

By the Committees on Budget Subcommittee on General Government Appropriations; and Banking and Insurance; and Senators Richter and Hays

601-02340A-11

2011408c2

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

601-02340A-11

2011408c2

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

601-02340A-11

2011408c2

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; authorizing the office to disapprove a
75 rate filing because the coverage is inadequate or the
76 insurer charges a higher premium due to certain
77 discriminatory factors; deleting an obsolete
78 provision; prohibiting the Office of Insurance
79 Regulation from, directly or indirectly, impeding the
80 right of an insurer to acquire policyholders,
81 advertise or appoint agents, or regulate agent
82 commissions; revising the information that must be
83 included in a rate filing relating to certain
84 reinsurance or financing products; deleting a
85 provision that prohibited an insurer from making
86 certain rate filings within a certain period of time
87 after a rate increase; deleting a provision

601-02340A-11

2011408c2

88 prohibiting an insurer from filing for a rate increase
89 within 6 months after it makes certain rate filings;
90 deleting obsolete provisions relating to legislation
91 enacted during the 2003 Special Session D of the
92 Legislature; amending s. 627.0629, F.S.; providing
93 legislative intent that insurers provide consumers
94 with accurate pricing signals for alterations in order
95 to minimize losses, but that mitigation discounts not
96 result in a loss of income for the insurer; requiring
97 rate filings for residential property insurance to
98 include actuarially reasonable debits that provide
99 proper pricing; providing for an increase in base
100 rates if mitigation discounts exceed the aggregate
101 reduction in expected losses; deleting obsolete
102 provisions; deleting a requirement that the Office of
103 Insurance Regulation propose a method for establishing
104 discounts, debits, credits, and other rate
105 differentials for hurricane mitigation by a certain
106 date; requiring the Financial Services Commission to
107 adopt rules relating to such debits by a certain date;
108 deleting a provision that prohibits an insurer from
109 including an expense or profit load in the cost of
110 reinsurance to replace the Temporary Increase in
111 Coverage Limits; conforming provisions to changes made
112 by the act; amending s. 627.351, F.S.; renaming the
113 "high-risk account" as the "coastal account"; revising
114 the conditions under which the Citizens policyholder
115 surcharge may be imposed; providing that members of
116 the Citizens Property Insurance Corporation Board of

601-02340A-11

2011408c2

117 Governors are not prohibited from practicing in a
118 certain profession if not prohibited by law or
119 ordinance; prohibiting board members from voting on
120 certain measures; deleting a requirement that the
121 board reduce the boundaries of certain high-risk areas
122 eligible for wind-only coverages under certain
123 circumstances; amending s. 627.3511, F.S.; conforming
124 provisions to changes made by the act; amending s.
125 627.4133, F.S.; revising the requirements for
126 providing an insured with notice of nonrenewal,
127 cancellation, or termination of personal lines or
128 commercial residential property insurance; authorizing
129 an insurer to cancel policies after 45 days' notice if
130 the Office of Insurance Regulation determines that the
131 cancellation of policies is necessary to protect the
132 interests of the public or policyholders; authorizing
133 the Office of Insurance Regulation to place an insurer
134 under administrative supervision or appoint a receiver
135 upon the consent of the insurer under certain
136 circumstances; creating s. 627.43141, F.S.; providing
137 definitions; requiring the delivery of a "Notice of
138 Change in Policy Terms" under certain circumstances;
139 specifying requirements for such notice; specifying
140 actions constituting proof of notice; authorizing
141 policy renewals to contain a change in policy terms;
142 providing that receipt of payment by an insurer is
143 deemed acceptance of new policy terms by an insured;
144 providing that the original policy remains in effect
145 until the occurrence of specified events if an insurer

601-02340A-11

2011408c2

146 fails to provide notice; providing intent; amending s.
147 627.7011, F.S.; requiring the insurer to pay the
148 actual cash value of an insured loss for a dwelling,
149 less any applicable deductible; requiring a
150 policyholder to enter into a contract for the
151 performance of building and structural repairs unless
152 waived by the insurer; restricting insurers and
153 contractors from requiring advance payments for
154 repairs and expenses; authorizing an insurer to limit
155 the initial payment for personal property to the
156 actual cash value of the property to be replaced and
157 to require the insured to provide receipts for
158 purchases; requiring the insurer to provide notice of
159 this process in the insurance contract; prohibiting an
160 insurer from requiring the insured to advance payment;
161 amending s. 627.70131, F.S.; specifying application of
162 certain time periods to initial or supplemental
163 property insurance claim notices and payments;
164 providing legislative findings with respect to 2005
165 statutory changes relating to sinkhole insurance
166 coverage and statutory changes in this act; amending
167 s. 627.706, F.S.; authorizing an insurer to limit
168 coverage for catastrophic ground cover collapse to the
169 principal building and to have discretion to provide
170 additional coverage; allowing the deductible to
171 include costs relating to an investigation of whether
172 sinkhole activity is present; revising definitions;
173 defining the term "structural damage"; providing an
174 insurer with discretion to provide a policyholder with

601-02340A-11

2011408c2

175 an opportunity to purchase an endorsement to sinkhole
176 coverage; placing a 2-year statute of repose on claims
177 for sinkhole coverage; amending s. 627.7061, F.S.;
178 conforming provisions to changes made by the act;
179 repealing s. 627.7065, F.S., relating to the
180 establishment of a sinkhole database; amending s.
181 627.707, F.S.; revising provisions relating to the
182 investigation of sinkholes by insurers; deleting a
183 requirement that the insurer provide a policyholder
184 with a statement regarding testing for sinkhole
185 activity; providing a time limitation for demanding
186 sinkhole testing by a policyholder and entering into a
187 contract for repairs; requiring all repairs to be
188 completed within a certain time; providing exceptions;
189 providing a criminal penalty on a policyholder for
190 accepting rebates from persons performing repairs;
191 amending s. 627.7073, F.S.; revising provisions
192 relating to inspection reports; providing that the
193 presumption that the report is correct shifts the
194 burden of proof; revising the reports that an insurer
195 must file with the clerk of the court; requiring the
196 policyholder to file certain reports as a precondition
197 to accepting payment; amending s. 627.7074, F.S.;
198 revising provisions relating to neutral evaluation;
199 requiring evaluation in order to make certain
200 determinations; requiring that the neutral evaluator
201 be allowed access to structures being evaluated;
202 providing grounds for disqualifying an evaluator;
203 allowing the Department of Financial Services to

601-02340A-11

2011408c2

204 appoint an evaluator if the parties cannot come to
205 agreement; revising the timeframes for scheduling a
206 neutral evaluation conference; authorizing an
207 evaluator to enlist another evaluator or other
208 professionals; providing a time certain for issuing a
209 report; providing that certain information is
210 confidential; revising provisions relating to
211 compliance with the evaluator's recommendations;
212 providing that the evaluator is an agent of the
213 department for the purposes of immunity from suit;
214 requiring the department to adopt rules; amending s.
215 627.712, F.S.; conforming provisions to changes made
216 by the act; providing effective dates.

217

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

219

220 Section 1. Effective June 1, 2011, paragraph (d) of
221 subsection (2) of section 215.555, Florida Statutes, is amended
222 to read

223 215.555 Florida Hurricane Catastrophe Fund.—

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

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

232 1. Losses for fair rental value, loss of rent or rental

601-02340A-11

2011408c2

- 233 income, or business interruption losses;
- 234 2. Losses under liability coverages;
- 235 3. Property losses that are proximately caused by any peril
236 other than a covered event, including, but not limited to, fire,
237 theft, flood or rising water, or windstorm that does not
238 constitute a covered event;
- 239 4. Amounts paid as the result of a voluntary expansion of
240 coverage by the insurer, including, but not limited to, a waiver
241 of an applicable deductible;
- 242 5. Amounts paid to reimburse a policyholder for condominium
243 association or homeowners' association loss assessments or under
244 similar coverages for contractual liabilities;
- 245 6. Amounts paid as bad faith awards, punitive damage
246 awards, or other court-imposed fines, sanctions, or penalties;
- 247 7. Amounts in excess of the coverage limits under the
248 covered policy; or
- 249 8. Allocated or unallocated loss adjustment expenses.

250 Section 2. The amendment to s. 215.555, Florida Statutes,
251 made by this act applies first to the Florida Hurricane
252 Catastrophe Fund reimbursement contract that takes effect June
253 1, 2011.

254 Section 3. Section 624.407, Florida Statutes, is amended to
255 read:

256 624.407 Surplus Capital funds required; new insurers.-

257 (1) To receive authority to transact any one kind or
258 combinations of kinds of insurance, as defined in part V of this
259 chapter, an insurer applying for its original certificate of
260 authority in this state after November 10, 1993, ~~the effective~~
261 ~~date of this section~~ shall possess surplus funds as to

601-02340A-11

2011408c2

262 policyholders at least ~~not less than~~ the greater of:

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

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

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

270 (d) For all insurers other than life insurers and life and
271 health insurers, 10 percent of the insurer's total liabilities;
272 or

273 (e) Notwithstanding paragraph (a) or paragraph (d), for a
274 domestic insurer that transacts residential property insurance
275 and is:

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

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

282 (2) Notwithstanding subsection (1), a new insurer may not
283 be required, but no insurer shall be required under this
284 subsection to have surplus as to policyholders greater than \$100
285 million.

286 (3) ~~(2)~~ The requirements of this section shall be based upon
287 all the kinds of insurance actually transacted or to be
288 transacted by the insurer in any and all areas in which it
289 operates, whether or not only a portion of such kinds of
290 insurance are ~~to be~~ transacted in this state.

601-02340A-11

2011408c2

291 (4)~~(3)~~ As to surplus funds as to policyholders required for
292 qualification to transact one or more kinds of insurance,
293 domestic mutual insurers are governed by chapter 628, and
294 domestic reciprocal insurers are governed by chapter 629.

295 (5)~~(4)~~ For the purposes of this section, liabilities do
296 ~~shall~~ not include liabilities required under s. 625.041(4). For
297 purposes of computing minimum surplus funds as to policyholders
298 pursuant to s. 625.305(1), liabilities ~~shall~~ include liabilities
299 required under s. 625.041(4).

