

Amendment No.

CHAMBER ACTION

Senate

House

.

Representative Proctor offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. Paragraph (b) of subsection (6) of section 215.555, Florida Statutes, is amended to read:

215.555 Florida Hurricane Catastrophe Fund.—

(6) REVENUE BONDS.—

(b) *Emergency assessments.*—

1. If the board determines that the amount of revenue produced under subsection (5) is insufficient to fund the obligations, costs, and expenses of the fund and the corporation, including repayment of revenue bonds and that portion of the debt service coverage not met by reimbursement premiums, the board shall direct the Office of Insurance Regulation to levy, by order, an emergency assessment on direct

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17 premiums for all property and casualty lines of business in this
18 state, including property and casualty business of surplus lines
19 insurers regulated under part VIII of chapter 626, but not
20 including any workers' compensation premiums or medical
21 malpractice premiums. As used in this subsection, the term
22 "property and casualty business" includes all lines of business
23 identified on Form 2, Exhibit of Premiums and Losses, in the
24 annual statement required of authorized insurers by s. 624.424
25 and any rule adopted under this section, except for those lines
26 identified as accident and health insurance and except for
27 policies written under the National Flood Insurance Program. The
28 assessment shall be specified as a percentage of direct written
29 premium and is subject to annual adjustments by the board in
30 order to meet debt obligations. The same percentage shall apply
31 to all policies in lines of business subject to the assessment
32 issued or renewed during the 12-month period beginning on the
33 effective date of the assessment.

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

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44 of the bonds under the documents authorizing issuance of the
45 bonds.

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

58 4. With respect to assessments of surplus lines premiums,
59 each surplus lines agent shall collect the assessment at the
60 same time as the agent collects the surplus lines tax required
61 by s. 626.932, and the surplus lines agent shall remit the
62 assessment to the Florida Surplus Lines Service Office created
63 by s. 626.921 at the same time as the agent remits the surplus
64 lines tax to the Florida Surplus Lines Service Office. The
65 emergency assessment on each insured procuring coverage and
66 filing under s. 626.938 shall be remitted by the insured to the
67 Florida Surplus Lines Service Office at the time the insured
68 pays the surplus lines tax to the Florida Surplus Lines Service
69 Office. The Florida Surplus Lines Service Office shall remit the
70 collected assessments to the fund or corporation as provided in
71 the order levied by the Office of Insurance Regulation. The
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72 Florida Surplus Lines Service Office shall verify the proper
73 application of such emergency assessments and shall assist the
74 board in ensuring the accurate and timely collection and
75 remittance of assessments as required by the board. The Florida
76 Surplus Lines Service Office shall annually calculate the
77 aggregate written premium on property and casualty business,
78 other than workers' compensation and medical malpractice,
79 procured through surplus lines agents and insureds procuring
80 coverage and filing under s. 626.938 and shall report the
81 information to the board in a form and at a time specified by
82 the board.

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

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

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

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

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

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127 10. The exemption of medical malpractice insurance
128 premiums from emergency assessments under this paragraph is
129 repealed May 31, 2013 ~~2010~~, and medical malpractice insurance
130 premiums shall be subject to emergency assessments attributable
131 to loss events occurring in the contract years commencing on
132 June 1, 2013 ~~2010~~.

133 Section 2. Subsection (1) of section 624.407, Florida
134 Statutes, is amended to read:

135 624.407 Capital funds required; new insurers.—

136 (1) To receive authority to transact any one kind or
137 combinations of kinds of insurance, as defined in part V of this
138 chapter, an insurer applying for its original certificate of
139 authority in this state after the effective date of this section
140 shall possess surplus as to policyholders not less than the
141 greater of:

142 (a) Except as otherwise provided in this subsection, \$5
143 ~~five million dollars~~ for a property and casualty insurer, or
144 \$2.5 million for any other insurer;

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

147 (c) For life and health insurers, 4 percent of the
148 insurer's total liabilities, plus 6 percent of the insurer's
149 liabilities relative to health insurance; ~~or~~

150 (d) For all insurers other than life insurers and life and
151 health insurers, 10 percent of the insurer's total liabilities;
152 or

153 (e) For a domestic insurer initially licensed on or after
154 July 1, 2010, that transacts residential property insurance and
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155 is not a wholly owned subsidiary of an insurer domiciled in any
156 other state, \$15 million;

157
158 however, a domestic insurer that transacts residential property
159 insurance and is a wholly owned subsidiary of an insurer
160 domiciled in any other state shall possess surplus as to
161 policyholders of at least \$50 million, but no insurer shall be
162 required under this subsection to have surplus as to
163 policyholders greater than \$100 million.

164 Section 3. Section 624.408, Florida Statutes, is amended
165 to read:

166 624.408 Surplus as to policyholders required; new and
167 existing insurers.-

168 (1)~~(a)~~ To maintain a certificate of authority to transact
169 any one kind or combinations of kinds of insurance, as defined
170 in part V of this chapter, an insurer in this state shall at all
171 times maintain surplus as to policyholders at least ~~not less~~
172 ~~than~~ the greater of:

173 (a)1. Except as provided in paragraphs (e), (f), and (g)
174 ~~subparagraph 5. and paragraph (b)~~, \$1.5 million;

175 (b)2. For life insurers, 4 percent of the insurer's total
176 liabilities;

177 (c)3. For life and health insurers, 4 percent of the
178 insurer's total liabilities plus 6 percent of the insurer's
179 liabilities relative to health insurance; or

180 (d)4. For all insurers other than mortgage guaranty
181 insurers, life insurers, and life and health insurers, 10
182 percent of the insurer's total liabilities.

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183 ~~(e)5-~~ For property and casualty insurers, \$4 million,
184 except property and casualty insurers authorized to underwrite
185 any line of residential property insurance.

186 ~~(f)(b)~~ For a residential ~~any property and casualty insurer~~
187 not holding a certificate of authority before July 1, 2010 ~~on~~
188 December 1, 1993, \$12 million. ~~the~~

189 (g) For a residential property insurer having a
190 certificate of authority before July 1, 2010, \$5 million until
191 July 1, 2015, and \$10 million after July 1, 2015. The office may
192 reduce this surplus requirement if the insurer is not writing
193 new business, has premiums in force of less than \$1 million per
194 year in residential property insurance, or is a mutual insurance
195 company. following amounts apply instead of the \$4 million
196 required by subparagraph (a)5.:

197 ~~1. On December 31, 2001, and until December 30, 2002, \$3~~
198 ~~million.~~

199 ~~2. On December 31, 2002, and until December 30, 2003,~~
200 ~~\$3.25 million.~~

201 ~~3. On December 31, 2003, and until December 30, 2004, \$3.6~~
202 ~~million.~~

203 ~~4. On December 31, 2004, and thereafter, \$4 million.~~

204 (2) For purposes of this section, liabilities do ~~shall~~ not
205 include liabilities required under s. 625.041(4). For purposes
206 of computing minimum surplus as to policyholders pursuant to s.
207 625.305(1), liabilities shall include liabilities required under
208 s. 625.041(4).

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209 (3) This section does not require any ~~No insurer shall be~~
210 ~~required under this section~~ to have surplus as to policyholders
211 greater than \$100 million.

212 (4) A mortgage guaranty insurer shall maintain a minimum
213 surplus as required by s. 635.042.

214 Section 4. Present paragraph (q) of subsection (1) of
215 section 624.4085, Florida Statutes, is redesignated as paragraph
216 (r), and a new paragraph (q) is added to that subsection,
217 paragraph (b) of subsection (3) of that section is amended, and
218 subsections (7) through (13) of that section are redesignated as
219 subsections (9) through (15), respectively, and new subsections
220 (7) and (8) are added to that section, to read:

221 624.4085 Risk-based capital requirements for insurers.-

222 (1) As used in this section, the term:

223 (q) "Surplus action level" means, for a residential
224 property insurer, a loss of surplus on any quarterly or annual
225 financial report which exceeds 20 percent, or which cumulatively
226 for the calendar year exceeds 20 percent as of the most recent
227 filed quarterly or annual report.

228 (3)

229 (b) If a company action level event occurs, the insurer
230 shall prepare and submit to the office a risk-based capital
231 plan, which must:

232 1. Identify the conditions that contribute to the company
233 action level event;

234 2. Contain proposals of corrective actions that the
235 insurer intends to take and that are reasonably expected to
236 result in the elimination of the company action level event;

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237 3. Provide projections of the insurer's financial results
238 in the current year and at least the 4 succeeding years, both in
239 the absence of proposed corrective actions and giving effect to
240 the proposed corrective actions, including projections of
241 statutory operating income, net income, capital, and surplus.
242 The projections for both new and renewal business may include
243 separate projections for each major line of business and, if
244 separate projections are provided, must separately identify each
245 significant income, expense, and benefit component;

246 4. Identify the key assumptions affecting the insurer's
247 projections and the sensitivity of the projections to the
248 assumptions; ~~and~~

249 5. Identify the quality of, and problems associated with,
250 the insurer's business, including, but not limited to, its
251 assets, anticipated business growth and associated surplus
252 strain, extraordinary exposure to risk, mix of business, and any
253 use of reinsurance; ~~and~~.

254 6. Include, at the request of the office, for a
255 residential property insurer that conducts any business with
256 affiliates, a columnar worksheet, which shall include all
257 affiliates who have contracted with, done business with, or
258 otherwise received remuneration from the insurer and shall list
259 the following financial information from the immediately
260 preceding calendar year, listed separately for each affiliate:

261 a. Total assets;

262 b. Total liabilities;

263 c. Surplus or shareholders equity;

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264 d. Net income after taxes or distributions made solely for
265 satisfying tax liabilities;

266 e. Total amounts received or receivable from parents,
267 subsidiaries, and affiliates;

268 f. Total amounts paid or payable to any parent,
269 subsidiaries, and affiliates;

270 g. Dividends paid or payable to shareholders of common
271 stock;

272 h. Debt service, including principle and interest, paid on
273 debt incurred to capitalize or recapitalize insurance companies
274 or fund other insurance-related activities; and

275 i. Payments made for other contractual obligations to
276 support insurance-related activities.

277 (7) (a) A surplus action level event includes:

278 1. The filing of a quarterly or annual statutory financial
279 statement by an insurer, which indicates that the insurer's
280 total surplus has declined by more than 20 percent from the
281 previous year's annual statement, or cumulatively for the
282 current year through the most recent quarterly financial
283 statement;

284 2. The notification by the office to the insurer of an
285 adjusted quarterly or annual financial statement that indicates
286 an event in subparagraph 1., unless the insurer challenges the
287 adjusted quarterly or annual financial statement under
288 subsection (9); or

289 3. The notification by the office to the insurer that the
290 office has, after a hearing, rejected the insurer's challenge if
291 an insurer challenges, under subsection (9), an adjusted

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292 quarterly or annual financial statement that indicates an event
293 in subparagraph 1.

294 (b) If a surplus action level event occurs, the insurer
295 must prepare and submit to the office a risk-based capital plan,
296 which must:

297 1. Identify the conditions that contribute to the surplus
298 action level event;

299 2. Contain proposals of corrective actions that the
300 insurer intends to take and that are reasonably expected to
301 ultimately result in the elimination of additional surplus
302 losses;

303 3. Provide projections of the insurer's financial results
304 in the current year and at least the 2 succeeding years, both in
305 the absence of proposed corrective actions and giving effect to
306 the proposed corrective actions, including projections of
307 statutory operating income, net income, capital, and surplus.
308 The projections for both new and renewal business may include
309 separate projections for each major line of business and, if
310 separate projections are provided, must separately identify each
311 significant income, expense, and benefit component;

312 4. Identify the key assumptions affecting the insurer's
313 projections and the sensitivity of the projections to the
314 assumptions;

315 5. Identify the quality of, and problems associated with,
316 the insurer's business, including, but not limited to, its
317 assets, anticipated business growth and associated surplus
318 strain, extraordinary exposure to risk, mix of business, and any
319 use of reinsurance;

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320 6. Include, at the request of the office, for a
321 residential property insurer that conducts any business with
322 affiliates, a columnar worksheet, which shall include all
323 affiliates who have received remuneration from the insurer and
324 shall list the following financial information from the
325 immediately preceding calendar year listed separately for each
326 affiliate:

- 327 a. Total assets;
- 328 b. Total liabilities;
- 329 c. Surplus or shareholders equity;
- 330 d. Net income after taxes or distributions made solely for
331 satisfying tax liabilities;
- 332 e. Total amounts received or receivable from parents,
333 subsidiaries, and affiliates;
- 334 f. Total amounts paid or payable to any parent,
335 subsidiaries, and affiliates;
- 336 g. Dividends paid or payable to shareholders of common
337 stock;
- 338 h. Debt service, including principle and interest, paid on
339 debt incurred to capitalize or recapitalize insurance companies
340 or fund other insurance-related activities; and
- 341 i. Payments made for other contractual obligations to
342 support insurance-related activities.

343 7. Contain, at the request of the office, a
344 recertification of reserves for the insurer prepared by an
345 actuary.

346 (c) The risk-based capital plan must be submitted:

- 347 1. Within 45 days after the surplus action level event; or

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348 2. If the insurer challenges an adjusted quarterly or
349 annual financial statement under subsection (9), within 45 days
350 after notification to the insurer that the office has, after a
351 hearing, rejected the insurer's challenge.

352 (8) Subsections (3) and (7) do not limit any existing
353 authority of the office.

354 Section 5. Subsection (7) is added to section 624.4095,
355 Florida Statutes, to read:

356 624.4095 Premiums written; restrictions.—

357 (7) For purposes of this section, s. 624.407, and s.
358 624.408, with regard to capital and surplus requirements, gross
359 written premiums for federal multiple-peril crop insurance which
360 are ceded to the Federal Crop Insurance Corporation or
361 authorized reinsurers may not be included in the calculation of
362 an insurer's gross writing ratio. The liabilities for ceded
363 reinsurance premiums payable for federal multiple-peril crop
364 insurance ceded to the Federal Crop Insurance Corporation and
365 authorized reinsurers shall be netted against the asset for
366 amounts recoverable from reinsurers. Each insurer that writes
367 other insurance products together with federal multiple-peril
368 crop insurance shall disclose in the notes to its annual and
369 quarterly financial statements, or in a supplement to those
370 statements, the gross written premiums for federal multiple-
371 peril crop insurance.

372 Section 6. Section 624.611, Florida Statutes, is created
373 to read:

374 624.611 Catastrophe contracts.—An insurer may submit to
375 the Office of Insurance Regulation, in advance of the hurricane
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376 season, a plan to use financial contracts other than reinsurance
377 contracts to provide catastrophe loss funding with respect to
378 catastrophic losses in excess of the insurer's 100-year probable
379 maximum loss. In such a plan, the insurer must demonstrate that
380 the coverage, together with its reinsurance program, will
381 provide adequate protection for policyholders in the event of a
382 natural catastrophe. If the contract does not provide for
383 coverage that is highly correlated with the actual losses of the
384 insurer, the insurer must demonstrate its ability to cover the
385 risk created by such lack of correlation. If the office approves
386 the plan, the insurer may purchase the contracts and take credit
387 for reinsurance for amounts expected or due from other parties
388 to the contracts in accordance with any terms, conditions, or
389 limitations established by the office.

390 Section 7. Section 626.7452, Florida Statutes, is amended
391 to read:

392 626.7452 Managing general agents; examination authority.—
393 The acts of the managing general agent are considered to be the
394 acts of the insurer on whose behalf it is acting. A managing
395 general agent may be examined as if it were the insurer ~~except~~
396 ~~in the case where the managing general agent solely represents a~~
397 ~~single domestic insurer.~~

398 Section 8. Effective June 1, 2010, subsection (11) of
399 section 626.854, Florida Statutes, is amended to read:

400 626.854 "Public adjuster" defined; prohibitions.—The
401 Legislature finds that it is necessary for the protection of the
402 public to regulate public insurance adjusters and to prevent the
403 unauthorized practice of law.

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404 (11) (a) If a public adjuster enters into a contract with
405 an insured or claimant to reopen a claim or to file a
406 supplemental claim that seeks additional payments for a claim
407 that has been previously paid in part or in full or settled by
408 the insurer, the public adjuster may not charge, agree to, or
409 accept any compensation, payment, commission, fee, or other
410 thing of value based on a previous settlement or previous claim
411 payments by the insurer for the same cause of loss. The charge,
412 compensation, payment, commission, fee, or other thing of value
413 may be based only on the claim payments or settlement obtained
414 through the work of the public adjuster after entering into the
415 contract with the insured or claimant. Compensation for a
416 reopened or supplemental claim may not exceed 20 percent of the
417 reopened or supplemental claim payment. The contracts described
418 in this paragraph are not subject to the limitations in
419 paragraph (b).

420 (b) A public adjuster may not charge, agree to, or accept
421 any compensation, payment, commission, fee, or other thing of
422 value in excess of:

423 1. Ten percent of the amount of insurance claim payments
424 by the insurer for claims based on events that are the subject
425 of a declaration of a state of emergency by the Governor. This
426 provision applies to claims made during the period of 1 year
427 after the declaration of emergency. After the period of 1 year,
428 the limitations in subparagraph 2. apply.

429 2. Twenty percent of the amount of ~~all other~~ insurance
430 claim payments by the insurer for claims that are not based on

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431 events that are the subject of a declaration of a state of
432 emergency by the Governor.

433

434 The provisions of subsections (5)-(13) apply only to residential
435 property insurance policies and condominium association policies
436 as defined in s. 718.111(11).

437 Section 9. Effective January 1, 2011, section 626.854,
438 Florida Statutes, as amended by this act, is amended to read:

439 626.854 "Public adjuster" defined; prohibitions.—The
440 Legislature finds that it is necessary for the protection of the
441 public to regulate public insurance adjusters and to prevent the
442 unauthorized practice of law.

443 (1) A "public adjuster" is any person, except a duly
444 licensed attorney at law as hereinafter in s. 626.860 provided,
445 who, for money, commission, or any other thing of value,
446 prepares, completes, or files an insurance claim form for an
447 insured or third-party claimant or who, for money, commission,
448 or any other thing of value, acts or aids in any manner on
449 behalf of an insured or third-party claimant in negotiating for
450 or effecting the settlement of a claim or claims for loss or
451 damage covered by an insurance contract or who advertises for
452 employment as an adjuster of such claims, and also includes any
453 person who, for money, commission, or any other thing of value,
454 solicits, investigates, or adjusts such claims on behalf of any
455 such public adjuster.

456 (2) This definition does not apply to:

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457 (a) A licensed health care provider or employee thereof
458 who prepares or files a health insurance claim form on behalf of
459 a patient.

460 (b) A person who files a health claim on behalf of another
461 and does so without compensation.

462 (3) A public adjuster may not give legal advice. A public
463 adjuster may not act on behalf of or aid any person in
464 negotiating or settling a claim relating to bodily injury,
465 death, or noneconomic damages.

466 (4) For purposes of this section, the term "insured"
467 includes only the policyholder and any beneficiaries named or
468 similarly identified in the policy.

469 (5) A public adjuster may not directly or indirectly
470 through any other person or entity solicit an insured or
471 claimant by any means except on Monday through Saturday of each
472 week and only between the hours of 8 a.m. and 8 p.m. on those
473 days.

474 (6) A public adjuster may not directly or indirectly
475 through any other person or entity initiate contact or engage in
476 face-to-face or telephonic solicitation or enter into a contract
477 with any insured or claimant under an insurance policy until at
478 least 48 hours after the occurrence of an event that may be the
479 subject of a claim under the insurance policy unless contact is
480 initiated by the insured or claimant.

481 (7) An insured or claimant may cancel a public adjuster's
482 contract to adjust a claim without penalty or obligation within
483 3 business days after the date on which the contract is executed
484 or within 3 business days after the date on which the insured or
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485 claimant has notified the insurer of the claim, by phone or in
486 writing, whichever is later. The public adjuster's contract
487 shall disclose to the insured or claimant his or her right to
488 cancel the contract and advise the insured or claimant that
489 notice of cancellation must be submitted in writing and sent by
490 certified mail, return receipt requested, or other form of
491 mailing which provides proof thereof, to the public adjuster at
492 the address specified in the contract; provided, during any
493 state of emergency as declared by the Governor and for a period
494 of 1 year after the date of loss, the insured or claimant shall
495 have 5 business days after the date on which the contract is
496 executed to cancel a public adjuster's contract.

497 (8) It is an unfair and deceptive insurance trade practice
498 pursuant to s. 626.9541 for a public adjuster or any other
499 person to circulate or disseminate any advertisement,
500 announcement, or statement containing any assertion,
501 representation, or statement with respect to the business of
502 insurance which is untrue, deceptive, or misleading.

503 (a) For purposes of this section, the following
504 statements, if made in any public adjuster's advertisement or
505 solicitation, shall be considered deceptive or misleading:

506 1. A statement or representation that invites an insured
507 policyholder to submit a claim when the policyholder does not
508 have covered damage to insured property.

509 2. Any statement or representation that invites an insured
510 policyholder to submit a claim by offering monetary or other
511 valuable inducement.

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512 3. A statement or representation that invites an insured
513 policyholder to submit a claim by stating that there is "no
514 risk" to the policyholder by submitting such claim.

515 4. Any statement or representation, or use of a logo or
516 shield, that would imply or could be mistakenly construed that
517 the solicitation was issued or distributed by a governmental
518 agency or is sanctioned or endorsed by a governmental agency.

519 (b) For purposes of this paragraph, the term "written
520 advertisement" includes only newspapers, magazines, flyers, and
521 bulk mailers. The following disclaimer, which is not required to
522 be printed on standard size business cards, shall be added in
523 bold print and capital letters in typeface no smaller than the
524 typeface of the body of the text to all written advertisements
525 by any public adjuster:

526 "THIS IS A SOLICITATION FOR BUSINESS. IF YOU HAVE HAD
527 A CLAIM FOR AN INSURED PROPERTY LOSS OR DAMAGE AND YOU
528 ARE SATISFIED WITH THE PAYMENT BY YOUR INSURER, YOU
529 MAY DISREGARD THIS ADVERTISEMENT."

530 (9) A public adjuster, a public adjuster apprentice, or
531 any person or entity acting on behalf of a public adjuster or
532 public adjuster apprentice may not give or offer to give a
533 monetary loan or advance to a client or prospective client.

534 (10) A public adjuster, public adjuster apprentice, or any
535 individual or entity acting on behalf of a public adjuster or
536 public adjuster apprentice may not give or offer to give,
537 directly or indirectly, any article of merchandise having a
538 value in excess of \$25 to any individual for the purpose of

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539 advertising or as an inducement to entering into a contract with
540 a public adjuster.

541 (11) (a) If a public adjuster enters into a contract with
542 an insured or claimant to reopen a claim or to file a
543 supplemental claim that seeks additional payments for a claim
544 that has been previously paid in part or in full or settled by
545 the insurer, the public adjuster may not charge, agree to, or
546 accept any compensation, payment, commission, fee, or other
547 thing of value based on a previous settlement or previous claim
548 payments by the insurer for the same cause of loss. The charge,
549 compensation, payment, commission, fee, or other thing of value
550 may be based only on the claim payments or settlement obtained
551 through the work of the public adjuster after entering into the
552 contract with the insured or claimant. Compensation for a
553 reopened or supplemental claim may not exceed 20 percent of the
554 reopened or supplemental claim payment. The contracts described
555 in this paragraph are not subject to the limitations in
556 paragraph (b).

557 (b) A public adjuster may not charge, agree to, or accept
558 any compensation, payment, commission, fee, or other thing of
559 value in excess of:

560 1. Ten percent of the amount of insurance claim payments
561 by the insurer for claims based on events that are the subject
562 of a declaration of a state of emergency by the Governor. This
563 provision applies to claims made during the period of 1 year
564 after the declaration of emergency. After the period of 1 year,
565 the limitations in subparagraph 2. apply.

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566 2. Twenty percent of the amount of insurance claim
567 payments by the insurer for claims that are not based on events
568 that are the subject of a declaration of a state of emergency by
569 the Governor.

570 (12) Each public adjuster shall provide to the claimant or
571 insured a written estimate of the loss to assist in the
572 submission of a proof of loss or any other claim for payment of
573 insurance proceeds. The public adjuster shall retain such
574 written estimate for at least 5 years and shall make such
575 estimate available to the claimant or insured and the department
576 upon request.

577 (13) A public adjuster, public adjuster apprentice, or any
578 person acting on behalf of a public adjuster or apprentice may
579 not accept referrals of business from any person with whom the
580 public adjuster conducts business if there is any form or manner
581 of agreement to compensate the person, whether directly or
582 indirectly, for referring business to the public adjuster. A
583 public adjuster may not compensate any person, except for
584 another public adjuster, whether directly or indirectly, for the
585 principal purpose of referring business to the public adjuster.

586 (14) A company employee adjuster, independent adjuster,
587 attorney, investigator, or other persons acting on behalf of an
588 insurer that needs access to an insured or claimant or to the
589 insured property that is the subject of a claim shall provide at
590 least 48 hours' notice to the insured or claimant, public
591 adjuster, or legal representative before scheduling a meeting
592 with the claimant or an onsite inspection of the insured
593 property. The insured or claimant may deny access to the

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594 property if this notice has not been provided. The insured or
595 claimant may waive this 48-hour notice.

596 (15) (a) A public adjuster shall ensure prompt notice of
597 any property loss claim submitted to an insurer by or through a
598 public adjuster or on which a public adjuster represents the
599 insured at the time the claim or notice of loss is submitted to
600 the insurer. The public adjuster shall ensure that notice is
601 given to the insurer, the public adjuster's contract is provided
602 to the insurer, the property is made available for inspection of
603 the loss or damage by the insurer, and the insurer is given an
604 opportunity to interview the insured directly about the loss and
605 claim. The insurer shall be allowed to obtain necessary
606 information to investigate and respond to the claim. The insurer
607 may not exclude the public adjuster from its in-person meetings
608 with the insured. The insurer shall meet or communicate with the
609 public adjuster in an effort to reach agreement as to the scope
610 of the covered loss under the insurance policy. This section
611 does not impair the terms and conditions of the insurance policy
612 in effect at the time the claim is filed.

613 (b) A public adjuster may not restrict or prevent an
614 insurer, company employee adjuster, independent adjuster,
615 attorney, investigator, or other person acting on behalf of the
616 insurer from having reasonable access at reasonable times to any
617 insured or claimant or to the insured property that is the
618 subject of a claim.

619 (c) A public adjuster may not act or fail to reasonably
620 act in any manner that would obstruct or prevent an insurer or
621 insurer's adjuster from timely gaining access to conduct an

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622 inspection of any part of the insured property for which there
623 is a claim for loss or damage to the property. The public
624 adjuster that represents the insured may be present for the
625 insurer's inspection of the property loss or damage but, if the
626 lack of availability of the public adjuster would otherwise
627 delay the access to or the inspection of the insured property by
628 the insurer, the public adjuster or the insured must allow the
629 insurer to gain access to the insured property to facilitate the
630 insurer's prompt inspection of the loss or damage without the
631 participation or presence of the public adjuster or insured.

632 (16) A licensed contractor under part I of chapter 489, or
633 a subcontractor, may not adjust a claim on behalf of an insured
634 without being licensed and compliant as a public adjuster under
635 this chapter. However, if asked by the residential property
636 owner who has suffered loss or damage covered by a property
637 insurance policy, or the insurer of such property, a licensed
638 contractor may discuss or explain a bid for construction or
639 repair of covered property if the contractor is doing so for
640 usual and customary fees applicable to the work to be performed
641 as stated in the contract between the contractor and the
642 insured.

643
644 The provisions of subsections (5)-(16) ~~(5)-(13)~~ apply only to
645 residential property insurance policies and condominium unit
646 owner association policies as defined in s. 718.111(11).

647 Section 10. Effective January 1, 2011, present subsections
648 (7) through (11) of section 626.8651, Florida Statutes, are

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649 redesignated as subsections (8) through (12), respectively, and
650 a new subsection (7) is added to that section, to read:

651 626.8651 Public adjuster apprentice license;
652 qualifications.—

653 (7) A public adjuster apprentice shall complete a minimum
654 of 8 hours of continuing education specific to the practice of
655 adjusting property and casualty claims, 2 hours of which must
656 relate to ethics, in order to qualify for licensure as a public
657 adjuster. The continuing education must be in subjects designed
658 to inform the licensee regarding the current insurance laws of
659 this state for the purpose of enabling him or her to engage in
660 business as an insurance adjuster fairly and without injury to
661 the public and to adjust all claims in accordance with the
662 insurance contract and the laws of this state.

663 Section 11. Effective January 1, 2011, section 626.8796,
664 Florida Statutes, is amended to read:

665 626.8796 Public adjuster contracts; fraud statement.—

666 (1) All contracts for public adjuster services must be in
667 writing and must prominently display the following statement on
668 the contract: "Pursuant to s. 817.234, Florida Statutes, any
669 person who, with the intent to injure, defraud, or deceive any
670 insurer or insured, prepares, presents, or causes to be
671 presented a proof of loss or estimate of cost or repair of
672 damaged property in support of a claim under an insurance policy
673 knowing that the proof of loss or estimate of claim or repairs
674 contains any false, incomplete, or misleading information
675 concerning any fact or thing material to the claim commits a

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676 felony of the third degree, punishable as provided in s.
677 775.082, s. 775.083, or s. 775.084, Florida Statutes."

678 (2) A public adjuster contract involving a property and
679 casualty claim must contain the following information: full
680 name, permanent business address, and license number of the
681 public adjuster, the full name of the public adjusting firm, and
682 the insured's full name and street address, together with a
683 brief description of the loss. The contract must state the
684 percentage of compensation for the public adjuster's services,
685 the type of claim, including an emergency claim, nonemergency
686 claim, or supplemental claim, the signatures of the public
687 adjuster and all named insureds, and the signature date. If all
688 named insureds signatures are not available, the public adjuster
689 shall submit an affidavit signed by the available named insureds
690 attesting that they have authority to enter into the contract
691 and to settle all claim issues on behalf of all named insureds.
692 An unaltered copy of the executed contract must be remitted to
693 the insurer within 30 days after execution.

