitutes an unfair method of competition and unfair or deceptive act; providing penalties; providing for rules;

Senator Geller moved the following amendment which failed:

Amendment 27 (541594)(with title amendment)—On page 115, lines 1-4, delete those lines and insert: those areas were defined on January 1, 2002. Beginning July 1, 2007, the corporation may offer multiperil coverage, wind-only coverage, or both types of coverage in the high-risk account. Beginning July 1, 2007, an otherwise eligible applicant, or an otherwise eligible insured who has been offered multiperil coverage by the corporation, may elect to purchase multiperil coverage from an authorized insurer without prejudice to the applicant's eligibility to purchase, or the insured's eligibility to retain, wind-only coverage from the corporation. In issuing multiperil coverage, the corporation may

And the title is amended as follows:

On page 7, line 7, following the semicolon (;) insert: prescribing power of an applicant or insured to decline multiperil coverage from the corporation;

Senators Fasano and Crist offered the following amendment which was moved by Senator Fasano and failed:

Amendment 28 (684358)—On page 129, line 28, through page 138, line 14, delete those lines and insert:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8. Must provide that if premium and investment income for an account attributable to a particular calendar year are in excess of projected losses and expenses for the account attributable to that year, such excess shall be held in surplus in the account. Such surplus shall be available

to defray deficits in that account as to future years and shall be used for that purpose prior to assessing assessable insurers and assessable insureds as to any calendar year.

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

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

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

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

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

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

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

~~12.13.~~ Corporation policies and applications must include a notice that the corporation policy could, under this section, be replaced with a policy issued by an authorized insurer that does not provide coverage identical to the coverage provided by the corporation. The notice shall also specify that acceptance of corporation coverage creates a conclusive presumption that the applicant or policyholder is aware of this potential.

~~13.14.~~ May establish, subject to approval by the office, different eligibility requirements and operational procedures for any line or type of coverage for any specified county or area if the board determines that such changes to the eligibility requirements and operational procedures are justified due to the voluntary market being sufficiently stable and competitive in such area or for such line or type of coverage and that consumers who, in good faith, are unable to obtain insurance through the voluntary market through ordinary methods would continue to have access to coverage from the corporation. When coverage is sought in connection with a real property transfer, such requirements and procedures shall not provide for an effective date of coverage later than the date of the closing of the transfer as established by the transferor, the transferee, and, if applicable, the lender.

~~14.15.~~ Must provide that, with respect to the high-risk account, any assessable insurer with a surplus as to policyholders of \$25 million or less writing 25 percent or more of its total countrywide property insurance premiums in this state may petition the office, within the first 90 days of each calendar year, to qualify as a limited apportionment company. A regular assessment levied by the corporation on a limited apportionment company for a deficit incurred by the corporation for the high-risk account in 2006 or thereafter may be paid to the corporation on a monthly basis as the assessments are collected by the limited apportionment company from its insureds pursuant to s. 627.3512, but the regular

assessment must be paid in full within 12 months after being levied by the corporation. A limited apportionment company shall collect from its policyholders any emergency assessment imposed under sub-subparagraph (b)3.d. The plan shall provide that, if the office determines that any regular assessment will result in an impairment of the surplus of a limited apportionment company, the office may direct that all or part of such assessment be deferred as provided in subparagraph (g)4. However, there shall be no limitation or deferment of an emergency assessment to be collected from policyholders under sub-subparagraph (b)3.d.

~~15.16.~~ Must provide that the corporation appoint as its licensed agents only those agents who also hold an appointment as defined in s. 626.015(3) with an insurer who at the time of the agent's initial appointment by the corporation is authorized to write and is actually writing personal lines residential property coverage, commercial residential property coverage, or commercial nonresidential property coverage within the state.

~~16.17.~~ Must provide, by July 1, 2007, a premium payment plan option to its policyholders which allows for quarterly and semiannual payment of premiums.

~~17.18.~~ Must provide, effective June 1, 2007, that the corporation contract with each insurer providing the non-wind coverage for risks insured by the corporation in the high-risk account, requiring that the insurer provide claims adjusting services for the wind coverage provided by the corporation for such risks. An insurer is required to enter into this contract as a condition of providing non-wind coverage for a risk that is insured by the corporation in the high-risk account unless the board finds, after a hearing, that the insurer is not capable of providing adjusting services at an acceptable level of quality to corporation policyholders. The terms and conditions of such contracts must be substantially the same as the contracts that the corporation executed with insurers under the "adjust-your-own" program in 2006, except as may be mutually agreed to by the parties and except for such changes that the board determines are necessary to ensure that claims are adjusted appropriately. The corporation shall provide a process for neutral arbitration of any dispute between the corporation and the insurer regarding the terms of the contract. The corporation shall review and monitor the performance of insurers under these contracts.