300 (6)~~(5)~~ The provisions of this section, as amended by
301 chapter 89-360, Laws of Florida ~~this act~~, ~~shall~~ apply only to
302 insurers applying for a certificate of authority on or after
303 October 1, 1989 ~~the effective date of this act~~.

304 Section 4. Section 624.408, Florida Statutes, is amended to
305 read:

306 624.408 Surplus funds ~~as to policyholders~~ required; current
307 ~~new and existing~~ insurers.-

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

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

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

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

601-02340A-11

2011408c2

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

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

326 (f)(b) For residential any property insurers not and
 327 casualty insurer holding a certificate of authority before July
 328 1, 2011 ~~on December 1, 1993,~~ \$15 million. ~~the~~

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

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

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

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

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

345 (2) For purposes of this section, liabilities do ~~shall~~ not
 346 include liabilities required under s. 625.041(4). For purposes
 347 of computing minimum surplus as to policyholders pursuant to s.
 348 625.305(1), liabilities ~~shall~~ include liabilities required under

601-02340A-11

2011408c2

349 s. 625.041(4).

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

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

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

357 624.4095 Premiums written; restrictions.—

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

373 Section 6. Paragraph (d) of subsection (8) of section
374 624.424, Florida Statutes, is amended to read:

375 624.424 Annual statement and other information.—

376 (8)

377 (d) An insurer may not use the same accountant or partner

601-02340A-11

2011408c2

378 of an accounting firm responsible for preparing the report
379 required by this subsection for more than 5 ~~7~~ consecutive years.
380 Following this period, the insurer may not use such accountant
381 or partner for a period of 5 ~~2~~ years, but may use another
382 accountant or partner of the same firm. An insurer may request
383 the office to waive this prohibition based upon an unusual
384 hardship to the insurer and a determination that the accountant
385 is exercising independent judgment that is not unduly influenced
386 by the insurer considering such factors as the number of
387 partners, expertise of the partners or the number of insurance
388 clients of the accounting firm; the premium volume of the
389 insurer; and the number of jurisdictions in which the insurer
390 transacts business.

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

393 626.854 "Public adjuster" defined; prohibitions.—The
394 Legislature finds that it is necessary for the protection of the
395 public to regulate public insurance adjusters and to prevent the
396 unauthorized practice of law.

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

601-02340A-11

2011408c2

407 the work of the public adjuster after entering into the contract
408 with the insured or claimant. Compensation for the reopened or
409 supplemental claim may not exceed 20 percent of the reopened or
410 supplemental claim payment. The contracts described in this
411 paragraph are not subject to the limitations in paragraph (b).

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

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

421 2. Twenty percent of the amount of ~~all other~~ insurance
422 claim payments made by the insurer for claims that are not based
423 on events that are the subject of a declaration of a state of
424 emergency by the Governor.

425
426 The provisions of subsections (5)-(13) apply only to residential
427 property insurance policies and condominium association policies
428 as defined in s. 718.111(11).

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

431 626.854 "Public adjuster" defined; prohibitions.—The
432 Legislature finds that it is necessary for the protection of the
433 public to regulate public insurance adjusters and to prevent the
434 unauthorized practice of law.

435 (1) A "public adjuster" is any person, except a duly

601-02340A-11

2011408c2

436 licensed attorney at law as exempted under ~~hereinafter in~~ s.
437 626.860 ~~provided~~, who, for money, commission, or any other thing
438 of value, prepares, completes, or files an insurance claim form
439 for an insured or third-party claimant or who, for money,
440 commission, or any other thing of value, acts ~~or aids in any~~
441 ~~manner~~ on behalf of, or aids an insured or third-party claimant
442 in negotiating for or effecting the settlement of a claim or
443 claims for loss or damage covered by an insurance contract or
444 who advertises for employment as an adjuster of such claims. The
445 term, ~~and~~ also includes any person who, for money, commission,
446 or any other thing of value, solicits, investigates, or adjusts
447 such claims on behalf of a ~~any such~~ public adjuster.

448 (2) This definition does not apply to:

449 (a) A licensed health care provider or employee thereof who
450 prepares or files a health insurance claim form on behalf of a
451 patient.

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

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

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

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

601-02340A-11

2011408c2

465 days.

466 (6) A public adjuster may not directly or indirectly
467 through any other person or entity initiate contact or engage in
468 face-to-face or telephonic solicitation or enter into a contract
469 with any insured or claimant under an insurance policy until at
470 least 48 hours after the occurrence of an event that may be the
471 subject of a claim under the insurance policy unless contact is
472 initiated by the insured or claimant.

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

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

601-02340A-11

2011408c2

494 insurance which is untrue, deceptive, or misleading.

495 (a) The following statements, made in any public adjuster's
496 advertisement or solicitation, are considered deceptive or
497 misleading:

498 1. A statement or representation that invites an insured
499 policyholder to submit a claim when the policyholder does not
500 have covered damage to insured property.

501 2. A statement or representation that invites an insured
502 policyholder to submit a claim by offering monetary or other
503 valuable inducement.

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

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

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

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

601-02340A-11

2011408c2

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524 (9) A public adjuster, a public adjuster apprentice, or any
525 person or entity acting on behalf of a public adjuster or public
526 adjuster apprentice may not give or offer to give a monetary
527 loan or advance to a client or prospective client.

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

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

550 (b) A public adjuster may not charge, agree to, or accept
551 any compensation, payment, commission, fee, or other thing of

601-02340A-11

2011408c2

552 value in excess of:

553 1. Ten percent of the amount of insurance claim payments
554 made by the insurer for claims based on events that are the
555 subject of a declaration of a state of emergency by the
556 Governor. This provision applies to claims made during the year
557 after the declaration of emergency. After that year, the
558 limitations in subparagraph 2. apply.

559 2. Twenty percent of the amount of insurance claim payments
560 made by the insurer for claims that are not based on events that
561 are the subject of a declaration of a state of emergency by the
562 Governor.

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

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

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

601-02340A-11

2011408c2

581 insurer that needs access to an insured or claimant or to the
582 insured property that is the subject of a claim must provide at
583 least 48 hours' notice to the insured or claimant, public
584 adjuster, or legal representative before scheduling a meeting
585 with the claimant or an onsite inspection of the insured
586 property. The insured or claimant may deny access to the
587 property if the notice has not been provided. The insured or
588 claimant may waive the 48-hour notice.

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

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

607 (b) A public adjuster may not restrict or prevent an
608 insurer, company employee adjuster, independent adjuster,
609 attorney, investigator, or other person acting on behalf of the

601-02340A-11

2011408c2

610 insurer from having reasonable access at reasonable times to an
611 insured or claimant or to the insured property that is the
612 subject of a claim.

613 (c) A public adjuster may not act or fail to reasonably act
614 in any manner that obstructs or prevents an insurer or insurer's
615 adjuster from timely conducting an inspection of any part of the
616 insured property for which there is a claim for loss or damage.
617 The public adjuster representing the insured may be present for
618 the insurer's inspection, but if the unavailability of the
619 public adjuster otherwise delays the insurer's timely inspection
620 of the property, the public adjuster or the insured must allow
621 the insurer to have access to the property without the
622 participation or presence of the public adjuster or insured in
623 order to facilitate the insurer's prompt inspection of the loss
624 or damage.

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

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

638 Section 9. Effective January 1, 2012, subsection (6) of

601-02340A-11

2011408c2

639 section 626.8651, Florida Statutes, is amended to read:

640 626.8651 Public adjuster apprentice license;
641 qualifications.-

642 (6) To qualify for licensure as a public adjuster, a public
643 adjuster apprentice must shall complete: at

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

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

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

659 626.8796 Public adjuster contracts; fraud statement.-

660 (1) All contracts for public adjuster services must be in
661 writing and ~~must~~ prominently display the following statement on
662 the contract: "Pursuant to s. 817.234, Florida Statutes, any
663 person who, with the intent to injure, defraud, or deceive an
664 any insurer or insured, prepares, presents, or causes to be
665 presented a proof of loss or estimate of cost or repair of
666 damaged property in support of a claim under an insurance policy
667 knowing that the proof of loss or estimate of claim or repairs

601-02340A-11

2011408c2

668 contains ~~any~~ false, incomplete, or misleading information
669 concerning any fact or thing material to the claim commits a
670 felony of the third degree, punishable as provided in s.
671 775.082, s. 775.083, or s. 775.084, Florida Statutes.”

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

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

689 626.70132 Notice of windstorm or hurricane claim.—A claim,
690 supplemental claim, or reopened claim under an insurance policy
691 that provides property insurance, as defined in s. 624.604, for
692 loss or damage caused by the peril of windstorm or hurricane is
693 barred unless notice of the claim, supplemental claim, or
694 reopened claim was given to the insurer in accordance with the
695 terms of the policy within 3 years after the hurricane first
696 made landfall or the windstorm caused the covered damage. For

601-02340A-11

2011408c2

697 purposes of this section, the term "supplemental claim" or
698 "reopened claim" means any additional claim for recovery from
699 the insurer for losses from the same hurricane or windstorm
700 which the insurer has previously adjusted pursuant to the
701 initial claim. This section does not affect any applicable
702 limitation on civil actions provided in s. 95.11 for claims,
703 supplemental claims, or reopened claims timely filed under this
704 section.

705 Section 12. Subsection (4) of section 627.0613, Florida
706 Statutes, is repealed.

707 Section 13. Section 627.062, Florida Statutes, is amended
708 to read:

709 627.062 Rate standards.—

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

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

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

722 1. If the filing is made at least 90 days before the
723 proposed effective date and ~~the filing~~ is not implemented during
724 the office's review of the filing and any proceeding and
725 judicial review, ~~then~~ such filing is ~~shall be~~ considered a "file

601-02340A-11

2011408c2

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

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

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

754 (b) Upon receiving a rate filing, the office shall review

601-02340A-11

2011408c2

755 the ~~rate~~ filing to determine if a rate is excessive, inadequate,
756 or unfairly discriminatory. In making that determination, the
757 office shall, in accordance with generally accepted and
758 reasonable actuarial techniques, consider the following factors:

759 1. Past and prospective loss experience within and without
760 this state.

761 2. Past and prospective expenses.

762 3. The degree of competition among insurers for the risk
763 insured.

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

779 5. The reasonableness of the judgment reflected in the
780 filing.

781 6. Dividends, savings, or unabsorbed premium deposits
782 allowed or returned to Florida policyholders, members, or
783 subscribers.

