

By the Committee on Banking and Insurance; and Senator Richter

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1                   A bill to be entitled  
2           An act relating to property and casualty insurance;  
3           amending s. 215.555, F.S.; revising the definition of  
4           "losses," relating to the Florida Hurricane  
5           Catastrophe Fund, to exclude certain losses; providing  
6           applicability; amending s. 624.407, F.S.; revising the  
7           amount of surplus funds required for domestic insurers  
8           applying for a certificate of authority after a  
9           certain date; amending s. 624.408, F.S.; revising the  
10          minimum surplus that must be maintained by certain  
11          insurers; authorizing the Office of Insurance  
12          Regulation to reduce the surplus requirement under  
13          specified circumstances; amending s. 624.4095, F.S.;  
14          excluding certain premiums for federal multiple-peril  
15          crop insurance from calculations for an insurer's  
16          gross writing ratio; requiring insurers to disclose  
17          the gross written premiums for federal multiple-peril  
18          crop insurance in a financial statement; amending s.  
19          624.424, F.S.; revising the frequency that an insurer  
20          may use the same accountant or partner to prepare an  
21          annual audited financial report; amending s. 626.854,  
22          F.S.; providing limitations on the amount of  
23          compensation that may be received by a public adjuster  
24          for a reopened or supplemental claim; providing  
25          statements that may be considered deceptive or  
26          misleading if made in any public adjuster's  
27          advertisement or solicitation; providing a definition  
28          for the term "written advertisement"; requiring that a  
29          disclaimer be included in any public adjuster's

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30 written advertisement; providing requirements for such  
31 disclaimer; requiring certain persons who act on  
32 behalf of an insurer to provide notice to the insurer,  
33 claimant, public adjuster, or legal representative for  
34 an onsite inspection of the insured property;  
35 authorizing the insured or claimant to deny access to  
36 the property if notice is not provided; requiring the  
37 public adjuster to ensure prompt notice of certain  
38 property loss claims; providing that an insurer be  
39 allowed to interview the insured directly about the  
40 loss claim; prohibiting the insurer from obstructing  
41 or preventing the public adjuster from communicating  
42 with the insured; requiring that the insurer  
43 communicate with the public adjuster in an effort to  
44 reach an agreement as to the scope of the covered loss  
45 under the insurance policy; prohibiting a public  
46 adjuster from restricting or preventing persons acting  
47 on behalf of the insured from having reasonable access  
48 to the insured or the insured's property; prohibiting  
49 a public adjuster from restricting or preventing the  
50 insured's adjuster from having reasonable access to or  
51 inspecting the insured's property; authorizing the  
52 insured's adjuster to be present for the inspection;  
53 prohibiting a licensed contractor or subcontractor  
54 from adjusting a claim on behalf of an insured if such  
55 contractor or subcontractor is not a licensed public  
56 adjuster; providing an exception; amending s.  
57 626.8651, F.S.; requiring that a public adjuster  
58 apprentice complete a minimum number of hours of

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59 continuing education to qualify for licensure;  
60 amending s. 626.8796, F.S.; providing requirements for  
61 a public adjuster contract; creating s. 626.70132,  
62 F.S.; requiring that notice of a claim, supplemental  
63 claim, or reopened claim be given to the insurer  
64 within a specified period after a windstorm or  
65 hurricane occurs; providing a definition for the terms  
66 "supplemental claim" or "reopened claim"; providing  
67 applicability; repealing s. 624.0613(4), F.S.,  
68 relating to the requirement that the consumer advocate  
69 for the Chief Financial Officer prepare an annual  
70 report card for each personal residential property  
71 insurer; amending s. 627.062, F.S.; requiring that the  
72 office issue an approval rather than a notice of  
73 intent to approve following its approval of a file and  
74 use filing; deleting an obsolete provision;  
75 prohibiting the Office of Insurance Regulation from,  
76 directly or indirectly, impeding the right of an  
77 insurer to acquire policyholders, advertise or appoint  
78 agents, or regulate agent commissions; revising the  
79 information that must be included in a rate filing  
80 relating to certain reinsurance or financing products;  
81 deleting a provision that prohibited an insurer from  
82 making certain rate filings within a certain period of  
83 time after a rate increase; deleting a provision  
84 prohibiting an insurer from filing for a rate increase  
85 within 6 months after it makes certain rate filings;  
86 deleting obsolete provisions relating to legislation  
87 enacted during the 2003 Special Session D of the

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88 Legislature; amending s. 627.0629, F.S.; providing  
89 legislative intent that insurers provide consumers  
90 with accurate pricing signals for alterations in order  
91 to minimize losses, but that mitigation discounts not  
92 result in a loss of income for the insurer; requiring  
93 rate filings for residential property insurance to  
94 include actuarially reasonable debits that provide  
95 proper pricing; providing for an increase in base  
96 rates if mitigation discounts exceed the aggregate  
97 reduction in expected losses; deleting obsolete  
98 provisions; deleting a requirement that the Office of  
99 Insurance Regulation propose a method for establishing  
100 discounts, debits, credits, and other rate  
101 differentials for hurricane mitigation by a certain  
102 date; requiring the Financial Services Commission to  
103 adopt rules relating to such debits by a certain date;  
104 deleting a provision that prohibits an insurer from  
105 including an expense or profit load in the cost of  
106 reinsurance to replace the Temporary Increase in  
107 Coverage Limits; conforming provisions to changes made  
108 by the act; amending s. 627.351, F.S.; renaming the  
109 "high-risk account" as the "coastal account"; revising  
110 the conditions under which the Citizens policyholder  
111 surcharge may be imposed; providing that members of  
112 the Citizens Property Insurance Corporation Board of  
113 Governors are not prohibited from practicing in a  
114 certain profession if not prohibited by law or  
115 ordinance; prohibiting board members from voting on  
116 certain measures; deleting a requirement that the

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117 board reduce the boundaries of certain high-risk areas  
118 eligible for wind-only coverages under certain  
119 circumstances; amending s. 627.3511, F.S.; conforming  
120 provisions to changes made by the act; amending s.  
121 627.4133, F.S.; revising the requirements for  
122 providing an insured with notice of nonrenewal,  
123 cancellation, or termination of personal lines or  
124 commercial residential property insurance; authorizing  
125 an insurer to cancel policies after 45 days' notice if  
126 the Office of Insurance Regulation determines that the  
127 cancellation of policies is necessary to protect the  
128 interests of the public or policyholders; authorizing  
129 the Office of Insurance Regulation to place an insurer  
130 under administrative supervision or appoint a receiver  
131 upon the consent of the insurer under certain  
132 circumstances; creating s. 627.43141, F.S.; providing  
133 definitions; requiring the delivery of a "Notice of  
134 Change in Policy Terms" under certain circumstances;  
135 specifying requirements for such notice; specifying  
136 actions constituting proof of notice; authorizing  
137 policy renewals to contain a change in policy terms;  
138 providing that receipt of payment by an insurer is  
139 deemed acceptance of new policy terms by an insured;  
140 providing that the original policy remains in effect  
141 until the occurrence of specified events if an insurer  
142 fails to provide notice; providing intent; amending s.  
143 627.7011, F.S.; requiring the insurer to pay the  
144 actual cash value of an insured loss for a dwelling,  
145 less any applicable deductible; requiring a

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146 policyholder to enter into a contract for the  
147 performance of building and structural repairs unless  
148 waived by the insurer; restricting insurers and  
149 contractors from requiring advance payments for  
150 repairs and expenses; authorizing an insurer to limit  
151 the initial payment for personal property to the  
152 actual cash value of the property to be replaced and  
153 to require the insured to provide receipts for  
154 purchases; requiring the insurer to provide notice of  
155 this process in the insurance contract; prohibiting an  
156 insurer from requiring the insured to advance payment;  
157 amending s. 627.70131, F.S.; specifying application of  
158 certain time periods to initial or supplemental  
159 property insurance claim notices and payments;  
160 providing legislative findings with respect to 2005  
161 statutory changes relating to sinkhole insurance  
162 coverage and statutory changes in this act; amending  
163 s. 627.706, F.S.; authorizing an insurer to limit  
164 coverage for catastrophic ground cover collapse to the  
165 principal building and to have discretion to provide  
166 additional coverage; allowing the deductible to  
167 include costs relating to an investigation of whether  
168 sinkhole activity is present; revising definitions;  
169 defining the term "structural damage"; providing an  
170 insurer with discretion to provide a policyholder with  
171 an opportunity to purchase an endorsement to sinkhole  
172 coverage; placing a 2-year statute of repose on claims  
173 for sinkhole coverage; amending s. 627.7061, F.S.;

174 conforming provisions to changes made by the act;

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175       repealing s. 627.7065, F.S., relating to the  
176       establishment of a sinkhole database; amending s.  
177       627.707, F.S.; revising provisions relating to the  
178       investigation of sinkholes by insurers; deleting a  
179       requirement that the insurer provide a policyholder  
180       with a statement regarding testing for sinkhole  
181       activity; providing a time limitation for demanding  
182       sinkhole testing by a policyholder and entering into a  
183       contract for repairs; requiring all repairs to be  
184       completed within a certain time; providing exceptions;  
185       providing a criminal penalty on a policyholder for  
186       accepting rebates from persons performing repairs;  
187       amending s. 627.7073, F.S.; revising provisions  
188       relating to inspection reports; providing that the  
189       presumption that the report is correct shifts the  
190       burden of proof; revising the reports that an insurer  
191       must file with the clerk of the court; requiring the  
192       policyholder to file certain reports as a precondition  
193       to accepting payment; amending s. 627.7074, F.S.;  
194       revising provisions relating to neutral evaluation;  
195       requiring evaluation in order to make certain  
196       determinations; requiring that the neutral evaluator  
197       be allowed access to structures being evaluated;  
198       providing grounds for disqualifying an evaluator;  
199       allowing the Department of Financial Services to  
200       appoint an evaluator if the parties cannot come to  
201       agreement; revising the timeframes for scheduling a  
202       neutral evaluation conference; authorizing an  
203       evaluator to enlist another evaluator or other

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204 professionals; providing a time certain for issuing a  
205 report; providing that certain information is  
206 confidential; revising provisions relating to  
207 compliance with the evaluator's recommendations;  
208 providing that the evaluator is an agent of the  
209 department for the purposes of immunity from suit;  
210 requiring the department to adopt rules; amending s.  
211 627.712, F.S.; conforming provisions to changes made  
212 by the act; providing effective dates.

213

214 Be It Enacted by the Legislature of the State of Florida:

215

216 Section 1. Effective June 1, 2011, paragraph (d) of  
217 subsection (2) of section 215.555, Florida Statutes, is amended  
218 to read

219 215.555 Florida Hurricane Catastrophe Fund.—

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

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

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

230 2. Losses under liability coverages;

231 3. Property losses that are proximately caused by any peril  
232 other than a covered event, including, but not limited to, fire,



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233 theft, flood or rising water, or windstorm that does not  
 234 constitute a covered event;

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

238 5. Amounts paid to reimburse a policyholder for condominium  
 239 association or homeowners' association loss assessments or under  
 240 similar coverages for contractual liabilities;

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

243 7. Amounts in excess of the coverage limits under the  
 244 covered policy; or

245 8. Allocated or unallocated loss adjustment expenses.

246 Section 2. The amendment to s. 215.555, Florida Statutes,  
 247 made by this act applies first to the Florida Hurricane  
 248 Catastrophe Fund reimbursement contract that takes effect June  
 249 1, 2011.

250 Section 3. Section 624.407, Florida Statutes, is amended to  
 251 read:

252 624.407 Surplus Capital funds required; new insurers.—

253 (1) To receive authority to transact any one kind or  
 254 combinations of kinds of insurance, as defined in part V of this  
 255 chapter, an insurer applying for its original certificate of  
 256 authority in this state after November 10, 1993, ~~the effective~~  
 257 ~~date of this section~~ shall possess surplus funds as to  
 258 policyholders at least ~~not less than~~ the greater of:

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

261 (b) For life insurers, 4 percent of the insurer's total

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262 liabilities;

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

266 (d) For all insurers other than life insurers and life and  
267 health insurers, 10 percent of the insurer's total liabilities;  
268 or

269 (e) Notwithstanding paragraph (a) or paragraph (d), for a  
270 domestic insurer that transacts residential property insurance  
271 and is:

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

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

278 (3) Notwithstanding subsections (1) and (2), a new insurer  
279 may not be required, but no insurer shall be required under this  
280 subsection to have surplus as to policyholders greater than \$100  
281 million.

282 (4)-(2) The requirements of this section shall be based upon  
283 all the kinds of insurance actually transacted or to be  
284 transacted by the insurer in any and all areas in which it  
285 operates, whether or not only a portion of such kinds of  
286 insurance are ~~to be~~ transacted in this state.

287 (5)-(3) As to surplus funds as to policyholders required for  
288 qualification to transact one or more kinds of insurance,  
289 domestic mutual insurers are governed by chapter 628, and  
290 domestic reciprocal insurers are governed by chapter 629.

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291        (6)~~(4)~~ For the purposes of this section, liabilities do  
292 ~~shall~~ not include liabilities required under s. 625.041(4). For  
293 purposes of computing minimum surplus funds as to policyholders  
294 pursuant to s. 625.305(1), liabilities ~~shall~~ include liabilities  
295 required under s. 625.041(4).

296        (7)~~(5)~~ The provisions of this section, as amended by  
297 chapter 89-360, Laws of Florida ~~this act~~, ~~shall~~ apply only to  
298 insurers applying for a certificate of authority on or after  
299 October 1, 1989 ~~the effective date of this act~~.

300        Section 4. Section 624.408, Florida Statutes, is amended to  
301 read:

302        624.408 Surplus funds ~~as to policyholders~~ required; current  
303 ~~new and existing~~ insurers.—

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

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

311        (b)~~2.~~ For life insurers, 4 percent of the insurer's total  
312 liabilities.~~†~~

313        (c)~~3.~~ For life and health insurers, 4 percent of the  
314 insurer's total liabilities plus 6 percent of the insurer's  
315 liabilities relative to health insurance.~~†~~~~or~~

316        (d)~~4.~~ For all insurers other than mortgage guaranty  
317 insurers, life insurers, and life and health insurers, 10  
318 percent of the insurer's total liabilities.

319        (e)~~5.~~ For property and casualty insurers, \$4 million,

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320 except for property and casualty insurers authorized to  
321 underwrite any line of residential property insurance.

322 (f) ~~(b)~~ For residential ~~any~~ property insurers not ~~and~~  
323 casualty insurer holding a certificate of authority before July  
324 1, 2011 ~~on December 1, 1993,~~ \$15 million. ~~the~~

325 (g) For residential property insurers holding a certificate  
326 of authority before July 1, 2011, and until June 30, 2016, \$5  
327 million; on or after July 1, 2016, and until June 30, 2021, \$10  
328 million; on or after July 1, 2021, \$15 million. The office may  
329 reduce this surplus requirement if the insurer is not writing  
330 new business, has premiums in force of less than \$1 million per  
331 year in residential property insurance, or is a mutual insurance  
332 company. ~~following amounts apply instead of the \$4 million~~  
333 ~~required by subparagraph (a)5.:~~

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

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

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

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

341 (2) For purposes of this section, liabilities ~~do shall~~ not  
342 include liabilities required under s. 625.041(4). For purposes  
343 of computing minimum surplus as to policyholders pursuant to s.  
344 625.305(1), liabilities ~~shall~~ include liabilities required under  
345 s. 625.041(4).

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

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

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

353 624.4095 Premiums written; restrictions.—

354 (7) For the purposes of this section and ss. 624.407 and  
355 624.408, with respect to capital and surplus requirements, gross  
356 written premiums for federal multiple-peril crop insurance which  
357 are ceded to the Federal Crop Insurance Corporation or  
358 authorized reinsurers may not be included in the calculation of  
359 an insurer's gross writing ratio. The liabilities for ceded  
360 reinsurance premiums payable for federal multiple-peril crop  
361 insurance ceded to the Federal Crop Insurance Corporation and  
362 authorized reinsurers shall be netted against the asset for  
363 amounts recoverable from reinsurers. Each insurer that writes  
364 other insurance products together with federal multiple-peril  
365 crop insurance must disclose in the notes to its annual and  
366 quarterly financial statements, or in a supplement to those  
367 statements, the gross written premiums for federal multiple-  
368 peril crop insurance.

369 Section 6. Paragraph (d) of subsection (8) of section  
370 624.424, Florida Statutes, is amended to read:

371 624.424 Annual statement and other information.—

372 (8)

373 (d) An insurer may not use the same accountant or partner  
374 of an accounting firm responsible for preparing the report  
375 required by this subsection for more than 5 ~~7~~ consecutive years.  
376 Following this period, the insurer may not use such accountant  
377 or partner for a period of 5 ~~2~~ years, but may use another

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378 accountant or partner of the same firm. An insurer may request  
379 the office to waive this prohibition based upon an unusual  
380 hardship to the insurer and a determination that the accountant  
381 is exercising independent judgment that is not unduly influenced  
382 by the insurer considering such factors as the number of  
383 partners, expertise of the partners or the number of insurance  
384 clients of the accounting firm; the premium volume of the  
385 insurer; and the number of jurisdictions in which the insurer  
386 transacts business.

387 Section 7. Effective June 1, 2011, subsection (11) of  
388 section 626.854, Florida Statutes, is amended to read:

389 626.854 "Public adjuster" defined; prohibitions.—The  
390 Legislature finds that it is necessary for the protection of the  
391 public to regulate public insurance adjusters and to prevent the  
392 unauthorized practice of law.

393 (11) (a) If a public adjuster enters into a contract with an  
394 insured or claimant to reopen a claim or ~~to~~ file a supplemental  
395 claim that seeks additional payments for a claim that has been  
396 previously paid in part or in full or settled by the insurer,  
397 the public adjuster may not charge, agree to, or accept any  
398 compensation, payment, commission, fee, or other thing of value  
399 based on a previous settlement or previous claim payments by the  
400 insurer for the same cause of loss. The charge, compensation,  
401 payment, commission, fee, or other thing of value must ~~may~~ be  
402 based only on the claim payments or settlement obtained through  
403 the work of the public adjuster after entering into the contract  
404 with the insured or claimant. Compensation for the reopened or  
405 supplemental claim may not exceed 20 percent of the reopened or  
406 supplemental claim payment. The contracts described in this

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407 paragraph are not subject to the limitations in paragraph (b).

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

411 1. Ten percent of the amount of insurance claim payments  
412 made by the insurer for claims based on events that are the  
413 subject of a declaration of a state of emergency by the  
414 Governor. This provision applies to claims made during the  
415 ~~period of 1~~ year after the declaration of emergency. After that  
416 year, the limitations in subparagraph 2. apply.

417 2. Twenty percent of the amount of ~~all other~~ insurance  
418 claim payments made by the insurer for claims that are not based  
419 on events that are the subject of a declaration of a state of  
420 emergency by the Governor.

421  
422 The provisions of subsections (5)-(13) apply only to residential  
423 property insurance policies and condominium association policies  
424 as defined in s. 718.111(11).

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

427 626.854 "Public adjuster" defined; prohibitions.—The  
428 Legislature finds that it is necessary for the protection of the  
429 public to regulate public insurance adjusters and to prevent the  
430 unauthorized practice of law.

431 (1) A "public adjuster" is any person, except a duly  
432 licensed attorney at law as exempted under hereinafter in s.  
433 626.860 ~~provided~~, who, for money, commission, or any other thing  
434 of value, prepares, completes, or files an insurance claim form  
435 for an insured or third-party claimant or who, for money,

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436 commission, or any other thing of value, acts ~~or aids in any~~  
437 ~~manner~~ on behalf of, or aids an insured or third-party claimant  
438 in negotiating for or effecting the settlement of a claim or  
439 claims for loss or damage covered by an insurance contract or  
440 who advertises for employment as an adjuster of such claims. The  
441 term, ~~and~~ also includes any person who, for money, commission,  
442 or any other thing of value, solicits, investigates, or adjusts  
443 such claims on behalf of a ~~any such~~ public adjuster.

444 (2) This definition does not apply to:

445 (a) A licensed health care provider or employee thereof who  
446 prepares or files a health insurance claim form on behalf of a  
447 patient.

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

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

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

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

462 (6) A public adjuster may not directly or indirectly  
463 through any other person or entity initiate contact or engage in  
464 face-to-face or telephonic solicitation or enter into a contract



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465 with any insured or claimant under an insurance policy until at  
466 least 48 hours after the occurrence of an event that may be the  
467 subject of a claim under the insurance policy unless contact is  
468 initiated by the insured or claimant.

469 (7) An insured or claimant may cancel a public adjuster's  
470 contract to adjust a claim without penalty or obligation within  
471 3 business days after the date on which the contract is executed  
472 or within 3 business days after the date on which the insured or  
473 claimant has notified the insurer of the claim, by phone or in  
474 writing, whichever is later. The public adjuster's contract must  
475 ~~shall~~ disclose to the insured or claimant his or her right to  
476 cancel the contract and advise the insured or claimant that  
477 notice of cancellation must be submitted in writing and sent by  
478 certified mail, return receipt requested, or other form of  
479 mailing that ~~which~~ provides proof thereof, to the public  
480 adjuster at the address specified in the contract; provided,  
481 during any state of emergency as declared by the Governor and  
482 ~~for a period of~~ 1 year after the date of loss, the insured or  
483 claimant has ~~shall have~~ 5 business days after the date on which  
484 the contract is executed to cancel a public adjuster's contract.

485 (8) It is an unfair and deceptive insurance trade practice  
486 pursuant to s. 626.9541 for a public adjuster or any other  
487 person to circulate or disseminate any advertisement,  
488 announcement, or statement containing any assertion,  
489 representation, or statement with respect to the business of  
490 insurance which is untrue, deceptive, or misleading.

491 (a) The following statements, made in any public adjuster's  
492 advertisement or solicitation, are considered deceptive or  
493 misleading:

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494 1. A statement or representation that invites an insured  
495 policyholder to submit a claim when the policyholder does not  
496 have covered damage to insured property.

