

Amendment No.

CHAMBER ACTION

Senate

House

.

1 Representative Wood offered the following:

2  
3 **Amendment (with title amendment)**

4 Remove everything after the enacting clause and insert:

5 Section 1. Subsection (2) of section 95.11, Florida

6 Statutes, is amended to read:

7 95.11 Limitations other than for the recovery of real  
8 property.—Actions other than for recovery of real property shall  
9 be commenced as follows:

10 (2) WITHIN FIVE YEARS.—

11 (a) An action on a judgment or decree of any court, not of  
12 record, of this state or any court of the United States, any  
13 other state or territory in the United States, or a foreign  
14 country.

15 (b) A legal or equitable action on a contract, obligation,  
16 or liability founded on a written instrument, except for an

844961

5/4/2011 4:31 PM

Amendment No.

17 action to enforce a claim against a payment bond, which shall be  
18 governed by the applicable provisions of ss. 255.05(10) and  
19 713.23(1) (e).

20 (c) An action to foreclose a mortgage.

21 (d) An action alleging a willful violation of s. 448.110.

22 (e) Notwithstanding paragraph (b), an action for breach of  
23 a property insurance contract, with the period running from the  
24 date of loss.

25 Section 2. Effective June 1, 2011, paragraph (d) of  
26 subsection (2) of section 215.555, Florida Statutes, is amended  
27 to read:

28 215.555 Florida Hurricane Catastrophe Fund.—

29 (2) DEFINITIONS.—As used in this section:

30 (d) "Losses" means all ~~direct~~ incurred losses under  
31 covered policies, including ~~which shall include losses for~~  
32 additional living expenses not to exceed 40 percent of the  
33 insured value of a residential structure or its contents and  
34 amounts paid as fees on behalf of or inuring to the benefit of a  
35 policyholder shall exclude loss adjustment expenses. The term  
36 "Losses" does not include:

37 1. Losses for fair rental value, loss of rent or rental  
38 income, or business interruption losses;

39 2. Losses under liability coverages;

40 3. Property losses that are proximately caused by any  
41 peril other than a covered event, including, but not limited to,  
42 fire, theft, flood or rising water, or windstorm that does not  
43 constitute a covered event;

844961

5/4/2011 4:31 PM

Amendment No.

44 4. Amounts paid as the result of a voluntary expansion of  
45 coverage by the insurer, including, but not limited to, a waiver  
46 of an applicable deductible;

47 5. Amounts paid to reimburse a policyholder for  
48 condominium association or homeowners' association loss  
49 assessments or under similar coverages for contractual  
50 liabilities;

51 6. Amounts paid as bad faith awards, punitive damage  
52 awards, or other court-imposed fines, sanctions, or penalties;

53 7. Amounts in excess of the coverage limits under the  
54 covered policy; or

55 8. Allocated or unallocated loss adjustment expenses.

56 Section 3. The amendment to s. 215.555, Florida Statutes,  
57 made by this act applies first to the Florida Hurricane  
58 Catastrophe Fund reimbursement contract that takes effect June  
59 1, 2011.

60 Section 4. Subsection (12) is added to section 215.5595,  
61 Florida Statutes, to read:

62 215.5595 Insurance Capital Build-Up Incentive Program.—

63 (12) The insurer may request that the board renegotiate  
64 the terms of any surplus note issued under this section before  
65 January 1, 2011. The request must be submitted to the board by  
66 January 1, 2012. If the insurer agrees to accelerate the payment  
67 period of the note by at least 5 years, the board must agree to  
68 exempt the insurer from the premium-to-surplus ratios required  
69 under paragraph (2) (d). If the insurer agrees to an acceleration  
70 of the payment period for less than 5 years, the board may,  
71 after consultation with the Office of Insurance Regulation,

844961

5/4/2011 4:31 PM

Amendment No.

72 agree to an appropriate revision of the premium-to-surplus  
73 ratios required under paragraph (2) (d) for the remaining term of  
74 the note if the revised ratios are not lower than a minimum  
75 writing ratio of net premium to surplus of at least 1 to 1 and,  
76 alternatively, a minimum writing ratio of gross premium to  
77 surplus of at least 3 to 1.

78 Section 5. Section 624.407, Florida Statutes, is amended  
79 to read:

80 624.407 Surplus ~~Capital funds~~ required; new insurers.—

81 (1) To receive authority to transact any one kind or  
82 combinations of kinds of insurance, as defined in part V of this  
83 chapter, an insurer applying for its original certificate of  
84 authority in this state ~~after the effective date of this section~~  
85 shall possess surplus as to policyholders at least ~~not less than~~  
86 the greater of:

87 (a) ~~Five million dollars~~ For a property and casualty  
88 insurer, \$5 million, or \$2.5 million for any other insurer;

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

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

94 (d) For all insurers other than life insurers and life and  
95 health insurers, 10 percent of the insurer's total liabilities;  
96 or

97 (e) Notwithstanding paragraph (a) or paragraph (d), for a  
98 domestic insurer that transacts residential property insurance  
99 and is:

844961

5/4/2011 4:31 PM

Amendment No.

100 1. Not a wholly owned subsidiary of an insurer domiciled  
101 in any other state, \$15 million.

102 2. however, a domestic insurer that transacts residential  
103 property insurance and is A wholly owned subsidiary of an  
104 insurer domiciled in any other state, shall possess surplus as  
105 to policyholders of at least \$50 million.

106 (2) Notwithstanding subsection (1), a new insurer may not  
107 be required, but no insurer shall be required under this  
108 subsection to have surplus as to policyholders greater than \$100  
109 million.

110 (3)~~(2)~~ The requirements of this section shall be based  
111 upon all the kinds of insurance actually transacted or to be  
112 transacted by the insurer in any and all areas in which it  
113 operates, whether or not only a portion of such kinds of  
114 insurance are ~~to be~~ transacted in this state.

115 (4)~~(3)~~ As to surplus as to policyholders required for  
116 qualification to transact one or more kinds of insurance,  
117 domestic mutual insurers are governed by chapter 628, and  
118 domestic reciprocal insurers are governed by chapter 629.

119 (5)~~(4)~~ For the purposes of this section, liabilities do  
120 ~~shall~~ not include liabilities required under s. 625.041(4). For  
121 purposes of computing minimum surplus as to policyholders  
122 pursuant to s. 625.305(1), liabilities ~~shall~~ include liabilities  
123 required under s. 625.041(4).

124 ~~(5) The provisions of this section, as amended by this~~  
125 ~~act, shall apply only to insurers applying for a certificate of~~  
126 ~~authority on or after the effective date of this act.~~

844961

5/4/2011 4:31 PM

Amendment No.

127 Section 6. Section 624.408, Florida Statutes, is amended  
128 to read:

129 624.408 Surplus ~~as to policyholders~~ required; current new  
130 ~~and existing~~ insurers.-

131 (1) ~~(a)~~ To maintain a certificate of authority to transact  
132 any one kind or combinations of kinds of insurance, as defined  
133 in part V of this chapter, an insurer in this state must ~~shall~~  
134 at all times maintain surplus as to policyholders at least ~~not~~  
135 ~~less than~~ the greater of:

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

138 (b)2. For life insurers, 4 percent of the insurer's total  
139 liabilities.~~.~~

140 (c)3. For life and health insurers, 4 percent of the  
141 insurer's total liabilities plus 6 percent of the insurer's  
142 liabilities relative to health insurance.~~.~~ ~~or~~

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

146 (e)5. For property and casualty insurers, \$4 million,  
147 except for property and casualty insurers authorized to  
148 underwrite any line of residential property insurance.

149 (f) ~~(b)~~ For residential any property insurers not and  
150 ~~casualty insurer~~ holding a certificate of authority before July  
151 1, 2011 ~~on December 1, 1993~~, \$15 million. ~~the~~

152 (g) For residential property insurers holding a  
153 certificate of authority before July 1, 2011, and until June 30,

Amendment No.

154 2016, \$5 million; on or after July 1, 2016, and until June 30,  
155 2021, \$10 million; on or after July 1, 2021, \$15 million.

156  
157 The office may reduce the surplus requirement in paragraphs (f)  
158 and (g) if the insurer is not writing new business, has premiums  
159 in force of less than \$1 million per year in residential  
160 property insurance, or is a mutual insurance company. following  
161 amounts apply instead of the \$4 million required by subparagraph  
162 (a)5.:

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

165 ~~2. On December 31, 2002, and until December 30, 2003,~~  
166 ~~\$3.25 million.~~

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

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

170 (2) For purposes of this section, liabilities do ~~shall~~ not  
171 include liabilities required under s. 625.041(4). For purposes  
172 of computing minimum surplus as to policyholders pursuant to s.  
173 625.305(1), liabilities ~~shall~~ include liabilities required under  
174 s. 625.041(4).

175 (3) This section does not require an ~~No~~ insurer ~~shall be~~  
176 ~~required under this section~~ to have surplus as to policyholders  
177 greater than \$100 million.

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

180 Section 7. Effective June 1, 2011, section 626.854,  
181 Florida Statutes, is amended to read:

844961

5/4/2011 4:31 PM

Amendment No.

182           626.854 "Public adjuster" defined; prohibitions.—The  
183 Legislature finds that it is necessary for the protection of the  
184 public to regulate public insurance adjusters and to prevent the  
185 unauthorized practice of law.

186           (1) A "public adjuster" is any person, except a duly  
187 licensed attorney at law as hereinafter in s. 626.860 provided,  
188 who, for money, commission, or any other thing of value,  
189 prepares, completes, or files an insurance claim form for an  
190 insured or third-party claimant or who, for money, commission,  
191 or any other thing of value, acts or aids in any manner on  
192 behalf of an insured or third-party claimant in negotiating for  
193 or effecting the settlement of a claim or claims for loss or  
194 damage covered by an insurance contract or who advertises for  
195 employment as an adjuster of such claims, and also includes any  
196 person who, for money, commission, or any other thing of value,  
197 solicits, investigates, or adjusts such claims on behalf of any  
198 such public adjuster.

199           (2) This definition does not apply to:

200           (a) A licensed health care provider or employee thereof  
201 who prepares or files a health insurance claim form on behalf of  
202 a patient.

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

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

844961

5/4/2011 4:31 PM



Amendment No.

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

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

217 (6) A public adjuster may not directly or indirectly  
218 through any other person or entity initiate contact or engage in  
219 face-to-face or telephonic solicitation or enter into a contract  
220 with any insured or claimant under an insurance policy until at  
221 least 48 hours after the occurrence of an event that may be the  
222 subject of a claim under the insurance policy unless contact is  
223 initiated by the insured or claimant.

224 (7) An insured or claimant may cancel a public adjuster's  
225 contract to adjust a claim without penalty or obligation within  
226 3 business days after the date on which the contract is executed  
227 or within 3 business days after the date on which the insured or  
228 claimant has notified the insurer of the claim, by phone or in  
229 writing, whichever is later. The public adjuster's contract  
230 shall disclose to the insured or claimant his or her right to  
231 cancel the contract and advise the insured or claimant that  
232 notice of cancellation must be submitted in writing and sent by  
233 certified mail, return receipt requested, or other form of  
234 mailing which provides proof thereof, to the public adjuster at  
235 the address specified in the contract; provided, during any  
236 state of emergency as declared by the Governor and for a period

844961

5/4/2011 4:31 PM

Amendment No.

237 of 1 year after the date of loss, the insured or claimant shall  
238 have 5 business days after the date on which the contract is  
239 executed to cancel a public adjuster's contract.

240 (8) It is an unfair and deceptive insurance trade practice  
241 pursuant to s. 626.9541 for a public adjuster or any other  
242 person to circulate or disseminate any advertisement,  
243 announcement, or statement containing any assertion,  
244 representation, or statement with respect to the business of  
245 insurance which is untrue, deceptive, or misleading.

246 (9) A public adjuster, a public adjuster apprentice, or  
247 any person or entity acting on behalf of a public adjuster or  
248 public adjuster apprentice may not give or offer to give a  
249 monetary loan or advance to a client or prospective client.

250 (10) A public adjuster, public adjuster apprentice, or any  
251 individual or entity acting on behalf of a public adjuster or  
252 public adjuster apprentice may not give or offer to give,  
253 directly or indirectly, any article of merchandise having a  
254 value in excess of \$25 to any individual for the purpose of  
255 advertising or as an inducement to entering into a contract with  
256 a public adjuster.

257 (11) (a) If a public adjuster enters into a contract with  
258 an insured or claimant to reopen a claim or ~~to~~ file a  
259 supplemental claim that seeks additional payments for a claim  
260 that has been previously paid in part or in full or settled by  
261 the insurer, the public adjuster may not charge, agree to, or  
262 accept any compensation, payment, commission, fee, or other  
263 thing of value based on a previous settlement or previous claim  
264 payments by the insurer for the same cause of loss. The charge,

844961

5/4/2011 4:31 PM

Amendment No.

265 compensation, payment, commission, fee, or other thing of value  
266 may be based only on the claim payments or settlement obtained  
267 through the work of the public adjuster after entering into the  
268 contract with the insured or claimant. Compensation for the  
269 reopened or supplemental claim may not exceed 20 percent of the  
270 reopened or supplemental claim payment. The contracts described  
271 in this paragraph are not subject to the limitations in  
272 paragraph (b).

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

276 1. Ten percent of the amount of insurance claim payments  
277 made by the insurer for claims based on events that are the  
278 subject of a declaration of a state of emergency by the  
279 Governor. This provision applies to claims made during the  
280 period of 1 year after the declaration of emergency. After that  
281 1-year period, 20 percent of the amount of insurance claim  
282 payments made by the insurer.

283 2. Twenty percent of the amount of ~~all other~~ insurance  
284 claim payments made by the insurer for claims that are not based  
285 on events that are the subject of a declaration of a state of  
286 emergency by the Governor.

287 (12) Each public adjuster shall provide to the claimant or  
288 insured a written estimate of the loss to assist in the  
289 submission of a proof of loss or any other claim for payment of  
290 insurance proceeds. The public adjuster shall retain such  
291 written estimate for at least 5 years and shall make such

844961

5/4/2011 4:31 PM

Amendment No.

292 estimate available to the claimant or insured and the department  
293 upon request.

294 (13) A public adjuster, public adjuster apprentice, or any  
295 person acting on behalf of a public adjuster or apprentice may  
296 not accept referrals of business from any person with whom the  
297 public adjuster conducts business if there is any form or manner  
298 of agreement to compensate the person, whether directly or  
299 indirectly, for referring business to the public adjuster. A  
300 public adjuster may not compensate any person, except for  
301 another public adjuster, whether directly or indirectly, for the  
302 principal purpose of referring business to the public adjuster.

303  
304 The provisions of subsections (5)-(13) apply only to residential  
305 property insurance policies and condominium unit owner  
306 ~~association~~ policies as defined in s. 718.111(11).

307 Section 8. Effective January 1, 2012, section 626.854,  
308 Florida Statutes, as amended by this act, is amended to read:

309 626.854 "Public adjuster" defined; prohibitions.—The  
310 Legislature finds that it is necessary for the protection of the  
311 public to regulate public insurance adjusters and to prevent the  
312 unauthorized practice of law.

313 (1) A "public adjuster" is any person, except a duly  
314 licensed attorney at law as exempted under hereinafter in s.  
315 626.860 ~~provided~~, who, for money, commission, or any other thing  
316 of value, prepares, completes, or files an insurance claim form  
317 for an insured or third-party claimant or who, for money,  
318 commission, or any other thing of value, acts ~~or aids in any~~  
319 ~~manner~~ on behalf of, or aids an insured or third-party claimant

844961

5/4/2011 4:31 PM

Amendment No.

320 in negotiating for or effecting the settlement of a claim or  
321 claims for loss or damage covered by an insurance contract or  
322 who advertises for employment as an adjuster of such claims. The  
323 term, ~~and~~ also includes any person who, for money, commission,  
324 or any other thing of value, solicits, investigates, or adjusts  
325 such claims on behalf of a ~~any such~~ public adjuster.

326 (2) This definition does not apply to:

327 (a) A licensed health care provider or employee thereof  
328 who prepares or files a health insurance claim form on behalf of  
329 a patient.

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

332 (3) A public adjuster may not give legal advice or. ~~A~~  
333 ~~public adjuster may not~~ act on behalf of or aid any person in  
334 negotiating or settling a claim relating to bodily injury,  
335 death, or noneconomic damages.

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

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

344 (6) A public adjuster may not directly or indirectly  
345 through any other person or entity initiate contact or engage in  
346 face-to-face or telephonic solicitation or enter into a contract  
347 with any insured or claimant under an insurance policy until at

844961

5/4/2011 4:31 PM

Amendment No.

348 least 48 hours after the occurrence of an event that may be the  
349 subject of a claim under the insurance policy unless contact is  
350 initiated by the insured or claimant.

351 (7) An insured or claimant may cancel a public adjuster's  
352 contract to adjust a claim without penalty or obligation within  
353 3 business days after the date on which the contract is executed  
354 or within 3 business days after the date on which the insured or  
355 claimant has notified the insurer of the claim, by phone or in  
356 writing, whichever is later. The public adjuster's contract must  
357 ~~shall~~ disclose to the insured or claimant his or her right to  
358 cancel the contract and advise the insured or claimant that  
359 notice of cancellation must be submitted in writing and sent by  
360 certified mail, return receipt requested, or other form of  
361 mailing that ~~which~~ provides proof thereof, to the public  
362 adjuster at the address specified in the contract; provided,  
363 during any state of emergency as declared by the Governor and  
364 for ~~a period of~~ 1 year after the date of loss, the insured or  
365 claimant has ~~shall have~~ 5 business days after the date on which  
366 the contract is executed to cancel a public adjuster's contract.

367 (8) It is an unfair and deceptive insurance trade practice  
368 pursuant to s. 626.9541 for a public adjuster or any other  
369 person to circulate or disseminate any advertisement,  
370 announcement, or statement containing any assertion,  
371 representation, or statement with respect to the business of  
372 insurance which is untrue, deceptive, or misleading.

373 (a) The following statements, made in any public  
374 adjuster's advertisement or solicitation, are considered  
375 deceptive or misleading:

844961

5/4/2011 4:31 PM

Amendment No.

376 1. A statement or representation that invites an insured  
377 policyholder to submit a claim when the policyholder does not  
378 have covered damage to insured property.

379 2. A statement or representation that invites an insured  
380 policyholder to submit a claim by offering monetary or other  
381 valuable inducement.

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

385 4. A statement or representation, or use of a logo or  
386 shield, that implies or could mistakenly be construed to imply  
387 that the solicitation was issued or distributed by a  
388 governmental agency or is sanctioned or endorsed by a  
389 governmental agency.

390 (b) For purposes of this paragraph, the term "written  
391 advertisement" includes only newspapers, magazines, flyers, and  
392 bulk mailers. The following disclaimer, which is not required to  
393 be printed on standard size business cards, must be added in  
394 bold print and capital letters in typeface no smaller than the  
395 typeface of the body of the text to all written advertisements  
396 by a public adjuster:

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

401  
402 (9) A public adjuster, a public adjuster apprentice, or  
403 any person or entity acting on behalf of a public adjuster or  
844961

5/4/2011 4:31 PM

Amendment No.

404 public adjuster apprentice may not give or offer to give a  
405 monetary loan or advance to a client or prospective client.

406 (10) A public adjuster, public adjuster apprentice, or any  
407 individual or entity acting on behalf of a public adjuster or  
408 public adjuster apprentice may not give or offer to give,  
409 directly or indirectly, any article of merchandise having a  
410 value in excess of \$25 to any individual for the purpose of  
411 advertising or as an inducement to entering into a contract with  
412 a public adjuster.

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

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

844961

5/4/2011 4:31 PM



Amendment No.

431 1. Ten percent of the amount of insurance claim payments  
432 made by the insurer for claims based on events that are the  
433 subject of a declaration of a state of emergency by the  
434 Governor. This provision applies to claims made during the year  
435 after the declaration of emergency. After that year, the  
436 limitations in subparagraph 2. apply.

437 2. Twenty percent of the amount of insurance claim  
438 payments made by the insurer for claims that are not based on  
439 events that are the subject of a declaration of a state of  
440 emergency by the Governor.

441 (12) Each public adjuster must ~~shall~~ provide to the  
442 claimant or insured a written estimate of the loss to assist in  
443 the submission of a proof of loss or any other claim for payment  
444 of insurance proceeds. The public adjuster shall retain such  
445 written estimate for at least 5 years and shall make the ~~such~~  
446 estimate available to the claimant or insured, the insurer, and  
447 the department upon request.

448 (13) A public adjuster, public adjuster apprentice, or any  
449 person acting on behalf of a public adjuster or apprentice may  
450 not accept referrals of business from any person with whom the  
451 public adjuster conducts business if there is any form or manner  
452 of agreement to compensate the person, ~~whether~~ directly or  
453 indirectly, for referring business to the public adjuster. A  
454 public adjuster may not compensate any person, except for  
455 another public adjuster, ~~whether~~ directly or indirectly, for the  
456 principal purpose of referring business to the public adjuster.

457 (14) A company employee adjuster, independent adjuster,  
458 attorney, investigator, or other persons acting on behalf of an

844961

5/4/2011 4:31 PM

Amendment No.

459 insurer that needs access to an insured or claimant or to the  
460 insured property that is the subject of a claim must provide at  
461 least 48 hours' notice to the insured or claimant, public  
462 adjuster, or legal representative before scheduling a meeting  
463 with the claimant or an onsite inspection of the insured  
464 property. The insured or claimant may deny access to the  
465 property if the notice has not been provided. The insured or  
466 claimant may waive the 48-hour notice.

467 (15) A public adjuster must ensure prompt notice of  
468 property loss claims submitted to an insurer by or through a  
469 public adjuster or on which a public adjuster represents the  
470 insured at the time the claim or notice of loss is submitted to  
471 the insurer. The public adjuster must ensure that notice is  
472 given to the insurer, the public adjuster's contract is provided  
473 to the insurer, the property is available for inspection of the  
474 loss or damage by the insurer, and the insurer is given an  
475 opportunity to interview the insured directly about the loss and  
476 claim. The insurer must be allowed to obtain necessary  
477 information to investigate and respond to the claim.

478 (a) The insurer may not exclude the public adjuster from  
479 its in-person meetings with the insured. The insurer shall meet  
480 or communicate with the public adjuster in an effort to reach  
481 agreement as to the scope of the covered loss under the  
482 insurance policy. This section does not impair the terms and  
483 conditions of the insurance policy in effect at the time the  
484 claim is filed.

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

844961

5/4/2011 4:31 PM

Amendment No.

487 attorney, investigator, or other person acting on behalf of the  
488 insurer from having reasonable access at reasonable times to an  
489 insured or claimant or to the insured property that is the  
490 subject of a claim.

491 (c) A public adjuster may not act or fail to reasonably  
492 act in any manner that obstructs or prevents an insurer or  
493 insurer's adjuster from timely conducting an inspection of any  
494 part of the insured property for which there is a claim for loss  
495 or damage. The public adjuster representing the insured may be  
496 present for the insurer's inspection, but if the unavailability  
497 of the public adjuster otherwise delays the insurer's timely  
498 inspection of the property, the public adjuster or the insured  
499 must allow the insurer to have access to the property without  
500 the participation or presence of the public adjuster or insured  
501 in order to facilitate the insurer's prompt inspection of the  
502 loss or damage.

503 (16) A licensed contractor under part I of chapter 489, or  
504 a subcontractor, may not adjust a claim on behalf of an insured  
505 unless licensed and compliant as a public adjuster under this  
506 chapter. However, the contractor may discuss or explain a bid  
507 for construction or repair of covered property with the  
508 residential property owner who has suffered loss or damage  
509 covered by a property insurance policy, or the insurer of such  
510 property, if the contractor is doing so for the usual and  
511 customary fees applicable to the work to be performed as stated  
512 in the contract between the contractor and the insured.

844961

5/4/2011 4:31 PM

Amendment No.

513        (17) The provisions of subsections (5)-(16) ~~(5)-(13)~~ apply  
514 only to residential property insurance policies and condominium  
515 unit owner policies as defined in s. 718.111(11).

516        Section 9. Effective January 1, 2012, section 626.8796,  
517 Florida Statutes, is amended to read:

518        626.8796 Public adjuster contracts; fraud statement.-

519        (1) All contracts for public adjuster services must be in  
520 writing and ~~must~~ prominently display the following statement on  
521 the contract: "Pursuant to s. 817.234, Florida Statutes, any  
522 person who, with the intent to injure, defraud, or deceive an  
523 ~~any~~ insurer or insured, prepares, presents, or causes to be  
524 presented a proof of loss or estimate of cost or repair of  
525 damaged property in support of a claim under an insurance policy  
526 knowing that the proof of loss or estimate of claim or repairs  
527 contains ~~any~~ false, incomplete, or misleading information  
528 concerning any fact or thing material to the claim commits a  
529 felony of the third degree, punishable as provided in s.  
530 775.082, s. 775.083, or s. 775.084, Florida Statutes."

531        (2) A public adjuster contract relating to a property and  
532 casualty claim must contain the full name, permanent business  
533 address, and license number of the public adjuster; the full  
534 name of the public adjusting firm; and the insured's full name  
535 and street address, together with a brief description of the  
536 loss. The contract must state the percentage of compensation for  
537 the public adjuster's services; the type of claim, including an  
538 emergency claim, nonemergency claim, or supplemental claim; the  
539 signatures of the public adjuster and all named insureds; and  
540 the signature date. If all of the named insureds signatures are

844961

5/4/2011 4:31 PM

Amendment No.