694 Section 12. Effective June 1, 2010, section 626.70132,
695 Florida Statutes, is created to read:

696 626.70132 Duty to file windstorm or hurricane claim.—A
697 claim, supplemental claim, or reopened claim under an insurance
698 policy that provides personal lines residential coverage, as
699 defined in s. 627.4025, for loss or damage caused by the peril
700 of windstorm or hurricane is barred unless notice of the claim,
701 supplemental claim, or reopened claim was given to the insurer
702 in accordance with the terms of the policy within 3 years after
703 the hurricane first made landfall or the windstorm caused the

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704 covered damage. For purposes of this section, the term
705 "supplemental claim" or "reopened claim" means any additional
706 claim for recovery from the insurer for losses from the same
707 hurricane or windstorm for which the insurer has previously
708 adjusted pursuant to the initial claim. This section may not be
709 interpreted to affect any applicable limitation on civil actions
710 provided in s. 95.11 for claims, supplemental claims, or
711 reopened claims timely filed under this section.

712 Section 13. Section 626.9744, Florida Statutes, is amended
713 to read:

714 626.9744 Claim settlement practices relating to property
715 insurance.—Unless otherwise provided by the policy, if when a
716 homeowner's insurance policy provides for the adjustment and
717 settlement of first-party losses based on repair or replacement
718 cost, the following requirements apply:

719 (1) When a loss requires repair or replacement of an item
720 or part, any physical damage incurred in making such repair or
721 replacement which is covered and not otherwise excluded by the
722 policy shall be included in the loss to the extent of any
723 applicable limits. The insured may not be required to pay for
724 betterment required by ordinance or code except for the
725 applicable deductible, unless specifically excluded or limited
726 by the policy.

727 (2) When a loss requires replacement of items and the
728 replaced items do not match in quality, color, or size, the
729 insurer shall make reasonable repairs or replacement of items in
730 adjoining areas. In determining the extent of the repairs or
731 replacement of items in adjoining areas, the insurer may

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732 consider the cost of repairing or replacing the undamaged
733 portions of the property, the degree of uniformity that can be
734 achieved without such cost, the remaining useful life of the
735 undamaged portion, and other relevant factors.

736 (3) (a) In determining repair or replacement cost
737 estimates, the insurer shall use the following:

738 1. The cost using quotations obtained from licensed
739 contractors, a preferred vendor network, a replacement service,
740 or establishments in the local market area;

741 2. Computer software, other databases, or estimates based
742 on market prices for products, materials, and labor in the local
743 geographic region, if the estimates are provided by the insurer
744 to the first-party insured upon request and if allowable by the
745 insurer's contract for the proprietary computer software or
746 other database.

747 3. A method agreed to by all parties.

748 (b) This subsection does not impair the contractual
749 obligations of the parties.

750 (4)(3) This section ~~does~~ shall not be construed to make
751 the insurer a warrantor of the repairs made pursuant to this
752 section.

753 (5)(4) ~~Nothing in~~ This section does not shall be construed
754 to authorize or preclude enforcement of policy provisions
755 relating to settlement disputes.

756 Section 14. Section 627.0613, Florida Statutes, is amended
757 to read:

758 627.0613 Consumer advocate.—The Chief Financial Officer
759 must appoint a consumer advocate who must represent the general
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760 public of the state before the department and the office. The
761 consumer advocate must report directly to the Chief Financial
762 Officer, but is not otherwise under the authority of the
763 department or of any employee of the department. The consumer
764 advocate has such powers as are necessary to carry out the
765 duties of the office of consumer advocate, including, but not
766 limited to, the powers to:

767 (1) Recommend to the department or office, by petition,
768 the commencement of any proceeding or action; appear in any
769 proceeding or action before the department or office; or appear
770 in any proceeding before the Division of Administrative Hearings
771 relating to subject matter under the jurisdiction of the
772 department or office.

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

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

779 (4) By June 1, 2012, and each June 1 thereafter, prepare
780 an annual report card for each authorized personal residential
781 property insurer, on a form and using a letter-grade scale
782 developed by the commission by rule, which objectively grades
783 each insurer based on the following factors:

784 (a) The number and nature of valid consumer complaints, as
785 a market share ratio, received by the department against the
786 insurer.

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787 (b) The disposition of all valid consumer complaints
788 received by the department.

789 (c) The average length of time for payment of claims by
790 the insurer.

791 (d) Any other measurable and objective factors the
792 commission identifies as capable of assisting policyholders in
793 making informed choices about homeowner's insurance.

794

795 For purposes of this subsection, the term "valid consumer
796 complaint" means a written communication, or oral communication
797 that is subsequently converted to a written form, from a
798 consumer that expresses dissatisfaction involving a personal
799 residential insurance policy with a specific personal
800 residential property insurer. However, a valid complaint does
801 not arise if in the disposition thereof by the department the
802 insurer or agent position is upheld, the policy provision is
803 upheld, the coverage is explained, additional information is
804 provided, the complaint is withdrawn, the complaint is referred
805 outside the department, or if an inquiry has missing or
806 insufficient information, is not within the jurisdiction of the
807 department or requests mediation of a claim that is not eligible
808 for mediation.

809 (5) Prepare an annual budget for presentation to the
810 Legislature by the department, which budget must be adequate to
811 carry out the duties of the office of consumer advocate.

812 Section 15. Section 627.062, Florida Statutes, is amended
813 to read:

814 627.062 Rate standards.—

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

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

819 (a) Insurers or rating organizations shall establish and
820 use rates, rating schedules, or rating manuals to allow the
821 insurer a reasonable rate of return on such classes of insurance
822 written in this state. A copy of rates, rating schedules, rating
823 manuals, premium credits or discount schedules, and surcharge
824 schedules, and changes thereto, shall be filed with the office
825 under one of the following procedures except as provided in
826 subparagraph 3.:

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

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842 ~~notice of intent to approve~~ or a notice of intent to disapprove
843 within 90 days after receipt of the filing.

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

851 3. For all property insurance filings made or submitted
852 after January 25, 2007, but before July 1, 2011 ~~December 31,~~
853 ~~2010~~, an insurer seeking a rate that is greater than the rate
854 most recently approved by the office shall make a "file and use"
855 filing. For purposes of this subparagraph, motor vehicle
856 collision and comprehensive coverages are not considered to be
857 property coverages.

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

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

865 2. Past and prospective expenses.

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

868 4. Investment income reasonably expected by the insurer,
869 consistent with the insurer's investment practices, from

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870 investable premiums anticipated in the filing, plus any other
871 expected income from currently invested assets representing the
872 amount expected on unearned premium reserves and loss reserves.
873 The commission may adopt rules using reasonable techniques of
874 actuarial science and economics to specify the manner in which
875 insurers shall calculate investment income attributable to such
876 classes of insurance written in this state and the manner in
877 which such investment income shall be used to calculate
878 insurance rates. Such manner shall contemplate allowances for an
879 underwriting profit factor and full consideration of investment
880 income which produce a reasonable rate of return; however,
881 investment income from invested surplus may not be considered.

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

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

887 7. The adequacy of loss reserves.

888 8. The cost of reinsurance. The office shall not
889 disapprove a rate as excessive solely due to the insurer having
890 obtained catastrophic reinsurance to cover the insurer's
891 estimated 250-year probable maximum loss or any lower level of
892 loss.

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

895 10. Conflagration and catastrophe hazards, if applicable.

896 11. Projected hurricane losses, if applicable, which must
897 be estimated using a model or method found to be acceptable or
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898 reliable by the Florida Commission on Hurricane Loss Projection
899 Methodology, and as further provided in s. 627.0628.

900 12. A reasonable margin for underwriting profit and
901 contingencies.

902 13. The cost of medical services, if applicable.

903 14. Other relevant factors which impact upon the frequency
904 or severity of claims or upon expenses.

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

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

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

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

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

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

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

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

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

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

957 (g) The office may at any time review a rate, rating
958 schedule, rating manual, or rate change; the pertinent records
959 of the insurer; and market conditions. If the office finds on a
960 preliminary basis that a rate may be excessive, inadequate, or
961 unfairly discriminatory, the office shall initiate proceedings
962 to disapprove the rate and shall so notify the insurer. However,
963 the office may not disapprove as excessive any rate for which it
964 has given final approval or which has been deemed approved for a
965 period of 1 year after the effective date of the filing unless
966 the office finds that a material misrepresentation or material
967 error was made by the insurer or was contained in the filing.
968 Upon being so notified, the insurer or rating organization
969 shall, within 60 days, file with the office all information
970 which, in the belief of the insurer or organization, proves the
971 reasonableness, adequacy, and fairness of the rate or rate
972 change. The office shall issue a notice of intent to approve or
973 a notice of intent to disapprove pursuant to the procedures of
974 paragraph (a) within 90 days after receipt of the insurer's
975 initial response. In such instances and in any administrative
976 proceeding relating to the legality of the rate, the insurer or
977 rating organization shall carry the burden of proof by a
978 preponderance of the evidence to show that the rate is not
979 excessive, inadequate, or unfairly discriminatory. After the
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980 office notifies an insurer that a rate may be excessive,
981 inadequate, or unfairly discriminatory, unless the office
982 withdraws the notification, the insurer shall not alter the rate
983 except to conform with the office's notice until the earlier of
984 120 days after the date the notification was provided or 180
985 days after the date of the implementation of the rate. The
986 office may, subject to chapter 120, disapprove without the 60-
987 day notification any rate increase filed by an insurer within
988 the prohibited time period or during the time that the legality
989 of the increased rate is being contested.

990 (h) ~~If In the event~~ the office finds that a rate or rate
991 change is excessive, inadequate, or unfairly discriminatory, the
992 office shall issue an order of disapproval specifying that a new
993 rate or rate schedule which responds to the findings of the
994 office be filed by the insurer. The office shall further order,
995 for any "use and file" filing made in accordance with
996 subparagraph (a)2., that premiums charged each policyholder
997 constituting the portion of the rate above that which was
998 actuarially justified be returned to such policyholder in the
999 form of a credit or refund. If the office finds that an
1000 insurer's rate or rate change is inadequate, the new rate or
1001 rate schedule filed with the office in response to such a
1002 finding shall be applicable only to new or renewal business of
1003 the insurer written on or after the effective date of the
1004 responsive filing.

1005 (i) 1. Except as otherwise specifically provided in this
1006 chapter, the office shall not, directly or indirectly, prohibit
1007 any property and casualty insurer, including any residual market
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1008 plan or joint underwriting association, from paying acquisition
1009 costs based on the full amount of premium, as defined in s.
1010 627.403, applicable to any policy, or, directly or indirectly,
1011 prohibit any such insurer from including the full amount of
1012 acquisition costs in a rate filing.

1013 2. The office shall not, directly or indirectly, impede,
1014 abridge, or otherwise compromise a property and casualty
1015 insurer's right to acquire policyholders, advertise, or appoint
1016 agents, including the calculation, manner, or amount of such
1017 agent commissions, if any.

1018 (j) With respect to residential property insurance rate
1019 filings, the rate filing must account for mitigation measures
1020 undertaken by policyholders to reduce hurricane losses.

1021 (k)1.a. An insurer may make a separate filing for
1022 commercial or residential property insurance limited solely to
1023 an adjustment of its rates for reinsurance, financing products
1024 to replace insurance, or financing costs incurred in the
1025 purchase of reinsurance and may include an adjustment of its
1026 rates based upon an inflation trend factor as set forth in
1027 subparagraph 4. If an insurer chooses to make a separate filing
1028 under this paragraph, the insurer shall implement the rate in
1029 such a manner that all previously approved rate increases
1030 implemented as a result of a separate filing, together with the
1031 rate increase under a filing made under this paragraph, ~~or~~
1032 ~~financing products to replace or finance the payment of the~~
1033 ~~amount covered by the Temporary Increase in Coverage Limits~~
1034 ~~(TICL) portion of the Florida Hurricane Catastrophe Fund~~
1035 ~~including replacement reinsurance for the TICL reductions made~~
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1036 ~~pursuant to s. 215.555(17)(e); the actual cost paid due to the~~
1037 ~~application of the TICL premium factor pursuant to s.~~
1038 ~~215.555(17)(f); and the actual cost paid due to the application~~
1039 ~~of the cash build-up factor pursuant to s. 215.555(5)(b) if the~~
1040 ~~insurer:~~

1041 ~~a. Elects to purchase financing products such as a~~
1042 ~~liquidity instrument or line of credit, in which case the cost~~
1043 ~~included in the filing for the liquidity instrument or line of~~
1044 ~~credit may not result in a premium increase exceeding 3 percent~~
1045 ~~for any individual policyholder. All costs contained in the~~
1046 ~~filing may not result in an overall rate premium increase of~~
1047 ~~more than 10 percent for any individual policyholder, excluding~~
1048 ~~coverage changes and surcharges.~~

1049 ~~b. An insurer shall include ~~includes~~ in the filing a copy~~
1050 ~~of all of its reinsurance, liquidity instrument, or line of~~
1051 ~~credit contracts; proof of the billing or payment for the~~
1052 ~~contracts; and the calculation upon which the proposed rate~~
1053 ~~change is based demonstrating ~~demonstrates~~ that the costs meet~~
1054 ~~the criteria of this section and are not loaded for expenses or~~
1055 ~~profit for the insurer making the filing.~~

1056 ~~c. Any such filing may not include ~~includes no~~ other~~
1057 ~~changes to the insurer's ~~its~~ rates in the filing.~~

1058 ~~d. Has not implemented a rate increase within the 6 months~~
1059 ~~immediately preceding the filing.~~

1060 ~~e. Does not file for a rate increase under any other~~
1061 ~~paragraph within 6 months after making a filing under this~~
1062 ~~paragraph.~~

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1063 ~~d. f.~~ An insurer that purchases reinsurance or financing
1064 products from an affiliate may make a filing under affiliated
1065 ~~company in compliance with~~ this paragraph ~~does so~~ only if the
1066 costs for such reinsurance or financing products are charged at
1067 or below charges made for comparable coverage by nonaffiliated
1068 reinsurers or financial entities making such coverage or
1069 financing products available in this state.

1070 2. An insurer may only make one filing in any 12-month
1071 period under this paragraph.

1072 3. An insurer that elects to implement a rate change under
1073 this paragraph must file its rate filing with the office at
1074 least 45 days before the effective date of the rate change.
1075 After an insurer submits a complete filing that meets all of the
1076 requirements of this paragraph, the office has 45 days after the
1077 date of the filing to review the rate filing and determine if
1078 the rate is excessive, inadequate, or unfairly discriminatory.

1079 4. Beginning January 1, 2011, the office shall publish an
1080 annual informational memorandum to establish one or more inflation
1081 trend factors which may be stated separately for personal and
1082 commercial residential property and for building coverage,
1083 contents coverage, additional living expense coverage, and
1084 liability coverage, if applicable. Such factors shall represent an
1085 estimate of cost increases or decreases based on publicly available
1086 relevant data and economic indices that are identified in the
1087 memorandum including, but not limited to, overall claim cost data.
1088 Such factors are exempt from the rulemaking requirements of chapter
1089 120 and insurers may not be required to adopt the factors. The
1090 office may publish factors for any other property and casualty

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1091 line, but is required to annually publish a factor only for
1092 residential property insurance by March 1 of each year.

1093
1094 The provisions of this subsection do ~~shall~~ not apply to workers'
1095 compensation and employer's liability insurance and to motor
1096 vehicle insurance.

1097 (3) (a) For individual risks that are not rated in
1098 accordance with the insurer's rates, rating schedules, rating
1099 manuals, and underwriting rules filed with the office and which
1100 have been submitted to the insurer for individual rating, the
1101 insurer must maintain documentation on each risk subject to
1102 individual risk rating. The documentation must identify the
1103 named insured and specify the characteristics and classification
1104 of the risk supporting the reason for the risk being
1105 individually risk rated, including any modifications to existing
1106 approved forms to be used on the risk. The insurer must maintain
1107 these records for a period of at least 5 years after the
1108 effective date of the policy.

1109 (b) Individual risk rates and modifications to existing
1110 approved forms are not subject to this part or part II, except
1111 for paragraph (a) and ss. 627.402, 627.403, 627.4035, 627.404,
1112 627.405, 627.406, 627.407, 627.4085, 627.409, 627.4132,
1113 627.4133, 627.415, 627.416, 627.417, 627.419, 627.425, 627.426,
1114 627.4265, 627.427, and 627.428, but are subject to all other
1115 applicable provisions of this code and rules adopted thereunder.

1116 (c) This subsection does not apply to private passenger
1117 motor vehicle insurance.

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1118 (4) The establishment of any rate, rating classification,
1119 rating plan or schedule, or variation thereof in violation of
1120 part IX of chapter 626 is also in violation of this section. ~~In~~
1121 ~~order to enhance the ability of consumers to compare premiums~~
1122 ~~and to increase the accuracy and usefulness of rate comparison~~
1123 ~~information provided by the office to the public, the office~~
1124 ~~shall develop a proposed standard rating territory plan to be~~
1125 ~~used by all authorized property and casualty insurers for~~
1126 ~~residential property insurance. In adopting the proposed plan,~~
1127 ~~the office may consider geographical characteristics relevant to~~
1128 ~~risk, county lines, major roadways, existing rating territories~~
1129 ~~used by a significant segment of the market, and other relevant~~
1130 ~~factors. Such plan shall be submitted to the President of the~~
1131 ~~Senate and the Speaker of the House of Representatives by~~
1132 ~~January 15, 2006. The plan may not be implemented unless~~
1133 ~~authorized by further act of the Legislature.~~

1134 (5) With respect to a rate filing involving coverage of
1135 the type for which the insurer is required to pay a
1136 reimbursement premium to the Florida Hurricane Catastrophe Fund,
1137 the insurer may fully recoup in its property insurance premiums
1138 any reimbursement premiums paid to the Florida Hurricane
1139 Catastrophe Fund, together with reasonable costs of other
1140 reinsurance, but except as otherwise provided in this section,
1141 may not recoup reinsurance costs that duplicate coverage
1142 provided by the Florida Hurricane Catastrophe Fund. An insurer
1143 may not recoup more than 1 year of reimbursement premium at a
1144 time. Any under-recoupment from the prior year may be added to
1145 the following year's reimbursement premium, and any over-

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1146 recoupment shall be subtracted from the following year's
1147 reimbursement premium.

1148 (6) (a) If an insurer requests an administrative hearing
1149 pursuant to s. 120.57 related to a rate filing under this
1150 section, the director of the Division of Administrative Hearings
1151 shall expedite the hearing and assign an administrative law
1152 judge who shall commence the hearing within 30 days after the
1153 receipt of the formal request and shall enter a recommended
1154 order within 30 days after the hearing or within 30 days after
1155 receipt of the hearing transcript by the administrative law
1156 judge, whichever is later. Each party shall be allowed 10 days
1157 in which to submit written exceptions to the recommended order.
1158 The office shall enter a final order within 30 days after the
1159 entry of the recommended order. The provisions of this paragraph
1160 may be waived upon stipulation of all parties.

1161 (b) Upon entry of a final order, the insurer may request a
1162 expedited appellate review pursuant to the Florida Rules of
1163 Appellate Procedure. It is the intent of the Legislature that
1164 the First District Court of Appeal grant an insurer's request
1165 for an expedited appellate review.

1166 (7) (a) The provisions of this subsection apply only with
1167 respect to rates for medical malpractice insurance and shall
1168 control to the extent of any conflict with other provisions of
1169 this section.

1170 (b) Any portion of a judgment entered or settlement paid
1171 as a result of a statutory or common-law bad faith action and
1172 any portion of a judgment entered which awards punitive damages
1173 against an insurer may not be included in the insurer's rate

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1174 base, and shall not be used to justify a rate or rate change.
1175 Any common-law bad faith action identified as such, any portion
1176 of a settlement entered as a result of a statutory or common-law
1177 action, or any portion of a settlement wherein an insurer agrees
1178 to pay specific punitive damages may not be used to justify a
1179 rate or rate change. The portion of the taxable costs and
1180 attorney's fees which is identified as being related to the bad
1181 faith and punitive damages in these judgments and settlements
1182 may not be included in the insurer's rate base and may not be
1183 used ~~utilized~~ to justify a rate or rate change.

1184 (c) Upon reviewing a rate filing and determining whether
1185 the rate is excessive, inadequate, or unfairly discriminatory,
1186 the office shall consider, in accordance with generally accepted
1187 and reasonable actuarial techniques, past and present
1188 prospective loss experience, either using loss experience solely
1189 for this state or giving greater credibility to this state's
1190 loss data after applying actuarially sound methods of assigning
1191 credibility to such data.

1192 (d) Rates shall be deemed excessive if, among other
1193 standards established by this section, the rate structure
1194 provides for replenishment of reserves or surpluses from
1195 premiums when the replenishment is attributable to investment
1196 losses.

1197 (e) The insurer must apply a discount or surcharge based
1198 on the health care provider's loss experience or shall establish
1199 an alternative method giving due consideration to the provider's
1200 loss experience. The insurer must include in the filing a copy
1201 of the surcharge or discount schedule or a description of the
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1202 alternative method used, and must provide a copy of such
1203 schedule or description, as approved by the office, to
1204 policyholders at the time of renewal and to prospective
1205 policyholders at the time of application for coverage.

1206 (f) Each medical malpractice insurer must make a rate
1207 filing under this section, sworn to by at least two executive
1208 officers of the insurer, at least once each calendar year.

1209 ~~(8)(a)1. No later than 60 days after the effective date of~~
1210 ~~medical malpractice legislation enacted during the 2003 Special~~
1211 ~~Session D of the Florida Legislature, the office shall calculate~~
1212 ~~a presumed factor that reflects the impact that the changes~~
1213 ~~contained in such legislation will have on rates for medical~~
1214 ~~malpractice insurance and shall issue a notice informing all~~
1215 ~~insurers writing medical malpractice coverage of such presumed~~
1216 ~~factor. In determining the presumed factor, the office shall use~~
1217 ~~generally accepted actuarial techniques and standards provided~~
1218 ~~in this section in determining the expected impact on losses,~~
1219 ~~expenses, and investment income of the insurer. To the extent~~
1220 ~~that the operation of a provision of medical malpractice~~
1221 ~~legislation enacted during the 2003 Special Session D of the~~
1222 ~~Florida Legislature is stayed pending a constitutional~~
1223 ~~challenge, the impact of that provision shall not be included in~~
1224 ~~the calculation of a presumed factor under this subparagraph.~~

1225 ~~2. No later than 60 days after the office issues its~~
1226 ~~notice of the presumed rate change factor under subparagraph 1.,~~
1227 ~~each insurer writing medical malpractice coverage in this state~~
1228 ~~shall submit to the office a rate filing for medical malpractice~~
1229 ~~insurance, which will take effect no later than January 1, 2004,~~

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1230 ~~and apply retroactively to policies issued or renewed on or~~
1231 ~~after the effective date of medical malpractice legislation~~
1232 ~~enacted during the 2003 Special Session D of the Florida~~
1233 ~~Legislature. Except as authorized under paragraph (b), the~~
1234 ~~filing shall reflect an overall rate reduction at least as great~~
1235 ~~as the presumed factor determined under subparagraph 1. With~~
1236 ~~respect to policies issued on or after the effective date of~~
1237 ~~such legislation and prior to the effective date of the rate~~
1238 ~~filing required by this subsection, the office shall order the~~
1239 ~~insurer to make a refund of the amount that was charged in~~
1240 ~~excess of the rate that is approved.~~

1241 ~~(b) Any insurer or rating organization that contends that~~
1242 ~~the rate provided for in paragraph (a) is excessive, inadequate,~~
1243 ~~or unfairly discriminatory shall separately state in its filing~~
1244 ~~the rate it contends is appropriate and shall state with~~
1245 ~~specificity the factors or data that it contends should be~~
1246 ~~considered in order to produce such appropriate rate. The~~
1247 ~~insurer or rating organization shall be permitted to use all of~~
1248 ~~the generally accepted actuarial techniques provided in this~~
1249 ~~section in making any filing pursuant to this subsection. The~~
1250 ~~office shall review each such exception and approve or~~
1251 ~~disapprove it prior to use. It shall be the insurer's burden to~~
1252 ~~actuarially justify any deviations from the rates required to be~~
1253 ~~filed under paragraph (a). The insurer making a filing under~~
1254 ~~this paragraph shall include in the filing the expected impact~~
1255 ~~of medical malpractice legislation enacted during the 2003~~
1256 ~~Special Session D of the Florida Legislature on losses,~~
1257 ~~expenses, and rates.~~

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1258 ~~(e)~~ If any provision of medical malpractice legislation
1259 enacted during the 2003 Special Session D of the Florida
1260 Legislature is held invalid by a court of competent
1261 jurisdiction, the office shall permit an adjustment of all
1262 medical malpractice rates filed under this section to reflect
1263 the impact of such holding on such rates so as to ensure that
1264 the rates are not excessive, inadequate, or unfairly
1265 discriminatory.

1266 ~~(d)~~ Rates approved on or before July 1, 2003, for medical
1267 malpractice insurance shall remain in effect until the effective
1268 date of a new rate filing approved under this subsection.

1269 ~~(e)~~ The calculation and notice by the office of the
1270 presumed factor pursuant to paragraph (a) is not an order or
1271 rule that is subject to chapter 120. If the office enters into a
1272 contract with an independent consultant to assist the office in
1273 calculating the presumed factor, such contract shall not be
1274 subject to the competitive solicitation requirements of s.
1275 287.057.

1276 (9) (a) The chief executive officer or chief financial
1277 officer of a property insurer and the chief actuary of a
1278 property insurer must certify under oath and subject to the
1279 penalty of perjury, on a form approved by the commission, the
1280 following information, which must accompany a rate filing:

1281 1. The signing officer and actuary have reviewed the rate
1282 filing;

1283 2. Based on the signing officer's and actuary's knowledge,
1284 the rate filing does not contain any untrue statement of a
1285 material fact or omit to state a material fact necessary in

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1286 order to make the statements made, in light of the circumstances
1287 under which such statements were made, not misleading;

1288 3. Based on the signing officer's and actuary's knowledge,
1289 the information and other factors described in paragraph (2) (b),
1290 including, but not limited to, investment income, fairly present
1291 in all material respects the basis of the rate filing for the
1292 periods presented in the filing; and

1293 4. Based on the signing officer's and actuary's knowledge,
1294 the rate filing reflects all premium savings that are reasonably
1295 expected to result from legislative enactments and are in
1296 accordance with generally accepted and reasonable actuarial
1297 techniques.

1298 (b) A signing officer or actuary knowingly making a false
1299 certification under this subsection commits a violation of s.
1300 626.9541(1)(e) and is subject to the penalties under s.
1301 626.9521.

1302 (c) Failure to provide such certification by the officer
1303 and actuary shall result in the rate filing being disapproved
1304 without prejudice to be refiled.

1305 (d) A certification made pursuant to paragraph (a) is not
1306 rendered false when, after making the subject rate filing, the
1307 insurer provides the office with additional or supplementary
1308 information pursuant to a formal or informal request from the
1309 office.

1310 (e) ~~(d)~~ The commission may adopt rules and forms pursuant
1311 to ss. 120.536(1) and 120.54 to administer this subsection.

1312 (10) The burden is on the office to establish that rates
1313 are excessive for personal lines residential coverage with a
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1314 dwelling replacement cost of \$1 million or more or for a single
1315 condominium unit with a combined dwelling and contents
1316 replacement cost of \$1 million or more. Upon request of the
1317 office, the insurer shall provide to the office such loss and
1318 expense information as the office reasonably needs to meet this
1319 burden.

1320 (11) Any interest paid pursuant to s. 627.70131(5) may not
1321 be included in the insurer's rate base and may not be used to
1322 justify a rate or rate change.

1323 Section 16. Section 627.0629, Florida Statutes, is amended
1324 to read:

1325 627.0629 Residential property insurance; rate filings.—

1326 (1) ~~(a)~~ It is the intent of the Legislature that insurers
1327 ~~must~~ provide the most accurate pricing signals available ~~savings~~
1328 to encourage consumers to ~~who~~ install or implement windstorm
1329 damage mitigation techniques, alterations, or solutions to their
1330 properties to prevent windstorm losses. It is also the intent of
1331 the Legislature that implementation of mitigation discounts not
1332 result in a loss of income to the insurers granting the
1333 discounts, so that the aggregate of mitigation discounts should
1334 not exceed the aggregate of the expected reduction in loss that
1335 is attributable to the mitigation efforts for which discounts
1336 are granted. A rate filing for residential property insurance
1337 must include actuarially reasonable discounts, credits, debits,
1338 or other rate differentials, or appropriate reductions in
1339 deductibles, which provide the proper pricing for all
1340 properties. The rate filing must take into account the presence
1341 or absence of ~~on which~~ fixtures or construction techniques

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1342 demonstrated to reduce the amount of loss in a windstorm have
1343 been installed or implemented. The fixtures or construction
1344 techniques shall include, but not be limited to, fixtures or
1345 construction techniques that ~~which~~ enhance roof strength, roof
1346 covering performance, roof-to-wall strength, wall-to-floor-to-
1347 foundation strength, opening protection, and window, door, and
1348 skylight strength. Credits, debits, discounts, or other rate
1349 differentials, or appropriate reductions or increases in
1350 deductibles, which recognize the presence or absence of ~~for~~
1351 fixtures and construction techniques that ~~which~~ meet the minimum
1352 requirements of the Florida Building Code must be included in
1353 the rate filing. If an insurer demonstrates that the aggregate
1354 of its mitigation discounts results in a reduction to revenue
1355 which exceeds the reduction of the aggregate loss that is
1356 expected to result from the mitigation, that insurer may recover
1357 the lost revenue through an increase in its base rates. ~~All~~
1358 ~~insurance companies must make a rate filing which includes the~~
1359 ~~credits, discounts, or other rate differentials or reductions in~~
1360 ~~deductibles by February 28, 2003.~~ By July 1, 2007, the office
1361 shall reevaluate the discounts, credits, other rate
1362 differentials, and appropriate reductions in deductibles for
1363 fixtures and construction techniques that meet the minimum
1364 requirements of the Florida Building Code, based upon actual
1365 experience or any other loss relativity studies available to the
1366 office. The office shall determine the discounts, credits,
1367 debits, other rate differentials, and appropriate reductions or
1368 increases in deductibles that reflect the full actuarial value

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1369 of such revaluation, which may be used by insurers in rate
1370 filings.