497 2. A statement or representation that invites an insured  
498 policyholder to submit a claim by offering monetary or other  
499 valuable inducement.

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

503 4. A statement or representation, or use of a logo or  
504 shield, that implies or could mistakenly be construed to imply  
505 that the solicitation was issued or distributed by a  
506 governmental agency or is sanctioned or endorsed by a  
507 governmental agency.

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

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

519  
520 (9) A public adjuster, a public adjuster apprentice, or any  
521 person or entity acting on behalf of a public adjuster or public  
522 adjuster apprentice may not give or offer to give a monetary

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523 loan or advance to a client or prospective client.

524 (10) A public adjuster, public adjuster apprentice, or any  
525 individual or entity acting on behalf of a public adjuster or  
526 public adjuster apprentice may not give or offer to give,  
527 directly or indirectly, any article of merchandise having a  
528 value in excess of \$25 to any individual for the purpose of  
529 advertising or as an inducement to entering into a contract with  
530 a public adjuster.

531 (11) (a) If a public adjuster enters into a contract with an  
532 insured or claimant to reopen a claim or file a supplemental  
533 claim that seeks additional payments for a claim that has been  
534 previously paid in part or in full or settled by the insurer,  
535 the public adjuster may not charge, agree to, or accept any  
536 compensation, payment, commission, fee, or other thing of value  
537 based on a previous settlement or previous claim payments by the  
538 insurer for the same cause of loss. The charge, compensation,  
539 payment, commission, fee, or other thing of value must be based  
540 only on the claim payments or settlement obtained through the  
541 work of the public adjuster after entering into the contract  
542 with the insured or claimant. Compensation for the reopened or  
543 supplemental claim may not exceed 20 percent of the reopened or  
544 supplemental claim payment. The contracts described in this  
545 paragraph are not subject to the limitations in paragraph (b).

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

549 1. Ten percent of the amount of insurance claim payments  
550 made by the insurer for claims based on events that are the  
551 subject of a declaration of a state of emergency by the

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552 Governor. This provision applies to claims made during the year  
553 after the declaration of emergency. After that year, the  
554 limitations in subparagraph 2. apply.

555 2. Twenty percent of the amount of insurance claim payments  
556 made by the insurer for claims that are not based on events that  
557 are the subject of a declaration of a state of emergency by the  
558 Governor.

559 (12) Each public adjuster must ~~shall~~ provide to the  
560 claimant or insured a written estimate of the loss to assist in  
561 the submission of a proof of loss or any other claim for payment  
562 of insurance proceeds. The public adjuster shall retain such  
563 written estimate for at least 5 years and shall make the ~~such~~  
564 estimate available to the claimant or insured and the department  
565 upon request.

566 (13) A public adjuster, public adjuster apprentice, or any  
567 person acting on behalf of a public adjuster or apprentice may  
568 not accept referrals of business from any person with whom the  
569 public adjuster conducts business if there is any form or manner  
570 of agreement to compensate the person, ~~whether~~ directly or  
571 indirectly, for referring business to the public adjuster. A  
572 public adjuster may not compensate any person, except for  
573 another public adjuster, ~~whether~~ directly or indirectly, for the  
574 principal purpose of referring business to the public adjuster.

575 (14) A company employee adjuster, independent adjuster,  
576 attorney, investigator, or other persons acting on behalf of an  
577 insurer that needs access to an insured or claimant or to the  
578 insured property that is the subject of a claim must provide at  
579 least 48 hours' notice to the insured or claimant, public  
580 adjuster, or legal representative before scheduling a meeting

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581 with the claimant or an onsite inspection of the insured  
582 property. The insured or claimant may deny access to the  
583 property if the notice has not been provided. The insured or  
584 claimant may waive the 48-hour notice.

585 (15) A public adjuster must ensure prompt notice of  
586 property loss claims submitted to an insurer by or through a  
587 public adjuster or on which a public adjuster represents the  
588 insured at the time the claim or notice of loss is submitted to  
589 the insurer. The public adjuster must ensure that notice is  
590 given to the insurer, the public adjuster's contract is provided  
591 to the insurer, the property is available for inspection of the  
592 loss or damage by the insurer, and the insurer is given an  
593 opportunity to interview the insured directly about the loss and  
594 claim. The insurer must be allowed to obtain necessary  
595 information to investigate and respond to the claim.

596 (a) The insurer may not exclude the public adjuster from  
597 its in-person meetings with the insured. The insurer shall meet  
598 or communicate with the public adjuster in an effort to reach  
599 agreement as to the scope of the covered loss under the  
600 insurance policy. This section does not impair the terms and  
601 conditions of the insurance policy in effect at the time the  
602 claim is filed.

603 (b) A public adjuster may not restrict or prevent an  
604 insurer, company employee adjuster, independent adjuster,  
605 attorney, investigator, or other person acting on behalf of the  
606 insurer from having reasonable access at reasonable times to an  
607 insured or claimant or to the insured property that is the  
608 subject of a claim.

609 (c) A public adjuster may not act or fail to reasonably act

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610 in any manner that obstructs or prevents an insurer or insurer's  
611 adjuster from timely conducting an inspection of any part of the  
612 insured property for which there is a claim for loss or damage.  
613 The public adjuster representing the insured may be present for  
614 the insurer's inspection, but if the unavailability of the  
615 public adjuster otherwise delays the insurer's timely inspection  
616 of the property, the public adjuster or the insured must allow  
617 the insurer to have access to the property without the  
618 participation or presence of the public adjuster or insured in  
619 order to facilitate the insurer's prompt inspection of the loss  
620 or damage.

621 (16) A licensed contractor under part I of chapter 489, or  
622 a subcontractor, may not adjust a claim on behalf of an insured  
623 unless licensed and compliant as a public adjuster under this  
624 chapter. However, the contractor may discuss or explain a bid  
625 for construction or repair of covered property with the  
626 residential property owner who has suffered loss or damage  
627 covered by a property insurance policy, or the insurer of such  
628 property, if the contractor is doing so for the usual and  
629 customary fees applicable to the work to be performed as stated  
630 in the contract between the contractor and the insured.

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

634 Section 9. Effective January 1, 2012, subsection (6) of  
635 section 626.8651, Florida Statutes, is amended to read:

636 626.8651 Public adjuster apprentice license;  
637 qualifications.-

638 (6) To qualify for licensure as a public adjuster, a public

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639 adjuster apprentice must ~~shall~~ complete: ~~at~~

640 (a) A minimum of 100 hours of employment per month for 12  
641 months of employment under the supervision of a licensed and  
642 appointed all-lines public adjuster ~~in order to qualify for~~  
643 ~~licensure as a public adjuster.~~ The department may adopt rules  
644 that establish standards for such employment requirements.

645 (b) A minimum of 8 hours of continuing education specific  
646 to the practice of a public adjuster, 2 hours of which must  
647 relate to ethics. The continuing education must be designed to  
648 inform the licensee about the current insurance laws of this  
649 state for the purpose of enabling him or her to engage in  
650 business as an insurance adjuster fairly and without injury to  
651 the public and to adjust all claims in accordance with the  
652 insurance contract and the laws of this state.

653 Section 10. Effective January 1, 2012, section 626.8796,  
654 Florida Statutes, is amended to read:

655 626.8796 Public adjuster contracts; fraud statement.—

656 (1) All contracts for public adjuster services must be in  
657 writing and ~~must~~ prominently display the following statement on  
658 the contract: "Pursuant to s. 817.234, Florida Statutes, any  
659 person who, with the intent to injure, defraud, or deceive an  
660 ~~any~~ insurer or insured, prepares, presents, or causes to be  
661 presented a proof of loss or estimate of cost or repair of  
662 damaged property in support of a claim under an insurance policy  
663 knowing that the proof of loss or estimate of claim or repairs  
664 contains ~~any~~ false, incomplete, or misleading information  
665 concerning any fact or thing material to the claim commits a  
666 felony of the third degree, punishable as provided in s.  
667 775.082, s. 775.083, or s. 775.084, Florida Statutes."

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668       (2) A public adjuster contract must contain the full name,  
669 permanent business address, and license number of the public  
670 adjuster; the full name of the public adjusting firm; and the  
671 insured's full name and street address, together with a brief  
672 description of the loss. The contract must state the percentage  
673 of compensation for the public adjuster's services; the type of  
674 claim, including an emergency claim, nonemergency claim, or  
675 supplemental claim; the signatures of the public adjuster and  
676 all named insureds; and the signature date. If all of the named  
677 insureds signatures are not available, the public adjuster must  
678 submit an affidavit signed by the available named insureds  
679 attesting that they have authority to enter into the contract  
680 and settle all claim issues on behalf of the named insureds. An  
681 unaltered copy of the executed contract must be remitted to the  
682 insurer within 30 days after execution.

683       Section 11. Effective June 1, 2011, section 626.70132,  
684 Florida Statutes, is created to read:

685       626.70132 Notice of windstorm or hurricane claim.—A claim,  
686 supplemental claim, or reopened claim under an insurance policy  
687 that provides personal lines residential coverage, as defined in  
688 s. 627.4025, for loss or damage caused by the peril of windstorm  
689 or hurricane is barred unless notice of the claim, supplemental  
690 claim, or reopened claim was given to the insurer in accordance  
691 with the terms of the policy within 3 years after the hurricane  
692 first made landfall or the windstorm caused the covered damage.  
693 For purposes of this section, the term "supplemental claim" or  
694 "reopened claim" means any additional claim for recovery from  
695 the insurer for losses from the same hurricane or windstorm  
696 which the insurer has previously adjusted pursuant to the



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697 initial claim. This section does not affect any applicable  
698 limitation on civil actions provided in s. 95.11 for claims,  
699 supplemental claims, or reopened claims timely filed under this  
700 section.

701 Section 12. Subsection (4) of section 627.0613, Florida  
702 Statutes, is repealed.

703 Section 13. Section 627.062, Florida Statutes, is amended  
704 to read:

705 627.062 Rate standards.—

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

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

710 (a) Insurers or rating organizations shall establish and  
711 use rates, rating schedules, or rating manuals that ~~to~~ allow the  
712 insurer a reasonable rate of return on the ~~such~~ classes of  
713 insurance written in this state. A copy of rates, rating  
714 schedules, rating manuals, premium credits or discount  
715 schedules, and surcharge schedules, and changes thereto, must  
716 ~~shall~~ be filed with the office under one of the following  
717 procedures ~~except as provided in subparagraph 3.:~~

718 1. If the filing is made at least 90 days before the  
719 proposed effective date and ~~the filing~~ is not implemented during  
720 the office's review of the filing and any proceeding and  
721 judicial review, ~~then~~ is ~~shall be~~ considered a "file  
722 and use" filing. In such case, the office shall finalize its  
723 review by issuance of an approval ~~a notice of intent to approve~~  
724 or a notice of intent to disapprove within 90 days after receipt  
725 of the filing. The approval ~~notice of intent to approve~~ and the

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

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

743 ~~3. For all property insurance filings made or submitted~~  
744 ~~after January 25, 2007, but before December 31, 2010, an insurer~~  
745 ~~seeking a rate that is greater than the rate most recently~~  
746 ~~approved by the office shall make a "file and use" filing. For~~  
747 ~~purposes of this subparagraph, motor vehicle collision and~~  
748 ~~comprehensive coverages are not considered to be property~~  
749 ~~coverages.~~

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

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755 1. Past and prospective loss experience within and without  
756 this state.

757 2. Past and prospective expenses.

758 3. The degree of competition among insurers for the risk  
759 insured.

760 4. Investment income reasonably expected by the insurer,  
761 consistent with the insurer's investment practices, from  
762 investable premiums anticipated in the filing, plus any other  
763 expected income from currently invested assets representing the  
764 amount expected on unearned premium reserves and loss reserves.  
765 The commission may adopt rules using reasonable techniques of  
766 actuarial science and economics to specify the manner in which  
767 insurers ~~shall~~ calculate investment income attributable to ~~such~~  
768 classes of insurance written in this state and the manner in  
769 which ~~such~~ investment income is ~~shall be~~ used to calculate  
770 insurance rates. Such manner must ~~shall~~ contemplate allowances  
771 for an underwriting profit factor and full consideration of  
772 investment income which produce a reasonable rate of return;  
773 however, investment income from invested surplus may not be  
774 considered.

775 5. The reasonableness of the judgment reflected in the  
776 filing.

777 6. Dividends, savings, or unabsorbed premium deposits  
778 allowed or returned to Florida policyholders, members, or  
779 subscribers.

780 7. The adequacy of loss reserves.

781 8. The cost of reinsurance. The office may ~~shall~~ not  
782 disapprove a rate as excessive solely due to the insurer having  
783 obtained catastrophic reinsurance to cover the insurer's

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784 estimated 250-year probable maximum loss or any lower level of  
785 loss.

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

788 10. Conflagration and catastrophe hazards, if applicable.

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

793 12. A reasonable margin for underwriting profit and  
794 contingencies.

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

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

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

803 (d) If conflagration or catastrophe hazards are considered  
804 ~~given consideration~~ by an insurer in its rates or rating plan,  
805 including surcharges and discounts, the insurer shall establish  
806 a reserve for that portion of the premium allocated to such  
807 hazard and ~~shall~~ maintain the premium in a catastrophe reserve.  
808 ~~Any~~ Removal of such premiums from the reserve for purposes other  
809 than paying claims associated with a catastrophe or purchasing  
810 reinsurance for catastrophes must be approved by ~~shall be~~  
811 ~~subject to approval of~~ the office. Any ceding commission  
812 received by an insurer purchasing reinsurance for catastrophes

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813 must ~~shall~~ be placed in the catastrophe reserve.

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

818 1. Rates shall be deemed excessive if they are likely to  
819 produce a profit from Florida business which ~~that~~ is  
820 unreasonably high in relation to the risk involved in the class  
821 of business or if expenses are unreasonably high in relation to  
822 services rendered.

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

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

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

836 5. A rate shall be deemed inadequate as to the premium  
837 charged to a risk or group of risks if discounts or credits are  
838 allowed which exceed a reasonable reflection of expense savings  
839 and reasonably expected loss experience from the risk or group  
840 of risks.

841 6. A rate shall be deemed unfairly discriminatory as to a

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842 risk or group of risks if the application of premium discounts,  
843 credits, or surcharges among such risks does not bear a  
844 reasonable relationship to the expected loss and expense  
845 experience among the various risks.

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

851 (g) The office may at any time review a rate, rating  
852 schedule, rating manual, or rate change; the pertinent records  
853 of the insurer; and market conditions. If the office finds on a  
854 preliminary basis that a rate may be excessive, inadequate, or  
855 unfairly discriminatory, the office shall initiate proceedings  
856 to disapprove the rate and shall so notify the insurer. However,  
857 the office may not disapprove as excessive any rate for which it  
858 has given final approval or which has been deemed approved for a  
859 ~~period of~~ 1 year after the effective date of the filing unless  
860 the office finds that a material misrepresentation or material  
861 error was made by the insurer or was contained in the filing.  
862 Upon being ~~so~~ notified, the insurer or rating organization  
863 shall, within 60 days, file with the office all information that  
864 ~~which,~~ in the belief of the insurer or organization, proves the  
865 reasonableness, adequacy, and fairness of the rate or rate  
866 change. The office shall issue an approval ~~a notice of intent to~~  
867 ~~approve~~ or a notice of intent to disapprove pursuant to ~~the~~  
868 ~~procedures of~~ paragraph (a) within 90 days after receipt of the  
869 insurer's initial response. In such instances and in any  
870 administrative proceeding relating to the legality of the rate,

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871 the insurer or rating organization shall carry the burden of  
872 proof by a preponderance of the evidence to show that the rate  
873 is not excessive, inadequate, or unfairly discriminatory. After  
874 the office notifies an insurer that a rate may be excessive,  
875 inadequate, or unfairly discriminatory, unless the office  
876 withdraws the notification, the insurer may ~~shall~~ not alter the  
877 rate except to conform to ~~with~~ the office's notice until the  
878 earlier of 120 days after the date the notification was provided  
879 or 180 days after the date of implementing ~~the implementation of~~  
880 the rate. The office ~~may~~, subject to chapter 120, may disapprove  
881 without the 60-day notification any rate increase filed by an  
882 insurer within the prohibited time period or during the time  
883 that the legality of the increased rate is being contested.

884 (h) If ~~In the event~~ the office finds that a rate or rate  
885 change is excessive, inadequate, or unfairly discriminatory, the  
886 office shall issue an order of disapproval specifying that a new  
887 rate or rate schedule, which responds to the findings of the  
888 office, be filed by the insurer. The office shall further order,  
889 for any "use and file" filing made in accordance with  
890 subparagraph (a)2., that premiums charged each policyholder  
891 constituting the portion of the rate above that which was  
892 actuarially justified be returned to the ~~such~~ policyholder in  
893 the form of a credit or refund. If the office finds that an  
894 insurer's rate or rate change is inadequate, the new rate or  
895 rate schedule filed with the office in response to such a  
896 finding is ~~shall be~~ applicable only to new or renewal business  
897 of the insurer written on or after the effective date of the  
898 responsive filing.

899 (i) Except as otherwise specifically provided in this

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900 chapter, the office may ~~shall~~ not, directly or indirectly:

901 1. Prohibit any insurer, including any residual market plan  
902 or joint underwriting association, from paying acquisition costs  
903 based on the full amount of premium, as defined in s. 627.403,  
904 applicable to any policy, or prohibit any such insurer from  
905 including the full amount of acquisition costs in a rate filing;  
906 or-

907 2. Impede, abridge, or otherwise compromise an insurer's  
908 right to acquire policyholders, advertise, or appoint agents,  
909 including the calculation, manner, or amount of such agent  
910 commissions, if any.

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

914 (k)1. An insurer may make a separate filing limited solely  
915 to an adjustment of its rates for reinsurance or financing costs  
916 incurred in the purchase of reinsurance or financing products to  
917 replace or finance the payment of the amount covered by the  
918 Temporary Increase in Coverage Limits (TICL) portion of the  
919 Florida Hurricane Catastrophe Fund including replacement  
920 reinsurance for the TICL reductions made pursuant to s.  
921 215.555(17)(e); the actual cost paid due to the application of  
922 the TICL premium factor pursuant to s. 215.555(17)(f); and the  
923 actual cost paid due to the application of the cash build-up  
924 factor pursuant to s. 215.555(5)(b) if the insurer:

925 a. Elects to purchase financing products such as a  
926 liquidity instrument or line of credit, in which case the cost  
927 included in ~~the~~ filing for the liquidity instrument or line of  
928 credit may not result in a premium increase exceeding 3 percent



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929 for any individual policyholder. All costs contained in the  
930 filing may not result in an overall premium increase of more  
931 than 10 percent for any individual policyholder.

932 b. An insurer that makes a separate filing relating to  
933 reinsurance or financing products must include ~~Includes in the~~  
934 ~~filing~~ a copy of all of its reinsurance, liquidity instrument,  
935 or line of credit contracts; proof of the billing or payment for  
936 the contracts; and the calculation upon which the proposed rate  
937 change is based demonstrating ~~demonstrates~~ that the costs meet  
938 the criteria of this section and ~~are not loaded for expenses or~~  
939 ~~profit for the insurer making the filing.~~

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

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

943 ~~e. Does not file for a rate increase under any other~~  
944 ~~paragraph within 6 months after making a filing under this~~  
945 ~~paragraph.~~

946 ~~c.f.~~ An insurer that purchases reinsurance or financing  
947 products from an affiliated company may make a separate filing  
948 ~~in compliance with this paragraph does so~~ only if the costs for  
949 such reinsurance or financing products are charged at or below  
950 charges made for comparable coverage by nonaffiliated reinsurers  
951 or financial entities making such coverage or financing products  
952 available in this state.

953 2. An insurer may ~~only~~ make only one filing per ~~in any~~ 12-  
954 month period under this paragraph.

955 3. An insurer that elects to implement a rate change under  
956 this paragraph must file its rate filing with the office at  
957 least 45 days before the effective date of the rate change.

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958 After an insurer submits a complete filing that meets all of the  
959 requirements of this paragraph, the office has 45 days after the  
960 date of the filing to review the rate filing and determine if  
961 the rate is excessive, inadequate, or unfairly discriminatory.

962

963 The provisions of this subsection do ~~shall~~ not apply to workers'  
964 compensation, and employer's liability insurance, and ~~to~~ motor  
965 vehicle insurance.

966 (3) (a) For individual risks that are not rated in  
967 accordance with the insurer's rates, rating schedules, rating  
968 manuals, and underwriting rules filed with the office and that  
969 ~~which~~ have been submitted to the insurer for individual rating,  
970 the insurer must maintain documentation on each risk subject to  
971 individual risk rating. The documentation must identify the  
972 named insured and specify the characteristics and classification  
973 of the risk supporting the reason for the risk being  
974 individually risk rated, including any modifications to existing  
975 approved forms to be used on the risk. The insurer must maintain  
976 these records for ~~a period of~~ at least 5 years after the  
977 effective date of the policy.

978 (b) Individual risk rates and modifications to existing  
979 approved forms are not subject to this part or part II, except  
980 for paragraph (a) and ss. 627.402, 627.403, 627.4035, 627.404,  
981 627.405, 627.406, 627.407, 627.4085, 627.409, 627.4132,  
982 627.4133, 627.415, 627.416, 627.417, 627.419, 627.425, 627.426,  
983 627.4265, 627.427, and 627.428, but are subject to all other  
984 applicable provisions of this code and rules adopted thereunder.

985 (c) This subsection does not apply to private passenger  
986 motor vehicle insurance.

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

990 a. Excess or umbrella.

991 b. Surety and fidelity.

992 c. Boiler and machinery and leakage and fire extinguishing  
993 equipment.

994 d. Errors and omissions.

995 e. Directors and officers, employment practices, and  
996 management liability.

997 f. Intellectual property and patent infringement liability.

998 g. Advertising injury and Internet liability insurance.

999 h. Property risks rated under a highly protected risks  
1000 rating plan.

