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1 A bill to be entitled
2 An act relating to insurance; amending s. 215.555,
3 F.S.; delaying the repeal of a provision exempting
4 medical malpractice insurance premiums from emergency
5 assessments to the Hurricane Catastrophe Fund;
6 delaying the date on and after which medical
7 malpractice insurance premiums become subject to
8 emergency assessments; amending s. 624.408, F.S.;
9 revising the minimum surplus as to policyholders which
10 must be maintained by certain insurers; authorizing
11 the Office of Insurance Regulation to reduce the
12 surplus requirement under specified circumstances;
13 amending s. 624.4085, F.S.; defining the term "surplus
14 action level"; expanding the list of items that must
15 be included in an insurer's risk-based capital plan;
16 specifying actions constituting a surplus action level
17 event; requiring that an insurer submit to the office
18 a risk-based capital plan upon the occurrence of such
19 event; providing requirements for such plan;
20 preserving the existing authority of the office;
21 amending s. 624.4095, F.S.; excluding certain premiums
22 for federal multiple-peril crop insurance from
23 calculations for an insurer's gross writing ratio;
24 requiring insurers to disclose the gross written
25 premiums for federal multiple-peril crop insurance in
26 a financial statement; amending s. 626.221, F.S.;
27 exempting certain individuals from the requirement to
28 pass an examination before being issued a license as
29 an agent, customer representative, or adjuster;

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30 amending s. 624.424, F.S.; revising the frequency that
31 an insurer may use the same accountant or partner to
32 prepare an annual audited financial report; amending
33 s. 626.7452, F.S.; removing an exception relating to
34 the examination of managing general agents; amending
35 s. 626.854, F.S.; providing statements that may be
36 considered deceptive or misleading if made in any
37 public adjuster's advertisement or solicitation;
38 providing a definition for the term "written
39 advertisement"; requiring that a disclaimer be
40 included in any public adjuster's written
41 advertisement; providing requirements for such
42 disclaimer; providing limitations on the amount of
43 compensation that may be received for a reopened or
44 supplemental claim; requiring certain persons who act
45 on behalf of an insurer to provide notice to the
46 insurer, claimant, public adjuster, or legal
47 representative for an onsite inspection of the insured
48 property; authorizing the insured or claimant to deny
49 access to the property if notice is not provided;
50 requiring the public adjuster to ensure prompt notice
51 of certain property loss claims; providing that an
52 insurer be allowed to interview the insured directly
53 about the loss claim; prohibiting the insurer from
54 obstructing or preventing the public adjuster from
55 communicating with the insured; requiring that the
56 insurer communicate with the public adjuster in an
57 effort to reach agreement as to the scope of the
58 covered loss under the insurance policy; prohibiting a

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59 public adjuster from restricting or preventing persons
60 acting on behalf of the insured from having reasonable
61 access to the insured or the insured's property;
62 prohibiting a public adjuster from restricting or
63 preventing the insured's adjuster from having
64 reasonable access to or inspecting the insured's
65 property; authorizing the insured's adjuster to be
66 present for the inspection; prohibiting a licensed
67 contractor or subcontractor from adjusting a claim on
68 behalf of an insured if such contractor or
69 subcontractor is not a licensed public adjuster;
70 providing an exception; amending s. 626.8651, F.S.;
71 requiring that a public adjuster apprentice complete a
72 minimum number of hours of continuing education to
73 qualify for licensure; amending s. 626.8796, F.S.;
74 providing requirements for a public adjuster contract;
75 creating s. 626.70132, F.S.; requiring that notice of
76 a claim, supplemental claim, or reopened claim be
77 given to the insurer within a specified period after a
78 windstorm or hurricane occurs; providing a definition
79 for the terms "supplemental claim" or "reopened
80 claim"; providing applicability; amending s. 627.0613,
81 F.S.; requiring the office of the consumer advocate to
82 objectively grade insurers annually based on the
83 number of valid consumer complaints and other
84 measurable and objective factors; defining the term
85 "valid consumer complaint"; amending s. 627.062, F.S.;
86 requiring that the office issue an approval rather
87 than a notice of intent to approve following its

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88 approval of a file and use filing; prohibiting the
89 Office of Insurance Regulation from, directly or
90 indirectly, prohibiting an insurer from paying
91 acquisition costs based on the full amount of the
92 premium; prohibiting the Office of Insurance
93 Regulation from, directly or indirectly, impeding the
94 right of an insurer to acquire policyholders,
95 advertise or appoint agents, or regulate agent
96 commissions; authorizing an insurer to make a rate
97 filing limited to changes in the cost of reinsurance,
98 the cost of financing products used as a replacement
99 for reinsurance, or changes in an inflation trend
100 factor published annually by the Office of Insurance
101 Regulation; providing that an insurer may use this
102 provision only if the increase from such filing and
103 any other rate filing does not exceed 10 percent for
104 any policyholder in a policy year; deleting provisions
105 relating to a rate filing for financing products
106 relating to the Temporary Increase in Coverage Limits;
107 revising the information that must be included in a
108 rate filing relating to certain reinsurance or
109 financing products; deleting a provision that
110 prohibited an insurer from making certain rate filings
111 within a certain period of time after a rate increase;
112 deleting a provision prohibiting an insurer from
113 filing for a rate increase within 6 months after it
114 makes certain rate filings; specifying the information
115 that an insurer must include in a rate filing based on
116 the change in an inflation trend factor published by

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117 the Office of Insurance Regulation; requiring that the
118 office annually publish one or more inflation trend
119 factors; exempting the inflation trend factors from
120 rulemaking; providing that an insurer is not required
121 to adopt an inflation trend factor; requiring the
122 Office of Insurance Regulation to propose a plan for
123 developing a website, contingent upon an
124 appropriation, which provides consumers with
125 information necessary to make an informed decision
126 when purchasing homeowners' insurance; requiring that
127 the Financial Services Commission review the proposed
128 plan to implement the website; specifying matters that
129 the Office of Insurance Regulation must consider in
130 developing the website; deleting obsolete provisions
131 relating to legislation enacted during the 2003
132 Special Session D of the Legislature; amending s.
133 627.0629, F.S.; providing legislative intent that
134 insurers provide consumers with accurate pricing
135 signals for alterations in order to minimize losses,
136 but that mitigation discounts not result in a loss of
137 income for the insurer; requiring rate filings for
138 residential property insurance to include actuarially
139 reasonable debits that provide proper pricing;
140 deleting provisions that require the office to develop
141 certain rate differentials for hurricane mitigation
142 measures; providing for an increase in base rates if
143 mitigation discounts exceed the aggregate reduction in
144 expected losses; requiring the Office of Insurance
145 Regulation to reevaluate discounts, debits, credits,

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146 and other rate differentials by a certain date;
147 requiring the Office of Insurance Regulation, in
148 consultation with the Department of Financial Services
149 and the Department of Community Affairs, to develop a
150 method for insurers to establish debits for certain
151 hurricane mitigation measures by a certain date;
152 requiring the Financial Services Commission to adopt
153 rules relating to such debits by a certain date;
154 deleting a provision that prohibits an insurer from
155 including an expense or profit load in the cost of
156 reinsurance to replace the Temporary Increase in
157 Coverage Limits; amending s. 627.351, F.S.; renaming
158 the "high-risk account" as the "coastal account";
159 revising the conditions under which the Citizens
160 policyholder surcharge may be imposed; providing that
161 members of the Citizens Property Insurance Corporation
162 Board of Governors are not prohibited from practicing
163 in a certain profession if not prohibited by law or
164 ordinance; prohibiting board members from voting on
165 certain measures; changing the date on which the
166 boundaries of high-risk areas eligible for certain
167 wind-only coverages will be reduced if certain
168 circumstances exist; providing a directive to the
169 Division of Statutory Revision; amending s. 627.4133,
170 F.S.; authorizing an insurer to cancel policies after
171 45 days' notice if the Office of Insurance Regulation
172 determines that the cancellation of policies is
173 necessary to protect the interests of the public or
174 policyholders; authorizing the Office of Insurance

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175 Regulation to place an insurer under administrative
176 supervision or appoint a receiver upon the consent of
177 the insurer under certain circumstances; creating s.
178 627.41341, F.S.; providing definitions; requiring the
179 delivery of a "Notice of Change in Policy Terms" under
180 certain circumstances; specifying requirements for
181 such notice; specifying actions constituting proof of
182 notice; authorizing policy renewals to contain a
183 change in policy terms; providing that receipt of
184 payment by an insurer is deemed acceptance of new
185 policy terms by an insured; providing that the
186 original policy remains in effect until the occurrence
187 of specified events if an insurer fails to provide
188 notice; providing intent; amending s. 627.7011, F.S.;
189 requiring that an insurer pay the actual cash value of
190 an insured loss, less any applicable deductible, under
191 certain circumstances; requiring that a policyholder
192 enter into a contract for the performance of building
193 and structural repairs; requiring that an insurer pay
194 certain remaining amounts; restricting insurers and
195 contractors from requiring advance payments for
196 certain repairs and expenses; authorizing an insured
197 to make a claim for replacement costs within a certain
198 period after the insurer pays actual cash value to
199 make a claim for replacement costs; requiring an
200 insurer to pay the replacement costs if a total loss
201 occurs; amending s. 627.70131, F.S.; specifying
202 application of certain time periods to initial or
203 supplemental property insurance claim notices and

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204 payments; amending s. 627.711, F.S.; revising the list
205 of persons qualified to sign certain mitigation
206 verification forms for certain purposes; authorizing
207 insurers to accept forms from certain other persons;
208 providing requirements for persons authorized to sign
209 mitigation forms; prohibiting misconduct in performing
210 hurricane mitigation inspection or completing uniform
211 mitigation forms causing certain harm; specifying what
212 constitutes misconduct; authorizing certain licensing
213 boards to commence disciplinary proceedings and impose
214 administrative fines and sanctions; providing for
215 liability of mitigation inspectors; requiring certain
216 entities to file reports of evidence of fraud;
217 providing for immunity from liability for reporting
218 fraud; providing for investigative reports from the
219 Division of Insurance Fraud; providing penalties;
220 authorizing insurers to require independent
221 verification of uniform mitigation verification forms;
222 creating s. 628.252, F.S.; requiring that every
223 domestic property insurer notify the office of its
224 intention to enter into certain agreements, contracts,
225 and arrangements; prohibiting a domestic property
226 insurer from entering into such agreements, contracts,
227 or arrangements unless specified criteria are met;
228 preserving the existing authority of the office;
229 providing an appropriation to the Office of Insurance
230 Regulation and authorizing an additional position;
231 providing effective dates.
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233 Be It Enacted by the Legislature of the State of Florida:

234

235 Section 1. Paragraph (b) of subsection (6) of section
236 215.555, Florida Statutes, is amended to read:

237 215.555 Florida Hurricane Catastrophe Fund.—

238 (6) REVENUE BONDS.—

239 (b) *Emergency assessments*.—

240 1. If the board determines that the amount of revenue
241 produced under subsection (5) is insufficient to fund the
242 obligations, costs, and expenses of the fund and the
243 corporation, including repayment of revenue bonds and that
244 portion of the debt service coverage not met by reimbursement
245 premiums, the board shall direct the Office of Insurance
246 Regulation to levy, by order, an emergency assessment on direct
247 premiums for all property and casualty lines of business in this
248 state, including property and casualty business of surplus lines
249 insurers regulated under part VIII of chapter 626, but not
250 including any workers' compensation premiums or medical
251 malpractice premiums. As used in this subsection, the term
252 "property and casualty business" includes all lines of business
253 identified on Form 2, Exhibit of Premiums and Losses, in the
254 annual statement required of authorized insurers by s. 624.424
255 and any rule adopted under this section, except for those lines
256 identified as accident and health insurance and except for
257 policies written under the National Flood Insurance Program. The
258 assessment shall be specified as a percentage of direct written
259 premium and is subject to annual adjustments by the board in
260 order to meet debt obligations. The same percentage shall apply
261 to all policies in lines of business subject to the assessment

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262 issued or renewed during the 12-month period beginning on the
263 effective date of the assessment.

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

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

288 4. With respect to assessments of surplus lines premiums,
289 each surplus lines agent shall collect the assessment at the
290 same time as the agent collects the surplus lines tax required

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291 by s. 626.932, and the surplus lines agent shall remit the
292 assessment to the Florida Surplus Lines Service Office created
293 by s. 626.921 at the same time as the agent remits the surplus
294 lines tax to the Florida Surplus Lines Service Office. The
295 emergency assessment on each insured procuring coverage and
296 filing under s. 626.938 shall be remitted by the insured to the
297 Florida Surplus Lines Service Office at the time the insured
298 pays the surplus lines tax to the Florida Surplus Lines Service
299 Office. The Florida Surplus Lines Service Office shall remit the
300 collected assessments to the fund or corporation as provided in
301 the order levied by the Office of Insurance Regulation. The
302 Florida Surplus Lines Service Office shall verify the proper
303 application of such emergency assessments and shall assist the
304 board in ensuring the accurate and timely collection and
305 remittance of assessments as required by the board. The Florida
306 Surplus Lines Service Office shall annually calculate the
307 aggregate written premium on property and casualty business,
308 other than workers' compensation and medical malpractice,
309 procured through surplus lines agents and insureds procuring
310 coverage and filing under s. 626.938 and shall report the
311 information to the board in a form and at a time specified by
312 the board.

313 5. Any assessment authority not used for a particular
314 contract year may be used for a subsequent contract year. If,
315 for a subsequent contract year, the board determines that the
316 amount of revenue produced under subsection (5) is insufficient
317 to fund the obligations, costs, and expenses of the fund and the
318 corporation, including repayment of revenue bonds and that
319 portion of the debt service coverage not met by reimbursement

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320 premiums, the board shall direct the Office of Insurance
321 Regulation to levy an emergency assessment up to an amount not
322 exceeding the amount of unused assessment authority from a
323 previous contract year or years, plus an additional 4 percent
324 provided that the assessments in the aggregate do not exceed the
325 limits specified in subparagraph 2.

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

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

344 8. When an insurer is required to return an unearned
345 premium, it shall also return any collected assessment
346 attributable to the unearned premium. A credit adjustment to the
347 collected assessment may be made by the insurer with regard to
348 future remittances that are payable to the fund or corporation,

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349 but the insurer is not entitled to a refund.

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

357 10. The exemption of medical malpractice insurance premiums
358 from emergency assessments under this paragraph is repealed May
359 31, 2013 ~~2010~~, and medical malpractice insurance premiums shall
360 be subject to emergency assessments attributable to loss events
361 occurring in the contract years commencing on June 1, 2013 ~~2010~~.

362 Section 2. Section 624.408, Florida Statutes, is amended to
363 read:

364 624.408 Surplus as to policyholders required; new and
365 existing insurers.-

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

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

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

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

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378 (d)4- For all insurers other than mortgage guaranty
379 insurers, life insurers, and life and health insurers, 10
380 percent of the insurer's total liabilities.

381 (e)5- For property and casualty insurers, \$4 million,
382 except property and casualty insurers authorized to underwrite
383 any line of residential property insurance.

384 (f)(b) For a residential any property and casualty insurer
385 not holding a certificate of authority before July 1, 2010 ~~on~~
386 ~~December 1, 1993,~~ \$15 million. ~~the~~

387 (g) For a residential property insurer having a certificate
388 of authority before July 1, 2010, \$5 million until July 1, 2015,
389 \$10 million after July 1, 2015, and \$15 million after July 1,
390 2020. The office may reduce this surplus requirement if the
391 insurer is not writing new business, has premiums in force of
392 less than \$1 million per year in residential property insurance,
393 or is a mutual insurance company. ~~following amounts apply~~
394 ~~instead of the \$4 million required by subparagraph (a)5.:~~

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

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

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

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

402 (2) For purposes of this section, liabilities do ~~shall~~ not
403 include liabilities required under s. 625.041(4). For purposes
404 of computing minimum surplus as to policyholders pursuant to s.
405 625.305(1), liabilities shall include liabilities required under
406 s. 625.041(4).

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

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

412 Section 3. Present paragraph (q) of subsection (1) of
413 section 624.4085, Florida Statutes, is redesignated as paragraph
414 (r), and a new paragraph (q) is added to that subsection,
415 paragraph (b) of subsection (3) of that section is amended, and
416 subsections (7) through (13) of that section are redesignated as
417 subsections (9) through (15), respectively, and new subsections
418 (7) and (8) are added to that section, to read:

419 624.4085 Risk-based capital requirements for insurers.—

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

421 (q) "Surplus action level" means a loss of surplus on any
422 quarterly or annual financial report which exceeds 15 percent,
423 or which cumulatively for the calendar year exceeds 15 percent
424 as of the most recent filed quarterly or annual report.

425 (3)

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

429 1. Identify the conditions that contribute to the company
430 action level event;

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

434 3. Provide projections of the insurer's financial results
435 in the current year and at least the 4 succeeding years, both in

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436 the absence of proposed corrective actions and giving effect to
437 the proposed corrective actions, including projections of
438 statutory operating income, net income, capital, and surplus.
439 The projections for both new and renewal business may include
440 separate projections for each major line of business and, if
441 separate projections are provided, must separately identify each
442 significant income, expense, and benefit component;

443 4. Identify the key assumptions affecting the insurer's
444 projections and the sensitivity of the projections to the
445 assumptions; ~~and~~

446 5. Identify the quality of, and problems associated with,
447 the insurer's business, including, but not limited to, its
448 assets, anticipated business growth and associated surplus
449 strain, extraordinary exposure to risk, mix of business, and any
450 use of reinsurance; ~~and~~.

451 6. Include, at the request of the office, for a residential
452 property insurer that conducts any business with affiliates, a
453 columnar worksheet, which shall include all affiliates who have
454 contracted with, done business with, or otherwise received
455 remuneration from the insurer and shall list the following
456 financial information from the immediately preceding calendar
457 year, listed separately for each affiliate:

458 a. Total assets;

459 b. Total liabilities;

460 c. Surplus or shareholders equity;

461 d. Net income after taxes or distributions made solely for
462 satisfying tax liabilities;

463 e. Total amounts received or receivable from parents,
464 subsidiaries, and affiliates;

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465 f. Total amounts paid or payable to any parent,
466 subsidiaries, and affiliates;

467 g. Dividends paid or payable to shareholders of common
468 stock;

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

472 i. Payments made for other contractual obligations to
473 support insurance-related activities.

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

475 1. The filing of a quarterly or annual statutory financial
476 statement by an insurer, which indicates that the insurer's
477 total surplus has declined by more than 15 percent from the
478 previous year's annual statement, or cumulatively for the
479 current year through the most recent quarterly financial
480 statement;

481 2. The notification by the office to the insurer of an
482 adjusted quarterly or annual financial statement that indicates
483 an event in subparagraph 1., unless the insurer challenges the
484 adjusted quarterly or annual financial statement under
485 subsection (9); or

486 3. The notification by the office to the insurer that the
487 office has, after a hearing, rejected the insurer's challenge if
488 an insurer challenges, under subsection (9), an adjusted
489 quarterly or annual financial statement that indicates an event
490 in subparagraph 1.