541 not available, the public adjuster must submit an affidavit  
542 signed by the available named insureds attesting that they have  
543 authority to enter into the contract and settle all claim issues  
544 on behalf of the named insureds. An unaltered copy of the  
545 executed contract must be remitted to the insurer within 30 days  
546 after execution.

547 Section 10. Effective June 1, 2011, section 626.70132,  
548 Florida Statutes, is created to read:

549 626.70132 Notice of windstorm or hurricane claim.—A claim,  
550 supplemental claim, or reopened claim under an insurance policy  
551 that provides property insurance, as defined in s. 624.604, for  
552 loss or damage caused by the peril of windstorm or hurricane is  
553 barred unless notice of the claim, supplemental claim, or  
554 reopened claim was given to the insurer in accordance with the  
555 terms of the policy within 3 years after the hurricane first  
556 made landfall or the windstorm caused the covered damage. For  
557 purposes of this section, the term "supplemental claim" or  
558 "reopened claim" means any additional claim for recovery from  
559 the insurer for losses from the same hurricane or windstorm  
560 which the insurer has previously adjusted pursuant to the  
561 initial claim. This section does not affect any applicable  
562 limitation on civil actions provided in s. 95.11 for claims,  
563 supplemental claims, or reopened claims timely filed under this  
564 section.

565 Section 11. Subsection (4) of section 627.0613, Florida  
566 Statutes, is repealed.

567 Section 12. Section 627.062, Florida Statutes, is amended  
568 to read:

844961

5/4/2011 4:31 PM

Amendment No.

569 627.062 Rate standards.—

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

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

574 (a) Insurers or rating organizations shall establish and  
575 use rates, rating schedules, or rating manuals that ~~to~~ allow the  
576 insurer a reasonable rate of return on the ~~such~~ classes of  
577 insurance written in this state. A copy of rates, rating  
578 schedules, rating manuals, premium credits or discount  
579 schedules, and surcharge schedules, and changes thereto, must  
580 ~~shall~~ be filed with the office under one of the following  
581 procedures ~~except as provided in subparagraph 3.:~~

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

844961

5/4/2011 4:31 PM

Amendment No.

597 notice of intent to approve or a notice of intent to disapprove  
598 within 90 days after receipt of the filing.

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

607 3. For all property insurance filings made or submitted  
608 after January 25, 2007, but before May 1, 2012 ~~December 31,~~  
609 ~~2010~~, an insurer seeking a rate that is greater than the rate  
610 most recently approved by the office shall make a "file and use"  
611 filing. For purposes of this subparagraph, motor vehicle  
612 collision and comprehensive coverages are not considered ~~to be~~  
613 property coverages.

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

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

621 2. Past and prospective expenses.

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

844961

5/4/2011 4:31 PM

Amendment No.

624 4. Investment income reasonably expected by the insurer,  
625 consistent with the insurer's investment practices, from  
626 investable premiums anticipated in the filing, plus any other  
627 expected income from currently invested assets representing the  
628 amount expected on unearned premium reserves and loss reserves.  
629 The commission may adopt rules using reasonable techniques of  
630 actuarial science and economics to specify the manner in which  
631 insurers ~~shall~~ calculate investment income attributable to ~~such~~  
632 classes of insurance written in this state and the manner in  
633 which ~~such~~ investment income is ~~shall be~~ used to calculate  
634 insurance rates. Such manner must ~~shall~~ contemplate allowances  
635 for an underwriting profit factor and full consideration of  
636 investment income which produce a reasonable rate of return;  
637 however, investment income from invested surplus may not be  
638 considered.

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

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

644 7. The adequacy of loss reserves.

645 8. The cost of reinsurance. The office may ~~shall~~ not  
646 disapprove a rate as excessive solely due to the insurer having  
647 obtained catastrophic reinsurance to cover the insurer's  
648 estimated 250-year probable maximum loss or any lower level of  
649 loss.

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

844961

5/4/2011 4:31 PM



Amendment No.

652 10. Conflagration and catastrophe hazards, if applicable.

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

657 12. A reasonable margin for underwriting profit and  
658 contingencies.

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

660 14. Other relevant factors that affect ~~which impact upon~~  
661 the frequency or severity of claims or ~~upon~~ expenses.

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

667 (d) If conflagration or catastrophe hazards are considered  
668 ~~given consideration~~ by an insurer in its rates or rating plan,  
669 including surcharges and discounts, the insurer shall establish  
670 a reserve for that portion of the premium allocated to such  
671 hazard and ~~shall~~ maintain the premium in a catastrophe reserve.  
672 ~~Any~~ Removal of such premiums from the reserve for purposes other  
673 than paying claims associated with a catastrophe or purchasing  
674 reinsurance for catastrophes must be approved by ~~shall be~~  
675 ~~subject to approval of~~ the office. Any ceding commission  
676 received by an insurer purchasing reinsurance for catastrophes  
677 must ~~shall~~ be placed in the catastrophe reserve.

678 (e) After consideration of the rate factors provided in  
679 paragraphs (b), (c), and (d), the office may find a rate ~~may be~~

844961

5/4/2011 4:31 PM

Amendment No.

680 ~~found by the office~~ to be excessive, inadequate, or unfairly  
681 discriminatory based upon the following standards:

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

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

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

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

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

705 6. A rate shall be deemed unfairly discriminatory as to a  
706 risk or group of risks if the application of premium discounts,  
707 credits, or surcharges among such risks does not bear a

844961

5/4/2011 4:31 PM

Amendment No.

708 reasonable relationship to the expected loss and expense  
709 experience among the various risks.

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

715 (g) The office may at any time review a rate, rating  
716 schedule, rating manual, or rate change; the pertinent records  
717 of the insurer; and market conditions. If the office finds on a  
718 preliminary basis that a rate may be excessive, inadequate, or  
719 unfairly discriminatory, the office shall initiate proceedings  
720 to disapprove the rate and shall so notify the insurer. However,  
721 the office may not disapprove as excessive any rate for which it  
722 has given final approval or which has been deemed approved for a  
723 ~~period of~~ 1 year after the effective date of the filing unless  
724 the office finds that a material misrepresentation or material  
725 error was made by the insurer or was contained in the filing.  
726 Upon being ~~so~~ notified, the insurer or rating organization  
727 shall, within 60 days, file with the office all information that  
728 ~~which~~, in the belief of the insurer or organization, proves the  
729 reasonableness, adequacy, and fairness of the rate or rate  
730 change. The office shall issue a notice of intent to approve or  
731 a notice of intent to disapprove pursuant to ~~the procedures of~~  
732 paragraph (a) within 90 days after receipt of the insurer's  
733 initial response. In such instances and in any administrative  
734 proceeding relating to the legality of the rate, the insurer or  
735 rating organization shall carry the burden of proof by a

844961

5/4/2011 4:31 PM

Amendment No.

736 preponderance of the evidence to show that the rate is not  
737 excessive, inadequate, or unfairly discriminatory. After the  
738 office notifies an insurer that a rate may be excessive,  
739 inadequate, or unfairly discriminatory, unless the office  
740 withdraws the notification, the insurer may ~~shall~~ not alter the  
741 rate except to conform to ~~with~~ the office's notice until the  
742 earlier of 120 days after the date the notification was provided  
743 or 180 days after the date of implementing ~~the implementation of~~  
744 the rate. The office ~~may~~, subject to chapter 120, may disapprove  
745 without the 60-day notification any rate increase filed by an  
746 insurer within the prohibited time period or during the time  
747 that the legality of the increased rate is being contested.

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

844961

5/4/2011 4:31 PM

Amendment No.

763 (i) Except as otherwise specifically provided in this  
764 chapter, for property and casualty insurance the office may  
765 ~~shall~~ not directly or indirectly:

766 1. Prohibit any insurer, including any residual market  
767 plan or joint underwriting association, from paying acquisition  
768 costs based on the full amount of premium, as defined in s.  
769 627.403, applicable to any policy, or prohibit any such insurer  
770 from including the full amount of acquisition costs in a rate  
771 filing; or-

772 2. Impede, abridge, or otherwise compromise an insurer's  
773 right to acquire policyholders, advertise, or appoint agents,  
774 including the calculation, manner, or amount of such agent  
775 commissions, if any.

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

779 (k)1. A residential property ~~An~~ insurer may make a  
780 separate filing limited solely to an adjustment of its rates for  
781 reinsurance, the cost of financing products used as a  
782 replacement for reinsurance, ~~or~~ financing costs incurred in the  
783 purchase of reinsurance, ~~or financing products to replace or~~  
784 finance the payment of the amount covered by the Temporary  
785 Increase in Coverage Limits (TICL) portion of the Florida  
786 Hurricane Catastrophe Fund including replacement reinsurance for  
787 the TICL reductions made pursuant to s. 215.555(17)(e); the  
788 actual cost paid due to the application of the TICL premium  
789 factor pursuant to s. 215.555(17)(f); and the actual cost paid

844961

5/4/2011 4:31 PM

Amendment No.

790 due to the application of the cash build-up factor pursuant to  
791 s. 215.555(5) (b) if the insurer:

792 a. Elects to purchase financing products such as a  
793 liquidity instrument or line of credit, in which case the cost  
794 included in ~~the~~ filing for the liquidity instrument or line of  
795 credit may not result in a premium increase exceeding 3 percent  
796 for any individual policyholder. All costs contained in the  
797 filing may not result in an overall premium increase of more  
798 than 15 ~~10~~ percent for any individual policyholder.

799 b. Includes in the filing a copy of all of its  
800 reinsurance, liquidity instrument, or line of credit contracts;  
801 proof of the billing or payment for the contracts; and the  
802 calculation upon which the proposed rate change is based  
803 demonstrating ~~demonstrates~~ that the costs meet the criteria of  
804 this section ~~and are not loaded for expenses or profit for the~~  
805 ~~insurer making the filing.~~

806 ~~e. Includes no other changes to its rates in the filing.~~

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

809 ~~e. Does not file for a rate increase under any other~~  
810 ~~paragraph within 6 months after making a filing under this~~  
811 ~~paragraph.~~

812 2.f. An insurer that purchases reinsurance or financing  
813 products from an affiliated company may make a separate filing  
814 ~~in compliance with this paragraph does so~~ only if the costs for  
815 such reinsurance or financing products are charged at or below  
816 charges made for comparable coverage by nonaffiliated reinsurers

844961

5/4/2011 4:31 PM

Amendment No.

817 or financial entities making such coverage or financing products  
818 available in this state.

819 ~~3.2.~~ An insurer may ~~only~~ make only one filing per ~~in any~~  
820 12-month period under this paragraph.

821 ~~4.3.~~ An insurer that elects to implement a rate change  
822 under this paragraph must file its rate filing with the office  
823 at least 45 days before the effective date of the rate change.  
824 After an insurer submits a complete filing that meets all of the  
825 requirements of this paragraph, the office has 45 days after the  
826 date of the filing to review the rate filing and determine if  
827 the rate is excessive, inadequate, or unfairly discriminatory.

828  
829 The provisions of this subsection do ~~shall~~ not apply to workers'  
830 compensation, and employer's liability insurance, and ~~to~~ motor  
831 vehicle insurance.

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

844961

5/4/2011 4:31 PM

Amendment No.

844 (b) Individual risk rates and modifications to existing  
845 approved forms are not subject to this part or part II, except  
846 for paragraph (a) and ss. 627.402, 627.403, 627.4035, 627.404,  
847 627.405, 627.406, 627.407, 627.4085, 627.409, 627.4132,  
848 627.4133, 627.415, 627.416, 627.417, 627.419, 627.425, 627.426,  
849 627.4265, 627.427, and 627.428, but are subject to all other  
850 applicable provisions of this code and rules adopted thereunder.

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

853 (d)1. The following categories or kinds of insurance and  
854 types of commercial lines risks are not subject to paragraph  
855 (2) (a) or paragraph (2) (f):

856 a. Excess or umbrella.

857 b. Surety and fidelity.

858 c. Boiler and machinery and leakage and fire extinguishing  
859 equipment.

860 d. Errors and omissions.

861 e. Directors and officers, employment practices, and  
862 management liability.

863 f. Intellectual property and patent infringement  
864 liability.

865 g. Advertising injury and Internet liability insurance.

866 h. Property risks rated under a highly protected risks  
867 rating plan.

868 i. Any other commercial lines categories or kinds of  
869 insurance or types of commercial lines risks that the office  
870 determines should not be subject to paragraph (2) (a) or  
871 paragraph (2) (f) because of the existence of a competitive

844961

5/4/2011 4:31 PM



Amendment No.

872 market for such insurance, similarity of such insurance to other  
873 categories or kinds of insurance not subject to paragraph (2) (a)  
874 or paragraph (2) (f), or to improve the general operational  
875 efficiency of the office.

876 2. Insurers or rating organizations shall establish and  
877 use rates, rating schedules, or rating manuals to allow the  
878 insurer a reasonable rate of return on insurance and risks  
879 described in subparagraph 1. which are written in this state.

880 3. An insurer must notify the office of any changes to  
881 rates for insurance and risks described in subparagraph 1.  
882 within no later than 30 days after the effective date of the  
883 change. The notice must include the name of the insurer, the  
884 type or kind of insurance subject to rate change, total premium  
885 written during the immediately preceding year by the insurer for  
886 the type or kind of insurance subject to the rate change, and  
887 the average statewide percentage change in rates. Underwriting  
888 files, premiums, losses, and expense statistics with regard to  
889 such insurance and risks ~~described in subparagraph 1.~~ written by  
890 an insurer must ~~shall~~ be maintained by the insurer and subject  
891 to examination by the office. Upon examination, the office  
892 ~~shall~~, in accordance with generally accepted and reasonable  
893 actuarial techniques, shall consider the rate factors in  
894 paragraphs (2) (b), (c), and (d) and the standards in paragraph  
895 (2) (e) to determine if the rate is excessive, inadequate, or  
896 unfairly discriminatory.

897 4. A rating organization must notify the office of any  
898 changes to loss cost for insurance and risks described in  
899 subparagraph 1. within no later than 30 days after the effective

844961

5/4/2011 4:31 PM

Amendment No.

900 date of the change. The notice must include the name of the  
901 rating organization, the type or kind of insurance subject to a  
902 loss cost change, loss costs during the immediately preceding  
903 year for the type or kind of insurance subject to the loss cost  
904 change, and the average statewide percentage change in loss  
905 cost. Loss and exposure statistics with regard to risks  
906 applicable to loss costs for a rating organization not subject  
907 to paragraph (2) (a) or paragraph (2) (f) must ~~shall~~ be maintained  
908 by the rating organization and are subject to examination by the  
909 office. Upon examination, the office ~~shall~~, in accordance with  
910 generally accepted and reasonable actuarial techniques, shall  
911 consider the rate factors in paragraphs (2) (b)-(d) and the  
912 standards in paragraph (2) (e) to determine if the rate is  
913 excessive, inadequate, or unfairly discriminatory.

914 5. In reviewing a rate, the office may require the insurer  
915 to provide, at the insurer's expense, all information necessary  
916 to evaluate the condition of the company and the reasonableness  
917 of the rate according to the applicable criteria described in  
918 this section.

919 (4) The establishment of any rate, rating classification,  
920 rating plan or schedule, or variation thereof in violation of  
921 part IX of chapter 626 is also in violation of this section. ~~In~~  
922 ~~order to enhance the ability of consumers to compare premiums~~  
923 ~~and to increase the accuracy and usefulness of rate-comparison~~  
924 ~~information provided by the office to the public, the office~~  
925 ~~shall develop a proposed standard rating territory plan to be~~  
926 ~~used by all authorized property and casualty insurers for~~  
927 ~~residential property insurance. In adopting the proposed plan,~~

844961

5/4/2011 4:31 PM

Amendment No.

928 ~~the office may consider geographical characteristics relevant to~~  
929 ~~risk, county lines, major roadways, existing rating territories~~  
930 ~~used by a significant segment of the market, and other relevant~~  
931 ~~factors. Such plan shall be submitted to the President of the~~  
932 ~~Senate and the Speaker of the House of Representatives by~~  
933 ~~January 15, 2006. The plan may not be implemented unless~~  
934 ~~authorized by further act of the Legislature.~~

935 (5) With respect to a rate filing involving coverage of  
936 the type for which the insurer is required to pay a  
937 reimbursement premium to the Florida Hurricane Catastrophe Fund,  
938 the insurer may fully recoup in its property insurance premiums  
939 any reimbursement premiums paid to the ~~Florida Hurricane~~  
940 ~~Catastrophe~~ fund, together with reasonable costs of other  
941 reinsurance; however, but except as otherwise provided in this  
942 section, the insurer may not recoup reinsurance costs that  
943 duplicate coverage provided by the ~~Florida Hurricane Catastrophe~~  
944 fund. An insurer may not recoup more than 1 year of  
945 reimbursement premium at a time. Any under-recoupment from the  
946 prior year may be added to the following year's reimbursement  
947 premium, and any over-recoupment must ~~shall~~ be subtracted from  
948 the following year's reimbursement premium.

949 (6) (a) If an insurer requests an administrative hearing  
950 pursuant to s. 120.57 related to a rate filing under this  
951 section, the director of the Division of Administrative Hearings  
952 shall expedite the hearing and assign an administrative law  
953 judge who shall commence the hearing within 30 days after the  
954 receipt of the formal request and ~~shall~~ enter a recommended  
955 order within 30 days after the hearing or within 30 days after

844961

5/4/2011 4:31 PM

Amendment No.

956 receipt of the hearing transcript by the administrative law  
957 judge, whichever is later. Each party shall have ~~be allowed~~ 10  
958 days in which to submit written exceptions to the recommended  
959 order. The office shall enter a final order within 30 days after  
960 the entry of the recommended order. The provisions of this  
961 paragraph may be waived upon stipulation of all parties.

962 (b) Upon entry of a final order, the insurer may request a  
963 expedited appellate review pursuant to the Florida Rules of  
964 Appellate Procedure. It is the intent of the Legislature that  
965 the First District Court of Appeal grant an insurer's request  
966 for an expedited appellate review.

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

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

844961

5/4/2011 4:31 PM

Amendment No.

983 ~~settlements~~ may not be included in the insurer's rate base and  
984 used ~~may not be utilized~~ to justify a rate or rate change.

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

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

998 (d) ~~(e)~~ The insurer must apply a discount or surcharge  
999 based on the health care provider's loss experience or ~~shall~~  
1000 establish an alternative method giving due consideration to the  
1001 provider's loss experience. The insurer must include in the  
1002 filing a copy of the surcharge or discount schedule or a  
1003 description of the alternative method used, and ~~must~~ provide a  
1004 copy ~~of such schedule or description~~, as approved by the office,  
1005 to policyholders at the time of renewal and to prospective  
1006 policyholders at the time of application for coverage.

1007 (e) ~~(f)~~ Each medical malpractice insurer must make a rate  
1008 filing under this section, sworn to by at least two executive  
1009 officers of the insurer, at least once each calendar year.

844961

5/4/2011 4:31 PM

Amendment No.

1010 ~~(8)(a)1. No later than 60 days after the effective date of~~  
1011 ~~medical malpractice legislation enacted during the 2003 Special~~  
1012 ~~Session D of the Florida Legislature, the office shall calculate~~  
1013 ~~a presumed factor that reflects the impact that the changes~~  
1014 ~~contained in such legislation will have on rates for medical~~  
1015 ~~malpractice insurance and shall issue a notice informing all~~  
1016 ~~insurers writing medical malpractice coverage of such presumed~~  
1017 ~~factor. In determining the presumed factor, the office shall use~~  
1018 ~~generally accepted actuarial techniques and standards provided~~  
1019 ~~in this section in determining the expected impact on losses,~~  
1020 ~~expenses, and investment income of the insurer. To the extent~~  
1021 ~~that the operation of a provision of medical malpractice~~  
1022 ~~legislation enacted during the 2003 Special Session D of the~~  
1023 ~~Florida Legislature is stayed pending a constitutional~~  
1024 ~~challenge, the impact of that provision shall not be included in~~  
1025 ~~the calculation of a presumed factor under this subparagraph.~~

1026 ~~2. No later than 60 days after the office issues its~~  
1027 ~~notice of the presumed rate change factor under subparagraph 1.,~~  
1028 ~~each insurer writing medical malpractice coverage in this state~~  
1029 ~~shall submit to the office a rate filing for medical malpractice~~  
1030 ~~insurance, which will take effect no later than January 1, 2004,~~  
1031 ~~and apply retroactively to policies issued or renewed on or~~  
1032 ~~after the effective date of medical malpractice legislation~~  
1033 ~~enacted during the 2003 Special Session D of the Florida~~  
1034 ~~Legislature. Except as authorized under paragraph (b), the~~  
1035 ~~filing shall reflect an overall rate reduction at least as great~~  
1036 ~~as the presumed factor determined under subparagraph 1. With~~  
1037 ~~respect to policies issued on or after the effective date of~~

844961

5/4/2011 4:31 PM

Amendment No.

1038 ~~such legislation and prior to the effective date of the rate~~  
1039 ~~filing required by this subsection, the office shall order the~~  
1040 ~~insurer to make a refund of the amount that was charged in~~  
1041 ~~excess of the rate that is approved.~~

1042 ~~(b) Any insurer or rating organization that contends that~~  
1043 ~~the rate provided for in paragraph (a) is excessive, inadequate,~~  
1044 ~~or unfairly discriminatory shall separately state in its filing~~  
1045 ~~the rate it contends is appropriate and shall state with~~  
1046 ~~specificity the factors or data that it contends should be~~  
1047 ~~considered in order to produce such appropriate rate. The~~  
1048 ~~insurer or rating organization shall be permitted to use all of~~  
1049 ~~the generally accepted actuarial techniques provided in this~~  
1050 ~~section in making any filing pursuant to this subsection. The~~  
1051 ~~office shall review each such exception and approve or~~  
1052 ~~disapprove it prior to use. It shall be the insurer's burden to~~  
1053 ~~actuarially justify any deviations from the rates required to be~~  
1054 ~~filed under paragraph (a). The insurer making a filing under~~  
1055 ~~this paragraph shall include in the filing the expected impact~~  
1056 ~~of medical malpractice legislation enacted during the 2003~~  
1057 ~~Special Session D of the Florida Legislature on losses,~~  
1058 ~~expenses, and rates.~~

1059 ~~(c) If any provision of medical malpractice legislation~~  
1060 ~~enacted during the 2003 Special Session D of the Florida~~  
1061 ~~Legislature is held invalid by a court of competent~~  
1062 ~~jurisdiction, the office shall permit an adjustment of all~~  
1063 ~~medical malpractice rates filed under this section to reflect~~  
1064 ~~the impact of such holding on such rates so as to ensure that~~

844961

5/4/2011 4:31 PM

Amendment No.

1065 ~~the rates are not excessive, inadequate, or unfairly~~  
1066 ~~discriminatory.~~

1067 ~~(d) Rates approved on or before July 1, 2003, for medical~~  
1068 ~~malpractice insurance shall remain in effect until the effective~~  
1069 ~~date of a new rate filing approved under this subsection.~~

1070 ~~(e) The calculation and notice by the office of the~~  
1071 ~~presumed factor pursuant to paragraph (a) is not an order or~~  
1072 ~~rule that is subject to chapter 120. If the office enters into a~~  
1073 ~~contract with an independent consultant to assist the office in~~  
1074 ~~calculating the presumed factor, such contract shall not be~~  
1075 ~~subject to the competitive solicitation requirements of s.~~  
1076 ~~287.057.~~

1077 (8)~~(9)~~(a) The chief executive officer or chief financial  
1078 officer of a property insurer and the chief actuary of a  
1079 property insurer must certify under oath and subject to the  
1080 penalty of perjury, on a form approved by the commission, the  
1081 following information, which must accompany a rate filing:

1082 1. The signing officer and actuary have reviewed the rate  
1083 filing;

1084 2. Based on the signing officer's and actuary's knowledge,  
1085 the rate filing does not contain any untrue statement of a  
1086 material fact or omit to state a material fact necessary ~~in~~  
1087 ~~order~~ to make the statements made, in light of the circumstances  
1088 under which such statements were made, not misleading;

1089 3. Based on the signing officer's and actuary's knowledge,  
1090 the information and other factors described in paragraph (2) (b),  
1091 including, but not limited to, investment income, fairly present

844961

5/4/2011 4:31 PM



Amendment No.

1092 in all material respects the basis of the rate filing for the  
1093 periods presented in the filing; and

1094 4. Based on the signing officer's and actuary's knowledge,  
1095 the rate filing reflects all premium savings that are reasonably  
1096 expected to result from legislative enactments and are in  
1097 accordance with generally accepted and reasonable actuarial  
1098 techniques.

1099 (b) A signing officer or actuary who knowingly makes  
1100 ~~making~~ a false certification under this subsection commits a  
1101 violation of s. 626.9541(1) (e) and is subject to the penalties  
1102 under s. 626.9521.

1103 (c) Failure to provide such certification by the officer  
1104 and actuary shall result in the rate filing being disapproved  
1105 without prejudice to be refiled.