1001 i. Any other commercial lines categories or kinds of  
1002 insurance or types of commercial lines risks that the office  
1003 determines should not be subject to paragraph (2) (a) or  
1004 paragraph (2) (f) because of the existence of a competitive  
1005 market for such insurance, similarity of such insurance to other  
1006 categories or kinds of insurance not subject to paragraph (2) (a)  
1007 or paragraph (2) (f), or to improve the general operational  
1008 efficiency of the office.

1009 2. Insurers or rating organizations shall establish and use  
1010 rates, rating schedules, or rating manuals to allow the insurer  
1011 a reasonable rate of return on insurance and risks described in  
1012 subparagraph 1. which are written in this state.

1013 3. An insurer must notify the office of any changes to  
1014 rates for insurance and risks described in subparagraph 1.  
1015 within ~~no later than~~ 30 days after the effective date of the

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1016 change. The notice must include the name of the insurer, the  
1017 type or kind of insurance subject to rate change, total premium  
1018 written during the immediately preceding year by the insurer for  
1019 the type or kind of insurance subject to the rate change, and  
1020 the average statewide percentage change in rates. Underwriting  
1021 files, premiums, losses, and expense statistics with regard to  
1022 such insurance and risks ~~described in subparagraph 1.~~ written by  
1023 an insurer must ~~shall~~ be maintained by the insurer and subject  
1024 to examination by the office. Upon examination, the office  
1025 ~~shall~~, in accordance with generally accepted and reasonable  
1026 actuarial techniques, shall consider the rate factors in  
1027 paragraphs (2) (b), (c), and (d) and the standards in paragraph  
1028 (2) (e) to determine if the rate is excessive, inadequate, or  
1029 unfairly discriminatory.

1030 4. A rating organization must notify the office of any  
1031 changes to loss cost for insurance and risks described in  
1032 subparagraph 1. within ~~no later than~~ 30 days after the effective  
1033 date of the change. The notice must include the name of the  
1034 rating organization, the type or kind of insurance subject to a  
1035 loss cost change, loss costs during the immediately preceding  
1036 year for the type or kind of insurance subject to the loss cost  
1037 change, and the average statewide percentage change in loss  
1038 cost. Loss and exposure statistics with regard to risks  
1039 applicable to loss costs for a rating organization not subject  
1040 to paragraph (2) (a) or paragraph (2) (f) must ~~shall~~ be maintained  
1041 by the rating organization and are subject to examination by the  
1042 office. Upon examination, the office ~~shall~~, in accordance with  
1043 generally accepted and reasonable actuarial techniques, shall  
1044 consider the rate factors in paragraphs (2) (b)-(d) and the

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1045 standards in paragraph (2)(e) to determine if the rate is  
1046 excessive, inadequate, or unfairly discriminatory.

1047 5. In reviewing a rate, the office may require the insurer  
1048 to provide, at the insurer's expense, all information necessary  
1049 to evaluate the condition of the company and the reasonableness  
1050 of the rate according to the applicable criteria described in  
1051 this section.

1052 (4) The establishment of any rate, rating classification,  
1053 rating plan or schedule, or variation thereof in violation of  
1054 part IX of chapter 626 is also in violation of this section. ~~In  
1055 order to enhance the ability of consumers to compare premiums  
1056 and to increase the accuracy and usefulness of rate-comparison  
1057 information provided by the office to the public, the office  
1058 shall develop a proposed standard rating territory plan to be  
1059 used by all authorized property and casualty insurers for  
1060 residential property insurance. In adopting the proposed plan,  
1061 the office may consider geographical characteristics relevant to  
1062 risk, county lines, major roadways, existing rating territories  
1063 used by a significant segment of the market, and other relevant  
1064 factors. Such plan shall be submitted to the President of the  
1065 Senate and the Speaker of the House of Representatives by  
1066 January 15, 2006. The plan may not be implemented unless  
1067 authorized by further act of the Legislature.~~

1068 (5) With respect to a rate filing involving coverage of the  
1069 type for which the insurer is required to pay a reimbursement  
1070 premium to the Florida Hurricane Catastrophe Fund, the insurer  
1071 may fully recoup in its property insurance premiums any  
1072 reimbursement premiums paid to the ~~Florida Hurricane Catastrophe~~  
1073 fund, together with reasonable costs of other reinsurance;

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1074 however, ~~but~~ except as otherwise provided in this section, the  
1075 insurer may not recoup reinsurance costs that duplicate coverage  
1076 provided by the ~~Florida Hurricane Catastrophe~~ fund. An insurer  
1077 may not recoup more than 1 year of reimbursement premium at a  
1078 time. Any under-recoupment from the prior year may be added to  
1079 the following year's reimbursement premium, and any over-  
1080 recoupment must ~~shall~~ be subtracted from the following year's  
1081 reimbursement premium.

1082 (6) (a) If an insurer requests an administrative hearing  
1083 pursuant to s. 120.57 related to a rate filing under this  
1084 section, the director of the Division of Administrative Hearings  
1085 shall expedite the hearing and assign an administrative law  
1086 judge who shall commence the hearing within 30 days after the  
1087 receipt of the formal request and ~~shall~~ enter a recommended  
1088 order within 30 days after the hearing or within 30 days after  
1089 receipt of the hearing transcript by the administrative law  
1090 judge, whichever is later. Each party shall have ~~be allowed~~ 10  
1091 days in which to submit written exceptions to the recommended  
1092 order. The office shall enter a final order within 30 days after  
1093 the entry of the recommended order. The provisions of this  
1094 paragraph may be waived upon stipulation of all parties.

1095 (b) Upon entry of a final order, the insurer may request a  
1096 expedited appellate review pursuant to the Florida Rules of  
1097 Appellate Procedure. It is the intent of the Legislature that  
1098 the First District Court of Appeal grant an insurer's request  
1099 for an expedited appellate review.

1100 (7) ~~(a)~~ The provisions of this subsection apply only ~~with~~  
1101 ~~respect~~ to rates for medical malpractice insurance and ~~shall~~  
1102 control to the extent of any conflict with other provisions of

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1103 this section.

1104 (a)~~(b)~~ Any portion of a judgment entered or settlement paid  
1105 as a result of a statutory or common-law bad faith action and  
1106 any portion of a judgment entered which awards punitive damages  
1107 against an insurer may not be included in the insurer's rate  
1108 base, and ~~shall not be~~ used to justify a rate or rate change.  
1109 Any common-law bad faith action identified as such, any portion  
1110 of a settlement entered as a result of a statutory or common-law  
1111 action, or any portion of a settlement wherein an insurer agrees  
1112 to pay specific punitive damages may not be used to justify a  
1113 rate or rate change. The portion of the taxable costs and  
1114 attorney's fees which is identified as being related to the bad  
1115 faith and punitive damages ~~in these judgments and settlements~~  
1116 may not be included in the insurer's rate base and used ~~may not~~  
1117 ~~be utilized~~ to justify a rate or rate change.

1118 (b)~~(e)~~ Upon reviewing a rate filing and determining whether  
1119 the rate is excessive, inadequate, or unfairly discriminatory,  
1120 the office shall consider, in accordance with generally accepted  
1121 and reasonable actuarial techniques, past and present  
1122 prospective loss experience, ~~either~~ using loss experience solely  
1123 for this state or giving greater credibility to this state's  
1124 loss data after applying actuarially sound methods of assigning  
1125 credibility to such data.

1126 (c)~~(d)~~ Rates shall be deemed excessive if, among other  
1127 standards established by this section, the rate structure  
1128 provides for replenishment of reserves or surpluses from  
1129 premiums when the replenishment is attributable to investment  
1130 losses.

1131 (d)~~(e)~~ The insurer must apply a discount or surcharge based

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1132 on the health care provider's loss experience or ~~shall~~ establish  
1133 an alternative method giving due consideration to the provider's  
1134 loss experience. The insurer must include in the filing a copy  
1135 of the surcharge or discount schedule or a description of the  
1136 alternative method used, and ~~must~~ provide a copy ~~of such~~  
1137 ~~schedule or description~~, as approved by the office, to  
1138 policyholders at the time of renewal and to prospective  
1139 policyholders at the time of application for coverage.

1140 (e) ~~(f)~~ Each medical malpractice insurer must make a rate  
1141 filing under this section, sworn to by at least two executive  
1142 officers of the insurer, at least once each calendar year.

1143 ~~(8)(a)1. No later than 60 days after the effective date of~~  
1144 ~~medical malpractice legislation enacted during the 2003 Special~~  
1145 ~~Session D of the Florida Legislature, the office shall calculate~~  
1146 ~~a presumed factor that reflects the impact that the changes~~  
1147 ~~contained in such legislation will have on rates for medical~~  
1148 ~~malpractice insurance and shall issue a notice informing all~~  
1149 ~~insurers writing medical malpractice coverage of such presumed~~  
1150 ~~factor. In determining the presumed factor, the office shall use~~  
1151 ~~generally accepted actuarial techniques and standards provided~~  
1152 ~~in this section in determining the expected impact on losses,~~  
1153 ~~expenses, and investment income of the insurer. To the extent~~  
1154 ~~that the operation of a provision of medical malpractice~~  
1155 ~~legislation enacted during the 2003 Special Session D of the~~  
1156 ~~Florida Legislature is stayed pending a constitutional~~  
1157 ~~challenge, the impact of that provision shall not be included in~~  
1158 ~~the calculation of a presumed factor under this subparagraph.~~

1159 ~~2. No later than 60 days after the office issues its notice~~  
1160 ~~of the presumed rate change factor under subparagraph 1., each~~



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1161 ~~insurer writing medical malpractice coverage in this state shall~~  
1162 ~~submit to the office a rate filing for medical malpractice~~  
1163 ~~insurance, which will take effect no later than January 1, 2004,~~  
1164 ~~and apply retroactively to policies issued or renewed on or~~  
1165 ~~after the effective date of medical malpractice legislation~~  
1166 ~~enacted during the 2003 Special Session D of the Florida~~  
1167 ~~Legislature. Except as authorized under paragraph (b), the~~  
1168 ~~filing shall reflect an overall rate reduction at least as great~~  
1169 ~~as the presumed factor determined under subparagraph 1. With~~  
1170 ~~respect to policies issued on or after the effective date of~~  
1171 ~~such legislation and prior to the effective date of the rate~~  
1172 ~~filing required by this subsection, the office shall order the~~  
1173 ~~insurer to make a refund of the amount that was charged in~~  
1174 ~~excess of the rate that is approved.~~

1175 ~~(b) Any insurer or rating organization that contends that~~  
1176 ~~the rate provided for in paragraph (a) is excessive, inadequate,~~  
1177 ~~or unfairly discriminatory shall separately state in its filing~~  
1178 ~~the rate it contends is appropriate and shall state with~~  
1179 ~~specificity the factors or data that it contends should be~~  
1180 ~~considered in order to produce such appropriate rate. The~~  
1181 ~~insurer or rating organization shall be permitted to use all of~~  
1182 ~~the generally accepted actuarial techniques provided in this~~  
1183 ~~section in making any filing pursuant to this subsection. The~~  
1184 ~~office shall review each such exception and approve or~~  
1185 ~~disapprove it prior to use. It shall be the insurer's burden to~~  
1186 ~~actuarially justify any deviations from the rates required to be~~  
1187 ~~filed under paragraph (a). The insurer making a filing under~~  
1188 ~~this paragraph shall include in the filing the expected impact~~  
1189 ~~of medical malpractice legislation enacted during the 2003~~

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1190 ~~Special Session D of the Florida Legislature on losses,~~  
1191 ~~expenses, and rates.~~

1192 ~~(c) If any provision of medical malpractice legislation~~  
1193 ~~enacted during the 2003 Special Session D of the Florida~~  
1194 ~~Legislature is held invalid by a court of competent~~  
1195 ~~jurisdiction, the office shall permit an adjustment of all~~  
1196 ~~medical malpractice rates filed under this section to reflect~~  
1197 ~~the impact of such holding on such rates so as to ensure that~~  
1198 ~~the rates are not excessive, inadequate, or unfairly~~  
1199 ~~discriminatory.~~

1200 ~~(d) Rates approved on or before July 1, 2003, for medical~~  
1201 ~~malpractice insurance shall remain in effect until the effective~~  
1202 ~~date of a new rate filing approved under this subsection.~~

1203 ~~(e) The calculation and notice by the office of the~~  
1204 ~~presumed factor pursuant to paragraph (a) is not an order or~~  
1205 ~~rule that is subject to chapter 120. If the office enters into a~~  
1206 ~~contract with an independent consultant to assist the office in~~  
1207 ~~calculating the presumed factor, such contract shall not be~~  
1208 ~~subject to the competitive solicitation requirements of s.~~  
1209 ~~287.057.~~

1210 (8) ~~(9)~~ (a) The chief executive officer or chief financial  
1211 officer of a property insurer and the chief actuary of a  
1212 property insurer must certify under oath and subject to the  
1213 penalty of perjury, on a form approved by the commission, the  
1214 following information, which must accompany a rate filing:

1215 1. The signing officer and actuary have reviewed the rate  
1216 filing;

1217 2. Based on the signing officer's and actuary's knowledge,  
1218 the rate filing does not contain any untrue statement of a

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1219 material fact or omit to state a material fact necessary ~~in~~  
 1220 ~~order~~ to make the statements made, in light of the circumstances  
 1221 under which such statements were made, not misleading;

1222 3. Based on the signing officer's and actuary's knowledge,  
 1223 the information and other factors described in paragraph (2) (b),  
 1224 including, but not limited to, investment income, fairly present  
 1225 in all material respects the basis of the rate filing for the  
 1226 periods presented in the filing; and

1227 4. Based on the signing officer's and actuary's knowledge,  
 1228 the rate filing reflects all premium savings that are reasonably  
 1229 expected to result from legislative enactments and are in  
 1230 accordance with generally accepted and reasonable actuarial  
 1231 techniques.

1232 (b) A signing officer or actuary who knowingly makes ~~making~~  
 1233 a false certification under this subsection commits a violation  
 1234 of s. 626.9541(1) (e) and is subject to the penalties under s.  
 1235 626.9521.

1236 (c) Failure to provide such certification by the officer  
 1237 and actuary shall result in the rate filing being disapproved  
 1238 without prejudice to be refiled.

1239 (d) A certification made pursuant to paragraph (a) is not  
 1240 rendered false if, after making the subject rate filing, the  
 1241 insurer provides the office with additional or supplementary  
 1242 information pursuant to a formal or informal request from the  
 1243 office.

1244 (e) ~~(d)~~ The commission may adopt rules and forms ~~pursuant to~~  
 1245 ~~ss. 120.536(1) and 120.54~~ to administer this subsection.

1246 (9) ~~(10)~~ The burden is on the office to establish that rates  
 1247 are excessive for personal lines residential coverage with a

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1248 dwelling replacement cost of \$1 million or more or for a single  
1249 condominium unit with a combined dwelling and contents  
1250 replacement cost of \$1 million or more. Upon request of the  
1251 office, the insurer shall provide ~~to the office~~ such loss and  
1252 expense information as the office reasonably needs to meet this  
1253 burden.

1254 ~~(10)(11)~~ Any interest paid pursuant to s. 627.70131(5) may  
1255 not be included in the insurer's rate base and may not be used  
1256 to justify a rate or rate change.

1257 Section 14. Subsections (1) and (5) and paragraph (b) of  
1258 subsection (8) of section 627.0629, Florida Statutes, are  
1259 amended to read:

1260 627.0629 Residential property insurance; rate filings.—

1261 (1)~~(a)~~ It is the intent of the Legislature that insurers  
1262 ~~must~~ provide the most accurate pricing signals available in  
1263 order savings to encourage consumers to ~~who~~ install or implement  
1264 windstorm damage mitigation techniques, alterations, or  
1265 solutions to their properties to prevent windstorm losses. It is  
1266 also the intent of the Legislature that implementation of  
1267 mitigation discounts not result in a loss of income to the  
1268 insurers granting the discounts, so that the aggregate of such  
1269 discounts not exceed the aggregate of the expected reduction in  
1270 loss attributable to the mitigation efforts for which discounts  
1271 are granted. A rate filing for residential property insurance  
1272 must include actuarially reasonable discounts, credits, debits,  
1273 or other rate differentials, or appropriate reductions in  
1274 deductibles, which provide the proper pricing for all  
1275 properties. The rate filing must take into account the presence  
1276 or absence of ~~on which~~ fixtures or construction techniques

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1277 demonstrated to reduce the amount of loss in a windstorm which  
1278 have been installed or implemented. The fixtures or construction  
1279 techniques must ~~shall~~ include, but not be limited to, fixtures  
1280 or construction techniques that ~~which~~ enhance roof strength,  
1281 roof covering performance, roof-to-wall strength, wall-to-floor-  
1282 to-foundation strength, opening protection, and window, door,  
1283 and skylight strength. Credits, debits, discounts, or other rate  
1284 differentials, or appropriate reductions or increases in  
1285 deductibles, which recognize the presence or absence of ~~for~~  
1286 fixtures and construction techniques that ~~which~~ meet the minimum  
1287 requirements of the Florida Building Code must be included in  
1288 the rate filing. If an insurer demonstrates that the aggregate  
1289 of its mitigation discounts results in a reduction to revenue  
1290 which exceeds the reduction of the aggregate loss that is  
1291 expected to result from the mitigation, the insurer may recover  
1292 the lost revenue through an increase in its base rates. ~~All~~  
1293 ~~insurance companies must make a rate filing which includes the~~  
1294 ~~credits, discounts, or other rate differentials or reductions in~~  
1295 ~~deductibles by February 28, 2003. By July 1, 2007, the office~~  
1296 ~~shall reevaluate the discounts, credits, other rate~~  
1297 ~~differentials, and appropriate reductions in deductibles for~~  
1298 ~~fixtures and construction techniques that meet the minimum~~  
1299 ~~requirements of the Florida Building Code, based upon actual~~  
1300 ~~experience or any other loss relativity studies available to the~~  
1301 ~~office.~~ The office shall determine the discounts, credits,  
1302 debits, other rate differentials, and appropriate reductions or  
1303 increases in deductibles that reflect the full actuarial value  
1304 of such revaluation, which may be used by insurers in rate  
1305 filings.

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1306           ~~(b) By February 1, 2011, the Office of Insurance~~  
1307 ~~Regulation, in consultation with the Department of Financial~~  
1308 ~~Services and the Department of Community Affairs, shall develop~~  
1309 ~~and make publicly available a proposed method for insurers to~~  
1310 ~~establish discounts, credits, or other rate differentials for~~  
1311 ~~hurricane mitigation measures which directly correlate to the~~  
1312 ~~numerical rating assigned to a structure pursuant to the uniform~~  
1313 ~~home grading scale adopted by the Financial Services Commission~~  
1314 ~~pursuant to s. 215.55865, including any proposed changes to the~~  
1315 ~~uniform home grading scale. By October 1, 2011, the commission~~  
1316 ~~shall adopt rules requiring insurers to make rate filings for~~  
1317 ~~residential property insurance which revise insurers' discounts,~~  
1318 ~~credits, or other rate differentials for hurricane mitigation~~  
1319 ~~measures so that such rate differentials correlate directly to~~  
1320 ~~the uniform home grading scale. The rules may include such~~  
1321 ~~changes to the uniform home grading scale as the commission~~  
1322 ~~determines are necessary, and may specify the minimum required~~  
1323 ~~discounts, credits, or other rate differentials. Such rate~~  
1324 ~~differentials must be consistent with generally accepted~~  
1325 ~~actuarial principles and wind loss mitigation studies. The rules~~  
1326 ~~shall allow a period of at least 2 years after the effective~~  
1327 ~~date of the revised mitigation discounts, credits, or other rate~~  
1328 ~~differentials for a property owner to obtain an inspection or~~  
1329 ~~otherwise qualify for the revised credit, during which time the~~  
1330 ~~insurer shall continue to apply the mitigation credit that was~~  
1331 ~~applied immediately prior to the effective date of the revised~~  
1332 ~~credit. Discounts, credits, and other rate differentials~~  
1333 ~~established for rate filings under this paragraph shall~~  
1334 ~~supersede, after adoption, the discounts, credits, and other~~

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1335 ~~rate differentials included in rate filings under paragraph (a).~~

1336 (5) In order to provide an appropriate transition period,  
1337 an insurer may, ~~in its sole discretion,~~ implement an approved  
1338 rate filing for residential property insurance over a period of  
1339 years. Such ~~An insurer electing to phase in its rate filing~~ must  
1340 provide an informational notice to the office setting out its  
1341 schedule for implementation of the phased-in rate filing. The ~~An~~  
1342 insurer may include in its rate the actual cost of private  
1343 market reinsurance that corresponds to available coverage of the  
1344 Temporary Increase in Coverage Limits, TICL, from the Florida  
1345 Hurricane Catastrophe Fund. The insurer may also include the  
1346 cost of reinsurance to replace the TICL reduction implemented  
1347 pursuant to s. 215.555(17)(d)9. However, this cost ~~for~~  
1348 ~~reinsurance~~ may not ~~include any expense or profit load or result~~  
1349 in a total annual base rate increase in excess of 10 percent.

1350 (8) EVALUATION OF RESIDENTIAL PROPERTY STRUCTURAL  
1351 SOUNDNESS.—

1352 (b) To the extent ~~that~~ funds are provided for this purpose  
1353 in the General Appropriations Act, ~~the Legislature hereby~~  
1354 ~~authorizes~~ the establishment of a program to be administered by  
1355 the Citizens Property Insurance Corporation for homeowners  
1356 insured in the coastal high-risk account is authorized.

1357 Section 15. Paragraphs (b), (c), (d), (v), and (y) of  
1358 subsection (6) of section 627.351, Florida Statutes, are amended  
1359 to read:

1360 627.351 Insurance risk apportionment plans.—

1361 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

1362 (b)1. All insurers authorized to write one or more subject  
1363 lines of business in this state are subject to assessment by the

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1364 corporation and, for the purposes of this subsection, are  
1365 referred to collectively as "assessable insurers." Insurers  
1366 writing one or more subject lines of business in this state  
1367 pursuant to part VIII of chapter 626 are not assessable  
1368 insurers, but insureds who procure one or more subject lines of  
1369 business in this state pursuant to part VIII of chapter 626 are  
1370 subject to assessment by the corporation and are referred to  
1371 collectively as "assessable insureds." An ~~authorized~~ insurer's  
1372 assessment liability begins ~~shall begin~~ on the first day of the  
1373 calendar year following the year in which the insurer was issued  
1374 a certificate of authority to transact insurance for subject  
1375 lines of business in this state and terminates ~~shall terminate~~ 1  
1376 year after the end of the first calendar year during which the  
1377 insurer no longer holds a certificate of authority to transact  
1378 insurance for subject lines of business in this state.