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

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- 494 1. Identify the conditions that contribute to the surplus
495 action level event;
- 496 2. Contain proposals of corrective actions that the insurer
497 intends to take and that are reasonably expected to ultimately
498 result in the elimination of additional surplus losses;
- 499 3. Provide projections of the insurer's financial results
500 in the current year and at least the 2 succeeding years, both in
501 the absence of proposed corrective actions and giving effect to
502 the proposed corrective actions, including projections of
503 statutory operating income, net income, capital, and surplus.
504 The projections for both new and renewal business may include
505 separate projections for each major line of business and, if
506 separate projections are provided, must separately identify each
507 significant income, expense, and benefit component;
- 508 4. Identify the key assumptions affecting the insurer's
509 projections and the sensitivity of the projections to the
510 assumptions;
- 511 5. Identify the quality of, and problems associated with,
512 the insurer's business, including, but not limited to, its
513 assets, anticipated business growth and associated surplus
514 strain, extraordinary exposure to risk, mix of business, and any
515 use of reinsurance;
- 516 6. Include, at the request of the office, for a residential
517 property insurer that conducts any business with affiliates, a
518 columnar worksheet, which shall include all affiliates who have
519 received remuneration from the insurer and shall list the
520 following financial information from the immediately preceding
521 calendar year listed separately for each affiliate:
- 522 a. Total assets;

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523 b. Total liabilities;
524 c. Surplus or shareholders equity;
525 d. Net income after taxes or distributions made solely for
526 satisfying tax liabilities;
527 e. Total amounts received or receivable from parents,
528 subsidiaries, and affiliates;
529 f. Total amounts paid or payable to any parent,
530 subsidiaries, and affiliates;
531 g. Dividends paid or payable to shareholders of common
532 stock;
533 h. Debt service, including principle and interest, paid on
534 debt incurred to capitalize or recapitalize insurance companies
535 or fund other insurance-related activities; and
536 i. Payments made for other contractual obligations to
537 support insurance-related activities.
538 7. Contain, at the request of the office, a recertification
539 of reserves for the insurer prepared by an actuary.
540 (c) The risk-based capital plan must be submitted:
541 1. Within 45 days after the surplus action level event; or
542 2. If the insurer challenges an adjusted quarterly or
543 annual financial statement under subsection (9), within 45 days
544 after notification to the insurer that the office has, after a
545 hearing, rejected the insurer's challenge.
546 (8) This section does not limit any existing authority of
547 the office.
548 Section 4. Subsection (7) is added to section 624.4095,
549 Florida Statutes, to read:
550 624.4095 Premiums written; restrictions.—
551 (7) For purposes of this section, s. 624.407, and s.

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552 624.408, with regard to capital and surplus requirements, gross
553 written premiums for federal multiple-peril crop insurance which
554 are ceded to the Federal Crop Insurance Corporation or
555 authorized reinsurers may not be included in the calculation of
556 an insurer's gross writing ratio. The liabilities for ceded
557 reinsurance premiums payable for federal multiple-peril crop
558 insurance ceded to the Federal Crop Insurance Corporation and
559 authorized reinsurers shall be netted against the asset for
560 amounts recoverable from reinsurers. Each insurer that writes
561 other insurance products together with federal multiple-peril
562 crop insurance shall disclose in the notes to its annual and
563 quarterly financial statements, or in a supplement to those
564 statements, the gross written premiums for federal multiple-
565 peril crop insurance.

566 Section 5. Paragraph (n) is added to subsection (2) of
567 section 626.221, Florida Statutes, to read:

568 626.221 Examination requirement; exemptions.—

569 (2) However, no such examination shall be necessary in any
570 of the following cases:

571 (n) An applicant for license as a customer representative
572 with respect to property insurance who has earned the
573 designation of Certified Insurance Representative (CIR) from the
574 National Association of Christian Catastrophe Insurance
575 Adjusters.

576 Section 6. Subsection (8) of section 624.424, Florida
577 Statutes, is amended to read:

578 624.424 Annual statement and other information.—

579 (8) (a) All authorized insurers must have conducted an
580 annual audit by an independent certified public accountant and

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581 must file an audited financial report with the office on or
582 before June 1 for the preceding year ending December 31. The
583 office may require an insurer to file an audited financial
584 report earlier than June 1 upon 90 days' advance notice to the
585 insurer. The office may immediately suspend an insurer's
586 certificate of authority by order if an insurer's failure to
587 file required reports, financial statements, or information
588 required by this subsection or rule adopted pursuant thereto
589 creates a significant uncertainty as to the insurer's continuing
590 eligibility for a certificate of authority.

591 (b) Any authorized insurer otherwise subject to this
592 section having direct premiums written in this state of less
593 than \$1 million in any calendar year and fewer than 1,000
594 policyholders or certificateholders of directly written policies
595 nationwide at the end of such calendar year is exempt from this
596 section for such year unless the office makes a specific finding
597 that compliance is necessary in order for the office to carry
598 out its statutory responsibilities. However, any insurer having
599 assumed premiums pursuant to contracts or treaties or
600 reinsurance of \$1 million or more is not exempt. Any insurer
601 subject to an exemption must submit by March 1 following the
602 year to which the exemption applies an affidavit sworn to by a
603 responsible officer of the insurer specifying the amount of
604 direct premiums written in this state and number of
605 policyholders or certificateholders.

606 (c) The board of directors of an insurer shall hire the
607 certified public accountant that prepares the audit required by
608 this subsection and the board shall establish an audit committee
609 of three or more directors of the insurer or an affiliated

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610 company. The audit committee shall be responsible for discussing
611 audit findings and interacting with the certified public
612 accountant with regard to her or his findings. The audit
613 committee shall be comprised solely of members who are free from
614 any relationship that, in the opinion of its board of directors,
615 would interfere with the exercise of independent judgment as a
616 committee member. The audit committee shall report to the board
617 any findings of adverse financial conditions or significant
618 deficiencies in internal controls that have been noted by the
619 accountant. The insurer may request the office to waive this
620 requirement of the audit committee membership based upon unusual
621 hardship to the insurer.

622 (d) An insurer may not use the same accountant or partner
623 of an accounting firm responsible for preparing the report
624 required by this subsection for more than 5 ~~7~~ consecutive years.
625 Following this period, the insurer may not use such accountant
626 or partner for a period of 5 ~~2~~ years, but may use another
627 accountant or partner of the same firm. An insurer may request
628 the office to waive this prohibition based upon an unusual
629 hardship to the insurer and a determination that the accountant
630 is exercising independent judgment that is not unduly influenced
631 by the insurer considering such factors as the number of
632 partners, expertise of the partners or the number of insurance
633 clients of the accounting firm; the premium volume of the
634 insurer; and the number of jurisdictions in which the insurer
635 transacts business.

636 (e) The commission shall adopt rules to implement this
637 subsection, which rules must be in substantial conformity with
638 the 1998 Model Rule Requiring Annual Audited Financial Reports

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639 adopted by the National Association of Insurance Commissioners
640 or subsequent amendments, except where inconsistent with the
641 requirements of this subsection. Any exception to, waiver of, or
642 interpretation of accounting requirements of the commission must
643 be in writing and signed by an authorized representative of the
644 office. No insurer may raise as a defense in any action, any
645 exception to, waiver of, or interpretation of accounting
646 requirements, unless previously issued in writing by an
647 authorized representative of the office.

648 Section 7. Section 626.7452, Florida Statutes, is amended
649 to read:

650 626.7452 Managing general agents; examination authority.—
651 The acts of the managing general agent are considered to be the
652 acts of the insurer on whose behalf it is acting. A managing
653 general agent may be examined as if it were the insurer ~~except~~
654 ~~in the case where the managing general agent solely represents a~~
655 ~~single domestic insurer.~~

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

658 626.854 "Public adjuster" defined; prohibitions.—The
659 Legislature finds that it is necessary for the protection of the
660 public to regulate public insurance adjusters and to prevent the
661 unauthorized practice of law.

662 (11) (a) If a public adjuster enters into a contract with an
663 insured or claimant to reopen a claim or to file a supplemental
664 claim that seeks additional payments for a claim that has been
665 previously paid in part or in full or settled by the insurer,
666 the public adjuster may not charge, agree to, or accept any
667 compensation, payment, commission, fee, or other thing of value

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668 based on a previous settlement or previous claim payments by the
669 insurer for the same cause of loss. The charge, compensation,
670 payment, commission, fee, or other thing of value may be based
671 only on the claim payments or settlement obtained through the
672 work of the public adjuster after entering into the contract
673 with the insured or claimant. Compensation for a reopened or
674 supplemental claim may not exceed 20 percent of the reopened or
675 supplemental claim payment. The contracts described in this
676 paragraph are not subject to the limitations in paragraph (b).

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

680 1. Ten percent of the amount of insurance claim payments by
681 the insurer for claims based on events that are the subject of a
682 declaration of a state of emergency by the Governor. This
683 provision applies to claims made during the period of 1 year
684 after the declaration of emergency. After the period of 1 year,
685 the limitations in subparagraph 2. apply.

686 2. Twenty percent of the amount of ~~all other~~ insurance
687 claim payments by the insurer for claims that are not based on
688 events that are the subject of a declaration of a state of
689 emergency by the Governor.

690
691 The provisions of subsections (5)-(13) apply only to residential
692 property insurance policies and condominium association policies
693 as defined in s. 718.111(11).

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

696 626.854 "Public adjuster" defined; prohibitions.—The

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697 Legislature finds that it is necessary for the protection of the
698 public to regulate public insurance adjusters and to prevent the
699 unauthorized practice of law.

700 (1) A "public adjuster" is any person, except a duly
701 licensed attorney at law as hereinafter in s. 626.860 provided,
702 who, for money, commission, or any other thing of value,
703 prepares, completes, or files an insurance claim form for an
704 insured or third-party claimant or who, for money, commission,
705 or any other thing of value, acts or aids in any manner on
706 behalf of an insured or third-party claimant in negotiating for
707 or effecting the settlement of a claim or claims for loss or
708 damage covered by an insurance contract or who advertises for
709 employment as an adjuster of such claims, and also includes any
710 person who, for money, commission, or any other thing of value,
711 solicits, investigates, or adjusts such claims on behalf of any
712 such public adjuster.

713 (2) This definition does not apply to:

714 (a) A licensed health care provider or employee thereof who
715 prepares or files a health insurance claim form on behalf of a
716 patient.

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

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

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

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

731 (6) A public adjuster may not directly or indirectly
732 through any other person or entity initiate contact or engage in
733 face-to-face or telephonic solicitation or enter into a contract
734 with any insured or claimant under an insurance policy until at
735 least 48 hours after the occurrence of an event that may be the
736 subject of a claim under the insurance policy unless contact is
737 initiated by the insured or claimant.

738 (7) An insured or claimant may cancel a public adjuster's
739 contract to adjust a claim without penalty or obligation within
740 3 business days after the date on which the contract is executed
741 or within 3 business days after the date on which the insured or
742 claimant has notified the insurer of the claim, by phone or in
743 writing, whichever is later. The public adjuster's contract
744 shall disclose to the insured or claimant his or her right to
745 cancel the contract and advise the insured or claimant that
746 notice of cancellation must be submitted in writing and sent by
747 certified mail, return receipt requested, or other form of
748 mailing which provides proof thereof, to the public adjuster at
749 the address specified in the contract; provided, during any
750 state of emergency as declared by the Governor and for a period
751 of 1 year after the date of loss, the insured or claimant shall
752 have 5 business days after the date on which the contract is
753 executed to cancel a public adjuster's contract.

754 (8) It is an unfair and deceptive insurance trade practice

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755 pursuant to s. 626.9541 for a public adjuster or any other
756 person to circulate or disseminate any advertisement,
757 announcement, or statement containing any assertion,
758 representation, or statement with respect to the business of
759 insurance which is untrue, deceptive, or misleading.

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

763 1. A statement or representation that invites an insured
764 policyholder to submit a claim when the policyholder does not
765 have covered damage to insured property.

766 2. Any statement or representation that invites an insured
767 policyholder to submit a claim by offering monetary or other
768 valuable inducement.

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

772 4. Any statement or representation, or use of a logo or
773 shield, that would imply or could be mistakenly construed that
774 the solicitation was issued or distributed by a governmental
775 agency or is sanctioned or endorsed by a governmental agency.

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

783 "THIS IS A SOLICITATION FOR BUSINESS. IF YOU HAVE HAD

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784 A CLAIM FOR AN INSURED PROPERTY LOSS OR DAMAGE AND YOU
785 ARE SATISFIED WITH THE PAYMENT BY YOUR INSURER, YOU
786 MAY DISREGARD THIS ADVERTISEMENT."

787 (9) A public adjuster, a public adjuster apprentice, or any
788 person or entity acting on behalf of a public adjuster or public
789 adjuster apprentice may not give or offer to give a monetary
790 loan or advance to a client or prospective client.

791 (10) A public adjuster, public adjuster apprentice, or any
792 individual or entity acting on behalf of a public adjuster or
793 public adjuster apprentice may not give or offer to give,
794 directly or indirectly, any article of merchandise having a
795 value in excess of \$25 to any individual for the purpose of
796 advertising or as an inducement to entering into a contract with
797 a public adjuster.

798 (11) (a) If a public adjuster enters into a contract with an
799 insured or claimant to reopen a claim or to file a supplemental
800 claim that seeks additional payments for a claim that has been
801 previously paid in part or in full or settled by the insurer,
802 the public adjuster may not charge, agree to, or accept any
803 compensation, payment, commission, fee, or other thing of value
804 based on a previous settlement or previous claim payments by the
805 insurer for the same cause of loss. The charge, compensation,
806 payment, commission, fee, or other thing of value may be based
807 only on the claim payments or settlement obtained through the
808 work of the public adjuster after entering into the contract
809 with the insured or claimant. Compensation for a reopened or
810 supplemental claim may not exceed 20 percent of the reopened or
811 supplemental claim payment. The contracts described in this
812 paragraph are not subject to the limitations in paragraph (b).

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

816 1. Ten percent of the amount of insurance claim payments by
817 the insurer for claims based on events that are the subject of a
818 declaration of a state of emergency by the Governor. This
819 provision applies to claims made during the period of 1 year
820 after the declaration of emergency. After the period of 1 year,
821 the limitations in subparagraph 2. apply.

822 2. Twenty percent of the amount of insurance claim payments
823 by the insurer for claims that are not based on events that are
824 the subject of a declaration of a state of emergency by the
825 Governor.

826 (12) Each public adjuster shall provide to the claimant or
827 insured a written estimate of the loss to assist in the
828 submission of a proof of loss or any other claim for payment of
829 insurance proceeds. The public adjuster shall retain such
830 written estimate for at least 5 years and shall make such
831 estimate available to the claimant or insured and the department
832 upon request.

833 (13) A public adjuster, public adjuster apprentice, or any
834 person acting on behalf of a public adjuster or apprentice may
835 not accept referrals of business from any person with whom the
836 public adjuster conducts business if there is any form or manner
837 of agreement to compensate the person, whether directly or
838 indirectly, for referring business to the public adjuster. A
839 public adjuster may not compensate any person, except for
840 another public adjuster, whether directly or indirectly, for the
841 principal purpose of referring business to the public adjuster.

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842 (14) A company employee adjuster, independent adjuster,
843 attorney, investigator, or other persons acting on behalf of an
844 insurer that needs access to an insured or claimant or to the
845 insured property that is the subject of a claim shall provide at
846 least 48 hours' notice to the insured or claimant, public
847 adjuster, or legal representative before scheduling a meeting
848 with the claimant or an onsite inspection of the insured
849 property. The insured or claimant may deny access to the
850 property if this notice has not been provided. The insured or
851 claimant may waive this 48-hour notice.

852 (15) (a) A public adjuster shall ensure prompt notice of any
853 property loss claim submitted to an insurer by or through a
854 public adjuster or on which a public adjuster represents the
855 insured at the time the claim or notice of loss is submitted to
856 the insurer. The public adjuster shall ensure that notice is
857 given to the insurer, the public adjuster's contract is provided
858 to the insurer, the property is made available for inspection of
859 the loss or damage by the insurer, and the insurer is given an
860 opportunity to interview the insured directly about the loss and
861 claim. The insurer shall be allowed to obtain necessary
862 information to investigate and respond to the claim. The insurer
863 may not exclude the public adjuster from its in-person meetings
864 with the insured. The insurer shall meet or communicate with the
865 public adjuster in an effort to reach agreement as to the scope
866 of the covered loss under the insurance policy. This section
867 does not impair the terms and conditions of the insurance policy
868 in effect at the time the claim is filed.

869 (b) A public adjuster may not restrict or prevent an
870 insurer, company employee adjuster, independent adjuster,

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871 attorney, investigator, or other person acting on behalf of the
872 insurer from having reasonable access at reasonable times to any
873 insured or claimant or to the insured property that is the
874 subject of a claim.

875 (c) A public adjuster may not act or fail to reasonably act
876 in any manner that would obstruct or prevent an insurer or
877 insurer's adjuster from timely gaining access to conduct an
878 inspection of any part of the insured property for which there
879 is a claim for loss or damage to the property. The public
880 adjuster that represents the insured may be present for the
881 insurer's inspection of the property loss or damage but, if the
882 lack of availability of the public adjuster would otherwise
883 delay the access to or the inspection of the insured property by
884 the insurer, the public adjuster or the insured must allow the
885 insurer to gain access to the insured property to facilitate the
886 insurer's prompt inspection of the loss or damage without the
887 participation or presence of the public adjuster or insured.

888 (16) A licensed contractor under part I of chapter 489, or
889 a subcontractor, may not adjust a claim on behalf of an insured
890 without being licensed and compliant as a public adjuster under
891 this chapter. However, if asked by the residential property
892 owner who has suffered loss or damage covered by a property
893 insurance policy, or the insurer of such property, a licensed
894 contractor may discuss or explain a bid for construction or
895 repair of covered property if the contractor is doing so for
896 usual and customary fees applicable to the work to be performed
897 as stated in the contract between the contractor and the
898 insured.

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

903 Section 10. Effective January 1, 2011, present subsections
904 (7) through (11) of section 626.8651, Florida Statutes, are
905 redesignated as subsections (8) through (12), respectively, and
906 a new subsection (7) is added to that section, to read:

907 626.8651 Public adjuster apprentice license;
908 qualifications.-

909 (7) A public adjuster apprentice shall complete a minimum
910 of 8 hours of continuing education specific to the practice of a
911 public adjuster, 2 hours of which must relate to ethics, in
912 order to qualify for licensure as a public adjuster. The
913 continuing education must be in subjects designed to inform the
914 licensee regarding the current insurance laws of this state for
915 the purpose of enabling him or her to engage in business as an
916 insurance adjuster fairly and without injury to the public and
917 to adjust all claims in accordance with the insurance contract
918 and the laws of this state.

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

921 626.8796 Public adjuster contracts; fraud statement.-

922 (1) All contracts for public adjuster services must be in
923 writing and must prominently display the following statement on
924 the contract: "Pursuant to s. 817.234, Florida Statutes, any
925 person who, with the intent to injure, defraud, or deceive any
926 insurer or insured, prepares, presents, or causes to be
927 presented a proof of loss or estimate of cost or repair of
928 damaged property in support of a claim under an insurance policy

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929 knowing that the proof of loss or estimate of claim or repairs
930 contains any false, incomplete, or misleading information
931 concerning any fact or thing material to the claim commits a
932 felony of the third degree, punishable as provided in s.
933 775.082, s. 775.083, or s. 775.084, Florida Statutes.”

934 (2) A public adjuster contract must contain the following
935 information: full name, permanent business address, and license
936 number of the public adjuster, the full name of the public
937 adjusting firm, and the insured’s full name and street address,
938 together with a brief description of the loss. The contract must
939 state the percentage of compensation for the public adjuster’s
940 services, the type of claim, including an emergency claim,
941 nonemergency claim, or supplemental claim, the signatures of the
942 public adjuster and all named insureds, and the signature date.
943 If all named insureds signatures are not available, the public
944 adjuster shall submit an affidavit signed by the available named
945 insureds attesting that they have authority to enter into the
946 contract and to settle all claim issues on behalf of all named
947 insureds. An unaltered copy of the executed contract must be
948 remitted to the insurer within 30 days after execution.