1371 ~~(b) By February 1, 2011, the Office of Insurance~~
1372 ~~Regulation, in consultation with the Department of Financial~~
1373 ~~Services and the Department of Community Affairs, shall develop~~
1374 ~~and make publicly available a proposed method for insurers to~~
1375 ~~establish discounts, credits, or other rate differentials for~~
1376 ~~hurricane mitigation measures which directly correlate to the~~
1377 ~~numerical rating assigned to a structure pursuant to the uniform~~
1378 ~~home grading scale adopted by the Financial Services Commission~~
1379 ~~pursuant to s. 215.55865, including any proposed changes to the~~
1380 ~~uniform home grading scale. By October 1, 2011, the commission~~
1381 ~~shall adopt rules requiring insurers to make rate filings for~~
1382 ~~residential property insurance which revise insurers' discounts,~~
1383 ~~credits, or other rate differentials for hurricane mitigation~~
1384 ~~measures so that such rate differentials correlate directly to~~
1385 ~~the uniform home grading scale. The rules may include such~~
1386 ~~changes to the uniform home grading scale as the commission~~
1387 ~~determines are necessary, and may specify the minimum required~~
1388 ~~discounts, credits, or other rate differentials. Such rate~~
1389 ~~differentials must be consistent with generally accepted~~
1390 ~~actuarial principles and wind loss mitigation studies. The rules~~
1391 ~~shall allow a period of at least 2 years after the effective~~
1392 ~~date of the revised mitigation discounts, credits, or other rate~~
1393 ~~differentials for a property owner to obtain an inspection or~~
1394 ~~otherwise qualify for the revised credit, during which time the~~
1395 ~~insurer shall continue to apply the mitigation credit that was~~
1396 ~~applied immediately prior to the effective date of the revised~~

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1397 ~~credit. Discounts, credits, and other rate differentials~~
1398 ~~established for rate filings under this paragraph shall~~
1399 ~~supersede, after adoption, the discounts, credits, and other~~
1400 ~~rate differentials included in rate filings under paragraph (a).~~

1401 (2) (a) A rate filing for residential property insurance
1402 made on or before the implementation of paragraph (b) may
1403 include rate factors that reflect the manner in which building
1404 code enforcement in a particular jurisdiction addresses the risk
1405 of wind damage. However, such a rate filing must also provide
1406 for variations from such rate factors on an individual basis
1407 based on an inspection of a particular structure by a licensed
1408 home inspector, which inspection may be at the cost of the
1409 insured.

1410 (b) A rate filing for residential property insurance made
1411 more than 150 days after approval by the office of a building
1412 code rating factor plan submitted by a statewide rating
1413 organization shall include positive and negative rate factors
1414 that reflect the manner in which building code enforcement in a
1415 particular jurisdiction addresses risk of wind damage. The rate
1416 filing shall include variations from standard rate factors on an
1417 individual basis based on inspection of a particular structure
1418 by a licensed home inspector. If an inspection is requested by
1419 the insured, the insurer may require the insured to pay the
1420 reasonable cost of the inspection. This paragraph applies to
1421 structures constructed or renovated after the implementation of
1422 this paragraph.

1423 (c) The premium notice shall specify the amount by which
1424 the rate has been adjusted as a result of this subsection and
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1425 shall also specify the maximum possible positive and negative
1426 adjustments that are approved for use by the insurer under this
1427 subsection.

1428 (3) A rate filing ~~made on or after July 1, 1995,~~ for
1429 mobile home owner's insurance must include appropriate
1430 discounts, credits, or other rate differentials for mobile homes
1431 constructed to comply with American Society of Civil Engineers
1432 Standard ANSI/ASCE 7-88, adopted by the United States Department
1433 of Housing and Urban Development on July 13, 1994, and that also
1434 comply with all applicable tie-down requirements provided by
1435 state law.

1436 (4) The Legislature finds that separate consideration and
1437 notice of hurricane insurance premiums will assist consumers by
1438 providing greater assurance that hurricane premiums are lawful
1439 and by providing more complete information regarding the
1440 components of property insurance premiums. ~~Effective January 1,~~
1441 ~~1997,~~ A rate filing for residential property insurance shall be
1442 separated into two components, rates for hurricane coverage and
1443 rates for all other coverages. A premium notice reflecting a
1444 rate implemented on the basis of such a filing shall separately
1445 indicate the premium for hurricane coverage and the premium for
1446 all other coverages.

1447 (5) In order to provide an appropriate transition period,
1448 an insurer may, in its sole discretion, implement an approved
1449 rate filing for residential property insurance over a period of
1450 years. An insurer electing to phase in its rate filing must
1451 provide an informational notice to the office setting out its
1452 schedule for implementation of the phased-in rate filing. An

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1453 insurer may include in its rate the actual cost of private
1454 market reinsurance that corresponds to available coverage of the
1455 Temporary Increase in Coverage Limits, TICL, from the Florida
1456 Hurricane Catastrophe Fund. The insurer may also include the
1457 cost of reinsurance to replace the TICL reduction implemented
1458 pursuant to s. 215.555(17)(d)9. However, this cost for
1459 reinsurance may not ~~include any expense or profit load or result~~
1460 in a total annual base rate increase in excess of 10 percent.

1461 (6) Any rate filing that is based in whole or part on data
1462 from a computer model may not exceed 15 percent unless there is
1463 a public hearing.

1464 (7) An insurer may implement appropriate discounts or
1465 other rate differentials of up to 10 percent of the annual
1466 premium to mobile home owners who provide to the insurer
1467 evidence of a current inspection of tie-downs for the mobile
1468 home, certifying that the tie-downs have been properly installed
1469 and are in good condition.

1470 (8) EVALUATION OF RESIDENTIAL PROPERTY STRUCTURAL
1471 SOUNDNESS.—

1472 (a) It is the intent of the Legislature to provide a
1473 program whereby homeowners may obtain an evaluation of the wind
1474 resistance of their homes with respect to preventing damage from
1475 hurricanes, together with a recommendation of reasonable steps
1476 that may be taken to upgrade their homes to better withstand
1477 hurricane force winds.

1478 (b) To the extent that funds are provided for this purpose
1479 in the General Appropriations Act, the Legislature hereby
1480 authorizes the establishment of a program to be administered by
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1481 the Citizens Property Insurance Corporation for homeowners
1482 insured in the high-risk account.

1483 (c) The program shall provide grants to homeowners, for
1484 the purpose of providing homeowner applicants with funds to
1485 conduct an evaluation of the integrity of their homes with
1486 respect to withstanding hurricane force winds, recommendations
1487 to retrofit the homes to better withstand damage from such
1488 winds, and the estimated cost to make the recommended retrofits.

1489 (d) The Department of Community Affairs shall establish by
1490 rule standards to govern the quality of the evaluation, the
1491 quality of the recommendations for retrofitting, the eligibility
1492 of the persons conducting the evaluation, and the selection of
1493 applicants under the program. In establishing the rule, the
1494 Department of Community Affairs shall consult with the advisory
1495 committee to minimize the possibility of fraud or abuse in the
1496 evaluation and retrofitting process, and to ensure that funds
1497 spent by homeowners acting on the recommendations achieve
1498 positive results.

1499 (e) The Citizens Property Insurance Corporation shall
1500 identify areas of this state with the greatest wind risk to
1501 residential properties and recommend annually to the Department
1502 of Community Affairs priority target areas for such evaluations
1503 and inclusion with the associated residential construction
1504 mitigation program.

1505 (9) A property insurance rate filing that includes any
1506 adjustments related to premiums paid to the Florida Hurricane
1507 Catastrophe Fund must include a complete calculation of the
1508 insurer's catastrophe load, and the information in the filing
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1509 may not be limited solely to recovery of moneys paid to the
1510 fund.

1511 (10) (a) Contingent upon specific appropriations made to
1512 implement this subsection, in order to enhance the ability of
1513 consumers to compare premiums and to increase the accuracy and
1514 usefulness of rate and product comparison information for
1515 homeowners' insurance, the office shall develop or contract with
1516 a private entity to develop a comprehensive program for
1517 providing the consumer with all available information necessary
1518 to make an informed purchase of the insurance product that best
1519 serves the needs of the individual.

1520 (b) In developing the comprehensive program, the office
1521 shall rely as much as is practical on information that is
1522 currently available and shall consider:

1523 1. The most efficient means for developing, hosting, and
1524 operating a separate website that consolidates all consumer
1525 information for price comparisons, filed complaints, financial
1526 strength, underwriting, and receivership information and other
1527 data useful to consumers.

1528 2. Whether all admitted insurers should be required to
1529 submit additional information to populate the composite website
1530 and how often such submissions must be made.

1531 3. Whether all admitted insurers should be required to
1532 provide links from the website into each individual insurer's
1533 website in order to enable consumers to access product rate
1534 information and apply for quotations.

1535 4. Developing a plan to publicize the existence,
1536 availability, and value of the website.

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1537 5. Any other provision that would make relevant
1538 homeowners' insurance information more readily available so that
1539 consumers can make informed product comparisons and purchasing
1540 decisions.

1541 (c) Before establishing the program or website, the office
1542 shall conduct a cost-benefit analysis to determine the most
1543 effective approach for establishing and operating the program
1544 and website. Based on the results of the analysis, the office
1545 shall submit a proposed implementation plan for review and
1546 approval by the Financial Services Commission. The
1547 implementation plan shall include an estimated timeline for
1548 establishing the program and website; a description of the data
1549 and functionality to be provided by the site; a strategy for
1550 publicizing the website to consumers; a recommended approach for
1551 developing, hosting, and operating the website; and an estimate
1552 of all major nonrecurring and recurring costs required to
1553 establish and operate the website. Upon approval of the plan,
1554 the office may initiate the establishment of the program.

1555 Section 17. Paragraphs (b), (c), (d), and (y) of
1556 subsection (6) of section 627.351, Florida Statutes, are amended
1557 to read:

1558 627.351 Insurance risk apportionment plans.—

1559 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

1560 (b)1. All insurers authorized to write one or more subject
1561 lines of business in this state are subject to assessment by the
1562 corporation and, for the purposes of this subsection, are
1563 referred to collectively as "assessable insurers." Insurers
1564 writing one or more subject lines of business in this state

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1565 pursuant to part VIII of chapter 626 are not assessable
1566 insurers, but insureds who procure one or more subject lines of
1567 business in this state pursuant to part VIII of chapter 626 are
1568 subject to assessment by the corporation and are referred to
1569 collectively as "assessable insureds." An authorized insurer's
1570 assessment liability begins ~~shall begin~~ on the first day of the
1571 calendar year following the year in which the insurer was issued
1572 a certificate of authority to transact insurance for subject
1573 lines of business in this state and terminates ~~shall terminate~~ 1
1574 year after the end of the first calendar year during which the
1575 insurer no longer holds a certificate of authority to transact
1576 insurance for subject lines of business in this state.

1577 2.a. All revenues, assets, liabilities, losses, and
1578 expenses of the corporation are ~~shall be~~ divided into three
1579 separate accounts as follows:

1580 (I) A personal lines account for personal residential
1581 policies issued by the corporation or issued by the Residential
1582 Property and Casualty Joint Underwriting Association and renewed
1583 by the corporation which provides ~~that provide~~ comprehensive,
1584 multiperil coverage on risks that are not located in areas
1585 eligible for coverage in the Florida Windstorm Underwriting
1586 Association as those areas were defined on January 1, 2002, and
1587 for ~~such~~ policies that do not provide coverage for the peril of
1588 wind on risks that are located in such areas;

1589 (II) A commercial lines account for commercial residential
1590 and commercial nonresidential policies issued by the corporation
1591 or issued by the Residential Property and Casualty Joint
1592 Underwriting Association and renewed by the corporation which

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1593 ~~that~~ provide coverage for basic property perils on risks which
1594 ~~that~~ are not located in areas eligible for coverage in the
1595 Florida Windstorm Underwriting Association as those areas were
1596 defined on January 1, 2002, and for ~~such~~ policies that do not
1597 provide coverage for the peril of wind on risks that are located
1598 in such areas; and

1599 (III) A coastal ~~high-risk~~ account for personal residential
1600 policies and commercial residential and commercial
1601 nonresidential property policies issued by the corporation or
1602 transferred to the corporation which provides ~~that provide~~
1603 coverage for the peril of wind on risks that are located in
1604 areas eligible for coverage in the Florida Windstorm
1605 Underwriting Association as those areas were defined on January
1606 1, 2002. The corporation may offer policies that provide
1607 multiperil coverage and the corporation shall continue to offer
1608 policies that provide coverage only for the peril of wind for
1609 risks located in areas eligible for coverage in the coastal
1610 ~~high-risk~~ account. In issuing multiperil coverage, the
1611 corporation may use its approved policy forms and rates for the
1612 personal lines account. An applicant or insured who is eligible
1613 to purchase a multiperil policy from the corporation may
1614 purchase a multiperil policy from an authorized insurer without
1615 prejudice to the applicant's or insured's eligibility to
1616 prospectively purchase a policy that provides coverage only for
1617 the peril of wind from the corporation. An applicant or insured
1618 who is eligible for a corporation policy that provides coverage
1619 only for the peril of wind may elect to purchase or retain such
1620 policy and also purchase or retain coverage excluding wind from
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1621 an authorized insurer without prejudice to the applicant's or
1622 insured's eligibility to prospectively purchase a policy that
1623 provides multiperil coverage from the corporation. It is the
1624 goal of the Legislature that there ~~would~~ be an overall average
1625 savings of 10 percent or more for a policyholder who currently
1626 has a wind-only policy with the corporation, and an ex-wind
1627 policy with a voluntary insurer or the corporation, and who ~~then~~
1628 obtains a multiperil policy from the corporation. It is the
1629 intent of the Legislature that the offer of multiperil coverage
1630 in the coastal high-risk account be made and implemented in a
1631 manner that does not adversely affect the tax-exempt status of
1632 the corporation or creditworthiness of or security for currently
1633 outstanding financing obligations or credit facilities of the
1634 coastal high-risk account, the personal lines account, or the
1635 commercial lines account. The coastal high-risk account must
1636 also include quota share primary insurance under subparagraph
1637 (c)2. The area eligible for coverage under the coastal high-risk
1638 account also includes the area within Port Canaveral, which is
1639 bordered on the south by the City of Cape Canaveral, bordered on
1640 the west by the Banana River, and bordered on the north by
1641 Federal Government property.

1642 b. The three separate accounts must be maintained as long
1643 as financing obligations entered into by the Florida Windstorm
1644 Underwriting Association or Residential Property and Casualty
1645 Joint Underwriting Association are outstanding, in accordance
1646 with the terms of the corresponding financing documents. If ~~When~~
1647 the financing obligations are no longer outstanding, in
1648 accordance with the terms of the corresponding financing

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1649 documents, the corporation may use a single account for all
1650 revenues, assets, liabilities, losses, and expenses of the
1651 corporation. Consistent with ~~the requirement of this~~
1652 subparagraph and prudent investment policies that minimize the
1653 cost of carrying debt, the board shall exercise its best efforts
1654 to retire existing debt or to obtain approval of necessary
1655 parties to amend the terms of existing debt, so as to structure
1656 the most efficient plan to consolidate the three separate
1657 accounts into a single account. ~~By February 1, 2007, the board~~
1658 ~~shall submit a report to the Financial Services Commission, the~~
1659 ~~President of the Senate, and the Speaker of the House of~~
1660 ~~Representatives which includes an analysis of consolidating the~~
1661 ~~accounts, the actions the board has taken to minimize the cost~~
1662 ~~of carrying debt, and its recommendations for executing the most~~
1663 ~~efficient plan.~~

1664 c. Creditors of the Residential Property and Casualty
1665 Joint Underwriting Association and ~~of~~ the accounts specified in
1666 sub-sub-subparagraphs a.(I) and (II) may have a claim against,
1667 and recourse to, the accounts referred to in sub-sub-
1668 subparagraphs a.(I) and (II) and ~~shall~~ have no claim against, or
1669 recourse to, the account referred to in sub-sub-subparagraph
1670 a.(III). Creditors of the Florida Windstorm Underwriting
1671 Association ~~shall~~ have a claim against, and recourse to, the
1672 account referred to in sub-sub-subparagraph a.(III) and ~~shall~~
1673 have no claim against, or recourse to, the accounts referred to
1674 in sub-sub-subparagraphs a.(I) and (II).

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1675 d. Revenues, assets, liabilities, losses, and expenses not
1676 attributable to particular accounts shall be prorated among the
1677 accounts.

1678 e. The Legislature finds that the revenues of the
1679 corporation are revenues that are necessary to meet the
1680 requirements set forth in documents authorizing the issuance of
1681 bonds under this subsection.

1682 f. No part of the income of the corporation may inure to
1683 the benefit of any private person.

1684 3. With respect to a deficit in an account:

1685 a. After accounting for the Citizens policyholder
1686 surcharge imposed under sub-subparagraph i., if ~~when~~ the
1687 remaining projected deficit incurred in a particular calendar
1688 year is not greater than 6 percent of the aggregate statewide
1689 direct written premium for the subject lines of business for the
1690 prior calendar year, the entire deficit shall be recovered
1691 through regular assessments of assessable insurers under
1692 paragraph (p) and assessable insureds.

1693 b. After accounting for the Citizens policyholder
1694 surcharge imposed under sub-subparagraph i., when the remaining
1695 projected deficit incurred in a particular calendar year exceeds
1696 6 percent of the aggregate statewide direct written premium for
1697 the subject lines of business for the prior calendar year, the
1698 corporation shall levy regular assessments on assessable
1699 insurers under paragraph (q) ~~(p)~~ and on assessable insureds in
1700 an amount equal to the greater of 6 percent of the deficit or 6
1701 percent of the aggregate statewide direct written premium for
1702 the subject lines of business for the prior calendar year. Any

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1703 remaining deficit shall be recovered through emergency
1704 assessments under sub-subparagraph d.

1705 c. Each assessable insurer's share of the amount being
1706 assessed under sub-subparagraph a. or sub-subparagraph b. must
1707 ~~shall~~ be in the proportion that the assessable insurer's direct
1708 written premium for the subject lines of business for the year
1709 preceding the assessment bears to the aggregate statewide direct
1710 written premium for the subject lines of business for that year.
1711 The assessment percentage applicable to each assessable insured
1712 is the ratio of the amount being assessed under sub-subparagraph
1713 a. or sub-subparagraph b. to the aggregate statewide direct
1714 written premium for the subject lines of business for the prior
1715 year. Assessments levied by the corporation on assessable
1716 insurers under sub-subparagraphs a. and b. shall be paid as
1717 required by the corporation's plan of operation and paragraph
1718 (q) ~~(p)~~. Assessments levied by the corporation on assessable
1719 insureds under sub-subparagraphs a. and b. shall be collected by
1720 the surplus lines agent at the time the surplus lines agent
1721 collects the surplus lines tax required by s. 626.932 and ~~shall~~
1722 ~~be~~ paid to the Florida Surplus Lines Service Office at the time
1723 the surplus lines agent pays the surplus lines tax to the
1724 Florida Surplus Lines Service Office. Upon receipt of regular
1725 assessments from surplus lines agents, the Florida Surplus Lines
1726 Service Office shall transfer the assessments directly to the
1727 corporation as determined by the corporation.

1728 d. Upon a determination by the board of governors that a
1729 deficit in an account exceeds the amount that will be recovered
1730 through regular assessments under sub-subparagraph a. or sub-
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1731 subparagraph b., plus the amount that is expected to be
1732 recovered through surcharges under sub-subparagraph i., ~~as to~~
1733 ~~the remaining projected deficit~~ the board shall levy, after
1734 verification by the office, emergency assessments, for as many
1735 years as necessary to cover the deficits, to be collected by
1736 assessable insurers and the corporation and collected from
1737 assessable insureds upon issuance or renewal of policies for
1738 subject lines of business, excluding National Flood Insurance
1739 policies. The amount of the emergency assessment collected in a
1740 particular year shall be a uniform percentage of that year's
1741 direct written premium for subject lines of business and all
1742 accounts of the corporation, excluding National Flood Insurance
1743 Program policy premiums, as annually determined by the board and
1744 verified by the office. The office shall verify the arithmetic
1745 calculations involved in the board's determination within 30
1746 days after receipt of the information on which the determination
1747 was based. Notwithstanding any other provision of law, the
1748 corporation and each assessable insurer that writes subject
1749 lines of business shall collect emergency assessments from its
1750 policyholders without such obligation being affected by any
1751 credit, limitation, exemption, or deferment. Emergency
1752 assessments levied by the corporation on assessable insureds
1753 shall be collected by the surplus lines agent at the time the
1754 surplus lines agent collects the surplus lines tax required by
1755 s. 626.932 and shall be paid to the Florida Surplus Lines
1756 Service Office at the time the surplus lines agent pays the
1757 surplus lines tax to the Florida Surplus Lines Service Office.
1758 The emergency assessments ~~so~~ collected shall be transferred

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1759 directly to the corporation on a periodic basis as determined by
1760 the corporation and ~~shall be~~ held by the corporation solely in
1761 the applicable account. The aggregate amount of emergency
1762 assessments levied for an account under this sub-subparagraph in
1763 any calendar year may, at the discretion of the board of
1764 governors, be less than but may not exceed the greater of 10
1765 percent of the amount needed to cover the deficit, plus
1766 interest, fees, commissions, required reserves, and other costs
1767 associated with financing of the original deficit, or 10 percent
1768 of the aggregate statewide direct written premium for subject
1769 lines of business and for all accounts of the corporation for
1770 the prior year, plus interest, fees, commissions, required
1771 reserves, and other costs associated with financing the deficit.

1772 e. The corporation may pledge the proceeds of assessments,
1773 projected recoveries from the Florida Hurricane Catastrophe
1774 Fund, other insurance and reinsurance recoverables, policyholder
1775 surcharges and other surcharges, and other funds available to
1776 the corporation as the source of revenue for and to secure bonds
1777 issued under paragraph (p), bonds or other indebtedness issued
1778 under subparagraph (c)3., or lines of credit or other financing
1779 mechanisms issued or created under this subsection, or to retire
1780 any other debt incurred as a result of deficits or events giving
1781 rise to deficits, or in any other way that the board determines
1782 will efficiently recover such deficits. The purpose of the lines
1783 of credit or other financing mechanisms is to provide additional
1784 resources to assist the corporation in covering claims and
1785 expenses attributable to a catastrophe. As used in this
1786 subsection, the term "assessments" includes regular assessments

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1787 under sub-subparagraph a., sub-subparagraph b., or subparagraph
1788 (p)1. and emergency assessments under sub-subparagraph d.
1789 Emergency assessments collected under sub-subparagraph d. are
1790 not part of an insurer's rates, are not premium, and are not
1791 subject to premium tax, fees, or commissions; however, failure
1792 to pay the emergency assessment shall be treated as failure to
1793 pay premium. The emergency assessments under sub-subparagraph d.
1794 shall continue as long as any bonds issued or other indebtedness
1795 incurred with respect to a deficit for which the assessment was
1796 imposed remain outstanding, unless adequate provision has been
1797 made for the payment of such bonds or other indebtedness
1798 pursuant to the documents governing such bonds or other
1799 indebtedness.

1800 f. As used in this subsection for purposes of any deficit
1801 incurred on or after January 25, 2007, the term "subject lines
1802 of business" means insurance written by assessable insurers or
1803 procured by assessable insureds for all property and casualty
1804 lines of business in this state, but not including workers'
1805 compensation or medical malpractice. As used in the sub-
1806 subparagraph, the term "property and casualty lines of business"
1807 includes all lines of business identified on Form 2, Exhibit of
1808 Premiums and Losses, in the annual statement required of
1809 authorized insurers by s. 624.424 and any rule adopted under
1810 this section, except for those lines identified as accident and
1811 health insurance and except for policies written under the
1812 National Flood Insurance Program or the Federal Crop Insurance
1813 Program. For purposes of this sub-subparagraph, the term

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1814 "workers' compensation" includes both workers' compensation
1815 insurance and excess workers' compensation insurance.

1816 g. The Florida Surplus Lines Service Office shall
1817 determine annually the aggregate statewide written premium in
1818 subject lines of business procured by assessable insureds and
1819 shall report that information to the corporation in a form and
1820 at a time the corporation specifies to ensure that the
1821 corporation can meet the requirements of this subsection and the
1822 corporation's financing obligations.

1823 h. The Florida Surplus Lines Service Office shall verify
1824 the proper application by surplus lines agents of assessment
1825 percentages for regular assessments and emergency assessments
1826 levied under this subparagraph on assessable insureds and shall
1827 assist the corporation in ensuring the accurate, timely
1828 collection and payment of assessments by surplus lines agents as
1829 required by the corporation.

1830 i. (I) If a deficit is incurred in any account in 2008 or
1831 thereafter, the board of governors shall levy a Citizens
1832 policyholder surcharge against all policyholders of the
1833 corporation.

1834 (II) The policyholder's liability for the Citizens
1835 policyholder surcharge attaches on the date of the event giving
1836 rise to an order levying the surcharge or the date of the order,
1837 whichever is earlier. The Citizens policyholder surcharge is
1838 payable upon cancellation or termination of the policy, upon
1839 renewal of the policy, or upon issuance of a new policy by
1840 Citizens within the first 12 months after the date of the levy

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1841 or the period of time necessary to fully collect the Citizens
1842 policyholder surcharge amount.

1843 (III) The Citizens policyholder surcharge for a 12-month
1844 period, which shall be levied collected at the time of issuance
1845 or renewal of a policy, as a uniform percentage of the premium
1846 for the policy of up to 15 percent of such premium, which funds
1847 shall be used to offset the deficit.

1848 (IV) The corporation may not levy any regular assessments
1849 under sub-subparagraph a. or sub-subparagraph b. with respect to
1850 a particular year's deficit until the corporation has first
1851 levied a Citizens policyholder surcharge under this sub-
1852 subparagraph in the full amount authorized by this sub-
1853 subparagraph.

1854 (V) Citizens policyholder surcharges under this sub-
1855 subparagraph are not considered premium and are not subject to
1856 commissions, fees, or premium taxes. However, failure to pay
1857 such surcharges shall be treated as failure to pay premium.

1858 j. If the amount of any assessments or surcharges
1859 collected from corporation policyholders, assessable insurers or
1860 their policyholders, or assessable insureds exceeds the amount
1861 of the deficits, such excess amounts shall be remitted to and
1862 retained by the corporation in a reserve to be used by the
1863 corporation, as determined by the board of governors and
1864 approved by the office, to pay claims or reduce any past,
1865 present, or future plan-year deficits or to reduce outstanding
1866 debt.

1867 (c) The plan of operation of the corporation:

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1868 1. Must provide for adoption of residential property and
1869 casualty insurance policy forms and commercial residential and
1870 nonresidential property insurance forms, which forms must be
1871 approved by the office prior to use. The corporation shall adopt
1872 the following policy forms:

1873 a. Standard personal lines policy forms that are
1874 comprehensive multiperil policies providing full coverage of a
1875 residential property equivalent to the coverage provided in the
1876 private insurance market under an HO-3, HO-4, or HO-6 policy.

1877 b. Basic personal lines policy forms that are policies
1878 similar to an HO-8 policy or a dwelling fire policy that provide
1879 coverage meeting the requirements of the secondary mortgage
1880 market, but which coverage is more limited than the coverage
1881 under a standard policy.

1882 c. Commercial lines residential and nonresidential policy
1883 forms that are generally similar to the basic perils of full
1884 coverage obtainable for commercial residential structures and
1885 commercial nonresidential structures in the admitted voluntary
1886 market.

1887 d. Personal lines and commercial lines residential
1888 property insurance forms that cover the peril of wind only. The
1889 forms are applicable only to residential properties located in
1890 areas eligible for coverage under the coastal ~~high-risk~~ account
1891 referred to in sub-subparagraph (b)2.a.

1892 e. Commercial lines nonresidential property insurance
1893 forms that cover the peril of wind only. The forms are
1894 applicable only to nonresidential properties located in areas

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1895 eligible for coverage under the coastal ~~high-risk~~ account
1896 referred to in sub-subparagraph (b)2.a.

1897 f. The corporation may adopt variations of the policy
1898 forms listed in sub-subparagraphs a.-e. that contain more
1899 restrictive coverage.

1900 2.a. Must provide that the corporation adopt a program in
1901 which the corporation and authorized insurers enter into quota
1902 share primary insurance agreements for hurricane coverage, as
1903 defined in s. 627.4025(2) (a), for eligible risks, and adopt
1904 property insurance forms for eligible risks which cover the
1905 peril of wind only. As used in this subsection, the term:

1906 (I) "Quota share primary insurance" means an arrangement
1907 in which the primary hurricane coverage of an eligible risk is
1908 provided in specified percentages by the corporation and an
1909 authorized insurer. The corporation and authorized insurer are
1910 each solely responsible for a specified percentage of hurricane
1911 coverage of an eligible risk as set forth in a quota share
1912 primary insurance agreement between the corporation and an
1913 authorized insurer and the insurance contract. The
1914 responsibility of the corporation or authorized insurer to pay
1915 its specified percentage of hurricane losses of an eligible
1916 risk, as set forth in the quota share primary insurance
1917 agreement, may not be altered by the inability of the other
1918 party to the agreement to pay its specified percentage of
1919 hurricane losses. Eligible risks that are provided hurricane
1920 coverage through a quota share primary insurance arrangement
1921 must be provided policy forms that set forth the obligations of
1922 the corporation and authorized insurer under the arrangement,
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1923 clearly specify the percentages of quota share primary insurance
1924 provided by the corporation and authorized insurer, and
1925 conspicuously and clearly state that neither the authorized
1926 insurer nor the corporation may be held responsible beyond its
1927 specified percentage of coverage of hurricane losses.

1928 (II) "Eligible risks" means personal lines residential and
1929 commercial lines residential risks that meet the underwriting
1930 criteria of the corporation and are located in areas that were
1931 eligible for coverage by the Florida Windstorm Underwriting
1932 Association on January 1, 2002.

1933 b. The corporation may enter into quota share primary
1934 insurance agreements with authorized insurers at corporation
1935 coverage levels of 90 percent and 50 percent.