1379 2.a. All revenues, assets, liabilities, losses, and  
1380 expenses of the corporation shall be divided into three separate  
1381 accounts as follows:

1382 (I) A personal lines account for personal residential  
1383 policies issued by the corporation, or issued by the Residential  
1384 Property and Casualty Joint Underwriting Association and renewed  
1385 by the corporation, which provides ~~that provide~~ comprehensive,  
1386 multiperil coverage on risks that are not located in areas  
1387 eligible for coverage by ~~in~~ the Florida Windstorm Underwriting  
1388 Association as those areas were defined on January 1, 2002, and  
1389 for ~~such~~ policies that do not provide coverage for the peril of  
1390 wind on risks that are located in such areas;

1391 (II) A commercial lines account for commercial residential  
1392 and commercial nonresidential policies issued by the



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1393 corporation, or issued by the Residential Property and Casualty  
1394 Joint Underwriting Association and renewed by the corporation,  
1395 which provides ~~that provide~~ coverage for basic property perils  
1396 on risks that are not located in areas eligible for coverage by  
1397 ~~in~~ the Florida Windstorm Underwriting Association as those areas  
1398 were defined on January 1, 2002, and for ~~such~~ policies that do  
1399 not provide coverage for the peril of wind on risks that are  
1400 located in such areas; and

1401 (III) A coastal ~~high-risk~~ account for personal residential  
1402 policies and commercial residential and commercial  
1403 nonresidential property policies issued by the corporation, or  
1404 transferred to the corporation, which provides ~~that provide~~  
1405 coverage for the peril of wind on risks that are located in  
1406 areas eligible for coverage by ~~in~~ the Florida Windstorm  
1407 Underwriting Association as those areas were defined on January  
1408 1, 2002. The corporation may offer policies that provide  
1409 multiperil coverage and the corporation shall continue to offer  
1410 policies that provide coverage only for the peril of wind for  
1411 risks located in areas eligible for coverage in the coastal  
1412 ~~high-risk~~ account. In issuing multiperil coverage, the  
1413 corporation may use its approved policy forms and rates for the  
1414 personal lines account. An applicant or insured who is eligible  
1415 to purchase a multiperil policy from the corporation may  
1416 purchase a multiperil policy from an authorized insurer without  
1417 prejudice to the applicant's or insured's eligibility to  
1418 prospectively purchase a policy that provides coverage only for  
1419 the peril of wind from the corporation. An applicant or insured  
1420 who is eligible for a corporation policy that provides coverage  
1421 only for the peril of wind may elect to purchase or retain such

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1422 policy and also purchase or retain coverage excluding wind from  
1423 an authorized insurer without prejudice to the applicant's or  
1424 insured's eligibility to prospectively purchase a policy that  
1425 provides multiperil coverage from the corporation. It is the  
1426 goal of the Legislature that there ~~would~~ be an overall average  
1427 savings of 10 percent or more for a policyholder who currently  
1428 has a wind-only policy with the corporation, and an ex-wind  
1429 policy with a voluntary insurer or the corporation, and who ~~then~~  
1430 obtains a multiperil policy from the corporation. It is the  
1431 intent of the Legislature that the offer of multiperil coverage  
1432 in the coastal high-risk account be made and implemented in a  
1433 manner that does not adversely affect the tax-exempt status of  
1434 the corporation or creditworthiness of or security for currently  
1435 outstanding financing obligations or credit facilities of the  
1436 coastal high-risk account, the personal lines account, or the  
1437 commercial lines account. The coastal high-risk account must  
1438 also include quota share primary insurance under subparagraph  
1439 (c)2. The area eligible for coverage under the coastal high-risk  
1440 account also includes the area within Port Canaveral, which is  
1441 bordered on the south by the City of Cape Canaveral, bordered on  
1442 the west by the Banana River, and bordered on the north by  
1443 Federal Government property.

1444 b. The three separate accounts must be maintained as long  
1445 as financing obligations entered into by the Florida Windstorm  
1446 Underwriting Association or Residential Property and Casualty  
1447 Joint Underwriting Association are outstanding, in accordance  
1448 with the terms of the corresponding financing documents. If ~~When~~  
1449 the financing obligations are no longer outstanding, ~~in~~  
1450 ~~accordance with the terms of the corresponding financing~~

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1451 ~~documents,~~ the corporation may use a single account for all  
1452 revenues, assets, liabilities, losses, and expenses of the  
1453 corporation. Consistent with ~~the requirement of~~ this  
1454 subparagraph and prudent investment policies that minimize the  
1455 cost of carrying debt, the board shall exercise its best efforts  
1456 to retire existing debt or ~~to~~ obtain the approval of necessary  
1457 parties to amend the terms of existing debt, so as to structure  
1458 the most efficient plan to consolidate the three separate  
1459 accounts into a single account.

1460 c. Creditors of the Residential Property and Casualty Joint  
1461 Underwriting Association and ~~of~~ the accounts specified in sub-  
1462 sub-subparagraphs a.(I) and (II) may have a claim against, and  
1463 recourse to, those ~~the~~ accounts ~~referred to in sub-sub-~~  
1464 ~~subparagraphs a.(I) and (II) and shall have~~ no claim against, or  
1465 recourse to, the account referred to in sub-sub-subparagraph  
1466 a.(III). Creditors of the Florida Windstorm Underwriting  
1467 Association ~~shall~~ have a claim against, and recourse to, the  
1468 account referred to in sub-sub-subparagraph a.(III) and ~~shall~~  
1469 ~~have~~ no claim against, or recourse to, the accounts referred to  
1470 in sub-sub-subparagraphs a.(I) and (II).

1471 d. Revenues, assets, liabilities, losses, and expenses not  
1472 attributable to particular accounts shall be prorated among the  
1473 accounts.

1474 e. The Legislature finds that the revenues of the  
1475 corporation are revenues that are necessary to meet the  
1476 requirements set forth in documents authorizing the issuance of  
1477 bonds under this subsection.

1478 f. No part of the income of the corporation may inure to  
1479 the benefit of any private person.

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1480 3. With respect to a deficit in an account:

1481 a. After accounting for the ~~Citizens~~ policyholder surcharge  
1482 imposed under sub-subparagraph h. i., ~~if when~~ the remaining  
1483 projected deficit incurred in a particular calendar year:

1484 (I) Is not greater than 6 percent of the aggregate  
1485 statewide direct written premium for the subject lines of  
1486 business for the prior calendar year, the entire deficit shall  
1487 be recovered through regular assessments of assessable insurers  
1488 under paragraph (q) and assessable insureds.

1489 (II) ~~b. After accounting for the Citizens policyholder~~  
1490 ~~surcharge imposed under sub-subparagraph i., when the remaining~~  
1491 ~~projected deficit incurred in a particular calendar year Exceeds~~  
1492 6 percent of the aggregate statewide direct written premium for  
1493 the subject lines of business for the prior calendar year, the  
1494 corporation shall levy regular assessments on assessable  
1495 insurers under paragraph (q) and on assessable insureds in an  
1496 amount equal to the greater of 6 percent of the deficit or 6  
1497 percent of the aggregate statewide direct written premium for  
1498 the subject lines of business for the prior calendar year. Any  
1499 remaining deficit shall be recovered through emergency  
1500 assessments under sub-subparagraph c. d.

1501 b.e. Each assessable insurer's share of the amount being  
1502 assessed under sub-subparagraph a. must ~~or sub-subparagraph b.~~  
1503 ~~shall~~ be in the proportion that the assessable insurer's direct  
1504 written premium for the subject lines of business for the year  
1505 preceding the assessment bears to the aggregate statewide direct  
1506 written premium for the subject lines of business for that year.  
1507 The applicable assessment percentage ~~applicable to each~~  
1508 ~~assessable insured~~ is the ratio of the amount being assessed

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1509 under sub-subparagraph a. ~~or sub-subparagraph b.~~ to the  
 1510 aggregate statewide direct written premium for the subject lines  
 1511 of business for the prior year. Assessments levied by the  
 1512 corporation on assessable insurers under sub-subparagraphs a.  
 1513 and b. must ~~shall~~ be paid as required by the corporation's plan  
 1514 of operation and paragraph (q) . ~~Assessments levied by the~~  
 1515 ~~corporation on assessable insureds under sub-subparagraphs a.~~  
 1516 ~~and b. shall be~~ collected by the surplus lines agent at the time  
 1517 the surplus lines agent collects the surplus lines tax required  
 1518 by s. 626.932, and shall be paid to the Florida Surplus Lines  
 1519 Service Office at the time the surplus lines agent pays the  
 1520 surplus lines tax to that ~~the Florida Surplus Lines Service~~  
 1521 ~~office.~~ Upon receipt of regular assessments from surplus lines  
 1522 agents, the Florida Surplus Lines Service Office shall transfer  
 1523 the assessments directly to the corporation as determined by the  
 1524 corporation.

1525 c.d. ~~Upon a determination by the board of governors that a~~  
 1526 ~~deficit in an account exceeds the amount that will be recovered~~  
 1527 ~~through regular assessments under sub-subparagraph a. or sub-~~  
 1528 ~~paragraph b., plus the amount that is expected to be~~  
 1529 ~~recovered through surcharges under sub-subparagraph h. i., as to~~  
 1530 ~~the remaining projected deficit the board shall levy, after~~  
 1531 ~~verification by the office, shall levy~~ emergency assessments,  
 1532 for as many years as necessary to cover the deficits, to be  
 1533 collected by assessable insurers and the corporation and  
 1534 collected from assessable insureds upon issuance or renewal of  
 1535 policies for subject lines of business, excluding National Flood  
 1536 Insurance policies. The amount ~~of the emergency assessment~~  
 1537 collected in a particular year must ~~shall~~ be a uniform

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1538 percentage of that year's direct written premium for subject  
1539 lines of business and all accounts of the corporation, excluding  
1540 National Flood Insurance Program policy premiums, as annually  
1541 determined by the board and verified by the office. The office  
1542 shall verify the arithmetic calculations involved in the board's  
1543 determination within 30 days after receipt of the information on  
1544 which the determination was based. Notwithstanding any other  
1545 provision of law, the corporation and each assessable insurer  
1546 that writes subject lines of business shall collect emergency  
1547 assessments from its policyholders without such obligation being  
1548 affected by any credit, limitation, exemption, or deferment.  
1549 Emergency assessments levied by the corporation on assessable  
1550 insureds shall be collected by the surplus lines agent at the  
1551 time the surplus lines agent collects the surplus lines tax  
1552 required by s. 626.932 and ~~shall be~~ paid to the Florida Surplus  
1553 Lines Service Office at the time the surplus lines agent pays  
1554 the surplus lines tax to that ~~the Florida Surplus Lines Service~~  
1555 ~~office.~~ The emergency assessments ~~so~~ collected shall be  
1556 transferred directly to the corporation on a periodic basis as  
1557 determined by the corporation and ~~shall be~~ held by the  
1558 corporation solely in the applicable account. The aggregate  
1559 amount of emergency assessments levied for an account under this  
1560 sub-subparagraph in any calendar year may, ~~at the discretion of~~  
1561 ~~the board of governors,~~ be less than but may not exceed the  
1562 greater of 10 percent of the amount needed to cover the deficit,  
1563 plus interest, fees, commissions, required reserves, and other  
1564 costs associated with financing ~~of~~ the original deficit, or 10  
1565 percent of the aggregate statewide direct written premium for  
1566 subject lines of business and ~~for~~ all accounts of the

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1567 corporation for the prior year, plus interest, fees,  
1568 commissions, required reserves, and other costs associated with  
1569 financing the deficit.

1570 d.e. The corporation may pledge the proceeds of  
1571 assessments, projected recoveries from the Florida Hurricane  
1572 Catastrophe Fund, other insurance and reinsurance recoverables,  
1573 policyholder surcharges and other surcharges, and other funds  
1574 available to the corporation as the source of revenue for and to  
1575 secure bonds issued under paragraph (q), bonds or other  
1576 indebtedness issued under subparagraph (c)3., or lines of credit  
1577 or other financing mechanisms issued or created under this  
1578 subsection, or to retire any other debt incurred as a result of  
1579 deficits or events giving rise to deficits, or in any other way  
1580 that the board determines will efficiently recover such  
1581 deficits. The purpose of the lines of credit or other financing  
1582 mechanisms is to provide additional resources to assist the  
1583 corporation in covering claims and expenses attributable to a  
1584 catastrophe. As used in this subsection, the term "assessments"  
1585 includes regular assessments under sub-subparagraph a., ~~sub-~~  
1586 ~~subparagraph b.,~~ or subparagraph (q)1. and emergency assessments  
1587 under sub-subparagraph d. Emergency assessments collected under  
1588 sub-subparagraph d. are not part of an insurer's rates, are not  
1589 premium, and are not subject to premium tax, fees, or  
1590 commissions; however, failure to pay the emergency assessment  
1591 shall be treated as failure to pay premium. The emergency  
1592 assessments under sub-subparagraph c. ~~d.~~ shall continue as long  
1593 as any bonds issued or other indebtedness incurred with respect  
1594 to a deficit for which the assessment was imposed remain  
1595 outstanding, unless adequate provision has been made for the

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1596 payment of such bonds or other indebtedness pursuant to the  
1597 documents governing such bonds or ~~other~~ indebtedness.

1598 ~~e.f.~~ As used in this subsection for purposes of any deficit  
1599 incurred on or after January 25, 2007, the term "subject lines  
1600 of business" means insurance written by assessable insurers or  
1601 procured by assessable insureds for all property and casualty  
1602 lines of business in this state, but not including workers'  
1603 compensation or medical malpractice. As used in this ~~the~~ sub-  
1604 subparagraph, the term "property and casualty lines of business"  
1605 includes all lines of business identified on Form 2, Exhibit of  
1606 Premiums and Losses, in the annual statement required of  
1607 authorized insurers under ~~by~~ s. 624.424 and any rule adopted  
1608 under this section, except for those lines identified as  
1609 accident and health insurance and except for policies written  
1610 under the National Flood Insurance Program or the Federal Crop  
1611 Insurance Program. For purposes of this sub-subparagraph, the  
1612 term "workers' compensation" includes both workers' compensation  
1613 insurance and excess workers' compensation insurance.

1614 ~~f.g.~~ The Florida Surplus Lines Service Office shall  
1615 determine annually the aggregate statewide written premium in  
1616 subject lines of business procured by assessable insureds and  
1617 ~~shall~~ report that information to the corporation in a form and  
1618 at a time the corporation specifies to ensure that the  
1619 corporation can meet the requirements of this subsection and the  
1620 corporation's financing obligations.

1621 ~~g.h.~~ The Florida Surplus Lines Service Office shall verify  
1622 the proper application by surplus lines agents of assessment  
1623 percentages for regular assessments and emergency assessments  
1624 levied under this subparagraph on assessable insureds and ~~shall~~



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1625 assist the corporation in ensuring the accurate, timely  
1626 collection and payment of assessments by surplus lines agents as  
1627 required by the corporation.

1628 ~~h.i.~~ If a deficit is incurred in any account in 2008 or  
1629 thereafter, the board of governors shall levy a ~~Citizens~~  
1630 policyholder surcharge against all policyholders of the  
1631 corporation. ~~for a 12-month period, which~~

1632 (I) The surcharge shall be levied ~~collected at the time of~~  
1633 ~~issuance or renewal of a policy,~~ as a uniform percentage of the  
1634 premium for the policy of up to 15 percent of such premium,  
1635 which funds shall be used to offset the deficit.

1636 (II) The surcharge is payable upon cancellation or  
1637 termination of the policy, upon renewal of the policy, or upon  
1638 issuance of a new policy by the corporation within the first 12  
1639 months after the date of the levy or the period of time  
1640 necessary to fully collect the surcharge amount.

1641 (III) The corporation may not levy any regular assessments  
1642 under paragraph (q) pursuant to sub-subparagraph a. or sub-  
1643 subparagraph b. with respect to a particular year's deficit  
1644 until the corporation has first levied the full amount of the  
1645 surcharge authorized by this sub-subparagraph.

1646 (IV) The surcharge is ~~Citizens policyholder surcharges~~  
1647 ~~under this sub-subparagraph~~ are not considered premium and is  
1648 ~~are~~ not subject to commissions, fees, or premium taxes. However,  
1649 failure to pay the surcharge ~~such surcharges~~ shall be treated as  
1650 failure to pay premium.

1651 ~~i.j.~~ If the amount of any assessments or surcharges  
1652 collected from corporation policyholders, assessable insurers or  
1653 their policyholders, or assessable insureds exceeds the amount

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1654 of the deficits, such excess amounts shall be remitted to and  
1655 retained by the corporation in a reserve to be used by the  
1656 corporation, as determined by the board of governors and  
1657 approved by the office, to pay claims or reduce any past,  
1658 present, or future plan-year deficits or to reduce outstanding  
1659 debt.

1660 (c) The corporation's plan of operation ~~of the corporation:~~

1661 1. Must provide for adoption of residential property and  
1662 casualty insurance policy forms and commercial residential and  
1663 nonresidential property insurance forms, which ~~forms~~ must be  
1664 approved by the office before ~~prior to~~ use. The corporation  
1665 shall adopt the following policy forms:

1666 a. Standard personal lines policy forms that are  
1667 comprehensive multiperil policies providing full coverage of a  
1668 residential property equivalent to the coverage provided in the  
1669 private insurance market under an HO-3, HO-4, or HO-6 policy.

1670 b. Basic personal lines policy forms that are policies  
1671 similar to an HO-8 policy or a dwelling fire policy that provide  
1672 coverage meeting the requirements of the secondary mortgage  
1673 market, but which ~~coverage~~ is more limited than the coverage  
1674 under a standard policy.

1675 c. Commercial lines residential and nonresidential policy  
1676 forms that are generally similar to the basic perils of full  
1677 coverage obtainable for commercial residential structures and  
1678 commercial nonresidential structures in the admitted voluntary  
1679 market.

1680 d. Personal lines and commercial lines residential property  
1681 insurance forms that cover the peril of wind only. The forms are  
1682 applicable only to residential properties located in areas

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1683 eligible for coverage under the coastal ~~high-risk~~ account  
1684 referred to in sub-subparagraph (b)2.a.

1685 e. Commercial lines nonresidential property insurance forms  
1686 that cover the peril of wind only. The forms are applicable only  
1687 to nonresidential properties located in areas eligible for  
1688 coverage under the coastal ~~high-risk~~ account referred to in sub-  
1689 subparagraph (b)2.a.

1690 f. The corporation may adopt variations of the policy forms  
1691 listed in sub-subparagraphs a.-e. which ~~that~~ contain more  
1692 restrictive coverage.

1693 ~~2.a.~~ Must provide that the corporation adopt a program in  
1694 which the corporation and authorized insurers enter into quota  
1695 share primary insurance agreements for hurricane coverage, as  
1696 defined in s. 627.4025(2)(a), for eligible risks, and adopt  
1697 property insurance forms for eligible risks which cover the  
1698 peril of wind only.

1699 a. As used in this subsection, the term:

1700 (I) "Quota share primary insurance" means an arrangement in  
1701 which the primary hurricane coverage of an eligible risk is  
1702 provided in specified percentages by the corporation and an  
1703 authorized insurer. The corporation and authorized insurer are  
1704 each solely responsible for a specified percentage of hurricane  
1705 coverage of an eligible risk as set forth in a quota share  
1706 primary insurance agreement between the corporation and an  
1707 authorized insurer and the insurance contract. The  
1708 responsibility of the corporation or authorized insurer to pay  
1709 its specified percentage of hurricane losses of an eligible  
1710 risk, as set forth in the ~~quota share primary insurance~~  
1711 agreement, may not be altered by the inability of the other

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1712 party ~~to the agreement~~ to pay its specified percentage of  
1713 ~~hurricane~~ losses. Eligible risks that are provided hurricane  
1714 coverage through a quota share primary insurance arrangement  
1715 must be provided policy forms that set forth the obligations of  
1716 the corporation and authorized insurer under the arrangement,  
1717 clearly specify the percentages of quota share primary insurance  
1718 provided by the corporation and authorized insurer, and  
1719 conspicuously and clearly state that ~~neither~~ the authorized  
1720 insurer and ~~nor~~ the corporation may not be held responsible  
1721 beyond their ~~its~~ specified percentage of coverage of hurricane  
1722 losses.

1723 (II) "Eligible risks" means personal lines residential and  
1724 commercial lines residential risks that meet the underwriting  
1725 criteria of the corporation and are located in areas that were  
1726 eligible for coverage by the Florida Windstorm Underwriting  
1727 Association on January 1, 2002.

1728 b. The corporation may enter into quota share primary  
1729 insurance agreements with authorized insurers at corporation  
1730 coverage levels of 90 percent and 50 percent.

1731 c. If the corporation determines that additional coverage  
1732 levels are necessary to maximize participation in quota share  
1733 primary insurance agreements by authorized insurers, the  
1734 corporation may establish additional coverage levels. However,  
1735 the corporation's quota share primary insurance coverage level  
1736 may not exceed 90 percent.

1737 d. Any quota share primary insurance agreement entered into  
1738 between an authorized insurer and the corporation must provide  
1739 for a uniform specified percentage of coverage of hurricane  
1740 losses, by county or territory as set forth by the corporation

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1741 board, for all eligible risks of the authorized insurer covered  
1742 under the ~~quota share primary insurance~~ agreement.

1743 e. Any quota share primary insurance agreement entered into  
1744 between an authorized insurer and the corporation is subject to  
1745 review and approval by the office. However, such agreement shall  
1746 be authorized only as to insurance contracts entered into  
1747 between an authorized insurer and an insured who is already  
1748 insured by the corporation for wind coverage.