601-02340A-11

2011408c2

784 7. The adequacy of loss reserves.

785 8. The cost of reinsurance. The office may ~~shall~~ not
786 disapprove a rate as excessive solely due to the insurer having
787 obtained catastrophic reinsurance to cover the insurer's
788 estimated 250-year probable maximum loss or any lower level of
789 loss.

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

792 10. Conflagration and catastrophe hazards, if applicable.

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

797 12. A reasonable margin for underwriting profit and
798 contingencies.

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

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

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

807 (d) If conflagration or catastrophe hazards are considered
808 ~~given consideration~~ by an insurer in its rates or rating plan,
809 including surcharges and discounts, the insurer shall establish
810 a reserve for that portion of the premium allocated to such
811 hazard and ~~shall~~ maintain the premium in a catastrophe reserve.
812 ~~Any~~ Removal of such premiums from the reserve for purposes other

601-02340A-11

2011408c2

813 than paying claims associated with a catastrophe or purchasing
814 reinsurance for catastrophes must be approved by ~~shall be~~
815 ~~subject to approval of~~ the office. Any ceding commission
816 received by an insurer purchasing reinsurance for catastrophes
817 must ~~shall~~ be placed in the catastrophe reserve.

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

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

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

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

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

840 5. A rate shall be deemed inadequate as to the premium
841 charged to a risk or group of risks if discounts or credits are

601-02340A-11

2011408c2

842 allowed which exceed a reasonable reflection of expense savings
843 and reasonably expected loss experience from the risk or group
844 of risks.

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

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

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

601-02340A-11

2011408c2

871 ~~approve~~ or a notice of intent to disapprove pursuant to ~~the~~
872 ~~procedures of~~ paragraph (a) within 90 days after receipt of the
873 insurer's initial response. In such instances and in any
874 administrative proceeding relating to the legality of the rate,
875 the insurer or rating organization shall carry the burden of
876 proof by a preponderance of the evidence to show that the rate
877 is not excessive, inadequate, or unfairly discriminatory. After
878 the office notifies an insurer that a rate may be excessive,
879 inadequate, or unfairly discriminatory, unless the office
880 withdraws the notification, the insurer may ~~shall~~ not alter the
881 rate except to conform to ~~with~~ the office's notice until the
882 earlier of 120 days after the date the notification was provided
883 or 180 days after the date of implementing ~~the implementation of~~
884 the rate. The office ~~may~~, subject to chapter 120, may disapprove
885 without the 60-day notification any rate increase filed by an
886 insurer within the prohibited time period or during the time
887 that the legality of the increased rate is being contested.

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

601-02340A-11

2011408c2

900 finding is ~~shall be~~ applicable only to new or renewal business
901 of the insurer written on or after the effective date of the
902 responsive filing.

903 (i) Except as otherwise specifically provided in this
904 chapter, the office may ~~shall~~ not, directly or indirectly:

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

911 2. Impede, abridge, or otherwise compromise an insurer's
912 right to acquire policyholders, advertise, or appoint agents,
913 including the calculation, manner, or amount of such agent
914 commissions, if any.

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

918 (k)1. An insurer may make a separate filing limited solely
919 to an adjustment of its rates for reinsurance or financing costs
920 incurred in the purchase of reinsurance or financing products to
921 replace or finance the payment of the amount covered by the
922 Temporary Increase in Coverage Limits (TICL) portion of the
923 Florida Hurricane Catastrophe Fund including replacement
924 reinsurance for the TICL reductions made pursuant to s.
925 215.555(17)(e); the actual cost paid due to the application of
926 the TICL premium factor pursuant to s. 215.555(17)(f); and the
927 actual cost paid due to the application of the cash build-up
928 factor pursuant to s. 215.555(5)(b) if the insurer:

601-02340A-11

2011408c2

929 a. Elects to purchase financing products such as a
930 liquidity instrument or line of credit, in which case the cost
931 included in ~~the~~ filing for the liquidity instrument or line of
932 credit may not result in a premium increase exceeding 3 percent
933 for any individual policyholder. All costs contained in the
934 filing may not result in an overall premium increase of more
935 than 10 percent for any individual policyholder.

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

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

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

947 ~~e. Does not file for a rate increase under any other~~
948 ~~paragraph within 6 months after making a filing under this~~
949 ~~paragraph.~~

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

957 2. An insurer may ~~only~~ make only one filing per ~~in any~~ 12-

601-02340A-11

2011408c2

958 month period under this paragraph.

959 3. An insurer that elects to implement a rate change under
960 this paragraph must file its rate filing with the office at
961 least 45 days before the effective date of the rate change.
962 After an insurer submits a complete filing that meets all of the
963 requirements of this paragraph, the office has 45 days after the
964 date of the filing to review the rate filing and determine if
965 the rate is excessive, inadequate, or unfairly discriminatory.

966 (1) The office may disapprove a rate for sinkhole coverage
967 only if the rate is inadequate or the insurer charges an
968 applicant or an insured a higher premium solely because of the
969 applicant's or the insured's race, religion, sex, national
970 origin, or marital status. Policies subject to this paragraph
971 may not be counted in the calculation under s. 627.171(2).

972

973 The provisions of this subsection do ~~shall~~ not apply to workers'
974 compensation, ~~and~~ employer's liability insurance, ~~and~~ ~~to~~ motor
975 vehicle insurance.

976 (3) (a) For individual risks that are not rated in
977 accordance with the insurer's rates, rating schedules, rating
978 manuals, and underwriting rules filed with the office and that
979 ~~which~~ have been submitted to the insurer for individual rating,
980 the insurer must maintain documentation on each risk subject to
981 individual risk rating. The documentation must identify the
982 named insured and specify the characteristics and classification
983 of the risk supporting the reason for the risk being
984 individually risk rated, including any modifications to existing
985 approved forms to be used on the risk. The insurer must maintain
986 these records for ~~a period of~~ at least 5 years after the

601-02340A-11

2011408c2

987 effective date of the policy.

988 (b) Individual risk rates and modifications to existing
989 approved forms are not subject to this part or part II, except
990 for paragraph (a) and ss. 627.402, 627.403, 627.4035, 627.404,
991 627.405, 627.406, 627.407, 627.4085, 627.409, 627.4132,
992 627.4133, 627.415, 627.416, 627.417, 627.419, 627.425, 627.426,
993 627.4265, 627.427, and 627.428, but are subject to all other
994 applicable provisions of this code and rules adopted thereunder.

995 (c) This subsection does not apply to private passenger
996 motor vehicle insurance.

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

1000 a. Excess or umbrella.

1001 b. Surety and fidelity.

1002 c. Boiler and machinery and leakage and fire extinguishing
1003 equipment.

1004 d. Errors and omissions.

1005 e. Directors and officers, employment practices, and
1006 management liability.

1007 f. Intellectual property and patent infringement liability.

1008 g. Advertising injury and Internet liability insurance.

1009 h. Property risks rated under a highly protected risks
1010 rating plan.

1011 i. Any other commercial lines categories or kinds of
1012 insurance or types of commercial lines risks that the office
1013 determines should not be subject to paragraph (2) (a) or
1014 paragraph (2) (f) because of the existence of a competitive
1015 market for such insurance, similarity of such insurance to other

601-02340A-11

2011408c2

1016 categories or kinds of insurance not subject to paragraph (2)(a)
1017 or paragraph (2)(f), or to improve the general operational
1018 efficiency of the office.

1019 2. Insurers or rating organizations shall establish and use
1020 rates, rating schedules, or rating manuals to allow the insurer
1021 a reasonable rate of return on insurance and risks described in
1022 subparagraph 1. which are written in this state.

1023 3. An insurer must notify the office of any changes to
1024 rates for insurance and risks described in subparagraph 1.
1025 within ~~no later than~~ 30 days after the effective date of the
1026 change. The notice must include the name of the insurer, the
1027 type or kind of insurance subject to rate change, total premium
1028 written during the immediately preceding year by the insurer for
1029 the type or kind of insurance subject to the rate change, and
1030 the average statewide percentage change in rates. Underwriting
1031 files, premiums, losses, and expense statistics with regard to
1032 such insurance and risks ~~described in subparagraph 1.~~ written by
1033 an insurer must ~~shall~~ be maintained by the insurer and subject
1034 to examination by the office. Upon examination, the office
1035 ~~shall~~, in accordance with generally accepted and reasonable
1036 actuarial techniques, shall consider the rate factors in
1037 paragraphs (2)(b), (c), and (d) and the standards in paragraph
1038 (2)(e) to determine if the rate is excessive, inadequate, or
1039 unfairly discriminatory.

1040 4. A rating organization must notify the office of any
1041 changes to loss cost for insurance and risks described in
1042 subparagraph 1. within ~~no later than~~ 30 days after the effective
1043 date of the change. The notice must include the name of the
1044 rating organization, the type or kind of insurance subject to a

601-02340A-11

2011408c2

1045 loss cost change, loss costs during the immediately preceding
1046 year for the type or kind of insurance subject to the loss cost
1047 change, and the average statewide percentage change in loss
1048 cost. Loss and exposure statistics with regard to risks
1049 applicable to loss costs for a rating organization not subject
1050 to paragraph (2) (a) or paragraph (2) (f) must ~~shall~~ be maintained
1051 by the rating organization and are subject to examination by the
1052 office. Upon examination, the office ~~shall~~, in accordance with
1053 generally accepted and reasonable actuarial techniques, shall
1054 consider the rate factors in paragraphs (2) (b)-(d) and the
1055 standards in paragraph (2) (e) to determine if the rate is
1056 excessive, inadequate, or unfairly discriminatory.

1057 5. In reviewing a rate, the office may require the insurer
1058 to provide, at the insurer's expense, all information necessary
1059 to evaluate the condition of the company and the reasonableness
1060 of the rate according to the applicable criteria described in
1061 this section.