~~18.19.~~ Must limit coverage on mobile homes or manufactured homes built prior to 1994 to actual cash value of the dwelling rather than replacement costs of the dwelling.

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

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

MOTION

On motion by Senator Dockery, the rules were waived to allow the following amendment to be considered:

Senator Dockery moved the following amendment which was adopted:

Amendment 29 (273504)(with title amendment)—On page 55, before line 1, insert:

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

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

(2) GRANTS.—Financial grants shall be used to encourage single-family, site-built, owner-occupied, residential property owners to protect

retrofit their properties to make them less vulnerable to hurricane damage.

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

1. Have been granted a homestead exemption under chapter 196.
2. Be a dwelling with an insured value of \$500,000 or less.
3. Have undergone an acceptable wind certification and hurricane mitigation inspection or use hurricane-protection products tested by the International Hurricane Research Center at Florida International University.

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

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

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

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

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

1. Roof deck attachment;
2. Secondary water barrier;
3. Roof covering, including a weighted roof-protection system that may be installed by an approved contractor or homeowner;
4. Brace gable ends;
5. Reinforce roof-to-wall connections;
6. Opening protection; and
7. Exterior doors, including garage doors.

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

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

215.559 Hurricane Loss Mitigation Program.—

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

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 3, line 12, after the first semicolon (;) insert: amending s. 215.5586, F.S., relating to the Florida Comprehensive Hurricane Damage Mitigation Program; providing for grants to homeowners to protect rather than retrofit their properties; revising certain other eligibility criteria for a grant; authorizing the use of grants for roof-protection systems; amending s. 215.559, F.S., relating to the Hurricane Loss Mitigation Program; providing for a certain portion of the appropriation under the program to be used for securing fixtures for mobile homes;

SPECIAL GUEST

Senator Margolis introduced Manny Diaz, the mayor of Miami who was present in the gallery.

On motion by Senator Posey, by two-thirds vote **SB 4-A** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—40

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

Nays—None

Consideration of **SM 6-A** was deferred.

MOTIONS

On motion by Senator King, the rules were waived and the Secretary was directed to transmit all bills to the House of Representatives at the direction of the President.

REPORTS OF COMMITTEES

The following bills were established as the Special Order Calendar for Wednesday, January 17, 2007: SB 4-A, SM 6-A

The Committee on Banking and Insurance recommends the following pass: SB 4-A with 20 amendments, SM 6-A

The bills were placed on the calendar.

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

FIRST READING

The Honorable Ken Pruitt, President

I am directed to inform the Senate that the House of Representatives has passed CS for HB 1-A, CS for CS for HB 3-A, HB 7-A; has passed as amended CS for CS for HB 5-A, CS for HB 9-A; has adopted HM 11-A and requests the concurrence of the Senate.

William S. Pittman III, Chief Clerk

By Representative Rivera and others—

CS for HB 1-A—A bill to be entitled An act relating to hurricane preparedness and insurance; providing a short title; amending s. 624.404, F.S.; prohibiting certain insurers from transacting residential property insurance business under certain circumstances; prohibiting private passenger automobile insurance insurers from writing such insurance under certain circumstances; amending s. 624.407, F.S.; revising capitalization requirements for insurers writing property insurance; specifying certain minimum surplus amounts; amending s. 624.408, F.S.; revising surplus requirements for insurers writing property insurance; creating s. 626.9542, F.S.; authorizing insurers to provide certain

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

—was referred to the Committee on Banking and Insurance.

By Representative Kravitz and others—

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

—was referred to the Committee on Banking and Insurance.

By Representative Coley and others—

HB 7-A—A bill to be entitled An act relating to building code hurricane preparedness; providing a short title; amending s. 553.73, F.S.; providing intent with respect to the effect of building code modifications on wind protection; requiring uniform application of certain standards relating to wind-borne debris and structural guidelines; prohibiting code modification that diminishes construction requirements; prescribing a date by which counties and municipalities must enforce certain wind-borne debris protections and structural guidelines; requiring the Florida Building Commission to develop voluntary guidelines for increasing the

hurricane resistance of buildings; requiring that the guidelines be included in the commission's report to the 2008 Legislature; providing an effective date.