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

951 626.70132 Duty to file windstorm or hurricane claim.—A
952 claim, supplemental claim, or reopened claim under an insurance
953 policy that provides personal lines residential coverage, as
954 defined in s. 627.4025, for loss or damage caused by the peril
955 of windstorm or hurricane is barred unless notice of the claim,
956 supplemental claim, or reopened claim was given to the insurer
957 in accordance with the terms of the policy within 3 years after

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958 the hurricane first made landfall or the windstorm caused the
959 covered damage. For purposes of this section, the term
960 "supplemental claim" or "reopened claim" means any additional
961 claim for recovery from the insurer for losses from the same
962 hurricane or windstorm for which the insurer has previously
963 adjusted pursuant to the initial claim. This section may not be
964 interpreted to affect any applicable limitation on civil actions
965 provided in s. 95.11 for claims, supplemental claims, or
966 reopened claims timely filed under this section.

967 Section 13. Section 627.0613, Florida Statutes, is amended
968 to read:

969 627.0613 Consumer advocate.—The Chief Financial Officer
970 must appoint a consumer advocate who must represent the general
971 public of the state before the department and the office. The
972 consumer advocate must report directly to the Chief Financial
973 Officer, but is not otherwise under the authority of the
974 department or of any employee of the department. The consumer
975 advocate has such powers as are necessary to carry out the
976 duties of the office of consumer advocate, including, but not
977 limited to, the powers to:

978 (1) Recommend to the department or office, by petition, the
979 commencement of any proceeding or action; appear in any
980 proceeding or action before the department or office; or appear
981 in any proceeding before the Division of Administrative Hearings
982 relating to subject matter under the jurisdiction of the
983 department or office.

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

986 (3) Examine rate and form filings submitted to the office,

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987 hire consultants as necessary to aid in the review process, and
988 recommend to the department or office any position deemed by the
989 consumer advocate to be in the public interest.

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

995 (a) The number and nature of valid consumer complaints, as
996 a market share ratio, received by the department against the
997 insurer.

998 (b) The disposition of all valid consumer complaints
999 received by the department.

1000 (c) The average length of time for payment of claims by the
1001 insurer.

1002 (d) Any other measurable and objective factors the
1003 commission identifies as capable of assisting policyholders in
1004 making informed choices about homeowner's insurance.

1005
1006 For purposes of this subsection, the term "valid consumer
1007 complaint" means a written communication, or oral communication
1008 that is subsequently converted to a written form, from a
1009 consumer that expresses dissatisfaction involving a personal
1010 residential insurance policy with a specific personal
1011 residential property insurer. However, a valid complaint does
1012 not arise if in the disposition thereof by the department the
1013 insurer or agent position is upheld, the policy provision is
1014 upheld, the coverage is explained, additional information is
1015 provided, the complaint is withdrawn, the complaint is referred

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1016 outside the department, or if an inquiry has missing or
1017 insufficient information, is not within the jurisdiction of the
1018 department or requests mediation of a claim that is not eligible
1019 for mediation.

1020 (5) Prepare an annual budget for presentation to the
1021 Legislature by the department, which budget must be adequate to
1022 carry out the duties of the office of consumer advocate.

1023 Section 14. Section 627.062, Florida Statutes, is amended
1024 to read:

1025 627.062 Rate standards.—

1026 (1) The rates for all classes of insurance to which the
1027 provisions of this part are applicable shall not be excessive,
1028 inadequate, or unfairly discriminatory.

1029 (2) As to all such classes of insurance:

1030 (a) Insurers or rating organizations shall establish and
1031 use rates, rating schedules, or rating manuals to allow the
1032 insurer a reasonable rate of return on such classes of insurance
1033 written in this state. A copy of rates, rating schedules, rating
1034 manuals, premium credits or discount schedules, and surcharge
1035 schedules, and changes thereto, shall be filed with the office
1036 under one of the following procedures except as provided in
1037 subparagraph 3.:

1038 1. If the filing is made at least 90 days before the
1039 proposed effective date and the filing is not implemented during
1040 the office's review of the filing and any proceeding and
1041 judicial review, then such filing shall be considered a "file
1042 and use" filing. In such case, the office shall finalize its
1043 review by issuance of an approval ~~a notice of intent to approve~~
1044 or a notice of intent to disapprove within 90 days after receipt

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1045 of the filing. The approval ~~notice of intent to approve~~ and the
1046 notice of intent to disapprove constitute agency action for
1047 purposes of the Administrative Procedure Act. Requests for
1048 supporting information, requests for mathematical or mechanical
1049 corrections, or notification to the insurer by the office of its
1050 preliminary findings shall not toll the 90-day period during any
1051 such proceedings and subsequent judicial review. The rate shall
1052 be deemed approved if the office does not issue an approval ~~a~~
1053 ~~notice of intent to approve~~ or a notice of intent to disapprove
1054 within 90 days after receipt of the filing.

1055 2. If the filing is not made in accordance with the
1056 provisions of subparagraph 1., such filing shall be made as soon
1057 as practicable, but no later than 30 days after the effective
1058 date, and shall be considered a "use and file" filing. An
1059 insurer making a "use and file" filing is potentially subject to
1060 an order by the office to return to policyholders portions of
1061 rates found to be excessive, as provided in paragraph (h).

1062 3. For all property insurance filings made or submitted
1063 after January 25, 2007, but before December 31, 2011 ~~2010~~, an
1064 insurer seeking a rate that is greater than the rate most
1065 recently approved by the office shall make a "file and use"
1066 filing. For purposes of this subparagraph, motor vehicle
1067 collision and comprehensive coverages are not considered to be
1068 property coverages.

1069 (b) Upon receiving a rate filing, the office shall review
1070 the rate filing to determine if a rate is excessive, inadequate,
1071 or unfairly discriminatory. In making that determination, the
1072 office shall, in accordance with generally accepted and
1073 reasonable actuarial techniques, consider the following factors:

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1074 1. Past and prospective loss experience within and without
1075 this state.

1076 2. Past and prospective expenses.

1077 3. The degree of competition among insurers for the risk
1078 insured.

1079 4. Investment income reasonably expected by the insurer,
1080 consistent with the insurer's investment practices, from
1081 investable premiums anticipated in the filing, plus any other
1082 expected income from currently invested assets representing the
1083 amount expected on unearned premium reserves and loss reserves.
1084 The commission may adopt rules using reasonable techniques of
1085 actuarial science and economics to specify the manner in which
1086 insurers shall calculate investment income attributable to such
1087 classes of insurance written in this state and the manner in
1088 which such investment income shall be used to calculate
1089 insurance rates. Such manner shall contemplate allowances for an
1090 underwriting profit factor and full consideration of investment
1091 income which produce a reasonable rate of return; however,
1092 investment income from invested surplus may not be considered.

1093 5. The reasonableness of the judgment reflected in the
1094 filing.

1095 6. Dividends, savings, or unabsorbed premium deposits
1096 allowed or returned to Florida policyholders, members, or
1097 subscribers.

1098 7. The adequacy of loss reserves.

1099 8. The cost of reinsurance. The office shall not disapprove
1100 a rate as excessive solely due to the insurer having obtained
1101 catastrophic reinsurance to cover the insurer's estimated 250-
1102 year probable maximum loss or any lower level of loss.

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1103 9. Trend factors, including trends in actual losses per
1104 insured unit for the insurer making the filing.

1105 10. Conflagration and catastrophe hazards, if applicable.

1106 11. Projected hurricane losses, if applicable, which must
1107 be estimated using a model or method found to be acceptable or
1108 reliable by the Florida Commission on Hurricane Loss Projection
1109 Methodology, and as further provided in s. 627.0628.

1110 12. A reasonable margin for underwriting profit and
1111 contingencies.

1112 13. The cost of medical services, if applicable.

1113 14. Other relevant factors which impact upon the frequency
1114 or severity of claims or upon expenses.

1115 (c) In the case of fire insurance rates, consideration
1116 shall be given to the availability of water supplies and the
1117 experience of the fire insurance business during a period of not
1118 less than the most recent 5-year period for which such
1119 experience is available.

1120 (d) If conflagration or catastrophe hazards are given
1121 consideration by an insurer in its rates or rating plan,
1122 including surcharges and discounts, the insurer shall establish
1123 a reserve for that portion of the premium allocated to such
1124 hazard and shall maintain the premium in a catastrophe reserve.
1125 Any removal of such premiums from the reserve for purposes other
1126 than paying claims associated with a catastrophe or purchasing
1127 reinsurance for catastrophes shall be subject to approval of the
1128 office. Any ceding commission received by an insurer purchasing
1129 reinsurance for catastrophes shall be placed in the catastrophe
1130 reserve.

1131 (e) After consideration of the rate factors provided in

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1132 paragraphs (b), (c), and (d), a rate may be found by the office
1133 to be excessive, inadequate, or unfairly discriminatory based
1134 upon the following standards:

1135 1. Rates shall be deemed excessive if they are likely to
1136 produce a profit from Florida business that is unreasonably high
1137 in relation to the risk involved in the class of business or if
1138 expenses are unreasonably high in relation to services rendered.

1139 2. Rates shall be deemed excessive if, among other things,
1140 the rate structure established by a stock insurance company
1141 provides for replenishment of surpluses from premiums, when the
1142 replenishment is attributable to investment losses.

1143 3. Rates shall be deemed inadequate if they are clearly
1144 insufficient, together with the investment income attributable
1145 to them, to sustain projected losses and expenses in the class
1146 of business to which they apply.

1147 4. A rating plan, including discounts, credits, or
1148 surcharges, shall be deemed unfairly discriminatory if it fails
1149 to clearly and equitably reflect consideration of the
1150 policyholder's participation in a risk management program
1151 adopted pursuant to s. 627.0625.

1152 5. A rate shall be deemed inadequate as to the premium
1153 charged to a risk or group of risks if discounts or credits are
1154 allowed which exceed a reasonable reflection of expense savings
1155 and reasonably expected loss experience from the risk or group
1156 of risks.

1157 6. A rate shall be deemed unfairly discriminatory as to a
1158 risk or group of risks if the application of premium discounts,
1159 credits, or surcharges among such risks does not bear a
1160 reasonable relationship to the expected loss and expense

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1161 experience among the various risks.

1162 (f) In reviewing a rate filing, the office may require the
1163 insurer to provide at the insurer's expense all information
1164 necessary to evaluate the condition of the company and the
1165 reasonableness of the filing according to the criteria
1166 enumerated in this section.

1167 (g) The office may at any time review a rate, rating
1168 schedule, rating manual, or rate change; the pertinent records
1169 of the insurer; and market conditions. If the office finds on a
1170 preliminary basis that a rate may be excessive, inadequate, or
1171 unfairly discriminatory, the office shall initiate proceedings
1172 to disapprove the rate and shall so notify the insurer. However,
1173 the office may not disapprove as excessive any rate for which it
1174 has given final approval or which has been deemed approved for a
1175 period of 1 year after the effective date of the filing unless
1176 the office finds that a material misrepresentation or material
1177 error was made by the insurer or was contained in the filing.
1178 Upon being so notified, the insurer or rating organization
1179 shall, within 60 days, file with the office all information
1180 which, in the belief of the insurer or organization, proves the
1181 reasonableness, adequacy, and fairness of the rate or rate
1182 change. The office shall issue a notice of intent to approve or
1183 a notice of intent to disapprove pursuant to the procedures of
1184 paragraph (a) within 90 days after receipt of the insurer's
1185 initial response. In such instances and in any administrative
1186 proceeding relating to the legality of the rate, the insurer or
1187 rating organization shall carry the burden of proof by a
1188 preponderance of the evidence to show that the rate is not
1189 excessive, inadequate, or unfairly discriminatory. After the

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1190 office notifies an insurer that a rate may be excessive,
1191 inadequate, or unfairly discriminatory, unless the office
1192 withdraws the notification, the insurer shall not alter the rate
1193 except to conform with the office's notice until the earlier of
1194 120 days after the date the notification was provided or 180
1195 days after the date of the implementation of the rate. The
1196 office may, subject to chapter 120, disapprove without the 60-
1197 day notification any rate increase filed by an insurer within
1198 the prohibited time period or during the time that the legality
1199 of the increased rate is being contested.

1200 (h) ~~If in the event~~ the office finds that a rate or rate
1201 change is excessive, inadequate, or unfairly discriminatory, the
1202 office shall issue an order of disapproval specifying that a new
1203 rate or rate schedule which responds to the findings of the
1204 office be filed by the insurer. The office shall further order,
1205 for any "use and file" filing made in accordance with
1206 subparagraph (a)2., that premiums charged each policyholder
1207 constituting the portion of the rate above that which was
1208 actuarially justified be returned to such policyholder in the
1209 form of a credit or refund. If the office finds that an
1210 insurer's rate or rate change is inadequate, the new rate or
1211 rate schedule filed with the office in response to such a
1212 finding shall be applicable only to new or renewal business of
1213 the insurer written on or after the effective date of the
1214 responsive filing.

1215 (i) 1. Except as otherwise specifically provided in this
1216 chapter, the office shall not, directly or indirectly, prohibit
1217 any insurer, including any residual market plan or joint
1218 underwriting association, from paying acquisition costs based on

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1219 the full amount of premium, as defined in s. 627.403, applicable
1220 to any policy, or directly or indirectly prohibit any such
1221 insurer from including the full amount of acquisition costs in a
1222 rate filing.

1223 2. The office shall not, directly or indirectly, impede,
1224 abridge, or otherwise compromise an insurer's right to acquire
1225 policyholders, advertise, or appoint agents, including the
1226 calculation, manner, or amount of such agent commissions, if
1227 any.

1228 (j) With respect to residential property insurance rate
1229 filings, the rate filing must account for mitigation measures
1230 undertaken by policyholders to reduce hurricane losses.

1231 (k)1.a. An insurer may make a separate filing limited
1232 solely to an adjustment of its rates for reinsurance, the cost
1233 of financing products used as a replacement for reinsurance, or
1234 financing costs incurred in the purchase of reinsurance, and an
1235 inflation trend factor published by the office pursuant to
1236 subparagraph 4. If an insurer chooses to make a separate filing
1237 under this paragraph, it must implement the rate in such a
1238 manner that all rate increases implemented as a result of the
1239 separate filing, together with rate increases associated with
1240 any other rate filing, do or financing products to replace or
1241 finance the payment of the amount covered by the Temporary
1242 Increase in Coverage Limits (TICL) portion of the Florida
1243 Hurricane Catastrophe Fund including replacement reinsurance for
1244 the TICL reductions made pursuant to s. 215.555(17) (e); the
1245 actual cost paid due to the application of the TICL premium
1246 factor pursuant to s. 215.555(17) (f); and the actual cost paid
1247 due to the application of the cash build-up factor pursuant to

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1248 ~~s. 215.555(5)(b) if the insurer:~~

1249 ~~a. Elects to purchase financing products such as a~~
1250 ~~liquidity instrument or line of credit, in which case the cost~~
1251 ~~included in the filing for the liquidity instrument or line of~~
1252 ~~credit may not result in a premium increase exceeding 3 percent~~
1253 ~~for any individual policyholder. All costs contained in the~~
1254 ~~filing may not result in an overall premium increase of more~~
1255 ~~than 10 percent for any individual policyholder, excluding~~
1256 ~~coverage changes and surcharges, within the same policy year.~~

1257 ~~b. An insurer that makes a filing relating to reinsurance~~
1258 ~~or financing products must include the following ~~includes~~ in the~~
1259 ~~filing: a copy of all of its reinsurance, liquidity instrument,~~
1260 ~~or line of credit contracts; proof of the billing or payment for~~
1261 ~~the contracts; and the calculation upon which the proposed rate~~
1262 ~~change is based demonstrating ~~demonstrates~~ that the costs meet~~
1263 ~~the criteria of this section and ~~are not loaded for expenses or~~~~
1264 ~~profit for the insurer making the filing.~~

1265 ~~c. Any filing made pursuant this paragraph may include only~~
1266 ~~the ~~includes no other~~ changes to its rates which are expressly~~
1267 ~~authorized by this paragraph in the filing.~~

1268 ~~d. Has not implemented a rate increase within the 6 months~~
1269 ~~immediately preceding the filing.~~

1270 ~~e. Does not file for a rate increase under any other~~
1271 ~~paragraph within 6 months after making a filing under this~~
1272 ~~paragraph.~~

1273 ~~d.f.~~ An insurer that purchases reinsurance or financing
1274 products from an affiliated company may make a filing pursuant
1275 to ~~in compliance with~~ this paragraph ~~does so~~ only if the costs
1276 for such reinsurance or financing products are charged at or

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1277 below charges made for comparable coverage by nonaffiliated
1278 reinsurers or financial entities making such coverage or
1279 financing products available in this state.

1280 e. An insurer that makes a filing as the result of a change
1281 in an inflation trend factor published by the office need
1282 support that filing only with rates and rating examples and an
1283 explanation demonstrating the insurer's eligibility to adopt the
1284 inflation trend factor.

1285 2. An insurer may ~~only~~ make only one filing in any 12-month
1286 period under this paragraph.

1287 3. An insurer that elects to implement a rate change under
1288 this paragraph must file its rate filing with the office at
1289 least 45 days before the effective date of the rate change.
1290 After an insurer submits a complete filing that meets all of the
1291 requirements of this paragraph, the office has 45 days after the
1292 date of the filing to review the rate filing and determine if
1293 the rate is excessive, inadequate, or unfairly discriminatory.

1294 4. Beginning January 1, 2011, the office shall publish an
1295 annual informational memorandum to establish one or more
1296 inflation trend factors that may be stated separately for
1297 personal and residential property and for building coverage,
1298 contents coverage, additional living expense coverage, and
1299 liability coverage, if applicable. These factors shall represent
1300 an estimate of cost increases or decreases based upon publicly
1301 available relevant data and economic indices that are identified
1302 in the memorandum. Such factors are exempt from the rulemaking
1303 requirements of chapter 120, and insurers are not required to
1304 adopt the factors. The office may publish factors for any line
1305 of insurance, but is required to publish a factor only for

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1306 residential property insurance.

1307

1308 The provisions of this subsection do ~~shall~~ not apply to workers'
1309 compensation and employer's liability insurance and to motor
1310 vehicle insurance.

1311 (3) (a) For individual risks that are not rated in
1312 accordance with the insurer's rates, rating schedules, rating
1313 manuals, and underwriting rules filed with the office and which
1314 have been submitted to the insurer for individual rating, the
1315 insurer must maintain documentation on each risk subject to
1316 individual risk rating. The documentation must identify the
1317 named insured and specify the characteristics and classification
1318 of the risk supporting the reason for the risk being
1319 individually risk rated, including any modifications to existing
1320 approved forms to be used on the risk. The insurer must maintain
1321 these records for a period of at least 5 years after the
1322 effective date of the policy.

1323 (b) Individual risk rates and modifications to existing
1324 approved forms are not subject to this part or part II, except
1325 for paragraph (a) and ss. 627.402, 627.403, 627.4035, 627.404,
1326 627.405, 627.406, 627.407, 627.4085, 627.409, 627.4132,
1327 627.4133, 627.415, 627.416, 627.417, 627.419, 627.425, 627.426,
1328 627.4265, 627.427, and 627.428, but are subject to all other
1329 applicable provisions of this code and rules adopted thereunder.

1330 (c) This subsection does not apply to private passenger
1331 motor vehicle insurance.