1062 (4) The establishment of any rate, rating classification,
1063 rating plan or schedule, or variation thereof in violation of
1064 part IX of chapter 626 is also in violation of this section. ~~In
1065 order to enhance the ability of consumers to compare premiums
1066 and to increase the accuracy and usefulness of rate comparison
1067 information provided by the office to the public, the office
1068 shall develop a proposed standard rating territory plan to be
1069 used by all authorized property and casualty insurers for
1070 residential property insurance. In adopting the proposed plan,
1071 the office may consider geographical characteristics relevant to
1072 risk, county lines, major roadways, existing rating territories
1073 used by a significant segment of the market, and other relevant~~

601-02340A-11

2011408c2

1074 ~~factors. Such plan shall be submitted to the President of the~~
1075 ~~Senate and the Speaker of the House of Representatives by~~
1076 ~~January 15, 2006. The plan may not be implemented unless~~
1077 ~~authorized by further act of the Legislature.~~

1078 (5) With respect to a rate filing involving coverage of the
1079 type for which the insurer is required to pay a reimbursement
1080 premium to the Florida Hurricane Catastrophe Fund, the insurer
1081 may fully recoup in its property insurance premiums any
1082 reimbursement premiums paid to the ~~Florida Hurricane Catastrophe~~
1083 ~~fund~~, together with reasonable costs of other reinsurance;
1084 however, ~~but~~ except as otherwise provided in this section, the
1085 insurer may not recoup reinsurance costs that duplicate coverage
1086 provided by the ~~Florida Hurricane Catastrophe~~ fund. An insurer
1087 may not recoup more than 1 year of reimbursement premium at a
1088 time. Any under-recoupment from the prior year may be added to
1089 the following year's reimbursement premium, and any over-
1090 recoupment must ~~shall~~ be subtracted from the following year's
1091 reimbursement premium.

1092 (6) (a) If an insurer requests an administrative hearing
1093 pursuant to s. 120.57 related to a rate filing under this
1094 section, the director of the Division of Administrative Hearings
1095 shall expedite the hearing and assign an administrative law
1096 judge who shall commence the hearing within 30 days after the
1097 receipt of the formal request and ~~shall~~ enter a recommended
1098 order within 30 days after the hearing or within 30 days after
1099 receipt of the hearing transcript by the administrative law
1100 judge, whichever is later. Each party shall have ~~be allowed~~ 10
1101 days in which to submit written exceptions to the recommended
1102 order. The office shall enter a final order within 30 days after

601-02340A-11

2011408c2

1103 the entry of the recommended order. The provisions of this
1104 paragraph may be waived upon stipulation of all parties.

1105 (b) Upon entry of a final order, the insurer may request a
1106 expedited appellate review pursuant to the Florida Rules of
1107 Appellate Procedure. It is the intent of the Legislature that
1108 the First District Court of Appeal grant an insurer's request
1109 for an expedited appellate review.

1110 (7) ~~(a)~~ The provisions of this subsection apply only ~~with~~
1111 ~~respect~~ to rates for medical malpractice insurance and ~~shall~~
1112 control to the extent of any conflict with other provisions of
1113 this section.

1114 ~~(a)~~ ~~(b)~~ Any portion of a judgment entered or settlement paid
1115 as a result of a statutory or common-law bad faith action and
1116 any portion of a judgment entered which awards punitive damages
1117 against an insurer may not be included in the insurer's rate
1118 base, and ~~shall not be~~ used to justify a rate or rate change.
1119 Any common-law bad faith action identified as such, any portion
1120 of a settlement entered as a result of a statutory or common-law
1121 action, or any portion of a settlement wherein an insurer agrees
1122 to pay specific punitive damages may not be used to justify a
1123 rate or rate change. The portion of the taxable costs and
1124 attorney's fees which is identified as being related to the bad
1125 faith and punitive damages ~~in these judgments and settlements~~
1126 may not be included in the insurer's rate base and used ~~may not~~
1127 ~~be utilized~~ to justify a rate or rate change.

1128 ~~(b)~~ ~~(c)~~ Upon reviewing a rate filing and determining whether
1129 the rate is excessive, inadequate, or unfairly discriminatory,
1130 the office shall consider, in accordance with generally accepted
1131 and reasonable actuarial techniques, past and present

601-02340A-11

2011408c2

1132 prospective loss experience, ~~either~~ using loss experience solely
1133 for this state or giving greater credibility to this state's
1134 loss data after applying actuarially sound methods of assigning
1135 credibility to such data.

1136 (c) ~~(d)~~ Rates shall be deemed excessive if, among other
1137 standards established by this section, the rate structure
1138 provides for replenishment of reserves or surpluses from
1139 premiums when the replenishment is attributable to investment
1140 losses.

1141 (d) ~~(e)~~ The insurer must apply a discount or surcharge based
1142 on the health care provider's loss experience or ~~shall~~ establish
1143 an alternative method giving due consideration to the provider's
1144 loss experience. The insurer must include in the filing a copy
1145 of the surcharge or discount schedule or a description of the
1146 alternative method used, and ~~must~~ provide a copy ~~of such~~
1147 ~~schedule or description~~, as approved by the office, to
1148 policyholders at the time of renewal and to prospective
1149 policyholders at the time of application for coverage.

1150 (e) ~~(f)~~ Each medical malpractice insurer must make a rate
1151 filing under this section, sworn to by at least two executive
1152 officers of the insurer, at least once each calendar year.

1153 ~~(8)(a)1. No later than 60 days after the effective date of~~
1154 ~~medical malpractice legislation enacted during the 2003 Special~~
1155 ~~Session D of the Florida Legislature, the office shall calculate~~
1156 ~~a presumed factor that reflects the impact that the changes~~
1157 ~~contained in such legislation will have on rates for medical~~
1158 ~~malpractice insurance and shall issue a notice informing all~~
1159 ~~insurers writing medical malpractice coverage of such presumed~~
1160 ~~factor. In determining the presumed factor, the office shall use~~

601-02340A-11

2011408c2

1161 ~~generally accepted actuarial techniques and standards provided~~
1162 ~~in this section in determining the expected impact on losses,~~
1163 ~~expenses, and investment income of the insurer. To the extent~~
1164 ~~that the operation of a provision of medical malpractice~~
1165 ~~legislation enacted during the 2003 Special Session D of the~~
1166 ~~Florida Legislature is stayed pending a constitutional~~
1167 ~~challenge, the impact of that provision shall not be included in~~
1168 ~~the calculation of a presumed factor under this subparagraph.~~

1169 ~~2. No later than 60 days after the office issues its notice~~
1170 ~~of the presumed rate change factor under subparagraph 1., each~~
1171 ~~insurer writing medical malpractice coverage in this state shall~~
1172 ~~submit to the office a rate filing for medical malpractice~~
1173 ~~insurance, which will take effect no later than January 1, 2004,~~
1174 ~~and apply retroactively to policies issued or renewed on or~~
1175 ~~after the effective date of medical malpractice legislation~~
1176 ~~enacted during the 2003 Special Session D of the Florida~~
1177 ~~Legislature. Except as authorized under paragraph (b), the~~
1178 ~~filing shall reflect an overall rate reduction at least as great~~
1179 ~~as the presumed factor determined under subparagraph 1. With~~
1180 ~~respect to policies issued on or after the effective date of~~
1181 ~~such legislation and prior to the effective date of the rate~~
1182 ~~filing required by this subsection, the office shall order the~~
1183 ~~insurer to make a refund of the amount that was charged in~~
1184 ~~excess of the rate that is approved.~~

1185 ~~(b) Any insurer or rating organization that contends that~~
1186 ~~the rate provided for in paragraph (a) is excessive, inadequate,~~
1187 ~~or unfairly discriminatory shall separately state in its filing~~
1188 ~~the rate it contends is appropriate and shall state with~~
1189 ~~specificity the factors or data that it contends should be~~

601-02340A-11

2011408c2

1190 ~~considered in order to produce such appropriate rate. The~~
1191 ~~insurer or rating organization shall be permitted to use all of~~
1192 ~~the generally accepted actuarial techniques provided in this~~
1193 ~~section in making any filing pursuant to this subsection. The~~
1194 ~~office shall review each such exception and approve or~~
1195 ~~disapprove it prior to use. It shall be the insurer's burden to~~
1196 ~~actuarially justify any deviations from the rates required to be~~
1197 ~~filed under paragraph (a). The insurer making a filing under~~
1198 ~~this paragraph shall include in the filing the expected impact~~
1199 ~~of medical malpractice legislation enacted during the 2003~~
1200 ~~Special Session D of the Florida Legislature on losses,~~
1201 ~~expenses, and rates.~~

1202 ~~(c) If any provision of medical malpractice legislation~~
1203 ~~enacted during the 2003 Special Session D of the Florida~~
1204 ~~Legislature is held invalid by a court of competent~~
1205 ~~jurisdiction, the office shall permit an adjustment of all~~
1206 ~~medical malpractice rates filed under this section to reflect~~
1207 ~~the impact of such holding on such rates so as to ensure that~~
1208 ~~the rates are not excessive, inadequate, or unfairly~~
1209 ~~discriminatory.~~

1210 ~~(d) Rates approved on or before July 1, 2003, for medical~~
1211 ~~malpractice insurance shall remain in effect until the effective~~
1212 ~~date of a new rate filing approved under this subsection.~~

1213 ~~(e) The calculation and notice by the office of the~~
1214 ~~presumed factor pursuant to paragraph (a) is not an order or~~
1215 ~~rule that is subject to chapter 120. If the office enters into a~~
1216 ~~contract with an independent consultant to assist the office in~~
1217 ~~calculating the presumed factor, such contract shall not be~~
1218 ~~subject to the competitive solicitation requirements of s.~~

601-02340A-11

2011408c2

1219 ~~287.057.~~

1220 (8)~~(9)~~(a) The chief executive officer or chief financial
1221 officer of a property insurer and the chief actuary of a
1222 property insurer must certify under oath and subject to the
1223 penalty of perjury, on a form approved by the commission, the
1224 following information, which must accompany a rate filing:

1225 1. The signing officer and actuary have reviewed the rate
1226 filing;

1227 2. Based on the signing officer's and actuary's knowledge,
1228 the rate filing does not contain any untrue statement of a
1229 material fact or omit to state a material fact necessary ~~in~~
1230 ~~order~~ to make the statements made, in light of the circumstances
1231 under which such statements were made, not misleading;

1232 3. Based on the signing officer's and actuary's knowledge,
1233 the information and other factors described in paragraph (2) (b),
1234 including, but not limited to, investment income, fairly present
1235 in all material respects the basis of the rate filing for the
1236 periods presented in the filing; and

1237 4. Based on the signing officer's and actuary's knowledge,
1238 the rate filing reflects all premium savings that are reasonably
1239 expected to result from legislative enactments and are in
1240 accordance with generally accepted and reasonable actuarial
1241 techniques.