1749 f. For all eligible risks covered under quota share primary  
1750 insurance agreements, the exposure and coverage levels for both  
1751 the corporation and authorized insurers shall be reported by the  
1752 corporation to the Florida Hurricane Catastrophe Fund. For all  
1753 policies of eligible risks covered under such ~~quota share~~  
1754 ~~primary insurance~~ agreements, the corporation and the authorized  
1755 insurer must ~~shall~~ maintain complete and accurate records for  
1756 the purpose of exposure and loss reimbursement audits as  
1757 required by ~~Florida Hurricane Catastrophe~~ fund rules. The  
1758 corporation and the authorized insurer shall each maintain  
1759 duplicate copies of policy declaration pages and supporting  
1760 claims documents.

1761 g. The corporation board shall establish in its plan of  
1762 operation standards for quota share agreements which ensure that  
1763 there is no discriminatory application among insurers as to the  
1764 terms of the ~~quota share~~ agreements, pricing of the ~~quota share~~  
1765 agreements, incentive provisions if any, and consideration paid  
1766 for servicing policies or adjusting claims.

1767 h. The quota share primary insurance agreement between the  
1768 corporation and an authorized insurer must set forth the  
1769 specific terms under which coverage is provided, including, but

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1770 not limited to, the sale and servicing of policies issued under  
1771 the agreement by the insurance agent of the authorized insurer  
1772 producing the business, the reporting of information concerning  
1773 eligible risks, the payment of premium to the corporation, and  
1774 arrangements for the adjustment and payment of hurricane claims  
1775 incurred on eligible risks by the claims adjuster and personnel  
1776 of the authorized insurer. Entering into a quota sharing  
1777 insurance agreement between the corporation and an authorized  
1778 insurer is ~~shall be~~ voluntary and at the discretion of the  
1779 authorized insurer.

1780 3. May provide that the corporation may employ or otherwise  
1781 contract with individuals or other entities to provide  
1782 administrative or professional services that may be appropriate  
1783 to effectuate the plan. The corporation may ~~shall have the power~~  
1784 ~~to~~ borrow funds, by issuing bonds or by incurring other  
1785 indebtedness, and shall have other powers reasonably necessary  
1786 to effectuate the requirements of this subsection, including,  
1787 without limitation, the power to issue bonds and incur other  
1788 indebtedness in order to refinance outstanding bonds or other  
1789 indebtedness. The corporation ~~may, but is not required to,~~ seek  
1790 judicial validation of its bonds or other indebtedness under  
1791 chapter 75. The corporation may issue bonds or incur other  
1792 indebtedness, or have bonds issued on its behalf by a unit of  
1793 local government pursuant to subparagraph (q)2.7 in the absence  
1794 of a hurricane or other weather-related event, upon a  
1795 determination by the corporation, subject to approval by the  
1796 office, that such action would enable it to efficiently meet the  
1797 financial obligations of the corporation and that such  
1798 financings are reasonably necessary to effectuate the

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1799 requirements of this subsection. The corporation may ~~is~~  
1800 ~~authorized to~~ take all actions needed to facilitate tax-free  
1801 status for ~~any~~ such bonds or indebtedness, including formation  
1802 of trusts or other affiliated entities. The corporation may  
1803 ~~shall have the authority to~~ pledge assessments, projected  
1804 recoveries from the Florida Hurricane Catastrophe Fund, other  
1805 reinsurance recoverables, market equalization and other  
1806 surcharges, and other funds available to the corporation as  
1807 security for bonds or other indebtedness. In recognition of s.  
1808 10, Art. I of the State Constitution, prohibiting the impairment  
1809 of obligations of contracts, it is the intent of the Legislature  
1810 that no action be taken whose purpose is to impair any bond  
1811 indenture or financing agreement or any revenue source committed  
1812 by contract to such bond or other indebtedness.

1813       4.~~a.~~ Must require that the corporation operate subject to  
1814 the supervision and approval of a board of governors consisting  
1815 of eight individuals who are residents of this state, from  
1816 different geographical areas of this state.

1817       a. The Governor, the Chief Financial Officer, the President  
1818 of the Senate, and the Speaker of the House of Representatives  
1819 shall each appoint two members of the board. At least one of the  
1820 two members appointed by each appointing officer must have  
1821 demonstrated expertise in insurance, and is deemed to be within  
1822 the scope of the exemption provided in s. 112.313(7)(b). The  
1823 Chief Financial Officer shall designate one of the appointees as  
1824 chair. All board members serve at the pleasure of the appointing  
1825 officer. All members of the board ~~of governors~~ are subject to  
1826 removal at will by the officers who appointed them. All board  
1827 members, including the chair, must be appointed to serve for 3-

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1828 year terms beginning annually on a date designated by the plan.  
1829 However, for the first term beginning on or after July 1, 2009,  
1830 each appointing officer shall appoint one member of the board  
1831 for a 2-year term and one member for a 3-year term. A ~~Any~~ board  
1832 vacancy shall be filled for the unexpired term by the appointing  
1833 officer. The Chief Financial Officer shall appoint a technical  
1834 advisory group to provide information and advice to the board ~~of~~  
1835 ~~governors~~ in connection with the board's duties under this  
1836 subsection. The executive director and senior managers of the  
1837 corporation shall be engaged by the board and serve at the  
1838 pleasure of the board. Any executive director appointed on or  
1839 after July 1, 2006, is subject to confirmation by the Senate.  
1840 The executive director is responsible for employing other staff  
1841 as the corporation may require, subject to review and  
1842 concurrence by the board.

1843 b. The board shall create a Market Accountability Advisory  
1844 Committee to assist the corporation in developing awareness of  
1845 its rates and its customer and agent service levels in  
1846 relationship to the voluntary market insurers writing similar  
1847 coverage.

1848 (I) The members of the advisory committee ~~shall~~ consist of  
1849 the following 11 persons, one of whom must be elected chair by  
1850 the members of the committee: four representatives, one  
1851 appointed by the Florida Association of Insurance Agents, one by  
1852 the Florida Association of Insurance and Financial Advisors, one  
1853 by the Professional Insurance Agents of Florida, and one by the  
1854 Latin American Association of Insurance Agencies; three  
1855 representatives appointed by the insurers with the three highest  
1856 voluntary market share of residential property insurance



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1857 business in the state; one representative from the Office of  
1858 Insurance Regulation; one consumer appointed by the board who is  
1859 insured by the corporation at the time of appointment to the  
1860 committee; one representative appointed by the Florida  
1861 Association of Realtors; and one representative appointed by the  
1862 Florida Bankers Association. All members shall be appointed to  
1863 ~~must serve for~~ 3-year terms and may serve for consecutive terms.

1864 (II) The committee shall report to the corporation at each  
1865 board meeting on insurance market issues which may include rates  
1866 and rate competition with the voluntary market; service,  
1867 including policy issuance, claims processing, and general  
1868 responsiveness to policyholders, applicants, and agents; and  
1869 matters relating to depopulation.

1870 5. Must provide a procedure for determining the eligibility  
1871 of a risk for coverage, as follows:

1872 a. Subject to ~~the provisions of~~ s. 627.3517, with respect  
1873 to personal lines residential risks, if the risk is offered  
1874 coverage from an authorized insurer at the insurer's approved  
1875 rate under ~~either~~ a standard policy including wind coverage or,  
1876 if consistent with the insurer's underwriting rules as filed  
1877 with the office, a basic policy including wind coverage, for a  
1878 new application to the corporation for coverage, the risk is not  
1879 eligible for any policy issued by the corporation unless the  
1880 premium for coverage from the authorized insurer is more than 15  
1881 percent greater than the premium for comparable coverage from  
1882 the corporation. If the risk is not able to obtain ~~any~~ such  
1883 offer, the risk is eligible for ~~either~~ a standard policy  
1884 including wind coverage or a basic policy including wind  
1885 coverage issued by the corporation; however, if the risk could

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1886 not be insured under a standard policy including wind coverage  
1887 regardless of market conditions, the risk is ~~shall be~~ eligible  
1888 for a basic policy including wind coverage unless rejected under  
1889 subparagraph 8. However, ~~with regard to~~ a policyholder of the  
1890 corporation or a policyholder removed from the corporation  
1891 through an assumption agreement until the end of the assumption  
1892 period, ~~the policyholder~~ remains eligible for coverage from the  
1893 corporation regardless of any offer of coverage from an  
1894 authorized insurer or surplus lines insurer. The corporation  
1895 shall determine the type of policy to be provided on the basis  
1896 of objective standards specified in the underwriting manual and  
1897 based on generally accepted underwriting practices.

1898 (I) If the risk accepts an offer of coverage through the  
1899 market assistance plan or ~~an offer of coverage~~ through a  
1900 mechanism established by the corporation before a policy is  
1901 issued to the risk by the corporation or during the first 30  
1902 days of coverage by the corporation, and the producing agent who  
1903 submitted the application to the plan or to the corporation is  
1904 not currently appointed by the insurer, the insurer shall:

1905 (A) Pay to the producing agent of record of the policy, ~~7~~ for  
1906 the first year, an amount that is the greater of the insurer's  
1907 usual and customary commission for the type of policy written or  
1908 a fee equal to the usual and customary commission of the  
1909 corporation; or

1910 (B) Offer to allow the producing agent of record of the  
1911 policy to continue servicing the policy for at least ~~a period of~~  
1912 ~~not less than~~ 1 year and offer to pay the agent the greater of  
1913 the insurer's or the corporation's usual and customary  
1914 commission for the type of policy written.

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1916 If the producing agent is unwilling or unable to accept  
1917 appointment, the new insurer shall pay the agent in accordance  
1918 with sub-sub-sub-subparagraph (A).

1919 (II) If ~~When~~ the corporation enters into a contractual  
1920 agreement for a take-out plan, the producing agent of record of  
1921 the corporation policy is entitled to retain any unearned  
1922 commission on the policy, and the insurer shall:

1923 (A) Pay to the producing agent of record ~~of the corporation~~  
1924 ~~policy~~, for the first year, an amount that is the greater of the  
1925 insurer's usual and customary commission for the type of policy  
1926 written or a fee equal to the usual and customary commission of  
1927 the corporation; or

1928 (B) Offer to allow the producing agent of record ~~of the~~  
1929 ~~corporation policy~~ to continue servicing the policy for at least  
1930 ~~a period of not less than~~ 1 year and offer to pay the agent the  
1931 greater of the insurer's or the corporation's usual and  
1932 customary commission for the type of policy written.

1933

1934 If the producing agent is unwilling or unable to accept  
1935 appointment, the new insurer shall pay the agent in accordance  
1936 with sub-sub-sub-subparagraph (A).

1937 b. With respect to commercial lines residential risks, for  
1938 a new application to the corporation for coverage, if the risk  
1939 is offered coverage under a policy including wind coverage from  
1940 an authorized insurer at its approved rate, the risk is not  
1941 eligible for a ~~any~~ policy issued by the corporation unless the  
1942 premium for coverage from the authorized insurer is more than 15  
1943 percent greater than the premium for comparable coverage from

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1944 the corporation. If the risk is not able to obtain any such  
1945 offer, the risk is eligible for a policy including wind coverage  
1946 issued by the corporation. However, ~~with regard to~~ a  
1947 policyholder of the corporation or a policyholder removed from  
1948 the corporation through an assumption agreement until the end of  
1949 the assumption period, ~~the policyholder~~ remains eligible for  
1950 coverage from the corporation regardless of an ~~any~~ offer of  
1951 coverage from an authorized insurer or surplus lines insurer.

1952 (I) If the risk accepts an offer of coverage through the  
1953 market assistance plan or ~~an offer of coverage~~ through a  
1954 mechanism established by the corporation before a policy is  
1955 issued to the risk by the corporation or during the first 30  
1956 days of coverage by the corporation, and the producing agent who  
1957 submitted the application to the plan or the corporation is not  
1958 currently appointed by the insurer, the insurer shall:

1959 (A) Pay to the producing agent of record of the policy, for  
1960 the first year, an amount that is the greater of the insurer's  
1961 usual and customary commission for the type of policy written or  
1962 a fee equal to the usual and customary commission of the  
1963 corporation; or

1964 (B) Offer to allow the producing agent of record of the  
1965 policy to continue servicing the policy for at least ~~a period of~~  
1966 ~~not less than~~ 1 year and offer to pay the agent the greater of  
1967 the insurer's or the corporation's usual and customary  
1968 commission for the type of policy written.

1969  
1970 If the producing agent is unwilling or unable to accept  
1971 appointment, the new insurer shall pay the agent in accordance  
1972 with sub-sub-sub-subparagraph (A).

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1973 (II) If ~~When~~ the corporation enters into a contractual  
1974 agreement for a take-out plan, the producing agent of record of  
1975 the corporation policy is entitled to retain any unearned  
1976 commission on the policy, and the insurer shall:

1977 (A) Pay to the producing agent of record ~~of the corporation~~  
1978 policy, for the first year, an amount that is the greater of the  
1979 insurer's usual and customary commission for the type of policy  
1980 written or a fee equal to the usual and customary commission of  
1981 the corporation; or

1982 (B) Offer to allow the producing agent of record ~~of the~~  
1983 ~~corporation policy~~ to continue servicing the policy for at least  
1984 ~~a period of not less than~~ 1 year and offer to pay the agent the  
1985 greater of the insurer's or the corporation's usual and  
1986 customary commission for the type of policy written.

1987  
1988 If the producing agent is unwilling or unable to accept  
1989 appointment, the new insurer shall pay the agent in accordance  
1990 with sub-sub-sub-subparagraph (A).

1991 c. For purposes of determining comparable coverage under  
1992 sub-subparagraphs a. and b., the comparison must ~~shall~~ be based  
1993 on those forms and coverages that are reasonably comparable. The  
1994 corporation may rely on a determination of comparable coverage  
1995 and premium made by the producing agent who submits the  
1996 application to the corporation, made in the agent's capacity as  
1997 the corporation's agent. A comparison may be made solely of the  
1998 premium with respect to the main building or structure only on  
1999 the following basis: the same coverage A or other building  
2000 limits; the same percentage hurricane deductible that applies on  
2001 an annual basis or that applies to each hurricane for commercial

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2002 residential property; the same percentage of ordinance and law  
2003 coverage, if the same limit is offered by both the corporation  
2004 and the authorized insurer; the same mitigation credits, to the  
2005 extent the same types of credits are offered both by the  
2006 corporation and the authorized insurer; the same method for loss  
2007 payment, such as replacement cost or actual cash value, if the  
2008 same method is offered both by the corporation and the  
2009 authorized insurer in accordance with underwriting rules; and  
2010 any other form or coverage that is reasonably comparable as  
2011 determined by the board. If an application is submitted to the  
2012 corporation for wind-only coverage in the coastal ~~high-risk~~  
2013 account, the premium for the corporation's wind-only policy plus  
2014 the premium for the ex-wind policy that is offered by an  
2015 authorized insurer to the applicant must ~~shall~~ be compared to  
2016 the premium for multiperil coverage offered by an authorized  
2017 insurer, subject to the standards for comparison specified in  
2018 this subparagraph. If the corporation or the applicant requests  
2019 from the authorized insurer a breakdown of the premium of the  
2020 offer by types of coverage so that a comparison may be made by  
2021 the corporation or its agent and the authorized insurer refuses  
2022 or is unable to provide such information, the corporation may  
2023 treat the offer as not being an offer of coverage from an  
2024 authorized insurer at the insurer's approved rate.

2025 6. Must include rules for classifications of risks and  
2026 rates ~~therefor~~.

2027 7. Must provide that if premium and investment income for  
2028 an account attributable to a particular calendar year are in  
2029 excess of projected losses and expenses for the account  
2030 attributable to that year, such excess shall be held in surplus

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2031 in the account. Such surplus must ~~shall~~ be available to defray  
2032 deficits in that account as to future years and ~~shall be~~ used  
2033 for that purpose before ~~prior to~~ assessing assessable insurers  
2034 and assessable insureds as to any calendar year.

2035 8. Must provide objective criteria and procedures to be  
2036 uniformly applied to ~~for~~ all applicants in determining whether  
2037 an individual risk is so hazardous as to be uninsurable. In  
2038 making this determination and in establishing the criteria and  
2039 procedures, the following must ~~shall~~ be considered:

2040 a. Whether the likelihood of a loss for the individual risk  
2041 is substantially higher than for other risks of the same class;  
2042 and

2043 b. Whether the uncertainty associated with the individual  
2044 risk is such that an appropriate premium cannot be determined.

2045  
2046 The acceptance or rejection of a risk by the corporation shall  
2047 be construed as the private placement of insurance, and the  
2048 provisions of chapter 120 do ~~shall~~ not apply.

2049 9. Must provide that the corporation ~~shall~~ make its best  
2050 efforts to procure catastrophe reinsurance at reasonable rates,  
2051 to cover its projected 100-year probable maximum loss as  
2052 determined by the board of governors.

2053 10. The policies issued by the corporation must provide  
2054 that, if the corporation or the market assistance plan obtains  
2055 an offer from an authorized insurer to cover the risk at its  
2056 approved rates, the risk is no longer eligible for renewal  
2057 through the corporation, except as otherwise provided in this  
2058 subsection.

2059 11. Corporation policies and applications must include a

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2060 notice that the corporation policy could, under this section, be  
2061 replaced with a policy issued by an authorized insurer which  
2062 ~~that~~ does not provide coverage identical to the coverage  
2063 provided by the corporation. The notice must ~~shall~~ also specify  
2064 that acceptance of corporation coverage creates a conclusive  
2065 presumption that the applicant or policyholder is aware of this  
2066 potential.

2067 12. May establish, subject to approval by the office,  
2068 different eligibility requirements and operational procedures  
2069 for any line or type of coverage for any specified county or  
2070 area if the board determines that such changes ~~to the~~  
2071 ~~eligibility requirements and operational procedures~~ are  
2072 justified due to the voluntary market being sufficiently stable  
2073 and competitive in such area or for such line or type of  
2074 coverage and that consumers who, in good faith, are unable to  
2075 obtain insurance through the voluntary market through ordinary  
2076 methods ~~would~~ continue to have access to coverage from the  
2077 corporation. If ~~When~~ coverage is sought in connection with a  
2078 real property transfer, the ~~such~~ requirements and procedures may  
2079 ~~shall~~ not provide ~~for~~ an effective date of coverage later than  
2080 the date of the closing of the transfer as established by the  
2081 transferor, the transferee, and, if applicable, the lender.

2082 13. Must provide that, with respect to the coastal ~~high-~~  
2083 ~~risk~~ account, any assessable insurer with a surplus as to  
2084 policyholders of \$25 million or less writing 25 percent or more  
2085 of its total countrywide property insurance premiums in this  
2086 state may petition the office, within the first 90 days of each  
2087 calendar year, to qualify as a limited apportionment company. A  
2088 regular assessment levied by the corporation on a limited



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2089 apportionment company for a deficit incurred by the corporation  
2090 for the coastal ~~high-risk~~ account ~~in 2006 or thereafter~~ may be  
2091 paid to the corporation on a monthly basis as the assessments  
2092 are collected by the limited apportionment company from its  
2093 insureds pursuant to s. 627.3512, but the regular assessment  
2094 must be paid in full within 12 months after being levied by the  
2095 corporation. A limited apportionment company shall collect from  
2096 its policyholders any emergency assessment imposed under sub-  
2097 subparagraph (b)3.d. The plan must ~~shall~~ provide that, if the  
2098 office determines that any regular assessment will result in an  
2099 impairment of the surplus of a limited apportionment company,  
2100 the office may direct that all or part of such assessment be  
2101 deferred as provided in subparagraph (q)4. However, ~~there shall~~  
2102 ~~be no limitation or deferment of~~ an emergency assessment to be  
2103 collected from policyholders under sub-subparagraph (b)3.d. may  
2104 not be limited or deferred.

2105 14. Must provide that the corporation appoint as its  
2106 licensed agents only those agents who also hold an appointment  
2107 as defined in s. 626.015(3) with an insurer who at the time of  
2108 the agent's initial appointment by the corporation is authorized  
2109 to write and is actually writing personal lines residential  
2110 property coverage, commercial residential property coverage, or  
2111 commercial nonresidential property coverage within the state.

2112 15. Must provide, ~~by July 1, 2007,~~ a premium payment plan  
2113 option to its policyholders which, allows ~~allows~~ at a minimum, allows  
2114 for quarterly and semiannual payment of premiums. A monthly  
2115 payment plan may, but is not required to, be offered.

2116 16. Must limit coverage on mobile homes or manufactured  
2117 homes built before ~~prior to~~ 1994 to actual cash value of the

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2118 dwelling rather than replacement costs of the dwelling.

2119 17. May provide such limits of coverage as the board  
2120 determines, consistent with the requirements of this subsection.

2121 18. May require commercial property to meet specified  
2122 hurricane mitigation construction features as a condition of  
2123 eligibility for coverage.

2124 (d)1. All prospective employees for senior management  
2125 positions, as defined by the plan of operation, are subject to  
2126 background checks as a prerequisite for employment. The office  
2127 shall conduct the background checks ~~on such prospective~~  
2128 ~~employees~~ pursuant to ss. 624.34, 624.404(3), and 628.261.

2129 2. On or before July 1 of each year, employees of the  
2130 corporation must ~~are required to~~ sign and submit a statement  
2131 attesting that they do not have a conflict of interest, as  
2132 defined in part III of chapter 112. As a condition of  
2133 employment, all prospective employees must ~~are required to~~ sign  
2134 and submit to the corporation a conflict-of-interest statement.