1106 (d) The certification made pursuant to paragraph (a) is  
1107 not rendered false if, after making the subject rate filing, the  
1108 insurer provides the office with additional or supplementary  
1109 information pursuant to a formal or informal request from the  
1110 office. However, the actuary who is primarily responsible for  
1111 preparing and submitting such information must certify the  
1112 information in accordance with the certification required under  
1113 paragraph (a) and the penalties in paragraph (b), except that  
1114 the chief executive officer, chief financial officer, or chief  
1115 actuary need not certify the additional or supplementary  
1116 information.

1117 (e) ~~(d)~~ The commission may adopt rules and forms ~~pursuant~~  
1118 ~~to ss. 120.536(1) and 120.54~~ to administer this subsection.

844961

5/4/2011 4:31 PM

Amendment No.

1119 ~~(9)~~~~(10)~~ The burden is on the office to establish that  
1120 rates are excessive for personal lines residential coverage with  
1121 a dwelling replacement cost of \$1 million or more or for a  
1122 single condominium unit with a combined dwelling and contents  
1123 replacement cost of \$1 million or more. Upon request of the  
1124 office, the insurer shall provide ~~to the office~~ such loss and  
1125 expense information as the office reasonably needs to meet this  
1126 burden.

1127 ~~(10)~~~~(11)~~ Any interest paid pursuant to s. 627.70131(5) may  
1128 not be included in the insurer's rate base and may not be used  
1129 to justify a rate or rate change.

1130 Section 13. Paragraph (b) of subsection (3) of section  
1131 627.06281, Florida Statutes, is amended to read:

1132 627.06281 Public hurricane loss projection model;  
1133 reporting of data by insurers.—

1134 (3)

1135 (b) The fees charged for private sector access and use of  
1136 the model shall be the reasonable costs associated with the  
1137 operation and maintenance of the model by the office. Such fees  
1138 do not apply to access and use of the model by the office. ~~By~~  
1139 ~~January 1, 2009, The office shall establish by rule a fee~~  
1140 ~~schedule for access to and the use of the model. The fee~~  
1141 ~~schedule must be reasonably calculated to cover only the actual~~  
1142 ~~costs of providing access to and the use of the model.~~

1143 Section 14. Subsections (1) and (5) of section 627.0629,  
1144 Florida Statutes, are amended to read:

1145 627.0629 Residential property insurance; rate filings.—

844961

5/4/2011 4:31 PM

Amendment No.

1146 (1)~~(a)~~ It is the intent of the Legislature that insurers  
1147 ~~must~~ provide savings to consumers who install or implement  
1148 windstorm damage mitigation techniques, alterations, or  
1149 solutions to their properties to prevent windstorm losses. A  
1150 rate filing for residential property insurance must include  
1151 actuarially reasonable discounts, credits, or other rate  
1152 differentials, or appropriate reductions in deductibles, for  
1153 properties on which fixtures or construction techniques  
1154 demonstrated to reduce the amount of loss in a windstorm have  
1155 been installed or implemented. The fixtures or construction  
1156 techniques must ~~shall~~ include, but are not ~~be~~ limited to,  
1157 fixtures or construction techniques that ~~which~~ enhance roof  
1158 strength, roof covering performance, roof-to-wall strength,  
1159 wall-to-floor-to-foundation strength, opening protection, and  
1160 window, door, and skylight strength. Credits, discounts, or  
1161 other rate differentials, or appropriate reductions in  
1162 deductibles, for fixtures and construction techniques that ~~which~~  
1163 meet the minimum requirements of the Florida Building Code must  
1164 be included in the rate filing. ~~All insurance companies must~~  
1165 ~~make a rate filing which includes the credits, discounts, or~~  
1166 ~~other rate differentials or reductions in deductibles by~~  
1167 ~~February 28, 2003. By July 1, 2007, the office shall reevaluate~~  
1168 ~~the discounts, credits, other rate differentials, and~~  
1169 ~~appropriate reductions in deductibles for fixtures and~~  
1170 ~~construction techniques that meet the minimum requirements of~~  
1171 ~~the Florida Building Code, based upon actual experience or any~~  
1172 ~~other loss relativity studies available to the office. The~~  
1173 office shall determine the discounts, credits, other rate

844961

5/4/2011 4:31 PM

Amendment No.

1174 differentials, and appropriate reductions in deductibles that  
1175 reflect the full actuarial value of such revaluation, which may  
1176 be used by insurers in rate filings.

1177 ~~(b) By February 1, 2011, the Office of Insurance~~  
1178 ~~Regulation, in consultation with the Department of Financial~~  
1179 ~~Services and the Department of Community Affairs, shall develop~~  
1180 ~~and make publicly available a proposed method for insurers to~~  
1181 ~~establish discounts, credits, or other rate differentials for~~  
1182 ~~hurricane mitigation measures which directly correlate to the~~  
1183 ~~numerical rating assigned to a structure pursuant to the uniform~~  
1184 ~~home grading scale adopted by the Financial Services Commission~~  
1185 ~~pursuant to s. 215.55865, including any proposed changes to the~~  
1186 ~~uniform home grading scale. By October 1, 2011, the commission~~  
1187 ~~shall adopt rules requiring insurers to make rate filings for~~  
1188 ~~residential property insurance which revise insurers' discounts,~~  
1189 ~~credits, or other rate differentials for hurricane mitigation~~  
1190 ~~measures so that such rate differentials correlate directly to~~  
1191 ~~the uniform home grading scale. The rules may include such~~  
1192 ~~changes to the uniform home grading scale as the commission~~  
1193 ~~determines are necessary, and may specify the minimum required~~  
1194 ~~discounts, credits, or other rate differentials. Such rate~~  
1195 ~~differentials must be consistent with generally accepted~~  
1196 ~~actuarial principles and wind loss mitigation studies. The rules~~  
1197 ~~shall allow a period of at least 2 years after the effective~~  
1198 ~~date of the revised mitigation discounts, credits, or other rate~~  
1199 ~~differentials for a property owner to obtain an inspection or~~  
1200 ~~otherwise qualify for the revised credit, during which time the~~  
1201 ~~insurer shall continue to apply the mitigation credit that was~~

844961

5/4/2011 4:31 PM

Amendment No.

1202 ~~applied immediately prior to the effective date of the revised~~  
1203 ~~credit. Discounts, credits, and other rate differentials~~  
1204 ~~established for rate filings under this paragraph shall~~  
1205 ~~supersede, after adoption, the discounts, credits, and other~~  
1206 ~~rate differentials included in rate filings under paragraph (a).~~

1207 (5) In order to provide an appropriate transition period,  
1208 an insurer may, ~~in its sole discretion,~~ implement an approved  
1209 rate filing for residential property insurance over a period of  
1210 years. Such ~~An insurer electing to phase in its rate filing~~ must  
1211 provide an informational notice to the office setting out its  
1212 schedule for implementation of the phased-in rate filing. The ~~An~~  
1213 insurer may include in its rate the actual cost of private  
1214 market reinsurance that corresponds to available coverage of the  
1215 Temporary Increase in Coverage Limits, TICL, from the Florida  
1216 Hurricane Catastrophe Fund. The insurer may also include the  
1217 cost of reinsurance to replace the TICL reduction implemented  
1218 pursuant to s. 215.555(17)(d)9. However, this cost for  
1219 reinsurance may not include any expense or profit load or result  
1220 in a total annual base rate increase in excess of 10 percent.

1221 Section 15. Paragraphs (a), (b), (c), (d), (n), (v), and  
1222 (y) of subsection (6) of section 627.351, Florida Statutes, are  
1223 amended to read:

1224 627.351 Insurance risk apportionment plans.—

1225 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

1226 (a)~~1.~~ ~~It is~~ The public purpose of this subsection is to  
1227 ensure that there is ~~the existence of~~ an orderly market for  
1228 property insurance for residents ~~Floridians~~ and Florida  
1229 businesses of this state.

844961

5/4/2011 4:31 PM

Amendment No.

1230        1. The Legislature finds that private insurers are  
1231 unwilling or unable to provide affordable property insurance  
1232 coverage in this state to the extent sought and needed. The  
1233 absence of affordable property insurance threatens the public  
1234 health, safety, and welfare and likewise threatens the economic  
1235 health of the state. The state therefore has a compelling public  
1236 interest and a public purpose to assist in assuring that  
1237 property in the state is insured and that it is insured at  
1238 affordable rates so as to facilitate the remediation,  
1239 reconstruction, and replacement of damaged or destroyed property  
1240 in order to reduce or avoid the negative effects otherwise  
1241 resulting to the public health, safety, and welfare, to the  
1242 economy of the state, and to the revenues of the state and local  
1243 governments which are needed to provide for the public welfare.  
1244 It is necessary, therefore, to provide affordable property  
1245 insurance to applicants who are in good faith entitled to  
1246 procure insurance through the voluntary market but are unable to  
1247 do so. The Legislature intends, therefore, ~~by this subsection~~  
1248 that affordable property insurance be provided and that it  
1249 continue to be provided, as long as necessary, through Citizens  
1250 Property Insurance Corporation, a government entity that is an  
1251 integral part of the state, and that is not a private insurance  
1252 company. To that end, the Citizens Property Insurance  
1253 corporation shall strive to increase the availability of  
1254 affordable property insurance in this state, while achieving  
1255 efficiencies and economies, and while providing service to  
1256 policyholders, applicants, and agents which is no less than the  
1257 quality generally provided in the voluntary market, for the

844961

5/4/2011 4:31 PM

Amendment No.

1258 achievement of the foregoing public purposes. Because it is  
1259 essential for this government entity to have the maximum  
1260 financial resources to pay claims following a catastrophic  
1261 hurricane, it is the intent of the Legislature that the Citizens  
1262 ~~Property Insurance~~ corporation continue to be an integral part  
1263 of the state and that the income of the corporation be exempt  
1264 from federal income taxation and that interest on the debt  
1265 obligations issued by the corporation be exempt from federal  
1266 income taxation.

1267 2. The Residential Property and Casualty Joint  
1268 Underwriting Association originally created by this statute  
1269 shall be known, ~~as of July 1, 2002,~~ as the Citizens Property  
1270 Insurance Corporation. The corporation shall provide insurance  
1271 for residential and commercial property, for applicants who are  
1272 ~~in good faith~~ entitled, but, in good faith, are unable, to  
1273 procure insurance through the voluntary market. The corporation  
1274 shall operate pursuant to a plan of operation approved by order  
1275 of the Financial Services Commission. The plan is subject to  
1276 continuous review by the commission. The commission may, by  
1277 order, withdraw approval of all or part of a plan if the  
1278 commission determines that conditions have changed since  
1279 approval was granted and that the purposes of the plan require  
1280 changes in the plan. ~~The corporation shall continue to operate~~  
1281 ~~pursuant to the plan of operation approved by the Office of~~  
1282 ~~Insurance Regulation until October 1, 2006.~~ For the purposes of  
1283 this subsection, residential coverage includes both personal  
1284 lines residential coverage, which consists of the type of  
1285 coverage provided by homeowner's, mobile home owner's, dwelling,

844961

5/4/2011 4:31 PM

Amendment No.

1286 tenant's, condominium unit owner's, and similar policies; ~~7~~ and  
1287 commercial lines residential coverage, which consists of the  
1288 type of coverage provided by condominium association, apartment  
1289 building, and similar policies.

1290 3. Effective January 1, 2009, a personal lines residential  
1291 structure that has a dwelling replacement cost of \$2 million or  
1292 more, or a single condominium unit that has a combined dwelling  
1293 and contents ~~content~~ replacement cost of \$2 million or more is  
1294 not eligible for coverage by the corporation. Such dwellings  
1295 insured by the corporation on December 31, 2008, may continue to  
1296 be covered by the corporation until the end of the policy term.  
1297 However, such dwellings ~~that are insured by the corporation and~~  
1298 ~~become ineligible for coverage due to the provisions of this~~  
1299 ~~subparagraph~~ may reapply and obtain coverage if the property  
1300 owner provides the corporation with a sworn affidavit from one  
1301 or more insurance agents, on a form provided by the corporation,  
1302 stating that the agents have made their best efforts to obtain  
1303 coverage and that the property has been rejected for coverage by  
1304 at least one authorized insurer and at least three surplus lines  
1305 insurers. If such conditions are met, the dwelling may be  
1306 insured by the corporation for up to 3 years, after which time  
1307 the dwelling is ineligible for coverage. The office shall  
1308 approve the method used by the corporation for valuing the  
1309 dwelling replacement cost for the purposes of this subparagraph.  
1310 If a policyholder is insured by the corporation prior to being  
1311 determined to be ineligible pursuant to this subparagraph and  
1312 such policyholder files a lawsuit challenging the determination,

844961

5/4/2011 4:31 PM



Amendment No.

1313 the policyholder may remain insured by the corporation until the  
1314 conclusion of the litigation.

1315 4. It is the intent of the Legislature that policyholders,  
1316 applicants, and agents of the corporation receive service and  
1317 treatment of the highest possible level but never less than that  
1318 generally provided in the voluntary market. It is also ~~is~~  
1319 intended that the corporation be held to service standards no  
1320 less than those applied to insurers in the voluntary market by  
1321 the office with respect to responsiveness, timeliness, customer  
1322 courtesy, and overall dealings with policyholders, applicants,  
1323 or agents of the corporation.

1324 5. Effective January 1, 2009, a personal lines residential  
1325 structure that is located in the "wind-borne debris region," as  
1326 defined in s. 1609.2, International Building Code (2006), and  
1327 that has an insured value on the structure of \$750,000 or more  
1328 is not eligible for coverage by the corporation unless the  
1329 structure has opening protections as required under the Florida  
1330 Building Code for a newly constructed residential structure in  
1331 that area. A residential structure shall be deemed to comply  
1332 with ~~the requirements of~~ this subparagraph if it has shutters or  
1333 opening protections on all openings and if such opening  
1334 protections complied with the Florida Building Code at the time  
1335 they were installed.

1336 6. For any claim filed under any policy of the  
1337 corporation, a public adjuster may not charge, agree to, or  
1338 accept any compensation, payment, commission, fee, or other  
1339 thing of value greater than 10 percent of the additional amount

844961

5/4/2011 4:31 PM

Amendment No.

1340 actually paid over the amount that was originally offered by the  
1341 corporation for any one claim.

1342 (b)1. All insurers authorized to write one or more subject  
1343 lines of business in this state are subject to assessment by the  
1344 corporation and, for the purposes of this subsection, are  
1345 referred to collectively as "assessable insurers." Insurers  
1346 writing one or more subject lines of business in this state  
1347 pursuant to part VIII of chapter 626 are not assessable  
1348 insurers, but insureds who procure one or more subject lines of  
1349 business in this state pursuant to part VIII of chapter 626 are  
1350 subject to assessment by the corporation and are referred to  
1351 collectively as "assessable insureds." An ~~authorized~~ insurer's  
1352 assessment liability begins ~~shall begin~~ on the first day of the  
1353 calendar year following the year in which the insurer was issued  
1354 a certificate of authority to transact insurance for subject  
1355 lines of business in this state and terminates ~~shall terminate~~ 1  
1356 year after the end of the first calendar year during which the  
1357 insurer no longer holds a certificate of authority to transact  
1358 insurance for subject lines of business in this state.

1359 2.a. All revenues, assets, liabilities, losses, and  
1360 expenses of the corporation shall be divided into three separate  
1361 accounts as follows:

1362 (I) A personal lines account for personal residential  
1363 policies issued by the corporation, or issued by the Residential  
1364 Property and Casualty Joint Underwriting Association and renewed  
1365 by the corporation, which provides ~~that provide~~ comprehensive,  
1366 multiperil coverage on risks that are not located in areas  
1367 eligible for coverage by ~~in~~ the Florida Windstorm Underwriting

844961

5/4/2011 4:31 PM

Amendment No.

1368 Association as those areas were defined on January 1, 2002, and  
1369 for ~~such~~ policies that do not provide coverage for the peril of  
1370 wind on risks that are located in such areas;

1371 (II) A commercial lines account for commercial residential  
1372 and commercial nonresidential policies issued by the  
1373 corporation, or issued by the Residential Property and Casualty  
1374 Joint Underwriting Association and renewed by the corporation,  
1375 which provides ~~that provide~~ coverage for basic property perils  
1376 on risks that are not located in areas eligible for coverage by  
1377 ~~in~~ the Florida Windstorm Underwriting Association as those areas  
1378 were defined on January 1, 2002, and for ~~such~~ policies that do  
1379 not provide coverage for the peril of wind on risks that are  
1380 located in such areas; and

1381 (III) A coastal ~~high-risk~~ account for personal residential  
1382 policies and commercial residential and commercial  
1383 nonresidential property policies issued by the corporation, or  
1384 transferred to the corporation, which provides ~~that provide~~  
1385 coverage for the peril of wind on risks that are located in  
1386 areas eligible for coverage by ~~in~~ the Florida Windstorm  
1387 Underwriting Association as those areas were defined on January  
1388 1, 2002. The corporation may offer policies that provide  
1389 multiperil coverage and the corporation shall continue to offer  
1390 policies that provide coverage only for the peril of wind for  
1391 risks located in areas eligible for coverage in the coastal  
1392 ~~high-risk~~ account. In issuing multiperil coverage, the  
1393 corporation may use its approved policy forms and rates for the  
1394 personal lines account. An applicant or insured who is eligible  
1395 to purchase a multiperil policy from the corporation may

844961

5/4/2011 4:31 PM

Amendment No.

1396 purchase a multiperil policy from an authorized insurer without  
1397 prejudice to the applicant's or insured's eligibility to  
1398 prospectively purchase a policy that provides coverage only for  
1399 the peril of wind from the corporation. An applicant or insured  
1400 who is eligible for a corporation policy that provides coverage  
1401 only for the peril of wind may elect to purchase or retain such  
1402 policy and also purchase or retain coverage excluding wind from  
1403 an authorized insurer without prejudice to the applicant's or  
1404 insured's eligibility to prospectively purchase a policy that  
1405 provides multiperil coverage from the corporation. It is the  
1406 goal of the Legislature that there ~~would~~ be an overall average  
1407 savings of 10 percent or more for a policyholder who currently  
1408 has a wind-only policy with the corporation, and an ex-wind  
1409 policy with a voluntary insurer or the corporation, and who ~~then~~  
1410 obtains a multiperil policy from the corporation. It is the  
1411 intent of the Legislature that the offer of multiperil coverage  
1412 in the coastal high-risk account be made and implemented in a  
1413 manner that does not adversely affect the tax-exempt status of  
1414 the corporation or creditworthiness of or security for currently  
1415 outstanding financing obligations or credit facilities of the  
1416 coastal high-risk account, the personal lines account, or the  
1417 commercial lines account. The coastal high-risk account must  
1418 also include quota share primary insurance under subparagraph  
1419 (c)2. The area eligible for coverage under the coastal high-risk  
1420 account also includes the area within Port Canaveral, which is  
1421 bordered on the south by the City of Cape Canaveral, bordered on  
1422 the west by the Banana River, and bordered on the north by  
1423 Federal Government property.

844961

5/4/2011 4:31 PM

Amendment No.

1424           b. The three separate accounts must be maintained as long  
1425 as financing obligations entered into by the Florida Windstorm  
1426 Underwriting Association or Residential Property and Casualty  
1427 Joint Underwriting Association are outstanding, in accordance  
1428 with the terms of the corresponding financing documents. If ~~When~~  
1429 the financing obligations are no longer outstanding, ~~in~~  
1430 ~~accordance with the terms of the corresponding financing~~  
1431 ~~documents,~~ the corporation may use a single account for all  
1432 revenues, assets, liabilities, losses, and expenses of the  
1433 corporation. Consistent with ~~the requirement of~~ this  
1434 subparagraph and prudent investment policies that minimize the  
1435 cost of carrying debt, the board shall exercise its best efforts  
1436 to retire existing debt or ~~to~~ obtain the approval of necessary  
1437 parties to amend the terms of existing debt, so as to structure  
1438 the most efficient plan to consolidate the three separate  
1439 accounts into a single account.

1440           c. Creditors of the Residential Property and Casualty  
1441 Joint Underwriting Association and ~~of~~ the accounts specified in  
1442 sub-sub-subparagraphs a.(I) and (II) may have a claim against,  
1443 and recourse to, those ~~the~~ accounts ~~referred to in sub-sub-~~  
1444 ~~subparagraphs a.(I) and (II) and shall have~~ no claim against, or  
1445 recourse to, the account referred to in sub-sub-subparagraph  
1446 a.(III). Creditors of the Florida Windstorm Underwriting  
1447 Association ~~shall~~ have a claim against, and recourse to, the  
1448 account referred to in sub-sub-subparagraph a.(III) and ~~shall~~  
1449 ~~have~~ no claim against, or recourse to, the accounts referred to  
1450 in sub-sub-subparagraphs a.(I) and (II).

844961

5/4/2011 4:31 PM

Amendment No.

1451 d. Revenues, assets, liabilities, losses, and expenses not  
1452 attributable to particular accounts shall be prorated among the  
1453 accounts.

1454 e. The Legislature finds that the revenues of the  
1455 corporation are revenues that are necessary to meet the  
1456 requirements set forth in documents authorizing the issuance of  
1457 bonds under this subsection.

1458 f. No part of the income of the corporation may inure to  
1459 the benefit of any private person.

1460 3. With respect to a deficit in an account:

1461 a. After accounting for the Citizens policyholder  
1462 surcharge imposed under sub-subparagraph h. i., if when the  
1463 remaining projected deficit incurred in a particular calendar  
1464 year:

1465 (I) Is not greater than 6 percent of the aggregate  
1466 statewide direct written premium for the subject lines of  
1467 business for the prior calendar year, the entire deficit shall  
1468 be recovered through regular assessments of assessable insurers  
1469 under paragraph (q) and assessable insureds.

1470 (II) ~~b. After accounting for the Citizens policyholder~~  
1471 ~~surcharge imposed under sub-subparagraph i., when the remaining~~  
1472 ~~projected deficit incurred in a particular calendar year Exceeds~~  
1473 6 percent of the aggregate statewide direct written premium for  
1474 the subject lines of business for the prior calendar year, the  
1475 corporation shall levy regular assessments on assessable  
1476 insurers under paragraph (q) and on assessable insureds in an  
1477 amount equal to the greater of 6 percent of the deficit or 6  
1478 percent of the aggregate statewide direct written premium for

844961

5/4/2011 4:31 PM

Amendment No.

1479 the subject lines of business for the prior calendar year. Any  
1480 remaining deficit shall be recovered through emergency  
1481 assessments under sub-subparagraph c. ~~d.~~

1482 ~~b.e.~~ Each assessable insurer's share of the amount being  
1483 assessed under sub-subparagraph a. must ~~or sub-subparagraph b.~~  
1484 ~~shall~~ be in the proportion that the assessable insurer's direct  
1485 written premium for the subject lines of business for the year  
1486 preceding the assessment bears to the aggregate statewide direct  
1487 written premium for the subject lines of business for that year.  
1488 The assessment percentage applicable to each assessable insured  
1489 is the ratio of the amount being assessed under sub-subparagraph  
1490 a. ~~or sub-subparagraph b.~~ to the aggregate statewide direct  
1491 written premium for the subject lines of business for the prior  
1492 year. Assessments levied by the corporation on assessable  
1493 insurers under sub-subparagraph a. must ~~sub-subparagraphs a. and~~  
1494 ~~b. shall~~ be paid as required by the corporation's plan of  
1495 operation and paragraph (q). Assessments levied by the  
1496 corporation on assessable insureds under sub-subparagraph a.  
1497 ~~sub-subparagraphs a. and b.~~ shall be collected by the surplus  
1498 lines agent at the time the surplus lines agent collects the  
1499 surplus lines tax required by s. 626.932, and ~~shall be~~ paid to  
1500 the Florida Surplus Lines Service Office at the time the surplus  
1501 lines agent pays the surplus lines tax to that ~~the Florida~~  
1502 ~~Surplus Lines Service~~ office. Upon receipt of regular  
1503 assessments from surplus lines agents, the Florida Surplus Lines  
1504 Service Office shall transfer the assessments directly to the  
1505 corporation as determined by the corporation.

844961

5/4/2011 4:31 PM

Amendment No.

1506 ~~c.d.~~ Upon a determination by the board of governors that a  
1507 deficit in an account exceeds the amount that will be recovered  
1508 through regular assessments under sub-subparagraph a. ~~or sub-~~  
1509 ~~subparagraph b.~~, plus the amount that is expected to be  
1510 recovered through surcharges under sub-subparagraph h. i., ~~as to~~  
1511 ~~the remaining projected deficit~~ the board ~~shall levy~~, after  
1512 verification by the office, shall levy emergency assessments,  
1513 for as many years as necessary to cover the deficits, to be  
1514 collected by assessable insurers and the corporation and  
1515 collected from assessable insureds upon issuance or renewal of  
1516 policies for subject lines of business, excluding National Flood  
1517 Insurance policies. The amount ~~of the emergency assessment~~  
1518 collected in a particular year must ~~shall~~ be a uniform  
1519 percentage of that year's direct written premium for subject  
1520 lines of business and all accounts of the corporation, excluding  
1521 National Flood Insurance Program policy premiums, as annually  
1522 determined by the board and verified by the office. The office  
1523 shall verify the arithmetic calculations involved in the board's  
1524 determination within 30 days after receipt of the information on  
1525 which the determination was based. Notwithstanding any other  
1526 provision of law, the corporation and each assessable insurer  
1527 that writes subject lines of business shall collect emergency  
1528 assessments from its policyholders without such obligation being  
1529 affected by any credit, limitation, exemption, or deferment.  
1530 Emergency assessments levied by the corporation on assessable  
1531 insureds shall be collected by the surplus lines agent at the  
1532 time the surplus lines agent collects the surplus lines tax  
1533 required by s. 626.932 and ~~shall be~~ paid to the Florida Surplus  
844961

5/4/2011 4:31 PM



Amendment No.