1936 c. If the corporation determines that additional coverage
1937 levels are necessary to maximize participation in quota share
1938 primary insurance agreements by authorized insurers, the
1939 corporation may establish additional coverage levels. However,
1940 the corporation's quota share primary insurance coverage level
1941 may not exceed 90 percent.

1942 d. Any quota share primary insurance agreement entered
1943 into between an authorized insurer and the corporation must
1944 provide for a uniform specified percentage of coverage of
1945 hurricane losses, by county or territory as set forth by the
1946 corporation board, for all eligible risks of the authorized
1947 insurer covered under the quota share primary insurance
1948 agreement.

1949 e. Any quota share primary insurance agreement entered
1950 into between an authorized insurer and the corporation is

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1951 subject to review and approval by the office. However, such
1952 agreement shall be authorized only as to insurance contracts
1953 entered into between an authorized insurer and an insured who is
1954 already insured by the corporation for wind coverage.

1955 f. For all eligible risks covered under quota share
1956 primary insurance agreements, the exposure and coverage levels
1957 for both the corporation and authorized insurers shall be
1958 reported by the corporation to the Florida Hurricane Catastrophe
1959 Fund. For all policies of eligible risks covered under quota
1960 share primary insurance agreements, the corporation and the
1961 authorized insurer shall maintain complete and accurate records
1962 for the purpose of exposure and loss reimbursement audits as
1963 required by Florida Hurricane Catastrophe Fund rules. The
1964 corporation and the authorized insurer shall each maintain
1965 duplicate copies of policy declaration pages and supporting
1966 claims documents.

1967 g. The corporation board shall establish in its plan of
1968 operation standards for quota share agreements which ensure that
1969 there is no discriminatory application among insurers as to the
1970 terms of quota share agreements, pricing of quota share
1971 agreements, incentive provisions if any, and consideration paid
1972 for servicing policies or adjusting claims.

1973 h. The quota share primary insurance agreement between the
1974 corporation and an authorized insurer must set forth the
1975 specific terms under which coverage is provided, including, but
1976 not limited to, the sale and servicing of policies issued under
1977 the agreement by the insurance agent of the authorized insurer
1978 producing the business, the reporting of information concerning
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1979 eligible risks, the payment of premium to the corporation, and
1980 arrangements for the adjustment and payment of hurricane claims
1981 incurred on eligible risks by the claims adjuster and personnel
1982 of the authorized insurer. Entering into a quota sharing
1983 insurance agreement between the corporation and an authorized
1984 insurer shall be voluntary and at the discretion of the
1985 authorized insurer.

1986 3. May provide that the corporation may employ or
1987 otherwise contract with individuals or other entities to provide
1988 administrative or professional services that may be appropriate
1989 to effectuate the plan. The corporation shall have the power to
1990 borrow funds, by issuing bonds or by incurring other
1991 indebtedness, and shall have other powers reasonably necessary
1992 to effectuate the requirements of this subsection, including,
1993 without limitation, the power to issue bonds and incur other
1994 indebtedness in order to refinance outstanding bonds or other
1995 indebtedness. The corporation may, but is not required to, seek
1996 judicial validation of its bonds or other indebtedness under
1997 chapter 75. The corporation may issue bonds or incur other
1998 indebtedness, or have bonds issued on its behalf by a unit of
1999 local government pursuant to subparagraph (p)2., in the absence
2000 of a hurricane or other weather-related event, upon a
2001 determination by the corporation, subject to approval by the
2002 office, that such action would enable it to efficiently meet the
2003 financial obligations of the corporation and that such
2004 financings are reasonably necessary to effectuate the
2005 requirements of this subsection. The corporation is authorized
2006 to take all actions needed to facilitate tax-free status for any
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2007 such bonds or indebtedness, including formation of trusts or
2008 other affiliated entities. The corporation shall have the
2009 authority to pledge assessments, projected recoveries from the
2010 Florida Hurricane Catastrophe Fund, other reinsurance
2011 recoverables, market equalization and other surcharges, and
2012 other funds available to the corporation as security for bonds
2013 or other indebtedness. In recognition of s. 10, Art. I of the
2014 State Constitution, prohibiting the impairment of obligations of
2015 contracts, it is the intent of the Legislature that no action be
2016 taken whose purpose is to impair any bond indenture or financing
2017 agreement or any revenue source committed by contract to such
2018 bond or other indebtedness.

2019 4.a. Must require that the corporation operate subject to
2020 the supervision and approval of a board of governors consisting
2021 of eight individuals who are residents of this state, from
2022 different geographical areas of this state. The Governor, the
2023 Chief Financial Officer, the President of the Senate, and the
2024 Speaker of the House of Representatives shall each appoint two
2025 members of the board. At least one of the two members appointed
2026 by each appointing officer must have demonstrated expertise in
2027 insurance, and is deemed to be within the scope of the exemption
2028 provided in s. 112.313(7) (b). The Chief Financial Officer shall
2029 designate one of the appointees as chair. All board members
2030 serve at the pleasure of the appointing officer. All members of
2031 the board of governors are subject to removal at will by the
2032 officers who appointed them. All board members, including the
2033 chair, must be appointed to serve for 3-year terms beginning
2034 annually on a date designated by the plan. However, for the

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2035 first term beginning on or after July 1, 2009, each appointing
2036 officer shall appoint one member of the board for a 2-year term
2037 and one member for a 3-year term. Any board vacancy shall be
2038 filled for the unexpired term by the appointing officer. The
2039 Chief Financial Officer shall appoint a technical advisory group
2040 to provide information and advice to the board of governors in
2041 connection with the board's duties under this subsection. The
2042 executive director and senior managers of the corporation shall
2043 be engaged by the board and serve at the pleasure of the board.
2044 Any executive director appointed on or after July 1, 2006, is
2045 subject to confirmation by the Senate. The executive director is
2046 responsible for employing other staff as the corporation may
2047 require, subject to review and concurrence by the board.

2048 b. The board shall create a Market Accountability Advisory
2049 Committee to assist the corporation in developing awareness of
2050 its rates and its customer and agent service levels in
2051 relationship to the voluntary market insurers writing similar
2052 coverage. The members of the advisory committee shall consist of
2053 the following 11 persons, one of whom must be elected chair by
2054 the members of the committee: four representatives, one
2055 appointed by the Florida Association of Insurance Agents, one by
2056 the Florida Association of Insurance and Financial Advisors, one
2057 by the Professional Insurance Agents of Florida, and one by the
2058 Latin American Association of Insurance Agencies; three
2059 representatives appointed by the insurers with the three highest
2060 voluntary market share of residential property insurance
2061 business in the state; one representative from the Office of
2062 Insurance Regulation; one consumer appointed by the board who is
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2063 insured by the corporation at the time of appointment to the
2064 committee; one representative appointed by the Florida
2065 Association of Realtors; and one representative appointed by the
2066 Florida Bankers Association. All members must serve for 3-year
2067 terms and may serve for consecutive terms. The committee shall
2068 report to the corporation at each board meeting on insurance
2069 market issues which may include rates and rate competition with
2070 the voluntary market; service, including policy issuance, claims
2071 processing, and general responsiveness to policyholders,
2072 applicants, and agents; and matters relating to depopulation.

2073 5. Must provide a procedure for determining the
2074 eligibility of a risk for coverage, as follows:

2075 a. Subject to the provisions of s. 627.3517, with respect
2076 to personal lines residential risks, if the risk is offered
2077 coverage from an authorized insurer at the insurer's approved
2078 rate under either a standard policy including wind coverage or,
2079 if consistent with the insurer's underwriting rules as filed
2080 with the office, a basic policy including wind coverage, for a
2081 new application to the corporation for coverage, the risk is not
2082 eligible for any policy issued by the corporation unless the
2083 premium for coverage from the authorized insurer is more than 15
2084 percent greater than the premium for comparable coverage from
2085 the corporation. If the risk is not able to obtain any such
2086 offer, the risk is eligible for either a standard policy
2087 including wind coverage or a basic policy including wind
2088 coverage issued by the corporation; however, if the risk could
2089 not be insured under a standard policy including wind coverage
2090 regardless of market conditions, the risk shall be eligible for
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2091 a basic policy including wind coverage unless rejected under
2092 subparagraph 8. However, with regard to a policyholder of the
2093 corporation or a policyholder removed from the corporation
2094 through an assumption agreement until the end of the assumption
2095 period, the policyholder remains eligible for coverage from the
2096 corporation regardless of any offer of coverage from an
2097 authorized insurer or surplus lines insurer. The corporation
2098 shall determine the type of policy to be provided on the basis
2099 of objective standards specified in the underwriting manual and
2100 based on generally accepted underwriting practices.

2101 (I) If the risk accepts an offer of coverage through the
2102 market assistance plan or an offer of coverage through a
2103 mechanism established by the corporation before a policy is
2104 issued to the risk by the corporation or during the first 30
2105 days of coverage by the corporation, and the producing agent who
2106 submitted the application to the plan or to the corporation is
2107 not currently appointed by the insurer, the insurer shall:

2108 (A) Pay to the producing agent of record of the policy,
2109 for the first year, an amount that is the greater of the
2110 insurer's usual and customary commission for the type of policy
2111 written or a fee equal to the usual and customary commission of
2112 the corporation; or

2113 (B) Offer to allow the producing agent of record of the
2114 policy to continue servicing the policy for a period of not less
2115 than 1 year and offer to pay the agent the greater of the
2116 insurer's or the corporation's usual and customary commission
2117 for the type of policy written.

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2119 If the producing agent is unwilling or unable to accept
2120 appointment, the new insurer shall pay the agent in accordance
2121 with sub-sub-sub-subparagraph (A).

2122 (II) When the corporation enters into a contractual
2123 agreement for a take-out plan, the producing agent of record of
2124 the corporation policy is entitled to retain any unearned
2125 commission on the policy, and the insurer shall:

2126 (A) Pay to the producing agent of record of the
2127 corporation policy, for the first year, an amount that is the
2128 greater of the insurer's usual and customary commission for the
2129 type of policy written or a fee equal to the usual and customary
2130 commission of the corporation; or

2131 (B) Offer to allow the producing agent of record of the
2132 corporation policy to continue servicing the policy for a period
2133 of not less than 1 year and offer to pay the agent the greater
2134 of the insurer's or the corporation's usual and customary
2135 commission for the type of policy written.

2136

2137 If the producing agent is unwilling or unable to accept
2138 appointment, the new insurer shall pay the agent in accordance
2139 with sub-sub-sub-subparagraph (A).

2140 b. With respect to commercial lines residential risks, for
2141 a new application to the corporation for coverage, if the risk
2142 is offered coverage under a policy including wind coverage from
2143 an authorized insurer at its approved rate, the risk is not
2144 eligible for any policy issued by the corporation unless the
2145 premium for coverage from the authorized insurer is more than 15
2146 percent greater than the premium for comparable coverage from
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2147 the corporation. If the risk is not able to obtain any such
2148 offer, the risk is eligible for a policy including wind coverage
2149 issued by the corporation. However, with regard to a
2150 policyholder of the corporation or a policyholder removed from
2151 the corporation through an assumption agreement until the end of
2152 the assumption period, the policyholder remains eligible for
2153 coverage from the corporation regardless of any offer of
2154 coverage from an authorized insurer or surplus lines insurer.

2155 (I) If the risk accepts an offer of coverage through the
2156 market assistance plan or an offer of coverage through a
2157 mechanism established by the corporation before a policy is
2158 issued to the risk by the corporation or during the first 30
2159 days of coverage by the corporation, and the producing agent who
2160 submitted the application to the plan or the corporation is not
2161 currently appointed by the insurer, the insurer shall:

2162 (A) Pay to the producing agent of record of the policy,
2163 for the first year, an amount that is the greater of the
2164 insurer's usual and customary commission for the type of policy
2165 written or a fee equal to the usual and customary commission of
2166 the corporation; or

2167 (B) Offer to allow the producing agent of record of the
2168 policy to continue servicing the policy for a period of not less
2169 than 1 year and offer to pay the agent the greater of the
2170 insurer's or the corporation's usual and customary commission
2171 for the type of policy written.

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2173 If the producing agent is unwilling or unable to accept
2174 appointment, the new insurer shall pay the agent in accordance
2175 with sub-sub-sub-subparagraph (A).

2176 (II) When the corporation enters into a contractual
2177 agreement for a take-out plan, the producing agent of record of
2178 the corporation policy is entitled to retain any unearned
2179 commission on the policy, and the insurer shall:

2180 (A) Pay to the producing agent of record of the
2181 corporation policy, for the first year, an amount that is the
2182 greater of the insurer's usual and customary commission for the
2183 type of policy written or a fee equal to the usual and customary
2184 commission of the corporation; or

2185 (B) Offer to allow the producing agent of record of the
2186 corporation policy to continue servicing the policy for a period
2187 of not less than 1 year and offer to pay the agent the greater
2188 of the insurer's or the corporation's usual and customary
2189 commission for the type of policy written.

2190
2191 If the producing agent is unwilling or unable to accept
2192 appointment, the new insurer shall pay the agent in accordance
2193 with sub-sub-sub-subparagraph (A).

2194 c. For purposes of determining comparable coverage under
2195 sub-subparagraphs a. and b., the comparison shall be based on
2196 those forms and coverages that are reasonably comparable. The
2197 corporation may rely on a determination of comparable coverage
2198 and premium made by the producing agent who submits the
2199 application to the corporation, made in the agent's capacity as
2200 the corporation's agent. A comparison may be made solely of the
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2201 premium with respect to the main building or structure only on
2202 the following basis: the same coverage A or other building
2203 limits; the same percentage hurricane deductible that applies on
2204 an annual basis or that applies to each hurricane for commercial
2205 residential property; the same percentage of ordinance and law
2206 coverage, if the same limit is offered by both the corporation
2207 and the authorized insurer; the same mitigation credits, to the
2208 extent the same types of credits are offered both by the
2209 corporation and the authorized insurer; the same method for loss
2210 payment, such as replacement cost or actual cash value, if the
2211 same method is offered both by the corporation and the
2212 authorized insurer in accordance with underwriting rules; and
2213 any other form or coverage that is reasonably comparable as
2214 determined by the board. If an application is submitted to the
2215 corporation for wind-only coverage in the coastal ~~high-risk~~
2216 account, the premium for the corporation's wind-only policy plus
2217 the premium for the ex-wind policy that is offered by an
2218 authorized insurer to the applicant shall be compared to the
2219 premium for multiperil coverage offered by an authorized
2220 insurer, subject to the standards for comparison specified in
2221 this subparagraph. If the corporation or the applicant requests
2222 from the authorized insurer a breakdown of the premium of the
2223 offer by types of coverage so that a comparison may be made by
2224 the corporation or its agent and the authorized insurer refuses
2225 or is unable to provide such information, the corporation may
2226 treat the offer as not being an offer of coverage from an
2227 authorized insurer at the insurer's approved rate.

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2228 6. Must include rules for classifications of risks and
2229 rates therefor.

2230 7. Must provide that if premium and investment income for
2231 an account attributable to a particular calendar year are in
2232 excess of projected losses and expenses for the account
2233 attributable to that year, such excess shall be held in surplus
2234 in the account. Such surplus shall be available to defray
2235 deficits in that account as to future years and shall be used
2236 for that purpose prior to assessing assessable insurers and
2237 assessable insureds as to any calendar year.

2238 8. Must provide objective criteria and procedures to be
2239 uniformly applied for all applicants in determining whether an
2240 individual risk is so hazardous as to be uninsurable. In making
2241 this determination and in establishing the criteria and
2242 procedures, the following shall be considered:

2243 a. Whether the likelihood of a loss for the individual
2244 risk is substantially higher than for other risks of the same
2245 class; and

2246 b. Whether the uncertainty associated with the individual
2247 risk is such that an appropriate premium cannot be determined.

2248
2249 The acceptance or rejection of a risk by the corporation shall
2250 be construed as the private placement of insurance, and the
2251 provisions of chapter 120 shall not apply.

2252 9. Must provide that the corporation shall make its best
2253 efforts to procure catastrophe reinsurance at reasonable rates,
2254 to cover its projected 100-year probable maximum loss as
2255 determined by the board of governors.

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2256 10. The policies issued by the corporation must provide
2257 that, if the corporation or the market assistance plan obtains
2258 an offer from an authorized insurer to cover the risk at its
2259 approved rates, the risk is no longer eligible for renewal
2260 through the corporation, except as otherwise provided in this
2261 subsection.

2262 11. Corporation policies and applications must include a
2263 notice that the corporation policy could, under this section, be
2264 replaced with a policy issued by an authorized insurer that does
2265 not provide coverage identical to the coverage provided by the
2266 corporation. The notice shall also specify that acceptance of
2267 corporation coverage creates a conclusive presumption that the
2268 applicant or policyholder is aware of this potential.

2269 12. May establish, subject to approval by the office,
2270 different eligibility requirements and operational procedures
2271 for any line or type of coverage for any specified county or
2272 area if the board determines that such changes to the
2273 eligibility requirements and operational procedures are
2274 justified due to the voluntary market being sufficiently stable
2275 and competitive in such area or for such line or type of
2276 coverage and that consumers who, in good faith, are unable to
2277 obtain insurance through the voluntary market through ordinary
2278 methods would continue to have access to coverage from the
2279 corporation. When coverage is sought in connection with a real
2280 property transfer, such requirements and procedures shall not
2281 provide for an effective date of coverage later than the date of
2282 the closing of the transfer as established by the transferor,
2283 the transferee, and, if applicable, the lender.

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2284 13. Must provide that, with respect to the coastal ~~high-~~
2285 ~~risk~~ account, any assessable insurer with a surplus as to
2286 policyholders of \$25 million or less writing 25 percent or more
2287 of its total countrywide property insurance premiums in this
2288 state may petition the office, within the first 90 days of each
2289 calendar year, to qualify as a limited apportionment company. A
2290 regular assessment levied by the corporation on a limited
2291 apportionment company for a deficit incurred by the corporation
2292 for the coastal ~~high-risk~~ account in 2006 or thereafter may be
2293 paid to the corporation on a monthly basis as the assessments
2294 are collected by the limited apportionment company from its
2295 insureds pursuant to s. 627.3512, but the regular assessment
2296 must be paid in full within 12 months after being levied by the
2297 corporation. A limited apportionment company shall collect from
2298 its policyholders any emergency assessment imposed under sub-
2299 subparagraph (b)3.d. The plan shall provide that, if the office
2300 determines that any regular assessment will result in an
2301 impairment of the surplus of a limited apportionment company,
2302 the office may direct that all or part of such assessment be
2303 deferred as provided in subparagraph (p)4. However, there shall
2304 be no limitation or deferment of an emergency assessment to be
2305 collected from policyholders under sub-subparagraph (b)3.d.

2306 14. Must provide that the corporation appoint as its
2307 licensed agents only those agents who also hold an appointment
2308 as defined in s. 626.015(3) with an insurer who at the time of
2309 the agent's initial appointment by the corporation is authorized
2310 to write and is actually writing personal lines residential

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2311 property coverage, commercial residential property coverage, or
2312 commercial nonresidential property coverage within the state.

2313 15. Must provide, by July 1, 2007, a premium payment plan
2314 option to its policyholders which allows at a minimum for
2315 quarterly and semiannual payment of premiums. A monthly payment
2316 plan may, but is not required to, be offered.

2317 16. Must limit coverage on mobile homes or manufactured
2318 homes built prior to 1994 to actual cash value of the dwelling
2319 rather than replacement costs of the dwelling.

2320 17. May provide such limits of coverage as the board
2321 determines, consistent with the requirements of this subsection.

2322 18. May require commercial property to meet specified
2323 hurricane mitigation construction features as a condition of
2324 eligibility for coverage.

2325 (d)1. All prospective employees for senior management
2326 positions, as defined by the plan of operation, are subject to
2327 background checks as a prerequisite for employment. The office
2328 shall conduct background checks on such prospective employees
2329 pursuant to ss. 624.34, 624.404(3), and 628.261.

2330 2. On or before July 1 of each year, employees of the
2331 corporation are required to sign and submit a statement
2332 attesting that they do not have a conflict of interest, as
2333 defined in part III of chapter 112. As a condition of
2334 employment, all prospective employees are required to sign and
2335 submit to the corporation a conflict-of-interest statement.

2336 3. Senior managers and members of the board of governors
2337 are subject to ~~the provisions of~~ part III of chapter 112,
2338 including, but not limited to, the code of ethics and public
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2339 disclosure and reporting of financial interests, pursuant to s.
2340 112.3145. Notwithstanding s. 112.3143(2), a board member may not
2341 vote on any measure that would inure to his or her special
2342 private gain or loss; that he or she knows would inure to the
2343 special private gain or loss of any principal by whom he or she
2344 is retained or to the parent organization or subsidiary of a
2345 corporate principal by which he or she is retained, other than
2346 an agency as defined in s. 112.312; or that he or she knows
2347 would inure to the special private gain or loss of a relative or
2348 business associate of the public officer. Before the vote is
2349 taken, such member shall publicly state to the assembly the
2350 nature of the his or her interest in the matter from which he or
2351 she is abstaining from voting and, within 15 days after the vote
2352 occurs, disclose the nature of his or her interest as a public
2353 record in a memorandum filed with the person responsible for
2354 recording the minutes of the meeting, who shall incorporate the
2355 memorandum in the minutes. Senior managers and board members are
2356 also required to file such disclosures with the Commission on
2357 Ethics and the Office of Insurance Regulation. The executive
2358 director of the corporation or ~~his or her~~ designee shall notify
2359 each existing and newly appointed and ~~existing appointed~~ member
2360 of the board of governors and senior managers of their duty to
2361 comply with the reporting requirements of part III of chapter
2362 112. At least quarterly, the executive director or ~~his or her~~
2363 designee shall submit to the Commission on Ethics a list of
2364 names of the senior managers and members of the board of
2365 governors who are subject to the public disclosure requirements
2366 under s. 112.3145.

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2367 4. Notwithstanding s. 112.3148 or s. 112.3149, or any
2368 other provision of law, an employee or board member may not
2369 knowingly accept, directly or indirectly, any gift or
2370 expenditure from a person or entity, or an employee or
2371 representative of such person or entity, that has a contractual
2372 relationship with the corporation or who is under consideration
2373 for a contract. An employee or board member who fails to comply
2374 with subparagraph 3. or this subparagraph is subject to
2375 penalties provided under ss. 112.317 and 112.3173.

2376 5. Any senior manager of the corporation who is employed
2377 on or after January 1, 2007, regardless of the date of hire, who
2378 subsequently retires or terminates employment is prohibited from
2379 representing another person or entity before the corporation for
2380 2 years after retirement or termination of employment from the
2381 corporation.

2382 6. Any senior manager of the corporation who is employed
2383 on or after January 1, 2007, regardless of the date of hire, who
2384 subsequently retires or terminates employment is prohibited from
2385 having any employment or contractual relationship for 2 years
2386 with an insurer that has entered into a take-out bonus agreement
2387 with the corporation.

2388 (y) It is the intent of the Legislature that the
2389 amendments to this subsection enacted in 2002 should, over time,
2390 reduce the probable maximum windstorm losses in the residual
2391 markets and should reduce the potential assessments to be levied
2392 on property insurers and policyholders statewide. In furtherance
2393 of this intent:

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2394 1. The board shall, on or before February 1 of each year,
2395 provide a report to the President of the Senate and the Speaker
2396 of the House of Representatives showing the reduction or
2397 increase in the 100-year probable maximum loss attributable to
2398 wind-only coverages and the quota share program under this
2399 subsection combined, as compared to the benchmark 100-year
2400 probable maximum loss of the Florida Windstorm Underwriting
2401 Association. For purposes of this paragraph, the benchmark 100-
2402 year probable maximum loss of the Florida Windstorm Underwriting
2403 Association shall be the calculation dated February 2001 and
2404 based on November 30, 2000, exposures. In order to ensure
2405 comparability of data, the board shall use the same methods for
2406 calculating its probable maximum loss as were used to calculate
2407 the benchmark probable maximum loss.

2408 2. Beginning December 1, 2012 ~~2010~~, if the report under
2409 subparagraph 1. for any year indicates that the 100-year
2410 probable maximum loss attributable to wind-only coverages and
2411 the quota share program combined does not reflect a reduction of
2412 at least 25 percent from the benchmark, the board shall reduce
2413 the boundaries of the high-risk area eligible for wind-only
2414 coverages under this subsection in a manner calculated to reduce
2415 such probable maximum loss to an amount at least 25 percent
2416 below the benchmark.

2417 3. Beginning February 1, 2015, if the report under
2418 subparagraph 1. for any year indicates that the 100-year
2419 probable maximum loss attributable to wind-only coverages and
2420 the quota share program combined does not reflect a reduction of
2421 at least 50 percent from the benchmark, the boundaries of the
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2422 high-risk area eligible for wind-only coverages under this
2423 subsection shall be reduced by the elimination of any area that
2424 is not seaward of a line 1,000 feet inland from the Intracoastal
2425 Waterway.

2426 Section 18. The Division of Statutory Revision is directed
2427 to prepare a reviser's bill for introduction at the next regular
2428 session of the Legislature to change the term "high-risk
2429 account" to "coastal account" to conform the Florida Statutes to
2430 the amendment to s. 627.351(6)(b)2.a.(III), Florida Statutes,
2431 made by the this act.

2432 Section 19. Subsection (2) of section 627.4133, Florida
2433 Statutes, is amended to read:

2434 627.4133 Notice of cancellation, nonrenewal, or renewal
2435 premium.—

2436 (2) With respect to any personal lines or commercial
2437 residential property insurance policy, including, but not
2438 limited to, any homeowner's, mobile home owner's, farmowner's,
2439 condominium association, condominium unit owner's, apartment
2440 building, or other policy covering a residential structure or
2441 its contents:

2442 (a) The insurer shall give the named insured at least 45
2443 days' advance written notice of the renewal premium.

2444 (b) The insurer shall give the named insured written
2445 notice of nonrenewal, cancellation, or termination at least 100
2446 days before ~~prior to~~ the effective date of the nonrenewal,
2447 cancellation, or termination. However, the insurer shall give at
2448 least 100 days' written notice, or written notice by June 1,
2449 whichever is earlier, for any nonrenewal, cancellation, or

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2450 termination that would be effective between June 1 and November
2451 30. The notice must include the reason or reasons for the
2452 nonrenewal, cancellation, or termination, except that:

2453 1. The insurer must ~~shall~~ give the named insured written
2454 notice of nonrenewal, cancellation, or termination at least 180
2455 days before ~~prior to~~ the effective date of the nonrenewal,
2456 cancellation, or termination for a named insured whose
2457 residential structure has been insured by that insurer or an
2458 affiliated insurer for at least a 5-year period immediately
2459 prior to the date of the written notice.

2460 2. When cancellation is for nonpayment of premium, at
2461 least 10 days' written notice of cancellation accompanied by the
2462 reason therefor must ~~shall~~ be given. As used in this
2463 subparagraph, the term "nonpayment of premium" means failure of
2464 the named insured to discharge when due any of her or his
2465 obligations in connection with the payment of premiums on a
2466 policy or any installment of such premium, whether the premium
2467 is payable directly to the insurer or its agent or indirectly
2468 under any premium finance plan or extension of credit, or
2469 failure to maintain membership in an organization if such
2470 membership is a condition precedent to insurance coverage.

2471 "Nonpayment of premium" also means the failure of a financial
2472 institution to honor an insurance applicant's check after
2473 delivery to a licensed agent for payment of a premium, even if
2474 the agent has previously delivered or transferred the premium to
2475 the insurer. If a dishonored check represents the initial
2476 premium payment, the contract and all contractual obligations
2477 are ~~shall be~~ void ab initio unless the nonpayment is cured

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2478 within the earlier of 5 days after actual notice by certified
2479 mail is received by the applicant or 15 days after notice is
2480 sent to the applicant by certified mail or registered mail, and
2481 if the contract is void, any premium received by the insurer
2482 from a third party must ~~shall~~ be refunded to that party in full.

2483 3. When such cancellation or termination occurs during the
2484 first 90 days during which the insurance is in force and the
2485 insurance is canceled or terminated for reasons other than
2486 nonpayment of premium, at least 20 days' written notice of
2487 cancellation or termination accompanied by the reason therefor
2488 must ~~shall~~ be given except if ~~where~~ there has been a material
2489 misstatement or misrepresentation or failure to comply with the
2490 underwriting requirements established by the insurer.

2491 4. The requirement for providing written notice of
2492 nonrenewal by June 1 of any nonrenewal that would be effective
2493 between June 1 and November 30 does not apply to the following
2494 situations, but the insurer remains subject to the requirement
2495 to provide such notice at least 100 days before ~~prior to~~ the
2496 effective date of nonrenewal:

2497 a. A policy that is nonrenewed due to a revision in the
2498 coverage for sinkhole losses and catastrophic ground cover
2499 collapse pursuant to s. 627.706, ~~as amended by s. 30, chapter~~
2500 ~~2007-1, Laws of Florida.~~

2501 b. A policy that is nonrenewed by Citizens Property
2502 Insurance Corporation, pursuant to s. 627.351(6), for a policy
2503 that has been assumed by an authorized insurer offering
2504 replacement ~~or renewal~~ coverage to the policyholder is exempt
2505 from the notice requirements of paragraph (a) and this

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2506 paragraph. In such cases, Citizens Property Insurance
2507 Corporation shall give the named insured written notice of
2508 nonrenewal at least 45 days before the effective date of the
2509 nonrenewal.

2510
2511 After the policy has been in effect for 90 days, the policy may
2512 shall not be canceled by the insurer except if ~~when~~ there has
2513 been a material misstatement, a nonpayment of premium, a failure
2514 to comply with underwriting requirements established by the
2515 insurer within 90 days of the date of effectuation of coverage,
2516 or a substantial change in the risk covered by the policy or if
2517 ~~when~~ the cancellation is for all insureds under such policies
2518 for a given class of insureds. This paragraph does not apply to
2519 individually rated risks having a policy term of less than 90
2520 days.