1242 (b) A signing officer or actuary who knowingly makes ~~making~~
1243 a false certification under this subsection commits a violation
1244 of s. 626.9541(1) (e) and is subject to the penalties under s.
1245 626.9521.

1246 (c) Failure to provide such certification by the officer
1247 and actuary shall result in the rate filing being disapproved

601-02340A-11

2011408c2

1248 without prejudice to be refiled.

1249 (d) The commission may adopt rules and forms ~~pursuant to~~
1250 ~~ss. 120.536(1) and 120.54~~ to administer this subsection.

1251 ~~(9)-(10)~~ The burden is on the office to establish that rates
1252 are excessive for personal lines residential coverage with a
1253 dwelling replacement cost of \$1 million or more or for a single
1254 condominium unit with a combined dwelling and contents
1255 replacement cost of \$1 million or more. Upon request of the
1256 office, the insurer shall provide ~~to the office~~ such loss and
1257 expense information as the office reasonably needs to meet this
1258 burden.

1259 ~~(10)-(11)~~ Any interest paid pursuant to s. 627.70131(5) may
1260 not be included in the insurer's rate base and may not be used
1261 to justify a rate or rate change.

1262 Section 14. Subsections (1) and (5) and paragraph (b) of
1263 subsection (8) of section 627.0629, Florida Statutes, are
1264 amended to read:

1265 627.0629 Residential property insurance; rate filings.—

1266 (1)~~(a)~~ It is the intent of the Legislature that insurers
1267 ~~must~~ provide the most accurate pricing signals available in
1268 order savings to encourage consumers to ~~who~~ install or implement
1269 windstorm damage mitigation techniques, alterations, or
1270 solutions to their properties to prevent windstorm losses. It is
1271 also the intent of the Legislature that implementation of
1272 mitigation discounts not result in a loss of income to the
1273 insurers granting the discounts, so that the aggregate of such
1274 discounts not exceed the aggregate of the expected reduction in
1275 loss attributable to the mitigation efforts for which discounts
1276 are granted. A rate filing for residential property insurance

601-02340A-11

2011408c2

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

601-02340A-11

2011408c2

1306 ~~office.~~ The office shall determine the discounts, credits,
1307 debits, other rate differentials, and appropriate reductions or
1308 increases in deductibles that reflect the full actuarial value
1309 of such revaluation, which may be used by insurers in rate
1310 filings.

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

601-02340A-11

2011408c2

1335 ~~insurer shall continue to apply the mitigation credit that was~~
1336 ~~applied immediately prior to the effective date of the revised~~
1337 ~~credit. Discounts, credits, and other rate differentials~~
1338 ~~established for rate filings under this paragraph shall~~
1339 ~~supersede, after adoption, the discounts, credits, and other~~
1340 ~~rate differentials included in rate filings under paragraph (a).~~

1341 (5) In order to provide an appropriate transition period,
1342 an insurer may, ~~in its sole discretion,~~ implement an approved
1343 rate filing for residential property insurance over a period of
1344 years. Such ~~An insurer electing to phase in its rate filing~~ must
1345 provide an informational notice to the office setting out its
1346 schedule for implementation of the phased-in rate filing. The ~~An~~
1347 insurer may include in its rate the actual cost of private
1348 market reinsurance that corresponds to available coverage of the
1349 Temporary Increase in Coverage Limits, TICL, from the Florida
1350 Hurricane Catastrophe Fund. The insurer may also include the
1351 cost of reinsurance to replace the TICL reduction implemented
1352 pursuant to s. 215.555(17)(d)9. However, this cost ~~for~~
1353 ~~reinsurance may not include any expense or profit load or result~~
1354 in a total annual base rate increase in excess of 10 percent.

1355 (8) EVALUATION OF RESIDENTIAL PROPERTY STRUCTURAL
1356 SOUNDNESS.—

1357 (b) To the extent ~~that~~ funds are provided for this purpose
1358 in the General Appropriations Act, ~~the Legislature hereby~~
1359 ~~authorizes~~ the establishment of a program to be administered by
1360 the Citizens Property Insurance Corporation for homeowners
1361 insured in the coastal high-risk account is authorized.

1362 Section 15. Paragraphs (b), (c), (d), (v), and (y) of
1363 subsection (6) of section 627.351, Florida Statutes, are amended

601-02340A-11

2011408c2

1364 to read:

1365 627.351 Insurance risk apportionment plans.—

1366 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

1367 (b)1. All insurers authorized to write one or more subject
1368 lines of business in this state are subject to assessment by the
1369 corporation and, for the purposes of this subsection, are
1370 referred to collectively as "assessable insurers." Insurers
1371 writing one or more subject lines of business in this state
1372 pursuant to part VIII of chapter 626 are not assessable
1373 insurers, but insureds who procure one or more subject lines of
1374 business in this state pursuant to part VIII of chapter 626 are
1375 subject to assessment by the corporation and are referred to
1376 collectively as "assessable insureds." An ~~authorized~~ insurer's
1377 assessment liability begins ~~shall begin~~ on the first day of the
1378 calendar year following the year in which the insurer was issued
1379 a certificate of authority to transact insurance for subject
1380 lines of business in this state and terminates ~~shall terminate~~ 1
1381 year after the end of the first calendar year during which the
1382 insurer no longer holds a certificate of authority to transact
1383 insurance for subject lines of business in this state.

1384 2.a. All revenues, assets, liabilities, losses, and
1385 expenses of the corporation shall be divided into three separate
1386 accounts as follows:

1387 (I) A personal lines account for personal residential
1388 policies issued by the corporation, or issued by the Residential
1389 Property and Casualty Joint Underwriting Association and renewed
1390 by the corporation, which provides ~~that provide~~ comprehensive,
1391 multiperil coverage on risks that are not located in areas
1392 eligible for coverage by ~~in~~ the Florida Windstorm Underwriting

601-02340A-11

2011408c2

1393 Association as those areas were defined on January 1, 2002, and
1394 for ~~such~~ policies that do not provide coverage for the peril of
1395 wind on risks that are located in such areas;

1396 (II) A commercial lines account for commercial residential
1397 and commercial nonresidential policies issued by the
1398 corporation, or issued by the Residential Property and Casualty
1399 Joint Underwriting Association and renewed by the corporation,
1400 which provides ~~that provide~~ coverage for basic property perils
1401 on risks that are not located in areas eligible for coverage by
1402 ~~in~~ the Florida Windstorm Underwriting Association as those areas
1403 were defined on January 1, 2002, and for ~~such~~ policies that do
1404 not provide coverage for the peril of wind on risks that are
1405 located in such areas; and

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

601-02340A-11

2011408c2

1422 prejudice to the applicant's or insured's eligibility to
1423 prospectively purchase a policy that provides coverage only for
1424 the peril of wind from the corporation. An applicant or insured
1425 who is eligible for a corporation policy that provides coverage
1426 only for the peril of wind may elect to purchase or retain such
1427 policy and also purchase or retain coverage excluding wind from
1428 an authorized insurer without prejudice to the applicant's or
1429 insured's eligibility to prospectively purchase a policy that
1430 provides multiperil coverage from the corporation. It is the
1431 goal of the Legislature that there ~~would~~ be an overall average
1432 savings of 10 percent or more for a policyholder who currently
1433 has a wind-only policy with the corporation, and an ex-wind
1434 policy with a voluntary insurer or the corporation, and who ~~then~~
1435 obtains a multiperil policy from the corporation. It is the
1436 intent of the Legislature that the offer of multiperil coverage
1437 in the coastal ~~high-risk~~ account be made and implemented in a
1438 manner that does not adversely affect the tax-exempt status of
1439 the corporation or creditworthiness of or security for currently
1440 outstanding financing obligations or credit facilities of the
1441 coastal ~~high-risk~~ account, the personal lines account, or the
1442 commercial lines account. The coastal ~~high-risk~~ account must
1443 also include quota share primary insurance under subparagraph
1444 (c)2. The area eligible for coverage under the coastal ~~high-risk~~
1445 account also includes the area within Port Canaveral, which is
1446 bordered on the south by the City of Cape Canaveral, bordered on
1447 the west by the Banana River, and bordered on the north by
1448 Federal Government property.

1449 b. The three separate accounts must be maintained as long
1450 as financing obligations entered into by the Florida Windstorm

601-02340A-11

2011408c2

1451 Underwriting Association or Residential Property and Casualty
1452 Joint Underwriting Association are outstanding, in accordance
1453 with the terms of the corresponding financing documents. If ~~When~~
1454 the financing obligations are no longer outstanding, ~~in~~
1455 ~~accordance with the terms of the corresponding financing~~
1456 ~~documents,~~ the corporation may use a single account for all
1457 revenues, assets, liabilities, losses, and expenses of the
1458 corporation. Consistent with ~~the requirement of~~ this
1459 subparagraph and prudent investment policies that minimize the
1460 cost of carrying debt, the board shall exercise its best efforts
1461 to retire existing debt or ~~to~~ obtain the approval of necessary
1462 parties to amend the terms of existing debt, so as to structure
1463 the most efficient plan to consolidate the three separate
1464 accounts into a single account.

1465 c. Creditors of the Residential Property and Casualty Joint
1466 Underwriting Association and ~~of~~ the accounts specified in sub-
1467 sub-subparagraphs a.(I) and (II) may have a claim against, and
1468 recourse to, those ~~the~~ accounts ~~referred to in sub-sub-~~
1469 ~~subparagraphs a.(I) and (II) and shall have~~ no claim against, or
1470 recourse to, the account referred to in sub-sub-subparagraph
1471 a.(III). Creditors of the Florida Windstorm Underwriting
1472 Association ~~shall~~ have a claim against, and recourse to, the
1473 account referred to in sub-sub-subparagraph a.(III) and ~~shall~~
1474 ~~have~~ no claim against, or recourse to, the accounts referred to
1475 in sub-sub-subparagraphs a.(I) and (II).

1476 d. Revenues, assets, liabilities, losses, and expenses not
1477 attributable to particular accounts shall be prorated among the
1478 accounts.