1332 (4) (a) Contingent on specific appropriations made to
1333 implement this subsection, in order to enhance the ability of
1334 consumers to compare premiums and to increase the accuracy and

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1335 usefulness of rate and product comparison information for
1336 homeowners' insurance, the office shall develop or contract with
1337 a private entity to develop a comprehensive program for
1338 providing the consumer with all available information necessary
1339 to make an informed purchase of the insurance product that best
1340 serves the needs of the individual.

1341 (b) In developing the comprehensive program, the office
1342 shall rely as much as is practical on information that is
1343 currently available and shall consider:

1344 1. The most efficient means for developing, hosting, and
1345 operating a separate website that consolidates all consumer
1346 information for price comparisons, filed complaints, financial
1347 strength, underwriting, and receivership information and other
1348 data useful to consumers;

1349 2. Whether all admitted insurers should be required to
1350 submit additional information to populate the composite website
1351 and how often such submissions must be made;

1352 3. Whether all admitted insurers should be required to
1353 provide links from the website into each individual insurer's
1354 website in order to enable consumers to access product rate
1355 information and apply for quotations;

1356 4. Developing a plan to publicize the existence,
1357 availability, and value of the website; and

1358 5. Any other provision that would make relevant homeowners'
1359 insurance information more readily available so that consumers
1360 can make informed product comparisons and purchasing decisions.

1361 (c) Before establishing the program or website, the office
1362 shall conduct a cost-benefit analysis to determine the most
1363 effective approach for establishing and operating the program

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1364 and website. Based on the results of the analysis, the office
1365 shall submit a proposed implementation plan for review and
1366 approval by the Financial Services Commission. The
1367 implementation plan shall include an estimated timeline for
1368 establishing the program and website; a description of the data
1369 and functionality to be provided by the site, a strategy for
1370 publicizing the website to consumers; a recommended approach for
1371 developing, hosting, and operating the website; and an estimate
1372 of all major nonrecurring and recurring costs required to
1373 establish and operate the website. Upon approval of the plan,
1374 the office may initiate the establishment of the program.

1375 (5)-(4) The establishment of any rate, rating
1376 classification, rating plan or schedule, or variation thereof in
1377 violation of part IX of chapter 626 is also in violation of this
1378 section. ~~In order to enhance the ability of consumers to compare~~
1379 ~~premiums and to increase the accuracy and usefulness of rate-~~
1380 ~~comparison information provided by the office to the public, the~~
1381 ~~office shall develop a proposed standard rating territory plan~~
1382 ~~to be used by all authorized property and casualty insurers for~~
1383 ~~residential property insurance. In adopting the proposed plan,~~
1384 ~~the office may consider geographical characteristics relevant to~~
1385 ~~risk, county lines, major roadways, existing rating territories~~
1386 ~~used by a significant segment of the market, and other relevant~~
1387 ~~factors. Such plan shall be submitted to the President of the~~
1388 ~~Senate and the Speaker of the House of Representatives by~~
1389 ~~January 15, 2006. The plan may not be implemented unless~~
1390 ~~authorized by further act of the Legislature.~~

1391 (6)-(5) With respect to a rate filing involving coverage of
1392 the type for which the insurer is required to pay a

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1393 reimbursement premium to the Florida Hurricane Catastrophe Fund,
1394 the insurer may fully recoup in its property insurance premiums
1395 any reimbursement premiums paid to the Florida Hurricane
1396 Catastrophe Fund, together with reasonable costs of other
1397 reinsurance, but except as otherwise provided in this section,
1398 may not recoup reinsurance costs that duplicate coverage
1399 provided by the Florida Hurricane Catastrophe Fund. An insurer
1400 may not recoup more than 1 year of reimbursement premium at a
1401 time. Any under-recoupment from the prior year may be added to
1402 the following year's reimbursement premium, and any over-
1403 recoupment shall be subtracted from the following year's
1404 reimbursement premium.

1405 (7)~~(6)~~(a) If an insurer requests an administrative hearing
1406 pursuant to s. 120.57 related to a rate filing under this
1407 section, the director of the Division of Administrative Hearings
1408 shall expedite the hearing and assign an administrative law
1409 judge who shall commence the hearing within 30 days after the
1410 receipt of the formal request and shall enter a recommended
1411 order within 30 days after the hearing or within 30 days after
1412 receipt of the hearing transcript by the administrative law
1413 judge, whichever is later. Each party shall be allowed 10 days
1414 in which to submit written exceptions to the recommended order.
1415 The office shall enter a final order within 30 days after the
1416 entry of the recommended order. The provisions of this paragraph
1417 may be waived upon stipulation of all parties.

1418 (b) Upon entry of a final order, the insurer may request a
1419 expedited appellate review pursuant to the Florida Rules of
1420 Appellate Procedure. It is the intent of the Legislature that
1421 the First District Court of Appeal grant an insurer's request

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1422 for an expedited appellate review.

1423 (8)~~(7)~~(a) The provisions of this subsection apply only with
1424 respect to rates for medical malpractice insurance and shall
1425 control to the extent of any conflict with other provisions of
1426 this section.

1427 (b) Any portion of a judgment entered or settlement paid as
1428 a result of a statutory or common-law bad faith action and any
1429 portion of a judgment entered which awards punitive damages
1430 against an insurer may not be included in the insurer's rate
1431 base, and shall not be used to justify a rate or rate change.
1432 Any common-law bad faith action identified as such, any portion
1433 of a settlement entered as a result of a statutory or common-law
1434 action, or any portion of a settlement wherein an insurer agrees
1435 to pay specific punitive damages may not be used to justify a
1436 rate or rate change. The portion of the taxable costs and
1437 attorney's fees which is identified as being related to the bad
1438 faith and punitive damages in these judgments and settlements
1439 may not be included in the insurer's rate base and may not be
1440 used ~~utilized~~ to justify a rate or rate change.

1441 (c) Upon reviewing a rate filing and determining whether
1442 the rate is excessive, inadequate, or unfairly discriminatory,
1443 the office shall consider, in accordance with generally accepted
1444 and reasonable actuarial techniques, past and present
1445 prospective loss experience, either using loss experience solely
1446 for this state or giving greater credibility to this state's
1447 loss data after applying actuarially sound methods of assigning
1448 credibility to such data.

1449 (d) Rates shall be deemed excessive if, among other
1450 standards established by this section, the rate structure

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1451 provides for replenishment of reserves or surpluses from
1452 premiums when the replenishment is attributable to investment
1453 losses.

1454 (e) The insurer must apply a discount or surcharge based on
1455 the health care provider's loss experience or shall establish an
1456 alternative method giving due consideration to the provider's
1457 loss experience. The insurer must include in the filing a copy
1458 of the surcharge or discount schedule or a description of the
1459 alternative method used, and must provide a copy of such
1460 schedule or description, as approved by the office, to
1461 policyholders at the time of renewal and to prospective
1462 policyholders at the time of application for coverage.

1463 (f) Each medical malpractice insurer must make a rate
1464 filing under this section, sworn to by at least two executive
1465 officers of the insurer, at least once each calendar year.

1466 ~~(8)(a)1. No later than 60 days after the effective date of~~
1467 ~~medical malpractice legislation enacted during the 2003 Special~~
1468 ~~Session D of the Florida Legislature, the office shall calculate~~
1469 ~~a presumed factor that reflects the impact that the changes~~
1470 ~~contained in such legislation will have on rates for medical~~
1471 ~~malpractice insurance and shall issue a notice informing all~~
1472 ~~insurers writing medical malpractice coverage of such presumed~~
1473 ~~factor. In determining the presumed factor, the office shall use~~
1474 ~~generally accepted actuarial techniques and standards provided~~
1475 ~~in this section in determining the expected impact on losses,~~
1476 ~~expenses, and investment income of the insurer. To the extent~~
1477 ~~that the operation of a provision of medical malpractice~~
1478 ~~legislation enacted during the 2003 Special Session D of the~~
1479 ~~Florida Legislature is stayed pending a constitutional~~

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1480 ~~challenge, the impact of that provision shall not be included in~~
1481 ~~the calculation of a presumed factor under this subparagraph.~~

1482 ~~2. No later than 60 days after the office issues its notice~~
1483 ~~of the presumed rate change factor under subparagraph 1., each~~
1484 ~~insurer writing medical malpractice coverage in this state shall~~
1485 ~~submit to the office a rate filing for medical malpractice~~
1486 ~~insurance, which will take effect no later than January 1, 2004,~~
1487 ~~and apply retroactively to policies issued or renewed on or~~
1488 ~~after the effective date of medical malpractice legislation~~
1489 ~~enacted during the 2003 Special Session D of the Florida~~
1490 ~~Legislature. Except as authorized under paragraph (b), the~~
1491 ~~filing shall reflect an overall rate reduction at least as great~~
1492 ~~as the presumed factor determined under subparagraph 1. With~~
1493 ~~respect to policies issued on or after the effective date of~~
1494 ~~such legislation and prior to the effective date of the rate~~
1495 ~~filing required by this subsection, the office shall order the~~
1496 ~~insurer to make a refund of the amount that was charged in~~
1497 ~~excess of the rate that is approved.~~

1498 ~~(b) Any insurer or rating organization that contends that~~
1499 ~~the rate provided for in paragraph (a) is excessive, inadequate,~~
1500 ~~or unfairly discriminatory shall separately state in its filing~~
1501 ~~the rate it contends is appropriate and shall state with~~
1502 ~~specificity the factors or data that it contends should be~~
1503 ~~considered in order to produce such appropriate rate. The~~
1504 ~~insurer or rating organization shall be permitted to use all of~~
1505 ~~the generally accepted actuarial techniques provided in this~~
1506 ~~section in making any filing pursuant to this subsection. The~~
1507 ~~office shall review each such exception and approve or~~
1508 ~~disapprove it prior to use. It shall be the insurer's burden to~~

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1509 ~~actuarially justify any deviations from the rates required to be~~
1510 ~~filed under paragraph (a). The insurer making a filing under~~
1511 ~~this paragraph shall include in the filing the expected impact~~
1512 ~~of medical malpractice legislation enacted during the 2003~~
1513 ~~Special Session D of the Florida Legislature on losses,~~
1514 ~~expenses, and rates.~~

1515 ~~(c) If any provision of medical malpractice legislation~~
1516 ~~enacted during the 2003 Special Session D of the Florida~~
1517 ~~Legislature is held invalid by a court of competent~~
1518 ~~jurisdiction, the office shall permit an adjustment of all~~
1519 ~~medical malpractice rates filed under this section to reflect~~
1520 ~~the impact of such holding on such rates so as to ensure that~~
1521 ~~the rates are not excessive, inadequate, or unfairly~~
1522 ~~discriminatory.~~

1523 ~~(d) Rates approved on or before July 1, 2003, for medical~~
1524 ~~malpractice insurance shall remain in effect until the effective~~
1525 ~~date of a new rate filing approved under this subsection.~~

1526 ~~(e) The calculation and notice by the office of the~~
1527 ~~presumed factor pursuant to paragraph (a) is not an order or~~
1528 ~~rule that is subject to chapter 120. If the office enters into a~~
1529 ~~contract with an independent consultant to assist the office in~~
1530 ~~calculating the presumed factor, such contract shall not be~~
1531 ~~subject to the competitive solicitation requirements of s.~~
1532 ~~287.057.~~

1533 (9) (a) The chief executive officer or chief financial
1534 officer of a property insurer and the chief actuary of a
1535 property insurer must certify under oath and subject to the
1536 penalty of perjury, on a form approved by the commission, the
1537 following information, which must accompany a rate filing:

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1538 1. The signing officer and actuary have reviewed the rate
1539 filing;

1540 2. Based on the signing officer's and actuary's knowledge,
1541 the rate filing does not contain any untrue statement of a
1542 material fact or omit to state a material fact necessary in
1543 order to make the statements made, in light of the circumstances
1544 under which such statements were made, not misleading;

1545 3. Based on the signing officer's and actuary's knowledge,
1546 the information and other factors described in paragraph (2) (b),
1547 including, but not limited to, investment income, fairly present
1548 in all material respects the basis of the rate filing for the
1549 periods presented in the filing; and

1550 4. Based on the signing officer's and actuary's knowledge,
1551 the rate filing reflects all premium savings that are reasonably
1552 expected to result from legislative enactments and are in
1553 accordance with generally accepted and reasonable actuarial
1554 techniques.

1555 (b) A signing officer or actuary knowingly making a false
1556 certification under this subsection commits a violation of s.
1557 626.9541(1) (e) and is subject to the penalties under s.
1558 626.9521.

1559 (c) Failure to provide such certification by the officer
1560 and actuary shall result in the rate filing being disapproved
1561 without prejudice to be refiled.

1562 (d) A certification made pursuant to paragraph (a) is not
1563 rendered false if, after making the subject rate filing, the
1564 insurer provides the office with additional or supplementary
1565 information pursuant to a formal or informal request from the
1566 office.

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1567 ~~(e)~~(d) The commission may adopt rules and forms pursuant to
1568 ss. 120.536(1) and 120.54 to administer this subsection.

1569 (10) The burden is on the office to establish that rates
1570 are excessive for personal lines residential coverage with a
1571 dwelling replacement cost of \$1 million or more or for a single
1572 condominium unit with a combined dwelling and contents
1573 replacement cost of \$1 million or more. Upon request of the
1574 office, the insurer shall provide to the office such loss and
1575 expense information as the office reasonably needs to meet this
1576 burden.

1577 (11) Any interest paid pursuant to s. 627.70131(5) may not
1578 be included in the insurer's rate base and may not be used to
1579 justify a rate or rate change.

1580 Section 15. Section 627.0629, Florida Statutes, is amended
1581 to read:

1582 627.0629 Residential property insurance; rate filings.—

1583 (1)~~(a)~~ It is the intent of the Legislature that insurers
1584 ~~must~~ provide the most accurate pricing signals available ~~savings~~
1585 to encourage consumers to ~~who~~ install or implement windstorm
1586 damage mitigation techniques, alterations, or solutions to their
1587 properties to prevent windstorm losses. It is also the intent of
1588 the Legislature that implementation of mitigation discounts not
1589 result in a loss of income to the insurers granting the
1590 discounts, so that the aggregate of mitigation discounts should
1591 not exceed the aggregate of the expected reduction in loss that
1592 is attributable to the mitigation efforts for which discounts
1593 are granted. A rate filing for residential property insurance
1594 must include actuarially reasonable discounts, credits, debits,
1595 or other rate differentials, or appropriate reductions in

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1596 deductibles, which provide the proper pricing for all
1597 properties. The rate filing must take into account the presence
1598 or absence of ~~en-which~~ fixtures or construction techniques
1599 demonstrated to reduce the amount of loss in a windstorm have
1600 been installed or implemented. The fixtures or construction
1601 techniques shall include, but not be limited to, fixtures or
1602 construction techniques that ~~which~~ enhance roof strength, roof
1603 covering performance, roof-to-wall strength, wall-to-floor-to-
1604 foundation strength, opening protection, and window, door, and
1605 skylight strength. Credits, debits, discounts, or other rate
1606 differentials, or appropriate reductions or increases in
1607 deductibles, which recognize the presence or absence of ~~for~~
1608 fixtures and construction techniques that ~~which~~ meet the minimum
1609 requirements of the Florida Building Code must be included in
1610 the rate filing. If an insurer demonstrates that the aggregate
1611 of its mitigation discounts results in a reduction to revenue
1612 which exceeds the reduction of the aggregate loss that is
1613 expected to result from the mitigation, that insurer may recover
1614 the lost revenue through an increase in its base rates. All
1615 ~~insurance companies must make a rate filing which includes the~~
1616 ~~credits, discounts, or other rate differentials or reductions in~~
1617 ~~deductibles by February 28, 2003.~~ By July 1, 2007, the office
1618 shall reevaluate the discounts, credits, other rate
1619 differentials, and appropriate reductions in deductibles for
1620 fixtures and construction techniques that meet the minimum
1621 requirements of the Florida Building Code, based upon actual
1622 experience or any other loss relativity studies available to the
1623 office. The office shall determine the discounts, credits,
1624 debits, other rate differentials, and appropriate reductions or

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1625 increases in deductibles that reflect the full actuarial value
1626 of such revaluation, which may be used by insurers in rate
1627 filings.

1628 ~~(b) By February 1, 2011, the Office of Insurance~~
1629 ~~Regulation, in consultation with the Department of Financial~~
1630 ~~Services and the Department of Community Affairs, shall develop~~
1631 ~~and make publicly available a proposed method for insurers to~~
1632 ~~establish discounts, credits, or other rate differentials for~~
1633 ~~hurricane mitigation measures which directly correlate to the~~
1634 ~~numerical rating assigned to a structure pursuant to the uniform~~
1635 ~~home grading scale adopted by the Financial Services Commission~~
1636 ~~pursuant to s. 215.55865, including any proposed changes to the~~
1637 ~~uniform home grading scale. By October 1, 2011, the commission~~
1638 ~~shall adopt rules requiring insurers to make rate filings for~~
1639 ~~residential property insurance which revise insurers' discounts,~~
1640 ~~credits, or other rate differentials for hurricane mitigation~~
1641 ~~measures so that such rate differentials correlate directly to~~
1642 ~~the uniform home grading scale. The rules may include such~~
1643 ~~changes to the uniform home grading scale as the commission~~
1644 ~~determines are necessary, and may specify the minimum required~~
1645 ~~discounts, credits, or other rate differentials. Such rate~~
1646 ~~differentials must be consistent with generally accepted~~
1647 ~~actuarial principles and wind loss mitigation studies. The rules~~
1648 ~~shall allow a period of at least 2 years after the effective~~
1649 ~~date of the revised mitigation discounts, credits, or other rate~~
1650 ~~differentials for a property owner to obtain an inspection or~~
1651 ~~otherwise qualify for the revised credit, during which time the~~
1652 ~~insurer shall continue to apply the mitigation credit that was~~
1653 ~~applied immediately prior to the effective date of the revised~~

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1654 ~~credit. Discounts, credits, and other rate differentials~~
1655 ~~established for rate filings under this paragraph shall~~
1656 ~~supersede, after adoption, the discounts, credits, and other~~
1657 ~~rate differentials included in rate filings under paragraph (a).~~

1658 (2) (a) A rate filing for residential property insurance
1659 made on or before the implementation of paragraph (b) may
1660 include rate factors that reflect the manner in which building
1661 code enforcement in a particular jurisdiction addresses the risk
1662 of wind damage. + However, such a rate filing must also provide
1663 for variations from such rate factors on an individual basis
1664 based on an inspection of a particular structure by a licensed
1665 home inspector, which inspection may be at the cost of the
1666 insured.

1667 (b) A rate filing for residential property insurance made
1668 more than 150 days after approval by the office of a building
1669 code rating factor plan submitted by a statewide rating
1670 organization shall include positive and negative rate factors
1671 that reflect the manner in which building code enforcement in a
1672 particular jurisdiction addresses risk of wind damage. The rate
1673 filing shall include variations from standard rate factors on an
1674 individual basis based on inspection of a particular structure
1675 by a licensed home inspector. If an inspection is requested by
1676 the insured, the insurer may require the insured to pay the
1677 reasonable cost of the inspection. This paragraph applies to
1678 structures constructed or renovated after the implementation of
1679 this paragraph.

1680 (c) The premium notice shall specify the amount by which
1681 the rate has been adjusted as a result of this subsection and
1682 shall also specify the maximum possible positive and negative

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1683 adjustments that are approved for use by the insurer under this
1684 subsection.