2521 5. Notwithstanding any other provision of law, an insurer
2522 may cancel or nonrenew a property insurance policy upon a
2523 minimum of 45 days' notice if the office finds that the early
2524 cancellation of some or all of the insurer's policies is
2525 necessary to protect the best interests of the public or
2526 policyholders and the office approves the insurer's plan for
2527 early cancellation or nonrenewal of some or all of its policies.
2528 The office may base such a finding upon the financial condition
2529 of the insurer, lack of adequate reinsurance coverage for
2530 hurricane risk, or other relevant factors. The office may
2531 condition its finding on the consent of the insurer to be placed
2532 in administrative supervision pursuant to s. 624.81 or consent
2533 to the appointment of a receiver under chapter 631.

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2534 (c) If the insurer fails to provide the notice required by
2535 this subsection, other than the 10-day notice, the coverage
2536 provided to the named insured shall remain in effect until the
2537 effective date of replacement coverage or until the expiration
2538 of a period of days after the notice is given equal to the
2539 required notice period, whichever occurs first. The premium for
2540 the coverage shall remain the same during any such extension
2541 period except that, in the event of failure to provide notice of
2542 nonrenewal, if the rate filing then in effect would have
2543 resulted in a premium reduction, the premium during such
2544 extension must ~~shall~~ be calculated based on the later rate
2545 filing.

2546 (d)1. Upon a declaration of an emergency pursuant to s.
2547 252.36 and the filing of an order by the Commissioner of
2548 Insurance Regulation, an insurer may not cancel or nonrenew a
2549 personal residential or commercial residential property
2550 insurance policy covering a dwelling or residential property
2551 located in this state which has been damaged as a result of a
2552 hurricane or wind loss that is the subject of the declaration of
2553 emergency for a period of 90 days after the dwelling or
2554 residential property has been repaired. A structure is deemed to
2555 be repaired when substantially completed and restored to the
2556 extent that it is insurable by another authorized insurer that
2557 is writing policies in this state.

2558 2. However, an insurer or agent may cancel or nonrenew
2559 such a policy before ~~prior to~~ the repair of the dwelling or
2560 residential property:

2561 a. Upon 10 days' notice for nonpayment of premium; or
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2562 b. Upon 45 days' notice:

2563 (I) For a material misstatement or fraud related to the
2564 claim;

2565 (II) If the insurer determines that the insured has
2566 unreasonably caused a delay in the repair of the dwelling; or

2567 (III) If the insurer has paid policy limits.

2568 3. If the insurer elects to nonrenew a policy covering a
2569 property that has been damaged, the insurer shall provide at
2570 least 90 days' notice to the insured that the insurer intends to
2571 nonrenew the policy 90 days after the dwelling or residential
2572 property has been repaired. Nothing in this paragraph shall
2573 prevent the insurer from canceling or nonrenewing the policy 90
2574 days after the repairs are complete for the same reasons the
2575 insurer would otherwise have canceled or nonrenewed the policy
2576 but for the limitations of subparagraph 1. The Financial
2577 Services Commission may adopt rules, and the Commissioner of
2578 Insurance Regulation may issue orders, necessary to implement
2579 this paragraph.

2580 4. This paragraph ~~shall~~ also applies ~~apply~~ to personal
2581 residential and commercial residential policies covering
2582 property that was damaged as the result of Tropical Storm
2583 Bonnie, Hurricane Charley, Hurricane Frances, Hurricane Ivan, or
2584 Hurricane Jeanne.

2585 (e) If any cancellation or nonrenewal of a policy subject
2586 to this subsection is to take effect during the duration of a
2587 hurricane as defined in s. 627.4025(2)(c), the effective date of
2588 such cancellation or nonrenewal is extended until the end of the
2589 duration of such hurricane. The insurer may collect premium at
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2590 the prior rates or the rates then in effect for the period of
2591 time for which coverage is extended. This paragraph does not
2592 apply to any property with respect to which replacement coverage
2593 has been obtained and which is in effect for a claim occurring
2594 during the duration of the hurricane.

2595 Section 20. Section 627.43141, Florida Statutes, is
2596 created to read:

2597 627.43141 Notice of change in policy terms.-

2598 (1) As used in this section, the term:

2599 (a) "Change in policy terms" means the modification,
2600 addition, or deletion of any term, coverage, duty, or condition
2601 from the previous policy. The correction of typographical or
2602 scrivener's errors or the application of mandated legislative
2603 changes is not a change in policy terms.

2604 (b) "Policy" means a written contract of personal lines
2605 property and casualty insurance or a written agreement for
2606 personal lines property and casualty insurance, or the
2607 certificate of such insurance, by whatever name called, and
2608 includes all clauses, riders, endorsements, and papers that are
2609 a part of such policy. The term does not include a binder as
2610 defined in s. 627.420 unless the duration of the binder period
2611 exceeds 60 days.

2612 (c) "Renewal" means the issuance and delivery by an
2613 insurer of a policy superseding at the end of the policy period
2614 a policy previously issued and delivered by the same insurer or
2615 the issuance and delivery of a certificate or notice extending
2616 the term of a policy beyond its policy period or term. Any
2617 policy that has a policy period or term of less than 6 months or

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2618 any policy that does not have a fixed expiration date shall, for
2619 purposes of this section, be considered as written for
2620 successive policy periods or terms of 6 months.

2621 (2) A renewal policy may contain a change in policy terms.
2622 If a renewal policy contains a change in policy terms, the
2623 insurer shall give the named insured a written notice of the
2624 change in policy terms, which must be enclosed along with the
2625 written notice of renewal premium required by ss. 627.4133 and
2626 627.728. Such notice should be entitled "Notice of Change in
2627 Policy Terms."

2628 (3) Although not required, proof of mailing or registered
2629 mailing through the United States Postal Service of the Notice
2630 of Change in Policy Terms to the named insured at the address
2631 shown in the policy is sufficient proof of notice.

2632 (4) Receipt of payment of the premium for the renewal
2633 policy by the insurer is deemed to be acceptance of the new
2634 policy terms by the named insured.

2635 (5) If an insurer fails to provide the notice required in
2636 subsection (2), the original policy terms shall remain in effect
2637 until the next renewal and the proper service of the notice or
2638 until the effective date of replacement coverage obtained by the
2639 named insured, whichever occurs first.

2640 (6) The intent of this section is to:

2641 (a) Allow an insurer to make a change in policy terms
2642 without nonrenewing policyholders that the insurer wishes to
2643 continue insuring.

2644 (b) Alleviate concern and confusion to the policyholder
2645 caused by the required policy nonrenewal for the limited issue

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2646 when an insurer intends to renew the insurance policy but the
2647 new policy contains a change in policy terms.

2648 (c) Encourage policyholders to discuss their coverages
2649 with their insurance agents.

2650 Section 21. Subsections (1), (3), (4), and (5) of section
2651 627.7011, Florida Statutes, are amended to read:

2652 627.7011 Homeowners' policies; offer of replacement cost
2653 coverage and law and ordinance coverage.—

2654 (1) Before ~~Prior to~~ issuing or renewing a homeowner's
2655 insurance policy ~~on or after October 1, 2005, or prior to the~~
2656 ~~first renewal of a homeowner's insurance policy on or after~~
2657 ~~October 1, 2005,~~ the insurer must offer each of the following:

2658 (a) A policy or endorsement providing that any loss which
2659 is repaired or replaced will be adjusted on the basis of
2660 replacement costs not exceeding policy limits as to the
2661 dwelling, rather than actual cash value, but not including costs
2662 necessary to meet applicable laws and ordinances regulating the
2663 construction, use, or repair of any property or requiring the
2664 tearing down of any property, including the costs of removing
2665 debris.

2666 (b) A policy or endorsement providing that, subject to
2667 other policy provisions, any loss which is repaired or replaced
2668 at any location will be adjusted on the basis of replacement
2669 costs not exceeding policy limits as to the dwelling, rather
2670 than actual cash value, and also including costs necessary to
2671 meet applicable laws and ordinances regulating the construction,
2672 use, or repair of any property or requiring the tearing down of
2673 any property, including the costs of removing debris; however,

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2674 such additional costs necessary to meet applicable laws and
2675 ordinances may be limited to either 25 percent or 50 percent of
2676 the dwelling limit, as selected by the policyholder, and such
2677 coverage shall apply only to repairs of the damaged portion of
2678 the structure unless the total damage to the structure exceeds
2679 50 percent of the replacement cost of the structure.

2680
2681 An insurer is not required to make the offers required by this
2682 subsection with respect to the issuance or renewal of a
2683 homeowner's policy that contains the provisions specified in
2684 paragraph (b) for law and ordinance coverage limited to 25
2685 percent of the dwelling limit, except that the insurer must
2686 offer the law and ordinance coverage limited to 50 percent of
2687 the dwelling limit. This subsection does not prohibit the offer
2688 of a guaranteed replacement cost policy.

2689 (3) (a) If ~~In the event of~~ a loss occurs for which a
2690 dwelling ~~or personal property~~ is insured on the basis of
2691 replacement costs, the insurer shall initially pay at least the
2692 actual cash value of the insured loss, less any applicable
2693 deductible. In order to receive payment from an insurer under
2694 this paragraph, a policyholder must enter into a contract for
2695 the performance of building and structural repairs. The insurer
2696 shall pay any remaining amounts necessary to perform such
2697 repairs as work is performed and expenses are incurred. Other
2698 than incidental expenses to mitigate further damage, the insurer
2699 or any contractor or subcontractor may not require the
2700 policyholder to advance payment for such repairs or expenses.
2701 The insurer may waive the requirement for a contract under this

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2702 paragraph. If a total loss for a dwelling occurs, the insurer
2703 shall pay the replacement cost coverage without reservation of
2704 holdback of any depreciation in value ~~replacement cost without~~
2705 ~~reservation or holdback of any depreciation in value, whether or~~
2706 ~~not the insured replaces or repairs the dwelling or property.~~

2707 (b) If a loss occurs for which personal property is
2708 insured on the basis of replacement costs, the insurer may limit
2709 an initial payment to 50 percent of the replacement cost value
2710 of the personal property to be replaced, less any applicable
2711 deductible. An insurer may require an insured to provide the
2712 receipts for purchases of property financed by the initial 50-
2713 percent payment required by this paragraph, and the insurer
2714 shall use such receipts to make any remaining payments requested
2715 by the insured for the replacement of remaining insured personal
2716 property. If a total loss occurs, the insurer shall pay the
2717 replacement cost for content coverage without reservation or
2718 holdback of any depreciation in value. The insurer may not
2719 require the policyholder to advance payment for the replaced
2720 property. This paragraph may not be construed to impair the
2721 insured's ability to receive full replacement costs under the
2722 terms and conditions of the policy.

2723 (4) A ~~Any~~ homeowner's insurance policy ~~issued or renewed~~
2724 ~~on or after October 1, 2005,~~ must include in bold type no
2725 smaller than 18 points the following statement:

2726
2727 "LAW AND ORDINANCE COVERAGE IS AN IMPORTANT COVERAGE
2728 THAT YOU MAY WISH TO PURCHASE. YOU MAY ALSO NEED TO
2729 CONSIDER THE PURCHASE OF FLOOD INSURANCE FROM THE

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2730 NATIONAL FLOOD INSURANCE PROGRAM. WITHOUT THIS
2731 COVERAGE, YOU MAY HAVE UNCOVERED LOSSES. PLEASE
2732 DISCUSS THESE COVERAGES WITH YOUR INSURANCE AGENT."
2733

2734 The intent of this subsection is to encourage policyholders to
2735 purchase sufficient coverage to protect them in case events
2736 excluded from the standard homeowners policy, such as law and
2737 ordinance enforcement and flood, combine with covered events to
2738 produce damage or loss to the insured property. The intent is
2739 also to encourage policyholders to discuss these issues with
2740 their insurance agent.

2741 (5) ~~Nothing in~~ This section does not ~~shall be construed to~~
2742 apply to policies not considered to be "homeowners' policies,"
2743 as that term is commonly understood in the insurance industry.
2744 This section specifically does not apply to mobile home
2745 policies. ~~Nothing in~~ This section does not limit ~~shall be~~
2746 ~~construed as limiting~~ the ability of any insurer to reject or
2747 nonrenew any insured or applicant on the grounds that the
2748 structure does not meet underwriting criteria applicable to
2749 replacement cost or law and ordinance policies or for other
2750 lawful reasons.

2751 Section 22. Paragraph (a) of subsection (5) of section
2752 627.70131, Florida Statutes, is amended to read:

2753 627.70131 Insurer's duty to acknowledge communications
2754 regarding claims; investigation.-

2755 (5) (a) Within 90 days after an insurer receives notice of
2756 an initial, supplemental, or reopened a property insurance claim
2757 from a policyholder, the insurer shall pay or deny such claim or
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2758 a portion of the claim unless the failure to pay such claim or a
2759 portion of the claim is caused by factors beyond the control of
2760 the insurer which reasonably prevent such payment. Any payment
2761 of an initial, supplemental, or reopened a claim or portion of
2762 such a claim made paid 90 days after the insurer receives notice
2763 of the claim, or made paid more than 15 days after there are no
2764 longer factors beyond the control of the insurer which
2765 reasonably prevented such payment, whichever is later, shall
2766 bear interest at the rate set forth in s. 55.03. Interest begins
2767 to accrue from the date the insurer receives notice of the
2768 claim. The provisions of this subsection may not be waived,
2769 voided, or nullified by the terms of the insurance policy. If
2770 there is a right to prejudgment interest, the insured shall
2771 select whether to receive prejudgment interest or interest under
2772 this subsection. Interest is payable when the claim or portion
2773 of the claim is paid. Failure to comply with this subsection
2774 constitutes a violation of this code. However, failure to comply
2775 with this subsection shall not form the sole basis for a private
2776 cause of action.

2777 Section 23. Section 627.7015, Florida Statutes, is amended
2778 to read:

2779 627.7015 Alternative procedure for resolution of disputed
2780 property insurance claims.-

2781 (1) ~~PURPOSE AND SCOPE.~~ This section sets forth a
2782 nonadversarial alternative dispute resolution procedure for a
2783 mediated claim resolution conference prompted by the need for
2784 effective, fair, and timely handling of property insurance
2785 claims. There is a particular need for an informal,

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2786 nonthreatening forum for helping parties who elect this
2787 procedure to resolve their claims disputes because most
2788 homeowner's and commercial residential insurance policies
2789 obligate insureds to participate in a potentially expensive and
2790 time-consuming adversarial appraisal process before ~~prior to~~
2791 litigation. The procedure set forth in this section is designed
2792 to bring the parties together for a mediated claims settlement
2793 conference without any of the trappings or drawbacks of an
2794 adversarial process. Before resorting to these procedures,
2795 insureds and insurers are encouraged to resolve claims as
2796 quickly and fairly as possible. This section is available with
2797 respect to claims under personal lines and commercial
2798 residential policies for all claimants and insurers prior to
2799 commencing the appraisal process, or commencing litigation. If
2800 requested by the insured, participation by legal counsel shall
2801 be permitted. Mediation under this section is also available to
2802 litigants referred to the department by a county court or
2803 circuit court. This section does not apply to commercial
2804 coverages, to private passenger motor vehicle insurance
2805 coverages, or to disputes relating to liability coverages in
2806 policies of property insurance.

2807 (2) At the time a first-party claim dispute within the
2808 scope of this section is filed, the insurer shall notify all
2809 first-party claimants of their right to participate in the
2810 mediation program under this section. The department shall
2811 prepare a statement or information relating to the mediation
2812 program which an insurer must include in the notice. The content
2813 of the statement or information must be adopted by rule of the

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2814 ~~department consumer information pamphlet for distribution to~~
2815 ~~persons participating in mediation under this section.~~

2816 (3) The costs of mediation shall be reasonable, and the
2817 insurer shall bear all of the cost of conducting mediation
2818 conferences, except as otherwise provided in this section. If an
2819 insured fails to appear at the conference, the conference shall
2820 be rescheduled upon the insured's payment of the costs of a
2821 rescheduled conference. If the insurer fails to appear at the
2822 conference, the insurer shall pay the insured's actual cash
2823 expenses incurred in attending the conference if the insurer's
2824 failure to attend was not due to a good cause acceptable to the
2825 department. An insurer will be deemed to have failed to appear
2826 if the insurer's representative lacks authority to settle the
2827 full value of the claim. The insurer shall incur an additional
2828 fee for a rescheduled conference necessitated by the insurer's
2829 failure to appear at a scheduled conference. The fees assessed
2830 by the administrator shall include a charge necessary to defray
2831 the expenses of the department related to its duties under this
2832 section and shall be deposited in the Insurance Regulatory Trust
2833 Fund.

2834 (4) In a dispute over the cost to replace or repair
2835 insured property, the insurer and insured shall each provide
2836 documentation to the mediator which supports his or her estimate
2837 to repair or replace the property. The documentation must be
2838 provided before the beginning of the mediation conference. The
2839 insurer's documentation must include its reports or other
2840 evidence relating to the loss and show that the insurer's
2841 estimates were created in compliance with s. 626.9744(3). The

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2842 insured must submit quotes obtained from licensed contractors in
2843 the local market area, price quotes for products and materials,
2844 or other documentation specific to the loss which clearly
2845 documents the actual cost to repair or replace the property.

2846 (5)-(4) The department shall adopt by rule a property
2847 insurance mediation program to be administered by the department
2848 or its designee. The department may also adopt special rules
2849 that ~~which~~ are applicable in cases of an emergency within the
2850 state. The rules shall be modeled after practices and procedures
2851 set forth in mediation rules of procedure adopted by the Supreme
2852 Court. The rules shall provide for:

2853 (a) Reasonable requirement for processing and scheduling
2854 of requests for mediation.

2855 (b) Qualifications of mediators as provided in s. 627.745
2856 and in the Florida Rules of Certified and Court Appointed
2857 Mediators, and for such other individuals as are qualified by
2858 education, training, or experience as the department determines
2859 to be appropriate.

2860 (c) Provisions governing who may attend mediation
2861 conferences.

2862 (d) Selection of mediators.

2863 (e) Criteria for the conduct of mediation conferences.

2864 (f) Right to legal counsel.

2865 (g) The types of documentation required to be submitted
2866 during the mediation process.

2867 (6)-(5) All statements made and documents produced at a
2868 mediation conference shall be deemed to be settlement
2869 negotiations in anticipation of litigation within the scope of
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2870 s. 90.408. All parties to the mediation must negotiate in good
2871 faith and must have the authority to immediately settle the
2872 claim. Mediators are deemed to be agents of the department and
2873 shall have the immunity from suit provided in s. 44.107.

2874 ~~(7)-(6)~~ Mediation is nonbinding.~~†~~ However, if a written
2875 settlement is reached, the insured has 3 business days within
2876 which the insured may rescind the settlement unless the insured
2877 has cashed or deposited any check or draft disbursed to the
2878 insured for the disputed matters as a result of the conference.
2879 If a settlement agreement is reached and is not rescinded, it
2880 shall be binding and act as a release of all specific claims
2881 that were presented in that mediation conference.

2882 ~~(8)-(7)~~ If the insurer fails to comply with subsection (2)
2883 by failing to notify a first-party claimant of its right to
2884 participate in the mediation program under this section or if
2885 the insurer requests the mediation, and the mediation results
2886 are rejected by either party, the insured may ~~shall~~ not be
2887 required to submit to or participate in any contractual loss
2888 appraisal process of the property loss damage as a precondition
2889 to legal action for breach of contract against the insurer for
2890 its failure to pay the policyholder's claims covered by the
2891 policy.

2892 ~~(9)-(8)~~ The department may designate an entity or person to
2893 serve as administrator to carry out any of the provisions of
2894 this section and may take this action by means of a written
2895 contract or agreement.

2896 ~~(10)-(9)~~ As used in ~~For purposes of~~ this section, the term
2897 "claim dispute" refers to any dispute between an insurer and an
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2898 insured relating to a material issue of fact other than a
2899 dispute:

2900 (a) With respect to which the insurer has a reasonable
2901 basis to suspect fraud;

2902 (b) Where, based on agreed-upon facts as to the cause of
2903 loss, there is no coverage under the policy;

2904 (c) With respect to which the insurer has a reasonable
2905 basis to believe that the claimant has intentionally made a
2906 material misrepresentation of fact which is relevant to the
2907 claim, and the entire request for payment of a loss has been
2908 denied on the basis of the material misrepresentation; ~~or~~

2909 (d) With respect to which the amount in controversy is
2910 less than \$500, unless the parties agree to mediate a dispute
2911 involving a lesser amount; or-

2912 (e) With respect to which the date of loss occurred more
2913 than 5 years before the request for mediation, unless the
2914 parties agree to mediate a dispute involving a longer period.

2915 Section 24. Section 627.7065, Florida Statutes, is amended
2916 to read:

2917 627.7065 Database of information relating to sinkholes;
2918 the Department of Financial Services and the Department of
2919 Environmental Protection.-

2920 (1) The Legislature finds that there has been a dramatic
2921 increase in the number of sinkholes and insurance claims for
2922 sinkhole damage in the state during the past 10 years.
2923 Accordingly, the Legislature recognizes the need to track
2924 current and past sinkhole activity and to make the information
2925 available for prevention and remediation activities. The

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2926 Legislature further finds that the Florida Geological Survey of
2927 the Department of Environmental Protection has created a partial
2928 database of some sinkholes identified in Florida, although the
2929 database is not reflective of all sinkholes or insurance claims
2930 for sinkhole damage. The Legislature determines that creating an
2931 ~~a complete~~ electronic database of sinkhole claims activity
2932 serves an important purpose in protecting the public and in
2933 studying property claims activities in the insurance industry.

2934 (2) The Department of Financial Services, including the
2935 employee of the Division of Consumer Services designated as the
2936 primary contact for consumers on issues relating to sinkholes,
2937 and the Office of the Insurance Consumer Advocate shall consult
2938 with the Florida Geological Survey and the Department of
2939 Environmental Protection to implement a statewide automated
2940 database of property insurance sinkhole claims ~~sinkholes and~~
2941 ~~related activity identified~~ in the state.

2942 (3) Representatives of the Department of Financial
2943 Services, with the agreement of the Department of Environmental
2944 Protection, shall determine the form and content of the
2945 database. ~~The content may include standards for reporting and~~
2946 ~~investigating sinkholes for inclusion in the database and~~
2947 ~~requirements for insurers to report to the departments the~~
2948 ~~receipt of claims involving sinkhole loss and other similar~~
2949 ~~activities.~~ The Department of Financial Services shall ~~may~~
2950 require insurers to report only the street address, if
2951 available, or other identifying information maintained by the
2952 insurer relating to the insured property for any insured
2953 property subject to a sinkhole claim for inclusion in the

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2954 ~~database present and past data of sinkhole claims. The database~~
2955 ~~also may include information of damage due to ground settling~~
2956 ~~and other subsidence activity.~~

2957 (4) The Department of Financial Services may manage the
2958 database or may contract for its management and maintenance. The
2959 Department of Environmental Protection shall investigate reports
2960 of sinkhole activity and include its findings and investigations
2961 in the database.

2962 ~~(5) The Department of Environmental Protection, in~~
2963 ~~consultation with the Department of Financial Services, shall~~
2964 ~~present a report of activities relating to the sinkhole~~
2965 ~~database, including recommendations regarding the database and~~
2966 ~~similar matters, to the Governor, the Speaker of the House of~~
2967 ~~Representatives, the President of the Senate, and the Chief~~
2968 ~~Financial Officer by December 31, 2005. The report may consider~~
2969 ~~the need for the Legislature to create an entity to study the~~
2970 ~~increase in sinkhole activity in the state and other similar~~
2971 ~~issues relating to sinkhole damage, including recommendations~~
2972 ~~and costs for staffing the entity. The report may include other~~
2973 ~~information, as appropriate.~~

2974 ~~(5)~~(6) The Department of Financial Services, in
2975 consultation with the Department of Environmental Protection,
2976 may adopt rules to implement this section.

2977 Section 25. Effective June 1, 2010, and applying only to
2978 insurance claims made on or after that date, subsection (1),
2979 paragraph (b) of subsection (2), and subsections (5), (7), and
2980 (8) of section 627.707, Florida Statutes, are amended to read:

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2981 627.707 Standards for investigation of sinkhole claims by
2982 insurers; nonrenewals.—Upon receipt of a claim for a sinkhole
2983 loss, an insurer must meet the following standards in
2984 investigating a claim:

2985 (1) The insurer must make an inspection of the insured's
2986 premises to determine if there has been physical damage to the
2987 structure which is consistent with ~~may be the result of~~ sinkhole
2988 loss activity.

2989 (2) Following the insurer's initial inspection, the
2990 insurer shall engage a professional engineer or a professional
2991 geologist to conduct testing as provided in s. 627.7072 to
2992 determine the cause of the loss within a reasonable professional
2993 probability and issue a report as provided in s. 627.7073, if:

2994 (b) The policyholder demands testing in accordance with
2995 this section or s. 627.7072 and coverage under the policy is
2996 available if sinkhole loss is verified.

2997 (5) (a) Subject to paragraph (b), if a sinkhole loss is
2998 verified, the insurer shall pay to stabilize the land and
2999 building and repair the foundation in accordance with the
3000 recommendations of the professional engineer as provided under
3001 s. 627.7073, with notice to ~~and in consultation with~~ the
3002 policyholder, subject to the coverage and terms of the policy.
3003 The insurer shall pay for other repairs to the structure and
3004 contents in accordance with the terms of the policy.

3005 (b) 1. After a ~~The insurer may limit its payment to the~~
3006 ~~actual cash value of the sinkhole loss, not including~~
3007 ~~underpinning or grouting or any other repair technique performed~~
3008 ~~below the existing foundation of the building, until the~~

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3009 policyholder enters into a contract for the performance of
3010 building stabilization or foundation repairs, the claim shall be
3011 paid up to the full cost of the stabilization or foundation
3012 repairs and for above-ground repairs as set forth in this
3013 paragraph, less the insured's deductible. After the policyholder
3014 enters into a contract for the performance of building
3015 stabilization or foundation repairs in accordance with the
3016 recommendations set forth in s. 627.7073, the insurer may:

3017 a. Limit its initial payment to 10 percent of the
3018 estimated costs to implement the building stabilization and
3019 foundation repairs.

3020 b. Limit its initial payment to the actual cash value of
3021 the sinkhole loss for above-ground repairs to the structure.

3022 2. However, after the policyholder enters into the
3023 contract for the performance of building stabilization or
3024 foundation repairs, the insurer shall pay the amounts necessary
3025 to ~~begin and~~ perform such stabilization and repairs as the work
3026 is performed and the expenses are incurred. Final payments for
3027 the structural or building stabilization and foundation repair
3028 work shall be remitted within 20 days after such work is
3029 complete in accordance with the terms of the policy and the
3030 report's recommendations and after final bills or receipts have
3031 been received by the insurer's claims adjuster who is primarily
3032 responsible for adjusting the loss. An insured shall have 1 year
3033 after the date the insurer pays actual cash value to make a
3034 claim for replacement cost. If a total loss of a dwelling
3035 occurs, the insurer shall pay the replacement cost coverage
3036 without reservation or holdback of any depreciation in value.

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3037 However, failure to comply with this subparagraph shall not form
3038 the sole basis for a private cause of action. The insurer may
3039 not require the policyholder to advance payment for such
3040 repairs. If repair covered by a personal lines residential
3041 property insurance policy has begun and the professional
3042 engineer selected or approved by the insurer determines that the
3043 repair cannot be completed within the policy limits, the insurer
3044 must either complete the professional engineer's recommended
3045 repair or tender the policy limits to the policyholder without a
3046 reduction for the repair expenses incurred. For purposes of this
3047 subparagraph, a total loss occurs when the repairs recommended
3048 in the insurer's report under. s. 627.7073 result in insurer
3049 repair costs that exceed the policy dwelling coverage limit.

3050 (c) The policyholder shall enter into such contract for
3051 repairs within 90 days after the insurance company approves
3052 coverage for a sinkhole loss to prevent additional damage to the
3053 building or structure. The 90-day time period may be extended
3054 for an additional reasonable time period if the policyholder is
3055 unable to find a qualified person or entity to contract for such
3056 repairs within the 90-day time period based upon factors beyond
3057 the policyholder's control or the policyholder is actively
3058 seeking to retain a professional engineer or geologist as
3059 provided in s. 627.7073(1)(c). This time period is tolled if
3060 either party invokes neutral evaluation.

3061 (d) The stabilization and all other repairs to the
3062 structure and contents must be completed within 12 months after
3063 entering into the contract for repairs as described in paragraph
3064 (c) unless:

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3065 1. There is a mutual agreement between the insurer and the
3066 insured;

3067 2. The stabilization and all other repairs cannot be
3068 completed due to factors beyond the control of the insured which
3069 reasonably prevent completion;

3070 3. The claim is involved with the neutral evaluation
3071 process under s. 627.7074;

3072 4. The claim is in litigation; or

3073 5. The claim is under appraisal.

3074 (e)-(e) Upon the insurer's obtaining the written approval
3075 of the policyholder and any lienholder, the insurer may make
3076 payment directly to the persons selected by the policyholder to
3077 perform the land and building stabilization and foundation
3078 repairs. The decision by the insurer to make payment to such
3079 persons does not hold the insurer liable for the work performed.

3080 (7) If the insurer obtains, pursuant to s. 627.7073,
3081 written certification that there is no sinkhole loss ~~or that the~~
3082 ~~cause of the damage was not sinkhole activity~~, and if the
3083 policyholder has submitted the sinkhole claim without good faith
3084 grounds for submitting such claim, the policyholder shall
3085 reimburse the insurer for 50 percent of the actual costs of the
3086 analyses and services provided under ss. 627.7072 and 627.7073;
3087 however, a policyholder is not required to reimburse an insurer
3088 more than \$2,500 with respect to any claim. A policyholder is
3089 required to pay reimbursement under this subsection only if the
3090 insurer, prior to ordering the analysis under s. 627.7072,
3091 informs the policyholder in writing of the policyholder's

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3092 potential liability for reimbursement and gives the policyholder
3093 the opportunity to withdraw the claim.

3094 (8) An ~~No~~ insurer may not ~~shall~~ nonrenew any policy of
3095 property insurance on the basis of filing of claims for partial
3096 loss caused by sinkhole damage or clay shrinkage as long as the
3097 total of such payments does not exceed the ~~current~~ policy limits
3098 of coverage for property damage for the policy in effect on the
3099 date of the loss, and provided the insured has repaired the
3100 structure in accordance with the engineering recommendations
3101 upon which any payment or policy proceeds were based.