1534 Lines Service Office at the time the surplus lines agent pays  
1535 the surplus lines tax to that ~~the Florida Surplus Lines Service~~  
1536 office. The emergency assessments ~~se~~ collected shall be  
1537 transferred directly to the corporation on a periodic basis as  
1538 determined by the corporation and ~~shall be~~ held by the  
1539 corporation solely in the applicable account. The aggregate  
1540 amount of emergency assessments levied for an account under this  
1541 sub-subparagraph in any calendar year may, ~~at the discretion of~~  
1542 ~~the board of governors,~~ be less than but may not exceed the  
1543 greater of 10 percent of the amount needed to cover the deficit,  
1544 plus interest, fees, commissions, required reserves, and other  
1545 costs associated with financing ~~of~~ the original deficit, or 10  
1546 percent of the aggregate statewide direct written premium for  
1547 subject lines of business and ~~for~~ all accounts of the  
1548 corporation for the prior year, plus interest, fees,  
1549 commissions, required reserves, and other costs associated with  
1550 financing the deficit.

1551 ~~d.e.~~ The corporation may pledge the proceeds of  
1552 assessments, projected recoveries from the Florida Hurricane  
1553 Catastrophe Fund, other insurance and reinsurance recoverables,  
1554 policyholder surcharges and other surcharges, and other funds  
1555 available to the corporation as the source of revenue for and to  
1556 secure bonds issued under paragraph (q), bonds or other  
1557 indebtedness issued under subparagraph (c)3., or lines of credit  
1558 or other financing mechanisms issued or created under this  
1559 subsection, or to retire any other debt incurred as a result of  
1560 deficits or events giving rise to deficits, or in any other way  
1561 that the board determines will efficiently recover such

844961

5/4/2011 4:31 PM

Amendment No.

1562 deficits. The purpose of the lines of credit or other financing  
1563 mechanisms is to provide additional resources to assist the  
1564 corporation in covering claims and expenses attributable to a  
1565 catastrophe. As used in this subsection, the term "assessments"  
1566 includes regular assessments under sub-subparagraph a., ~~sub-~~  
1567 ~~subparagraph b.~~ or subparagraph (q)1. and emergency assessments  
1568 under sub-subparagraph d. Emergency assessments collected under  
1569 sub-subparagraph d. are not part of an insurer's rates, are not  
1570 premium, and are not subject to premium tax, fees, or  
1571 commissions; however, failure to pay the emergency assessment  
1572 shall be treated as failure to pay premium. The emergency  
1573 assessments under sub-subparagraph c. ~~d.~~ shall continue as long  
1574 as any bonds issued or other indebtedness incurred with respect  
1575 to a deficit for which the assessment was imposed remain  
1576 outstanding, unless adequate provision has been made for the  
1577 payment of such bonds or other indebtedness pursuant to the  
1578 documents governing such bonds or ~~other~~ indebtedness.

1579 ~~e.f.~~ As used in this subsection for purposes of any  
1580 deficit incurred on or after January 25, 2007, the term "subject  
1581 lines of business" means insurance written by assessable  
1582 insurers or procured by assessable insureds for all property and  
1583 casualty lines of business in this state, but not including  
1584 workers' compensation or medical malpractice. As used in this  
1585 ~~the~~ sub-subparagraph, the term "property and casualty lines of  
1586 business" includes all lines of business identified on Form 2,  
1587 Exhibit of Premiums and Losses, in the annual statement required  
1588 of authorized insurers under ~~by~~ s. 624.424 and any rule adopted  
1589 under this section, except for those lines identified as

844961

5/4/2011 4:31 PM

Amendment No.

1590 accident and health insurance and except for policies written  
1591 under the National Flood Insurance Program or the Federal Crop  
1592 Insurance Program. For purposes of this sub-subparagraph, the  
1593 term "workers' compensation" includes both workers' compensation  
1594 insurance and excess workers' compensation insurance.

1595 ~~f.g.~~ The Florida Surplus Lines Service Office shall  
1596 determine annually the aggregate statewide written premium in  
1597 subject lines of business procured by assessable insureds and  
1598 ~~shall~~ report that information to the corporation in a form and  
1599 at a time the corporation specifies to ensure that the  
1600 corporation can meet the requirements of this subsection and the  
1601 corporation's financing obligations.

1602 ~~g.h.~~ The Florida Surplus Lines Service Office shall verify  
1603 the proper application by surplus lines agents of assessment  
1604 percentages for regular assessments and emergency assessments  
1605 levied under this subparagraph on assessable insureds and ~~shall~~  
1606 assist the corporation in ensuring the accurate, timely  
1607 collection and payment of assessments by surplus lines agents as  
1608 required by the corporation.

1609 ~~h.i.~~ If a deficit is incurred in any account in 2008 or  
1610 thereafter, the board of governors shall levy a Citizens  
1611 policyholder surcharge against all policyholders of the  
1612 corporation. ~~for a 12-month period, which~~

1613 (I) The surcharge shall be levied ~~collected at the time of~~  
1614 ~~issuance or renewal of a policy,~~ as a uniform percentage of the  
1615 premium for the policy of up to 15 percent of such premium,  
1616 which funds shall be used to offset the deficit.

844961

5/4/2011 4:31 PM

Amendment No.

1617 (II) The surcharge is payable upon cancellation or  
1618 termination of the policy, upon renewal of the policy, or upon  
1619 issuance of a new policy by the corporation within the first 12  
1620 months after the date of the levy or the period of time  
1621 necessary to fully collect the surcharge amount.

1622 (III) The corporation may not levy any regular assessments  
1623 under paragraph (q) pursuant to sub-subparagraph a. or sub-  
1624 subparagraph b. with respect to a particular year's deficit  
1625 until the corporation has first levied the full amount of the  
1626 surcharge authorized by this sub-subparagraph.

1627 (IV) The surcharge is ~~Citizens policyholder surcharges~~  
1628 ~~under this sub-subparagraph~~ are not considered premium and is  
1629 ~~are~~ not subject to commissions, fees, or premium taxes. However,  
1630 failure to pay the surcharge ~~such surcharges~~ shall be treated as  
1631 failure to pay premium.

1632 ~~i.j.~~ If the amount of any assessments or surcharges  
1633 collected from corporation policyholders, assessable insurers or  
1634 their policyholders, or assessable insureds exceeds the amount  
1635 of the deficits, such excess amounts shall be remitted to and  
1636 retained by the corporation in a reserve to be used by the  
1637 corporation, as determined by the board of governors and  
1638 approved by the office, to pay claims or reduce any past,  
1639 present, or future plan-year deficits or to reduce outstanding  
1640 debt.

1641 (c) The corporation's plan of operation ~~of the~~  
1642 ~~corporation~~:

1643 1. Must provide for adoption of residential property and  
1644 casualty insurance policy forms and commercial residential and  
844961

5/4/2011 4:31 PM

Amendment No.

1645 nonresidential property insurance forms, which ~~forms~~ must be  
1646 approved by the office before ~~prior to~~ use. The corporation  
1647 shall adopt the following policy forms:

1648 a. Standard personal lines policy forms that are  
1649 comprehensive multiperil policies providing full coverage of a  
1650 residential property equivalent to the coverage provided in the  
1651 private insurance market under an HO-3, HO-4, or HO-6 policy.

1652 b. Basic personal lines policy forms that are policies  
1653 similar to an HO-8 policy or a dwelling fire policy that provide  
1654 coverage meeting the requirements of the secondary mortgage  
1655 market, but which ~~coverage~~ is more limited than the coverage  
1656 under a standard policy.

1657 c. Commercial lines residential and nonresidential policy  
1658 forms that are generally similar to the basic perils of full  
1659 coverage obtainable for commercial residential structures and  
1660 commercial nonresidential structures in the admitted voluntary  
1661 market.

1662 d. Personal lines and commercial lines residential  
1663 property insurance forms that cover the peril of wind only. The  
1664 forms are applicable only to residential properties located in  
1665 areas eligible for coverage under the coastal ~~high-risk~~ account  
1666 referred to in sub-subparagraph (b)2.a.

1667 e. Commercial lines nonresidential property insurance  
1668 forms that cover the peril of wind only. The forms are  
1669 applicable only to nonresidential properties located in areas  
1670 eligible for coverage under the coastal ~~high-risk~~ account  
1671 referred to in sub-subparagraph (b)2.a.

844961

5/4/2011 4:31 PM

Amendment No.

1672 f. The corporation may adopt variations of the policy  
1673 forms listed in sub-subparagraphs a.-e. which ~~that~~ contain more  
1674 restrictive coverage.

1675 ~~2.a.~~ Must provide that the corporation adopt a program in  
1676 which the corporation and authorized insurers enter into quota  
1677 share primary insurance agreements for hurricane coverage, as  
1678 defined in s. 627.4025(2)(a), for eligible risks, and adopt  
1679 property insurance forms for eligible risks which cover the  
1680 peril of wind only.

1681 a. As used in this subsection, the term:

1682 (I) "Quota share primary insurance" means an arrangement  
1683 in which the primary hurricane coverage of an eligible risk is  
1684 provided in specified percentages by the corporation and an  
1685 authorized insurer. The corporation and authorized insurer are  
1686 each solely responsible for a specified percentage of hurricane  
1687 coverage of an eligible risk as set forth in a quota share  
1688 primary insurance agreement between the corporation and an  
1689 authorized insurer and the insurance contract. The  
1690 responsibility of the corporation or authorized insurer to pay  
1691 its specified percentage of hurricane losses of an eligible  
1692 risk, as set forth in the ~~quota share primary insurance~~  
1693 agreement, may not be altered by the inability of the other  
1694 party ~~to the agreement~~ to pay its specified percentage of  
1695 hurricane losses. Eligible risks that are provided hurricane  
1696 coverage through a quota share primary insurance arrangement  
1697 must be provided policy forms that set forth the obligations of  
1698 the corporation and authorized insurer under the arrangement,  
1699 clearly specify the percentages of quota share primary insurance

844961

5/4/2011 4:31 PM

Amendment No.

1700 provided by the corporation and authorized insurer, and  
1701 conspicuously and clearly state that ~~neither~~ the authorized  
1702 insurer ~~and~~ ~~nor~~ the corporation may not be held responsible  
1703 beyond their ~~its~~ specified percentage of coverage of hurricane  
1704 losses.

1705 (II) "Eligible risks" means personal lines residential and  
1706 commercial lines residential risks that meet the underwriting  
1707 criteria of the corporation and are located in areas that were  
1708 eligible for coverage by the Florida Windstorm Underwriting  
1709 Association on January 1, 2002.

1710 b. The corporation may enter into quota share primary  
1711 insurance agreements with authorized insurers at corporation  
1712 coverage levels of 90 percent and 50 percent.

1713 c. If the corporation determines that additional coverage  
1714 levels are necessary to maximize participation in quota share  
1715 primary insurance agreements by authorized insurers, the  
1716 corporation may establish additional coverage levels. However,  
1717 the corporation's quota share primary insurance coverage level  
1718 may not exceed 90 percent.

1719 d. Any quota share primary insurance agreement entered  
1720 into between an authorized insurer and the corporation must  
1721 provide for a uniform specified percentage of coverage of  
1722 hurricane losses, by county or territory as set forth by the  
1723 corporation board, for all eligible risks of the authorized  
1724 insurer covered under the ~~quota share primary insurance~~  
1725 agreement.

1726 e. Any quota share primary insurance agreement entered  
1727 into between an authorized insurer and the corporation is

844961

5/4/2011 4:31 PM

Amendment No.

1728 subject to review and approval by the office. However, such  
1729 agreement shall be authorized only as to insurance contracts  
1730 entered into between an authorized insurer and an insured who is  
1731 already insured by the corporation for wind coverage.

1732 f. For all eligible risks covered under quota share  
1733 primary insurance agreements, the exposure and coverage levels  
1734 for both the corporation and authorized insurers shall be  
1735 reported by the corporation to the Florida Hurricane Catastrophe  
1736 Fund. For all policies of eligible risks covered under such  
1737 ~~quota share primary insurance~~ agreements, the corporation and  
1738 the authorized insurer must ~~shall~~ maintain complete and accurate  
1739 records for the purpose of exposure and loss reimbursement  
1740 audits as required by ~~Florida Hurricane Catastrophe~~ fund rules.  
1741 The corporation and the authorized insurer shall each maintain  
1742 duplicate copies of policy declaration pages and supporting  
1743 claims documents.

1744 g. The corporation board shall establish in its plan of  
1745 operation standards for quota share agreements which ensure that  
1746 there is no discriminatory application among insurers as to the  
1747 terms of the ~~quota share~~ agreements, pricing of the ~~quota share~~  
1748 agreements, incentive provisions if any, and consideration paid  
1749 for servicing policies or adjusting claims.

1750 h. The quota share primary insurance agreement between the  
1751 corporation and an authorized insurer must set forth the  
1752 specific terms under which coverage is provided, including, but  
1753 not limited to, the sale and servicing of policies issued under  
1754 the agreement by the insurance agent of the authorized insurer  
1755 producing the business, the reporting of information concerning

844961

5/4/2011 4:31 PM



Amendment No.

1756 eligible risks, the payment of premium to the corporation, and  
1757 arrangements for the adjustment and payment of hurricane claims  
1758 incurred on eligible risks by the claims adjuster and personnel  
1759 of the authorized insurer. Entering into a quota sharing  
1760 insurance agreement between the corporation and an authorized  
1761 insurer is ~~shall be~~ voluntary and at the discretion of the  
1762 authorized insurer.

1763 3.a. May provide that the corporation may employ or  
1764 otherwise contract with individuals or other entities to provide  
1765 administrative or professional services that may be appropriate  
1766 to effectuate the plan. The corporation may ~~shall have the power~~  
1767 ~~to~~ borrow funds, by issuing bonds or by incurring other  
1768 indebtedness, and shall have other powers reasonably necessary  
1769 to effectuate the requirements of this subsection, including,  
1770 without limitation, the power to issue bonds and incur other  
1771 indebtedness in order to refinance outstanding bonds or other  
1772 indebtedness. The corporation ~~may, but is not required to,~~ seek  
1773 judicial validation of its bonds or other indebtedness under  
1774 chapter 75. The corporation may issue bonds or incur other  
1775 indebtedness, or have bonds issued on its behalf by a unit of  
1776 local government pursuant to subparagraph (q)2.7 in the absence  
1777 of a hurricane or other weather-related event, upon a  
1778 determination by the corporation, subject to approval by the  
1779 office, that such action would enable it to efficiently meet the  
1780 financial obligations of the corporation and that such  
1781 financings are reasonably necessary to effectuate the  
1782 requirements of this subsection. The corporation may is  
1783 ~~authorized to~~ take all actions needed to facilitate tax-free

844961

5/4/2011 4:31 PM

Amendment No.

1784 status for ~~any~~ such bonds or indebtedness, including formation  
1785 of trusts or other affiliated entities. The corporation may  
1786 ~~shall have the authority to~~ pledge assessments, projected  
1787 recoveries from the Florida Hurricane Catastrophe Fund, other  
1788 reinsurance recoverables, market equalization and other  
1789 surcharges, and other funds available to the corporation as  
1790 security for bonds or other indebtedness. In recognition of s.  
1791 10, Art. I of the State Constitution, prohibiting the impairment  
1792 of obligations of contracts, it is the intent of the Legislature  
1793 that no action be taken whose purpose is to impair any bond  
1794 indenture or financing agreement or any revenue source committed  
1795 by contract to such bond or other indebtedness.

1796 b. To ensure that the corporation is operating in an  
1797 efficient and economic manner while providing quality service to  
1798 policyholders, applicants, and agents, the board shall  
1799 commission an independent third-party consultant having  
1800 expertise in insurance company management or insurance company  
1801 management consulting to prepare a report and make  
1802 recommendations on the relative costs and benefits of  
1803 outsourcing various policy issuance and service functions to  
1804 private servicing carriers or entities performing similar  
1805 functions in the private market for a fee, rather than  
1806 performing such functions in house. In making such  
1807 recommendations, the consultant shall consider how other  
1808 residual markets, both in this state and around the country,  
1809 outsource appropriate functions or use servicing carriers to  
1810 better match expenses with revenues that fluctuate based on a  
1811 widely varying policy count. The report must be completed by

844961

5/4/2011 4:31 PM

Amendment No.

1812 July 1, 2012. Upon receiving the report, the board shall develop  
1813 a plan to implement the report and submit the plan for review,  
1814 modification, and approval to the Financial Services Commission.  
1815 Upon the commission's approval of the plan, the board shall  
1816 begin implementing the plan by January 1, 2013.

1817 4.a. Must require that the corporation operate subject to  
1818 the supervision and approval of a board of governors consisting  
1819 of eight individuals who are residents of this state, from  
1820 different geographical areas of this state.

1821 a. The Governor, the Chief Financial Officer, the  
1822 President of the Senate, and the Speaker of the House of  
1823 Representatives shall each appoint two members of the board. At  
1824 least one of the two members appointed by each appointing  
1825 officer must have demonstrated expertise in insurance, and is  
1826 deemed to be within the scope of the exemption provided in s.  
1827 112.313(7) (b). The Chief Financial Officer shall designate one  
1828 of the appointees as chair. All board members serve at the  
1829 pleasure of the appointing officer. All members of the board ~~of~~  
1830 ~~governors~~ are subject to removal at will by the officers who  
1831 appointed them. All board members, including the chair, must be  
1832 appointed to serve for 3-year terms beginning annually on a date  
1833 designated by the plan. However, for the first term beginning on  
1834 or after July 1, 2009, each appointing officer shall appoint one  
1835 member of the board for a 2-year term and one member for a 3-  
1836 year term. A ~~Any~~ board vacancy shall be filled for the unexpired  
1837 term by the appointing officer. The Chief Financial Officer  
1838 shall appoint a technical advisory group to provide information  
1839 and advice to the board ~~of governors~~ in connection with the

844961

5/4/2011 4:31 PM

Amendment No.

1840 board's duties under this subsection. The executive director and  
1841 senior managers of the corporation shall be engaged by the board  
1842 and serve at the pleasure of the board. Any executive director  
1843 appointed on or after July 1, 2006, is subject to confirmation  
1844 by the Senate. The executive director is responsible for  
1845 employing other staff as the corporation may require, subject to  
1846 review and concurrence by the board.

1847 b. The board shall create a Market Accountability Advisory  
1848 Committee to assist the corporation in developing awareness of  
1849 its rates and its customer and agent service levels in  
1850 relationship to the voluntary market insurers writing similar  
1851 coverage.

1852 (I) The members of the advisory committee ~~shall~~ consist of  
1853 the following 11 persons, one of whom must be elected chair by  
1854 the members of the committee: four representatives, one  
1855 appointed by the Florida Association of Insurance Agents, one by  
1856 the Florida Association of Insurance and Financial Advisors, one  
1857 by the Professional Insurance Agents of Florida, and one by the  
1858 Latin American Association of Insurance Agencies; three  
1859 representatives appointed by the insurers with the three highest  
1860 voluntary market share of residential property insurance  
1861 business in the state; one representative from the Office of  
1862 Insurance Regulation; one consumer appointed by the board who is  
1863 insured by the corporation at the time of appointment to the  
1864 committee; one representative appointed by the Florida  
1865 Association of Realtors; and one representative appointed by the  
1866 Florida Bankers Association. All members shall be appointed to  
1867 ~~must serve for~~ 3-year terms and may serve for consecutive terms.

844961

5/4/2011 4:31 PM

Amendment No.

1868        (II) The committee shall report to the corporation at each  
1869 board meeting on insurance market issues which may include rates  
1870 and rate competition with the voluntary market; service,  
1871 including policy issuance, claims processing, and general  
1872 responsiveness to policyholders, applicants, and agents; and  
1873 matters relating to depopulation.

1874           5. Must provide a procedure for determining the  
1875 eligibility of a risk for coverage, as follows:

1876           a. Subject to ~~the provisions of~~ s. 627.3517, with respect  
1877 to personal lines residential risks, if the risk is offered  
1878 coverage from an authorized insurer at the insurer's approved  
1879 rate under ~~either~~ a standard policy including wind coverage or,  
1880 if consistent with the insurer's underwriting rules as filed  
1881 with the office, a basic policy including wind coverage, for a  
1882 new application to the corporation for coverage, the risk is not  
1883 eligible for any policy issued by the corporation unless the  
1884 premium for coverage from the authorized insurer is more than 15  
1885 percent greater than the premium for comparable coverage from  
1886 the corporation. If the risk is not able to obtain ~~any~~ such  
1887 offer, the risk is eligible for ~~either~~ a standard policy  
1888 including wind coverage or a basic policy including wind  
1889 coverage issued by the corporation; however, if the risk could  
1890 not be insured under a standard policy including wind coverage  
1891 regardless of market conditions, the risk is ~~shall be~~ eligible  
1892 for a basic policy including wind coverage unless rejected under  
1893 subparagraph 8. However, ~~with regard to~~ a policyholder of the  
1894 corporation or a policyholder removed from the corporation  
1895 through an assumption agreement until the end of the assumption

844961

5/4/2011 4:31 PM

Amendment No.

1896 period, ~~the policyholder~~ remains eligible for coverage from the  
1897 corporation regardless of any offer of coverage from an  
1898 authorized insurer or surplus lines insurer. The corporation  
1899 shall determine the type of policy to be provided on the basis  
1900 of objective standards specified in the underwriting manual and  
1901 based on generally accepted underwriting practices.

1902 (I) If the risk accepts an offer of coverage through the  
1903 market assistance plan or ~~an offer of coverage~~ through a  
1904 mechanism established by the corporation before a policy is  
1905 issued to the risk by the corporation or during the first 30  
1906 days of coverage by the corporation, and the producing agent who  
1907 submitted the application to the plan or to the corporation is  
1908 not currently appointed by the insurer, the insurer shall:

1909 (A) Pay to the producing agent of record of the policy,  
1910 for the first year, an amount that is the greater of the  
1911 insurer's usual and customary commission for the type of policy  
1912 written or a fee equal to the usual and customary commission of  
1913 the corporation; or

1914 (B) Offer to allow the producing agent of record of the  
1915 policy to continue servicing the policy for at least ~~a period of~~  
1916 ~~not less than~~ 1 year and offer to pay the agent the greater of  
1917 the insurer's or the corporation's usual and customary  
1918 commission for the type of policy written.

1919  
1920 If the producing agent is unwilling or unable to accept  
1921 appointment, the new insurer shall pay the agent in accordance  
1922 with sub-sub-sub-subparagraph (A).

844961

5/4/2011 4:31 PM

Amendment No.

1923 (II) If ~~When~~ the corporation enters into a contractual  
1924 agreement for a take-out plan, the producing agent of record of  
1925 the corporation policy is entitled to retain any unearned  
1926 commission on the policy, and the insurer shall:

1927 (A) Pay to the producing agent of record ~~of the~~  
1928 ~~corporation policy~~, for the first year, an amount that is the  
1929 greater of the insurer's usual and customary commission for the  
1930 type of policy written or a fee equal to the usual and customary  
1931 commission of the corporation; or

1932 (B) Offer to allow the producing agent of record ~~of the~~  
1933 ~~corporation policy~~ to continue servicing the policy for at least  
1934 ~~a period of not less than~~ 1 year and offer to pay the agent the  
1935 greater of the insurer's or the corporation's usual and  
1936 customary commission for the type of policy written.

1937  
1938 If the producing agent is unwilling or unable to accept  
1939 appointment, the new insurer shall pay the agent in accordance  
1940 with sub-sub-sub-subparagraph (A).

1941 b. With respect to commercial lines residential risks, for  
1942 a new application to the corporation for coverage, if the risk  
1943 is offered coverage under a policy including wind coverage from  
1944 an authorized insurer at its approved rate, the risk is not  
1945 eligible for a ~~any~~ policy issued by the corporation unless the  
1946 premium for coverage from the authorized insurer is more than 15  
1947 percent greater than the premium for comparable coverage from  
1948 the corporation. If the risk is not able to obtain any such  
1949 offer, the risk is eligible for a policy including wind coverage  
1950 issued by the corporation. However, ~~with regard to a~~

844961

5/4/2011 4:31 PM

Amendment No.

1951 policyholder of the corporation or a policyholder removed from  
1952 the corporation through an assumption agreement until the end of  
1953 the assumption period, ~~the policyholder~~ remains eligible for  
1954 coverage from the corporation regardless of an ~~any~~ offer of  
1955 coverage from an authorized insurer or surplus lines insurer.

1956 (I) If the risk accepts an offer of coverage through the  
1957 market assistance plan or ~~an offer of coverage~~ through a  
1958 mechanism established by the corporation before a policy is  
1959 issued to the risk by the corporation or during the first 30  
1960 days of coverage by the corporation, and the producing agent who  
1961 submitted the application to the plan or the corporation is not  
1962 currently appointed by the insurer, the insurer shall:

1963 (A) Pay to the producing agent of record of the policy,  
1964 for the first year, an amount that is the greater of the  
1965 insurer's usual and customary commission for the type of policy  
1966 written or a fee equal to the usual and customary commission of  
1967 the corporation; or

1968 (B) Offer to allow the producing agent of record of the  
1969 policy to continue servicing the policy for at least ~~a period of~~  
1970 ~~not less than~~ 1 year and offer to pay the agent the greater of  
1971 the insurer's or the corporation's usual and customary  
1972 commission for the type of policy written.