1479 e. The Legislature finds that the revenues of the

601-02340A-11

2011408c2

1480 corporation are revenues that are necessary to meet the
1481 requirements set forth in documents authorizing the issuance of
1482 bonds under this subsection.

1483 f. No part of the income of the corporation may inure to
1484 the benefit of any private person.

1485 3. With respect to a deficit in an account:

1486 a. After accounting for the ~~Citizens~~ policyholder surcharge
1487 imposed under sub-subparagraph h. i., ~~if when~~ the remaining
1488 projected deficit incurred in a particular calendar year:

1489 (I) Is not greater than 6 percent of the aggregate
1490 statewide direct written premium for the subject lines of
1491 business for the prior calendar year, the entire deficit shall
1492 be recovered through regular assessments of assessable insurers
1493 under paragraph (q) and assessable insureds.

1494 (II) ~~b. After accounting for the Citizens policyholder~~
1495 ~~surcharge imposed under sub-subparagraph i., when the remaining~~
1496 ~~projected deficit incurred in a particular calendar year Exceeds~~
1497 6 percent of the aggregate statewide direct written premium for
1498 the subject lines of business for the prior calendar year, the
1499 corporation shall levy regular assessments on assessable
1500 insurers under paragraph (q) and on assessable insureds in an
1501 amount equal to the greater of 6 percent of the deficit or 6
1502 percent of the aggregate statewide direct written premium for
1503 the subject lines of business for the prior calendar year. Any
1504 remaining deficit shall be recovered through emergency
1505 assessments under sub-subparagraph c. ~~d.~~

1506 b.e. Each assessable insurer's share of the amount being
1507 assessed under sub-subparagraph a. must ~~or sub-subparagraph b.~~
1508 ~~shall~~ be in the proportion that the assessable insurer's direct

601-02340A-11

2011408c2

1509 written premium for the subject lines of business for the year
1510 preceding the assessment bears to the aggregate statewide direct
1511 written premium for the subject lines of business for that year.
1512 The applicable assessment percentage ~~applicable to each~~
1513 ~~assessable insured~~ is the ratio of the amount being assessed
1514 under sub-subparagraph a. ~~or sub-subparagraph b.~~ to the
1515 aggregate statewide direct written premium for the subject lines
1516 of business for the prior year. Assessments levied by the
1517 corporation on assessable insurers under sub-subparagraph a.
1518 must ~~sub-subparagraphs a. and b. shall~~ be paid as required by
1519 the corporation's plan of operation and paragraph (q).
1520 Assessments levied by the corporation on assessable insureds
1521 under sub-subparagraph a. ~~sub-subparagraphs a. and b.~~ shall be
1522 collected by the surplus lines agent at the time the surplus
1523 lines agent collects the surplus lines tax required by s.
1524 626.932, and ~~shall be~~ paid to the Florida Surplus Lines Service
1525 Office at the time the surplus lines agent pays the surplus
1526 lines tax to that ~~the Florida Surplus Lines Service~~ office. Upon
1527 receipt of regular assessments from surplus lines agents, the
1528 Florida Surplus Lines Service Office shall transfer the
1529 assessments directly to the corporation as determined by the
1530 corporation.

1531 ~~c.d.~~ Upon a determination by the board of governors that a
1532 deficit in an account exceeds the amount that will be recovered
1533 through regular assessments under sub-subparagraph a. ~~or sub-~~
1534 ~~subparagraph b.~~, plus the amount that is expected to be
1535 recovered through surcharges under sub-subparagraph h. i., ~~as to~~
1536 ~~the remaining projected deficit~~ the board ~~shall levy~~, after
1537 verification by the office, shall levy emergency assessments,

601-02340A-11

2011408c2

1538 for as many years as necessary to cover the deficits, to be
1539 collected by assessable insurers and the corporation and
1540 collected from assessable insureds upon issuance or renewal of
1541 policies for subject lines of business, excluding National Flood
1542 Insurance policies. The amount ~~of the emergency assessment~~
1543 collected in a particular year must ~~shall~~ be a uniform
1544 percentage of that year's direct written premium for subject
1545 lines of business and all accounts of the corporation, excluding
1546 National Flood Insurance Program policy premiums, as annually
1547 determined by the board and verified by the office. The office
1548 shall verify the arithmetic calculations involved in the board's
1549 determination within 30 days after receipt of the information on
1550 which the determination was based. Notwithstanding any other
1551 provision of law, the corporation and each assessable insurer
1552 that writes subject lines of business shall collect emergency
1553 assessments from its policyholders without such obligation being
1554 affected by any credit, limitation, exemption, or deferment.
1555 Emergency assessments levied by the corporation on assessable
1556 insureds shall be collected by the surplus lines agent at the
1557 time the surplus lines agent collects the surplus lines tax
1558 required by s. 626.932 and ~~shall be~~ paid to the Florida Surplus
1559 Lines Service Office at the time the surplus lines agent pays
1560 the surplus lines tax to that ~~the Florida Surplus Lines Service~~
1561 office. The emergency assessments ~~so~~ collected shall be
1562 transferred directly to the corporation on a periodic basis as
1563 determined by the corporation and ~~shall be~~ held by the
1564 corporation solely in the applicable account. The aggregate
1565 amount of emergency assessments levied for an account under this
1566 sub-subparagraph in any calendar year may, ~~at the discretion of~~

601-02340A-11

2011408c2

1567 ~~the board of governors,~~ be less than but ~~may~~ not exceed the
1568 greater of 10 percent of the amount needed to cover the deficit,
1569 plus interest, fees, commissions, required reserves, and other
1570 costs associated with financing ~~of~~ the original deficit, or 10
1571 percent of the aggregate statewide direct written premium for
1572 subject lines of business and ~~for~~ all accounts of the
1573 corporation for the prior year, plus interest, fees,
1574 commissions, required reserves, and other costs associated with
1575 financing the deficit.

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

601-02340A-11

2011408c2

1596 commissions; however, failure to pay the emergency assessment
1597 shall be treated as failure to pay premium. The emergency
1598 assessments under sub-subparagraph c. ~~d.~~ shall continue as long
1599 as any bonds issued or other indebtedness incurred with respect
1600 to a deficit for which the assessment was imposed remain
1601 outstanding, unless adequate provision has been made for the
1602 payment of such bonds or other indebtedness pursuant to the
1603 documents governing such bonds or ~~other~~ indebtedness.

1604 e.f. As used in this subsection for purposes of any deficit
1605 incurred on or after January 25, 2007, the term "subject lines
1606 of business" means insurance written by assessable insurers or
1607 procured by assessable insureds for all property and casualty
1608 lines of business in this state, but not including workers'
1609 compensation or medical malpractice. As used in this ~~the~~ sub-
1610 subparagraph, the term "property and casualty lines of business"
1611 includes all lines of business identified on Form 2, Exhibit of
1612 Premiums and Losses, in the annual statement required of
1613 authorized insurers under ~~by~~ s. 624.424 and any rule adopted
1614 under this section, except for those lines identified as
1615 accident and health insurance and except for policies written
1616 under the National Flood Insurance Program or the Federal Crop
1617 Insurance Program. For purposes of this sub-subparagraph, the
1618 term "workers' compensation" includes both workers' compensation
1619 insurance and excess workers' compensation insurance.

1620 f.g. The Florida Surplus Lines Service Office shall
1621 determine annually the aggregate statewide written premium in
1622 subject lines of business procured by assessable insureds and
1623 ~~shall~~ report that information to the corporation in a form and
1624 at a time the corporation specifies to ensure that the

601-02340A-11

2011408c2

1625 corporation can meet the requirements of this subsection and the
1626 corporation's financing obligations.

1627 ~~g.h.~~ The Florida Surplus Lines Service Office shall verify
1628 the proper application by surplus lines agents of assessment
1629 percentages for regular assessments and emergency assessments
1630 levied under this subparagraph on assessable insureds and ~~shall~~
1631 assist the corporation in ensuring the accurate, timely
1632 collection and payment of assessments by surplus lines agents as
1633 required by the corporation.

1634 ~~h.i.~~ If a deficit is incurred in any account in 2008 or
1635 thereafter, the board of governors shall levy a ~~Citizens~~
1636 policyholder surcharge against all policyholders of the
1637 corporation. ~~for a 12-month period, which~~

1638 (I) The surcharge shall be levied ~~collected at the time of~~
1639 ~~issuance or renewal of a policy,~~ as a uniform percentage of the
1640 premium for the policy of up to 15 percent of such premium,
1641 which funds shall be used to offset the deficit.

1642 (II) The surcharge is payable upon cancellation or
1643 termination of the policy, upon renewal of the policy, or upon
1644 issuance of a new policy by the corporation within the first 12
1645 months after the date of the levy or the period of time
1646 necessary to fully collect the surcharge amount.

1647 (III) The corporation may not levy any regular assessments
1648 under paragraph (q) pursuant to sub-subparagraph a. or sub-
1649 subparagraph b. with respect to a particular year's deficit
1650 until the corporation has first levied the full amount of the
1651 surcharge authorized by this sub-subparagraph.

1652 (IV) The surcharge is ~~Citizens policyholder surcharges~~
1653 ~~under this sub-subparagraph~~ are not considered premium and is

601-02340A-11

2011408c2

1654 ~~are~~ not subject to commissions, fees, or premium taxes. However,
1655 failure to pay the surcharge ~~such surcharges~~ shall be treated as
1656 failure to pay premium.

1657 ~~i.j.~~ If the amount of any assessments or surcharges
1658 collected from corporation policyholders, assessable insurers or
1659 their policyholders, or assessable insureds exceeds the amount
1660 of the deficits, such excess amounts shall be remitted to and
1661 retained by the corporation in a reserve to be used by the
1662 corporation, as determined by the board of governors and
1663 approved by the office, to pay claims or reduce any past,
1664 present, or future plan-year deficits or to reduce outstanding
1665 debt.

1666 (c) The corporation's plan of operation ~~of the corporation~~:

1667 1. Must provide for adoption of residential property and
1668 casualty insurance policy forms and commercial residential and
1669 nonresidential property insurance forms, which ~~forms~~ must be
1670 approved by the office before ~~prior to~~ use. The corporation
1671 shall adopt the following policy forms:

1672 a. Standard personal lines policy forms that are
1673 comprehensive multiperil policies providing full coverage of a
1674 residential property equivalent to the coverage provided in the
1675 private insurance market under an HO-3, HO-4, or HO-6 policy.