1685 (3) A rate filing ~~made on or after July 1, 1995,~~ for mobile
1686 home owner's insurance must include appropriate discounts,
1687 credits, or other rate differentials for mobile homes
1688 constructed to comply with American Society of Civil Engineers
1689 Standard ANSI/ASCE 7-88, adopted by the United States Department
1690 of Housing and Urban Development on July 13, 1994, and that also
1691 comply with all applicable tie-down requirements provided by
1692 state law.

1693 (4) The Legislature finds that separate consideration and
1694 notice of hurricane insurance premiums will assist consumers by
1695 providing greater assurance that hurricane premiums are lawful
1696 and by providing more complete information regarding the
1697 components of property insurance premiums. ~~Effective January 1,~~
1698 ~~1997,~~ A rate filing for residential property insurance shall be
1699 separated into two components, rates for hurricane coverage and
1700 rates for all other coverages. A premium notice reflecting a
1701 rate implemented on the basis of such a filing shall separately
1702 indicate the premium for hurricane coverage and the premium for
1703 all other coverages.

1704 (5) In order to provide an appropriate transition period,
1705 an insurer may, in its sole discretion, implement an approved
1706 rate filing for residential property insurance over a period of
1707 years. An insurer electing to phase in its rate filing must
1708 provide an informational notice to the office setting out its
1709 schedule for implementation of the phased-in rate filing. An
1710 insurer may include in its rate the actual cost of private
1711 market reinsurance that corresponds to available coverage of the

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1712 Temporary Increase in Coverage Limits, TICL, from the Florida
1713 Hurricane Catastrophe Fund. The insurer may also include the
1714 cost of reinsurance to replace the TICL reduction implemented
1715 pursuant to s. 215.555(17)(d)9. However, this cost for
1716 reinsurance may not ~~include any expense or profit load or~~ result
1717 in a total annual base rate increase in excess of 10 percent.

1718 (6) Any rate filing that is based in whole or part on data
1719 from a computer model may not exceed 15 percent unless there is
1720 a public hearing.

1721 (7) An insurer may implement appropriate discounts or other
1722 rate differentials of up to 10 percent of the annual premium to
1723 mobile home owners who provide to the insurer evidence of a
1724 current inspection of tie-downs for the mobile home, certifying
1725 that the tie-downs have been properly installed and are in good
1726 condition.

1727 (8) EVALUATION OF RESIDENTIAL PROPERTY STRUCTURAL
1728 SOUNDNESS.—

1729 (a) It is the intent of the Legislature to provide a
1730 program whereby homeowners may obtain an evaluation of the wind
1731 resistance of their homes with respect to preventing damage from
1732 hurricanes, together with a recommendation of reasonable steps
1733 that may be taken to upgrade their homes to better withstand
1734 hurricane force winds.

1735 (b) To the extent that funds are provided for this purpose
1736 in the General Appropriations Act, the Legislature hereby
1737 authorizes the establishment of a program to be administered by
1738 the Citizens Property Insurance Corporation for homeowners
1739 insured in the high-risk account.

1740 (c) The program shall provide grants to homeowners, for the

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1741 purpose of providing homeowner applicants with funds to conduct
1742 an evaluation of the integrity of their homes with respect to
1743 withstanding hurricane force winds, recommendations to retrofit
1744 the homes to better withstand damage from such winds, and the
1745 estimated cost to make the recommended retrofits.

1746 (d) The Department of Community Affairs shall establish by
1747 rule standards to govern the quality of the evaluation, the
1748 quality of the recommendations for retrofitting, the eligibility
1749 of the persons conducting the evaluation, and the selection of
1750 applicants under the program. In establishing the rule, the
1751 Department of Community Affairs shall consult with the advisory
1752 committee to minimize the possibility of fraud or abuse in the
1753 evaluation and retrofitting process, and to ensure that funds
1754 spent by homeowners acting on the recommendations achieve
1755 positive results.

1756 (e) The Citizens Property Insurance Corporation shall
1757 identify areas of this state with the greatest wind risk to
1758 residential properties and recommend annually to the Department
1759 of Community Affairs priority target areas for such evaluations
1760 and inclusion with the associated residential construction
1761 mitigation program.

1762 (9) A property insurance rate filing that includes any
1763 adjustments related to premiums paid to the Florida Hurricane
1764 Catastrophe Fund must include a complete calculation of the
1765 insurer's catastrophe load, and the information in the filing
1766 may not be limited solely to recovery of moneys paid to the
1767 fund.

1768 Section 16. Paragraphs (b), (c), (d), and (y) of subsection
1769 (6) of section 627.351, Florida Statutes, are amended to read:

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1770 627.351 Insurance risk apportionment plans.—
1771 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—
1772 (b)1. All insurers authorized to write one or more subject
1773 lines of business in this state are subject to assessment by the
1774 corporation and, for the purposes of this subsection, are
1775 referred to collectively as “assessable insurers.” Insurers
1776 writing one or more subject lines of business in this state
1777 pursuant to part VIII of chapter 626 are not assessable
1778 insurers, but insureds who procure one or more subject lines of
1779 business in this state pursuant to part VIII of chapter 626 are
1780 subject to assessment by the corporation and are referred to
1781 collectively as “assessable insureds.” An authorized insurer’s
1782 assessment liability begins ~~shall begin~~ on the first day of the
1783 calendar year following the year in which the insurer was issued
1784 a certificate of authority to transact insurance for subject
1785 lines of business in this state and terminates ~~shall terminate~~ 1
1786 year after the end of the first calendar year during which the
1787 insurer no longer holds a certificate of authority to transact
1788 insurance for subject lines of business in this state.

1789 2.a. All revenues, assets, liabilities, losses, and
1790 expenses of the corporation are ~~shall be~~ divided into three
1791 separate accounts as follows:

1792 (I) A personal lines account for personal residential
1793 policies issued by the corporation or issued by the Residential
1794 Property and Casualty Joint Underwriting Association and renewed
1795 by the corporation which provides ~~that provide~~ comprehensive,
1796 multiperil coverage on risks that are not located in areas
1797 eligible for coverage in the Florida Windstorm Underwriting
1798 Association as those areas were defined on January 1, 2002, and

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1799 for ~~such~~ policies that do not provide coverage for the peril of
1800 wind on risks that are located in such areas;

1801 (II) A commercial lines account for commercial residential
1802 and commercial nonresidential policies issued by the corporation
1803 or issued by the Residential Property and Casualty Joint
1804 Underwriting Association and renewed by the corporation which
1805 ~~that~~ provide coverage for basic property perils on risks which
1806 ~~that~~ are not located in areas eligible for coverage in the
1807 Florida Windstorm Underwriting Association as those areas were
1808 defined on January 1, 2002, and for ~~such~~ policies that do not
1809 provide coverage for the peril of wind on risks that are located
1810 in such areas; and

1811 (III) A coastal ~~high-risk~~ account for personal residential
1812 policies and commercial residential and commercial
1813 nonresidential property policies issued by the corporation or
1814 transferred to the corporation which provides ~~that provide~~
1815 coverage for the peril of wind on risks that are located in
1816 areas eligible for coverage in the Florida Windstorm
1817 Underwriting Association as those areas were defined on January
1818 1, 2002. The corporation may offer policies that provide
1819 multiperil coverage and the corporation shall continue to offer
1820 policies that provide coverage only for the peril of wind for
1821 risks located in areas eligible for coverage in the coastal
1822 ~~high-risk~~ account. In issuing multiperil coverage, the
1823 corporation may use its approved policy forms and rates for the
1824 personal lines account. An applicant or insured who is eligible
1825 to purchase a multiperil policy from the corporation may
1826 purchase a multiperil policy from an authorized insurer without
1827 prejudice to the applicant's or insured's eligibility to

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1828 prospectively purchase a policy that provides coverage only for
1829 the peril of wind from the corporation. An applicant or insured
1830 who is eligible for a corporation policy that provides coverage
1831 only for the peril of wind may elect to purchase or retain such
1832 policy and also purchase or retain coverage excluding wind from
1833 an authorized insurer without prejudice to the applicant's or
1834 insured's eligibility to prospectively purchase a policy that
1835 provides multiperil coverage from the corporation. It is the
1836 goal of the Legislature that there ~~would~~ be an overall average
1837 savings of 10 percent or more for a policyholder who currently
1838 has a wind-only policy with the corporation, and an ex-wind
1839 policy with a voluntary insurer or the corporation, and who ~~then~~
1840 obtains a multiperil policy from the corporation. It is the
1841 intent of the Legislature that the offer of multiperil coverage
1842 in the coastal ~~high-risk~~ account be made and implemented in a
1843 manner that does not adversely affect the tax-exempt status of
1844 the corporation or creditworthiness of or security for currently
1845 outstanding financing obligations or credit facilities of the
1846 coastal ~~high-risk~~ account, the personal lines account, or the
1847 commercial lines account. The coastal ~~high-risk~~ account must
1848 also include quota share primary insurance under subparagraph
1849 (c)2. The area eligible for coverage under the coastal ~~high-risk~~
1850 account also includes the area within Port Canaveral, which is
1851 bordered on the south by the City of Cape Canaveral, bordered on
1852 the west by the Banana River, and bordered on the north by
1853 Federal Government property.

1854 b. The three separate accounts must be maintained as long
1855 as financing obligations entered into by the Florida Windstorm
1856 Underwriting Association or Residential Property and Casualty

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1857 Joint Underwriting Association are outstanding, in accordance
1858 with the terms of the corresponding financing documents. If ~~When~~
1859 the financing obligations are no longer outstanding, in
1860 accordance with the terms of the corresponding financing
1861 documents, the corporation may use a single account for all
1862 revenues, assets, liabilities, losses, and expenses of the
1863 corporation. Consistent with ~~the requirement of this~~
1864 subparagraph and prudent investment policies that minimize the
1865 cost of carrying debt, the board shall exercise its best efforts
1866 to retire existing debt or to obtain approval of necessary
1867 parties to amend the terms of existing debt, so as to structure
1868 the most efficient plan to consolidate the three separate
1869 accounts into a single account. ~~By February 1, 2007, the board~~
1870 ~~shall submit a report to the Financial Services Commission, the~~
1871 ~~President of the Senate, and the Speaker of the House of~~
1872 ~~Representatives which includes an analysis of consolidating the~~
1873 ~~accounts, the actions the board has taken to minimize the cost~~
1874 ~~of carrying debt, and its recommendations for executing the most~~
1875 ~~efficient plan.~~

1876 c. Creditors of the Residential Property and Casualty Joint
1877 Underwriting Association and ~~of~~ the accounts specified in sub-
1878 sub-subparagraphs a.(I) and (II) may have a claim against, and
1879 recourse to, the accounts referred to in sub-sub-subparagraphs
1880 a.(I) and (II) and ~~shall~~ have no claim against, or recourse to,
1881 the account referred to in sub-sub-subparagraph a.(III).
1882 Creditors of the Florida Windstorm Underwriting Association
1883 ~~shall~~ have a claim against, and recourse to, the account
1884 referred to in sub-sub-subparagraph a.(III) and ~~shall~~ have no
1885 claim against, or recourse to, the accounts referred to in sub-

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1886 sub-subparagraphs a.(I) and (II).

1887 d. Revenues, assets, liabilities, losses, and expenses not
1888 attributable to particular accounts shall be prorated among the
1889 accounts.

1890 e. The Legislature finds that the revenues of the
1891 corporation are revenues that are necessary to meet the
1892 requirements set forth in documents authorizing the issuance of
1893 bonds under this subsection.

1894 f. No part of the income of the corporation may inure to
1895 the benefit of any private person.

1896 3. With respect to a deficit in an account:

1897 a. After accounting for the Citizens policyholder surcharge
1898 imposed under sub-subparagraph i., if ~~when~~ the remaining
1899 projected deficit incurred in a particular calendar year is not
1900 greater than 6 percent of the aggregate statewide direct written
1901 premium for the subject lines of business for the prior calendar
1902 year, the entire deficit shall be recovered through regular
1903 assessments of assessable insurers under paragraph (p) and
1904 assessable insureds.

1905 b. After accounting for the Citizens policyholder surcharge
1906 imposed under sub-subparagraph i., when the remaining projected
1907 deficit incurred in a particular calendar year exceeds 6 percent
1908 of the aggregate statewide direct written premium for the
1909 subject lines of business for the prior calendar year, the
1910 corporation shall levy regular assessments on assessable
1911 insurers under paragraph (q) ~~(p)~~ and on assessable insureds in
1912 an amount equal to the greater of 6 percent of the deficit or 6
1913 percent of the aggregate statewide direct written premium for
1914 the subject lines of business for the prior calendar year. Any

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1915 remaining deficit shall be recovered through emergency
1916 assessments under sub-subparagraph d.

1917 c. Each assessable insurer's share of the amount being
1918 assessed under sub-subparagraph a. or sub-subparagraph b. must
1919 ~~shall~~ be in the proportion that the assessable insurer's direct
1920 written premium for the subject lines of business for the year
1921 preceding the assessment bears to the aggregate statewide direct
1922 written premium for the subject lines of business for that year.
1923 The assessment percentage applicable to each assessable insured
1924 is the ratio of the amount being assessed under sub-subparagraph
1925 a. or sub-subparagraph b. to the aggregate statewide direct
1926 written premium for the subject lines of business for the prior
1927 year. Assessments levied by the corporation on assessable
1928 insurers under sub-subparagraphs a. and b. shall be paid as
1929 required by the corporation's plan of operation and paragraph
1930 (q) ~~(p)~~. Assessments levied by the corporation on assessable
1931 insureds under sub-subparagraphs a. and b. shall be collected by
1932 the surplus lines agent at the time the surplus lines agent
1933 collects the surplus lines tax required by s. 626.932 and ~~shall~~
1934 ~~be~~ paid to the Florida Surplus Lines Service Office at the time
1935 the surplus lines agent pays the surplus lines tax to the
1936 Florida Surplus Lines Service Office. Upon receipt of regular
1937 assessments from surplus lines agents, the Florida Surplus Lines
1938 Service Office shall transfer the assessments directly to the
1939 corporation as determined by the corporation.

1940 d. Upon a determination by the board of governors that a
1941 deficit in an account exceeds the amount that will be recovered
1942 through regular assessments under sub-subparagraph a. or sub-
1943 subparagraph b., plus the amount that is expected to be

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1944 recovered through surcharges under sub-subparagraph i., ~~as to~~
1945 ~~the remaining projected deficit~~ the board shall levy, after
1946 verification by the office, emergency assessments, for as many
1947 years as necessary to cover the deficits, to be collected by
1948 assessable insurers and the corporation and collected from
1949 assessable insureds upon issuance or renewal of policies for
1950 subject lines of business, excluding National Flood Insurance
1951 policies. The amount of the emergency assessment collected in a
1952 particular year shall be a uniform percentage of that year's
1953 direct written premium for subject lines of business and all
1954 accounts of the corporation, excluding National Flood Insurance
1955 Program policy premiums, as annually determined by the board and
1956 verified by the office. The office shall verify the arithmetic
1957 calculations involved in the board's determination within 30
1958 days after receipt of the information on which the determination
1959 was based. Notwithstanding any other provision of law, the
1960 corporation and each assessable insurer that writes subject
1961 lines of business shall collect emergency assessments from its
1962 policyholders without such obligation being affected by any
1963 credit, limitation, exemption, or deferment. Emergency
1964 assessments levied by the corporation on assessable insureds
1965 shall be collected by the surplus lines agent at the time the
1966 surplus lines agent collects the surplus lines tax required by
1967 s. 626.932 and shall be paid to the Florida Surplus Lines
1968 Service Office at the time the surplus lines agent pays the
1969 surplus lines tax to the Florida Surplus Lines Service Office.
1970 The emergency assessments ~~so~~ collected shall be transferred
1971 directly to the corporation on a periodic basis as determined by
1972 the corporation and ~~shall be~~ held by the corporation solely in

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1973 the applicable account. The aggregate amount of emergency
1974 assessments levied for an account under this sub-subparagraph in
1975 any calendar year may, at the discretion of the board of
1976 governors, be less than but may not exceed the greater of 10
1977 percent of the amount needed to cover the deficit, plus
1978 interest, fees, commissions, required reserves, and other costs
1979 associated with financing of the original deficit, or 10 percent
1980 of the aggregate statewide direct written premium for subject
1981 lines of business and for all accounts of the corporation for
1982 the prior year, plus interest, fees, commissions, required
1983 reserves, and other costs associated with financing the deficit.

1984 e. The corporation may pledge the proceeds of assessments,
1985 projected recoveries from the Florida Hurricane Catastrophe
1986 Fund, other insurance and reinsurance recoverables, policyholder
1987 surcharges and other surcharges, and other funds available to
1988 the corporation as the source of revenue for and to secure bonds
1989 issued under paragraph (p), bonds or other indebtedness issued
1990 under subparagraph (c)3., or lines of credit or other financing
1991 mechanisms issued or created under this subsection, or to retire
1992 any other debt incurred as a result of deficits or events giving
1993 rise to deficits, or in any other way that the board determines
1994 will efficiently recover such deficits. The purpose of the lines
1995 of credit or other financing mechanisms is to provide additional
1996 resources to assist the corporation in covering claims and
1997 expenses attributable to a catastrophe. As used in this
1998 subsection, the term "assessments" includes regular assessments
1999 under sub-subparagraph a., sub-subparagraph b., or subparagraph
2000 (p)1. and emergency assessments under sub-subparagraph d.
2001 Emergency assessments collected under sub-subparagraph d. are

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2002 not part of an insurer's rates, are not premium, and are not
2003 subject to premium tax, fees, or commissions; however, failure
2004 to pay the emergency assessment shall be treated as failure to
2005 pay premium. The emergency assessments under sub-subparagraph d.
2006 shall continue as long as any bonds issued or other indebtedness
2007 incurred with respect to a deficit for which the assessment was
2008 imposed remain outstanding, unless adequate provision has been
2009 made for the payment of such bonds or other indebtedness
2010 pursuant to the documents governing such bonds or other
2011 indebtedness.

2012 f. As used in this subsection for purposes of any deficit
2013 incurred on or after January 25, 2007, the term "subject lines
2014 of business" means insurance written by assessable insurers or
2015 procured by assessable insureds for all property and casualty
2016 lines of business in this state, but not including workers'
2017 compensation or medical malpractice. As used in the sub-
2018 subparagraph, the term "property and casualty lines of business"
2019 includes all lines of business identified on Form 2, Exhibit of
2020 Premiums and Losses, in the annual statement required of
2021 authorized insurers by s. 624.424 and any rule adopted under
2022 this section, except for those lines identified as accident and
2023 health insurance and except for policies written under the
2024 National Flood Insurance Program or the Federal Crop Insurance
2025 Program. For purposes of this sub-subparagraph, the term
2026 "workers' compensation" includes both workers' compensation
2027 insurance and excess workers' compensation insurance.

2028 g. The Florida Surplus Lines Service Office shall determine
2029 annually the aggregate statewide written premium in subject
2030 lines of business procured by assessable insureds and shall

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2031 report that information to the corporation in a form and at a
2032 time the corporation specifies to ensure that the corporation
2033 can meet the requirements of this subsection and the
2034 corporation's financing obligations.

2035 h. The Florida Surplus Lines Service Office shall verify
2036 the proper application by surplus lines agents of assessment
2037 percentages for regular assessments and emergency assessments
2038 levied under this subparagraph on assessable insureds and shall
2039 assist the corporation in ensuring the accurate, timely
2040 collection and payment of assessments by surplus lines agents as
2041 required by the corporation.