2135 3. Senior managers and members of the board of governors  
2136 are subject to ~~the provisions of~~ part III of chapter 112,  
2137 including, but not limited to, the code of ethics and public  
2138 disclosure and reporting of financial interests, pursuant to s.  
2139 112.3145. Notwithstanding s. 112.3143(2), a board member may not  
2140 vote on any measure that would inure to his or her special  
2141 private gain or loss; that he or she knows would inure to the  
2142 special private gain or loss of any principal by whom he or she  
2143 is retained or to the parent organization or subsidiary of a  
2144 corporate principal by which he or she is retained, other than  
2145 an agency as defined in s. 112.312; or that he or she knows  
2146 would inure to the special private gain or loss of a relative or

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2147 business associate of the public officer. Before the vote is  
2148 taken, such member shall publicly state to the assembly the  
2149 nature of his or her interest in the matter from which he or she  
2150 is abstaining from voting and, within 15 days after the vote  
2151 occurs, disclose the nature of his or her interest as a public  
2152 record in a memorandum filed with the person responsible for  
2153 recording the minutes of the meeting, who shall incorporate the  
2154 memorandum in the minutes. Senior managers and board members are  
2155 also required to file such disclosures with the Commission on  
2156 Ethics and the Office of Insurance Regulation. The executive  
2157 director of the corporation or his or her designee shall notify  
2158 each existing and newly appointed ~~and existing appointed~~ member  
2159 of the board of governors and senior managers of their duty to  
2160 comply with the reporting requirements of part III of chapter  
2161 112. At least quarterly, the executive director or his or her  
2162 designee shall submit to the Commission on Ethics a list of  
2163 names of the senior managers and members of the board of  
2164 governors who are subject to the public disclosure requirements  
2165 under s. 112.3145.

2166 4. Notwithstanding s. 112.3148 or s. 112.3149, or any other  
2167 provision of law, an employee or board member may not knowingly  
2168 accept, directly or indirectly, any gift or expenditure from a  
2169 person or entity, or an employee or representative of such  
2170 person or entity, which ~~that~~ has a contractual relationship with  
2171 the corporation or who is under consideration for a contract. An  
2172 employee or board member who fails to comply with subparagraph  
2173 3. or this subparagraph is subject to penalties provided under  
2174 ss. 112.317 and 112.3173.

2175 5. Any senior manager of the corporation who is employed on

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2176 or after January 1, 2007, regardless of the date of hire, who  
2177 subsequently retires or terminates employment is prohibited from  
2178 representing another person or entity before the corporation for  
2179 2 years after retirement or termination of employment from the  
2180 corporation.

2181 6. Any senior manager of the corporation who is employed on  
2182 or after January 1, 2007, regardless of the date of hire, who  
2183 subsequently retires or terminates employment is prohibited from  
2184 having any employment or contractual relationship for 2 years  
2185 with an insurer that has entered into a take-out bonus agreement  
2186 with the corporation.

2187 (v)1. Effective July 1, 2002, policies of the Residential  
2188 Property and Casualty Joint Underwriting Association ~~shall~~  
2189 become policies of the corporation. All obligations, rights,  
2190 assets and liabilities of the ~~Residential Property and Casualty~~  
2191 ~~Joint Underwriting~~ association, including bonds, note and debt  
2192 obligations, and the financing documents pertaining to them  
2193 become those of the corporation as of July 1, 2002. The  
2194 corporation is not required to issue endorsements or  
2195 certificates of assumption to insureds during the remaining term  
2196 of in-force transferred policies.

2197 2. Effective July 1, 2002, policies of the Florida  
2198 Windstorm Underwriting Association are transferred to the  
2199 corporation and ~~shall~~ become policies of the corporation. All  
2200 obligations, rights, assets, and liabilities of the ~~Florida~~  
2201 ~~Windstorm Underwriting~~ association, including bonds, note and  
2202 debt obligations, and the financing documents pertaining to them  
2203 are transferred to and assumed by the corporation on July 1,  
2204 2002. The corporation is not required to issue endorsements or

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2205 certificates of assumption to insureds during the remaining term  
2206 of in-force transferred policies.

2207         3. The Florida Windstorm Underwriting Association and the  
2208 Residential Property and Casualty Joint Underwriting Association  
2209 shall take all actions necessary ~~as may be proper~~ to further  
2210 evidence the transfers and ~~shall~~ provide the documents and  
2211 instruments of further assurance as may reasonably be requested  
2212 by the corporation for that purpose. The corporation shall  
2213 execute assumptions and instruments as the trustees or other  
2214 parties to the financing documents of the Florida Windstorm  
2215 Underwriting Association or the Residential Property and  
2216 Casualty Joint Underwriting Association may reasonably request  
2217 to further evidence the transfers and assumptions, which  
2218 transfers and assumptions, however, are effective on the date  
2219 provided under this paragraph whether or not, and regardless of  
2220 the date on which, the assumptions or instruments are executed  
2221 by the corporation. Subject to the relevant financing documents  
2222 pertaining to their outstanding bonds, notes, indebtedness, or  
2223 other financing obligations, the moneys, investments,  
2224 receivables, choses in action, and other intangibles of the  
2225 Florida Windstorm Underwriting Association shall be credited to  
2226 the coastal ~~high-risk~~ account of the corporation, and those of  
2227 the personal lines residential coverage account and the  
2228 commercial lines residential coverage account of the Residential  
2229 Property and Casualty Joint Underwriting Association shall be  
2230 credited to the personal lines account and the commercial lines  
2231 account, respectively, of the corporation.

2232         4. Effective July 1, 2002, a new applicant for property  
2233 insurance coverage who would otherwise have been eligible for

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2234 coverage in the Florida Windstorm Underwriting Association is  
2235 eligible for coverage from the corporation as provided in this  
2236 subsection.

2237         5. The transfer of all policies, obligations, rights,  
2238 assets, and liabilities from the Florida Windstorm Underwriting  
2239 Association to the corporation and the renaming of the  
2240 Residential Property and Casualty Joint Underwriting Association  
2241 as the corporation does not ~~shall in no way~~ affect the coverage  
2242 with respect to covered policies as defined in s. 215.555(2)(c)  
2243 provided to these entities by the Florida Hurricane Catastrophe  
2244 Fund. The coverage provided by the ~~Florida Hurricane Catastrophe~~  
2245 fund to the Florida Windstorm Underwriting Association based on  
2246 its exposures as of June 30, 2002, and each June 30 thereafter  
2247 shall be redesignated as coverage for the coastal high-risk  
2248 account of the corporation. Notwithstanding any other provision  
2249 of law, the coverage provided by the ~~Florida Hurricane~~  
2250 ~~Catastrophe~~ fund to the Residential Property and Casualty Joint  
2251 Underwriting Association based on its exposures as of June 30,  
2252 2002, and each June 30 thereafter shall be transferred to the  
2253 personal lines account and the commercial lines account of the  
2254 corporation. Notwithstanding any other provision of law, the  
2255 coastal high-risk account shall be treated, for all Florida  
2256 Hurricane Catastrophe Fund purposes, as if it were a separate  
2257 participating insurer with its own exposures, reimbursement  
2258 premium, and loss reimbursement. Likewise, the personal lines  
2259 and commercial lines accounts shall be viewed together, for all  
2260 ~~Florida Hurricane Catastrophe~~ fund purposes, as if the two  
2261 accounts were one and represent a single, separate participating  
2262 insurer with its own exposures, reimbursement premium, and loss

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2263 reimbursement. The coverage provided by the ~~Florida Hurricane~~  
2264 ~~Catastrophe~~ fund to the corporation shall constitute and operate  
2265 as a full transfer of coverage from the Florida Windstorm  
2266 Underwriting Association and Residential Property and Casualty  
2267 Joint Underwriting to the corporation.

2268 (y) It is the intent of the Legislature that the amendments  
2269 to this subsection enacted in 2002 should, over time, reduce the  
2270 probable maximum windstorm losses in the residual markets and  
2271 ~~should reduce~~ the potential assessments to be levied on property  
2272 insurers and policyholders statewide. In furtherance of this  
2273 intent, ÷

2274 ~~1.~~ the board shall, on or before February 1 of each year,  
2275 provide a report to the President of the Senate and the Speaker  
2276 of the House of Representatives showing the reduction or  
2277 increase in the 100-year probable maximum loss attributable to  
2278 wind-only coverages and the quota share program under this  
2279 subsection combined, as compared to the benchmark 100-year  
2280 probable maximum loss of the Florida Windstorm Underwriting  
2281 Association. For purposes of this paragraph, the benchmark 100-  
2282 year probable maximum loss of the Florida Windstorm Underwriting  
2283 Association is ~~shall be~~ the calculation dated February 2001 and  
2284 based on November 30, 2000, exposures. In order to ensure  
2285 comparability of data, the board shall use the same methods for  
2286 calculating its probable maximum loss as were used to calculate  
2287 the benchmark probable maximum loss.

2288 ~~2. Beginning December 1, 2010, if the report under~~  
2289 ~~subparagraph 1. for any year indicates that the 100-year~~  
2290 ~~probable maximum loss attributable to wind-only coverages and~~  
2291 ~~the quota share program combined does not reflect a reduction of~~

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2292 ~~at least 25 percent from the benchmark, the board shall reduce~~  
2293 ~~the boundaries of the high-risk area eligible for wind-only~~  
2294 ~~coverages under this subsection in a manner calculated to reduce~~  
2295 ~~such probable maximum loss to an amount at least 25 percent~~  
2296 ~~below the benchmark.~~

2297 ~~3. Beginning February 1, 2015, if the report under~~  
2298 ~~subparagraph 1. for any year indicates that the 100-year~~  
2299 ~~probable maximum loss attributable to wind-only coverages and~~  
2300 ~~the quota share program combined does not reflect a reduction of~~  
2301 ~~at least 50 percent from the benchmark, the boundaries of the~~  
2302 ~~high-risk area eligible for wind-only coverages under this~~  
2303 ~~subsection shall be reduced by the elimination of any area that~~  
2304 ~~is not seaward of a line 1,000 feet inland from the Intracoastal~~  
2305 ~~Waterway.~~

2306 Section 16. Paragraph (a) of subsection (5) of section  
2307 627.3511, Florida Statutes, is amended to read:

2308 627.3511 Depopulation of Citizens Property Insurance  
2309 Corporation.—

2310 (5) APPLICABILITY.—

2311 (a) The take-out bonus provided by subsection (2) and the  
2312 exemption from assessment provided by paragraph (3)(a) apply  
2313 only if the corporation policy is replaced by ~~either~~ a standard  
2314 policy including wind coverage or, if consistent with the  
2315 insurer's underwriting rules ~~as~~ filed with the office, a basic  
2316 policy including wind coverage; however, for ~~with respect to~~  
2317 risks located in areas where coverage through the coastal high-  
2318 ~~risk~~ account of the corporation is available, the replacement  
2319 policy need not provide wind coverage. The insurer must renew  
2320 the replacement policy at approved rates on substantially



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2321 similar terms for four additional 1-year terms, unless canceled  
2322 or not renewed by the policyholder. If an insurer assumes the  
2323 corporation's obligations for a policy, it must issue a  
2324 replacement policy for a 1-year term upon expiration of the  
2325 corporation policy and must renew the replacement policy at  
2326 approved rates on substantially similar terms for four  
2327 additional 1-year terms, unless canceled or not renewed by the  
2328 policyholder. For each replacement policy canceled or nonrenewed  
2329 by the insurer for any reason during the 5-year coverage period  
2330 ~~required by this paragraph~~, the insurer must remove from the  
2331 corporation one additional policy covering a risk similar to the  
2332 risk covered by the canceled or nonrenewed policy. In addition  
2333 ~~to these requirements~~, the corporation must place the bonus  
2334 moneys in escrow for ~~a period of~~ 5 years; such moneys may be  
2335 released from escrow only to pay claims. If the policy is  
2336 canceled or nonrenewed before the end of the 5-year period, the  
2337 amount of the take-out bonus must be prorated for the time  
2338 period the policy was insured. A take-out bonus provided by  
2339 subsection (2) or subsection (6) is ~~shall not be considered~~  
2340 premium income for purposes of taxes and assessments under the  
2341 Florida Insurance Code and ~~shall~~ remain the property of the  
2342 corporation, subject to the prior security interest of the  
2343 insurer under the escrow agreement until it is released from  
2344 escrow; ~~and~~ after it is released from escrow it is ~~shall be~~  
2345 considered an asset of the insurer and credited to the insurer's  
2346 capital and surplus.

2347 Section 17. Paragraph (b) of subsection (2) of section  
2348 627.4133, Florida Statutes, is amended to read:

2349 627.4133 Notice of cancellation, nonrenewal, or renewal

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2350 premium.—

2351 (2) With respect to any personal lines or commercial  
2352 residential property insurance policy, including, but not  
2353 limited to, any homeowner's, mobile home owner's, farmowner's,  
2354 condominium association, condominium unit owner's, apartment  
2355 building, or other policy covering a residential structure or  
2356 its contents:

2357 (b) The insurer shall give the named insured written notice  
2358 of nonrenewal, cancellation, or termination at least 90 ~~100~~ days  
2359 before ~~prior to~~ the effective date of the nonrenewal,  
2360 cancellation, or termination. ~~However, the insurer shall give at~~  
2361 ~~least 100 days' written notice, or written notice by June 1,~~  
2362 ~~whichever is earlier, for any nonrenewal, cancellation, or~~  
2363 ~~termination that would be effective between June 1 and November~~  
2364 ~~30. The notice must include the reason or reasons for the~~  
2365 ~~nonrenewal, cancellation, or termination, except that:~~

2366 1. ~~The insurer shall give the named insured written notice~~  
2367 ~~of nonrenewal, cancellation, or termination at least 180 days~~  
2368 ~~prior to the effective date of the nonrenewal, cancellation, or~~  
2369 ~~termination for a named insured whose residential structure has~~  
2370 ~~been insured by that insurer or an affiliated insurer for at~~  
2371 ~~least a 5-year period immediately prior to the date of the~~  
2372 ~~written notice.~~

2373 1.2. ~~If~~ When cancellation is for nonpayment of premium, at  
2374 least 10 days' written notice of cancellation accompanied by the  
2375 reason therefor must ~~shall~~ be given. As used in this  
2376 subparagraph, the term "nonpayment of premium" means failure of  
2377 the named insured to discharge when due ~~any of~~ her or his  
2378 obligations in connection with the payment of premiums on a

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2379 policy or any installment of such premium, whether the premium  
2380 is payable directly to the insurer or its agent or indirectly  
2381 under any premium finance plan or extension of credit, or  
2382 failure to maintain membership in an organization if such  
2383 membership is a condition precedent to insurance coverage. The  
2384 term "~~Nonpayment of premium~~" also means the failure of a  
2385 financial institution to honor an insurance applicant's check  
2386 after delivery to a licensed agent for payment of a premium,  
2387 even if the agent has previously delivered or transferred the  
2388 premium to the insurer. If a dishonored check represents the  
2389 initial premium payment, the contract and all contractual  
2390 obligations are ~~shall be~~ void ab initio unless the nonpayment is  
2391 cured within the earlier of 5 days after actual notice by  
2392 certified mail is received by the applicant or 15 days after  
2393 notice is sent to the applicant by certified mail or registered  
2394 mail, and if the contract is void, any premium received by the  
2395 insurer from a third party must ~~shall~~ be refunded to that party  
2396 in full.

2397 ~~2.3.~~ 2.3. ~~If when~~ such cancellation or termination occurs during  
2398 the first 90 days ~~during which~~ the insurance is in force and the  
2399 insurance is canceled or terminated for reasons other than  
2400 nonpayment of premium, at least 20 days' written notice of  
2401 cancellation or termination accompanied by the reason therefor  
2402 must ~~shall~~ be given unless ~~except where~~ there has been a  
2403 material misstatement or misrepresentation or failure to comply  
2404 with the underwriting requirements established by the insurer.

2405 ~~3.4.~~ 3.4. The requirement for providing written notice ~~of~~  
2406 ~~nonrenewal~~ by June 1 of any nonrenewal that would be effective  
2407 between June 1 and November 30 does not apply to the following

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2408 situations, but the insurer remains subject to the requirement  
2409 to provide such notice at least 100 days before ~~prior to~~ the  
2410 effective date of nonrenewal:

2411 a. A policy that is nonrenewed due to a revision in the  
2412 coverage for sinkhole losses and catastrophic ground cover  
2413 collapse pursuant to s. 627.706, ~~as amended by s. 30, chapter~~  
2414 ~~2007-1, Laws of Florida.~~

2415 b. A policy that is nonrenewed by Citizens Property  
2416 Insurance Corporation, pursuant to s. 627.351(6), for a policy  
2417 that has been assumed by an authorized insurer offering  
2418 replacement ~~or renewal~~ coverage to the policyholder is exempt  
2419 from the notice requirements of paragraph (a) and this  
2420 paragraph. In such cases, the corporation must give the named  
2421 insured written notice of nonrenewal at least 45 days before the  
2422 effective date of the nonrenewal.

2423  
2424 After the policy has been in effect for 90 days, the policy may  
2425 ~~shall~~ not be canceled by the insurer unless ~~except when~~ there  
2426 has been a material misstatement, a nonpayment of premium, a  
2427 failure to comply with underwriting requirements established by  
2428 the insurer within 90 days after ~~of~~ the date of effectuation of  
2429 coverage, or a substantial change in the risk covered by the  
2430 policy or if ~~when~~ the cancellation is for all insureds under  
2431 such policies for a given class of insureds. This paragraph does  
2432 not apply to individually rated risks having a policy term of  
2433 less than 90 days.

2434 4. Notwithstanding any other provision of law, an insurer  
2435 may cancel or nonrenew a property insurance policy after at  
2436 least 45 days' notice if the office finds that the early

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2437 cancellation of some or all of the insurer's policies is  
2438 necessary to protect the best interests of the public or  
2439 policyholders and the office approves the insurer's plan for  
2440 early cancellation or nonrenewal of some or all of its policies.  
2441 The office may base such finding upon the financial condition of  
2442 the insurer, lack of adequate reinsurance coverage for hurricane  
2443 risk, or other relevant factors. The office may condition its  
2444 finding on the consent of the insurer to be placed under  
2445 administrative supervision pursuant to s. 624.81 or to the  
2446 appointment of a receiver under chapter 631.

2447 Section 18. Section 627.43141, Florida Statutes, is created  
2448 to read:

2449 627.43141 Notice of change in policy terms.-

2450 (1) As used in this section, the term:

2451 (a) "Change in policy terms" means the modification,  
2452 addition, or deletion of any term, coverage, duty, or condition  
2453 from the previous policy. The correction of typographical or  
2454 scrivener's errors or the application of mandated legislative  
2455 changes is not a change in policy terms.

2456 (b) "Policy" means a written contract or written agreement  
2457 for personal lines property and casualty insurance, or the  
2458 certificate of such insurance, by whatever name called, and  
2459 includes all clauses, riders, endorsements, and papers that are  
2460 a part of such policy. The term does not include a binder as  
2461 defined in s. 627.420 unless the duration of the binder period  
2462 exceeds 60 days.

2463 (c) "Renewal" means the issuance and delivery by an insurer  
2464 of a policy superseding at the end of the policy period a policy  
2465 previously issued and delivered by the same insurer or the

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2466 issuance and delivery of a certificate or notice extending the  
2467 term of a policy beyond its policy period or term. Any policy  
2468 that has a policy period or term of less than 6 months or that  
2469 does not have a fixed expiration date shall, for purposes of  
2470 this section, be considered as written for successive policy  
2471 periods or terms of 6 months.

2472 (2) A renewal policy may contain a change in policy terms.  
2473 If a renewal policy does contains such change, the insurer must  
2474 give the named insured written notice of the change, which must  
2475 be enclosed along with the written notice of renewal premium  
2476 required by ss. 627.4133 and 627.728. Such notice shall be  
2477 entitled "Notice of Change in Policy Terms."

2478 (3) Although not required, proof of mailing or registered  
2479 mailing through the United States Postal Service of the Notice  
2480 of Change in Policy Terms to the named insured at the address  
2481 shown in the policy is sufficient proof of notice.

2482 (4) Receipt of the premium payment for the renewal policy  
2483 by the insurer is deemed to be acceptance of the new policy  
2484 terms by the named insured.

2485 (5) If an insurer fails to provide the notice required in  
2486 subsection (2), the original policy terms remain in effect until  
2487 the next renewal and the proper service of the notice, or until  
2488 the effective date of replacement coverage obtained by the named  
2489 insured, whichever occurs first.

2490 (6) The intent of this section is to:

2491 (a) Allow an insurer to make a change in policy terms  
2492 without nonrenewing those policyholders that the insurer wishes  
2493 to continue insuring.

2494 (b) Alleviate concern and confusion to the policyholder

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2495 caused by the required policy nonrenewal for the limited issue  
2496 if an insurer intends to renew the insurance policy, but the new  
2497 policy contains a change in policy terms.

2498 (c) Encourage policyholders to discuss their coverages with  
2499 their insurance agents.

2500 Section 19. Section 627.7011, Florida Statutes, is amended  
2501 to read:

2502 627.7011 Homeowners' policies; offer of replacement cost  
2503 coverage and law and ordinance coverage.—

2504 (1) Before ~~Prior to~~ issuing or renewing a homeowner's  
2505 insurance policy ~~on or after October 1, 2005, or prior to the~~  
2506 ~~first renewal of a homeowner's insurance policy on or after~~  
2507 ~~October 1, 2005,~~ the insurer must offer each of the following:

2508 (a) A policy or endorsement providing that any loss that  
2509 ~~which~~ is repaired or replaced will be adjusted on the basis of  
2510 replacement costs to the dwelling not exceeding policy limits ~~as~~  
2511 ~~to the dwelling,~~ rather than actual cash value, but not  
2512 including costs necessary to meet applicable laws and ordinances  
2513 regulating the construction, use, or repair of any property or  
2514 requiring the tearing down of any property, including the costs  
2515 of removing debris.

2516 (b) A policy or endorsement providing that, subject to  
2517 other policy provisions, any loss that ~~which~~ is repaired or  
2518 replaced at any location will be adjusted on the basis of  
2519 replacement costs to the dwelling not exceeding policy limits ~~as~~  
2520 ~~to the dwelling,~~ rather than actual cash value, and also  
2521 including costs necessary to meet applicable laws and ordinances  
2522 regulating the construction, use, or repair of any property or  
2523 requiring the tearing down of any property, including the costs

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2524 of removing debris.† However, ~~such~~ additional costs necessary to  
2525 meet applicable laws and ordinances may be limited to ~~either~~ 25  
2526 percent or 50 percent of the dwelling limit, as selected by the  
2527 policyholder, and such coverage applies ~~shall apply~~ only to  
2528 repairs of the damaged portion of the structure unless the total  
2529 damage to the structure exceeds 50 percent of the replacement  
2530 cost of the structure.