3102 Section 26. Effective June 1, 2010, and applying only to
3103 insurance claims made on or after that date, section 627.7073,
3104 Florida Statutes, is amended to read:

3105 627.7073 Sinkhole reports.—

3106 (1) Upon completion of testing as provided in s. 627.7072,
3107 the professional engineer or professional geologist shall issue
3108 a report and certification to the insurer, with an additional
3109 copy and certification for the insurer to forward to ~~and~~ the
3110 policyholder as provided in this section.

3111 (a) Sinkhole loss is verified if, based upon tests
3112 performed in accordance with s. 627.7072, a professional
3113 engineer or a professional geologist issues a written report and
3114 certification stating:

3115 1. That the cause of the actual physical and structural
3116 damage is sinkhole activity within a reasonable professional
3117 probability.

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3118 2. That the analyses conducted were of sufficient scope to
3119 identify sinkhole activity as the cause of damage within a
3120 reasonable professional probability.

3121 3. A description of the tests performed.

3122 4. A recommendation by the professional engineer of
3123 methods for stabilizing the land and building and for making
3124 repairs to the foundation.

3125 (b) If sinkhole activity is eliminated as the cause of
3126 damage to the structure, the professional engineer or
3127 professional geologist shall issue a written report and
3128 certification to the policyholder and the insurer stating:

3129 1. That the cause of the damage is not sinkhole activity
3130 within a reasonable professional probability.

3131 2. That the analyses and tests conducted were of
3132 sufficient scope to eliminate sinkhole activity as the cause of
3133 damage within a reasonable professional probability.

3134 3. A statement of the cause of the damage within a
3135 reasonable professional probability.

3136 4. A description of the tests performed.

3137 (c) If the policyholder disagrees with the findings,
3138 opinions, or recommendations of the professional engineer or
3139 professional geologist engaged by the insurer, the policyholder
3140 may engage a professional engineer or professional geologist, at
3141 the policyholder's expense, to conduct testing under s. 627.7072
3142 and to render findings, opinions, and recommendations as to the
3143 cause of distress to the property and the appropriate method of
3144 land and building stabilization and foundation repair and
3145 certify such findings, opinions, and recommendations in a report

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3146 that meets the requirements of this section and forward a copy
3147 of the report to the insurer. Unless the policyholder engages a
3148 professional engineer or professional geologist as described in
3149 this paragraph who disputes the findings of the insurer's
3150 engineer or geologist, the respective findings, opinions, and
3151 recommendations of the professional engineer or professional
3152 geologist as to the cause of distress to the property and the
3153 findings, opinions, and recommendations of the insurer's
3154 professional engineer as to land and building stabilization and
3155 foundation repair as required by s. 627.707(2), shall be
3156 presumed correct, which presumption shall shift the burden of
3157 proof under s. 90.304.

3158 (2) (a) Any insurer that has paid a claim for a sinkhole
3159 loss shall file a copy of the report and certification, prepared
3160 pursuant to subsection (1), including the legal description of
3161 the real property, and the name of the property owner, and the
3162 amount paid by the insurer, with the county clerk of court, who
3163 shall record the report and certification. The insurer shall
3164 also file a copy of any report prepared on behalf of the insured
3165 or the insured's representative that has been provided to the
3166 insurer that indicates that sinkhole loss caused the damage
3167 claimed. The insurer shall bear the cost of filing and recording
3168 of one or more reports ~~the report~~ and certifications
3169 ~~certification~~. There shall be no cause of action or liability
3170 against an insurer for compliance with this section. The
3171 recording of the report and certification does not:

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3172 1. Constitute a lien, encumbrance, or restriction on the
3173 title to the real property or constitute a defect in the title
3174 to the real property;

3175 2. Create any cause of action or liability against any
3176 grantor of the real property for breach of any warranty of good
3177 title or warranty against encumbrances; or

3178 3. Create any cause of action or liability against any
3179 title insurer that insures the title to the real property.

3180 (b) The seller of real property upon which a sinkhole
3181 claim has been made by the seller and paid by the insurer shall
3182 disclose to the buyer of such property that a claim has been
3183 paid, the amount of the payment, and whether or not the full
3184 amount of the proceeds were used to repair the sinkhole damage.
3185 The seller shall also provide to the buyer a copy of the report
3186 prepared pursuant to subsection (1) and any report prepared on
3187 behalf of the insured.

3188 Section 27. Effective June 1, 2010, and applying only to
3189 insurance claims made on or after that date, section 627.7074,
3190 Florida Statutes, is amended to read:

3191 627.7074 Alternative procedure for resolution of disputed
3192 sinkhole insurance claims.—

3193 (1) As used in this section, the term:

3194 (a) "Neutral evaluation" means the alternative dispute
3195 resolution provided for in this section.

3196 (b) "Neutral evaluator" means a professional engineer or a
3197 professional geologist who has completed a course of study in
3198 alternative dispute resolution designed or approved by the

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3199 department for use in the neutral evaluation process, who is
3200 determined to be fair and impartial.

3201 (2) (a) The department shall certify and maintain a list of
3202 persons who are neutral evaluators.

3203 (b) The department shall prepare a consumer information
3204 pamphlet for distribution by insurers to policyholders which
3205 clearly describes the neutral evaluation process and includes
3206 information and forms necessary for the policyholder to request
3207 a neutral evaluation.

3208 (3) Neutral evaluation is available to either party if a
3209 sinkhole report has been issued pursuant to s. 627.7073.

3210 Following the receipt of the report provided under s. 627.7073
3211 or the denial of a claim for a sinkhole loss, the insurer shall
3212 notify the policyholder of his or her right to participate in
3213 the neutral evaluation program under this section. Neutral
3214 evaluation supersedes the alternative dispute resolution process
3215 under s. 627.7015 but does not invalidate the appraisal clause
3216 if an appraisal clause is provided by the insurance policy. The
3217 insurer shall provide to the policyholder the consumer
3218 information pamphlet prepared by the department pursuant to
3219 paragraph (2) (b).

3220 (4) Neutral evaluation is nonbinding, but mandatory if
3221 requested by either party. A request for neutral evaluation may
3222 be filed with the department by the policyholder or the insurer
3223 on a form approved by the department. The request for neutral
3224 evaluation must state the reason for the request and must
3225 include an explanation of all the issues in dispute at the time
3226 of the request. Filing a request for neutral evaluation tolls

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3227 the applicable time requirements for filing suit for a period of
3228 60 days following the conclusion of the neutral evaluation
3229 process or the time prescribed in s. 95.11, whichever is later.

3230 (5) Neutral evaluation shall be conducted as an informal
3231 process in which formal rules of evidence and procedure need not
3232 be observed. A party to neutral evaluation is not required to
3233 attend neutral evaluation if a representative of the party
3234 attends and has the authority to make a binding decision on
3235 behalf of the party. All parties shall participate in the
3236 evaluation in good faith.

3237 (6) The insurer shall pay the costs associated with the
3238 neutral evaluation.

3239 (7) (a) Upon receipt of a request for neutral evaluation,
3240 the department shall ~~provide the parties a list of certified~~
3241 ~~neutral evaluators. The parties shall mutually select a neutral~~
3242 ~~evaluator from the list and promptly inform the department. If~~
3243 ~~the parties cannot agree to a neutral evaluator within 10~~
3244 ~~business days, the department~~ allow the parties to submit
3245 requests to disqualify neutral evaluators on the list for cause.
3246 For purposes of this subsection, a ground for cause is required
3247 to be found by the department only if:

3248 1. A familial relationship exists between the neutral
3249 evaluator and either party or a representative of either party
3250 within the third degree;

3251 2. The proposed neutral evaluator has, in a professional
3252 capacity, previously represented either party or a
3253 representative of either party in the same or a substantially
3254 related matter;

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3255 3. The proposed neutral evaluator has, in a professional
3256 capacity, represented another person in the same or a
3257 substantially related matter and that person's interests are
3258 materially adverse to the interests of the parties;

3259 4. The proposed neutral evaluator works in the same firm
3260 or corporation as a person who has, in a professional capacity,
3261 previously represented either party or a representative of
3262 either party in the same or a substantially related matter; or

3263 5. The proposed neutral evaluator has, within the
3264 preceding 5 years, worked as an employee of any party to the
3265 case.

3266 (b) The parties shall mutually appoint a neutral evaluator
3267 from the ~~department~~ list and promptly inform the department. If
3268 the parties cannot agree to a neutral evaluator within 10
3269 business days, the department shall appoint a neutral evaluator
3270 from the department's list of certified neutral evaluators. The
3271 department shall allow each party to disqualify one neutral
3272 evaluator without cause. Upon selection or appointment, the
3273 department shall promptly refer the request to the neutral
3274 evaluator.

3275 (c) Within 5 business days after the referral, the neutral
3276 evaluator shall notify the policyholder and the insurer of the
3277 date, time, and place of the neutral evaluation conference. The
3278 conference may be held by telephone, if feasible and desirable.
3279 The neutral evaluation conference shall be held within 90 ~~45~~
3280 days after the receipt of the request by the department. If the
3281 neutral evaluator fails to hold a neutral evaluation conference
3282 in accordance with this paragraph, the neutral evaluator's fee

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3283 shall be reduced by 10 percent unless the failure was due to
3284 factors beyond the control of the neutral evaluator.

3285 (d) As used in this subsection, the term "substantially
3286 related matter" means participation by the neutral evaluator on
3287 the same claim, property, or any adjacent property.

3288 (8) The department shall adopt rules of procedure for the
3289 neutral evaluation process.

3290 (9) For policyholders not represented by an attorney, a
3291 consumer affairs specialist of the department or an employee
3292 designated as the primary contact for consumers on issues
3293 relating to sinkholes under s. 20.121 shall be available for
3294 consultation to the extent that he or she may lawfully do so.

3295 (10) Evidence of an offer to settle a claim during the
3296 neutral evaluation process, as well as any relevant conduct or
3297 statements made in negotiations concerning the offer to settle a
3298 claim, is inadmissible to prove liability or absence of
3299 liability for the claim or its value, except as provided in
3300 subsection (14) ~~(13)~~.

3301 (11) Regardless of when invoked, any court proceeding
3302 related to the subject matter of the neutral evaluation shall be
3303 stayed pending completion of the neutral evaluation and for 5
3304 days after the filing of the neutral evaluator's report with the
3305 court.

3306 (12) If the neutral evaluator, based upon his or her
3307 professional training and credentials, is qualified only to
3308 determine the causation issue or the method of repair issue, the
3309 department shall allow the neutral evaluator to enlist the
3310 assistance of another professional from the qualified neutral

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3311 evaluators list, not previously stricken by parties with respect
3312 to the subject evaluation, who, based upon his or her
3313 professional training and credentials, is able to provide an
3314 opinion as to the other disputed issue. Any professional who, if
3315 appointed as the neutral evaluator, would be disqualified for
3316 any reason listed in subsection (7) must be disqualified. In
3317 addition, the neutral evaluator may use the service of other
3318 experts or professionals as necessary to ensure that all items
3319 in dispute are addressed in order to complete the neutral
3320 evaluation. Any experts or professionals retained by the neutral
3321 evaluator to provide an opinion may be disqualified for any of
3322 the reasons listed in subsection (7) and must be agreed upon by
3323 both parties to the neutral evaluation. The neutral evaluator
3324 may request that the entity that performed testing pursuant to
3325 s. 627.7072 perform such additional reasonable testing deemed
3326 necessary in the professional opinion of the neutral evaluator
3327 to complete the neutral evaluation.

3328 ~~(13)(12)~~ For all matters that are not resolved by the
3329 parties at the conclusion of the neutral evaluation, the neutral
3330 evaluator shall prepare a report stating that in his or her
3331 opinion the sinkhole loss has been verified or eliminated within
3332 a reasonable degree of professional probability and, if
3333 verified, whether the sinkhole loss has caused structural or
3334 cosmetic damage to the building and, if so, the need for and
3335 estimated costs of stabilizing the land and any covered
3336 structures or buildings and other appropriate remediation or
3337 structural repairs that are necessary due to the sinkhole loss.

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3338 The evaluator's report shall be sent to all parties in
3339 attendance at the neutral evaluation and to the department.

3340 ~~(14)~~~~(13)~~ The recommendation of the neutral evaluator is
3341 not binding on any party, and the parties retain access to
3342 court. The neutral evaluator's written recommendation is
3343 admissible in any ~~subsequent~~ action or proceeding relating to
3344 the claim or to the cause of action giving rise to the claim.

3345 ~~(15)~~~~(14)~~ If the neutral evaluator first verifies the
3346 existence of a sinkhole and, second, recommends the need for and
3347 estimates costs of stabilizing the land and any covered
3348 structures or buildings and other appropriate remediation or
3349 structural repairs, which costs exceed the amount that the
3350 insurer has offered to pay the policyholder, the insurer is
3351 liable to the policyholder for up to \$2,500 in attorney's fees
3352 for the attorney's participation in the neutral evaluation
3353 process. For purposes of this subsection, the term "offer to
3354 pay" means a written offer signed by the insurer or its legal
3355 representative and delivered to the policyholder within 10 days
3356 after the insurer receives notice that a request for neutral
3357 evaluation has been made under this section.

3358 ~~(16)~~~~(15)~~ If the insurer timely agrees in writing to comply
3359 and timely complies with the recommendation of the neutral
3360 evaluator, but the policyholder declines to resolve the matter
3361 in accordance with the recommendation of the neutral evaluator
3362 pursuant to this section:

3363 (a) The insurer is not liable for extracontractual damages
3364 related to a claim for a sinkhole loss but only as related to
3365 the issues determined by the neutral evaluation process. This

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3366 section does not affect or impair claims for extracontractual
3367 damages unrelated to the issues determined by the neutral
3368 evaluation process contained in this section; and

3369 (b) The insurer is not liable for attorney's fees under s.
3370 627.428 or other provisions of the insurance code unless the
3371 policyholder obtains a judgment that is more favorable than the
3372 recommendation of the neutral evaluator.

3373 (17) If the insurer agrees to comply with the neutral
3374 evaluator's report, payment for stabilizing the land and
3375 building and repairing the foundation shall be made in
3376 accordance with the terms and conditions of the applicable
3377 insurance policy.

3378 Section 28. Section 627.711, Florida Statutes, is amended
3379 to read:

3380 627.711 Notice of premium discounts for hurricane loss
3381 mitigation; uniform mitigation verification inspection form.—

3382 (1) Using a form prescribed by the Office of Insurance
3383 Regulation, the insurer shall clearly notify the applicant or
3384 policyholder of any personal lines residential property
3385 insurance policy, at the time of the issuance of the policy and
3386 at each renewal, of the availability and the range of each
3387 premium discount, credit, other rate differential, or reduction
3388 in deductibles, and combinations of discounts, credits, rate
3389 differentials, or reductions in deductibles, for properties on
3390 which fixtures or construction techniques demonstrated to reduce
3391 the amount of loss in a windstorm can be or have been installed
3392 or implemented. The prescribed form shall describe generally
3393 what actions the policyholders may be able to take to reduce

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3394 their windstorm premium. The prescribed form and a list of such
3395 ranges approved by the office for each insurer licensed in the
3396 state and providing such discounts, credits, other rate
3397 differentials, or reductions in deductibles for properties
3398 described in this subsection shall be available for electronic
3399 viewing and download from the Department of Financial Services'
3400 or the Office of Insurance Regulation's Internet website. The
3401 Financial Services Commission may adopt rules to implement this
3402 subsection.

3403 (2) (a) ~~By July 1, 2007,~~ The Financial Services Commission
3404 shall develop by rule a uniform mitigation verification
3405 inspection form that shall be used by all insurers when
3406 submitted by policyholders for the purpose of factoring
3407 discounts for wind insurance. In developing the form, the
3408 commission shall seek input from insurance, construction, and
3409 building code representatives. Further, the commission shall
3410 provide guidance as to the length of time the inspection results
3411 are valid. An insurer shall accept as valid a uniform mitigation
3412 verification form ~~certified by the Department of Financial~~
3413 ~~Services~~ or signed by the following authorized mitigation
3414 inspectors:

3415 1.(a) A home inspector licensed under s. 468.8314 who has
3416 completed at least 3 hours of hurricane mitigation training
3417 which includes hurricane mitigation techniques and compliance
3418 with the uniform mitigation verification form and completion of
3419 a proficiency exam. Thereafter, home inspectors licensed under
3420 s. 468.8314, must complete at least 2 hours of continuing
3421 education, as part of the existing licensure renewal

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3422 requirements each year, related to mitigation inspection and the
3423 uniform mitigation form ~~hurricane mitigation inspector certified~~
3424 ~~by the My Safe Florida Home program;~~

3425 2.(b) A building code inspector certified under s.
3426 468.607;

3427 3.(e) A general, building, or residential contractor
3428 licensed under s. 489.111;

3429 4.(d) A professional engineer licensed under s. 471.015
3430 who has passed the appropriate equivalency test of the building
3431 code training program as required by s. 553.841;

3432 5.(e) A professional architect licensed under s. 481.213;
3433 or

3434 6.(f) Any other individual or entity recognized by the
3435 insurer as possessing the necessary qualifications to properly
3436 complete a uniform mitigation verification form.

3437 (b) An insurer may, but is not required to, accept a form
3438 from any other person possessing qualifications and experience
3439 acceptable to the insurer.

3440 (3) A person who is authorized to sign a mitigation
3441 verification form must inspect the structures referenced by the
3442 form personally, not through employees or other persons, and
3443 must certify or attest to personal inspection of the structures
3444 referenced by the form. However, licensees under s. 471.015 or
3445 s. 489.111, may authorize a direct employee, who is not an
3446 independent contractor, and who possesses the requisite skill,
3447 knowledge and experience to conduct a mitigation verification
3448 inspection. Insurers shall have the right to request and obtain
3449 information from the authorized mitigation inspector under s.
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3450 471.015, or s. 489.111, regarding any authorized employee's
3451 qualifications prior to accepting a mitigation verification form
3452 performed by an employee that is not licensed under s. 471.015
3453 or s. 489.111.

3454 (4) An authorized mitigation inspector that signs a
3455 uniform mitigation form, and a direct employee authorized to
3456 conduct mitigation verification inspections under paragraph (3),
3457 may not commit misconduct in performing hurricane mitigation
3458 inspections or in completing a uniform mitigation form that
3459 causes financial harm to a customer or their insurer; or that
3460 jeopardizes a customer's health and safety. Misconduct occurs
3461 when an authorized mitigation inspector signs a uniform
3462 mitigation verification form that:

3463 (a) Falsely indicates that he or she personally inspected
3464 the structures referenced by the form;

3465 (b) Falsely indicates the existence of a feature which
3466 entitles an insured to a mitigation discount which the inspector
3467 knows does not exist or did not personally inspect;

3468 (c) Contains erroneous information due to the gross
3469 negligence of the inspector; or

3470 (d) Contains a pattern of demonstrably false information
3471 regarding the existence of mitigation features that could give
3472 an insured a false evaluation of the ability of the structure to
3473 withstand major damage from a hurricane endangering the safety
3474 of the insured's life and property.

3475 (5) The licensing board of an authorized mitigation
3476 inspector that violates subsection (4) may commence disciplinary
3477 proceedings and impose administrative fines and other sanctions

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3478 authorized under the authorized mitigation inspector's licensing
3479 act. Authorized mitigation inspectors licensed under s. 471.015
3480 or s. 489.111, shall be directly liable for the acts of
3481 employees that violate subsection (4) as if the authorized
3482 mitigation inspector personally performed the inspection.

3483 (6) An insurer, person, or other entity that obtains
3484 evidence of fraud or evidence that an authorized mitigation
3485 inspector or an employee authorized to conduct mitigation
3486 verification inspections under paragraph (3), has made false
3487 statements in the completion of a mitigation inspection form
3488 shall file a report with the Division of Insurance Fraud, along
3489 with all of the evidence in its possession that supports the
3490 allegation of fraud or falsity. An insurer, person, or other
3491 entity making the report shall be immune from liability in
3492 accordance with s. 626.989(4), for any statements made in the
3493 report, during the investigation, or in connection with the
3494 report. The Division of Insurance Fraud shall issue an
3495 investigative report if it finds that probable cause exists to
3496 believe that the authorized mitigation inspector, or an employee
3497 authorized to conduct mitigation verification inspections under
3498 paragraph (3), made intentionally false or fraudulent statements
3499 in the inspection form. Upon conclusion of the investigation and
3500 a finding of probable cause that a violation has occurred, the
3501 Division of Insurance Fraud shall send a copy of the
3502 investigative report to the office and a copy to the agency
3503 responsible for the professional licensure of the authorized
3504 mitigation inspector, whether or not a prosecutor takes action
3505 based upon the report.

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3506 (7) At its expense, the insurer may require that any
3507 uniform mitigation verification form provided by an authorized
3508 mitigation inspector or inspection company be independently
3509 verified by an inspector, inspection company or an independent
3510 third-party quality assurance provider which does possess a
3511 quality assurance program prior to accepting the uniform
3512 mitigation verification form as valid.

3513 (8)~~(3)~~ An individual or entity who knowingly provides or
3514 utters a false or fraudulent mitigation verification form with
3515 the intent to obtain or receive a discount on an insurance
3516 premium to which the individual or entity is not entitled
3517 commits a misdemeanor of the first degree, punishable as
3518 provided in s. 775.082 or s. 775.083.

3519 Section 29. Section 628.252, Florida Statutes, is created
3520 to read:

3521 628.252 Servicing affiliates of domestic property
3522 insurers.—Every domestic property insurer shall notify the
3523 office of its intention to enter into with affiliates all
3524 management agreements, service contracts, and cost-sharing
3525 arrangements. A domestic property insurer may not enter into
3526 such an agreement, contract, or arrangement unless the insurer
3527 has it has provided the office with at least 30 days' written
3528 notice of its intention to enter into such agreement, contract,
3529 or arrangement, or such shorter period as the office, in its
3530 discretion, may permit and the office has not disapproved such
3531 agreement, contract, or arrangement within such period. This
3532 section does not limit any existing authority of the office.

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3533 Section 30. Paragraph (b) of subsection (1) of section
3534 628.4615, Florida Statutes, is amended to read:

3535 628.4615 Specialty insurers; acquisition of controlling
3536 stock, ownership interest, assets, or control; merger or
3537 consolidation.—

3538 (1) For the purposes of this section, the term "specialty
3539 insurer" means any person holding a license or certificate of
3540 authority as:

3541 (b) A home warranty association authorized to issue "home
3542 warranties" as those terms are defined in s. 634.301~~(3) and (4)~~;

3543 Section 31. Subsection (8) of section 634.011, Florida
3544 Statutes, is amended to read:

3545 634.011 Definitions.—As used in this part, the term:

3546 (8) "Motor vehicle service agreement" or "service
3547 agreement" means any contract or agreement indemnifying the
3548 service agreement holder for the motor vehicle listed on the
3549 service agreement and arising out of the ownership, operation,
3550 and use of the motor vehicle against loss caused by failure of
3551 any mechanical or other component part, or any mechanical or
3552 other component part that does not function as it was originally
3553 intended; however, nothing in this part shall prohibit or affect
3554 the giving, free of charge, of the usual performance guarantees
3555 by manufacturers or dealers in connection with the sale of motor
3556 vehicles. Transactions exempt under s. 624.125 are expressly
3557 excluded from this definition and are exempt from the provisions
3558 of this part. Service agreements that are sold to persons other
3559 than consumers and that cover motor vehicles used for commercial
3560 purposes are excluded from this definition and are exempt from

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3561 regulation under the Florida Insurance Code. The term "motor
3562 vehicle service agreement" includes any contract or agreement
3563 that provides:

3564 (a) For the coverage or protection defined in this
3565 subsection and which is issued or provided in conjunction with
3566 an additive product applied to the motor vehicle that is the
3567 subject of such contract or agreement;

3568 (b) For payment of vehicle protection expenses.

3569 1.a. "Vehicle protection expenses" means a preestablished
3570 flat amount payable for the loss of or damage to a vehicle or
3571 expenses incurred by the service agreement holder for loss or
3572 damage to a covered vehicle, including, but not limited to,
3573 applicable deductibles under a motor vehicle insurance policy;
3574 temporary vehicle rental expenses; expenses for a replacement
3575 vehicle that is at least the same year, make, and model of the
3576 stolen motor vehicle; sales taxes or registration fees for a
3577 replacement vehicle that is at least the same year, make, and
3578 model of the stolen vehicle; or other incidental expenses
3579 specified in the agreement.

3580 b. "Vehicle protection product" means a product or system
3581 installed or applied to a motor vehicle or designed to prevent
3582 the theft of the motor vehicle or assist in the recovery of the
3583 stolen motor vehicle.

3584 2. Vehicle protection expenses shall be payable in the
3585 event of loss or damage to the vehicle as a result of the
3586 failure of the vehicle protection product to prevent the theft
3587 of the motor vehicle or to assist in the recovery of the stolen
3588 motor vehicle. Vehicle protection expenses covered under the
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3589 agreement shall be clearly stated in the service agreement form,
3590 unless the agreement provides for the payment of a
3591 preestablished flat amount, in which case the service agreement
3592 form shall clearly identify such amount.

3593 3. Motor vehicle service agreements providing for the
3594 payment of vehicle protection expenses shall either:

3595 a. Reimburse a service agreement holder for the following
3596 expenses, at a minimum: deductibles applicable to comprehensive
3597 coverage under the service agreement holder's motor vehicle
3598 insurance policy; temporary vehicle rental expenses; sales taxes
3599 and registration fees on a replacement vehicle that is at least
3600 the same year, make, and model of the stolen motor vehicle; and
3601 the difference between the benefits paid to the service
3602 agreement holder for the stolen vehicle under the service
3603 agreement holder's comprehensive coverage and the actual cost of
3604 a replacement vehicle that is at least the same year, make, and
3605 model of the stolen motor vehicle; or

3606 b. Pay a preestablished flat amount to the service
3607 agreement holder.

3608
3609 Payments shall not duplicate any benefits or expenses paid to
3610 the service agreement holder by the insurer providing
3611 comprehensive coverage under a motor vehicle insurance policy
3612 covering the stolen motor vehicle; however, the payment of
3613 vehicle protection expenses at a preestablished flat amount of
3614 \$5,000 or less does not duplicate any benefits or expenses
3615 payable under any comprehensive motor vehicle insurance policy;
3616 or

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3617 (c)1. For the payment for paintless dent-removal services
3618 provided by a company whose primary business is providing such
3619 services.

3620 2. "Paintless dent-removal" means the process of removing
3621 dents, dings, and creases, including hail damage, from a vehicle
3622 without affecting the existing paint finish, but does not
3623 include services that involve the replacement of vehicle body
3624 panels or sanding, bonding, or painting.

3625 Section 32. Subsection (7) is added to section 634.031,
3626 Florida Statutes, to read:

3627 634.031 License required.—

3628 (7) Any person who violates this section commits, in
3629 addition to any other violation, a misdemeanor of the first
3630 degree, punishable as provided in s. 775.082 or s. 775.083.

3631 Section 33. Paragraph (b) of subsection (8) and paragraph
3632 (b) of subsection (11) of section 634.041, Florida Statutes, are
3633 amended to read:

3634 634.041 Qualifications for license.—To qualify for and
3635 hold a license to issue service agreements in this state, a
3636 service agreement company must be in compliance with this part,
3637 with applicable rules of the commission, with related sections
3638 of the Florida Insurance Code, and with its charter powers and
3639 must comply with the following:

3640 (8)

3641 (b) A service agreement company does not have to establish
3642 and maintain an unearned premium reserve if it purchases and
3643 maintains contractual liability insurance in accordance with the
3644 following:

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3645 1. The insurance covers 100 percent of its claim exposure
3646 and is obtained from an insurer approved by the office which
3647 holds a certificate of authority to do business within this
3648 state.

3649 2. If the service agreement company does not meet its
3650 contractual obligations, the contractual liability insurance
3651 policy binds its issuer to pay or cause to be paid to the
3652 service agreement holder all legitimate claims and cancellation
3653 refunds for all service agreements issued by the service
3654 agreement company while the policy was in effect. This
3655 requirement also applies to those service agreements for which
3656 no premium has been remitted to the insurer.

3657 3. If the issuer of the contractual liability policy is
3658 fulfilling the service agreements covered by the contractual
3659 liability policy and the service agreement holder cancels the
3660 service agreement, the issuer must make a full refund of
3661 unearned premium to the consumer, subject to the cancellation
3662 fee provisions of s. 634.121(3)~~(5)~~. The sales representative and
3663 agent must refund to the contractual liability policy issuer
3664 their unearned pro rata commission.

3665 4. The policy may not be canceled, terminated, or
3666 nonrenewed by the insurer or the service agreement company
3667 unless a 90-day written notice thereof has been given to the
3668 office by the insurer before the date of the cancellation,
3669 termination, or nonrenewal.

3670 5. The service agreement company must provide the office
3671 with the claims statistics.

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3673 All funds or premiums remitted to an insurer by a motor vehicle
3674 service agreement company under this part shall remain in the
3675 care, custody, and control of the insurer and shall be counted
3676 as an asset of the insurer; provided, however, this requirement
3677 does not apply when the insurer and the motor vehicle service
3678 agreement company are affiliated companies and members of an
3679 insurance holding company system. If the motor vehicle service
3680 agreement company chooses to comply with this paragraph but also
3681 maintains a reserve to pay claims, such reserve shall only be
3682 considered an asset of the covered motor vehicle service
3683 agreement company and may not be simultaneously counted as an
3684 asset of any other entity.

3685 (11)

3686 (b) Notwithstanding any other requirement of this part, a
3687 service agreement company maintaining an unearned premium
3688 reserve on all service agreements in accordance with paragraph
3689 (8) (a) may offer service agreements providing vehicle protection
3690 expenses if it maintains contractual liability insurance only on
3691 all service agreements providing vehicle protection expenses and
3692 continues to maintain the 50-percent reserve for all service
3693 agreements not providing vehicle protection expenses. A service
3694 agreement company maintaining contractual liability insurance
3695 for all service agreements providing vehicle protection expenses
3696 and the 50-percent reserve for all other service agreements
3697 must, in the service agreement register as required under s.
3698 634.136 (2) ~~(4)~~, distinguish between insured service agreements
3699 providing vehicle protection expenses and service agreements not
3700 providing vehicle protection expenses.