1676 b. Basic personal lines policy forms that are policies
1677 similar to an HO-8 policy or a dwelling fire policy that provide
1678 coverage meeting the requirements of the secondary mortgage
1679 market, but which ~~coverage~~ is more limited than the coverage
1680 under a standard policy.

1681 c. Commercial lines residential and nonresidential policy
1682 forms that are generally similar to the basic perils of full

601-02340A-11

2011408c2

1683 coverage obtainable for commercial residential structures and
1684 commercial nonresidential structures in the admitted voluntary
1685 market.

1686 d. Personal lines and commercial lines residential property
1687 insurance forms that cover the peril of wind only. The forms are
1688 applicable only to residential properties located in areas
1689 eligible for coverage under the coastal ~~high-risk~~ account
1690 referred to in sub-subparagraph (b)2.a.

1691 e. Commercial lines nonresidential property insurance forms
1692 that cover the peril of wind only. The forms are applicable only
1693 to nonresidential properties located in areas eligible for
1694 coverage under the coastal ~~high-risk~~ account referred to in sub-
1695 subparagraph (b)2.a.

1696 f. The corporation may adopt variations of the policy forms
1697 listed in sub-subparagraphs a.-e. which ~~that~~ contain more
1698 restrictive coverage.

1699 ~~2.a.~~ Must provide that the corporation adopt a program in
1700 which the corporation and authorized insurers enter into quota
1701 share primary insurance agreements for hurricane coverage, as
1702 defined in s. 627.4025(2)(a), for eligible risks, and adopt
1703 property insurance forms for eligible risks which cover the
1704 peril of wind only.

1705 a. As used in this subsection, the term:

1706 (I) "Quota share primary insurance" means an arrangement in
1707 which the primary hurricane coverage of an eligible risk is
1708 provided in specified percentages by the corporation and an
1709 authorized insurer. The corporation and authorized insurer are
1710 each solely responsible for a specified percentage of hurricane
1711 coverage of an eligible risk as set forth in a quota share

601-02340A-11

2011408c2

1712 primary insurance agreement between the corporation and an
1713 authorized insurer and the insurance contract. The
1714 responsibility of the corporation or authorized insurer to pay
1715 its specified percentage of hurricane losses of an eligible
1716 risk, as set forth in the ~~quota share primary insurance~~
1717 agreement, may not be altered by the inability of the other
1718 party ~~to the agreement~~ to pay its specified percentage of
1719 ~~hurricane~~ losses. Eligible risks that are provided hurricane
1720 coverage through a quota share primary insurance arrangement
1721 must be provided policy forms that set forth the obligations of
1722 the corporation and authorized insurer under the arrangement,
1723 clearly specify the percentages of quota share primary insurance
1724 provided by the corporation and authorized insurer, and
1725 conspicuously and clearly state that ~~neither~~ the authorized
1726 insurer and ~~nor~~ the corporation may not be held responsible
1727 beyond their ~~its~~ specified percentage of coverage of hurricane
1728 losses.

1729 (II) "Eligible risks" means personal lines residential and
1730 commercial lines residential risks that meet the underwriting
1731 criteria of the corporation and are located in areas that were
1732 eligible for coverage by the Florida Windstorm Underwriting
1733 Association on January 1, 2002.

1734 b. The corporation may enter into quota share primary
1735 insurance agreements with authorized insurers at corporation
1736 coverage levels of 90 percent and 50 percent.

1737 c. If the corporation determines that additional coverage
1738 levels are necessary to maximize participation in quota share
1739 primary insurance agreements by authorized insurers, the
1740 corporation may establish additional coverage levels. However,

601-02340A-11

2011408c2

1741 the corporation's quota share primary insurance coverage level
1742 may not exceed 90 percent.

1743 d. Any quota share primary insurance agreement entered into
1744 between an authorized insurer and the corporation must provide
1745 for a uniform specified percentage of coverage of hurricane
1746 losses, by county or territory as set forth by the corporation
1747 board, for all eligible risks of the authorized insurer covered
1748 under the ~~quota share primary insurance~~ agreement.

1749 e. Any quota share primary insurance agreement entered into
1750 between an authorized insurer and the corporation is subject to
1751 review and approval by the office. However, such agreement shall
1752 be authorized only as to insurance contracts entered into
1753 between an authorized insurer and an insured who is already
1754 insured by the corporation for wind coverage.

1755 f. For all eligible risks covered under quota share primary
1756 insurance agreements, the exposure and coverage levels for both
1757 the corporation and authorized insurers shall be reported by the
1758 corporation to the Florida Hurricane Catastrophe Fund. For all
1759 policies of eligible risks covered under such ~~quota share~~
1760 ~~primary insurance~~ agreements, the corporation and the authorized
1761 insurer must ~~shall~~ maintain complete and accurate records for
1762 the purpose of exposure and loss reimbursement audits as
1763 required by ~~Florida Hurricane Catastrophe~~ fund rules. The
1764 corporation and the authorized insurer shall each maintain
1765 duplicate copies of policy declaration pages and supporting
1766 claims documents.

1767 g. The corporation board shall establish in its plan of
1768 operation standards for quota share agreements which ensure that
1769 there is no discriminatory application among insurers as to the

601-02340A-11

2011408c2

1770 terms of the ~~quota share~~ agreements, pricing of the ~~quota share~~
1771 agreements, incentive provisions if any, and consideration paid
1772 for servicing policies or adjusting claims.

1773 h. The quota share primary insurance agreement between the
1774 corporation and an authorized insurer must set forth the
1775 specific terms under which coverage is provided, including, but
1776 not limited to, the sale and servicing of policies issued under
1777 the agreement by the insurance agent of the authorized insurer
1778 producing the business, the reporting of information concerning
1779 eligible risks, the payment of premium to the corporation, and
1780 arrangements for the adjustment and payment of hurricane claims
1781 incurred on eligible risks by the claims adjuster and personnel
1782 of the authorized insurer. Entering into a quota sharing
1783 insurance agreement between the corporation and an authorized
1784 insurer is ~~shall be~~ voluntary and at the discretion of the
1785 authorized insurer.

1786 3. May provide that the corporation may employ or otherwise
1787 contract with individuals or other entities to provide
1788 administrative or professional services that may be appropriate
1789 to effectuate the plan. The corporation may ~~shall have the power~~
1790 ~~to~~ borrow funds, by issuing bonds or by incurring other
1791 indebtedness, and shall have other powers reasonably necessary
1792 to effectuate the requirements of this subsection, including,
1793 without limitation, the power to issue bonds and incur other
1794 indebtedness in order to refinance outstanding bonds or other
1795 indebtedness. The corporation may, ~~but is not required to~~, seek
1796 judicial validation of its bonds or other indebtedness under
1797 chapter 75. The corporation may issue bonds or incur other
1798 indebtedness, or have bonds issued on its behalf by a unit of

601-02340A-11

2011408c2

1799 local government pursuant to subparagraph (q)2.7 in the absence
1800 of a hurricane or other weather-related event, upon a
1801 determination by the corporation, subject to approval by the
1802 office, that such action would enable it to efficiently meet the
1803 financial obligations of the corporation and that such
1804 financings are reasonably necessary to effectuate the
1805 requirements of this subsection. The corporation may ~~is~~
1806 ~~authorized to~~ take all actions needed to facilitate tax-free
1807 status for ~~any~~ such bonds or indebtedness, including formation
1808 of trusts or other affiliated entities. The corporation may
1809 ~~shall have the authority to~~ pledge assessments, projected
1810 recoveries from the Florida Hurricane Catastrophe Fund, other
1811 reinsurance recoverables, market equalization and other
1812 surcharges, and other funds available to the corporation as
1813 security for bonds or other indebtedness. In recognition of s.
1814 10, Art. I of the State Constitution, prohibiting the impairment
1815 of obligations of contracts, it is the intent of the Legislature
1816 that no action be taken whose purpose is to impair any bond
1817 indenture or financing agreement or any revenue source committed
1818 by contract to such bond or other indebtedness.

1819 4.a. Must require that the corporation operate subject to
1820 the supervision and approval of a board of governors consisting
1821 of eight individuals who are residents of this state, from
1822 different geographical areas of this state.

1823 a. The Governor, the Chief Financial Officer, the President
1824 of the Senate, and the Speaker of the House of Representatives
1825 shall each appoint two members of the board. At least one of the
1826 two members appointed by each appointing officer must have
1827 demonstrated expertise in insurance, and is deemed to be within

601-02340A-11

2011408c2

1828 the scope of the exemption provided in s. 112.313(7)(b). The
1829 Chief Financial Officer shall designate one of the appointees as
1830 chair. All board members serve at the pleasure of the appointing
1831 officer. All members of the board ~~of governors~~ are subject to
1832 removal at will by the officers who appointed them. All board
1833 members, including the chair, must be appointed to serve for 3-
1834 year terms beginning annually on a date designated by the plan.
1835 However, for the first term beginning on or after July 1, 2009,
1836 each appointing officer shall appoint one member of the board
1837 for a 2-year term and one member for a 3-year term. A ~~Any~~ board
1838 vacancy shall be filled for the unexpired term by the appointing
1839 officer. The Chief Financial Officer shall appoint a technical
1840 advisory group to provide information and advice to the board ~~of~~
1841 ~~governors~~ in connection with the board's duties under this
1842 subsection. The executive director and senior managers of the
1843 corporation shall be engaged by the board and serve at the
1844 pleasure of the board. Any executive director appointed on or
1845 after July 1, 2006, is subject to confirmation by the Senate.
1846 The executive director is responsible for employing other staff
1847 as the corporation may require, subject to review and
1848 concurrence by the board.

1849 b. The board shall create a Market Accountability Advisory
1850 Committee to assist the corporation in developing awareness of
1851 its rates and its customer and agent service levels in
1852 relationship to the voluntary market insurers writing similar
1853 coverage.