2531  
2532 An insurer is not required to make the offers required by this  
2533 subsection with respect to the issuance or renewal of a  
2534 homeowner's policy that contains the provisions specified in  
2535 paragraph (b) for law and ordinance coverage limited to 25  
2536 percent of the dwelling limit, except that the insurer must  
2537 offer the law and ordinance coverage limited to 50 percent of  
2538 the dwelling limit. This subsection does not prohibit the offer  
2539 of a guaranteed replacement cost policy.

2540 (2) Unless the insurer obtains the policyholder's written  
2541 refusal of the policies or endorsements specified in subsection  
2542 (1), any policy covering the dwelling is deemed to include the  
2543 law and ordinance coverage limited to 25 percent of the dwelling  
2544 limit. The rejection or selection of alternative coverage shall  
2545 be made on a form approved by the office. The form must ~~shall~~  
2546 fully advise the applicant of the nature of the coverage being  
2547 rejected. If this form is signed by a named insured, it is ~~will~~  
2548 ~~be~~ conclusively presumed that there was an informed, knowing  
2549 rejection of the coverage or election of the alternative  
2550 coverage on behalf of all insureds. Unless the policyholder  
2551 requests in writing the coverage specified in this section, it  
2552 need not be provided in or supplemental to any other policy that



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2553 renews, insures, extends, changes, supersedes, or replaces an  
2554 existing policy ~~if when~~ the policyholder has rejected the  
2555 coverage specified in this section or has selected alternative  
2556 coverage. The insurer must provide the ~~such~~ policyholder with  
2557 notice of the availability of such coverage in a form approved  
2558 by the office at least once every 3 years. The failure to  
2559 provide such notice constitutes a violation of this code, but  
2560 does not affect the coverage provided under the policy.

2561 (3) In the event of a loss for which a dwelling or personal  
2562 property is insured on the basis of replacement costs:

2563 (a) For a dwelling, the insurer must initially pay at least  
2564 the actual cash value of the insured loss, less any applicable  
2565 deductible. To receive payment from an insurer for replacement  
2566 costs, the policyholder must enter into a contract for the  
2567 performance of building and structural repairs, unless the  
2568 requirement for a contract is waived by the insurer. The insurer  
2569 shall pay any remaining amounts necessary to perform such  
2570 repairs as work is performed and expenses are incurred. The  
2571 insurer or any contractor or subcontractor may not require the  
2572 policyholder to advance payment for such repairs or expenses,  
2573 with the exception of incidental expenses to mitigate further  
2574 damage. If a total loss of a dwelling occurs, the insurer shall  
2575 pay the replacement cost coverage without reservation or  
2576 holdback of any depreciation in value, pursuant to s. 627.702.

2577 (b) For personal property, the insurer may limit the  
2578 initial payment to the actual cash value of the personal  
2579 property to be replaced. An insurer may require an insured to  
2580 provide receipts for the purchase of the property financed by  
2581 the initial payment and use such receipts to make the next

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2582 payment requested by the insured for the replacement of insured  
 2583 property, and continue this process until the insured remits all  
 2584 receipts up to the policy limits for replacement costs. The  
 2585 insurer must provide clear notice of this process in the  
 2586 insurance contract. The insurer may not require the policyholder  
 2587 to advance payment for the replaced property, ~~the insurer shall~~  
 2588 ~~pay the replacement cost without reservation or holdback of any~~  
 2589 ~~depreciation in value, whether or not the insured replaces or~~  
 2590 ~~repairs the dwelling or property.~~

2591 (4) ~~A~~ Any homeowner's insurance policy ~~issued or renewed on~~  
 2592 ~~or after October 1, 2005,~~ must include in bold type no smaller  
 2593 than 18 points the following statement:

2594  
 2595 "LAW AND ORDINANCE COVERAGE IS AN IMPORTANT COVERAGE  
 2596 THAT YOU MAY WISH TO PURCHASE. YOU MAY ALSO NEED TO  
 2597 CONSIDER THE PURCHASE OF FLOOD INSURANCE FROM THE  
 2598 NATIONAL FLOOD INSURANCE PROGRAM. WITHOUT THIS  
 2599 COVERAGE, YOU MAY HAVE UNCOVERED LOSSES. PLEASE  
 2600 DISCUSS THESE COVERAGES WITH YOUR INSURANCE AGENT."  
 2601

2602 The intent of this subsection is to encourage policyholders to  
 2603 purchase sufficient coverage to protect them in case events  
 2604 excluded from the standard homeowners policy, such as law and  
 2605 ordinance enforcement and flood, combine with covered events to  
 2606 produce damage or loss to the insured property. The intent is  
 2607 also to encourage policyholders to discuss these issues with  
 2608 their insurance agent.

2609 (5) ~~Nothing in~~ This section does not: ~~shall be construed to~~  
 2610 (a) Apply to policies not considered to be "homeowners'

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2611 policies," as that term is commonly understood in the insurance  
2612 industry. ~~This section specifically does not~~

2613 (b) Apply to mobile home policies. ~~Nothing in this section~~

2614 (c) Limit shall be construed as limiting the ability of an  
2615 ~~any~~ insurer to reject or nonrenew any insured or applicant on  
2616 the grounds that the structure does not meet underwriting  
2617 criteria applicable to replacement cost or law and ordinance  
2618 policies or for other lawful reasons.

2619 (d) ~~(6) This section does not~~ Prohibit an insurer from  
2620 limiting its liability under a policy or endorsement providing  
2621 that loss will be adjusted on the basis of replacement costs to  
2622 the lesser of:

2623 1. ~~(a)~~ The limit of liability shown on the policy  
2624 declarations page;

2625 2. ~~(b)~~ The reasonable and necessary cost to repair the  
2626 damaged, destroyed, or stolen covered property; or

2627 3. ~~(e)~~ The reasonable and necessary cost to replace the  
2628 damaged, destroyed, or stolen covered property.

2629 (e) ~~(7) This section does not~~ Prohibit an insurer from  
2630 exercising its right to repair damaged property in compliance  
2631 with its policy and s. 627.702(7).

2632 Section 20. Paragraph (a) of subsection (5) of section  
2633 627.70131, Florida Statutes, is amended to read:

2634 627.70131 Insurer's duty to acknowledge communications  
2635 regarding claims; investigation.-

2636 (5) (a) Within 90 days after an insurer receives notice of  
2637 an initial, reopened, or supplemental ~~a~~ property insurance claim  
2638 from a policyholder, the insurer shall pay or deny such claim or  
2639 a portion of the claim unless the failure to pay ~~such claim or a~~

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2640 ~~portion of the claim~~ is caused by factors beyond the control of  
2641 the insurer which reasonably prevent such payment. Any payment  
2642 of an initial or supplemental a claim or portion of such a claim  
2643 made ~~paid~~ 90 days after the insurer receives notice of the  
2644 claim, or made ~~paid~~ more than 15 days after there are no longer  
2645 factors beyond the control of the insurer which reasonably  
2646 prevented such payment, whichever is later, bears ~~shall bear~~  
2647 interest at the rate set forth in s. 55.03. Interest begins to  
2648 accrue from the date the insurer receives notice of the claim.  
2649 The provisions of this subsection may not be waived, voided, or  
2650 nullified by the terms of the insurance policy. If there is a  
2651 right to prejudgment interest, the insured shall select whether  
2652 to receive prejudgment interest or interest under this  
2653 subsection. Interest is payable when the claim or portion of the  
2654 claim is paid. Failure to comply with this subsection  
2655 constitutes a violation of this code. However, failure to comply  
2656 with this subsection does ~~shall~~ not form the sole basis for a  
2657 private cause of action.

2658 Section 21. The Legislature finds and declares:

2659 (1) There is a compelling state interest in maintaining a  
2660 viable and orderly private-sector market for property insurance  
2661 in this state. The lack of a viable and orderly property market  
2662 reduces the availability of property insurance coverage to state  
2663 residents, increases the cost of property insurance, and  
2664 increases the state's reliance on a residual property insurance  
2665 market and its potential for imposing assessments on  
2666 policyholders throughout the state.

2667 (2) In 2005, the Legislature revised ss. 627.706-627.7074,  
2668 Florida Statutes, to adopt certain geological or technical

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2669 terms; to increase reliance on objective, scientific testing  
2670 requirements; and generally to reduce the number of sinkhole  
2671 claims and related disputes arising under prior law. The  
2672 Legislature determined that since the enactment of these  
2673 statutory revisions, both private-sector insurers and Citizens  
2674 Property Insurance Corporation have, nevertheless, continued to  
2675 experience high claims frequency and severity for sinkhole  
2676 insurance claims. In addition, many properties remain unrepaired  
2677 even after loss payments, which reduces the local property tax  
2678 base and adversely affects the real estate market. Therefore,  
2679 the Legislature finds that losses associated with sinkhole  
2680 claims adversely affect the public health, safety, and welfare  
2681 of this state and its citizens.

2682 (3) Pursuant to sections 19 through 24 of this act,  
2683 technical or scientific definitions adopted in the 2005  
2684 legislation are clarified to implement and advance the  
2685 Legislature's intended reduction of sinkhole claims and  
2686 disputes. The legal presumption intended by the Legislature is  
2687 clarified to reduce disputes and litigation associated with the  
2688 technical reviews associated with sinkhole claims. Certain other  
2689 revisions to ss. 627.706-627.7074, Florida Statutes, are enacted  
2690 to advance legislative intent to rely on scientific or technical  
2691 determinations relating to sinkholes and sinkhole claims, reduce  
2692 the number and cost of disputes relating to sinkhole claims, and  
2693 ensure that repairs are made commensurate with the scientific  
2694 and technical determinations and insurance claims payments.

2695 Section 22. Section 627.706, Florida Statutes, is reordered  
2696 and amended to read:

2697 627.706 Sinkhole insurance; catastrophic ground cover

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2698 collapse; definitions.—

2699 (1) Every insurer authorized to transact residential  
2700 property insurance, as described in s. 627.4025, in this state  
2701 must ~~shall~~ provide coverage for a catastrophic ground cover  
2702 collapse. However, the insurer may restrict such coverage to the  
2703 principal building, as defined in the applicable policy. The  
2704 insurer may ~~and shall~~ make available, for an appropriate  
2705 additional premium, coverage for sinkhole losses on any  
2706 structure, including the contents of personal property contained  
2707 therein, to the extent provided in the form to which the  
2708 coverage attaches. A policy for residential property insurance  
2709 may include a deductible amount applicable to sinkhole losses,  
2710 including any expenses incurred by an insurer investigating  
2711 whether sinkhole activity is present. The deductible may be  
2712 equal to 1 percent, 2 percent, 5 percent, or 10 percent of the  
2713 policy dwelling limits, with appropriate premium discounts  
2714 offered with each deductible amount.

2715 (2) As used in ss. 627.706-627.7074, and as used in  
2716 connection with any policy providing coverage for a catastrophic  
2717 ground cover collapse or for sinkhole losses, the term:

2718 (a) "Catastrophic ground cover collapse" means geological  
2719 activity that results in all the following:

- 2720 1. The abrupt collapse of the ground cover;
- 2721 2. A depression in the ground cover clearly visible to the  
2722 naked eye;
- 2723 3. Structural damage to the covered building, including the  
2724 foundation; and
- 2725 4. The insured structure being condemned and ordered to be  
2726 vacated by the governmental agency authorized by law to issue

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2727 such an order for that structure.

2728  
2729 Contents coverage applies if there is a loss resulting from a  
2730 catastrophic ground cover collapse. ~~Structural~~ Damage consisting  
2731 merely of the settling or cracking of a foundation, structure,  
2732 or building does not constitute a loss resulting from a  
2733 catastrophic ground cover collapse.

2734 (b) "Neutral evaluation" means the alternative dispute  
2735 resolution provided in s. 627.7074.

2736 (c) "Neutral evaluator" means a professional engineer or a  
2737 professional geologist who has completed a course of study in  
2738 alternative dispute resolution designed or approved by the  
2739 department for use in the neutral evaluation process and who is  
2740 determined to be fair and impartial.

2741 (f) ~~(b)~~ "Sinkhole" means a landform created by subsidence of  
2742 soil, sediment, or rock as underlying strata are dissolved by  
2743 groundwater. A sinkhole forms ~~may form~~ by collapse into  
2744 subterranean voids created by dissolution of limestone or  
2745 dolostone or by subsidence as these strata are dissolved.

2746 (h) ~~(e)~~ "Sinkhole loss" means structural damage to the  
2747 covered building, including the foundation, caused by sinkhole  
2748 activity. Contents coverage and additional living expenses ~~shall~~  
2749 apply only if there is structural damage to the covered building  
2750 caused by sinkhole activity.

2751 (g) ~~(d)~~ "Sinkhole activity" means settlement or systematic  
2752 weakening of the earth supporting ~~such~~ property only if the ~~when~~  
2753 ~~such~~ settlement or systematic weakening results from  
2754 contemporary movement or raveling of soils, sediments, or rock  
2755 materials into subterranean voids created by the effect of water

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2756 on a limestone or similar rock formation.

2757 (d)~~(e)~~ "Professional engineer" means a person, as defined  
2758 in s. 471.005, who has a bachelor's degree or higher in  
2759 engineering and has successfully completed at least five courses  
2760 in any combination of the following: geotechnical engineering,  
2761 structural engineering, soil mechanics, foundations, or geology  
2762 ~~with a specialty in the geotechnical engineering field.~~ A  
2763 professional engineer must also have ~~geotechnical~~ experience and  
2764 expertise in the identification of sinkhole activity as well as  
2765 other potential causes of structural damage ~~to the structure.~~

2766 (e)~~(f)~~ "Professional geologist" means a person, as defined  
2767 in ~~by~~ s. 492.102, who has a bachelor's degree or higher in  
2768 geology or related earth science and ~~with expertise in the~~  
2769 ~~geology of Florida. A professional geologist must have~~  
2770 ~~geological~~ experience and expertise in the identification of  
2771 sinkhole activity as well as other potential geologic causes of  
2772 structural damage ~~to the structure.~~

2773 (i) "Structural damage" means:

2774 1. A covered building that suffers foundation movement  
2775 outside an acceptable variance under the applicable building  
2776 code;

2777 2. Damage to a covered building, including the foundation,  
2778 which prevents the primary structural members or primary  
2779 structural systems from supporting the loads and forces they  
2780 were designed to support; and

2781 3. As may be further defined by the applicable policy.

2782 ~~(3) On or before June 1, 2007, Every insurer authorized to~~  
2783 ~~transact property insurance in this state shall make a proper~~  
2784 ~~filing with the office for the purpose of extending the~~



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2785 ~~appropriate forms of property insurance to include coverage for~~  
 2786 ~~catastrophic ground cover collapse or for sinkhole losses.~~  
 2787 ~~coverage for catastrophic ground cover collapse may not go into~~  
 2788 ~~effect until the effective date provided for in the filing~~  
 2789 ~~approved by the office.~~

2790 (3)~~(4)~~ Insurers offering policies that exclude coverage for  
 2791 sinkhole losses must ~~shall~~ inform policyholders in bold type of  
 2792 not less than 14 points as follows: "YOUR POLICY PROVIDES  
 2793 COVERAGE FOR A CATASTROPHIC GROUND COVER COLLAPSE THAT RESULTS  
 2794 IN THE PROPERTY BEING CONDEMNED AND UNINHABITABLE. OTHERWISE,  
 2795 YOUR POLICY DOES NOT PROVIDE COVERAGE FOR SINKHOLE LOSSES. ~~YOU~~  
 2796 ~~MAY PURCHASE ADDITIONAL COVERAGE FOR SINKHOLE LOSSES FOR AN~~  
 2797 ~~ADDITIONAL PREMIUM."~~

2798 (4)~~(5)~~ An insurer offering sinkhole coverage to  
 2799 policyholders before or after the adoption of s. 30, chapter  
 2800 2007-1, Laws of Florida, may nonrenew the policies of  
 2801 policyholders maintaining sinkhole coverage ~~in Pasco County or~~  
 2802 ~~Hernando County,~~ at the option of the insurer, and provide an  
 2803 offer of coverage that ~~to such policyholders which~~ includes  
 2804 catastrophic ground cover collapse and excludes sinkhole  
 2805 coverage. Insurers acting in accordance with this subsection are  
 2806 subject to the following requirements:

2807 (a) Policyholders must be notified that a nonrenewal is for  
 2808 purposes of removing sinkhole coverage, and that the  
 2809 policyholder is ~~still~~ being offered a policy that provides  
 2810 coverage for catastrophic ground cover collapse.

2811 (b) Policyholders must be provided an actuarially  
 2812 reasonable premium credit or discount for the removal of  
 2813 sinkhole coverage and provision of only catastrophic ground

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2814 cover collapse.

2815 (c) Subject to the provisions of this subsection and the  
2816 insurer's approved underwriting or insurability guidelines, the  
2817 insurer may ~~shall~~ provide each policyholder with the opportunity  
2818 to purchase an endorsement to his or her policy providing  
2819 sinkhole coverage and may require an inspection of the property  
2820 before issuance of a sinkhole coverage endorsement.

2821 (d) Section 624.4305 does not apply to nonrenewal notices  
2822 issued pursuant to this subsection.

2823 (5) Any claim, including, but not limited to, initial,  
2824 supplemental, and reopened claims under an insurance policy that  
2825 provides sinkhole coverage is barred unless notice of the claim  
2826 was given to the insurer in accordance with the terms of the  
2827 policy within 2 years after the policyholder knew or reasonably  
2828 should have known about the sinkhole loss.

2829 Section 23. Section 627.7061, Florida Statutes, is amended  
2830 to read:

2831 627.7061 Coverage inquiries.—Inquiries about coverage on a  
2832 property insurance contract are not claim activity, unless an  
2833 actual claim is filed by the policyholder which insured that  
2834 results in a company investigation of the claim.

2835 Section 24. Section 627.7065, Florida Statutes, is  
2836 repealed.

2837 Section 25. Section 627.707, Florida Statutes, is amended  
2838 to read:

2839 627.707 ~~Standards for~~ Investigation of sinkhole claims by  
2840 policyholders insurers; insurer payment; nonrenewals.—Upon  
2841 receipt of a claim for a sinkhole loss to a covered building, an  
2842 insurer must meet the following standards in investigating a

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2843 claim:

2844 (1) The insurer must inspect ~~make an inspection of~~ the  
2845 policyholder's insured's premises to determine if there is  
2846 structural ~~has been physical~~ damage that ~~to the structure which~~  
2847 may be the result of sinkhole activity.

2848 (2) If the insurer confirms that structural damage exists  
2849 but is unable to identify a valid cause of such damage or  
2850 discovers that such damage is consistent with sinkhole loss  
2851 ~~Following the insurer's initial inspection,~~ the insurer shall  
2852 engage a professional engineer or a professional geologist to  
2853 conduct testing as provided in s. 627.7072 to determine the  
2854 cause of the loss within a reasonable professional probability  
2855 and issue a report as provided in s. 627.7073, only if sinkhole  
2856 loss is covered under the policy. Except as provided in  
2857 subsection (6), the fees and costs of the professional engineer  
2858 or professional geologist shall be paid by the insurer.†

2859 ~~(a) The insurer is unable to identify a valid cause of the~~  
2860 ~~damage or discovers damage to the structure which is consistent~~  
2861 ~~with sinkhole loss; or~~

2862 ~~(b) The policyholder demands testing in accordance with~~  
2863 ~~this section or s. 627.7072.~~

2864 (3) Following the initial inspection of the policyholder's  
2865 ~~insured~~ premises, the insurer shall provide written notice to  
2866 the policyholder disclosing the following information:

2867 (a) What the insurer has determined to be the cause of  
2868 damage, if the insurer has made such a determination.

2869 (b) A statement of the circumstances under which the  
2870 insurer is required to engage a professional engineer or a  
2871 professional geologist to verify or eliminate sinkhole loss and

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2872 to engage a professional engineer to make recommendations  
2873 regarding land and building stabilization and foundation repair.

2874 ~~(c) A statement regarding the right of the policyholder to~~  
2875 ~~request testing by a professional engineer or a professional~~  
2876 ~~geologist and the circumstances under which the policyholder may~~  
2877 ~~demand certain testing.~~

2878 (4) If the insurer determines that there is no sinkhole  
2879 loss, the insurer may deny the claim. If coverage for sinkhole  
2880 loss is available and ~~If the insurer denies the claim on such~~  
2881 basis, without performing testing under s. 627.7072, the  
2882 policyholder may demand testing by the insurer ~~under s.~~  
2883 ~~627.7072.~~ The policyholder's demand for testing must be  
2884 communicated to the insurer in writing within 60 days after the  
2885 policyholder's receipt of the insurer's denial of the claim.

2886 (5) ~~(a) Subject to paragraph (b),~~ If a sinkhole loss is  
2887 verified, the insurer shall pay to stabilize the land and  
2888 building and repair the foundation in accordance with the  
2889 recommendations of the professional engineer retained pursuant  
2890 to subsection (2), ~~as provided under s. 627.7073, and in~~  
2891 ~~consultation~~ with notice to the policyholder, subject to the  
2892 coverage and terms of the policy. The insurer shall pay for  
2893 other repairs to the structure and contents in accordance with  
2894 the terms of the policy.

2895 ~~(a) (b)~~ The insurer may limit its total claims payment to  
2896 the actual cash value of the sinkhole loss, which does not  
2897 include ~~including~~ underpinning or grouting or any other repair  
2898 technique performed below the existing foundation of the  
2899 building, until the policyholder enters into a contract for the  
2900 performance of building stabilization or foundation repairs in

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2901 accordance with the recommendations set forth in the insurer's  
2902 report issued pursuant to s. 627.7073.