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3701 Section 34. Paragraph (d) is added to subsection (3) of
3702 section 634.095, Florida Statutes, and subsection (7) is added
3703 to that section, to read:

3704 634.095 Prohibited acts.—Any service agreement company or
3705 salesperson that engages in one or more of the following acts
3706 is, in addition to any applicable denial, suspension,
3707 revocation, or refusal to renew or continue any appointment or
3708 license, guilty of a misdemeanor of the second degree,
3709 punishable as provided in s. 775.082 or s. 775.083:

3710 (3) Issuing or causing to be issued any advertisement
3711 which:

3712 (d) Is false, deceptive, or misleading with respect to:

3713 1. The service agreement company's affiliation with a
3714 motor vehicle manufacturer;

3715 2. The service agreement company's possession of
3716 information regarding a motor vehicle owner's current motor
3717 vehicle manufacturer's original equipment warranty;

3718 3. The expiration of a motor vehicle owner's current motor
3719 vehicle manufacturer's original equipment warranty; or

3720 4. Any requirement that the motor vehicle owner register
3721 for a new motor vehicle service agreement with the company in
3722 order to maintain coverage under the current motor vehicle
3723 service agreement or manufacturer's original equipment warranty.

3724 (7) Remitting premiums received on motor vehicle service
3725 agreements sold to any person other than the licensed service
3726 agreement company that is obligated to perform under such
3727 agreement, if the agreement between such company and the

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3728 salesperson requires that premiums be submitted directly to the
3729 service agreement company.

3730 Section 35. Section 634.121, Florida Statutes, is amended
3731 to read:

3732 634.121 ~~Filing of Forms, required procedures, provisions.-~~

3733 ~~(1) A service agreement form or related form may not be~~
3734 ~~issued or used in this state unless it has been filed with and~~
3735 ~~approved by the office. Upon application for a license, the~~
3736 ~~office shall require the applicant to submit for approval each~~
3737 ~~brochure, pamphlet, circular, form letter, advertisement, or~~
3738 ~~other sales literature or advertising communication addressed or~~
3739 ~~intended for distribution. The office shall disapprove any~~
3740 ~~document which is untrue, deceptive, or misleading or which~~
3741 ~~contains misrepresentations or omissions of material facts.~~

3742 ~~(a) After an application has been approved, a licensee is~~
3743 ~~not required to submit brochures or advertisement to the office~~
3744 ~~for approval; however, a licensee may not have published, and a~~
3745 ~~person may not publish, any brochure or advertisement which is~~
3746 ~~untrue, deceptive, or misleading or which contains~~
3747 ~~misrepresentations or omissions of material fact.~~

3748 ~~(b) For purposes of this section, brochures and~~
3749 ~~advertising includes, but is not limited to, any report,~~
3750 ~~ircular, public announcement, certificate, or other printed~~
3751 ~~matter or advertising material which is designed or used to~~
3752 ~~solicit or induce any persons to enter into any motor vehicle~~
3753 ~~service agreement.~~

3754 ~~(c) The office shall disapprove any service agreement form~~
3755 ~~providing vehicle protection expenses which does not clearly~~

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3756 ~~indicate either the method for calculating the benefit to be~~
3757 ~~paid or provided to the service agreement holder or the~~
3758 ~~preestablished flat amount payable pursuant to the terms of the~~
3759 ~~service agreement. All service agreement forms providing vehicle~~
3760 ~~protection expenses shall clearly indicate the term of the~~
3761 ~~service agreement, whether new or used cars are eligible for the~~
3762 ~~vehicle protection product, and that the service agreement~~
3763 ~~holder may not make any claim against the Florida Insurance~~
3764 ~~Guarantee Association for vehicle protection expenses. The~~
3765 ~~service agreement shall be provided to a service agreement~~
3766 ~~holder on a form that provides only vehicle protection expenses.~~
3767 ~~A service agreement form providing vehicle protection expenses~~
3768 ~~must state that the service agreement holder must have in force~~
3769 ~~at the time of loss comprehensive motor vehicle insurance~~
3770 ~~coverage as a condition precedent to requesting payment of~~
3771 ~~vehicle protection expenses.~~

3772 ~~(2) Every filing required under this section must be made~~
3773 ~~not less than 30 days in advance of issuance or use. At the~~
3774 ~~expiration of 30 days from the date of filing, a form so filed~~
3775 ~~becomes approved unless prior thereto it has been affirmatively~~
3776 ~~disapproved by written notice of the office. The office may~~
3777 ~~extend by not more than an additional 15 days the period within~~
3778 ~~which it may affirmatively approve or disapprove any form by~~
3779 ~~giving notice of extension before the expiration of the initial~~
3780 ~~30-day period. At the expiration of any period as so extended~~
3781 ~~and in the absence of prior affirmative disapproval, the form~~
3782 ~~becomes approved.~~

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3783 (1)~~(3)~~ Before the sale of any service agreement, written
3784 notice must be given to the prospective purchaser by the service
3785 agreement company or its agent or salesperson, ~~on an office-~~
3786 ~~approved form,~~ that purchase of the service agreement is not
3787 required in order to purchase or obtain financing for a motor
3788 vehicle.

3789 (2)~~(4)~~ All motor vehicle service agreements are assignable
3790 in a consumer transaction and must contain a statement in
3791 conspicuous, boldfaced type, informing the purchaser of the
3792 service agreement of her or his right to assign it to a
3793 subsequent retail purchaser of the motor vehicle covered by the
3794 service agreement and all conditions on such right of transfer.
3795 The assignment must occur within a period of time specified in
3796 the agreement, which period may not expire earlier than 15 days
3797 after the date of the sale or transfer of the motor vehicle. The
3798 service agreement company may charge an assignment fee not to
3799 exceed \$40.

3800 (3)~~(5)~~(a) Each service agreement must contain a
3801 cancellation provision. Any service agreement is cancelable by
3802 the purchaser within 60 days after purchase. The refund must be
3803 100 percent of the gross premium paid, less any claims paid on
3804 the agreement. A reasonable administrative fee may be charged
3805 not to exceed 5 percent of the gross premium paid by the
3806 agreement holder.

3807 (b) After the service agreement has been in effect for 60
3808 days, it may not be canceled by the insurer or service agreement
3809 company unless:

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3810 1. There has been a material misrepresentation or fraud at
3811 the time of sale of the service agreement;

3812 2. The agreement holder has failed to maintain the motor
3813 vehicle as prescribed by the manufacturer;

3814 3. The odometer has been tampered with or disabled and the
3815 agreement holder has failed to repair the odometer; or

3816 4. For nonpayment of premium by the agreement holder, in
3817 which case the service agreement company shall provide the
3818 agreement holder notice of cancellation by certified mail.

3819
3820 If the service agreement is canceled by the insurer or service
3821 agreement company, the return of premium must not be less than
3822 100 percent of the paid unearned pro rata premium, less any
3823 claims paid on the agreement. If, after 60 days, the service
3824 agreement is canceled by the service agreement holder, the
3825 insurer or service agreement company shall return directly to
3826 the agreement holder not less than 90 percent of the unearned
3827 pro rata premium, less any claims paid on the agreement. The
3828 service agreement company remains responsible for full refunds
3829 to the consumer on canceled service agreements. However, the
3830 salesperson and agent are responsible for the refund of the
3831 unearned pro rata commission. A service agreement company may
3832 effectuate refunds through the issuing salesperson or agent.

3833 ~~(4)(6)~~ If the service agreement is canceled, pursuant to
3834 an order of liquidation, the salesperson or agent is responsible
3835 for refunding, and must refund, to the receiver the unearned pro
3836 rata commission.

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3837 (5)~~(7)~~ If a service agreement company violates any lawful
3838 order of the office or fails to meet its contractual obligations
3839 under this part, upon notice from the office, the sales
3840 representative or agent must refund to the service agreement
3841 holder the unearned pro rata commission, unless the sales
3842 representative or agent has made other arrangements,
3843 satisfactory to the office, with the service agreement holder.

3844 (6)~~(8)~~ Each service agreement, which includes a copy of
3845 the application form, must be mailed or delivered to the
3846 agreement holder within 45 days after the date of purchase.

3847 (7)~~(9)~~ Each service agreement form must contain in
3848 conspicuous, boldfaced type any statement or clause that places
3849 restrictions or limitations on the benefits offered or disclose
3850 such restrictions or limitations in regular type in a section of
3851 the service agreement containing a conspicuous, boldfaced type
3852 heading.

3853 (8)~~(10)~~ If an insurer or service agreement company intends
3854 to use or require the use of remanufactured or used replacement
3855 parts, each service agreement form as well as all service
3856 agreement brochures must contain in conspicuous, boldfaced type
3857 a statement to that effect.

3858 (9)~~(11)~~ Each service agreement form as well as all service
3859 agreement company sales brochures must clearly identify the
3860 name, address, and Florida license number of the licensed
3861 insurer or service agreement company.

3862 (10)~~(12)~~ If a service agreement contains a rental car
3863 provision, it must disclose the terms and conditions of this
3864 benefit in conspicuous, boldfaced type or disclose such

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3865 restrictions or limitations in regular type in a section of the
3866 service agreement containing a conspicuous, boldfaced type
3867 heading.

3868 (11) By July 1, 2011, each service agreement sold in this
3869 state must be accompanied by a written disclosure to the
3870 consumer that the rate charged for the service agreement is not
3871 subject to regulation by the office. A service agreement company
3872 may comply with this requirement by including such disclosure in
3873 its service agreement form or in a separate written notice
3874 provided to the consumer at the time of sale.

3875
3876 Section 36. Section 634.1213, Florida Statutes, is amended
3877 to read:

3878 634.1213 Noncompliant forms ~~Grounds for disapproval.~~—The
3879 office may order a service agreement company to stop using
3880 ~~disapprove~~ any service agreement form that ~~or service agreement~~
3881 ~~company sales brochures filed under s. 634.121, or withdraw any~~
3882 ~~previous approval thereof, if the form or brochure:~~

3883 (1) Is in any respect in violation of or does not comply
3884 with this part, any applicable provision of the Florida
3885 Insurance Code, or any applicable rule of the office ~~commission~~.

3886 (2) Contains or incorporates by reference when such
3887 incorporation is otherwise permissible, any inconsistent,
3888 ambiguous, or misleading clauses, or exceptions and conditions
3889 which deceptively affect the risk purported to be assumed in the
3890 general coverage of the service agreement.

3891 (3) Has any title, heading, or other indication of its
3892 provisions which is misleading.

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3893 (4) Is printed or otherwise reproduced in such manner as
3894 to render any material provision of the form substantially
3895 illegible.

3896 (5) Contains any provision which is unfair or inequitable
3897 or which encourages misrepresentation.

3898 (6) Contains any provision which makes it difficult to
3899 determine the actual insurer or service agreement company
3900 issuing the form.

3901 (7) Contains any provision for reducing claim payments due
3902 to depreciation of parts, except for marine engines.

3903 Section 37. Subsection (1) of section 634.137, Florida
3904 Statutes, is amended to read:

3905 634.137 Financial and statistical reporting requirements.—

3906 (1) By March 1 of each year, each service agreement
3907 company shall submit to the office annual financial reports on
3908 forms prescribed by the commission and furnished by the office
3909 ~~as follows:~~

3910 ~~(a) Reports for a period ending December 31 are due by~~
3911 ~~March 1.~~

3912 ~~(b) Reports for a period ending March 31 are due by May~~
3913 ~~15.~~

3914 ~~(c) Reports for a period ending June 30 are due by August~~
3915 ~~15.~~

3916 ~~(d) Reports for a period ending September 30 are due by~~
3917 ~~November 15.~~

3918 Section 38. Section 634.141, Florida Statutes, is amended
3919 to read:

3920 634.141 Examination of companies.—

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3921 (1) Motor vehicle service agreement companies licensed
3922 under this part may ~~shall~~ be subject to periodic examination by
3923 the office in the same manner and subject to the same terms and
3924 conditions as applies to insurers under part II of chapter 624.
3925 The commission may by rule establish provisions whereby a
3926 company may be exempted from examination.

3927 (2) The office shall determine whether to conduct an
3928 examination of a company by considering:

3929 (a) The amount of time that the company has been
3930 continuously licensed and operating under the same management
3931 and control.

3932 (b) The company's history of compliance with applicable
3933 law.

3934 (c) The number of consumer complaints against the company.

3935 (d) The financial condition of the company, demonstrated
3936 by the financial reports submitted pursuant to s. 634.137.

3937 Section 39. Paragraph (b) of subsection (1) of section
3938 634.1815, Florida Statutes, is amended to read:

3939 634.1815 Rebating; when allowed.—

3940 (1) No salesperson shall rebate any portion of his or her
3941 commission except as follows:

3942 (b) The rebate shall be in accordance with a rebating
3943 schedule filed with and approved by the ~~salesperson with the~~
3944 service agreement company issuing the service agreement to which
3945 the rebate applies. The service agreement company shall maintain
3946 a copy of all rebating schedules for a period of 3 years.

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3947 Section 40. Subsection (13) of section 634.282, Florida
3948 Statutes, is amended, and subsection (17) is added to that
3949 section, to read:

3950 634.282 Unfair methods of competition and unfair or
3951 deceptive acts or practices defined.—The following methods,
3952 acts, or practices are defined as unfair methods of competition
3953 and unfair or deceptive acts or practices:

3954 (13) ILLEGAL DEALINGS IN PREMIUMS; EXCESS OR REDUCED
3955 CHARGES FOR MOTOR VEHICLE SERVICE AGREEMENTS.—

3956 (a) Knowingly collecting any sum as a premium or charge
3957 for a motor vehicle service agreement, which is not then
3958 provided, or is not in due course to be provided, subject to
3959 acceptance of the risk by a service agreement company or an
3960 insurer, by a motor vehicle service agreement issued by a
3961 service agreement company or an insurer as permitted by this
3962 part.

3963 (b) Knowingly collecting as a premium or charge for a
3964 motor vehicle service agreement any sum in excess of or less
3965 than the premium or charge applicable to such motor vehicle
3966 service agreement, ~~in accordance with the applicable~~
3967 ~~classifications and rates as filed with the office, and as~~
3968 ~~specified in the motor vehicle service agreement. However, there~~
3969 is no violation of this subsection if excess premiums or charges
3970 are refunded to the service agreement holder within 45 days
3971 after receipt of the agreement by the service agreement company
3972 or if the licensed sales representative's commission is reduced
3973 by the amount of any premium undercharge.

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3974 (17) FAILURE TO PROVIDE TERMS AND CONDITIONS PRIOR TO
3975 SALE.—Failing to provide a consumer with a complete sample copy
3976 of the terms and conditions of the service agreement prior to
3977 the time of sale upon a request for the same by the consumer. A
3978 service agreement company may comply with this subsection by
3979 providing the consumer with a sample copy of the terms and
3980 conditions of the service agreement or by directing the consumer
3981 to a website that displays a complete sample of the terms and
3982 conditions of the service agreement.

3983

3984 No provision of this section shall be deemed to prohibit a
3985 service agreement company or a licensed insurer from giving to
3986 service agreement holders, prospective service agreement
3987 holders, and others for the purpose of advertising, any article
3988 of merchandise having a value of not more than \$25.

3989 Section 41. Section 634.301, Florida Statutes, as amended
3990 by section 1 of chapter 2007-235, Laws of Florida, is amended to
3991 read:

3992 634.301 Definitions.—As used in this part, the term:

3993 (1) "Gross written premiums" means the total amount of
3994 premiums, paid for the entire period of the home warranty,
3995 inclusive of commissions, for which the association is obligated
3996 under home warranties issued.

3997 ~~(2) "Home improvement" means major remodeling, enclosure~~
3998 ~~of a garage, addition of a room, addition of a pool, and other~~
3999 ~~like items that add value to the residential property. The term~~
4000 ~~does not include normal maintenance for items such as painting,~~
4001 ~~reroofing, and other like items subject to normal wear and tear.~~

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4002 ~~(2)(3)~~ "Home warranty" or "warranty" means any contract or
4003 agreement;

4004 ~~(a) Offered in connection with the sale of residential~~
4005 ~~property;~~

4006 ~~(b) Offered in connection with a loan of \$5,000 or more~~
4007 ~~which is secured by residential property that is the subject of~~
4008 ~~the warranty, but not in connection with the sale of such~~
4009 ~~property;~~

4010 ~~(c) Offered in connection with a home improvement of~~
4011 ~~\$7,500 or more for residential property that is the subject of~~
4012 ~~the warranty, but not in connection with the sale of such~~
4013 ~~property; or~~

4014 ~~(d) Offered in connection with a home inspection service~~
4015 ~~as defined under s. 468.8311(4) or a mold assessment as defined~~
4016 ~~under s. 468.8411(3);~~

4017
4018 whereby a person undertakes to indemnify the warranty holder
4019 against the cost of repair or replacement, or actually furnishes
4020 repair or replacement, of any structural component or appliance
4021 of a home, necessitated by wear and tear or an inherent defect
4022 of any such structural component or appliance or necessitated by
4023 the failure of an inspection to detect the likelihood of any
4024 such loss. However, this part does not prohibit the giving of
4025 usual performance guarantees by either the builder of a home or
4026 the manufacturer or seller of an appliance, as long as no
4027 identifiable charge is made for such guarantee. This part does
4028 not permit the provision of indemnification against
4029 consequential damages arising from the failure of any structural
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4030 component or appliance of a home, which practice constitutes the
4031 transaction of insurance subject to all requirements of the
4032 insurance code. This part does not apply to service contracts
4033 entered into between consumers and nonprofit organizations or
4034 cooperatives the members of which consist of condominium
4035 associations and condominium owners and which perform repairs
4036 and maintenance for appliances or maintenance of the residential
4037 property. This part does not apply to a contract or agreement
4038 offered ~~in connection with a sale of residential property~~ by a
4039 warranty association in compliance with part III, provided such
4040 contract or agreement only relates to the systems and appliances
4041 of the covered residential property and does not cover any
4042 structural component of the residential property.

4043 (3)~~(4)~~ "Home warranty association" means any corporation
4044 or any other organization, other than an authorized insurer,
4045 issuing home warranties.

4046 (4)~~(5)~~ "Impaired" means having liabilities in excess of
4047 assets.

4048 (5)~~(6)~~ "Insolvent" means the inability of a corporation to
4049 pay its debts as they become due in the usual course of its
4050 business.

4051 (6)~~(7)~~ "Insurance code" means the Florida Insurance Code.

4052 (7)~~(8)~~ "Insurer" means any property or casualty insurer
4053 duly authorized to transact such business in this state.

4054 (8)~~(9)~~ "Listing period" means the period of time
4055 residential property is listed for sale with a licensed real
4056 estate broker, beginning on the date the residence is first
4057 listed for sale and ending on either the date the sale of the
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4058 residence is closed, the date the residence is taken off the
4059 market, or the date the listing contract with the real estate
4060 broker expires.

4061 ~~(9)-(10)~~ "Net assets" means the amount by which the total
4062 statutory assets of an association exceed the total liabilities
4063 of the association.

4064 ~~(10)-(11)~~ "Person" includes an individual, company,
4065 corporation, association, insurer, agent, and every other legal
4066 entity.

4067 ~~(11)-(12)~~ "Premium" means the total consideration received,
4068 or to be received, by an insurer or home warranty association
4069 for or related to the issuance and delivery of any binder or
4070 warranty, including any charges designated as assessments or
4071 fees for policies, surveys, inspections, or service or any other
4072 charges.

4073 ~~(12)-(13)~~ "Sales representative" means any person with whom
4074 an insurer or home inspection or warranty association has a
4075 contract and who is utilized by such insurer or association for
4076 the purpose of selling or issuing home warranties. The term
4077 includes all employees of an insurer or association engaged
4078 directly in the sale or issuance of home warranties.

4079 ~~(13)-(14)~~ "Structural component" means the roof, plumbing
4080 system, electrical system, foundation, basement, walls,
4081 ceilings, or floors of a home.

4082 Section 42. Subsection (4) is added to section 634.303,
4083 Florida Statutes, to read:

4084 634.303 License required.—

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4085 (4) Any person who provides, offers to provide, or holds
4086 oneself out as providing or offering to provide home warranties
4087 in this state or from this state without holding a subsisting
4088 license commits, in addition to any other violation, a
4089 misdemeanor of the first degree, punishable as provided in s.
4090 775.082 or s. 775.083.

4091 Section 43. Paragraph (f) of subsection (2) of section
4092 634.308, Florida Statutes, is amended to read:

4093 634.308 Grounds for suspension or revocation of license.—

4094 (2) The license of any home warranty association shall be
4095 suspended, revoked, or not renewed if it is determined that such
4096 association:

4097 (f) Has issued warranty contracts which renewal contracts
4098 provide that the cost of renewal exceeds the then-current cost
4099 for new warranty contracts, unless the increase is supported by
4100 the claims history or claims cost data, or impose a fee for
4101 inspection of the premises.

4102 Section 44. Section 634.312, Florida Statutes, is amended
4103 to read:

4104 634.312 Forms; required provisions and procedures Filing,
4105 approval of forms.—

4106 ~~(1) No warranty form or related form shall be issued or~~
4107 ~~used in this state unless it has been filed with and approved by~~
4108 ~~the office. Also upon application for a license, the office~~
4109 ~~shall require the applicant to submit for approval each~~
4110 ~~brochure, pamphlet, circular, form letter, advertisement, or~~
4111 ~~other sales literature or advertising communication addressed or~~
4112 ~~intended for distribution. Approval of the application~~

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4113 ~~constitutes approval of such documents, unless the applicant has~~
4114 ~~consented otherwise in writing. The office shall disapprove any~~
4115 ~~document which is untrue, deceptive, or misleading or which~~
4116 ~~contains misrepresentations or omissions of material facts.~~

4117 ~~(a) After an application has been approved, a licensee is~~
4118 ~~not required to submit brochures or advertisement to the office~~
4119 ~~for approval; however, a licensee may not have published, and a~~
4120 ~~person may not publish, any brochure or advertisement which is~~
4121 ~~untrue, deceptive, or misleading or which contains~~
4122 ~~misrepresentations or omissions of material fact.~~

4123 ~~(b) For purposes of this section, brochures and~~
4124 ~~advertising includes, but is not limited to, any report,~~
4125 ~~circular, public announcement, certificate, or other printed~~
4126 ~~matter or advertising material which is designed or used to~~
4127 ~~solicit or induce any persons to enter into any home warranty~~
4128 ~~agreement.~~

4129 ~~(2) Every such filing shall be made not less than 30 days~~
4130 ~~in advance of issuance or use. At the expiration of 30 days from~~
4131 ~~date of filing, a form so filed shall be deemed approved unless~~
4132 ~~prior thereto it has been affirmatively approved or disapproved~~
4133 ~~by written order of the office.~~

4134 ~~(3) The office shall not approve any such form that~~
4135 ~~imposes a fee for inspection of the premises.~~

4136 (1)~~(4)~~ All home warranty contracts are assignable in a
4137 consumer transaction and must contain a statement informing the
4138 purchaser of the home warranty of her or his right to assign it,
4139 at least within 15 days from the date the home is sold or
4140 transferred, to a subsequent retail purchaser of the home

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4141 covered by the home warranty and all conditions on such right of
4142 transfer. The home warranty company may charge an assignment fee
4143 not to exceed \$40. Home warranty assignments include, but are
4144 not limited to, the assignment from a home builder who purchased
4145 the home warranty to a subsequent home purchaser.

4146 ~~(2)(5)~~ Subject to the insurer's or home warranty
4147 association's requirement as to payment of premium, every home
4148 warranty shall be mailed or delivered to the warranty holder not
4149 later than 45 days after the effectuation of coverage, and the
4150 application is part of the warranty contract document.

4151 ~~(3)(6)~~ All home warranty contracts must state in
4152 conspicuous, boldfaced type that the home warranty may not
4153 provide listing period coverage free of charge.

4154 ~~(4)(7)~~ All home warranty contracts must disclose any
4155 exclusions, restrictions, or limitations on the benefits offered
4156 or the coverage provided by the home warranty contract in
4157 boldfaced type, and must contain, in boldfaced type, a statement
4158 on the front page of the contract substantially similar to the
4159 following: "Certain items and events are not covered by this
4160 contract. Please refer to the exclusions listed on page of
4161 this document."

4162 ~~(5)(8)~~ Each home warranty contract shall contain a
4163 cancellation provision. Any home warranty agreement may be
4164 canceled by the purchaser within 10 days after purchase. The
4165 refund must be 100 percent of the gross premium paid, less any
4166 claims paid on the agreement. A reasonable administrative fee
4167 may be charged, not to exceed 5 percent of the gross premium
4168 paid by the warranty agreement holder. After the home warranty
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4169 agreement has been in effect for 10 days, if the contract is
4170 canceled by the warranty holder, a return of premium shall be
4171 based upon 90 percent of unearned pro rata premium less any
4172 claims that have been paid. If the contract is canceled by the
4173 association for any reason other than for fraud or
4174 misrepresentation, a return of premium shall be based upon 100
4175 percent of unearned pro rata premium, less any claims paid on
4176 the agreement.

4177 (6) By July 1, 2011, each home warranty contract sold in
4178 this state must be accompanied by a written disclosure to the
4179 consumer that the rate charged for the contract is not subject
4180 to regulation by the office. A home warranty association may
4181 comply with this requirement by including such disclosure in its
4182 home warranty contract form or in a separate written notice
4183 provided to the consumer at the time of sale.

4184

4185 Section 45. Section 634.3123, Florida Statutes, is amended
4186 to read:

4187 634.3123 Noncompliant Grounds for disapproval of forms.-
4188 The office may order a home warranty association to stop using
4189 any contract shall disapprove any form that filed under s.
4190 634.312 or withdraw any previous approval if the form:

4191 (1) Is in violation of or does not comply with this part.

4192 (2) Contains or incorporates by reference, when such
4193 incorporation is otherwise permissible, any inconsistent,
4194 ambiguous, or misleading clauses or exceptions or conditions
4195 which deceptively affect the risk purported to be assumed in the
4196 general coverage of the contract.

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4197 (3) Has any title, heading, or other indication of its
4198 provisions which is misleading.

4199 (4) Is printed or otherwise reproduced in such a manner as
4200 to render any material provision of the form illegible.

4201 (5) Provides that the cost of renewal exceeds the then-
4202 current cost for new warranty contracts, unless the increase is
4203 supported by the claims history or claims cost data, or impose a
4204 fee for inspection of the premises.

4205 Section 46. Section 634.314, Florida Statutes, is amended
4206 to read:

4207 634.314 Examination of associations.-

4208 (1) Home warranty associations licensed under this part
4209 may ~~shall~~ be subject to periodic examinations by the office, in
4210 the same manner and subject to the same terms and conditions as
4211 apply to insurers under part II of chapter 624 of the insurance
4212 code.

4213 (2) The office shall determine whether to conduct an
4214 examination of a home warranty association by considering:

4215 (a) The amount of time that the association has been
4216 continuously licensed and operating under the same management
4217 and control.

4218 (b) The association's history of compliance with
4219 applicable law.

4220 (c) The number of consumer complaints against the
4221 association.

4222 (d) The financial condition of the association,
4223 demonstrated by the financial reports submitted pursuant to s.
4224 634.313.

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4225 Section 47. Paragraph (b) of subsection (1) of section
4226 634.3205, Florida Statutes, is amended to read:

4227 634.3205 Rebating; when allowed.—

4228 (1) No sales representative shall rebate any portion of
4229 his or her commission except as follows:

4230 (b) The rebate shall be in accordance with a rebating
4231 schedule filed with and approved by the ~~sales representative~~
4232 ~~with the~~ home warranty association issuing the home warranty to
4233 which the rebate applies. The home warranty association shall
4234 maintain a copy of all rebating schedules for a period of 3
4235 years.

4236 Section 48. Subsection (8) of section 634.336, Florida
4237 Statutes, is amended, and subsection (9) is added to that
4238 section, to read:

4239 634.336 Unfair methods of competition and unfair or
4240 deceptive acts or practices defined.—The following methods,
4241 acts, or practices are defined as unfair methods of competition
4242 and unfair or deceptive acts or practices:

4243 (8) COERCION OF DEBTORS.—When a home warranty is sold ~~as~~
4244 ~~authorized by s. 634.301(3)(b):~~

4245 (a) Requiring, as a condition precedent or condition
4246 subsequent to the lending of the money or the extension of the
4247 credit or any renewal thereof, that the person to whom such
4248 credit is extended purchase a home warranty; or

4249 (b) Failing to provide the advice required by s. 634.344.

4250 (9) FAILURE TO PROVIDE TERMS AND CONDITIONS PRIOR TO
4251 SALE.—Failing to provide a consumer with a complete sample copy
4252 of the terms and conditions of the home warranty contract prior

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4253 to the time of sale upon a request for the same by the consumer.
4254 A home warranty association may comply with this subsection by
4255 providing the consumer with a sample copy of the terms and
4256 conditions of the home warranty contract or by directing the
4257 consumer to a website that displays a complete sample of the
4258 terms and conditions of the contract.

4259 Section 49. Section 634.344, Florida Statutes, is amended
4260 to read:

4261 634.344 Coercion of debtor prohibited.—

4262 (1) When a home warranty is sold in connection with the
4263 lending of money as authorized by s. 634.301(3)(b), a ~~no~~ person
4264 may not require, as a condition precedent or condition
4265 subsequent to the lending of the money or the extension of the
4266 credit or any renewal thereof, that the person to whom such
4267 money or credit is extended purchase a home warranty.

4268 (2) When a home warranty is purchased in connection with
4269 the lending of money ~~as authorized by s. 634.301(3)(b)~~, the
4270 insurer or home warranty association or the sales representative
4271 of the insurer or home warranty association shall advise the
4272 borrower or purchaser in writing that Florida law prohibits the
4273 lender from requiring the purchase of a home warranty as a
4274 condition precedent or condition subsequent to the making of the
4275 loan.