1973  
1974 If the producing agent is unwilling or unable to accept  
1975 appointment, the new insurer shall pay the agent in accordance  
1976 with sub-sub-sub-subparagraph (A).

1977 (II) If ~~When~~ the corporation enters into a contractual  
1978 agreement for a take-out plan, the producing agent of record of  
844961

5/4/2011 4:31 PM



Amendment No.

1979 the corporation policy is entitled to retain any unearned  
1980 commission on the policy, and the insurer shall:

1981 (A) Pay to the producing agent of record ~~of the~~  
1982 ~~corporation policy~~, for the first year, an amount that is the  
1983 greater of the insurer's usual and customary commission for the  
1984 type of policy written or a fee equal to the usual and customary  
1985 commission of the corporation; or

1986 (B) Offer to allow the producing agent of record ~~of the~~  
1987 ~~corporation policy~~ to continue servicing the policy for at least  
1988 ~~a period of not less than~~ 1 year and offer to pay the agent the  
1989 greater of the insurer's or the corporation's usual and  
1990 customary commission for the type of policy written.

1991  
1992 If the producing agent is unwilling or unable to accept  
1993 appointment, the new insurer shall pay the agent in accordance  
1994 with sub-sub-sub-subparagraph (A).

1995 c. For purposes of determining comparable coverage under  
1996 sub-subparagraphs a. and b., the comparison must ~~shall~~ be based  
1997 on those forms and coverages that are reasonably comparable. The  
1998 corporation may rely on a determination of comparable coverage  
1999 and premium made by the producing agent who submits the  
2000 application to the corporation, made in the agent's capacity as  
2001 the corporation's agent. A comparison may be made solely of the  
2002 premium with respect to the main building or structure only on  
2003 the following basis: the same coverage A or other building  
2004 limits; the same percentage hurricane deductible that applies on  
2005 an annual basis or that applies to each hurricane for commercial  
2006 residential property; the same percentage of ordinance and law

844961

5/4/2011 4:31 PM

Amendment No.

2007 coverage, if the same limit is offered by both the corporation  
2008 and the authorized insurer; the same mitigation credits, to the  
2009 extent the same types of credits are offered both by the  
2010 corporation and the authorized insurer; the same method for loss  
2011 payment, such as replacement cost or actual cash value, if the  
2012 same method is offered both by the corporation and the  
2013 authorized insurer in accordance with underwriting rules; and  
2014 any other form or coverage that is reasonably comparable as  
2015 determined by the board. If an application is submitted to the  
2016 corporation for wind-only coverage in the coastal ~~high-risk~~  
2017 account, the premium for the corporation's wind-only policy plus  
2018 the premium for the ex-wind policy that is offered by an  
2019 authorized insurer to the applicant must ~~shall~~ be compared to  
2020 the premium for multiperil coverage offered by an authorized  
2021 insurer, subject to the standards for comparison specified in  
2022 this subparagraph. If the corporation or the applicant requests  
2023 from the authorized insurer a breakdown of the premium of the  
2024 offer by types of coverage so that a comparison may be made by  
2025 the corporation or its agent and the authorized insurer refuses  
2026 or is unable to provide such information, the corporation may  
2027 treat the offer as not being an offer of coverage from an  
2028 authorized insurer at the insurer's approved rate.

2029 6. Must include rules for classifications of risks and  
2030 rates ~~therefor~~.

2031 7. Must provide that if premium and investment income for  
2032 an account attributable to a particular calendar year are in  
2033 excess of projected losses and expenses for the account  
2034 attributable to that year, such excess shall be held in surplus

844961

5/4/2011 4:31 PM

Amendment No.

2035 in the account. Such surplus must ~~shall~~ be available to defray  
2036 deficits in that account as to future years and ~~shall be~~ used  
2037 for that purpose before ~~prior to~~ assessing assessable insurers  
2038 and assessable insureds as to any calendar year.

2039 8. Must provide objective criteria and procedures to be  
2040 uniformly applied to ~~for~~ all applicants in determining whether  
2041 an individual risk is so hazardous as to be uninsurable. In  
2042 making this determination and in establishing the criteria and  
2043 procedures, the following must ~~shall~~ be considered:

2044 a. Whether the likelihood of a loss for the individual  
2045 risk is substantially higher than for other risks of the same  
2046 class; and

2047 b. Whether the uncertainty associated with the individual  
2048 risk is such that an appropriate premium cannot be determined.

2049  
2050 The acceptance or rejection of a risk by the corporation shall  
2051 be construed as the private placement of insurance, and the  
2052 provisions of chapter 120 do ~~shall~~ not apply.

2053 9. Must provide that the corporation ~~shall~~ make its best  
2054 efforts to procure catastrophe reinsurance at reasonable rates,  
2055 to cover its projected 100-year probable maximum loss as  
2056 determined by the board of governors.

2057 10. The policies issued by the corporation must provide  
2058 that, if the corporation or the market assistance plan obtains  
2059 an offer from an authorized insurer to cover the risk at its  
2060 approved rates, the risk is no longer eligible for renewal  
2061 through the corporation, except as otherwise provided in this  
2062 subsection.

844961

5/4/2011 4:31 PM

Amendment No.

2063 11. Corporation policies and applications must include a  
2064 notice that the corporation policy could, under this section, be  
2065 replaced with a policy issued by an authorized insurer which  
2066 ~~that~~ does not provide coverage identical to the coverage  
2067 provided by the corporation. The notice must ~~shall~~ also specify  
2068 that acceptance of corporation coverage creates a conclusive  
2069 presumption that the applicant or policyholder is aware of this  
2070 potential.

2071 12. May establish, subject to approval by the office,  
2072 different eligibility requirements and operational procedures  
2073 for any line or type of coverage for any specified county or  
2074 area if the board determines that such changes ~~to the~~  
2075 ~~eligibility requirements and operational procedures~~ are  
2076 justified due to the voluntary market being sufficiently stable  
2077 and competitive in such area or for such line or type of  
2078 coverage and that consumers who, in good faith, are unable to  
2079 obtain insurance through the voluntary market through ordinary  
2080 methods ~~would~~ continue to have access to coverage from the  
2081 corporation. If ~~When~~ coverage is sought in connection with a  
2082 real property transfer, the ~~such~~ requirements and procedures may  
2083 ~~shall~~ not provide ~~for~~ an effective date of coverage later than  
2084 the date of the closing of the transfer as established by the  
2085 transferor, the transferee, and, if applicable, the lender.

2086 13. Must provide that, with respect to the coastal high-  
2087 ~~risk~~ account, any assessable insurer with a surplus as to  
2088 policyholders of \$25 million or less writing 25 percent or more  
2089 of its total countrywide property insurance premiums in this  
2090 state may petition the office, within the first 90 days of each

844961

5/4/2011 4:31 PM

Amendment No.

2091 calendar year, to qualify as a limited apportionment company. A  
2092 regular assessment levied by the corporation on a limited  
2093 apportionment company for a deficit incurred by the corporation  
2094 for the coastal ~~high-risk~~ account ~~in 2006 or thereafter~~ may be  
2095 paid to the corporation on a monthly basis as the assessments  
2096 are collected by the limited apportionment company from its  
2097 insureds pursuant to s. 627.3512, but the regular assessment  
2098 must be paid in full within 12 months after being levied by the  
2099 corporation. A limited apportionment company shall collect from  
2100 its policyholders any emergency assessment imposed under sub-  
2101 subparagraph (b)3.d. The plan must ~~shall~~ provide that, if the  
2102 office determines that any regular assessment will result in an  
2103 impairment of the surplus of a limited apportionment company,  
2104 the office may direct that all or part of such assessment be  
2105 deferred as provided in subparagraph (q)4. However, ~~there shall~~  
2106 ~~be no limitation or deferment of~~ an emergency assessment to be  
2107 collected from policyholders under sub-subparagraph (b)3.d. may  
2108 not be limited or deferred.

2109 14. Must provide that the corporation appoint as its  
2110 licensed agents only those agents who also hold an appointment  
2111 as defined in s. 626.015(3) with an insurer who at the time of  
2112 the agent's initial appointment by the corporation is authorized  
2113 to write and is actually writing personal lines residential  
2114 property coverage, commercial residential property coverage, or  
2115 commercial nonresidential property coverage within the state.

2116 15. Must provide, ~~by July 1, 2007,~~ a premium payment plan  
2117 option to its policyholders which, allows at a minimum, allows

844961

5/4/2011 4:31 PM

Amendment No.

2118 for quarterly and semiannual payment of premiums. A monthly  
2119 payment plan may, but is not required to, be offered.

2120 16. Must limit coverage on mobile homes or manufactured  
2121 homes built before ~~prior to~~ 1994 to actual cash value of the  
2122 dwelling rather than replacement costs of the dwelling.

2123 17. May provide such limits of coverage as the board  
2124 determines, consistent with the requirements of this subsection.

2125 18. May require commercial property to meet specified  
2126 hurricane mitigation construction features as a condition of  
2127 eligibility for coverage.

2128 19. Must provide that new or renewal policies issued by  
2129 the corporation on or after January 1, 2012, which cover  
2130 sinkhole loss do not include coverage for any loss to  
2131 appurtenant structures, driveways, sidewalks, decks, or patios  
2132 that are directly or indirectly caused by sinkhole activity. The  
2133 corporation shall exclude such coverage using a notice of  
2134 coverage change, which may be included with the policy renewal,  
2135 and not by issuance of a notice of nonrenewal of the excluded  
2136 coverage upon renewal of the current policy.

2137 20. As of January 1, 2012, must require that the agent  
2138 obtain from an applicant for coverage from the corporation an  
2139 acknowledgement signed by the applicant, which includes, at a  
2140 minimum, the following statement:

2141  
2142 ACKNOWLEDGEMENT OF POTENTIAL SURCHARGE

2143 AND ASSESSMENT LIABILITY:

Amendment No.

2145 1. AS A POLICYHOLDER OF CITIZENS PROPERTY  
2146 INSURANCE CORPORATION, I UNDERSTAND THAT IF THE  
2147 CORPORATION SUSTAINS A DEFICIT AS A RESULT OF  
2148 HURRICANE LOSSES OR FOR ANY OTHER REASON, MY POLICY  
2149 COULD BE SUBJECT TO SURCHARGES, WHICH WILL BE DUE AND  
2150 PAYABLE UPON RENEWAL, CANCELLATION, OR TERMINATION OF  
2151 THE POLICY, AND THAT THE SURCHARGES COULD BE AS HIGH  
2152 AS 45 PERCENT OF MY PREMIUM, OR A DIFFERENT AMOUNT AS  
2153 IMPOSED BY THE FLORIDA LEGISLATURE.

2154 2. I ALSO UNDERSTAND THAT I MAY BE SUBJECT TO  
2155 EMERGENCY ASSESSMENTS TO THE SAME EXTENT AS  
2156 POLICYHOLDERS OF OTHER INSURANCE COMPANIES, OR A  
2157 DIFFERENT AMOUNT AS IMPOSED BY THE FLORIDA  
2158 LEGISLATURE.

2159 3. I ALSO UNDERSTAND THAT CITIZENS PROPERTY  
2160 INSURANCE CORPORATION IS NOT SUPPORTED BY THE FULL  
2161 FAITH AND CREDIT OF THE STATE OF FLORIDA.

2162  
2163 a. The corporation shall maintain, in electronic format or  
2164 otherwise, a copy of the applicant's signed acknowledgement and  
2165 provide a copy of the statement to the policyholder as part of  
2166 the first renewal after the effective date of this subparagraph.

2167 b. The signed acknowledgement form creates a conclusive  
2168 presumption that the policyholder understood and accepted his or  
2169 her potential surcharge and assessment liability as a  
2170 policyholder of the corporation.

2171 (d)1. All prospective employees for senior management  
2172 positions, as defined by the plan of operation, are subject to  
844961

5/4/2011 4:31 PM

Amendment No.

2173 background checks as a prerequisite for employment. The office  
2174 shall conduct the background checks ~~on such prospective~~  
2175 ~~employees~~ pursuant to ss. 624.34, 624.404(3), and 628.261.

2176 2. On or before July 1 of each year, employees of the  
2177 corporation must ~~are required to~~ sign and submit a statement  
2178 attesting that they do not have a conflict of interest, as  
2179 defined in part III of chapter 112. As a condition of  
2180 employment, all prospective employees must ~~are required to~~ sign  
2181 and submit to the corporation a conflict-of-interest statement.

2182 3. Senior managers and members of the board of governors  
2183 are subject to ~~the provisions of~~ part III of chapter 112,  
2184 including, but not limited to, the code of ethics and public  
2185 disclosure and reporting of financial interests, pursuant to s.  
2186 112.3145. Notwithstanding s. 112.3143(2), a board member may not  
2187 vote on any measure that would inure to his or her special  
2188 private gain or loss; that he or she knows would inure to the  
2189 special private gain or loss of any principal by whom he or she  
2190 is retained or to the parent organization or subsidiary of a  
2191 corporate principal by which he or she is retained, other than  
2192 an agency as defined in s. 112.312; or that he or she knows  
2193 would inure to the special private gain or loss of a relative or  
2194 business associate of the public officer. Before the vote is  
2195 taken, such member shall publicly state to the assembly the  
2196 nature of his or her interest in the matter from which he or she  
2197 is abstaining from voting and, within 15 days after the vote  
2198 occurs, disclose the nature of his or her interest as a public  
2199 record in a memorandum filed with the person responsible for  
2200 recording the minutes of the meeting, who shall incorporate the

844961

5/4/2011 4:31 PM



Amendment No.

2201 memorandum in the minutes. Senior managers and board members are  
2202 also required to file such disclosures with the Commission on  
2203 Ethics and the Office of Insurance Regulation. The executive  
2204 director of the corporation or his or her designee shall notify  
2205 each existing and newly appointed ~~and existing appointed~~ member  
2206 of the board of governors and senior managers of their duty to  
2207 comply with the reporting requirements of part III of chapter  
2208 112. At least quarterly, the executive director or his or her  
2209 designee shall submit to the Commission on Ethics a list of  
2210 names of the senior managers and members of the board of  
2211 governors who are subject to the public disclosure requirements  
2212 under s. 112.3145.

2213 4. Notwithstanding s. 112.3148 or s. 112.3149, or any  
2214 other provision of law, an employee or board member may not  
2215 knowingly accept, directly or indirectly, any gift or  
2216 expenditure from a person or entity, or an employee or  
2217 representative of such person or entity, which ~~that~~ has a  
2218 contractual relationship with the corporation or who is under  
2219 consideration for a contract. An employee or board member who  
2220 fails to comply with subparagraph 3. or this subparagraph is  
2221 subject to penalties provided under ss. 112.317 and 112.3173.

2222 5. Any senior manager of the corporation who is employed  
2223 on or after January 1, 2007, regardless of the date of hire, who  
2224 subsequently retires or terminates employment is prohibited from  
2225 representing another person or entity before the corporation for  
2226 2 years after retirement or termination of employment from the  
2227 corporation.

844961

5/4/2011 4:31 PM

Amendment No.

2228 6. Any senior manager of the corporation who is employed  
2229 on or after January 1, 2007, regardless of the date of hire, who  
2230 subsequently retires or terminates employment is prohibited from  
2231 having any employment or contractual relationship for 2 years  
2232 with an insurer that has entered into a take-out bonus agreement  
2233 with the corporation.

2234 (n)1. Rates for coverage provided by the corporation must  
2235 ~~shall~~ be actuarially sound and subject to ~~the requirements of s.~~  
2236 627.062, except as otherwise provided in this paragraph. The  
2237 corporation shall file its recommended rates with the office at  
2238 least annually. The corporation shall provide any additional  
2239 information regarding the rates which the office requires. The  
2240 office shall consider the recommendations of the board and issue  
2241 a final order establishing the rates for the corporation within  
2242 45 days after the recommended rates are filed. The corporation  
2243 may not pursue an administrative challenge or judicial review of  
2244 the final order of the office.

2245 2. In addition to the rates otherwise determined pursuant  
2246 to this paragraph, the corporation shall impose and collect an  
2247 amount equal to the premium tax provided ~~for~~ in s. 624.509 to  
2248 augment the financial resources of the corporation.

2249 3. After the public hurricane loss-projection model under  
2250 s. 627.06281 has been found to be accurate and reliable by the  
2251 Florida Commission on Hurricane Loss Projection Methodology, the  
2252 ~~that~~ model shall serve as the minimum benchmark for determining  
2253 the windstorm portion of the corporation's rates. This  
2254 subparagraph does not require or allow the corporation to adopt

844961

5/4/2011 4:31 PM

Amendment No.

2255 rates lower than the rates otherwise required or allowed by this  
2256 paragraph.

2257 4. The rate filings for the corporation which were  
2258 approved by the office and ~~which~~ took effect January 1, 2007,  
2259 are rescinded, except for those rates that were lowered. As soon  
2260 as possible, the corporation shall begin using the lower rates  
2261 that were in effect on December 31, 2006, and ~~shall~~ provide  
2262 refunds to policyholders who ~~have~~ paid higher rates as a result  
2263 of that rate filing. The rates in effect on December 31, 2006,  
2264 ~~shall~~ remain in effect for the 2007 and 2008 calendar years  
2265 except for any rate change that results in a lower rate. The  
2266 next rate change that may increase rates shall take effect  
2267 pursuant to a new rate filing recommended by the corporation and  
2268 established by the office, subject to ~~the requirements of this~~  
2269 paragraph.

2270 5. Beginning on July 15, 2009, and annually ~~each year~~  
2271 thereafter, the corporation must make a recommended actuarially  
2272 sound rate filing for each personal and commercial line of  
2273 business it writes, to be effective no earlier than January 1,  
2274 2010.

2275 6. Beginning on or after January 1, 2010, and  
2276 notwithstanding the board's recommended rates and the office's  
2277 final order regarding the corporation's filed rates under  
2278 subparagraph 1., the corporation shall annually implement a rate  
2279 increase ~~each year~~ which, except for sinkhole coverage, does not  
2280 exceed 10 percent for any single policy issued by the  
2281 corporation, excluding coverage changes and surcharges.

844961

5/4/2011 4:31 PM

Amendment No.

2282 7. The corporation may also implement an increase to  
2283 reflect the effect on the corporation of the cash buildup factor  
2284 pursuant to s. 215.555(5)(b).

2285 8. The corporation's implementation of rates as prescribed  
2286 in subparagraph 6. shall cease for any line of business written  
2287 by the corporation upon the corporation's implementation of  
2288 actuarially sound rates. Thereafter, the corporation shall  
2289 annually make a recommended actuarially sound rate filing for  
2290 each commercial and personal line of business the corporation  
2291 writes.

2292 (v)1. Effective July 1, 2002, policies of the Residential  
2293 Property and Casualty Joint Underwriting Association ~~shall~~  
2294 become policies of the corporation. All obligations, rights,  
2295 assets and liabilities of the ~~Residential Property and Casualty~~  
2296 ~~Joint Underwriting~~ association, including bonds, note and debt  
2297 obligations, and the financing documents pertaining to them  
2298 become those of the corporation as of July 1, 2002. The  
2299 corporation is not required to issue endorsements or  
2300 certificates of assumption to insureds during the remaining term  
2301 of in-force transferred policies.

2302 2. Effective July 1, 2002, policies of the Florida  
2303 Windstorm Underwriting Association are transferred to the  
2304 corporation and ~~shall~~ become policies of the corporation. All  
2305 obligations, rights, assets, and liabilities of the ~~Florida~~  
2306 ~~Windstorm Underwriting~~ association, including bonds, note and  
2307 debt obligations, and the financing documents pertaining to them  
2308 are transferred to and assumed by the corporation on July 1,  
2309 2002. The corporation is not required to issue endorsements or

844961

5/4/2011 4:31 PM

Amendment No.

2310 certificates of assumption to insureds during the remaining term  
2311 of in-force transferred policies.

2312         3. The Florida Windstorm Underwriting Association and the  
2313 Residential Property and Casualty Joint Underwriting Association  
2314 shall take all actions necessary ~~as may be proper~~ to further  
2315 evidence the transfers and ~~shall~~ provide the documents and  
2316 instruments of further assurance as may reasonably be requested  
2317 by the corporation for that purpose. The corporation shall  
2318 execute assumptions and instruments as the trustees or other  
2319 parties to the financing documents of the Florida Windstorm  
2320 Underwriting Association or the Residential Property and  
2321 Casualty Joint Underwriting Association may reasonably request  
2322 to further evidence the transfers and assumptions, which  
2323 transfers and assumptions, however, are effective on the date  
2324 provided under this paragraph whether or not, and regardless of  
2325 the date on which, the assumptions or instruments are executed  
2326 by the corporation. Subject to the relevant financing documents  
2327 pertaining to their outstanding bonds, notes, indebtedness, or  
2328 other financing obligations, the moneys, investments,  
2329 receivables, choses in action, and other intangibles of the  
2330 Florida Windstorm Underwriting Association shall be credited to  
2331 the coastal ~~high-risk~~ account of the corporation, and those of  
2332 the personal lines residential coverage account and the  
2333 commercial lines residential coverage account of the Residential  
2334 Property and Casualty Joint Underwriting Association shall be  
2335 credited to the personal lines account and the commercial lines  
2336 account, respectively, of the corporation.

844961

5/4/2011 4:31 PM

Amendment No.

2337 4. Effective July 1, 2002, a new applicant for property  
2338 insurance coverage who would otherwise have been eligible for  
2339 coverage in the Florida Windstorm Underwriting Association is  
2340 eligible for coverage from the corporation as provided in this  
2341 subsection.

2342 5. The transfer of all policies, obligations, rights,  
2343 assets, and liabilities from the Florida Windstorm Underwriting  
2344 Association to the corporation and the renaming of the  
2345 Residential Property and Casualty Joint Underwriting Association  
2346 as the corporation does not ~~shall in no way~~ affect the coverage  
2347 with respect to covered policies as defined in s. 215.555(2)(c)  
2348 provided to these entities by the Florida Hurricane Catastrophe  
2349 Fund. The coverage provided by the ~~Florida Hurricane Catastrophe~~  
2350 fund to the Florida Windstorm Underwriting Association based on  
2351 its exposures as of June 30, 2002, and each June 30 thereafter  
2352 shall be redesignated as coverage for the coastal high-risk  
2353 account of the corporation. Notwithstanding any other provision  
2354 of law, the coverage provided by the ~~Florida Hurricane~~  
2355 ~~Catastrophe~~ fund to the Residential Property and Casualty Joint  
2356 Underwriting Association based on its exposures as of June 30,  
2357 2002, and each June 30 thereafter shall be transferred to the  
2358 personal lines account and the commercial lines account of the  
2359 corporation. Notwithstanding any other provision of law, the  
2360 coastal high-risk account shall be treated, for all Florida  
2361 Hurricane Catastrophe Fund purposes, as if it were a separate  
2362 participating insurer with its own exposures, reimbursement  
2363 premium, and loss reimbursement. Likewise, the personal lines  
2364 and commercial lines accounts shall be viewed together, for all

844961

5/4/2011 4:31 PM

Amendment No.

2365 ~~Florida Hurricane Catastrophe~~ fund purposes, as if the two  
2366 accounts were one and represent a single, separate participating  
2367 insurer with its own exposures, reimbursement premium, and loss  
2368 reimbursement. The coverage provided by the ~~Florida Hurricane~~  
2369 ~~Catastrophe~~ fund to the corporation shall constitute and operate  
2370 as a full transfer of coverage from the Florida Windstorm  
2371 Underwriting Association and Residential Property and Casualty  
2372 Joint Underwriting to the corporation.

2373 (y) It is the intent of the Legislature that the  
2374 amendments to this subsection enacted in 2002 should, over time,  
2375 reduce the probable maximum windstorm losses in the residual  
2376 markets and ~~should reduce~~ the potential assessments to be levied  
2377 on property insurers and policyholders statewide. ~~In furtherance~~  
2378 ~~of this intent:~~

2379 ~~1. the board shall, on or before February 1 of each year,~~  
2380 ~~provide a report to the President of the Senate and the Speaker~~  
2381 ~~of the House of Representatives showing the reduction or~~  
2382 ~~increase in the 100-year probable maximum loss attributable to~~  
2383 ~~wind-only coverages and the quota share program under this~~  
2384 ~~subsection combined, as compared to the benchmark 100-year~~  
2385 ~~probable maximum loss of the Florida Windstorm Underwriting~~  
2386 ~~Association. For purposes of this paragraph, the benchmark 100-~~  
2387 ~~year probable maximum loss of the Florida Windstorm Underwriting~~  
2388 ~~Association shall be the calculation dated February 2001 and~~  
2389 ~~based on November 30, 2000, exposures. In order to ensure~~  
2390 ~~comparability of data, the board shall use the same methods for~~  
2391 ~~calculating its probable maximum loss as were used to calculate~~  
2392 ~~the benchmark probable maximum loss.~~

844961

5/4/2011 4:31 PM

Amendment No.