—was referred to the Committee on Community Affairs.

By Representative Traviesa and others—

CS for CS for HB 5-A—A bill to be entitled An act relating to hurricane preparedness and insurance; providing a short title; amending s. 215.5586, F.S.; revising criteria for wind certification and hurricane mitigation inspectors; requiring a level 2 background check for wind certification and hurricane mitigation inspectors; revising certain financial wind certification and mitigation grant criteria and use provisions; providing additional uses for grant funding for certain homeowners; authorizing the Department of Financial Services to contract with a not-for-profit corporation to conduct the Florida Comprehensive Hurricane Damage Mitigation Program and enhance awareness of the benefits of mitigation; requiring the department to develop and maintain a list of wind certification and hurricane mitigation inspectors; amending s. 626.2815, F.S.; requiring continuing education for certain agents and customer representatives on the subject of premium discounts for hurricane mitigation options; amending s. 627.062, F.S.; requiring certain rate filings to account for certain mitigation measures; amending s. 627.0629, F.S.; providing for reductions in deductibles for mitigation measures; amending s. 627.701, F.S.; requiring insurers to provide insureds options for certain deductibles, credits, or rate differentials; amending s. 627.711, F.S.; requiring the Financial Services Commission to develop uniform mitigation verification inspection forms; providing duties of the commission; creating the Windstorm Mitigation Study Committee for the purpose of analyzing solutions and programs that could address the state's need to mitigate the effects of windstorms on structures; providing for membership and qualifications; providing that the members are entitled to reimbursement for expenses incurred in connection with their duties; providing for reimbursement of travel expenses; requiring the Department of Financial Services, the Office of Insurance Regulation, the Citizens Property Insurance Corporation, and other state agencies to supply information, assistance, and facilities to the committee; requiring the department to provide staff assistance; specifying duties of the committee; requiring the committee to report to the Governor, the Legislature, the Chief Financial Officer, and the Commissioner of Insurance Regulation by a specified date; providing for expiration of the committee; requiring the Financial Services Commission to adopt a uniform home grading scale for certain purposes; providing criteria; providing an appropriation to the Department of Community Affairs for certain purposes; specifying use of funds; providing appropriations; providing effective dates.

—was referred to the Committees on Banking and Insurance; and Community Affairs.

By Representative Bogdanoff and others—

CS for HB 9-A—A bill to be entitled An act relating to hurricane preparedness and insurance; providing a short title; amending s. 163.01, F.S., relating to the Florida Interlocal Cooperation Act; redefining the term "public agency" to include certain legal or administrative entities; authorizing such entities to finance the provision of property coverage contracts for or from local government property insurance pools or property coverage contracts; providing a definition; authorizing certain hospitals to jointly issue bonds to finance windstorm coverages and claims; granting authority to individual hospitals and teaching hospitals to jointly issue bond anticipation notes; authorizing validation of bonds issued to certain hospital entities; specifying that a hospital's immunity caps are not waived through issuance of bonds to pay windstorm coverage or claims; amending s. 215.5595, F.S.; including manufactured housing insurers in the Insurance Capital Build-Up Incentive Program; providing manufactured housing insurer program contribution requirements; providing surplus requirements; prioritizing funding for manufactured housing insurers; providing premium to surplus ratio requirements for certain manufactured housing insurers; amending s. 624.462,