2042 i. (I) If a deficit is incurred in any account in 2008 or
2043 thereafter, the board of governors shall levy a Citizens
2044 policyholder surcharge against all policyholders of the
2045 corporation. ~~for a 12-month period, which~~

2046 (II) The Citizens policyholder surcharge shall be levied
2047 ~~collected at the time of issuance or renewal of a policy,~~ as a
2048 uniform percentage of the premium for the policy of up to 15
2049 percent of such premium, which funds shall be used to offset the
2050 deficit.

2051 (III) The Citizens policyholder surcharge is payable upon
2052 cancellation or termination of the policy, upon renewal of the
2053 policy, or upon issuance of a new policy by Citizens within the
2054 first 12 months after the date of the levy or the period of time
2055 necessary to fully collect the Citizens policyholder surcharge
2056 amount.

2057 (IV) The corporation may not levy any regular assessments
2058 under paragraph (q) pursuant to sub-subparagraph a. or sub-
2059 subparagraph b. with respect to a particular year's deficit

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2060 until the corporation has first levied a Citizens policyholder
2061 surcharge under this sub-subparagraph in the full amount
2062 authorized by this sub-subparagraph.

2063 (V) Citizens policyholder surcharges under this sub-
2064 subparagraph are not considered premium and are not subject to
2065 commissions, fees, or premium taxes. However, failure to pay
2066 such surcharges shall be treated as failure to pay premium.

2067 j. If the amount of any assessments or surcharges collected
2068 from corporation policyholders, assessable insurers or their
2069 policyholders, or assessable insureds exceeds the amount of the
2070 deficits, such excess amounts shall be remitted to and retained
2071 by the corporation in a reserve to be used by the corporation,
2072 as determined by the board of governors and approved by the
2073 office, to pay claims or reduce any past, present, or future
2074 plan-year deficits or to reduce outstanding debt.

2075 (c) The plan of operation of the corporation:

2076 1. Must provide for adoption of residential property and
2077 casualty insurance policy forms and commercial residential and
2078 nonresidential property insurance forms, which forms must be
2079 approved by the office prior to use. The corporation shall adopt
2080 the following policy forms:

2081 a. Standard personal lines policy forms that are
2082 comprehensive multiperil policies providing full coverage of a
2083 residential property equivalent to the coverage provided in the
2084 private insurance market under an HO-3, HO-4, or HO-6 policy.

2085 b. Basic personal lines policy forms that are policies
2086 similar to an HO-8 policy or a dwelling fire policy that provide
2087 coverage meeting the requirements of the secondary mortgage
2088 market, but which coverage is more limited than the coverage

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2089 under a standard policy.

2090 c. Commercial lines residential and nonresidential policy
2091 forms that are generally similar to the basic perils of full
2092 coverage obtainable for commercial residential structures and
2093 commercial nonresidential structures in the admitted voluntary
2094 market.

2095 d. Personal lines and commercial lines residential property
2096 insurance forms that cover the peril of wind only. The forms are
2097 applicable only to residential properties located in areas
2098 eligible for coverage under the coastal ~~high-risk~~ account
2099 referred to in sub-subparagraph (b)2.a.

2100 e. Commercial lines nonresidential property insurance forms
2101 that cover the peril of wind only. The forms are applicable only
2102 to nonresidential properties located in areas eligible for
2103 coverage under the coastal ~~high-risk~~ account referred to in sub-
2104 subparagraph (b)2.a.

2105 f. The corporation may adopt variations of the policy forms
2106 listed in sub-subparagraphs a.-e. that contain more restrictive
2107 coverage.

2108 2.a. Must provide that the corporation adopt a program in
2109 which the corporation and authorized insurers enter into quota
2110 share primary insurance agreements for hurricane coverage, as
2111 defined in s. 627.4025(2) (a), for eligible risks, and adopt
2112 property insurance forms for eligible risks which cover the
2113 peril of wind only. As used in this subsection, the term:

2114 (I) "Quota share primary insurance" means an arrangement in
2115 which the primary hurricane coverage of an eligible risk is
2116 provided in specified percentages by the corporation and an
2117 authorized insurer. The corporation and authorized insurer are

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2118 each solely responsible for a specified percentage of hurricane
2119 coverage of an eligible risk as set forth in a quota share
2120 primary insurance agreement between the corporation and an
2121 authorized insurer and the insurance contract. The
2122 responsibility of the corporation or authorized insurer to pay
2123 its specified percentage of hurricane losses of an eligible
2124 risk, as set forth in the quota share primary insurance
2125 agreement, may not be altered by the inability of the other
2126 party to the agreement to pay its specified percentage of
2127 hurricane losses. Eligible risks that are provided hurricane
2128 coverage through a quota share primary insurance arrangement
2129 must be provided policy forms that set forth the obligations of
2130 the corporation and authorized insurer under the arrangement,
2131 clearly specify the percentages of quota share primary insurance
2132 provided by the corporation and authorized insurer, and
2133 conspicuously and clearly state that neither the authorized
2134 insurer nor the corporation may be held responsible beyond its
2135 specified percentage of coverage of hurricane losses.

2136 (II) "Eligible risks" means personal lines residential and
2137 commercial lines residential risks that meet the underwriting
2138 criteria of the corporation and are located in areas that were
2139 eligible for coverage by the Florida Windstorm Underwriting
2140 Association on January 1, 2002.

2141 b. The corporation may enter into quota share primary
2142 insurance agreements with authorized insurers at corporation
2143 coverage levels of 90 percent and 50 percent.

2144 c. If the corporation determines that additional coverage
2145 levels are necessary to maximize participation in quota share
2146 primary insurance agreements by authorized insurers, the

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2147 corporation may establish additional coverage levels. However,
2148 the corporation's quota share primary insurance coverage level
2149 may not exceed 90 percent.

2150 d. Any quota share primary insurance agreement entered into
2151 between an authorized insurer and the corporation must provide
2152 for a uniform specified percentage of coverage of hurricane
2153 losses, by county or territory as set forth by the corporation
2154 board, for all eligible risks of the authorized insurer covered
2155 under the quota share primary insurance agreement.

2156 e. Any quota share primary insurance agreement entered into
2157 between an authorized insurer and the corporation is subject to
2158 review and approval by the office. However, such agreement shall
2159 be authorized only as to insurance contracts entered into
2160 between an authorized insurer and an insured who is already
2161 insured by the corporation for wind coverage.

2162 f. For all eligible risks covered under quota share primary
2163 insurance agreements, the exposure and coverage levels for both
2164 the corporation and authorized insurers shall be reported by the
2165 corporation to the Florida Hurricane Catastrophe Fund. For all
2166 policies of eligible risks covered under quota share primary
2167 insurance agreements, the corporation and the authorized insurer
2168 shall maintain complete and accurate records for the purpose of
2169 exposure and loss reimbursement audits as required by Florida
2170 Hurricane Catastrophe Fund rules. The corporation and the
2171 authorized insurer shall each maintain duplicate copies of
2172 policy declaration pages and supporting claims documents.

2173 g. The corporation board shall establish in its plan of
2174 operation standards for quota share agreements which ensure that
2175 there is no discriminatory application among insurers as to the

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2176 terms of quota share agreements, pricing of quota share
2177 agreements, incentive provisions if any, and consideration paid
2178 for servicing policies or adjusting claims.

2179 h. The quota share primary insurance agreement between the
2180 corporation and an authorized insurer must set forth the
2181 specific terms under which coverage is provided, including, but
2182 not limited to, the sale and servicing of policies issued under
2183 the agreement by the insurance agent of the authorized insurer
2184 producing the business, the reporting of information concerning
2185 eligible risks, the payment of premium to the corporation, and
2186 arrangements for the adjustment and payment of hurricane claims
2187 incurred on eligible risks by the claims adjuster and personnel
2188 of the authorized insurer. Entering into a quota sharing
2189 insurance agreement between the corporation and an authorized
2190 insurer shall be voluntary and at the discretion of the
2191 authorized insurer.

2192 3. May provide that the corporation may employ or otherwise
2193 contract with individuals or other entities to provide
2194 administrative or professional services that may be appropriate
2195 to effectuate the plan. The corporation shall have the power to
2196 borrow funds, by issuing bonds or by incurring other
2197 indebtedness, and shall have other powers reasonably necessary
2198 to effectuate the requirements of this subsection, including,
2199 without limitation, the power to issue bonds and incur other
2200 indebtedness in order to refinance outstanding bonds or other
2201 indebtedness. The corporation may, but is not required to, seek
2202 judicial validation of its bonds or other indebtedness under
2203 chapter 75. The corporation may issue bonds or incur other
2204 indebtedness, or have bonds issued on its behalf by a unit of

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2205 local government pursuant to subparagraph (p)2., in the absence
2206 of a hurricane or other weather-related event, upon a
2207 determination by the corporation, subject to approval by the
2208 office, that such action would enable it to efficiently meet the
2209 financial obligations of the corporation and that such
2210 financings are reasonably necessary to effectuate the
2211 requirements of this subsection. The corporation is authorized
2212 to take all actions needed to facilitate tax-free status for any
2213 such bonds or indebtedness, including formation of trusts or
2214 other affiliated entities. The corporation shall have the
2215 authority to pledge assessments, projected recoveries from the
2216 Florida Hurricane Catastrophe Fund, other reinsurance
2217 recoverables, market equalization and other surcharges, and
2218 other funds available to the corporation as security for bonds
2219 or other indebtedness. In recognition of s. 10, Art. I of the
2220 State Constitution, prohibiting the impairment of obligations of
2221 contracts, it is the intent of the Legislature that no action be
2222 taken whose purpose is to impair any bond indenture or financing
2223 agreement or any revenue source committed by contract to such
2224 bond or other indebtedness.

2225 4.a. Must require that the corporation operate subject to
2226 the supervision and approval of a board of governors consisting
2227 of eight individuals who are residents of this state, from
2228 different geographical areas of this state. The Governor, the
2229 Chief Financial Officer, the President of the Senate, and the
2230 Speaker of the House of Representatives shall each appoint two
2231 members of the board. At least one of the two members appointed
2232 by each appointing officer must have demonstrated expertise in
2233 insurance, and is deemed to be within the scope of the exemption

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2234 provided in s. 112.313(7) (b). The Chief Financial Officer shall
2235 designate one of the appointees as chair. All board members
2236 serve at the pleasure of the appointing officer. All members of
2237 the board of governors are subject to removal at will by the
2238 officers who appointed them. All board members, including the
2239 chair, must be appointed to serve for 3-year terms beginning
2240 annually on a date designated by the plan. However, for the
2241 first term beginning on or after July 1, 2009, each appointing
2242 officer shall appoint one member of the board for a 2-year term
2243 and one member for a 3-year term. Any board vacancy shall be
2244 filled for the unexpired term by the appointing officer. The
2245 Chief Financial Officer shall appoint a technical advisory group
2246 to provide information and advice to the board of governors in
2247 connection with the board's duties under this subsection. The
2248 executive director and senior managers of the corporation shall
2249 be engaged by the board and serve at the pleasure of the board.
2250 Any executive director appointed on or after July 1, 2006, is
2251 subject to confirmation by the Senate. The executive director is
2252 responsible for employing other staff as the corporation may
2253 require, subject to review and concurrence by the board.

2254 b. The board shall create a Market Accountability Advisory
2255 Committee to assist the corporation in developing awareness of
2256 its rates and its customer and agent service levels in
2257 relationship to the voluntary market insurers writing similar
2258 coverage. The members of the advisory committee shall consist of
2259 the following 11 persons, one of whom must be elected chair by
2260 the members of the committee: four representatives, one
2261 appointed by the Florida Association of Insurance Agents, one by
2262 the Florida Association of Insurance and Financial Advisors, one

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2263 by the Professional Insurance Agents of Florida, and one by the
2264 Latin American Association of Insurance Agencies; three
2265 representatives appointed by the insurers with the three highest
2266 voluntary market share of residential property insurance
2267 business in the state; one representative from the Office of
2268 Insurance Regulation; one consumer appointed by the board who is
2269 insured by the corporation at the time of appointment to the
2270 committee; one representative appointed by the Florida
2271 Association of Realtors; and one representative appointed by the
2272 Florida Bankers Association. All members must serve for 3-year
2273 terms and may serve for consecutive terms. The committee shall
2274 report to the corporation at each board meeting on insurance
2275 market issues which may include rates and rate competition with
2276 the voluntary market; service, including policy issuance, claims
2277 processing, and general responsiveness to policyholders,
2278 applicants, and agents; and matters relating to depopulation.

2279 5. Must provide a procedure for determining the eligibility
2280 of a risk for coverage, as follows:

2281 a. Subject to the provisions of s. 627.3517, with respect
2282 to personal lines residential risks, if the risk is offered
2283 coverage from an authorized insurer at the insurer's approved
2284 rate under either a standard policy including wind coverage or,
2285 if consistent with the insurer's underwriting rules as filed
2286 with the office, a basic policy including wind coverage, for a
2287 new application to the corporation for coverage, the risk is not
2288 eligible for any policy issued by the corporation unless the
2289 premium for coverage from the authorized insurer is more than 15
2290 percent greater than the premium for comparable coverage from
2291 the corporation. If the risk is not able to obtain any such

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2292 offer, the risk is eligible for either a standard policy
2293 including wind coverage or a basic policy including wind
2294 coverage issued by the corporation; however, if the risk could
2295 not be insured under a standard policy including wind coverage
2296 regardless of market conditions, the risk shall be eligible for
2297 a basic policy including wind coverage unless rejected under
2298 subparagraph 8. However, with regard to a policyholder of the
2299 corporation or a policyholder removed from the corporation
2300 through an assumption agreement until the end of the assumption
2301 period, the policyholder remains eligible for coverage from the
2302 corporation regardless of any offer of coverage from an
2303 authorized insurer or surplus lines insurer. The corporation
2304 shall determine the type of policy to be provided on the basis
2305 of objective standards specified in the underwriting manual and
2306 based on generally accepted underwriting practices.

2307 (I) If the risk accepts an offer of coverage through the
2308 market assistance plan or an offer of coverage through a
2309 mechanism established by the corporation before a policy is
2310 issued to the risk by the corporation or during the first 30
2311 days of coverage by the corporation, and the producing agent who
2312 submitted the application to the plan or to the corporation is
2313 not currently appointed by the insurer, the insurer shall:

2314 (A) Pay to the producing agent of record of the policy, for
2315 the first year, an amount that is the greater of the insurer's
2316 usual and customary commission for the type of policy written or
2317 a fee equal to the usual and customary commission of the
2318 corporation; or

2319 (B) Offer to allow the producing agent of record of the
2320 policy to continue servicing the policy for a period of not less

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2321 than 1 year and offer to pay the agent the greater of the
2322 insurer's or the corporation's usual and customary commission
2323 for the type of policy written.

2324

2325 If the producing agent is unwilling or unable to accept
2326 appointment, the new insurer shall pay the agent in accordance
2327 with sub-sub-sub-subparagraph (A).

2328 (II) When the corporation enters into a contractual
2329 agreement for a take-out plan, the producing agent of record of
2330 the corporation policy is entitled to retain any unearned
2331 commission on the policy, and the insurer shall:

2332 (A) Pay to the producing agent of record of the corporation
2333 policy, for the first year, an amount that is the greater of the
2334 insurer's usual and customary commission for the type of policy
2335 written or a fee equal to the usual and customary commission of
2336 the corporation; or

2337 (B) Offer to allow the producing agent of record of the
2338 corporation policy to continue servicing the policy for a period
2339 of not less than 1 year and offer to pay the agent the greater
2340 of the insurer's or the corporation's usual and customary
2341 commission for the type of policy written.

2342

2343 If the producing agent is unwilling or unable to accept
2344 appointment, the new insurer shall pay the agent in accordance
2345 with sub-sub-sub-subparagraph (A).

2346 b. With respect to commercial lines residential risks, for
2347 a new application to the corporation for coverage, if the risk
2348 is offered coverage under a policy including wind coverage from
2349 an authorized insurer at its approved rate, the risk is not

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2350 eligible for any policy issued by the corporation unless the
2351 premium for coverage from the authorized insurer is more than 15
2352 percent greater than the premium for comparable coverage from
2353 the corporation. If the risk is not able to obtain any such
2354 offer, the risk is eligible for a policy including wind coverage
2355 issued by the corporation. However, with regard to a
2356 policyholder of the corporation or a policyholder removed from
2357 the corporation through an assumption agreement until the end of
2358 the assumption period, the policyholder remains eligible for
2359 coverage from the corporation regardless of any offer of
2360 coverage from an authorized insurer or surplus lines insurer.

2361 (I) If the risk accepts an offer of coverage through the
2362 market assistance plan or an offer of coverage through a
2363 mechanism established by the corporation before a policy is
2364 issued to the risk by the corporation or during the first 30
2365 days of coverage by the corporation, and the producing agent who
2366 submitted the application to the plan or the corporation is not
2367 currently appointed by the insurer, the insurer shall:

2368 (A) Pay to the producing agent of record of the policy, for
2369 the first year, an amount that is the greater of the insurer's
2370 usual and customary commission for the type of policy written or
2371 a fee equal to the usual and customary commission of the
2372 corporation; or

2373 (B) Offer to allow the producing agent of record of the
2374 policy to continue servicing the policy for a period of not less
2375 than 1 year and offer to pay the agent the greater of the
2376 insurer's or the corporation's usual and customary commission
2377 for the type of policy written.

2378

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2379 If the producing agent is unwilling or unable to accept
2380 appointment, the new insurer shall pay the agent in accordance
2381 with sub-sub-sub-subparagraph (A).

2382 (II) When the corporation enters into a contractual
2383 agreement for a take-out plan, the producing agent of record of
2384 the corporation policy is entitled to retain any unearned
2385 commission on the policy, and the insurer shall:

2386 (A) Pay to the producing agent of record of the corporation
2387 policy, for the first year, an amount that is the greater of the
2388 insurer's usual and customary commission for the type of policy
2389 written or a fee equal to the usual and customary commission of
2390 the corporation; or

2391 (B) Offer to allow the producing agent of record of the
2392 corporation policy to continue servicing the policy for a period
2393 of not less than 1 year and offer to pay the agent the greater
2394 of the insurer's or the corporation's usual and customary
2395 commission for the type of policy written.

2396

2397 If the producing agent is unwilling or unable to accept
2398 appointment, the new insurer shall pay the agent in accordance
2399 with sub-sub-sub-subparagraph (A).

2400 c. For purposes of determining comparable coverage under
2401 sub-subparagraphs a. and b., the comparison shall be based on
2402 those forms and coverages that are reasonably comparable. The
2403 corporation may rely on a determination of comparable coverage
2404 and premium made by the producing agent who submits the
2405 application to the corporation, made in the agent's capacity as
2406 the corporation's agent. A comparison may be made solely of the
2407 premium with respect to the main building or structure only on

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2408 the following basis: the same coverage A or other building
2409 limits; the same percentage hurricane deductible that applies on
2410 an annual basis or that applies to each hurricane for commercial
2411 residential property; the same percentage of ordinance and law
2412 coverage, if the same limit is offered by both the corporation
2413 and the authorized insurer; the same mitigation credits, to the
2414 extent the same types of credits are offered both by the
2415 corporation and the authorized insurer; the same method for loss
2416 payment, such as replacement cost or actual cash value, if the
2417 same method is offered both by the corporation and the
2418 authorized insurer in accordance with underwriting rules; and
2419 any other form or coverage that is reasonably comparable as
2420 determined by the board. If an application is submitted to the
2421 corporation for wind-only coverage in the coastal ~~high-risk~~
2422 account, the premium for the corporation's wind-only policy plus
2423 the premium for the ex-wind policy that is offered by an
2424 authorized insurer to the applicant shall be compared to the
2425 premium for multiperil coverage offered by an authorized
2426 insurer, subject to the standards for comparison specified in
2427 this subparagraph. If the corporation or the applicant requests
2428 from the authorized insurer a breakdown of the premium of the
2429 offer by types of coverage so that a comparison may be made by
2430 the corporation or its agent and the authorized insurer refuses
2431 or is unable to provide such information, the corporation may
2432 treat the offer as not being an offer of coverage from an
2433 authorized insurer at the insurer's approved rate.