2393       ~~2. Beginning December 1, 2010, if the report under~~  
2394 ~~subparagraph 1. for any year indicates that the 100-year~~  
2395 ~~probable maximum loss attributable to wind-only coverages and~~  
2396 ~~the quota share program combined does not reflect a reduction of~~  
2397 ~~at least 25 percent from the benchmark, the board shall reduce~~  
2398 ~~the boundaries of the high-risk area eligible for wind-only~~  
2399 ~~coverages under this subsection in a manner calculated to reduce~~  
2400 ~~such probable maximum loss to an amount at least 25 percent~~  
2401 ~~below the benchmark.~~

2402       ~~3. Beginning February 1, 2015, if the report under~~  
2403 ~~subparagraph 1. for any year indicates that the 100-year~~  
2404 ~~probable maximum loss attributable to wind-only coverages and~~  
2405 ~~the quota share program combined does not reflect a reduction of~~  
2406 ~~at least 50 percent from the benchmark, the boundaries of the~~  
2407 ~~high-risk area eligible for wind-only coverages under this~~  
2408 ~~subsection shall be reduced by the elimination of any area that~~  
2409 ~~is not seaward of a line 1,000 feet inland from the Intracoastal~~  
2410 ~~Waterway.~~

2411       Section 16. Paragraph (a) of subsection (5) of section  
2412 627.3511, Florida Statutes, is amended to read:

2413       627.3511 Depopulation of Citizens Property Insurance  
2414 Corporation.—

2415       (5) APPLICABILITY.—

2416       (a) The take-out bonus provided by subsection (2) and the  
2417 exemption from assessment provided by paragraph (3)(a) apply  
2418 only if the corporation policy is replaced by ~~either~~ a standard  
2419 policy including wind coverage or, if consistent with the  
2420 insurer's underwriting rules ~~as~~ filed with the office, a basic

844961

5/4/2011 4:31 PM



Amendment No.

2421 policy including wind coverage; however, for ~~with respect to~~  
2422 risks located in areas where coverage through the coastal high-  
2423 ~~risk~~ account of the corporation is available, the replacement  
2424 policy need not provide wind coverage. The insurer must renew  
2425 the replacement policy at approved rates on substantially  
2426 similar terms for four additional 1-year terms, unless canceled  
2427 or not renewed by the policyholder. If an insurer assumes the  
2428 corporation's obligations for a policy, it must issue a  
2429 replacement policy for a 1-year term upon expiration of the  
2430 corporation policy and must renew the replacement policy at  
2431 approved rates on substantially similar terms for four  
2432 additional 1-year terms, unless canceled or not renewed by the  
2433 policyholder. For each replacement policy canceled or nonrenewed  
2434 by the insurer for any reason during the 5-year coverage period  
2435 ~~required by this paragraph~~, the insurer must remove from the  
2436 corporation one additional policy covering a risk similar to the  
2437 risk covered by the canceled or nonrenewed policy. In addition  
2438 ~~to these requirements~~, the corporation must place the bonus  
2439 moneys in escrow for ~~a period of~~ 5 years; such moneys may be  
2440 released from escrow only to pay claims. If the policy is  
2441 canceled or nonrenewed before the end of the 5-year period, the  
2442 amount of the take-out bonus must be prorated for the time  
2443 period the policy was insured. A take-out bonus provided by  
2444 subsection (2) or subsection (6) is ~~shall~~ not be considered  
2445 premium income for purposes of taxes and assessments under the  
2446 Florida Insurance Code and ~~shall~~ remain the property of the  
2447 corporation, subject to the prior security interest of the  
2448 insurer under the escrow agreement until it is released from

844961

5/4/2011 4:31 PM

Amendment No.

2449 escrow; ~~and~~ after it is released from escrow it is ~~shall be~~  
2450 considered an asset of the insurer and credited to the insurer's  
2451 capital and surplus.

2452 Section 17. Paragraph (b) of subsection (2) of section  
2453 627.4133, Florida Statutes, is amended to read:

2454 627.4133 Notice of cancellation, nonrenewal, or renewal  
2455 premium.—

2456 (2) With respect to any personal lines or commercial  
2457 residential property insurance policy, including, but not  
2458 limited to, any homeowner's, mobile home owner's, farmowner's,  
2459 condominium association, condominium unit owner's, apartment  
2460 building, or other policy covering a residential structure or  
2461 its contents:

2462 (b) The insurer shall give the named insured written  
2463 notice of nonrenewal, cancellation, or termination at least 100  
2464 days before ~~prior to~~ the effective date of the nonrenewal,  
2465 cancellation, or termination. However, the insurer shall give at  
2466 least 100 days' written notice, or written notice by June 1,  
2467 whichever is earlier, for any nonrenewal, cancellation, or  
2468 termination that would be effective between June 1 and November  
2469 30. The notice must include the reason or reasons for the  
2470 nonrenewal, cancellation, or termination, except that:

2471 1. The insurer shall give the named insured written notice  
2472 of nonrenewal, cancellation, or termination at least 120 ~~180~~  
2473 days prior to the effective date of the nonrenewal,  
2474 cancellation, or termination for a named insured whose  
2475 residential structure has been insured by that insurer or an

844961

5/4/2011 4:31 PM

Amendment No.

2476 affiliated insurer for at least a 5-year period immediately  
2477 prior to the date of the written notice.

2478 2. ~~If~~ ~~When~~ cancellation is for nonpayment of premium, at  
2479 least 10 days' written notice of cancellation accompanied by the  
2480 reason therefor must ~~shall~~ be given. As used in this  
2481 subparagraph, the term "nonpayment of premium" means failure of  
2482 the named insured to discharge when due ~~any~~ of her or his  
2483 obligations in connection with the payment of premiums on a  
2484 policy or any installment of such premium, whether the premium  
2485 is payable directly to the insurer or its agent or indirectly  
2486 under any premium finance plan or extension of credit, or  
2487 failure to maintain membership in an organization if such  
2488 membership is a condition precedent to insurance coverage. The  
2489 term ~~"Nonpayment of premium"~~ also means the failure of a  
2490 financial institution to honor an insurance applicant's check  
2491 after delivery to a licensed agent for payment of a premium,  
2492 even if the agent has previously delivered or transferred the  
2493 premium to the insurer. If a dishonored check represents the  
2494 initial premium payment, the contract and all contractual  
2495 obligations are ~~shall be~~ void ab initio unless the nonpayment is  
2496 cured within the earlier of 5 days after actual notice by  
2497 certified mail is received by the applicant or 15 days after  
2498 notice is sent to the applicant by certified mail or registered  
2499 mail, and if the contract is void, any premium received by the  
2500 insurer from a third party must ~~shall~~ be refunded to that party  
2501 in full.

2502 3. ~~If~~ ~~When~~ such cancellation or termination occurs during  
2503 the first 90 days ~~during which~~ the insurance is in force and the  
844961

5/4/2011 4:31 PM

Amendment No.

2504 insurance is canceled or terminated for reasons other than  
2505 nonpayment of premium, at least 20 days' written notice of  
2506 cancellation or termination accompanied by the reason therefor  
2507 ~~must shall~~ be given unless ~~except where~~ there has been a  
2508 material misstatement or misrepresentation or failure to comply  
2509 with the underwriting requirements established by the insurer.

2510 4. The requirement for providing written notice ~~of~~  
2511 ~~nonrenewal~~ by June 1 of any nonrenewal that would be effective  
2512 between June 1 and November 30 does not apply to the following  
2513 situations, but the insurer remains subject to the requirement  
2514 to provide such notice at least 100 days before ~~prior to~~ the  
2515 effective date of nonrenewal:

2516 a. A policy that is nonrenewed due to a revision in the  
2517 coverage for sinkhole losses and catastrophic ground cover  
2518 collapse pursuant to s. 627.706, ~~as amended by s. 30, chapter~~  
2519 ~~2007-1, Laws of Florida.~~

2520 b. A policy that is nonrenewed by Citizens Property  
2521 Insurance Corporation, pursuant to s. 627.351(6), for a policy  
2522 that has been assumed by an authorized insurer offering  
2523 replacement ~~or renewal~~ coverage to the policyholder is exempt  
2524 from the notice requirements of paragraph (a) and this  
2525 paragraph. In such cases, the corporation must give the named  
2526 insured written notice of nonrenewal at least 45 days before the  
2527 effective date of the nonrenewal.

2528  
2529 After the policy has been in effect for 90 days, the policy may  
2530 ~~shall~~ not be canceled by the insurer unless ~~except when~~ there  
2531 has been a material misstatement, a nonpayment of premium, a

844961

5/4/2011 4:31 PM

Amendment No.

2532 failure to comply with underwriting requirements established by  
2533 the insurer within 90 days after ~~of~~ the date of effectuation of  
2534 coverage, or a substantial change in the risk covered by the  
2535 policy or if ~~when~~ the cancellation is for all insureds under  
2536 such policies for a given class of insureds. This paragraph does  
2537 not apply to individually rated risks having a policy term of  
2538 less than 90 days.

2539 5. Notwithstanding any other provision of law, an insurer  
2540 may cancel or nonrenew a property insurance policy after at  
2541 least 45 days' notice if the office finds that the early  
2542 cancellation of some or all of the insurer's policies is  
2543 necessary to protect the best interests of the public or  
2544 policyholders and the office approves the insurer's plan for  
2545 early cancellation or nonrenewal of some or all of its policies.  
2546 The office may base such finding upon the financial condition of  
2547 the insurer, lack of adequate reinsurance coverage for hurricane  
2548 risk, or other relevant factors. The office may condition its  
2549 finding on the consent of the insurer to be placed under  
2550 administrative supervision pursuant to s. 624.81 or to the  
2551 appointment of a receiver under chapter 631.

2552 6. A policy covering both a home and motor vehicle may be  
2553 nonrenewed for any reason applicable to either the property or  
2554 motor vehicle insurance after providing 90 days' notice.

2555 Section 18. Section 627.43141, Florida Statutes, is  
2556 created to read:

2557 627.43141 Notice of change in policy terms.—

2558 (1) As used in this section, the term:

844961

5/4/2011 4:31 PM

Amendment No.

2559 (a) "Change in policy terms" means the modification,  
2560 addition, or deletion of any term, coverage, duty, or condition  
2561 from the previous policy. The correction of typographical or  
2562 scrivener's errors or the application of mandated legislative  
2563 changes is not a change in policy terms.

2564 (b) "Policy" means a written contract of property and  
2565 casualty insurance or written agreement for such insurance, by  
2566 whatever name called, and includes all clauses, riders,  
2567 endorsements, and papers that are a part of such policy. The  
2568 term does not include a binder as defined in s. 627.420 unless  
2569 the duration of the binder period exceeds 60 days.

2570 (c) "Renewal" means the issuance and delivery by an  
2571 insurer of a policy superseding at the end of the policy period  
2572 a policy previously issued and delivered by the same insurer or  
2573 the issuance and delivery of a certificate or notice extending  
2574 the term of a policy beyond its policy period or term. Any  
2575 policy that has a policy period or term of less than 6 months or  
2576 that does not have a fixed expiration date shall, for purposes  
2577 of this section, be considered as written for successive policy  
2578 periods or terms of 6 months.

2579 (2) A renewal policy may contain a change in policy terms.  
2580 If a renewal policy does contains such change, the insurer must  
2581 give the named insured written notice of the change, which must  
2582 be enclosed along with the written notice of renewal premium  
2583 required by ss. 627.4133 and 627.728. Such notice shall be  
2584 entitled "Notice of Change in Policy Terms."

2585 (3) Although not required, proof of mailing or registered  
2586 mailing through the United States Postal Service of the Notice  
844961

5/4/2011 4:31 PM

Amendment No.

2587 of Change in Policy Terms to the named insured at the address  
2588 shown in the policy is sufficient proof of notice.

2589 (4) Receipt of the premium payment for the renewal policy  
2590 by the insurer is deemed to be acceptance of the new policy  
2591 terms by the named insured.

2592 (5) If an insurer fails to provide the notice required in  
2593 subsection (2), the original policy terms remain in effect until  
2594 the next renewal and the proper service of the notice, or until  
2595 the effective date of replacement coverage obtained by the named  
2596 insured, whichever occurs first.

2597 (6) The intent of this section is to:

2598 (a) Allow an insurer to make a change in policy terms  
2599 without nonrenewing those policyholders that the insurer wishes  
2600 to continue insuring.

2601 (b) Alleviate concern and confusion to the policyholder  
2602 caused by the required policy nonrenewal for the limited issue  
2603 if an insurer intends to renew the insurance policy, but the new  
2604 policy contains a change in policy terms.

2605 (c) Encourage policyholders to discuss their coverages  
2606 with their insurance agents.

2607 Section 19. Section 627.7011, Florida Statutes, is amended  
2608 to read:

2609 627.7011 Homeowners' policies; offer of replacement cost  
2610 coverage and law and ordinance coverage.—

2611 (1) Prior to issuing a homeowner's insurance policy ~~on or~~  
2612 ~~after October 1, 2005, or prior to the first renewal of a~~  
2613 ~~homeowner's insurance policy on or after October 1, 2005,~~ the  
2614 insurer must offer each of the following:

844961

5/4/2011 4:31 PM

Amendment No.

2615 (a) A policy or endorsement providing that any loss that  
2616 ~~which~~ is repaired or replaced will be adjusted on the basis of  
2617 replacement costs to the dwelling not exceeding policy limits ~~as~~  
2618 ~~to the dwelling~~, rather than actual cash value, but not  
2619 including costs necessary to meet applicable laws and ordinances  
2620 regulating the construction, use, or repair of any property or  
2621 requiring the tearing down of any property, including the costs  
2622 of removing debris.

2623 (b) A policy or endorsement providing that, subject to  
2624 other policy provisions, any loss that ~~which~~ is repaired or  
2625 replaced at any location will be adjusted on the basis of  
2626 replacement costs to the dwelling not exceeding policy limits ~~as~~  
2627 ~~to the dwelling~~, rather than actual cash value, and also  
2628 including costs necessary to meet applicable laws and ordinances  
2629 regulating the construction, use, or repair of any property or  
2630 requiring the tearing down of any property, including the costs  
2631 of removing debris. ~~+~~ However, ~~such~~ additional costs necessary to  
2632 meet applicable laws and ordinances may be limited to ~~either~~ 25  
2633 percent or 50 percent of the dwelling limit, as selected by the  
2634 policyholder, and such coverage applies ~~shall apply~~ only to  
2635 repairs of the damaged portion of the structure unless the total  
2636 damage to the structure exceeds 50 percent of the replacement  
2637 cost of the structure.

2638  
2639 An insurer is not required to make the offers required by this  
2640 subsection with respect to the issuance or renewal of a  
2641 homeowner's policy that contains the provisions specified in  
2642 paragraph (b) for law and ordinance coverage limited to 25

844961

5/4/2011 4:31 PM



Amendment No.

2643 percent of the dwelling limit, except that the insurer must  
2644 offer the law and ordinance coverage limited to 50 percent of  
2645 the dwelling limit. This subsection does not prohibit the offer  
2646 of a guaranteed replacement cost policy.

2647 (2) Unless the insurer obtains the policyholder's written  
2648 refusal of the policies or endorsements specified in subsection  
2649 (1), any policy covering the dwelling is deemed to include the  
2650 law and ordinance coverage limited to 25 percent of the dwelling  
2651 limit. The rejection or selection of alternative coverage shall  
2652 be made on a form approved by the office. The form must ~~shall~~  
2653 fully advise the applicant of the nature of the coverage being  
2654 rejected. If this form is signed by a named insured, it is ~~will~~  
2655 ~~be~~ conclusively presumed that there was an informed, knowing  
2656 rejection of the coverage or election of the alternative  
2657 coverage on behalf of all insureds. Unless the policyholder  
2658 requests in writing the coverage specified in this section, it  
2659 need not be provided in or supplemental to any other policy that  
2660 renews, insures, extends, changes, supersedes, or replaces an  
2661 existing policy if ~~when~~ the policyholder has rejected the  
2662 coverage specified in this section or has selected alternative  
2663 coverage. The insurer must provide the ~~such~~ policyholder with  
2664 notice of the availability of such coverage in a form approved  
2665 by the office at least once every 3 years. The failure to  
2666 provide such notice constitutes a violation of this code, but  
2667 does not affect the coverage provided under the policy.

2668 (3) In the event of a loss for which a dwelling or  
2669 personal property is insured on the basis of replacement costs:

844961

5/4/2011 4:31 PM

Amendment No.

2670       (a) For a dwelling, the insurer must initially pay at  
2671 least the actual cash value of the insured loss, less any  
2672 applicable deductible. The insurer shall pay any remaining  
2673 amounts necessary to perform such repairs as work is performed  
2674 and expenses are incurred. If a total loss of a dwelling occurs,  
2675 the insurer shall pay the replacement cost coverage without  
2676 reservation or holdback of any depreciation in value, pursuant  
2677 to s. 627.702.

2678       (b) For personal property:

2679       1. The insurer must offer coverage under which the insurer  
2680 is obligated to pay the replacement cost without reservation or  
2681 holdback for any depreciation in value, whether or not the  
2682 insured replaces the property.

2683       2. The insurer may also offer coverage under which the  
2684 insurer may limit the initial payment to the actual cash value  
2685 of the personal property to be replaced, require the insured to  
2686 provide receipts for the purchase of the property financed by  
2687 the initial payment, use such receipts to make the next payment  
2688 requested by the insured for the replacement of insured  
2689 property, and continue this process until the insured remits all  
2690 receipts up to the policy limits for replacement costs. The  
2691 insurer must provide clear notice of this process before the  
2692 policy is bound. A policyholder must be provided an actuarially  
2693 reasonable premium credit or discount for this coverage. The  
2694 insurer may not require the policyholder to advance payment for  
2695 the replaced property, the insurer shall pay the replacement  
2696 cost without reservation or holdback of any depreciation in

844961

5/4/2011 4:31 PM

Amendment No.

2697 ~~value, whether or not the insured replaces or repairs the~~  
2698 ~~dwelling or property.~~

2699 (4) ~~A~~ Any homeowner's insurance policy ~~issued or renewed~~  
2700 ~~on or after October 1, 2005,~~ must include in bold type no  
2701 smaller than 18 points the following statement:

2702 "LAW AND ORDINANCE COVERAGE IS AN IMPORTANT COVERAGE  
2703 THAT YOU MAY WISH TO PURCHASE. YOU MAY ALSO NEED TO  
2704 CONSIDER THE PURCHASE OF FLOOD INSURANCE FROM THE  
2705 NATIONAL FLOOD INSURANCE PROGRAM. WITHOUT THIS  
2706 COVERAGE, YOU MAY HAVE UNCOVERED LOSSES. PLEASE  
2707 DISCUSS THESE COVERAGES WITH YOUR INSURANCE AGENT."  
2708

2709 The intent of this subsection is to encourage policyholders to  
2710 purchase sufficient coverage to protect them in case events  
2711 excluded from the standard homeowners policy, such as law and  
2712 ordinance enforcement and flood, combine with covered events to  
2713 produce damage or loss to the insured property. The intent is  
2714 also to encourage policyholders to discuss these issues with  
2715 their insurance agent.

2716 (5) ~~Nothing in~~ This section does not: ~~shall be construed~~  
2717 ~~to~~

2718 (a) Apply to policies not considered to be "homeowners'  
2719 policies," as that term is commonly understood in the insurance  
2720 industry. ~~This section specifically does not~~

2721 (b) Apply to mobile home policies. ~~Nothing in this section~~

2722 (c) Limit ~~shall be construed as limiting~~ the ability of an  
2723 ~~any~~ insurer to reject or nonrenew any insured or applicant on  
2724 the grounds that the structure does not meet underwriting

844961

5/4/2011 4:31 PM

Amendment No.

2725 criteria applicable to replacement cost or law and ordinance  
2726 policies or for other lawful reasons.

2727 ~~(d)-(6) This section does not~~ Prohibit an insurer from  
2728 limiting its liability under a policy or endorsement providing  
2729 that loss will be adjusted on the basis of replacement costs to  
2730 the lesser of:

2731 ~~1.(a)~~ The limit of liability shown on the policy  
2732 declarations page;

2733 ~~2.(b)~~ The reasonable and necessary cost to repair the  
2734 damaged, destroyed, or stolen covered property; or

2735 ~~3.(c)~~ The reasonable and necessary cost to replace the  
2736 damaged, destroyed, or stolen covered property.

2737 ~~(e)-(7) This section does not~~ Prohibit an insurer from  
2738 exercising its right to repair damaged property in compliance  
2739 with its policy and s. 627.702(7).

2740 Section 20. Paragraph (a) of subsection (5) of section  
2741 627.70131, Florida Statutes, is amended to read:

2742 627.70131 Insurer's duty to acknowledge communications  
2743 regarding claims; investigation.-

2744 (5) (a) Within 90 days after an insurer receives notice of  
2745 an initial, reopened, or supplemental a property insurance claim  
2746 from a policyholder, the insurer shall pay or deny such claim or  
2747 a portion of the claim unless the failure to pay ~~such claim or a~~  
2748 ~~portion of the claim~~ is caused by factors beyond the control of  
2749 the insurer which reasonably prevent such payment. Any payment  
2750 of an initial or supplemental a claim or portion of such a claim  
2751 ~~made paid~~ 90 days after the insurer receives notice of the  
2752 claim, or made paid more than 15 days after there are no longer

844961

5/4/2011 4:31 PM

Amendment No.

2753 factors beyond the control of the insurer which reasonably  
2754 prevented such payment, whichever is later, bears ~~shall bear~~  
2755 interest at the rate set forth in s. 55.03. Interest begins to  
2756 accrue from the date the insurer receives notice of the claim.  
2757 The provisions of this subsection may not be waived, voided, or  
2758 nullified by the terms of the insurance policy. If there is a  
2759 right to prejudgment interest, the insured shall select whether  
2760 to receive prejudgment interest or interest under this  
2761 subsection. Interest is payable when the claim or portion of the  
2762 claim is paid. Failure to comply with this subsection  
2763 constitutes a violation of this code. However, failure to comply  
2764 with this subsection does ~~shall~~ not form the sole basis for a  
2765 private cause of action.

2766 Section 21. The Legislature finds and declares:

2767 (1) There is a compelling state interest in maintaining a  
2768 viable and orderly private-sector market for property insurance  
2769 in this state. The lack of a viable and orderly property market  
2770 reduces the availability of property insurance coverage to state  
2771 residents, increases the cost of property insurance, and  
2772 increases the state's reliance on a residual property insurance  
2773 market and its potential for imposing assessments on  
2774 policyholders throughout the state.

2775 (2) In 2005, the Legislature revised ss. 627.706-627.7074,  
2776 Florida Statutes, to adopt certain geological or technical  
2777 terms; to increase reliance on objective, scientific testing  
2778 requirements; and generally to reduce the number of sinkhole  
2779 claims and related disputes arising under prior law. The  
2780 Legislature determined that since the enactment of these

844961

5/4/2011 4:31 PM

Amendment No.

2781 statutory revisions, both private-sector insurers and Citizens  
2782 Property Insurance Corporation have, nevertheless, continued to  
2783 experience high claims frequency and severity for sinkhole  
2784 insurance claims. In addition, many properties remain unrepaired  
2785 even after loss payments, which reduces the local property tax  
2786 base and adversely affects the real estate market. Therefore,  
2787 the Legislature finds that losses associated with sinkhole  
2788 claims adversely affect the public health, safety, and welfare  
2789 of this state and its citizens.

2790 (3) Pursuant to sections 23 through 28 of this act,  
2791 technical or scientific definitions adopted in the 2005  
2792 legislation are clarified to implement and advance the  
2793 Legislature's intended reduction of sinkhole claims and  
2794 disputes. Certain other revisions to ss. 627.706-627.7074,  
2795 Florida Statutes, are enacted to advance legislative intent to  
2796 rely on scientific or technical determinations relating to  
2797 sinkholes and sinkhole claims, reduce the number and cost of  
2798 disputes relating to sinkhole claims, and ensure that repairs  
2799 are made commensurate with the scientific and technical  
2800 determinations and insurance claims payments.

2801 Section 22. Section 627.706, Florida Statutes, is  
2802 reordered and amended to read:

2803 627.706 Sinkhole insurance; catastrophic ground cover  
2804 collapse; definitions.—

2805 (1)(a) Every insurer authorized to transact property  
2806 insurance in this state must ~~shall~~ provide coverage for a  
2807 catastrophic ground cover collapse.

844961

5/4/2011 4:31 PM

Amendment No.

2808        **(b) The insurer** ~~and~~ shall make available, for an  
2809 appropriate additional premium, coverage for sinkhole losses on  
2810 any structure, including the contents of personal property  
2811 contained therein, to the extent provided in the form to which  
2812 the coverage attaches. The insurer may require an inspection of  
2813 the property before issuance of sinkhole loss coverage. A policy  
2814 for residential property insurance may include a deductible  
2815 amount applicable to sinkhole losses equal to 1 percent, 2  
2816 percent, 5 percent, or 10 percent of the policy dwelling limits,  
2817 with appropriate premium discounts offered with each deductible  
2818 amount.

2819        **(c) The insurer may restrict catastrophic ground cover**  
2820 **collapse and sinkhole loss coverage to the principal building,**  
2821 **as defined in the applicable policy.**

2822        (2) As used in ss. 627.706-627.7074, and as used in  
2823 connection with any policy providing coverage for a catastrophic  
2824 ground cover collapse or for sinkhole losses, the term:

2825        (a) "Catastrophic ground cover collapse" means geological  
2826 activity that results in all the following:

- 2827           1. The abrupt collapse of the ground cover;
- 2828           2. A depression in the ground cover clearly visible to the  
2829 naked eye;
- 2830           3. Structural damage to the covered building, including  
2831 the foundation; and
- 2832           4. The insured structure being condemned and ordered to be  
2833 vacated by the governmental agency authorized by law to issue  
2834 such an order for that structure.