2903 (b) In order to prevent additional damage to the building  
2904 or structure, the policyholder must enter into a contract for  
2905 the performance of building stabilization or foundation repairs  
2906 within 90 days after the insurance company confirms coverage for  
2907 the sinkhole loss and notifies the policyholder of such  
2908 confirmation. This time period is tolled if either party invokes  
2909 the neutral evaluation process.

2910 (c) After the policyholder enters into the contract for the  
2911 performance of building stabilization or foundation repairs, the  
2912 insurer shall pay the amounts necessary to begin and perform  
2913 such repairs as the work is performed and the expenses are  
2914 incurred. The insurer may not require the policyholder to  
2915 advance payment for such repairs. If repair covered by a  
2916 personal lines residential property insurance policy has begun  
2917 and the professional engineer selected or approved by the  
2918 insurer determines that the repair cannot be completed within  
2919 the policy limits, the insurer must ~~either~~ complete the  
2920 professional engineer's recommended repair or tender the policy  
2921 limits to the policyholder without a reduction for the repair  
2922 expenses incurred.

2923 (d) The stabilization and all other repairs to the  
2924 structure and contents must be completed within 12 months after  
2925 entering into the contract for repairs described in paragraph  
2926 (b) unless:

2927 1. There is a mutual agreement between the insurer and the  
2928 policyholder;

2929 2. The claim is involved with the neutral evaluation

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2930 process;

2931 3. The claim is in litigation; or

2932 4. The claim is under appraisal.

2933 ~~(e)-(e)~~ Upon the insurer's obtaining the written approval of  
2934 ~~the policyholder and any lienholder, the insurer may make~~  
2935 ~~payment directly to the persons selected by the policyholder to~~  
2936 ~~perform the land and building stabilization and foundation~~  
2937 ~~repairs. The decision by the insurer to make payment to such~~  
2938 ~~persons does not hold the insurer liable for the work performed.~~  
2939 The policyholder may not accept a rebate from any person  
2940 performing the repairs specified in this section. If a  
2941 policyholder does receive a rebate, coverage is void and the  
2942 policyholder must refund the amount of the rebate to the  
2943 insurer. Any person making the repairs specified in this section  
2944 who offers a rebate, or any policyholder who accepts a rebate  
2945 for such repairs, commits insurance fraud punishable as a third  
2946 degree felony as provided in s. 775.082, s. 775.083, or s.  
2947 775.084.

2948 ~~(6) Except as provided in subsection (7), the fees and~~  
2949 ~~costs of the professional engineer or the professional geologist~~  
2950 ~~shall be paid by the insurer.~~

2951 ~~(6)-(7)~~ If the insurer obtains, pursuant to s. 627.7073,  
2952 written certification that there is no sinkhole loss ~~or that the~~  
2953 ~~cause of the damage was not sinkhole activity, and if the~~  
2954 ~~policyholder has submitted the sinkhole claim without good faith~~  
2955 ~~grounds for submitting such claim, the policyholder shall~~  
2956 ~~reimburse the insurer for 50 percent of the actual costs of the~~  
2957 ~~analyses and services provided under ss. 627.7072 and 627.7073;~~  
2958 ~~however, a policyholder is not required to reimburse an insurer~~

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2959 more than the deductible or \$2,500, whichever is greater, with  
2960 respect to any claim. A policyholder is required to pay  
2961 reimbursement under this subsection only if the policyholder  
2962 requested the testing and report provided pursuant to ss.  
2963 627.7072 and 627.7073 and the insurer, before ~~prior to~~ ordering  
2964 the analysis under s. 627.7072, informs the policyholder in  
2965 writing of the policyholder's potential liability for  
2966 reimbursement and gives the policyholder the opportunity to  
2967 withdraw the claim.

2968 ~~(7)-(8)~~ An ~~no~~ insurer may not shall nonrenew any policy of  
2969 property insurance on the basis of filing of claims for partial  
2970 loss caused by sinkhole damage or clay shrinkage if as long as  
2971 the total of such payments does not equal or exceed the current  
2972 policy limits of coverage for the policy in effect on the date  
2973 of loss, for property damage to the covered building, as set  
2974 forth on the declarations page, or if and provided the  
2975 policyholder insured has repaired the structure in accordance  
2976 with the engineering recommendations made pursuant to subsection  
2977 (2) upon which any payment or policy proceeds were based. If the  
2978 insurer pays such limits, it may nonrenew the policy.

2979 ~~(8)-(9)~~ The insurer may engage a professional structural  
2980 engineer to make recommendations as to the repair of the  
2981 structure.

2982 Section 26. Section 627.7073, Florida Statutes, is amended  
2983 to read:

2984 627.7073 Sinkhole reports.—

2985 (1) Upon completion of testing as provided in s. 627.7072,  
2986 the professional engineer or professional geologist shall issue  
2987 a report and certification to the insurer and the policyholder

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2988 as provided in this section.

2989 (a) Sinkhole loss is verified if, based upon tests  
2990 performed in accordance with s. 627.7072, a professional  
2991 engineer or a professional geologist issues a written report and  
2992 certification stating:

2993 1. That structural damage to the covered building has been  
2994 identified within a reasonable professional probability.

2995 ~~2.1.~~ That the cause of the ~~actual physical and~~ structural  
2996 damage is sinkhole activity within a reasonable professional  
2997 probability.

2998 ~~3.2.~~ That the analyses conducted were of sufficient scope  
2999 to identify sinkhole activity as the cause of damage within a  
3000 reasonable professional probability.

3001 ~~4.3.~~ A description of the tests performed.

3002 ~~5.4.~~ A recommendation by the professional engineer of  
3003 methods for stabilizing the land and building and for making  
3004 repairs to the foundation.

3005 (b) If there is no structural damage or if sinkhole  
3006 activity is eliminated as the cause of such damage to the  
3007 covered building structure, the professional engineer or  
3008 professional geologist shall issue a written report and  
3009 certification to the policyholder and the insurer stating:

3010 1. That there is no structural damage or the cause of such  
3011 ~~the~~ damage is not sinkhole activity within a reasonable  
3012 professional probability.

3013 2. That the analyses and tests conducted were of sufficient  
3014 scope to eliminate sinkhole activity as the cause of the  
3015 structural damage within a reasonable professional probability.

3016 3. A statement of the cause of the structural damage within



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3017 a reasonable professional probability.

3018 4. A description of the tests performed.

3019 (c) The respective findings, opinions, and recommendations  
3020 of the professional engineer or professional geologist as to the  
3021 cause of distress to the property and the findings, opinions,  
3022 and recommendations of the insurer's professional engineer as to  
3023 land and building stabilization and foundation repair set forth  
3024 by s. 627.7072 shall be presumed correct, which presumption  
3025 shifts the burden of proof in accordance with s. 90.302(2). The  
3026 presumption of correctness is based upon public policy concerns  
3027 regarding the affordability of sinkhole coverage, consistency in  
3028 claims handling, and a reduction in the number of disputed  
3029 sinkhole claims.

3030 (2)~~(a)~~ An ~~Any~~ insurer that has paid a claim for a sinkhole  
3031 loss shall file a copy of the report and certification, prepared  
3032 pursuant to subsection (1), including the legal description of  
3033 the real property and the name of the property owner, the  
3034 neutral evaluator's report, if any, which indicates that  
3035 sinkhole activity caused the damage claimed, a copy of the  
3036 certification indicating that stabilization has been completed,  
3037 if applicable, and the amount of the payment, with the county  
3038 clerk of court, who shall record the report and certification.  
3039 The insurer shall bear the cost of filing and recording one or  
3040 more reports and certifications ~~the report and certification.~~  
3041 There shall be no cause of action or liability against an  
3042 insurer for compliance with this section.

3043 (a) The recording of the report and certification does not:

3044 1. Constitute a lien, encumbrance, or restriction on the  
3045 title to the real property or constitute a defect in the title

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3046 to the real property;

3047       2. Create any cause of action or liability against any  
3048 grantor of the real property for breach of any warranty of good  
3049 title or warranty against encumbrances; or

3050       3. Create any cause of action or liability against any  
3051 title insurer that insures the title to the real property.

3052       (b) As a precondition to accepting payment for a sinkhole  
3053 loss, the policyholder must file a copy of any sinkhole report  
3054 regarding the insured property which was prepared on behalf or  
3055 at the request of the policyholder. The policyholder shall bear  
3056 the cost of filing and recording the sinkhole report. The  
3057 recording of the report does not:

3058       1. Constitute a lien, encumbrance, or restriction on the  
3059 title to the real property or constitute a defect in the title  
3060 to the real property;

3061       2. Create any cause of action or liability against any  
3062 grantor of the real property for breach of any warranty of good  
3063 title or warranty against encumbrances; or

3064       3. Create any cause of action or liability against a title  
3065 insurer that insures the title to the real property.

3066       (c) ~~(b)~~ The seller of real property upon which a sinkhole  
3067 claim has been made by the seller and paid by the insurer must  
3068 ~~shall~~ disclose to the buyer of such property, before the  
3069 closing, that a claim has been paid and whether or not the full  
3070 amount of the proceeds were used to repair the sinkhole damage.

3071       Section 27. Section 627.7074, Florida Statutes, is amended  
3072 to read:

3073       627.7074 Alternative procedure for resolution of disputed  
3074 sinkhole insurance claims.-

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3075 ~~(1) As used in this section, the term:~~  
3076 ~~(a) "Neutral evaluation" means the alternative dispute~~  
3077 ~~resolution provided for in this section.~~  
3078 ~~(b) "Neutral evaluator" means a professional engineer or a~~  
3079 ~~professional geologist who has completed a course of study in~~  
3080 ~~alternative dispute resolution designed or approved by the~~  
3081 ~~department for use in the neutral evaluation process, who is~~  
3082 ~~determined to be fair and impartial.~~  
3083 (1) (2) (a) The department shall:  
3084 (a) Certify and maintain a list of persons who are neutral  
3085 evaluators.  
3086 (b) The department shall Prepare a consumer information  
3087 pamphlet for distribution by insurers to policyholders which  
3088 clearly describes the neutral evaluation process and includes  
3089 information and forms necessary for the policyholder to request  
3090 a neutral evaluation.  
3091 (2) Neutral evaluation is available to either party if a  
3092 sinkhole report has been issued pursuant to s. 627.7073. At a  
3093 minimum, neutral evaluation must determine:  
3094 (a) Causation;  
3095 (b) All methods of stabilization and repair both above and  
3096 below ground;  
3097 (c) The costs for stabilization and all repairs; and  
3098 (d) Information necessary to carry out subsection (12).  
3099 (3) Following the receipt of the report provided under s.  
3100 627.7073 or the denial of a claim for a sinkhole loss, the  
3101 insurer shall notify the policyholder of his or her right to  
3102 participate in the neutral evaluation program under this  
3103 section. Neutral evaluation supersedes the alternative dispute

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3104 resolution process under s. 627.7015, but does not invalidate  
3105 the appraisal clause of the insurance policy. The insurer shall  
3106 provide to the policyholder the consumer information pamphlet  
3107 prepared by the department pursuant to subsection (1)  
3108 electronically or by United States mail ~~paragraph (2)(b).~~

3109 (4) Neutral evaluation is nonbinding, but mandatory if  
3110 requested by either party. A request for neutral evaluation may  
3111 be filed with the department by the policyholder or the insurer  
3112 on a form approved by the department. The request for neutral  
3113 evaluation must state the reason for the request and must  
3114 include an explanation of all the issues in dispute at the time  
3115 of the request. Filing a request for neutral evaluation tolls  
3116 the applicable time requirements for filing suit for ~~a period of~~  
3117 60 days following the conclusion of the neutral evaluation  
3118 process or the time prescribed in s. 95.11, whichever is later.

3119 (5) Neutral evaluation shall be conducted as an informal  
3120 process in which formal rules of evidence and procedure need not  
3121 be observed. A party to neutral evaluation is not required to  
3122 attend neutral evaluation if a representative of the party  
3123 attends and has the authority to make a binding decision on  
3124 behalf of the party. All parties shall participate in the  
3125 evaluation in good faith. The neutral evaluator must be allowed  
3126 reasonable access to the interior and exterior of insured  
3127 structures to be evaluated or for which a claim has been made.  
3128 Any reports initiated by the policyholder, or an agent of the  
3129 policyholder, confirming a sinkhole loss or disputing another  
3130 sinkhole report regarding insured structures must be provided to  
3131 the neutral evaluator before the evaluator's physical inspection  
3132 of the insured property.

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3133 (6) The insurer shall pay reasonable ~~the~~ costs associated  
3134 with the neutral evaluation. However, if a party chooses to hire  
3135 a court reporter or stenographer to contemporaneously record and  
3136 document the neutral evaluation, that party must bear such  
3137 costs.

3138 (7) Upon receipt of a request for neutral evaluation, the  
3139 department shall provide the parties a list of certified neutral  
3140 evaluators. ~~The parties shall mutually select a neutral~~  
3141 ~~evaluator from the list and promptly inform the department. If~~  
3142 ~~the parties cannot agree to a neutral evaluator within 10~~  
3143 ~~business days,~~ The department shall allow the parties to submit  
3144 requests to disqualify evaluators on the list for cause.

3145 (a) The department shall disqualify neutral evaluators for  
3146 cause based only on any of the following grounds:

3147 1. A familial relationship exists between the neutral  
3148 evaluator and either party or a representative of either party  
3149 within the third degree.

3150 2. The proposed neutral evaluator has, in a professional  
3151 capacity, previously represented either party or a  
3152 representative of either party, in the same or a substantially  
3153 related matter.

3154 3. The proposed neutral evaluator has, in a professional  
3155 capacity, represented another person in the same or a  
3156 substantially related matter and that person's interests are  
3157 materially adverse to the interests of the parties. The term  
3158 "substantially related matter" means participation by the  
3159 neutral evaluator on the same claim, property, or adjacent  
3160 property.

3161 4. The proposed neutral evaluator has, within the preceding

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3162 5 years, worked as an employer or employee of any party to the  
3163 case.

3164 (b) The parties shall appoint a neutral evaluator from the  
3165 department list and promptly inform the department. If the  
3166 parties cannot agree to a neutral evaluator within 14 days, the  
3167 department shall appoint a neutral evaluator from the list of  
3168 certified neutral evaluators. The department shall allow each  
3169 party to disqualify two neutral evaluators without cause. Upon  
3170 selection or appointment, the department shall promptly refer  
3171 the request to the neutral evaluator.

3172 (c) Within 14 5 business days after the referral, the  
3173 neutral evaluator shall notify the policyholder and the insurer  
3174 of the date, time, and place of the neutral evaluation  
3175 conference. The conference may be held by telephone, if feasible  
3176 and desirable. The neutral evaluator shall make reasonable  
3177 efforts to hold the neutral evaluation conference shall be held  
3178 within 90 45 days after the receipt of the request by the  
3179 department. Failure of the neutral evaluator to hold the  
3180 conference within 90 days does not invalidate either party's  
3181 right to neutral evaluation or to a neutral evaluation  
3182 conference held outside this timeframe.

3183 ~~(8) The department shall adopt rules of procedure for the~~  
3184 ~~neutral evaluation process.~~

3185 ~~(8)(9)~~ For policyholders not represented by an attorney, a  
3186 consumer affairs specialist of the department or an employee  
3187 designated as the primary contact for consumers on issues  
3188 relating to sinkholes under s. 20.121 shall be available for  
3189 consultation to the extent that he or she may lawfully do so.

3190 ~~(9)(10)~~ Evidence of an offer to settle a claim during the

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3191 neutral evaluation process, as well as any relevant conduct or  
3192 statements made in negotiations concerning the offer to settle a  
3193 claim, is inadmissible to prove liability or absence of  
3194 liability for the claim or its value, except as provided in  
3195 subsection (14) ~~(13)~~.

3196 (10) ~~(11)~~ Regardless of when noticed, any court proceeding  
3197 related to the subject matter of the neutral evaluation shall be  
3198 stayed pending completion of the neutral evaluation and for 5  
3199 days after the filing of the neutral evaluator's report with the  
3200 court.

3201 (11) If, based upon his or her professional training and  
3202 credentials, a neutral evaluator is qualified to determine only  
3203 disputes relating to causation or method of repair, the  
3204 department shall allow the neutral evaluator to enlist the  
3205 assistance of another professional from the neutral evaluators  
3206 list not previously stricken, who, based upon his or her  
3207 professional training and credentials, is able to provide an  
3208 opinion as to other disputed issues. A professional who would be  
3209 disqualified for any reason listed in subsection (7) must be  
3210 disqualified. The neutral evaluator may also use the services of  
3211 professional engineers and professional geologists who are not  
3212 certified as neutral evaluators, as well as licensed building  
3213 contractors, in order to ensure that all items in dispute are  
3214 addressed and the neutral evaluation can be completed. Any  
3215 professional engineer, professional geologist, or licensed  
3216 building contractor retained may be disqualified for any of the  
3217 reasons listed in subsection (7). The neutral evaluator may  
3218 request the entity that performed the investigation pursuant to  
3219 s. 627.7072 perform such additional and reasonable testing as

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3220 deemed necessary in the professional opinion of the neutral  
3221 evaluator.

3222 (12) ~~At For matters that are not resolved by the parties at~~  
3223 the conclusion of the neutral evaluation, the neutral evaluator  
3224 shall prepare a report describing all matters that are the  
3225 subject of the neutral evaluation, including whether, stating  
3226 ~~that~~ in his or her opinion, the sinkhole loss has been verified  
3227 or eliminated within a reasonable degree of professional  
3228 probability and, if verified, whether the sinkhole activity  
3229 caused structural damage to the covered building, and if so, the  
3230 need for and estimated costs of stabilizing the land and any  
3231 covered structures or buildings and other appropriate  
3232 remediation or necessary building structural repairs due to the  
3233 sinkhole loss. The evaluator's report shall be sent to all  
3234 parties ~~in attendance at the neutral evaluation~~ and to the  
3235 department, within 14 days after completing the neutral  
3236 evaluation conference.

3237 (13) The recommendation of the neutral evaluator is not  
3238 binding on any party, and the parties retain access to the  
3239 court. The neutral evaluator's written recommendation, oral  
3240 testimony, and full report shall be admitted ~~is admissible~~ in  
3241 any ~~subsequent~~ action, litigation, or proceeding relating to the  
3242 claim or to the cause of action giving rise to the claim.  
3243 However, oral or written statements or nonverbal conduct  
3244 intended to make an assertion made by a party or neutral  
3245 evaluator during the course of neutral evaluation, other than  
3246 those statements or conduct expressly required to be admitted by  
3247 this subsection, are confidential and may not be disclosed to a  
3248 person other than a party to neutral evaluation or a party's



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3249 counsel.

3250 (14) If the neutral evaluator ~~first~~ verifies the existence  
3251 of a sinkhole that caused structural damage and,~~second,~~  
3252 recommends the need for and estimates costs of stabilizing the  
3253 land and any covered ~~structures or~~ buildings and other  
3254 appropriate remediation or building structural repairs, which  
3255 ~~costs~~ exceed the amount that the insurer estimates as necessary  
3256 to stabilize and repair, and the insurer refuses to comply with  
3257 the neutral evaluator's findings and recommendations ~~has offered~~  
3258 ~~to pay the policyholder,~~ the insurer is liable to the  
3259 policyholder for up to \$2,500 in attorney's fees for the  
3260 attorney's participation in the neutral evaluation process. ~~For~~  
3261 ~~purposes of this subsection, the term "offer to pay" means a~~  
3262 ~~written offer signed by the insurer or its legal representative~~  
3263 ~~and delivered to the policyholder within 10 days after the~~  
3264 ~~insurer receives notice that a request for neutral evaluation~~  
3265 ~~has been made under this section.~~

3266 (15) If the insurer timely agrees in writing to comply and  
3267 timely complies with the recommendation of the neutral  
3268 evaluator, but the policyholder declines to resolve the matter  
3269 in accordance with the recommendation of the neutral evaluator  
3270 pursuant to this section:

3271 (a) The insurer is not liable for extracontractual damages  
3272 related to a claim for a sinkhole loss but only as related to  
3273 the issues determined by the neutral evaluation process. This  
3274 section does not affect or impair claims for extracontractual  
3275 damages unrelated to the issues determined by the neutral  
3276 evaluation process contained in this section; and

3277 (b) The actions of the insurer are not a confession of

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3278 judgment or admission of liability, and the insurer is not  
3279 liable for attorney's fees under s. 627.428 or other provisions  
3280 of the insurance code unless the policyholder obtains a judgment  
3281 that is more favorable than the recommendation of the neutral  
3282 evaluator.

3283 (16) If the insurer agrees to comply with the neutral  
3284 evaluator's report, payments shall be made in accordance with  
3285 the terms and conditions of the applicable insurance policy  
3286 pursuant to s. 627.707(5).

3287 (17) Neutral evaluators are deemed to be agents of the  
3288 department and have immunity from suit as provided in s. 44.107.

3289 (18) The department shall adopt rules of procedure for the  
3290 neutral evaluation process.

3291 Section 28. Subsection (1) of section 627.712, Florida  
3292 Statutes, is amended to read:

3293 627.712 Residential windstorm coverage required;  
3294 availability of exclusions for windstorm or contents.—

3295 (1) An insurer issuing a residential property insurance  
3296 policy must provide windstorm coverage. Except as provided in  
3297 paragraph (2)(c), this section does not apply ~~with respect~~ to  
3298 risks that are eligible for wind-only coverage from Citizens  
3299 Property Insurance Corporation under s. 627.351(6), and ~~with~~  
3300 ~~respect to~~ risks that are not eligible for coverage from  
3301 Citizens Property Insurance Corporation under s. 627.351(6)(a)3.  
3302 or 5. A risk ineligible for ~~Citizens~~ coverage by the corporation  
3303 under s. 627.351(6)(a)3. or 5. is exempt from ~~the requirements~~  
3304 ~~of~~ this section only if the risk is located within the  
3305 boundaries of the coastal ~~high-risk~~ account of the corporation.

3306 Section 29. Except as otherwise expressly provided in this

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3307 act and except for this section, which shall take effect June 1,  
3308 2011, this act shall take effect July 1, 2011.