4276 Section 50. Subsection (5) of section 634.401, Florida
4277 Statutes, is amended to read:

4278 634.401 Definitions.—As used in this part, the term:

4279 (5) "Indemnify" means to undertake repair or replacement
4280 of a consumer product, or pay compensation for such repair or
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4281 replacement by cash, check, store credit, gift card, or other
4282 similar means, in return for the payment of a segregated
4283 premium, when such consumer product suffers operational failure.

4284 Section 51. Subsection (5) is added to section 634.403,
4285 Florida Statutes, to read:

4286 634.403 License required.—

4287 (5) Any person who provides, offers to provide, or holds
4288 oneself out as providing or offering to provide a service
4289 warranty in this state or from this state without holding a
4290 subsisting license commits, in addition to any other violation,
4291 a misdemeanor of the first degree, punishable as provided in s.
4292 775.082 or s. 775.083.

4293 Section 52. Paragraph (e) of subsection (3) of section
4294 634.406, Florida Statutes, is amended to read:

4295 634.406 Financial requirements.—

4296 (3) An association will not be required to establish an
4297 unearned premium reserve if it has purchased contractual
4298 liability insurance which demonstrates to the satisfaction of
4299 the office that 100 percent of its claim exposure is covered by
4300 such policy. The contractual liability insurance shall be
4301 obtained from an insurer that holds a certificate of authority
4302 to do business within the state. For the purposes of this
4303 subsection, the contractual liability policy shall contain the
4304 following provisions:

4305 (e) In the event the issuer of the contractual liability
4306 policy is fulfilling the service warranty covered by policy and
4307 in the event the service warranty holder cancels the service
4308 warranty, it is the responsibility of the contractual liability
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4309 policy issuer to effectuate a full refund of unearned premium to
4310 the consumer. This refund shall be subject to the cancellation
4311 fee provisions of s. 634.414(3). The salesperson or agent shall
4312 refund to the contractual liability policy issuer the unearned
4313 pro rata commission.

4314 Section 53. Section 634.414, Florida Statutes, is amended
4315 to read:

4316 634.414 Forms; required provisions ~~Filing; approval of~~
4317 ~~forms.-~~

4318 ~~(1) No service warranty form or related form shall be~~
4319 ~~issued or used in this state unless it has been filed with and~~
4320 ~~approved by the office. Upon application for a license, the~~
4321 ~~office shall require the applicant to submit for approval each~~
4322 ~~brochure, pamphlet, circular, form letter, advertisement, or~~
4323 ~~other sales literature or advertising communication addressed or~~
4324 ~~intended for distribution. The office shall disapprove any~~
4325 ~~document which is untrue, deceptive, or misleading or which~~
4326 ~~contains misrepresentations or omissions of material facts.~~

4327 ~~(a) After an application has been approved, a licensee is~~
4328 ~~not required to submit brochures or advertisement to the office~~
4329 ~~for approval; however, a licensee may not have published, and a~~
4330 ~~person may not publish, any brochure or advertisement which is~~
4331 ~~untrue, deceptive, or misleading or which contains~~
4332 ~~misrepresentations or omissions of material fact.~~

4333 ~~(b) For purposes of this section, brochures and~~
4334 ~~advertising includes, but is not limited to, any report,~~
4335 ~~circular, public announcement, certificate, or other printed~~
4336 ~~matter or advertising material which is designed or used to~~

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4337 ~~solicit or induce any persons to enter into any service warranty~~
4338 ~~agreement.~~

4339 ~~(2) Each filing shall be made not less than 30 days in~~
4340 ~~advance of its issuance or use. At the expiration of 30 days~~
4341 ~~from date of filing, a form so filed shall be deemed approved~~
4342 ~~unless prior thereto it has been affirmatively disapproved by~~
4343 ~~written order of the office.~~

4344 ~~(1)(3)~~ Each service warranty contract shall contain a
4345 cancellation provision. If In the event the contract is canceled
4346 by the warranty holder, return of premium shall be based upon no
4347 less than 90 percent of unearned pro rata premium less any
4348 claims that have been paid or less the cost of repairs made on
4349 behalf of the warranty holder. If In the event the contract is
4350 canceled by the association, return of premium shall be based
4351 upon 100 percent of unearned pro rata premium, less any claims
4352 paid or the cost of repairs made on behalf of the warranty
4353 holder.

4354 (2) By July 1, 2011, each service warranty contract sold
4355 in this state must be accompanied by a written disclosure to the
4356 consumer that the rate charged for the contract is not subject
4357 to regulation by the office. A service warranty association may
4358 comply with this requirement by including such disclosure in its
4359 service warranty contract form or in a separate written notice
4360 provided to the consumer at the time of sale.

4361 ~~(4) The name of the service warranty association issuing~~
4362 ~~the contract must be more prominent than any other company name~~
4363 ~~or program name on the service warranty form or sales brochure.~~

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Amendment No.

4364 Section 54. Section 634.4145, Florida Statutes, is amended
4365 to read:

4366 634.4145 Noncompliant Grounds for disapproval of forms.-
4367 The office may order a service warranty association to stop
4368 using any contract shall disapprove any form that filed under s.
4369 634.414 if the form:

- 4370 (1) Violates this part;
- 4371 (2) Is misleading in any respect;
- 4372 (3) Is reproduced so that any material provision is
4373 substantially illegible; or
- 4374 (4) Contains provisions which are unfair or inequitable or
4375 which encourage misrepresentation.

4376 Section 55. Section 634.415, Florida Statutes, is amended
4377 to read:

4378 634.415 Tax on premiums; annual statement; reports;
4379 ~~quarterly statements.~~-

- 4380 (1) In addition to the license fees provided in this part
4381 for service warranty associations and license taxes as provided
4382 in the insurance code as to insurers, each such association and
4383 insurer shall, annually on or before March 1, file with the
4384 office its annual statement, in the form prescribed by the
4385 commission, showing all premiums or assessments received by it
4386 in connection with the issuance of service warranties in this
4387 state during the preceding calendar year and using accounting
4388 principles which will enable the office to ascertain whether the
4389 financial requirements set forth in s. 634.406 have been
4390 satisfied.

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4391 (2) The gross amount of premiums and assessments is
4392 subject to the sales tax imposed by s. 212.0506.

4393 (3) The office may levy a fine of up to \$100 a day for
4394 each day an association neglects to file the annual statement in
4395 the form and within the time provided by this part. The amount
4396 of the fine shall be established by rules adopted by the
4397 commission. The office shall deposit all sums collected by it
4398 under this section to the credit of the Insurance Regulatory
4399 Trust Fund.

4400 ~~(4) In addition to an annual statement, the office may~~
4401 ~~require of licensees, under oath and in the form prescribed by~~
4402 ~~it, quarterly statements or special reports which it deems~~
4403 ~~necessary to the proper supervision of licensees under this~~
4404 ~~part. For manufacturers as defined in s. 634.401, the office~~
4405 ~~shall require only the annual audited financial statements of~~
4406 ~~the warranty operations and corporate reports as filed by the~~
4407 ~~manufacturer with the Securities and Exchange Commission,~~
4408 ~~provided that the office may require additional reporting by~~
4409 ~~manufacturers upon a showing by the office that annual reporting~~
4410 ~~is insufficient to protect the interest of purchasers of service~~
4411 ~~warranty agreements in this state or fails to provide sufficient~~
4412 ~~proof of the financial status required by this part.~~

4413 ~~(4)-(5)~~ (4) The office may suspend or revoke the license of a
4414 service warranty association failing to file its annual
4415 statement ~~or quarterly report~~ when due.

4416 ~~(5)-(6)~~ (5) The commission may by rule require each service
4417 warranty association to submit to the office, as the commission
4418 may designate, all or part of the information contained in the
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4419 financial statements and reports required by this section in a
4420 computer-readable form compatible with the electronic data
4421 processing system specified by the office.

4422 Section 56. Section 634.416, Florida Statutes, is amended
4423 to read:

4424 634.416 Examination of associations.—

4425 (1) (a) Service warranty associations licensed under this
4426 part may be ~~are~~ subject to periodic examination by the office,
4427 in the same manner and subject to the same terms and conditions
4428 that apply to insurers under part II of chapter 624.

4429 (b) The office shall determine whether to conduct an
4430 examination of a service warranty association by considering:

4431 1. The amount of time that the association has been
4432 continuously licensed and operating under the same management
4433 and control.

4434 2. The association's history of compliance with applicable
4435 law.

4436 3. The number of consumer complaints against the
4437 association.

4438 4. The financial condition of the association,
4439 demonstrated by the financial reports submitted pursuant to s.
4440 634.313.

4441 (2) However, The rate charged a service warranty
4442 association by the office for examination may be adjusted to
4443 reflect the amount collected for the Form 10-K filing fee as
4444 provided in this section.

4445 (3) On or before May 1 of each year, an association may
4446 submit to the office the Form 10-K, as filed with the United
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4447 States Securities and Exchange Commission pursuant to the
4448 Securities Exchange Act of 1934, as amended. Upon receipt and
4449 review of the most current Form 10-K, the office may waive the
4450 examination requirement; if the office determines not to waive
4451 the examination, such examination will be limited to that
4452 examination necessary to ensure compliance with this part. The
4453 Form 10-K shall be accompanied by a filing fee of \$2,000 to be
4454 deposited into the Insurance Regulatory Trust Fund.

4455 ~~(4)(2)~~ The office is not required to examine an
4456 association that has less than \$20,000 in gross written premiums
4457 as reflected in its most recent annual statement. The office may
4458 examine such an association if it has reason to believe that the
4459 association may be in violation of this part or is otherwise in
4460 an unsound financial condition. If the office examines an
4461 association that has less than \$20,000 in gross written
4462 premiums, the examination fee may not exceed 5 percent of the
4463 gross written premiums of the association.

4464 Section 57. Paragraph (b) of subsection (1) of section
4465 634.4225, Florida Statutes, is amended to read:

4466 634.4225 Rebating; when allowed.—

4467 (1) No sales representative shall rebate any portion of
4468 his or her commission except as follows:

4469 (b) The rebate shall be in accordance with a rebating
4470 schedule filed with and approved by the ~~sales representative~~
4471 ~~with the~~ association issuing the service warranty to which the
4472 rebate applies. The association shall maintain a copy of all
4473 rebating schedules for a period of 3 years.

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4474 Section 58. Subsection (9) is added to section 634.436,
4475 Florida Statutes, to read:

4476 634.436 Unfair methods of competition and unfair or
4477 deceptive acts or practices defined.—The following methods,
4478 acts, or practices are defined as unfair methods of competition
4479 and unfair or deceptive acts or practices:

4480 (9) FAILURE TO PROVIDE TERMS AND CONDITIONS PRIOR TO
4481 SALE.—Failing to provide a consumer with a complete sample copy
4482 of the terms and conditions of the service warranty prior to
4483 before the time of sale upon a request for the same by the
4484 consumer. A service warranty association may comply with this
4485 subsection by providing the consumer with a sample copy of the
4486 terms and conditions of the warranty contract or by directing
4487 the consumer to a website that displays a complete sample of the
4488 terms and conditions of the contract.

4489 Section 59. Subsections (2), (3), (4), and (5) of section
4490 634.136, Florida Statutes, are amended to read:

4491 634.136 Office records required.—Each licensed motor
4492 vehicle service contract company, as a minimum requirement for
4493 permanent office records, shall maintain:

4494 ~~(2) Memorandum journals showing the blank service~~
4495 ~~agreement forms issued to the company salespersons and recording~~
4496 ~~the delivery of the forms to the dealer.~~

4497 ~~(3) Memorandum journals showing the service contract forms~~
4498 ~~received by the motor vehicle dealers and indicating the~~
4499 ~~disposition of the forms by the dealer.~~

4500 (2)(4) A detailed service agreement register, in numerical
4501 order by service agreement number, of agreements in force, which
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4502 register shall include the following information: service
4503 agreement number, date of issue, issuing dealer, name of
4504 agreement holder, whether the agreement is covered by
4505 contractual liability insurance or the unearned premium reserve
4506 account, description of motor vehicle, service agreement period
4507 and mileage, gross premium, commission to salespersons,
4508 commission to dealer, and net premium.

4509 ~~(3)-(5)~~ A detailed claims register, in numerical order by
4510 service agreement number, which register shall include the
4511 following information: service agreement number, date of issue,
4512 date of claim, type of claim, issuing dealer, amount of claim,
4513 date claim paid, and, if applicable, disposition other than
4514 payment and reason therefor.

4515 Section 60. Subsections (4) and (5) of section 634.313,
4516 Florida Statutes, are amended to read:

4517 634.313 Tax on premiums; annual statement; reports.-

4518 ~~(4) In addition to an annual statement, the office may~~
4519 ~~require of licensees, under oath and in the form prescribed by~~
4520 ~~it, such additional regular or special reports as it may deem~~
4521 ~~necessary to the proper supervision of licensees under this~~
4522 ~~part.~~

4523 ~~(4)-(5)~~ The commission may by rule require each home
4524 warranty association to submit to the office, as the commission
4525 may designate, all or part of the information contained in the
4526 financial reports required by this section in a computer-
4527 readable form compatible with the electronic data processing
4528 system specified by the office.

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Amendment No.

4529 Section 61. Sections 634.1216 and 634.3126, Florida
4530 Statutes, are repealed.

4531 Section 62. Except as otherwise expressly provided in this
4532 act and except for this section, which shall take effect June 1,
4533 2010, this act shall take effect July 1, 2010.

4534
4535 -----

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

4537 Remove the entire title and insert:

4538 A bill to be entitled

4539 An act relating to property and casualty insurance; amending s.
4540 215.555, F.S.; delaying the repeal of a provision exempting
4541 medical malpractice insurance premiums from emergency
4542 assessments to the Hurricane Catastrophe Fund; delaying the date
4543 on and after which medical malpractice insurance premiums become
4544 subject to emergency assessments; amending s. 624.407, F.S.;
4545 specifying an additional surplus requirement for certain
4546 domestic insurers; amending s. 624.408, F.S.; revising the
4547 minimum surplus as to policyholders which must be maintained by
4548 certain insurers; authorizing the Office of Insurance Regulation
4549 to reduce the surplus requirement under specified circumstances;
4550 amending s. 624.4085, F.S.; defining the term "surplus action
4551 level"; expanding the list of items that must be included in an
4552 insurer's risk-based capital plan; specifying actions
4553 constituting a surplus action level event; requiring that an
4554 insurer submit to the office a risk-based capital plan upon the
4555 occurrence of such event; providing requirements for such plan;
4556 preserving the existing authority of the office; amending s.

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4557 624.4095, F.S.; excluding certain premiums for federal multiple-
4558 peril crop insurance from calculations for an insurer's gross
4559 writing ratio; requiring insurers to disclose the gross written
4560 premiums for federal multiple-peril crop insurance in a
4561 financial statement; creating s. 624.611, F.S.; authorizing an
4562 insurer to submit to the Office of Insurance Regulation a plan
4563 to use financial contracts other than reinsurance contracts to
4564 provide catastrophe loss funding; providing requirements for
4565 such a plan; authorizing an insurer to take certain action if
4566 the office approves such plan; amending s. 626.7452, F.S.;
4567 removing an exception relating to the examination of managing
4568 general agents; amending s. 626.854, F.S.; providing statements
4569 that may be considered deceptive or misleading if made in any
4570 public adjuster's advertisement or solicitation; providing a
4571 definition for the term "written advertisement"; requiring that
4572 a disclaimer be included in any public adjuster's written
4573 advertisement; providing requirements for such disclaimer;
4574 providing limitations on the amount of compensation that may be
4575 received for a reopened or supplemental claim; requiring certain
4576 persons who act on behalf of an insurer to provide notice to the
4577 insurer, claimant, public adjuster, or legal representative for
4578 an onsite inspection of the insured property; authorizing the
4579 insured or claimant to deny access to the property if notice is
4580 not provided; requiring the public adjuster to ensure prompt
4581 notice of certain property loss claims; providing that an
4582 insurer be allowed to interview the insured directly about the
4583 loss claim; prohibiting the insurer from obstructing or
4584 preventing the public adjuster from communicating with the
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4585 insured; requiring that the insurer communicate with the public
4586 adjuster in an effort to reach agreement as to the scope of the
4587 covered loss under the insurance policy; prohibiting a public
4588 adjuster from restricting or preventing persons acting on behalf
4589 of the insured from having reasonable access to the insured or
4590 the insured's property; prohibiting a public adjuster from
4591 restricting or preventing the insured's adjuster from having
4592 reasonable access to or inspecting the insured's property;
4593 authorizing the insured's adjuster to be present for the
4594 inspection; prohibiting a licensed contractor or subcontractor
4595 from adjusting a claim on behalf of an insured if such
4596 contractor or subcontractor is not a licensed public adjuster;
4597 providing an exception; amending s. 626.8651, F.S.; requiring
4598 that a public adjuster apprentice complete a minimum number of
4599 hours of continuing education to qualify for licensure; amending
4600 s. 626.8796, F.S.; providing requirements for a public adjuster
4601 contract; creating s. 626.70132, F.S.; requiring that notice of
4602 a claim, supplemental claim, or reopened claim be given to the
4603 insurer within a specified period after a windstorm or hurricane
4604 occurs; providing a definition for the terms "supplemental
4605 claim" or "reopened claim"; providing applicability; amending s.
4606 626.9744, F.S.; requiring insurers to use retail cost quotations
4607 or estimates based on current market prices in determining
4608 repair or replacement cost estimates; amending s. 627.0613,
4609 F.S.; requiring the office of the consumer advocate to
4610 objectively grade insurers annually based on the number of valid
4611 consumer complaints and other measurable and objective factors;
4612 defining the term "valid consumer complaint"; amending s.

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4613 627.062, F.S.; requiring that the office issue an approval
4614 rather than a notice of intent to approve following its approval
4615 of a file and use filing; prohibiting the Office of Insurance
4616 Regulation from, directly or indirectly, prohibiting an insurer
4617 from paying acquisition costs based on the full amount of the
4618 premium; prohibiting the Office of Insurance Regulation from,
4619 directly or indirectly, impeding the right of an insurer to
4620 acquire policyholders, advertise or appoint agents, or regulate
4621 agent commissions; authorizing an insurer to make a rate filing
4622 limited to changes in the cost of reinsurance, the cost of
4623 financing products used as a replacement for reinsurance, or
4624 changes in an inflation trend factor published annually by the
4625 Office of Insurance Regulation; providing that an insurer may
4626 use this provision only if the increase from such filing and any
4627 other rate filing does not exceed 10 percent for any
4628 policyholder in a policy year; deleting provisions relating to a
4629 rate filing for financing products relating to the Temporary
4630 Increase in Coverage Limits; revising the information that must
4631 be included in a rate filing relating to certain reinsurance or
4632 financing products; deleting a provision that prohibited an
4633 insurer from making certain rate filings within a certain period
4634 of time after a rate increase; deleting a provision prohibiting
4635 an insurer from filing for a rate increase within 6 months after
4636 it makes certain rate filings; specifying the information that
4637 an insurer must include in a rate filing based on the change in
4638 an inflation trend factor published by the Office of Insurance
4639 Regulation; requiring that the office annually publish one or
4640 more inflation trend factors; exempting the inflation trend

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4641 factors from rulemaking; providing that an insurer is not
4642 required to adopt an inflation trend factor; deleting certain
4643 obsolete provisions relating to legislation enacted during the
4644 2003 Special Session D of the Legislature; amending s. 627.0629,
4645 F.S.; providing legislative intent that insurers provide
4646 consumers with accurate pricing signals for alterations in order
4647 to minimize losses, but that mitigation discounts not result in
4648 a loss of income for the insurer; requiring rate filings for
4649 residential property insurance to include actuarially reasonable
4650 debits that provide proper pricing; deleting provisions that
4651 require the office to develop certain rate differentials for
4652 hurricane mitigation measures; providing for an increase in base
4653 rates if mitigation discounts exceed the aggregate reduction in
4654 expected losses; requiring the Office of Insurance Regulation to
4655 reevaluate discounts, debits, credits, and other rate
4656 differentials by a certain date; requiring the Office of
4657 Insurance Regulation, in consultation with the Department of
4658 Financial Services and the Department of Community Affairs, to
4659 develop a method for insurers to establish debits for certain
4660 hurricane mitigation measures by a certain date; requiring the
4661 Financial Services Commission to adopt rules relating to such
4662 debits by a certain date; deleting a provision that prohibits an
4663 insurer from including an expense or profit load in the cost of
4664 reinsurance to replace the Temporary Increase in Coverage
4665 Limits; requiring the office to contract with a private entity
4666 to develop a comprehensive consumer information program;
4667 specifying program criteria; requiring the office to conduct a
4668 cost-benefit analysis on a program implementation plan;

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4669 requiring review and approval by the Financial Services
4670 Commission; amending s. 627.351, F.S.; renaming the "high-risk
4671 account" as the "coastal account"; providing requirements for
4672 attachment and payment of the Citizens policyholder surcharge;
4673 prohibiting the corporation from levying certain regular
4674 assessments until after levying the full amount of a Citizens
4675 policyholder surcharge; providing that members of the Citizens
4676 Property Insurance Corporation Board of Governors are not
4677 prohibited from practicing in a certain profession if not
4678 prohibited by law or ordinance; prohibiting board members from
4679 voting on certain measures; changing the date on which the
4680 boundaries of high-risk areas eligible for certain wind-only
4681 coverages will be reduced if certain circumstances exist;
4682 providing a directive to the Division of Statutory Revision;
4683 amending s. 627.4133, F.S.; authorizing an insurer to cancel
4684 policies after 45 days' notice if the Office of Insurance
4685 Regulation determines that the cancellation of policies is
4686 necessary to protect the interests of the public or
4687 policyholders; authorizing the Office of Insurance Regulation to
4688 place an insurer under administrative supervision or appoint a
4689 receiver upon the consent of the insurer under certain
4690 circumstances; creating s. 627.41341, F.S.; providing
4691 definitions; requiring the delivery of a "Notice of Change in
4692 Policy Terms" under certain circumstances; specifying
4693 requirements for such notice; specifying actions constituting
4694 proof of notice; authorizing policy renewals to contain a change
4695 in policy terms; providing that receipt of payment by an insurer
4696 is deemed acceptance of new policy terms by an insured;

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4697 providing that the original policy remains in effect until the
4698 occurrence of specified events if an insurer fails to provide
4699 notice; providing intent; amending s. 627.7011, F.S.; requiring
4700 that an insurer pay the actual cash value of an insured loss,
4701 less any applicable deductible, under certain circumstances;
4702 requiring that a policyholder enter into a contract for the
4703 performance of building and structural repairs; requiring that
4704 an insurer pay certain remaining amounts; prohibiting a
4705 mortgagor from retaining payments from an insurer for a loss;
4706 restricting insurers and contractors from requiring advance
4707 payments for certain repairs and expenses; authorizing an
4708 insured to make a claim for replacement costs within a certain
4709 period after the insurer pays actual cash value to make a claim
4710 for replacement costs; requiring an insurer to pay the
4711 replacement costs if a total loss occurs; amending s. 627.70131,
4712 F.S.; specifying application of certain time periods to initial,
4713 supplemental, or reopened property insurance claim notices and
4714 payments; amending s. 627.7015, F.S.; requiring the Department
4715 of Financial Services to prepare a statement or information by
4716 rule which must be included in a notice by an insurer informing
4717 claimants of the right to participate in a mediation program;
4718 specifying documentation that an insurer and insured must
4719 provide to a mediator in a dispute over an estimate to repair or
4720 replace property; requiring the Department of Financial Services
4721 to adopt rules specifying the type of documentation that must be
4722 submitted during a mediation; defining the term "claim dispute"
4723 as it relates to disputes between an insurer and insured;
4724 amending s. 627.7065, F.S.; revising requirements for agency
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4725 maintenance of a statewide database of property insurance
4726 sinkhole claims; deleting reporting requirements of the
4727 Department of Environmental Protection; amending s. 627.707,
4728 F.S.; revising standards for investigation of sinkhole claims by
4729 insurers; specifying requirements for contracts for repairs to
4730 prevent additional damage to buildings or structures; providing
4731 application; amending s. 627.7073, F.S.; revising requirements
4732 for sinkhole reports; providing application; amending s.
4733 627.7074, F.S.; revising requirements and procedures for an
4734 alternative procedure for resolution of disputed sinkhole
4735 insurance claims; providing a definition; providing criteria and
4736 procedures for disqualification of neutral evaluators; providing
4737 requirements and procedures for neutral evaluators to enlist
4738 assistance from other professionals under certain circumstances;
4739 providing application; amending s. 627.711, F.S.; revising the
4740 list of persons qualified to sign certain mitigation
4741 verification forms for certain purposes; authorizing insurers to
4742 accept forms from certain other persons; providing requirements
4743 for persons authorized to sign mitigation forms; prohibiting
4744 misconduct in performing hurricane mitigation inspection or
4745 completing uniform mitigation forms causing certain harm;
4746 specifying what constitutes misconduct; authorizing certain
4747 licensing boards to commence disciplinary proceedings and impose
4748 administrative fines and sanctions; providing for liability of
4749 mitigation inspectors; requiring certain entities to file
4750 reports of evidence of fraud; providing for immunity from
4751 liability for reporting fraud; providing for investigative
4752 reports from the Division of Insurance Fraud; providing

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4753 penalties; authorizing insurers to require independent
4754 verification of uniform mitigation verification forms; creating
4755 s. 628.252, F.S.; requiring that every domestic property insurer
4756 notify the office of its intention to enter into certain
4757 agreements, contracts, and arrangements; prohibiting a domestic
4758 property insurer from entering into such agreements, contracts,
4759 or arrangements unless specified criteria are met; preserving
4760 the existing authority of the office; amending s. 628.4615,
4761 F.S., relating to specialty insurers; conforming a cross-
4762 reference; amending s. 634.011, F.S.; revising the definition of
4763 the term "motor vehicle service agreement"; amending s. 634.031,
4764 F.S.; providing penalties for certain licensure violations;
4765 amending s. 634.041, F.S., relating to qualifications for
4766 licensure; conforming cross-references; amending s. 634.095,
4767 F.S.; prohibiting service agreement companies from issuing
4768 certain deceptive advertisements, operating without a subsisting
4769 license, or remitting premiums to a person other than the
4770 obligated service agreement company; amending s. 634.121, F.S.;
4771 deleting a requirement that certain service agreement forms be
4772 approved by the Office of Insurance Regulation of the Financial
4773 Services Commission; requiring service agreements to be
4774 accompanied by a written disclosure to the consumer; specifying
4775 disclosure contents; specifying a service agreement company
4776 compliance criterion; amending s. 634.1213, F.S.; authorizing
4777 the office to order a service agreement company to stop using
4778 forms that do not comply with specified requirements; amending
4779 s. 634.137, F.S.; deleting a schedule for the submissions of
4780 certain reports; amending s. 634.141, F.S.; providing guidelines
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4781 for the office to use in determining whether to examine a
4782 company; amending s. 634.1815, F.S.; requiring certain rebates
4783 to be approved by the company issuing a service agreement;
4784 amending s. 634.282, F.S.; clarifying provisions relating to the
4785 refund of excess premiums or charges; requiring that a consumer
4786 receive a sample copy of the service agreement prior to the sale
4787 of a service agreement; amending s. 634.301, F.S.; revising
4788 certain definitions relating home warranties; amending s.
4789 634.303, F.S.; providing that it is a first-degree misdemeanor
4790 for a person without a subsisting license to provide or offer to
4791 provide home warranties; amending s. 634.308, F.S.; providing an
4792 exception to certain grounds for licensure suspension or
4793 revocation; amending s. 634.312, F.S.; deleting a requirement
4794 that certain home warranty agreement forms be approved by the
4795 office; requiring home warranty agreements to be accompanied by
4796 a written disclosure to the consumer; specifying disclosure
4797 contents; specifying a home warranty agreement company
4798 compliance criterion; amending s. 634.3123, F.S.; authorizing
4799 the office to order a home warranty association to stop using
4800 forms that do not comply with specified requirements; amending
4801 s. 634.314, F.S.; providing guidelines for the office to use in
4802 determining whether to examine an association; amending s.
4803 634.3205, F.S.; requiring certain rebates to be approved by the
4804 association issuing a service agreement; amending s. 634.336,
4805 F.S.; requiring that a consumer receive a sample copy of the
4806 service agreement prior to the sale of a service agreement;
4807 amending s. 634.344, F.S.; prohibiting certain coercive actions
4808 relating to the sale of a home warranty in connection with the
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4809 lending of money; amending s. 634.401, F.S.; redefining the term
4810 "indemnify"; amending s. 634.403, F.S.; providing that it is a
4811 first-degree misdemeanor for a person without a subsisting
4812 license to provide or offer to provide service warranties;
4813 amending s. 634.406, F.S., relating to financial requirements;
4814 conforming a cross-reference; amending s. 634.414, F.S.;
4815 deleting a requirement that certain service warranty forms be
4816 approved by the office; deleting certain requirements relating
4817 to the display of the issuing association's name on literature;
4818 requiring service warranty contracts to be accompanied by a
4819 written disclosure to the consumer; specifying disclosure
4820 contents; specifying a service warranty association compliance
4821 criterion; amending s. 634.4145, F.S.; authorizing the office to
4822 order a service warranty association to stop using forms that do
4823 not comply with specified requirements; amending s. 634.415,
4824 F.S.; deleting a requirement that associations file certain
4825 quarterly statements and special reports; amending s. 634.416,
4826 F.S.; providing guidelines for the office to use in determining
4827 whether to examine an service warranty association; amending s.
4828 634.4225, F.S.; requiring certain rebates to be approved by the
4829 association issuing a service warranty; amending s. 634.436,
4830 F.S.; requiring that a consumer receive a sample copy of the
4831 service agreement prior to the sale of a service agreement;
4832 amending s. 634.136, F.S.; deleting certain provisions requiring
4833 records to be maintained by motor vehicle service contract
4834 companies; amending s. 634.313, F.S.; deleting certain
4835 requirements for reports relating to taxes on premiums;
4836 repealing s. 634.1216, F.S., relating to required rate filings;
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4837 | repealing s. 634.3126, F.S., relating to required rate filings;
4838 | providing effective dates.

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