2835  
844961

5/4/2011 4:31 PM

Amendment No.

2836 Contents coverage applies if there is a loss resulting from a  
2837 catastrophic ground cover collapse. ~~Structural~~ Damage consisting  
2838 merely of the settling or cracking of a foundation, structure,  
2839 or building does not constitute a loss resulting from a  
2840 catastrophic ground cover collapse.

2841 (b) "Neutral evaluation" means the alternative dispute  
2842 resolution provided in s. 627.7074.

2843 (c) "Neutral evaluator" means a professional engineer or a  
2844 professional geologist who has completed a course of study in  
2845 alternative dispute resolution designed or approved by the  
2846 department for use in the neutral evaluation process and who is  
2847 determined by the department to be fair and impartial.

2848 (h) ~~(b)~~ "Sinkhole" means a landform created by subsidence  
2849 of soil, sediment, or rock as underlying strata are dissolved by  
2850 groundwater. A sinkhole forms ~~may form~~ by collapse into  
2851 subterranean voids created by dissolution of limestone or  
2852 dolostone or by subsidence as these strata are dissolved.

2853 (j) ~~(e)~~ "Sinkhole loss" means structural damage to the  
2854 covered building, including the foundation, caused by sinkhole  
2855 activity. Contents coverage and additional living expenses ~~shall~~  
2856 apply only if there is structural damage to the covered building  
2857 caused by sinkhole activity.

2858 (i) ~~(d)~~ "Sinkhole activity" means settlement or systematic  
2859 weakening of the earth supporting the covered building ~~such~~  
2860 property only if the ~~when such~~ settlement or systematic  
2861 weakening results from contemporaneous movement or raveling of  
2862 soils, sediments, or rock materials into subterranean voids

844961

5/4/2011 4:31 PM



Amendment No.

2863 created by the effect of water on a limestone or similar rock  
2864 formation.

2865 ~~(f)-(e)~~ "Professional engineer" means a person, as defined  
2866 in s. 471.005, who has a bachelor's degree or higher in  
2867 engineering ~~with a specialty in the geotechnical engineering~~  
2868 ~~field~~. A professional engineer must also have ~~geotechnical~~  
2869 experience and expertise in the identification of sinkhole  
2870 activity as well as other potential causes of structural damage  
2871 ~~to the structure~~.

2872 ~~(g)-(f)~~ "Professional geologist" means a person, as defined  
2873 ~~in~~ by s. 492.102, who has a bachelor's degree or higher in  
2874 geology or related earth science and ~~with expertise in the~~  
2875 ~~geology of Florida~~. A professional geologist must have  
2876 ~~geological~~ experience and expertise in the identification of  
2877 sinkhole activity as well as other potential geologic causes of  
2878 structural damage ~~to the structure~~.

2879 (k) "Structural damage" means a covered building,  
2880 regardless of the date of its construction, has experienced the  
2881 following:

2882 1. Interior floor displacement or deflection in excess of  
2883 acceptable variances as defined in ACI 117-90 or the Florida  
2884 Building Code, which results in settlement related damage to the  
2885 interior such that the interior building structure or members  
2886 become unfit for service or represents a safety hazard as  
2887 defined within the Florida Building Code;

2888 2. Foundation displacement or deflection in excess of  
2889 acceptable variances as defined in ACI 318-95 or the Florida  
2890 Building Code, which results in settlement related damage to the

844961

5/4/2011 4:31 PM

Amendment No.

2891 primary structural members or primary structural systems that  
2892 prevents those members or systems from supporting the loads and  
2893 forces they were designed to support to the extent that stresses  
2894 in those primary structural members or primary structural  
2895 systems exceeds one and one-third the nominal strength allowed  
2896 under the Florida Building Code for new buildings of similar  
2897 structure, purpose, or location;

2898 3. Damage that results in listing, leaning, or buckling of  
2899 the exterior load bearing walls or other vertical primary  
2900 structural members to such an extent that a plumb line passing  
2901 through the center of gravity does not fall inside the middle  
2902 one-third of the base as defined within the Florida Building  
2903 Code;

2904 4. Damage that results in the building, or any portion of  
2905 the building containing primary structural members or primary  
2906 structural systems, being significantly likely to imminently  
2907 collapse because of the movement or instability of the ground  
2908 within the influence zone of the supporting ground within the  
2909 sheer plane necessary for the purpose of supporting such  
2910 building as defined within the Florida Building Code; or

2911 5. Damage occurring on or after October 15, 2005, that  
2912 qualifies as "substantial structural damage" as defined in the  
2913 Florida Building Code.

2914 (d) "Primary structural member" means a structural element  
2915 designed to provide support and stability for the vertical or  
2916 lateral loads of the overall structure.

2917 (e) "Primary structural system" means an assemblage of  
2918 primary structural members.

844961

5/4/2011 4:31 PM

Amendment No.

2919 ~~(3) On or before June 1, 2007, Every insurer authorized to~~  
2920 ~~transact property insurance in this state shall make a proper~~  
2921 ~~filing with the office for the purpose of extending the~~  
2922 ~~appropriate forms of property insurance to include coverage for~~  
2923 ~~eatastrophic ground cover collapse or for sinkhole losses.~~  
2924 ~~coverage for catastrophic ground cover collapse may not go into~~  
2925 ~~effect until the effective date provided for in the filing~~  
2926 ~~approved by the office.~~

2927 ~~(3)(4)~~ Insurers offering policies that exclude coverage  
2928 for sinkhole losses must ~~shall~~ inform policyholders in bold type  
2929 of not less than 14 points as follows: "YOUR POLICY PROVIDES  
2930 COVERAGE FOR A CATASTROPHIC GROUND COVER COLLAPSE THAT RESULTS  
2931 IN THE PROPERTY BEING CONDEMNED AND UNINHABITABLE. OTHERWISE,  
2932 YOUR POLICY DOES NOT PROVIDE COVERAGE FOR SINKHOLE LOSSES. YOU  
2933 MAY PURCHASE ADDITIONAL COVERAGE FOR SINKHOLE LOSSES FOR AN  
2934 ADDITIONAL PREMIUM."

2935 ~~(4)(5)~~ An insurer offering sinkhole coverage to  
2936 policyholders before or after the adoption of s. 30, chapter  
2937 2007-1, Laws of Florida, may nonrenew the policies of  
2938 policyholders maintaining sinkhole coverage ~~in Pasco County or~~  
2939 ~~Hernando County,~~ at the option of the insurer, and provide an  
2940 offer of coverage that ~~to such policyholders which~~ includes  
2941 catastrophic ground cover collapse and excludes sinkhole  
2942 coverage. Insurers acting in accordance with this subsection are  
2943 subject to the following requirements:

2944 (a) Policyholders must be notified that a nonrenewal is  
2945 for purposes of removing sinkhole coverage, and that the

844961

5/4/2011 4:31 PM

Amendment No.

2946 policyholder is ~~still~~ being offered a policy that provides  
2947 coverage for catastrophic ground cover collapse.

2948 (b) Policyholders must be provided an actuarially  
2949 reasonable premium credit or discount for the removal of  
2950 sinkhole coverage and provision of only catastrophic ground  
2951 cover collapse.

2952 (c) Subject to the provisions of this subsection and the  
2953 insurer's approved underwriting or insurability guidelines, the  
2954 insurer shall provide each policyholder with the opportunity to  
2955 purchase an endorsement to his or her policy providing sinkhole  
2956 coverage and may require an inspection of the property before  
2957 issuance of a sinkhole coverage endorsement.

2958 (d) Section 624.4305 does not apply to nonrenewal notices  
2959 issued pursuant to this subsection.

2960 (5) Any claim, including, but not limited to, initial,  
2961 supplemental, and reopened claims under an insurance policy that  
2962 provides sinkhole coverage is barred unless notice of the claim  
2963 was given to the insurer in accordance with the terms of the  
2964 policy within 2 years after the policyholder knew or reasonably  
2965 should have known about the sinkhole loss.

2966 Section 23. Section 627.7061, Florida Statutes, is amended  
2967 to read:

2968 627.7061 Coverage inquiries.—Inquiries about coverage on a  
2969 property insurance contract are not claim activity, unless an  
2970 actual claim is filed by the policyholder which ~~insured that~~  
2971 results in a company investigation of the claim.

2972 Section 24. Section 627.7065, Florida Statutes, is  
2973 repealed.

844961

5/4/2011 4:31 PM

Amendment No.

2974 Section 25. Section 627.707, Florida Statutes, is amended  
2975 to read:

2976 627.707 ~~Standards for~~ Investigation of sinkhole claims ~~by~~  
2977 ~~insurers; insurer payment; nonrenewals.~~—Upon receipt of a claim  
2978 for a sinkhole loss to a covered building, an insurer must meet  
2979 the following standards in investigating a claim:

2980 (1) The insurer must inspect ~~make an inspection of the~~  
2981 ~~policyholder's insured's~~ premises to determine if there is  
2982 structural ~~has been physical~~ damage that ~~to the structure which~~  
2983 may be the result of sinkhole activity.

2984 (2) If the insurer confirms that structural damage exists  
2985 but is unable to identify a valid cause of such damage or  
2986 discovers that such damage is consistent with sinkhole loss  
2987 ~~Following the insurer's initial inspection~~, the insurer shall  
2988 engage a professional engineer or a professional geologist to  
2989 conduct testing as provided in s. 627.7072 to determine the  
2990 cause of the loss within a reasonable professional probability  
2991 and issue a report as provided in s. 627.7073, only if sinkhole  
2992 loss is covered under the policy. Except as provided in  
2993 subsections (4) and (6), the fees and costs of the professional  
2994 engineer or professional geologist shall be paid by the  
2995 insurer.÷

2996 ~~(a) The insurer is unable to identify a valid cause of the~~  
2997 ~~damage or discovers damage to the structure which is consistent~~  
2998 ~~with sinkhole loss; or~~

2999 ~~(b) The policyholder demands testing in accordance with~~  
3000 ~~this section or s. 627.7072.~~

844961

5/4/2011 4:31 PM

Amendment No.

3001 (3) Following the initial inspection of the policyholder's  
3002 ~~insured~~ premises, the insurer shall provide written notice to  
3003 the policyholder disclosing the following information:

3004 (a) What the insurer has determined to be the cause of  
3005 damage, if the insurer has made such a determination.

3006 (b) A statement of the circumstances under which the  
3007 insurer is required to engage a professional engineer or a  
3008 professional geologist to verify or eliminate sinkhole loss and  
3009 to engage a professional engineer to make recommendations  
3010 regarding land and building stabilization and foundation repair.

3011 (c) A statement regarding the right of the policyholder to  
3012 request testing by a professional engineer or a professional  
3013 geologist, ~~and~~ the circumstances under which the policyholder  
3014 may demand certain testing, and the circumstances under which  
3015 the policyholder may incur costs associated with testing.

3016 (4) (a) If the insurer determines that there is no sinkhole  
3017 loss, the insurer may deny the claim.

3018 (b) If coverage for sinkhole loss is available and ~~If~~ the  
3019 insurer denies the claim, ~~without performing testing under s.~~  
3020 627.7072, the policyholder may demand testing by the insurer  
3021 under s. 627.7072.

3022 1. The policyholder's demand for testing must be  
3023 communicated to the insurer in writing within 60 days after the  
3024 policyholder's receipt of the insurer's denial of the claim.

3025 2. The policyholder shall pay 50 percent of the actual  
3026 costs of the analyses and services provided under ss. 627.7072  
3027 and 627.7073 or \$2,500, whichever is less.

844961

5/4/2011 4:31 PM

Amendment No.

3028       3. The insurer shall reimburse the policyholder for the  
3029 costs if the insurer's engineer or geologist provides written  
3030 certification pursuant to s. 627.7073 that there is sinkhole  
3031 loss.

3032       (5)(a) ~~Subject to paragraph (b),~~ If a sinkhole loss is  
3033 verified, the insurer shall pay to stabilize the land and  
3034 building and repair the foundation in accordance with the  
3035 recommendations of the professional engineer retained pursuant  
3036 to subsection (2), as provided under s. 627.7073, and in  
3037 ~~consultation~~ with notice to the policyholder, subject to the  
3038 coverage and terms of the policy. The insurer shall pay for  
3039 other repairs to the structure and contents in accordance with  
3040 the terms of the policy. If a covered building suffers a  
3041 sinkhole loss or a catastrophic ground cover collapse, the  
3042 insured must repair such damage or loss in accordance with the  
3043 insurer's professional engineer's recommended repairs. However,  
3044 if the insurer's professional engineer determines that the  
3045 repair cannot be completed within policy limits, the insurer  
3046 must pay to complete the repairs recommended by the insurer's  
3047 professional engineer or tender the policy limits to the  
3048 policyholder.

3049       (a)(b) The insurer may limit its total claims payment to  
3050 the actual cash value of the sinkhole loss, which does not  
3051 include including underpinning or grouting or any other repair  
3052 technique performed below the existing foundation of the  
3053 building, until the policyholder enters into a contract for the  
3054 performance of building stabilization or foundation repairs in

844961

5/4/2011 4:31 PM

Amendment No.

3055 accordance with the recommendations set forth in the insurer's  
3056 report issued pursuant to s. 627.7073.

3057 (b) In order to prevent additional damage to the building  
3058 or structure, the policyholder must enter into a contract for  
3059 the performance of building stabilization and foundation repairs  
3060 within 90 days after the insurance company confirms coverage for  
3061 the sinkhole loss and notifies the policyholder of such  
3062 confirmation. This time period is tolled if either party invokes  
3063 the neutral evaluation process, and begins again 10 days after  
3064 the conclusion of the neutral evaluation process.

3065 (c) After the policyholder enters into the contract for  
3066 the performance of building stabilization and foundation  
3067 repairs, the insurer shall pay the amounts necessary to begin  
3068 and perform such repairs as the work is performed and the  
3069 expenses are incurred. The insurer may not require the  
3070 policyholder to advance payment for such repairs. If repair  
3071 covered by a personal lines residential property insurance  
3072 policy has begun and the professional engineer selected or  
3073 approved by the insurer determines that the repair cannot be  
3074 completed within the policy limits, the insurer must ~~either~~  
3075 complete the professional engineer's recommended repair or  
3076 tender the policy limits to the policyholder without a reduction  
3077 for the repair expenses incurred.

3078 (d) The stabilization and all other repairs to the  
3079 structure and contents must be completed within 12 months after  
3080 entering into the contract for repairs described in paragraph  
3081 (b) unless:

844961

5/4/2011 4:31 PM



Amendment No.

3082 1. There is a mutual agreement between the insurer and the  
3083 policyholder;

3084 2. The claim is involved with the neutral evaluation  
3085 process;

3086 3. The claim is in litigation; or

3087 4. The claim is under appraisal or mediation.

3088 ~~(e)~~ Upon the insurer's obtaining the written approval  
3089 of ~~the policyholder and~~ any lienholder, the insurer may make  
3090 payment directly to the persons selected by the policyholder to  
3091 perform the land and building stabilization and foundation  
3092 repairs. The decision by the insurer to make payment to such  
3093 persons does not hold the insurer liable for the work performed.  
3094 The policyholder may not accept a rebate from any person  
3095 performing the repairs specified in this section. If a  
3096 policyholder does receive a rebate, coverage is void and the  
3097 policyholder must refund the amount of the rebate to the  
3098 insurer. Any person making the repairs specified in this section  
3099 who offers a rebate commits insurance fraud punishable as a  
3100 third degree felony as provided in s. 775.082, s. 775.083, or s.  
3101 775.084.

3102 ~~(6) Except as provided in subsection (7), the fees and~~  
3103 ~~costs of the professional engineer or the professional geologist~~  
3104 ~~shall be paid by the insurer.~~

3105 ~~(6)~~ (7) If the insurer obtains, pursuant to s. 627.7073,  
3106 written certification that there is no sinkhole loss or that the  
3107 cause of the damage was not sinkhole activity, and if the  
3108 policyholder has submitted the sinkhole claim without good faith  
3109 grounds for submitting such claim, the policyholder shall

844961

5/4/2011 4:31 PM

Amendment No.

3110 reimburse the insurer for 50 percent of the actual costs of the  
3111 analyses and services provided under ss. 627.7072 and 627.7073;  
3112 however, a policyholder is not required to reimburse an insurer  
3113 more than \$2,500 with respect to any claim. A policyholder is  
3114 required to pay reimbursement under this subsection only if the  
3115 policyholder requested the analysis and services provided under  
3116 ss. 627.7072 and 627.7073 and the insurer, before ~~prior to~~  
3117 ordering the analysis under s. 627.7072, informs the  
3118 policyholder in writing of the policyholder's potential  
3119 liability for reimbursement and gives the policyholder the  
3120 opportunity to withdraw the claim.

3121 ~~(7)(8)~~ An ~~no~~ insurer may not shall nonrenew any policy of  
3122 property insurance on the basis of filing of claims for sinkhole  
3123 partial loss if caused by sinkhole damage or clay shrinkage as  
3124 ~~long as~~ the total of such payments does not equal or exceed the  
3125 ~~current~~ policy limits of coverage for the policy in effect on  
3126 the date of loss, for property damage to the covered building,  
3127 as set forth on the declarations page, or if ~~and provided~~ the  
3128 policyholder insured has repaired the structure in accordance  
3129 with the engineering recommendations made pursuant to subsection  
3130 (2) upon which any payment or policy proceeds were based. If the  
3131 insurer pays such limits, it may nonrenew the policy.

3132 ~~(8)(9)~~ The insurer may engage a professional structural  
3133 engineer to make recommendations as to the repair of the  
3134 structure.

3135 Section 26. Section 627.7073, Florida Statutes, is amended  
3136 to read:

3137 627.7073 Sinkhole reports.—

844961

5/4/2011 4:31 PM

Amendment No.

3138 (1) Upon completion of testing as provided in s. 627.7072,  
3139 the professional engineer or professional geologist shall issue  
3140 a report and certification to the insurer and the policyholder  
3141 as provided in this section.

3142 (a) Sinkhole loss is verified if, based upon tests  
3143 performed in accordance with s. 627.7072, a professional  
3144 engineer or a professional geologist issues a written report and  
3145 certification stating:

3146 1. That structural damage to the covered building has been  
3147 identified within a reasonable professional probability.

3148 ~~2.1.~~ That the cause of the ~~actual physical and~~ structural  
3149 damage is sinkhole activity within a reasonable professional  
3150 probability.

3151 ~~3.2.~~ That the analyses conducted were of sufficient scope  
3152 to identify sinkhole activity as the cause of damage within a  
3153 reasonable professional probability.

3154 ~~4.3.~~ A description of the tests performed.

3155 ~~5.4.~~ A recommendation by the professional engineer of  
3156 methods for stabilizing the land and building and for making  
3157 repairs to the foundation.

3158 (b) If there is no structural damage or if sinkhole  
3159 activity is eliminated as the cause of such damage to the  
3160 covered building structure, the professional engineer or  
3161 professional geologist shall issue a written report and  
3162 certification to the policyholder and the insurer stating:

3163 1. That there is no structural damage or the cause of such  
3164 ~~the~~ damage is not sinkhole activity within a reasonable  
3165 professional probability.

844961

5/4/2011 4:31 PM

Amendment No.

3166 2. That the analyses and tests conducted were of  
3167 sufficient scope to eliminate sinkhole activity as the cause of  
3168 the structural damage within a reasonable professional  
3169 probability.

3170 3. A statement of the cause of the structural damage  
3171 within a reasonable professional probability.

3172 4. A description of the tests performed.

3173 (c) The respective findings, opinions, and recommendations  
3174 of the insurer's professional engineer or professional geologist  
3175 as to the cause of distress to the property and the findings,  
3176 opinions, and recommendations of the insurer's professional  
3177 engineer as to land and building stabilization and foundation  
3178 repair set forth by s. 627.7072 shall be presumed correct.

3179 (2)(a) ~~An~~ Any insurer that has paid a claim for a sinkhole  
3180 loss shall file a copy of the report and certification, prepared  
3181 pursuant to subsection (1), including the legal description of  
3182 the real property and the name of the property owner, the  
3183 neutral evaluator's report, if any, which indicates that  
3184 sinkhole activity caused the damage claimed, a copy of the  
3185 certification indicating that stabilization has been completed,  
3186 if applicable, and the amount of the payment, with the county  
3187 clerk of court, who shall record the report and certification.  
3188 The insurer shall bear the cost of filing and recording one or  
3189 more reports and certifications ~~the report and certification~~.  
3190 There shall be no cause of action or liability against an  
3191 insurer for compliance with this section.

3192 (a) The recording of the report and certification does  
3193 not:

844961

5/4/2011 4:31 PM

Amendment No.

3194 1. Constitute a lien, encumbrance, or restriction on the  
3195 title to the real property or constitute a defect in the title  
3196 to the real property;

3197 2. Create any cause of action or liability against any  
3198 grantor of the real property for breach of any warranty of good  
3199 title or warranty against encumbrances; or

3200 3. Create any cause of action or liability against any  
3201 title insurer that insures the title to the real property.

3202 (b) As a precondition to accepting payment for a sinkhole  
3203 loss, the policyholder must file a copy of any sinkhole report  
3204 regarding the insured property which was prepared on behalf or  
3205 at the request of the policyholder. The policyholder shall bear  
3206 the cost of filing and recording the sinkhole report. The  
3207 recording of the report does not:

3208 1. Constitute a lien, encumbrance, or restriction on the  
3209 title to the real property or constitute a defect in the title  
3210 to the real property;

3211 2. Create any cause of action or liability against any  
3212 grantor of the real property for breach of any warranty of good  
3213 title or warranty against encumbrances; or

3214 3. Create any cause of action or liability against a title  
3215 insurer that insures the title to the real property.

3216 (c) ~~(b)~~ The seller of real property upon which a sinkhole  
3217 claim has been made by the seller and paid by the insurer must  
3218 ~~shall~~ disclose to the buyer of such property, before the  
3219 closing, that a claim has been paid and whether or not the full  
3220 amount of the proceeds were used to repair the sinkhole damage.

844961

5/4/2011 4:31 PM

Amendment No.

3221 (3) Upon completion of any building stabilization or  
3222 foundation repairs for a verified sinkhole loss, the  
3223 professional engineer responsible for monitoring the repairs  
3224 shall issue a report to the property owner which specifies what  
3225 repairs have been performed and certifies within a reasonable  
3226 degree of professional probability that such repairs have been  
3227 properly performed. The professional engineer issuing the report  
3228 shall file a copy of the report and certification, which  
3229 includes a legal description of the real property and the name  
3230 of the property owner, with the county clerk of the court, who  
3231 shall record the report and certification. This subsection does  
3232 not create liability for an insurer based on any representation  
3233 or certification by a professional engineer related to the  
3234 stabilization or foundation repairs for the verified sinkhole  
3235 loss.

3236 Section 27. Section 627.7074, Florida Statutes, is amended  
3237 to read:

3238 627.7074 Alternative procedure for resolution of disputed  
3239 sinkhole insurance claims.—

3240 ~~(1) As used in this section, the term:~~

3241 ~~(a) "Neutral evaluation" means the alternative dispute~~  
3242 ~~resolution provided for in this section.~~

3243 ~~(b) "Neutral evaluator" means a professional engineer or a~~  
3244 ~~professional geologist who has completed a course of study in~~  
3245 ~~alternative dispute resolution designed or approved by the~~  
3246 ~~department for use in the neutral evaluation process, who is~~  
3247 ~~determined to be fair and impartial.~~

3248 (1)(2)(a) The department shall:

844961

5/4/2011 4:31 PM

Amendment No.

3249        (a) Certify and maintain a list of persons who are neutral  
3250 evaluators.

3251        (b) ~~The department shall~~ Prepare a consumer information  
3252 pamphlet for distribution by insurers to policyholders which  
3253 clearly describes the neutral evaluation process and includes  
3254 information ~~and forms~~ necessary for the policyholder to request  
3255 a neutral evaluation.

3256        (2) Neutral evaluation is available to either party if a  
3257 sinkhole report has been issued pursuant to s. 627.7073. At a  
3258 minimum, neutral evaluation must determine:

3259        (a) Causation;

3260        (b) All methods of stabilization and repair both above and  
3261 below ground;

3262        (c) The costs for stabilization and all repairs; and

3263        (d) Information necessary to carry out subsection (12).

3264        (3) Following the receipt of the report provided under s.  
3265 627.7073 or the denial of a claim for a sinkhole loss, the  
3266 insurer shall notify the policyholder of his or her right to  
3267 participate in the neutral evaluation program under this  
3268 section. Neutral evaluation supersedes the alternative dispute  
3269 resolution process under s. 627.7015, but does not invalidate  
3270 the appraisal clause of the insurance policy. The insurer shall  
3271 provide to the policyholder the consumer information pamphlet  
3272 prepared by the department pursuant to subsection (1)  
3273 electronically or by United States mail ~~paragraph (2) (b)~~.

3274        (4) Neutral evaluation is nonbinding, but mandatory if  
3275 requested by either party. A request for neutral evaluation may  
3276 be filed with the department by the policyholder or the insurer

844961

5/4/2011 4:31 PM

Amendment No.