2434 6. Must include rules for classifications of risks and
2435 rates therefor.

2436 7. Must provide that if premium and investment income for

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2437 an account attributable to a particular calendar year are in
2438 excess of projected losses and expenses for the account
2439 attributable to that year, such excess shall be held in surplus
2440 in the account. Such surplus shall be available to defray
2441 deficits in that account as to future years and shall be used
2442 for that purpose prior to assessing assessable insurers and
2443 assessable insureds as to any calendar year.

2444 8. Must provide objective criteria and procedures to be
2445 uniformly applied for all applicants in determining whether an
2446 individual risk is so hazardous as to be uninsurable. In making
2447 this determination and in establishing the criteria and
2448 procedures, the following shall be considered:

2449 a. Whether the likelihood of a loss for the individual risk
2450 is substantially higher than for other risks of the same class;
2451 and

2452 b. Whether the uncertainty associated with the individual
2453 risk is such that an appropriate premium cannot be determined.

2454
2455 The acceptance or rejection of a risk by the corporation shall
2456 be construed as the private placement of insurance, and the
2457 provisions of chapter 120 shall not apply.

2458 9. Must provide that the corporation shall make its best
2459 efforts to procure catastrophe reinsurance at reasonable rates,
2460 to cover its projected 100-year probable maximum loss as
2461 determined by the board of governors.

2462 10. The policies issued by the corporation must provide
2463 that, if the corporation or the market assistance plan obtains
2464 an offer from an authorized insurer to cover the risk at its
2465 approved rates, the risk is no longer eligible for renewal

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2466 through the corporation, except as otherwise provided in this
2467 subsection.

2468 11. Corporation policies and applications must include a
2469 notice that the corporation policy could, under this section, be
2470 replaced with a policy issued by an authorized insurer that does
2471 not provide coverage identical to the coverage provided by the
2472 corporation. The notice shall also specify that acceptance of
2473 corporation coverage creates a conclusive presumption that the
2474 applicant or policyholder is aware of this potential.

2475 12. May establish, subject to approval by the office,
2476 different eligibility requirements and operational procedures
2477 for any line or type of coverage for any specified county or
2478 area if the board determines that such changes to the
2479 eligibility requirements and operational procedures are
2480 justified due to the voluntary market being sufficiently stable
2481 and competitive in such area or for such line or type of
2482 coverage and that consumers who, in good faith, are unable to
2483 obtain insurance through the voluntary market through ordinary
2484 methods would continue to have access to coverage from the
2485 corporation. When coverage is sought in connection with a real
2486 property transfer, such requirements and procedures shall not
2487 provide for an effective date of coverage later than the date of
2488 the closing of the transfer as established by the transferor,
2489 the transferee, and, if applicable, the lender.

2490 13. Must provide that, with respect to the coastal high-
2491 ~~risk~~ account, any assessable insurer with a surplus as to
2492 policyholders of \$25 million or less writing 25 percent or more
2493 of its total countrywide property insurance premiums in this
2494 state may petition the office, within the first 90 days of each

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2495 calendar year, to qualify as a limited apportionment company. A
2496 regular assessment levied by the corporation on a limited
2497 apportionment company for a deficit incurred by the corporation
2498 for the coastal ~~high-risk~~ account in 2006 or thereafter may be
2499 paid to the corporation on a monthly basis as the assessments
2500 are collected by the limited apportionment company from its
2501 insureds pursuant to s. 627.3512, but the regular assessment
2502 must be paid in full within 12 months after being levied by the
2503 corporation. A limited apportionment company shall collect from
2504 its policyholders any emergency assessment imposed under sub-
2505 subparagraph (b)3.d. The plan shall provide that, if the office
2506 determines that any regular assessment will result in an
2507 impairment of the surplus of a limited apportionment company,
2508 the office may direct that all or part of such assessment be
2509 deferred as provided in subparagraph (p)4. However, there shall
2510 be no limitation or deferment of an emergency assessment to be
2511 collected from policyholders under sub-subparagraph (b)3.d.

2512 14. Must provide that the corporation appoint as its
2513 licensed agents only those agents who also hold an appointment
2514 as defined in s. 626.015(3) with an insurer who at the time of
2515 the agent's initial appointment by the corporation is authorized
2516 to write and is actually writing personal lines residential
2517 property coverage, commercial residential property coverage, or
2518 commercial nonresidential property coverage within the state.

2519 15. Must provide, by July 1, 2007, a premium payment plan
2520 option to its policyholders which allows at a minimum for
2521 quarterly and semiannual payment of premiums. A monthly payment
2522 plan may, but is not required to, be offered.

2523 16. Must limit coverage on mobile homes or manufactured

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2524 homes built prior to 1994 to actual cash value of the dwelling
2525 rather than replacement costs of the dwelling.

2526 17. May provide such limits of coverage as the board
2527 determines, consistent with the requirements of this subsection.

2528 18. May require commercial property to meet specified
2529 hurricane mitigation construction features as a condition of
2530 eligibility for coverage.

2531 (d)1. All prospective employees for senior management
2532 positions, as defined by the plan of operation, are subject to
2533 background checks as a prerequisite for employment. The office
2534 shall conduct background checks on such prospective employees
2535 pursuant to ss. 624.34, 624.404(3), and 628.261.

2536 2. On or before July 1 of each year, employees of the
2537 corporation are required to sign and submit a statement
2538 attesting that they do not have a conflict of interest, as
2539 defined in part III of chapter 112. As a condition of
2540 employment, all prospective employees are required to sign and
2541 submit to the corporation a conflict-of-interest statement.

2542 3. Senior managers and members of the board of governors
2543 are subject to ~~the provisions of~~ part III of chapter 112,
2544 including, but not limited to, the code of ethics and public
2545 disclosure and reporting of financial interests, pursuant to s.
2546 112.3145. Notwithstanding s. 112.3143(2), a board member may not
2547 vote on any measure that would inure to his or her special
2548 private gain or loss; that he or she knows would inure to the
2549 special private gain or loss of any principal by whom he or she
2550 is retained or to the parent organization or subsidiary of a
2551 corporate principal by which he or she is retained, other than
2552 an agency as defined in s. 112.312; or that he or she knows

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2553 would inure to the special private gain or loss of a relative or
2554 business associate of the public officer. Before the vote is
2555 taken, such member shall publicly state to the assembly the
2556 nature of the his or her interest in the matter from which he or
2557 she is abstaining from voting and, within 15 days after the vote
2558 occurs, disclose the nature of his or her interest as a public
2559 record in a memorandum filed with the person responsible for
2560 recording the minutes of the meeting, who shall incorporate the
2561 memorandum in the minutes. Senior managers and board members are
2562 also required to file such disclosures with the Commission on
2563 Ethics and the Office of Insurance Regulation. The executive
2564 director of the corporation or ~~his or her~~ designee shall notify
2565 each existing and newly appointed and ~~existing appointed~~ member
2566 of the board of governors and senior managers of their duty to
2567 comply with the reporting requirements of part III of chapter
2568 112. At least quarterly, the executive director or ~~his or her~~
2569 designee shall submit to the Commission on Ethics a list of
2570 names of the senior managers and members of the board of
2571 governors who are subject to the public disclosure requirements
2572 under s. 112.3145.

2573 4. Notwithstanding s. 112.3148 or s. 112.3149, or any other
2574 provision of law, an employee or board member may not knowingly
2575 accept, directly or indirectly, any gift or expenditure from a
2576 person or entity, or an employee or representative of such
2577 person or entity, that has a contractual relationship with the
2578 corporation or who is under consideration for a contract. An
2579 employee or board member who fails to comply with subparagraph
2580 3. or this subparagraph is subject to penalties provided under
2581 ss. 112.317 and 112.3173.

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2582 5. Any senior manager of the corporation who is employed on
2583 or after January 1, 2007, regardless of the date of hire, who
2584 subsequently retires or terminates employment is prohibited from
2585 representing another person or entity before the corporation for
2586 2 years after retirement or termination of employment from the
2587 corporation.

2588 6. Any senior manager of the corporation who is employed on
2589 or after January 1, 2007, regardless of the date of hire, who
2590 subsequently retires or terminates employment is prohibited from
2591 having any employment or contractual relationship for 2 years
2592 with an insurer that has entered into a take-out bonus agreement
2593 with the corporation.

2594 (y) It is the intent of the Legislature that the amendments
2595 to this subsection enacted in 2002 should, over time, reduce the
2596 probable maximum windstorm losses in the residual markets and
2597 should reduce the potential assessments to be levied on property
2598 insurers and policyholders statewide. In furtherance of this
2599 intent:

2600 1. The board shall, on or before February 1 of each year,
2601 provide a report to the President of the Senate and the Speaker
2602 of the House of Representatives showing the reduction or
2603 increase in the 100-year probable maximum loss attributable to
2604 wind-only coverages and the quota share program under this
2605 subsection combined, as compared to the benchmark 100-year
2606 probable maximum loss of the Florida Windstorm Underwriting
2607 Association. For purposes of this paragraph, the benchmark 100-
2608 year probable maximum loss of the Florida Windstorm Underwriting
2609 Association shall be the calculation dated February 2001 and
2610 based on November 30, 2000, exposures. In order to ensure

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2611 comparability of data, the board shall use the same methods for
2612 calculating its probable maximum loss as were used to calculate
2613 the benchmark probable maximum loss.

2614 2. Beginning December 1, 2012 ~~2010~~, if the report under
2615 subparagraph 1. for any year indicates that the 100-year
2616 probable maximum loss attributable to wind-only coverages and
2617 the quota share program combined does not reflect a reduction of
2618 at least 25 percent from the benchmark, the board shall reduce
2619 the boundaries of the high-risk area eligible for wind-only
2620 coverages under this subsection in a manner calculated to reduce
2621 such probable maximum loss to an amount at least 25 percent
2622 below the benchmark.

2623 3. Beginning February 1, 2015, if the report under
2624 subparagraph 1. for any year indicates that the 100-year
2625 probable maximum loss attributable to wind-only coverages and
2626 the quota share program combined does not reflect a reduction of
2627 at least 50 percent from the benchmark, the boundaries of the
2628 high-risk area eligible for wind-only coverages under this
2629 subsection shall be reduced by the elimination of any area that
2630 is not seaward of a line 1,000 feet inland from the Intracoastal
2631 Waterway.

2632 Section 17. The Division of Statutory Revision is directed
2633 to prepare a reviser's bill for introduction at the next regular
2634 session of the Legislature to change the term "high-risk
2635 account" to "coastal account" to conform the Florida Statutes to
2636 the amendment to s. 627.351(6)(b)2.a.(III), Florida Statutes,
2637 made by this act.

2638 Section 18. Subsection (2) of section 627.4133, Florida
2639 Statutes, is amended to read:

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2640 627.4133 Notice of cancellation, nonrenewal, or renewal
2641 premium.—

2642 (2) With respect to any personal lines or commercial
2643 residential property insurance policy, including, but not
2644 limited to, any homeowner's, mobile home owner's, farmowner's,
2645 condominium association, condominium unit owner's, apartment
2646 building, or other policy covering a residential structure or
2647 its contents:

2648 (a) The insurer shall give the named insured at least 45
2649 days' advance written notice of the renewal premium.

2650 (b) The insurer shall give the named insured written notice
2651 of nonrenewal, cancellation, or termination at least 100 days
2652 before ~~prior to~~ the effective date of the nonrenewal,
2653 cancellation, or termination. However, the insurer shall give at
2654 least 100 days' written notice, or written notice by June 1,
2655 whichever is earlier, for any nonrenewal, cancellation, or
2656 termination that would be effective between June 1 and November
2657 30. The notice must include the reason or reasons for the
2658 nonrenewal, cancellation, or termination, except that:

2659 1. The insurer must ~~shall~~ give the named insured written
2660 notice of nonrenewal, cancellation, or termination at least 180
2661 days before ~~prior to~~ the effective date of the nonrenewal,
2662 cancellation, or termination for a named insured whose
2663 residential structure has been insured by that insurer or an
2664 affiliated insurer for at least a 5-year period immediately
2665 prior to the date of the written notice.

2666 2. When cancellation is for nonpayment of premium, at least
2667 10 days' written notice of cancellation accompanied by the
2668 reason therefor must ~~shall~~ be given. As used in this

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2669 subparagraph, the term "nonpayment of premium" means failure of
2670 the named insured to discharge when due any of her or his
2671 obligations in connection with the payment of premiums on a
2672 policy or any installment of such premium, whether the premium
2673 is payable directly to the insurer or its agent or indirectly
2674 under any premium finance plan or extension of credit, or
2675 failure to maintain membership in an organization if such
2676 membership is a condition precedent to insurance coverage.
2677 "Nonpayment of premium" also means the failure of a financial
2678 institution to honor an insurance applicant's check after
2679 delivery to a licensed agent for payment of a premium, even if
2680 the agent has previously delivered or transferred the premium to
2681 the insurer. If a dishonored check represents the initial
2682 premium payment, the contract and all contractual obligations
2683 are ~~shall be~~ void ab initio unless the nonpayment is cured
2684 within the earlier of 5 days after actual notice by certified
2685 mail is received by the applicant or 15 days after notice is
2686 sent to the applicant by certified mail or registered mail, and
2687 if the contract is void, any premium received by the insurer
2688 from a third party must ~~shall~~ be refunded to that party in full.

2689 3. When such cancellation or termination occurs during the
2690 first 90 days during which the insurance is in force and the
2691 insurance is canceled or terminated for reasons other than
2692 nonpayment of premium, at least 20 days' written notice of
2693 cancellation or termination accompanied by the reason therefor
2694 must ~~shall~~ be given except if ~~where~~ there has been a material
2695 misstatement or misrepresentation or failure to comply with the
2696 underwriting requirements established by the insurer.

2697 4. The requirement for providing written notice of

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2698 nonrenewal by June 1 of any nonrenewal that would be effective
2699 between June 1 and November 30 does not apply to the following
2700 situations, but the insurer remains subject to the requirement
2701 to provide such notice at least 100 days before ~~prior to~~ the
2702 effective date of nonrenewal:

2703 a. A policy that is nonrenewed due to a revision in the
2704 coverage for sinkhole losses and catastrophic ground cover
2705 collapse pursuant to s. 627.706, ~~as amended by s. 30, chapter~~
2706 ~~2007-1, Laws of Florida.~~

2707 b. A policy that is nonrenewed by Citizens Property
2708 Insurance Corporation, pursuant to s. 627.351(6), for a policy
2709 that has been assumed by an authorized insurer offering
2710 replacement ~~or renewal~~ coverage to the policyholder is exempt
2711 from the notice requirements of paragraph (a) and this
2712 paragraph. In such cases, Citizens Property Insurance
2713 Corporation shall give the named insured written notice of
2714 nonrenewal at least 45 days before the effective date of the
2715 nonrenewal.

2716
2717 After the policy has been in effect for 90 days, the policy may
2718 ~~shall~~ not be canceled by the insurer except if ~~when~~ there has
2719 been a material misstatement, a nonpayment of premium, a failure
2720 to comply with underwriting requirements established by the
2721 insurer within 90 days of the date of effectuation of coverage,
2722 or a substantial change in the risk covered by the policy or if
2723 ~~when~~ the cancellation is for all insureds under such policies
2724 for a given class of insureds. This paragraph does not apply to
2725 individually rated risks having a policy term of less than 90
2726 days.

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2727 5. Notwithstanding any other provision of law, an insurer
2728 may cancel or nonrenew a property insurance policy upon a
2729 minimum of 45 days' notice if the office finds that the early
2730 cancellation of some or all of the insurer's policies is
2731 necessary to protect the best interests of the public or
2732 policyholders and the office approves the insurer's plan for
2733 early cancellation or nonrenewal of some or all of its policies.
2734 The office may base such a finding upon the financial condition
2735 of the insurer, lack of adequate reinsurance coverage for
2736 hurricane risk, or other relevant factors. The office may
2737 condition its finding on the consent of the insurer to be placed
2738 in administrative supervision pursuant to s. 624.81 or consent
2739 to the appointment of a receiver under chapter 631.

2740 (c) If the insurer fails to provide the notice required by
2741 this subsection, other than the 10-day notice, the coverage
2742 provided to the named insured shall remain in effect until the
2743 effective date of replacement coverage or until the expiration
2744 of a period of days after the notice is given equal to the
2745 required notice period, whichever occurs first. The premium for
2746 the coverage shall remain the same during any such extension
2747 period except that, in the event of failure to provide notice of
2748 nonrenewal, if the rate filing then in effect would have
2749 resulted in a premium reduction, the premium during such
2750 extension must ~~shall~~ be calculated based on the later rate
2751 filing.

2752 (d)1. Upon a declaration of an emergency pursuant to s.
2753 252.36 and the filing of an order by the Commissioner of
2754 Insurance Regulation, an insurer may not cancel or nonrenew a
2755 personal residential or commercial residential property

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2756 insurance policy covering a dwelling or residential property
2757 located in this state which has been damaged as a result of a
2758 hurricane or wind loss that is the subject of the declaration of
2759 emergency for a period of 90 days after the dwelling or
2760 residential property has been repaired. A structure is deemed to
2761 be repaired when substantially completed and restored to the
2762 extent that it is insurable by another authorized insurer that
2763 is writing policies in this state.

2764 2. However, an insurer or agent may cancel or nonrenew such
2765 a policy before ~~prior to~~ the repair of the dwelling or
2766 residential property:

2767 a. Upon 10 days' notice for nonpayment of premium; or

2768 b. Upon 45 days' notice:

2769 (I) For a material misstatement or fraud related to the
2770 claim;

2771 (II) If the insurer determines that the insured has
2772 unreasonably caused a delay in the repair of the dwelling; or

2773 (III) If the insurer has paid policy limits.

2774 3. If the insurer elects to nonrenew a policy covering a
2775 property that has been damaged, the insurer shall provide at
2776 least 90 days' notice to the insured that the insurer intends to
2777 nonrenew the policy 90 days after the dwelling or residential
2778 property has been repaired. Nothing in this paragraph shall
2779 prevent the insurer from canceling or nonrenewing the policy 90
2780 days after the repairs are complete for the same reasons the
2781 insurer would otherwise have canceled or nonrenewed the policy
2782 but for the limitations of subparagraph 1. The Financial
2783 Services Commission may adopt rules, and the Commissioner of
2784 Insurance Regulation may issue orders, necessary to implement

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2785 this paragraph.

2786 4. This paragraph ~~shall~~ also applies ~~apply~~ to personal
2787 residential and commercial residential policies covering
2788 property that was damaged as the result of Tropical Storm
2789 Bonnie, Hurricane Charley, Hurricane Frances, Hurricane Ivan, or
2790 Hurricane Jeanne.

2791 (e) If any cancellation or nonrenewal of a policy subject
2792 to this subsection is to take effect during the duration of a
2793 hurricane as defined in s. 627.4025(2)(c), the effective date of
2794 such cancellation or nonrenewal is extended until the end of the
2795 duration of such hurricane. The insurer may collect premium at
2796 the prior rates or the rates then in effect for the period of
2797 time for which coverage is extended. This paragraph does not
2798 apply to any property with respect to which replacement coverage
2799 has been obtained and which is in effect for a claim occurring
2800 during the duration of the hurricane.