F.S.; revising requirements for the establishment of a commercial self-insurance fund by a not-for-profit group; specifying required rules of the commission; amending s. 624.4622, F.S.; authorizing local government self-insurance funds to insure or self-insure real or personal property against loss or damage; creating s. 395.106, F.S.; authorizing certain hospitals and hospital systems to pool and spread windstorm property exposure risk among members; providing criteria for participation; providing definitions; subjecting alliances not in compliance with risk pooling requirements to the Insurance Code; excluding an alliance meeting provision requirements from participation in or coverage by an insurance guaranty association established by ch. 631, F.S.; creating s. 624.4625, F.S.; authorizing two or more corporations not for profit to form a self-insurance fund for certain purposes; providing specific requirements; providing a definition; providing limitations; providing for application of certain provisions to certain premiums, contributions, and assessments; providing for payment of insurance premium tax at a reduced rate by corporation not-for-profit self-insurance funds; subjecting a corporation not for profit self-insurance fund to certain group self-insurance fund provisions under certain circumstances; amending s. 624.610, F.S.; prescribing responsibilities of the Commissioner of Insurance Regulation relating to allowing credit for reinsurance; amending s. 627.062, F.S.; delaying the effective date of certain provisions relating to residential property insurance rate filings; amending s. 627.351, F.S.; prohibiting the Property and Casualty Joint Underwriting Association and Citizens Property Insurance Corporation from insuring certain properties under certain circumstances; providing exceptions; requiring that Citizens' rates must be adequate; rescinding certain rate filings of the corporation; requiring the corporation to use certain other rates; requiring the corporation to refund certain portions of rates; providing for effect of certain rates; providing for new rate filings; requiring the Department of Financial Services to review the corporation's insurance agent commission structure and make recommendations for commission standards; requiring a report; creating the Task Force on Citizens Property Insurance Claims Handling and Resolution; providing for administration of the task force; providing for membership; providing for reimbursement of expenses but no compensation; providing purpose and intent; requiring the task force to address certain issues; requiring reports and recommendations; providing additional responsibilities of the task force; providing for expiration of the task force; abolishing the existing board of governors of Citizens Property Insurance Corporation; providing for appointment of new members; amending s. 631.57, F.S.; revising criteria and requirements for levy of emergency assessments by the Florida Insurance Guaranty Association; revising characterizations of emergency assessments; providing legislative intent; amending s. 627.706, F.S.; revising sinkhole insurance provisions to include coverage for losses due to catastrophic ground cover collapse; authorizing certain deductibles; revising definitions; providing an effective date.

—was referred to the Committee on Banking and Insurance.

By Representative Hasner and others—

HM 11-A—A memorial to the Congress of the United States, urging Congress to support a National Catastrophe Insurance Program, participate in a federal/state issues summit in Florida, provide specified federal tax exemptions, provide a federal income tax deduction, and support the National Hurricane Research Initiative.

—was referred to the Committee on Banking and Insurance.

CORRECTION AND APPROVAL OF JOURNAL

The Journal of January 16 was corrected and approved.

CO-INTRODUCERS

Senators Alexander—SM 6-A; Argenziano—SM 6-A; Aronberg—SM 6-A; Baker—SM 6-A; Bennett—SM 6-A; Bullard—SM 6-A; Carlton—SM 6-A; Crist—SM 6-A; Dawson—SM 6-A; Deutch—SM 6-A; Gaetz—SM 6-A; Garcia—SM 6-A; Geller—SM 6-A; Jones—SM 6-A; Joyner—SM 6-A; Justice—SM 6-A; King—SM 6-A; Lawson—SM 6-A; Lynn—SM 6-A; Margolis—SM 6-A; Oelrich—SM 6-A; Peaden—SM 6-A; Posey—SM 6-A; Ring—SM 6-A; Saunders—SM 6-A; Storms—SM 6-A; Webster—SM 6-A; Wilson—SM 6-A

RECESS

On motion by Senator King, the Senate recessed at 5:32 p.m. for the purpose of holding committee meetings and conducting other Senate business to reconvene at 9:00 a.m., Thursday, January 18 or upon call of the President.

BILL ACTION SUMMARY

WEDNESDAY, JANUARY 17, 2007

S

4-A Read second time; Read third time; Passed as amended 40-0 (715220, 111250, 482314, 931584, 952700, 610330, 505724, 390906, 132262, 584856, 543466, 573674, 104380, 632058, 815206, 080242, 650864, 325298, 883588, 451392, 970372, 892546, 273504)

JOURNAL OF THE SENATE

**Daily Indices for
January 17, 2007**

NUMERIC INDEX

BA — Bill Action
BP — Bill Passed
CO — Co-Introducers
CR — Committee Report

CS — Committee Substitute, First Reading
FR — First Reading
MO — Motion

SB 4-A	(BA) 9, (BA) 16, (BP) 21, (CR) 21	CS/CS/HB 5-A	(FR) 22
SM 6-A	(BA) 21, (CR) 21, (CO) 22	HB 7-A	(FR) 21
CS/HB 1-A	(FR) 21	CS/HB 9-A	(FR) 22
CS/CS/HB 3-A	(FR) 21	HM 11-A	(FR) 22

SUBJECT INDEX

Call to Order	9, 16	Reports of Committees	21
Co-Introducers	22	Special Guests	14, 21
House Messages, First Reading	21	Special Order Calendar	9
Motions	21		

FLORIDA SENATE
TALLAHASSEE, FLORIDA 32399-1100