3277 on a form approved by the department. The request for neutral  
3278 evaluation must state the reason for the request and must  
3279 include an explanation of all the issues in dispute at the time  
3280 of the request. Filing a request for neutral evaluation tolls  
3281 the applicable time requirements for filing suit for ~~a period of~~  
3282 60 days following the conclusion of the neutral evaluation  
3283 process or the time prescribed in s. 95.11, whichever is later.

3284 (5) Neutral evaluation shall be conducted as an informal  
3285 process in which formal rules of evidence and procedure need not  
3286 be observed. A party to neutral evaluation is not required to  
3287 attend neutral evaluation if a representative of the party  
3288 attends and has the authority to make a binding decision on  
3289 behalf of the party. All parties shall participate in the  
3290 evaluation in good faith. The neutral evaluator must be allowed  
3291 reasonable access to the interior and exterior of insured  
3292 structures to be evaluated or for which a claim has been made.  
3293 Any reports initiated by the policyholder, or an agent of the  
3294 policyholder, confirming a sinkhole loss or disputing another  
3295 sinkhole report regarding insured structures must be provided to  
3296 the neutral evaluator before the evaluator's physical inspection  
3297 of the insured property.

3298 (6) The insurer shall pay reasonable ~~the~~ costs associated  
3299 with the neutral evaluation. However, if a party chooses to hire  
3300 a court reporter or stenographer to contemporaneously record and  
3301 document the neutral evaluation, that party must bear such  
3302 costs.

3303 (7) Upon receipt of a request for neutral evaluation, the  
3304 department shall provide the parties a list of certified neutral  
844961

5/4/2011 4:31 PM



Amendment No.

3305 ~~evaluators. The parties shall mutually select a neutral~~  
3306 ~~evaluator from the list and promptly inform the department. If~~  
3307 ~~the parties cannot agree to a neutral evaluator within 10~~  
3308 ~~business days,~~ The department shall allow the parties to submit  
3309 requests to disqualify evaluators on the list for cause.

3310 (a) The department shall disqualify neutral evaluators for  
3311 cause based only on any of the following grounds:

3312 1. A familial relationship exists between the neutral  
3313 evaluator and either party or a representative of either party  
3314 within the third degree.

3315 2. The proposed neutral evaluator has, in a professional  
3316 capacity, previously represented either party or a  
3317 representative of either party, in the same or a substantially  
3318 related matter.

3319 3. The proposed neutral evaluator has, in a professional  
3320 capacity, represented another person in the same or a  
3321 substantially related matter and that person's interests are  
3322 materially adverse to the interests of the parties. The term  
3323 "substantially related matter" means participation by the  
3324 neutral evaluator on the same claim, property, or adjacent  
3325 property.

3326 4. The proposed neutral evaluator has, within the  
3327 preceding 5 years, worked as an employer or employee of any  
3328 party to the case.

3329 (b) The parties shall appoint a neutral evaluator from the  
3330 department list and promptly inform the department. If the  
3331 parties cannot agree to a neutral evaluator within 14 business  
3332 days, the department shall appoint a neutral evaluator from the

844961

5/4/2011 4:31 PM

Amendment No.

3333 list of certified neutral evaluators. The department shall allow  
3334 each party to disqualify two neutral evaluators without cause.

3335 Upon selection or appointment, the department shall promptly  
3336 refer the request to the neutral evaluator.

3337 (c) Within 14 5 business days after the referral, the  
3338 neutral evaluator shall notify the policyholder and the insurer  
3339 of the date, time, and place of the neutral evaluation  
3340 conference. The conference may be held by telephone, if feasible  
3341 and desirable. The neutral evaluator shall make reasonable  
3342 efforts to hold the neutral evaluation conference shall be held  
3343 within 90 45 days after the receipt of the request by the  
3344 department. Failure of the neutral evaluator to hold the  
3345 conference within 90 days does not invalidate either party's  
3346 right to neutral evaluation or to a neutral evaluation  
3347 conference held outside this timeframe.

3348 ~~(8) The department shall adopt rules of procedure for the~~  
3349 ~~neutral evaluation process.~~

3350 ~~(8)-(9)~~ For policyholders not represented by an attorney, a  
3351 consumer affairs specialist of the department or an employee  
3352 designated as the primary contact for consumers on issues  
3353 relating to sinkholes under s. 20.121 shall be available for  
3354 consultation to the extent that he or she may lawfully do so.

3355 ~~(9)-(10)~~ Evidence of an offer to settle a claim during the  
3356 neutral evaluation process, as well as any relevant conduct or  
3357 statements made in negotiations concerning the offer to settle a  
3358 claim, is inadmissible to prove liability or absence of  
3359 liability for the claim or its value, except as provided in  
3360 subsection (14) (13).

844961

5/4/2011 4:31 PM

Amendment No.

3361 (10) ~~(11)~~ Regardless of when noticed, any court proceeding  
3362 related to the subject matter of the neutral evaluation shall be  
3363 stayed pending completion of the neutral evaluation and for 5  
3364 days after the filing of the neutral evaluator's report with the  
3365 court.

3366 (11) If, based upon his or her professional training and  
3367 credentials, a neutral evaluator is qualified to determine only  
3368 disputes relating to causation or method of repair, the  
3369 department shall allow the neutral evaluator to enlist the  
3370 assistance of another professional from the neutral evaluators  
3371 list not previously stricken, who, based upon his or her  
3372 professional training and credentials, is able to provide an  
3373 opinion as to other disputed issues. A professional who would be  
3374 disqualified for any reason listed in subsection (7) must be  
3375 disqualified. The neutral evaluator may also use the services of  
3376 professional engineers and professional geologists who are not  
3377 certified as neutral evaluators, as well as licensed building  
3378 contractors, in order to ensure that all items in dispute are  
3379 addressed and the neutral evaluation can be completed. Any  
3380 professional engineer, professional geologist, or licensed  
3381 building contractor retained may be disqualified for any of the  
3382 reasons listed in subsection (7). The neutral evaluator may  
3383 request the entity that performed the investigation pursuant to  
3384 s. 627.7072 perform such additional and reasonable testing as  
3385 deemed necessary in the professional opinion of the neutral  
3386 evaluator.

3387 (12) ~~At~~ For matters that are not resolved by the parties  
3388 at the conclusion of the neutral evaluation, the neutral

844961

5/4/2011 4:31 PM

Amendment No.

3389 evaluator shall prepare a report describing all matters that are  
3390 the subject of the neutral evaluation, including whether,  
3391 ~~stating that~~ in his or her opinion, the sinkhole loss has been  
3392 verified or eliminated within a reasonable degree of  
3393 professional probability and, if verified, whether the sinkhole  
3394 activity caused structural damage to the covered building, and  
3395 if so, the need for and estimated costs of stabilizing the land  
3396 and any covered ~~structures or~~ buildings and other appropriate  
3397 remediation or necessary building structural repairs due to the  
3398 sinkhole loss. The evaluator's report shall be sent to all  
3399 parties ~~in attendance at the neutral evaluation~~ and to the  
3400 department, within 14 days after completing the neutral  
3401 evaluation conference.

3402 (13) The recommendation of the neutral evaluator is not  
3403 binding on any party, and the parties retain access to the  
3404 court. The neutral evaluator's written recommendation, oral  
3405 testimony, and full report shall be admitted ~~is admissible~~ in  
3406 any ~~subsequent~~ action, litigation, or proceeding relating to the  
3407 claim or to the cause of action giving rise to the claim.

3408 (14) If the neutral evaluator ~~first~~ verifies the existence  
3409 of a sinkhole that caused structural damage and, ~~second,~~  
3410 recommends the need for and estimates costs of stabilizing the  
3411 land and any covered ~~structures or~~ buildings and other  
3412 appropriate remediation or building structural repairs, which  
3413 ~~costs~~ exceed the amount that the insurer has offered to pay the  
3414 policyholder, the insurer is liable to the policyholder for up  
3415 to \$2,500 in attorney's fees for the attorney's participation in  
3416 the neutral evaluation process. For purposes of this subsection,

844961

5/4/2011 4:31 PM

Amendment No.

3417 the term "offer to pay" means a written offer signed by the  
3418 insurer or its legal representative and delivered to the  
3419 policyholder within 10 days after the insurer receives notice  
3420 that a request for neutral evaluation has been made under this  
3421 section.

3422 (15) If the insurer timely agrees in writing to comply and  
3423 timely complies with the recommendation of the neutral  
3424 evaluator, but the policyholder declines to resolve the matter  
3425 in accordance with the recommendation of the neutral evaluator  
3426 pursuant to this section:

3427 (a) The insurer is not liable for extracontractual damages  
3428 related to a claim for a sinkhole loss but only as related to  
3429 the issues determined by the neutral evaluation process. This  
3430 section does not affect or impair claims for extracontractual  
3431 damages unrelated to the issues determined by the neutral  
3432 evaluation process contained in this section; and

3433 (b) The actions of the insurer are not a confession of  
3434 judgment or admission of liability, and the insurer is not  
3435 liable for attorney's fees under s. 627.428 or other provisions  
3436 of the insurance code unless the policyholder obtains a judgment  
3437 that is more favorable than the recommendation of the neutral  
3438 evaluator.

3439 (16) If the insurer agrees to comply with the neutral  
3440 evaluator's report, payments shall be made in accordance with  
3441 the terms and conditions of the applicable insurance policy  
3442 pursuant to s. 627.707(5).

3443 (17) Neutral evaluators are deemed to be agents of the  
3444 department and have immunity from suit as provided in s. 44.107.

844961

5/4/2011 4:31 PM

Amendment No.

3445       (18) The department shall adopt rules of procedure for the  
3446 neutral evaluation process.

3447       Section 28. Subsection (8) of section 627.711, Florida  
3448 Statutes, is amended to read:

3449       627.711 Notice of premium discounts for hurricane loss  
3450 mitigation; uniform mitigation verification inspection form.—

3451       (8) At its expense, the insurer may require that a any  
3452 uniform mitigation verification form provided by a policyholder,  
3453 a policyholder's agent, or an authorized mitigation inspector or  
3454 inspection company be independently verified by an inspector, an  
3455 inspection company, or an independent third-party quality  
3456 assurance provider which possesses ~~does possess~~ a quality  
3457 assurance program before ~~prior to~~ accepting the uniform  
3458 mitigation verification form as valid.

3459       Section 29. Subsection (1) of section 627.712, Florida  
3460 Statutes, is amended to read:

3461       627.712 Residential windstorm coverage required;  
3462 availability of exclusions for windstorm or contents.—

3463       (1) An insurer issuing a residential property insurance  
3464 policy must provide windstorm coverage. Except as provided in  
3465 paragraph (2)(c), this section does not apply ~~with respect~~ to  
3466 risks that are eligible for wind-only coverage from Citizens  
3467 Property Insurance Corporation under s. 627.351(6), and ~~with~~  
3468 ~~respect to~~ risks that are not eligible for coverage from  
3469 Citizens Property Insurance Corporation under s. 627.351(6)(a)3.  
3470 or 5. A risk ineligible for ~~Citizens~~ coverage by the corporation  
3471 under s. 627.351(6)(a)3. or 5. is exempt from ~~the requirements~~

844961

5/4/2011 4:31 PM

Amendment No.

3472 ~~of~~ this section only if the risk is located within the  
3473 boundaries of the coastal ~~high-risk~~ account of the corporation.

3474 Section 30. Subsection (3) of section 631.54, Florida  
3475 Statutes, is amended to read:

3476 631.54 Definitions.—As used in this part:

3477 (3) "Covered claim" means an unpaid claim, including one  
3478 of unearned premiums, which arises out of, and is within the  
3479 coverage, and not in excess of, the applicable limits of an  
3480 insurance policy to which this part applies, issued by an  
3481 insurer, if such insurer becomes an insolvent insurer and the  
3482 claimant or insured is a resident of this state at the time of  
3483 the insured event or the property from which the claim arises is  
3484 permanently located in this state. For entities other than  
3485 individuals, the residence of a claimant, insured, or  
3486 policyholder is the state in which the entity's principal place  
3487 of business is located at the time of the insured event. The  
3488 term does ~~"Covered claim"~~ shall not include:

3489 (a) Any amount due any reinsurer, insurer, insurance pool,  
3490 or underwriting association, sought directly or indirectly  
3491 through a third party, as subrogation, contribution,  
3492 indemnification, or otherwise; ~~or~~

3493 (b) Any claim that would otherwise be a covered claim  
3494 under this part that has been rejected by any other state  
3495 guaranty fund on the grounds that an insured's net worth is  
3496 greater than that allowed under that state's guaranty law.  
3497 Member insurers shall have no right of subrogation,  
3498 contribution, indemnification, or otherwise, sought directly or

844961

5/4/2011 4:31 PM

Amendment No.

3499 indirectly through a third party, against the insured of any  
3500 insolvent member; or

3501 (c) Any amount payable for a sinkhole loss other than  
3502 testing deemed appropriate by the association or payable for the  
3503 actual repair of the loss, except that the association may not  
3504 pay for attorney's fees or public adjuster's fees in connection  
3505 with a sinkhole loss or pay the policyholder. The association  
3506 may pay for actual repairs to the property, but is not liable  
3507 for amounts in excess of policy limits.

3508 Section 31. If any provision of this act, or the  
3509 application thereof to any person or circumstance is held  
3510 invalid, such invalidity shall not affect other provisions or  
3511 applications of this act which can be given effect without the  
3512 invalid provision or application. It is the express intent of  
3513 the Legislature to enact multiple important, but independent,  
3514 reforms to Florida law relating to sinkhole insurance coverage  
3515 and related claims. The Legislature further intends that the  
3516 multiple reforms in the act could and should be enforced if one  
3517 or more provisions are held invalid. To this end, the provisions  
3518 of this act are declared to be severable.

3519 Section 32. Except as otherwise expressly provided in this  
3520 act, this act shall take effect upon becoming a law.

3521

3522

3523

3524

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

3525

Remove the entire title and insert:

3526

A bill to be entitled

844961

5/4/2011 4:31 PM



## Amendment No.

3527 An act relating to property and casualty insurance;  
3528 amending s. 95.11, F.S.; specifying a statute of  
3529 limitation for a breach of a property insurance contract  
3530 runs from the date of loss; amending s. 215.555, F.S.;  
3531 revising the definition of "losses," relating to the  
3532 Florida Hurricane Catastrophe Fund, to include and exclude  
3533 certain losses; providing applicability; amending s.  
3534 215.5595, F.S.; authorizing an insurer to renegotiate the  
3535 terms a surplus note issued before a certain date;  
3536 providing limitations; amending s. 624.407, F.S.; revising  
3537 the amount of surplus funds required for domestic insurers  
3538 applying for a certificate of authority; amending s.  
3539 624.408, F.S.; revising the minimum surplus that must be  
3540 maintained by certain insurers; authorizing the Office of  
3541 Insurance Regulation to reduce the surplus requirement  
3542 under specified circumstances; amending s. 626.854, F.S.;  
3543 providing limitations on the amount of compensation that  
3544 may be received by a public adjuster for a reopened or  
3545 supplemental claim; providing limitations on the amount of  
3546 compensation that may be received by a public adjuster for  
3547 a claim; applying specified provisions regulating the  
3548 conduct of public adjusters to condominium unit owners  
3549 rather than to condominium associations as is currently  
3550 required; providing statements that may be considered  
3551 deceptive or misleading if made in any public adjuster's  
3552 advertisement or solicitation; providing a definition for  
3553 the term "written advertisement"; requiring that a  
3554 disclaimer be included in any public adjuster's written

844961

5/4/2011 4:31 PM

Amendment No.

3555 advertisement; providing requirements for such disclaimer;  
3556 requiring certain persons who act on behalf of an insurer  
3557 to provide notice to the insurer, claimant, public  
3558 adjuster, or legal representative for an onsite inspection  
3559 of the insured property; authorizing the insured or  
3560 claimant to deny access to the property if notice is not  
3561 provided; requiring the public adjuster to ensure prompt  
3562 notice of certain property loss claims; providing that an  
3563 insurer be allowed to interview the insured directly about  
3564 the loss claim; prohibiting the insurer from obstructing  
3565 or preventing the public adjuster from communicating with  
3566 the insured; requiring that the insurer communicate with  
3567 the public adjuster in an effort to reach an agreement as  
3568 to the scope of the covered loss under the insurance  
3569 policy; prohibiting a public adjuster from restricting or  
3570 preventing persons acting on behalf of the insured from  
3571 having reasonable access to the insured or the insured's  
3572 property; prohibiting a public adjuster from restricting  
3573 or preventing the insured's adjuster from having  
3574 reasonable access to or inspecting the insured's property;  
3575 authorizing the insured's adjuster to be present for the  
3576 inspection; prohibiting a licensed contractor or  
3577 subcontractor from adjusting a claim on behalf of an  
3578 insured if such contractor or subcontractor is not a  
3579 licensed public adjuster; providing an exception; amending  
3580 s. 626.8796, F.S.; providing requirements for a public  
3581 adjuster contract; creating s. 626.70132, F.S.; requiring  
3582 that notice of a claim, supplemental claim, or reopened

844961

5/4/2011 4:31 PM

Amendment No.

3583 claim be given to the insurer within a specified period  
3584 after a windstorm or hurricane occurs; providing a  
3585 definition for the terms "supplemental claim" or "reopened  
3586 claim"; providing applicability; repealing s. 627.0613(4),  
3587 F.S., relating to the requirement that the consumer  
3588 advocate for the Chief Financial Officer prepare an annual  
3589 report card for each personal residential property  
3590 insurer; amending s. 627.062, F.S.; extending the  
3591 expiration date for making a "file and use" filing;  
3592 prohibiting the Office of Insurance Regulation from,  
3593 directly or indirectly, impeding the right of an insurer  
3594 to acquire policyholders, advertise or appoint agents, or  
3595 regulate agent commissions; revising the information that  
3596 must be included in a rate filing relating to certain  
3597 reinsurance or financing products; deleting a provision  
3598 that prohibited an insurer from making certain rate  
3599 filings within a certain period of time after a rate  
3600 increase; deleting a provision prohibiting an insurer from  
3601 filing for a rate increase within 6 months after it makes  
3602 certain rate filings; deleting obsolete provisions  
3603 relating to legislation enacted during the 2003 Special  
3604 Session D of the Legislature; providing for the submission  
3605 of additional or supplementary information pursuant to a  
3606 rate filing; revising provisions relating to the  
3607 certifications that are required to be made under oath by  
3608 certain officers or actuaries of an insurer regarding  
3609 information that must accompany a rate filing; amending s.  
3610 627.06281, F.S.; providing limitations on fees charged for

844961

5/4/2011 4:31 PM

Amendment No.

3611 use of the public hurricane model; amending s. 627.0629,  
3612 F.S.; deleting obsolete provisions; deleting a requirement  
3613 that the Office of Insurance Regulation propose a method  
3614 for establishing discounts, debits, credits, and other  
3615 rate differentials for hurricane mitigation by a certain  
3616 date; conforming provisions to changes made by the act;  
3617 amending s. 627.351, F.S.; limiting an adjuster's fee for  
3618 a claim against the corporation; renaming the "high-risk  
3619 account" as the "coastal account"; revising the conditions  
3620 under which the Citizens policyholder surcharge may be  
3621 imposed; providing that members of the Citizens Property  
3622 Insurance Corporation Board of Governors are not  
3623 prohibited from practicing in a certain profession if not  
3624 prohibited by law or ordinance; requiring the corporation  
3625 to commission a consultant to prepare a report on  
3626 outsourcing various functions and to submit such report to  
3627 the Financial Services Commission by a certain date;  
3628 limiting coverage for damage from sinkholes after a  
3629 certain date; requiring the policyholders to sign a  
3630 statement acknowledging that they may be assessed  
3631 surcharges to cover corporate deficits; prohibiting board  
3632 members from voting on certain measures; exempting  
3633 sinkhole coverage from the corporation's annual rate  
3634 increase requirements; deleting a requirement that the  
3635 board provide an annual report to the Legislature relating  
3636 to certain coverages; deleting a requirement that the  
3637 board reduce the boundaries of certain high-risk areas  
3638 eligible for wind-only coverages under certain

844961

5/4/2011 4:31 PM

Amendment No.

3639 | circumstances; amending s. 627.3511, F.S.; conforming  
3640 | provisions to changes made by the act; amending s.  
3641 | 627.4133, F.S.; revising the requirements for providing an  
3642 | insured with notice of nonrenewal, cancellation, or  
3643 | termination of personal lines or commercial residential  
3644 | property insurance; authorizing an insurer to cancel  
3645 | policies after 45 days' notice if the Office of Insurance  
3646 | Regulation determines that the cancellation of policies is  
3647 | necessary to protect the interests of the public or  
3648 | policyholders; authorizing the Office of Insurance  
3649 | Regulation to place an insurer under administrative  
3650 | supervision or appoint a receiver upon the consent of the  
3651 | insurer under certain circumstances; providing criteria  
3652 | and notice requirements relating to the nonrenewal of  
3653 | policy covering both a home and motor vehicle; creating s.  
3654 | 627.43141, F.S.; providing definitions; requiring the  
3655 | delivery of a "Notice of Change in Policy Terms" under  
3656 | certain circumstances; specifying requirements for such  
3657 | notice; specifying actions constituting proof of notice;  
3658 | authorizing policy renewals to contain a change in policy  
3659 | terms; providing that receipt of payment by an insurer is  
3660 | deemed acceptance of new policy terms by an insured;  
3661 | providing that the original policy remains in effect until  
3662 | the occurrence of specified events if an insurer fails to  
3663 | provide notice; providing intent; amending s. 627.7011,  
3664 | F.S.; requiring the insurer to pay the actual cash value  
3665 | of an insured loss for a dwelling, less any applicable  
3666 | deductible; requiring the insurer to offer coverage under

844961

5/4/2011 4:31 PM

Amendment No.

3667 which the insurer is obligated to pay replacement costs;  
3668 authorizing the insurer to offer coverage that limits the  
3669 initial payment for personal property to the actual cash  
3670 value of the property to be replaced and to require the  
3671 insured to provide receipts for purchases; requiring the  
3672 insurer to provide notice of this process before the  
3673 policy is bound; requiring certain premium credits or  
3674 discounts for such coverage; prohibiting an insurer from  
3675 requiring the insured to advance payment; amending s.  
3676 627.70131, F.S.; specifying application of certain time  
3677 periods to initial or supplemental property insurance  
3678 claim notices and payments; providing legislative findings  
3679 with respect to 2005 statutory changes relating to  
3680 sinkhole insurance coverage and statutory changes in this  
3681 act; amending s. 627.706, F.S.; authorizing an insurer to  
3682 limit coverage for catastrophic ground cover collapse to  
3683 the principal building; authorizing an insurer to require  
3684 an inspection before issuance of sinkhole loss coverage;  
3685 revising definitions; defining the term "structural  
3686 damage"; placing a 2-year statute of repose on claims for  
3687 sinkhole coverage; amending s. 627.7061, F.S.; conforming  
3688 provisions to changes made by the act; repealing s.  
3689 627.7065, F.S., relating to the establishment of a  
3690 sinkhole database; amending s. 627.707, F.S.; revising  
3691 provisions relating to the investigation of sinkholes by  
3692 insurers; providing a time limitation for demanding  
3693 sinkhole testing by a policyholder and entering into a  
3694 contract for repairs; requiring the insurer to provide

844961

5/4/2011 4:31 PM

## Amendment No.

3695 repairs in accordance with the insurer's engineer's  
3696 recommendations or tender the policy limits to the  
3697 policyholder; requiring all repairs to be completed within  
3698 a certain time; providing exceptions; providing criminal  
3699 penalties for a person performing repairs who offers a  
3700 rebate; amending s. 627.7073, F.S.; revising provisions  
3701 relating to inspection reports; revising the reports that  
3702 an insurer must file with the clerk of the court;  
3703 requiring the policyholder to file certain reports as a  
3704 precondition to accepting payment; requiring the  
3705 professional engineer responsible for monitoring sinkhole  
3706 repairs to issue a report and certification to the  
3707 property owner and file such report with the court;  
3708 providing that the act does not create liability for an  
3709 insurer based on a representation or certification by the  
3710 engineer; amending s. 627.7074, F.S.; revising provisions  
3711 relating to neutral evaluation; requiring evaluation in  
3712 order to make certain determinations; requiring that the  
3713 neutral evaluator be allowed access to structures being  
3714 evaluated; providing grounds for disqualifying an  
3715 evaluator; allowing the Department of Financial Services  
3716 to appoint an evaluator if the parties cannot come to  
3717 agreement; revising the timeframes for scheduling a  
3718 neutral evaluation conference; authorizing an evaluator to  
3719 enlist another evaluator or other professionals; providing  
3720 a time certain for issuing a report; requiring admission  
3721 of certain information relating to the neutral evaluation  
3722 into evidence; revising provisions relating to compliance

844961

5/4/2011 4:31 PM

Amendment No.

3723 with the evaluator's recommendations; providing that the  
3724 evaluator is an agent of the department for the purposes  
3725 of immunity from suit; requiring the department to adopt  
3726 rules; amending s. 627.711, F.S.; revising the requirement  
3727 that the insurer pay for verification of a uniform  
3728 mitigation verification form that the insurer requires;  
3729 amending s. 627.712, F.S.; conforming provisions to  
3730 changes made by the act; amending s. 631.54, F.S.;  
3731 revising the definition of the term "covered claim" for  
3732 purposes of the Florida Insurance Guaranty Association  
3733 Act; providing for applicability; providing severability;  
3734 providing effective dates.