2801 Section 19. Section 627.43141, Florida Statutes, is created
2802 to read:

2803 627.43141 Notice of change in policy terms.-

2804 (1) As used in this section, the term:

2805 (a) "Change in policy terms" means the modification,
2806 addition, or deletion of any term, coverage, duty, or condition
2807 from the previous policy. The correction of typographical or
2808 scrivener's errors or the application of mandated legislative
2809 changes is not a change in policy terms.

2810 (b) "Policy" means a written contract of personal lines
2811 property insurance or a written agreement for insurance, or the
2812 certificate of such insurance, by whatever name called, and
2813 includes all clauses, riders, endorsements, and papers that are

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2814 a part of such policy. The term does not include a binder as
2815 defined in s. 627.420 unless the duration of the binder period
2816 exceeds 60 days.

2817 (c) "Renewal" means the issuance and delivery by an insurer
2818 of a policy superseding at the end of the policy period a policy
2819 previously issued and delivered by the same insurer or the
2820 issuance and delivery of a certificate or notice extending the
2821 term of a policy beyond its policy period or term. Any policy
2822 that has a policy period or term of less than 6 months or any
2823 policy that does not have a fixed expiration date shall, for
2824 purposes of this section, be considered as written for
2825 successive policy periods or terms of 6 months.

2826 (2) A renewal policy may contain a change in policy terms.
2827 If a renewal policy contains a change in policy terms, the
2828 insurer shall give the named insured a written notice of the
2829 change in policy terms, which must be enclosed along with the
2830 written notice of renewal premium required by ss. 627.4133 and
2831 627.728. Such notice should be entitled "Notice of Change in
2832 Policy Terms."

2833 (3) Although not required, proof of mailing or registered
2834 mailing through the United States Postal Service of the Notice
2835 of Change in Policy Terms to the named insured at the address
2836 shown in the policy is sufficient proof of notice.

2837 (4) Receipt of payment of the premium for the renewal
2838 policy by the insurer is deemed to be acceptance of the new
2839 policy terms by the named insured.

2840 (5) If an insurer fails to provide the notice required in
2841 subsection (2), the original policy terms shall remain in effect
2842 until the next renewal and the proper service of the notice or

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2843 until the effective date of replacement coverage obtained by the
2844 named insured, whichever occurs first.

2845 (6) The intent of this section is to:

2846 (a) Allow an insurer to make a change in policy terms
2847 without nonrenewing policyholders that the insurer wishes to
2848 continue insuring.

2849 (b) Alleviate concern and confusion to the policyholder
2850 caused by the required policy nonrenewal for the limited issue
2851 when an insurer intends to renew the insurance policy but the
2852 new policy contains a change in policy terms.

2853 (c) Encourage policyholders to discuss their coverages with
2854 their insurance agents.

2855 Section 20. Section 627.7011, Florida Statutes, is amended
2856 to read:

2857 627.7011 Homeowners' policies; offer of replacement cost
2858 coverage and law and ordinance coverage.—

2859 (1) Before ~~Prior to~~ issuing or renewing a homeowner's
2860 insurance policy ~~on or after October 1, 2005, or prior to the~~
2861 ~~first renewal of a homeowner's insurance policy on or after~~
2862 ~~October 1, 2005,~~ the insurer must offer each of the following:

2863 (a) A policy or endorsement providing that any loss which
2864 is repaired or replaced will be adjusted on the basis of
2865 replacement costs not exceeding policy limits as to the
2866 dwelling, rather than actual cash value, but not including costs
2867 necessary to meet applicable laws and ordinances regulating the
2868 construction, use, or repair of any property or requiring the
2869 tearing down of any property, including the costs of removing
2870 debris.

2871 (b) A policy or endorsement providing that, subject to

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2872 other policy provisions, any loss which is repaired or replaced
2873 at any location will be adjusted on the basis of replacement
2874 costs not exceeding policy limits as to the dwelling, rather
2875 than actual cash value, and also including costs necessary to
2876 meet applicable laws and ordinances regulating the construction,
2877 use, or repair of any property or requiring the tearing down of
2878 any property, including the costs of removing debris.+ However,
2879 such additional costs necessary to meet applicable laws and
2880 ordinances may be limited to either 25 percent or 50 percent of
2881 the dwelling limit, as selected by the policyholder, and such
2882 coverage shall apply only to repairs of the damaged portion of
2883 the structure unless the total damage to the structure exceeds
2884 50 percent of the replacement cost of the structure.

2885

2886 An insurer is not required to make the offers required by this
2887 subsection with respect to the issuance or renewal of a
2888 homeowner's policy that contains the provisions specified in
2889 paragraph (b) for law and ordinance coverage limited to 25
2890 percent of the dwelling limit, except that the insurer must
2891 offer the law and ordinance coverage limited to 50 percent of
2892 the dwelling limit. This subsection does not prohibit the offer
2893 of a guaranteed replacement cost policy.

2894 (2) Unless the insurer obtains the policyholder's written
2895 refusal of the policies or endorsements specified in subsection
2896 (1), any policy covering the dwelling is deemed to include the
2897 law and ordinance coverage limited to 25 percent of the dwelling
2898 limit. The rejection or selection of alternative coverage shall
2899 be made on a form approved by the office. The form shall fully
2900 advise the applicant of the nature of the coverage being

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2901 rejected. If this form is signed by a named insured, it will be
2902 conclusively presumed that there was an informed, knowing
2903 rejection of the coverage or election of the alternative
2904 coverage on behalf of all insureds. Unless the policyholder
2905 requests in writing the coverage specified in this section, it
2906 need not be provided in or supplemental to any other policy that
2907 renews, insures, extends, changes, supersedes, or replaces an
2908 existing policy when the policyholder has rejected the coverage
2909 specified in this section or has selected alternative coverage.
2910 The insurer must provide such policyholder with notice of the
2911 availability of such coverage in a form approved by the office
2912 at least once every 3 years. The failure to provide such notice
2913 constitutes a violation of this code, but does not affect the
2914 coverage provided under the policy.

2915 (3) (a) In the event of a loss for which a dwelling is
2916 insured on the basis of replacement costs, the insurer initially
2917 must pay at least the actual cash value of the insured loss,
2918 less any applicable deductible. An insured shall subsequently
2919 enter into a contract for the performance of building and
2920 structural repairs. The insurer shall pay any remaining amounts
2921 incurred to perform such repairs as the work is performed. With
2922 the exception of incidental expenses to mitigate further damage,
2923 the insurer or any contractor or subcontractor may not require
2924 the policyholder to advance payment for such repairs or
2925 expenses. The insurer may waive the requirement for a contract
2926 as provided in this paragraph. An insured shall have a period of
2927 one 1 year after the date the insurer pays actual cash value to
2928 make a claim for replacement cost. If a total loss of a dwelling
2929 occurs, the insurer shall pay the replacement cost coverage

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2930 without reservation or holdback of any depreciation in value,
2931 pursuant to s. 627.702.

2932 (b) In the event of a loss for which ~~a dwelling or~~ personal
2933 property is insured on the basis of replacement costs, the
2934 insurer shall pay the replacement cost without reservation or
2935 holdback of any depreciation in value, whether or not the
2936 insured replaces or repairs the ~~dwelling or~~ property.

2937 (4) A ~~Any~~ homeowner's insurance policy ~~issued or renewed on~~
2938 ~~or after October 1, 2005,~~ must include in bold type no smaller
2939 than 18 points the following statement:

2940

2941 "LAW AND ORDINANCE COVERAGE IS AN IMPORTANT COVERAGE
2942 THAT YOU MAY WISH TO PURCHASE. YOU MAY ALSO NEED TO
2943 CONSIDER THE PURCHASE OF FLOOD INSURANCE FROM THE
2944 NATIONAL FLOOD INSURANCE PROGRAM. WITHOUT THIS
2945 COVERAGE, YOU MAY HAVE UNCOVERED LOSSES. PLEASE
2946 DISCUSS THESE COVERAGES WITH YOUR INSURANCE AGENT."

2947 The intent of this subsection is to encourage policyholders to
2948 purchase sufficient coverage to protect them in case events
2949 excluded from the standard homeowners policy, such as law and
2950 ordinance enforcement and flood, combine with covered events to
2951 produce damage or loss to the insured property. The intent is
2952 also to encourage policyholders to discuss these issues with
2953 their insurance agent.

2954 (5) ~~Nothing in~~ This section does not ~~shall be construed to~~
2955 apply to policies not considered to be "homeowners' policies,"
2956 as that term is commonly understood in the insurance industry.
2957 This section specifically does not apply to mobile home
2958 policies. ~~Nothing in~~ This section does not limit ~~shall be~~

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2959 ~~construed as limiting~~ the ability of any insurer to reject or
2960 nonrenew any insured or applicant on the grounds that the
2961 structure does not meet underwriting criteria applicable to
2962 replacement cost or law and ordinance policies or for other
2963 lawful reasons.

2964 (6) This section does not prohibit an insurer from limiting
2965 its liability under a policy or endorsement providing that loss
2966 will be adjusted on the basis of replacement costs to the lesser
2967 of:

2968 (a) The limit of liability shown on the policy declarations
2969 page;

2970 (b) The reasonable and necessary cost to repair the
2971 damaged, destroyed, or stolen covered property; or

2972 (c) The reasonable and necessary cost to replace the
2973 damaged, destroyed, or stolen covered property.

2974 (7) This section does not prohibit an insurer from
2975 exercising its right to repair damaged property in compliance
2976 with its policy and s. 627.702(7).

2977 Section 21. Paragraph (a) of subsection (5) of section
2978 627.70131, Florida Statutes, is amended to read:

2979 627.70131 Insurer's duty to acknowledge communications
2980 regarding claims; investigation.-

2981 (5) (a) Within 90 days after an insurer receives notice of
2982 an initial or supplemental ~~a~~ property insurance claim from a
2983 policyholder, the insurer shall pay or deny such claim or a
2984 portion of the claim unless the failure to pay such claim or a
2985 portion of the claim is caused by factors beyond the control of
2986 the insurer which reasonably prevent such payment. Any payment
2987 of an initial or supplemental ~~a~~ claim or portion of such ~~a~~ claim

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2988 made ~~paid~~ 90 days after the insurer receives notice of the
2989 claim, or made ~~paid~~ more than 15 days after there are no longer
2990 factors beyond the control of the insurer which reasonably
2991 prevented such payment, whichever is later, shall bear interest
2992 at the rate set forth in s. 55.03. Interest begins to accrue
2993 from the date the insurer receives notice of the claim. The
2994 provisions of this subsection may not be waived, voided, or
2995 nullified by the terms of the insurance policy. If there is a
2996 right to prejudgment interest, the insured shall select whether
2997 to receive prejudgment interest or interest under this
2998 subsection. Interest is payable when the claim or portion of the
2999 claim is paid. Failure to comply with this subsection
3000 constitutes a violation of this code. However, failure to comply
3001 with this subsection shall not form the sole basis for a private
3002 cause of action.

3003 Section 22. Section 627.711, Florida Statutes, is amended
3004 to read:

3005 627.711 Notice of premium discounts for hurricane loss
3006 mitigation; uniform mitigation verification inspection form.—

3007 (1) Using a form prescribed by the Office of Insurance
3008 Regulation, the insurer shall clearly notify the applicant or
3009 policyholder of any personal lines residential property
3010 insurance policy, at the time of the issuance of the policy and
3011 at each renewal, of the availability and the range of each
3012 premium discount, credit, other rate differential, or reduction
3013 in deductibles, and combinations of discounts, credits, rate
3014 differentials, or reductions in deductibles, for properties on
3015 which fixtures or construction techniques demonstrated to reduce
3016 the amount of loss in a windstorm can be or have been installed

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3017 or implemented. The prescribed form shall describe generally
3018 what actions the policyholders may be able to take to reduce
3019 their windstorm premium. The prescribed form and a list of such
3020 ranges approved by the office for each insurer licensed in the
3021 state and providing such discounts, credits, other rate
3022 differentials, or reductions in deductibles for properties
3023 described in this subsection shall be available for electronic
3024 viewing and download from the Department of Financial Services'
3025 or the Office of Insurance Regulation's Internet website. The
3026 Financial Services Commission may adopt rules to implement this
3027 subsection.

3028 (2) (a) ~~By July 1, 2007,~~ The Financial Services Commission
3029 shall develop by rule a uniform mitigation verification
3030 inspection form that shall be used by all insurers when
3031 submitted by policyholders for the purpose of factoring
3032 discounts for wind insurance. In developing the form, the
3033 commission shall seek input from insurance, construction, and
3034 building code representatives. Further, the commission shall
3035 provide guidance as to the length of time the inspection results
3036 are valid. An insurer shall accept as valid a uniform mitigation
3037 verification form ~~certified by the Department of Financial~~
3038 ~~Services~~ or signed by the following authorized mitigation
3039 inspectors:

3040 1. (a) A home inspector licensed under s. 468.8314 who has
3041 completed at least 3 hours of hurricane mitigation training
3042 which includes hurricane mitigation techniques and compliance
3043 with the uniform mitigation verification form and completion of
3044 a proficiency exam. Thereafter, home inspectors licensed under
3045 s. 468.8314, must complete at least 2 hours of continuing

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3046 education, as part of the existing licensure renewal
3047 requirements each year, related to mitigation inspection and the
3048 uniform mitigation form ~~hurricane mitigation inspector certified~~
3049 ~~by the My Safe Florida Home program;~~

3050 2.~~(b)~~ A building code inspector certified under s. 468.607;

3051 3.~~(e)~~ A general, building, or residential contractor
3052 licensed under s. 489.111;

3053 4.~~(d)~~ A professional engineer licensed under s. 471.015 ~~who~~
3054 ~~has passed the appropriate equivalency test of the building code~~
3055 ~~training program as required by s. 553.841;~~

3056 5.~~(e)~~ A professional architect licensed under s. 481.213;
3057 or

3058 6.~~(f)~~ Any other individual or entity recognized by the
3059 insurer as possessing the necessary qualifications to properly
3060 complete a uniform mitigation verification form.

3061 (b) An insurer may, but is not required to, accept a form
3062 from any other person possessing qualifications and experience
3063 acceptable to the insurer.

3064 (3) A person who is authorized to sign a mitigation
3065 verification form must inspect the structures referenced by the
3066 form personally, not through employees or other persons, and
3067 must certify or attest to personal inspection of the structures
3068 referenced by the form. However, licensees under s. 489.111, may
3069 authorize a direct employee, who is not an independent
3070 contractor, and who possesses the requisite skill, knowledge and
3071 experience to conduct a mitigation verification inspection.
3072 Insurers shall have the right to request and obtain information
3073 from the authorized mitigation inspector under s. 489.111,
3074 regarding any authorized employee's qualifications prior to

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3075 accepting a mitigation verification form performed by an
3076 employee that is not licensed under s. 489.111.

3077 (4) An authorized mitigation inspector that signs a uniform
3078 mitigation form, and a direct employee authorized to conduct
3079 mitigation verification inspections under paragraph (3), may not
3080 commit misconduct in performing hurricane mitigation inspections
3081 or in completing a uniform mitigation form that causes financial
3082 harm to a customer or their insurer; or that jeopardizes a
3083 customer's health and safety. Misconduct occurs when an
3084 authorized mitigation inspector signs a uniform mitigation
3085 verification form that:

3086 (a) Falsely indicates that he or she personally inspected
3087 the structures referenced by the form;

3088 (b) Falsely indicates the existence of a feature which
3089 entitles an insured to a mitigation discount which the inspector
3090 knows does not exist or did not personally inspect;

3091 (c) Contains erroneous information due to the gross
3092 negligence of the inspector; or

3093 (d) Contains a pattern of demonstrably false information
3094 regarding the existence of mitigation features that could give
3095 an insured a false evaluation of the ability of the structure to
3096 withstand major damage from a hurricane endangering the safety
3097 of the insured's life and property.

3098 (5) The licensing board of an authorized mitigation
3099 inspector that violates subsection (4) may commence disciplinary
3100 proceedings and impose administrative fines and other sanctions
3101 authorized under the authorized mitigation inspector's licensing
3102 act. Authorized mitigation inspectors licensed under s. 489.111,
3103 shall be directly liable for the acts of employees that violate

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3104 subsection (4) as if the authorized mitigation inspector
3105 personally performed the inspection.

3106 (6) An insurer, person, or other entity that obtains
3107 evidence of fraud or evidence that an authorized mitigation
3108 inspector or an employee authorized to conduct mitigation
3109 verification inspections under paragraph (3), has made false
3110 statements in the completion of a mitigation inspection form
3111 shall file a report with the Division of Insurance Fraud, along
3112 with all of the evidence in its possession that supports the
3113 allegation of fraud or falsity. An insurer, person, or other
3114 entity making the report shall be immune from liability in
3115 accordance with s. 626.989(4), for any statements made in the
3116 report, during the investigation, or in connection with the
3117 report. The Division of Insurance Fraud shall issue an
3118 investigative report if it finds that probable cause exists to
3119 believe that the authorized mitigation inspector, or an employee
3120 authorized to conduct mitigation verification inspections under
3121 paragraph (3), made intentionally false or fraudulent statements
3122 in the inspection form. Upon conclusion of the investigation and
3123 a finding of probable cause that a violation has occurred, the
3124 Division of Insurance Fraud shall send a copy of the
3125 investigative report to the office and a copy to the agency
3126 responsible for the professional licensure of the authorized
3127 mitigation inspector, whether or not a prosecutor takes action
3128 based upon the report.

3129 (7)~~(3)~~ An individual or entity who knowingly provides or
3130 utters a false or fraudulent mitigation verification form with
3131 the intent to obtain or receive a discount on an insurance
3132 premium to which the individual or entity is not entitled

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3133 commits a misdemeanor of the first degree, punishable as
3134 provided in s. 775.082 or s. 775.083.

3135 (8) At its expense, the insurer may require that any
3136 uniform mitigation verification form provided by an authorized
3137 mitigation inspector or inspection company be independently
3138 verified by an inspector, inspection company or an independent
3139 third-party quality assurance provider which does possess a
3140 quality assurance program prior to accepting the uniform
3141 mitigation verification form as valid.

3142 Section 23. Section 628.252, Florida Statutes, is created
3143 to read:

3144 628.252 Servicing affiliates of domestic property
3145 insurers.—Every domestic property insurer shall notify the
3146 office of its intention to enter into with affiliates all
3147 management agreements, service contracts, and cost-sharing
3148 arrangements. A domestic property insurer may not enter into
3149 such an agreement, contract, or arrangement unless the insurer
3150 has it has provided the office with at least 30 days' written
3151 notice of its intention to enter into such agreement, contract,
3152 or arrangement, or such shorter period as the office, in its
3153 discretion, may permit and the office has not disapproved such
3154 agreement, contract, or arrangement within such period. This
3155 section does not limit any existing authority of the office.

3156 Section 24. The sums of \$263,200 in nonrecurring funds and
3157 \$47,500 in recurring funds from the Insurance Regulatory Trust
3158 Fund are appropriated and one full-time equivalent position and
3159 associated salary rate is authorized to the Office of Insurance
3160 Regulation to implement the provisions of the act relating to
3161 the design, development, and operation of a comprehensive

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3162 website for consumers which provides comparisons of homeowners'
3163 insurance rates and products.

3164 Section 25. Except as otherwise expressly provided in this
3165 act and except for this section, which shall take effect June 1,
3166 2010, this act shall take effect July 1, 2010.

3167