1854 (I) The members of the advisory committee ~~shall~~ consist of
1855 the following 11 persons, one of whom must be elected chair by
1856 the members of the committee: four representatives, one

601-02340A-11

2011408c2

1857 appointed by the Florida Association of Insurance Agents, one by
1858 the Florida Association of Insurance and Financial Advisors, one
1859 by the Professional Insurance Agents of Florida, and one by the
1860 Latin American Association of Insurance Agencies; three
1861 representatives appointed by the insurers with the three highest
1862 voluntary market share of residential property insurance
1863 business in the state; one representative from the Office of
1864 Insurance Regulation; one consumer appointed by the board who is
1865 insured by the corporation at the time of appointment to the
1866 committee; one representative appointed by the Florida
1867 Association of Realtors; and one representative appointed by the
1868 Florida Bankers Association. All members shall be appointed to
1869 ~~must serve for~~ 3-year terms and may serve for consecutive terms.

1870 (II) The committee shall report to the corporation at each
1871 board meeting on insurance market issues which may include rates
1872 and rate competition with the voluntary market; service,
1873 including policy issuance, claims processing, and general
1874 responsiveness to policyholders, applicants, and agents; and
1875 matters relating to depopulation.

1876 5. Must provide a procedure for determining the eligibility
1877 of a risk for coverage, as follows:

1878 a. Subject to ~~the provisions of~~ s. 627.3517, with respect
1879 to personal lines residential risks, if the risk is offered
1880 coverage from an authorized insurer at the insurer's approved
1881 rate under ~~either~~ a standard policy including wind coverage or,
1882 if consistent with the insurer's underwriting rules as filed
1883 with the office, a basic policy including wind coverage, for a
1884 new application to the corporation for coverage, the risk is not
1885 eligible for any policy issued by the corporation unless the

601-02340A-11

2011408c2

1886 premium for coverage from the authorized insurer is more than 15
1887 percent greater than the premium for comparable coverage from
1888 the corporation. If the risk is not able to obtain ~~any~~ such
1889 offer, the risk is eligible for ~~either~~ a standard policy
1890 including wind coverage or a basic policy including wind
1891 coverage issued by the corporation; however, if the risk could
1892 not be insured under a standard policy including wind coverage
1893 regardless of market conditions, the risk is ~~shall be~~ eligible
1894 for a basic policy including wind coverage unless rejected under
1895 subparagraph 8. However, ~~with regard to~~ a policyholder of the
1896 corporation or a policyholder removed from the corporation
1897 through an assumption agreement until the end of the assumption
1898 period, ~~the policyholder~~ remains eligible for coverage from the
1899 corporation regardless of any offer of coverage from an
1900 authorized insurer or surplus lines insurer. The corporation
1901 shall determine the type of policy to be provided on the basis
1902 of objective standards specified in the underwriting manual and
1903 based on generally accepted underwriting practices.

1904 (I) If the risk accepts an offer of coverage through the
1905 market assistance plan or ~~an offer of coverage~~ through a
1906 mechanism established by the corporation before a policy is
1907 issued to the risk by the corporation or during the first 30
1908 days of coverage by the corporation, and the producing agent who
1909 submitted the application to the plan or to the corporation is
1910 not currently appointed by the insurer, the insurer shall:

1911 (A) Pay to the producing agent of record of the policy⁷ for
1912 the first year, an amount that is the greater of the insurer's
1913 usual and customary commission for the type of policy written or
1914 a fee equal to the usual and customary commission of the

601-02340A-11

2011408c2

1915 corporation; or

1916 (B) Offer to allow the producing agent of record of the
1917 policy to continue servicing the policy for at least a period of
1918 ~~not less than~~ 1 year and offer to pay the agent the greater of
1919 the insurer's or the corporation's usual and customary
1920 commission for the type of policy written.

1921
1922 If the producing agent is unwilling or unable to accept
1923 appointment, the new insurer shall pay the agent in accordance
1924 with sub-sub-sub-subparagraph (A).

1925 (II) If ~~When~~ the corporation enters into a contractual
1926 agreement for a take-out plan, the producing agent of record of
1927 the corporation policy is entitled to retain any unearned
1928 commission on the policy, and the insurer shall:

1929 (A) Pay to the producing agent of record ~~of the corporation~~
1930 ~~policy~~, for the first year, an amount that is the greater of the
1931 insurer's usual and customary commission for the type of policy
1932 written or a fee equal to the usual and customary commission of
1933 the corporation; or

1934 (B) Offer to allow the producing agent of record ~~of the~~
1935 ~~corporation policy~~ to continue servicing the policy for at least
1936 ~~a period of not less than~~ 1 year and offer to pay the agent the
1937 greater of the insurer's or the corporation's usual and
1938 customary commission for the type of policy written.

1939
1940 If the producing agent is unwilling or unable to accept
1941 appointment, the new insurer shall pay the agent in accordance
1942 with sub-sub-sub-subparagraph (A).

1943 b. With respect to commercial lines residential risks, for

601-02340A-11

2011408c2

1944 a new application to the corporation for coverage, if the risk
1945 is offered coverage under a policy including wind coverage from
1946 an authorized insurer at its approved rate, the risk is not
1947 eligible for a any policy issued by the corporation unless the
1948 premium for coverage from the authorized insurer is more than 15
1949 percent greater than the premium for comparable coverage from
1950 the corporation. If the risk is not able to obtain any such
1951 offer, the risk is eligible for a policy including wind coverage
1952 issued by the corporation. However, ~~with regard to a~~
1953 policyholder of the corporation or a policyholder removed from
1954 the corporation through an assumption agreement until the end of
1955 the assumption period, ~~the policyholder~~ remains eligible for
1956 coverage from the corporation regardless of an any offer of
1957 coverage from an authorized insurer or surplus lines insurer.

1958 (I) If the risk accepts an offer of coverage through the
1959 market assistance plan or ~~an offer of coverage~~ through a
1960 mechanism established by the corporation before a policy is
1961 issued to the risk by the corporation or during the first 30
1962 days of coverage by the corporation, and the producing agent who
1963 submitted the application to the plan or the corporation is not
1964 currently appointed by the insurer, the insurer shall:

1965 (A) Pay to the producing agent of record of the policy, for
1966 the first year, an amount that is the greater of the insurer's
1967 usual and customary commission for the type of policy written or
1968 a fee equal to the usual and customary commission of the
1969 corporation; or

1970 (B) Offer to allow the producing agent of record of the
1971 policy to continue servicing the policy for at least a period of
1972 ~~not less than~~ 1 year and offer to pay the agent the greater of

601-02340A-11

2011408c2

1973 the insurer's or the corporation's usual and customary
1974 commission for the type of policy written.

1975

1976 If the producing agent is unwilling or unable to accept
1977 appointment, the new insurer shall pay the agent in accordance
1978 with sub-sub-sub-subparagraph (A).

1979 (II) If ~~When~~ the corporation enters into a contractual
1980 agreement for a take-out plan, the producing agent of record of
1981 the corporation policy is entitled to retain any unearned
1982 commission on the policy, and the insurer shall:

1983 (A) Pay to the producing agent of record ~~of the corporation~~
1984 policy, for the first year, an amount that is the greater of the
1985 insurer's usual and customary commission for the type of policy
1986 written or a fee equal to the usual and customary commission of
1987 the corporation; or

1988 (B) Offer to allow the producing agent of record ~~of the~~
1989 ~~corporation policy~~ to continue servicing the policy for at least
1990 ~~a period of not less than~~ 1 year and offer to pay the agent the
1991 greater of the insurer's or the corporation's usual and
1992 customary commission for the type of policy written.

1993

1994 If the producing agent is unwilling or unable to accept
1995 appointment, the new insurer shall pay the agent in accordance
1996 with sub-sub-sub-subparagraph (A).

1997 c. For purposes of determining comparable coverage under
1998 sub-subparagraphs a. and b., the comparison must ~~shall~~ be based
1999 on those forms and coverages that are reasonably comparable. The
2000 corporation may rely on a determination of comparable coverage
2001 and premium made by the producing agent who submits the

601-02340A-11

2011408c2

2002 application to the corporation, made in the agent's capacity as
2003 the corporation's agent. A comparison may be made solely of the
2004 premium with respect to the main building or structure only on
2005 the following basis: the same coverage A or other building
2006 limits; the same percentage hurricane deductible that applies on
2007 an annual basis or that applies to each hurricane for commercial
2008 residential property; the same percentage of ordinance and law
2009 coverage, if the same limit is offered by both the corporation
2010 and the authorized insurer; the same mitigation credits, to the
2011 extent the same types of credits are offered both by the
2012 corporation and the authorized insurer; the same method for loss
2013 payment, such as replacement cost or actual cash value, if the
2014 same method is offered both by the corporation and the
2015 authorized insurer in accordance with underwriting rules; and
2016 any other form or coverage that is reasonably comparable as
2017 determined by the board. If an application is submitted to the
2018 corporation for wind-only coverage in the coastal ~~high-risk~~
2019 account, the premium for the corporation's wind-only policy plus
2020 the premium for the ex-wind policy that is offered by an
2021 authorized insurer to the applicant must ~~shall~~ be compared to
2022 the premium for multiperil coverage offered by an authorized
2023 insurer, subject to the standards for comparison specified in
2024 this subparagraph. If the corporation or the applicant requests
2025 from the authorized insurer a breakdown of the premium of the
2026 offer by types of coverage so that a comparison may be made by
2027 the corporation or its agent and the authorized insurer refuses
2028 or is unable to provide such information, the corporation may
2029 treat the offer as not being an offer of coverage from an
2030 authorized insurer at the insurer's approved rate.

601-02340A-11

2011408c2

2031 6. Must include rules for classifications of risks and
2032 rates ~~therefor~~.

2033 7. Must provide that if premium and investment income for
2034 an account attributable to a particular calendar year are in
2035 excess of projected losses and expenses for the account
2036 attributable to that year, such excess shall be held in surplus
2037 in the account. Such surplus must ~~shall~~ be available to defray
2038 deficits in that account as to future years and ~~shall be~~ used
2039 for that purpose before ~~prior to~~ assessing assessable insurers
2040 and assessable insureds as to any calendar year.

2041 8. Must provide objective criteria and procedures to be
2042 uniformly applied to ~~for~~ all applicants in determining whether
2043 an individual risk is so hazardous as to be uninsurable. In
2044 making this determination and in establishing the criteria and
2045 procedures, the following must ~~shall~~ be considered:

2046 a. Whether the likelihood of a loss for the individual risk
2047 is substantially higher than for other risks of the same class;
2048 and

2049 b. Whether the uncertainty associated with the individual
2050 risk is such that an appropriate premium cannot be determined.

2051
2052 The acceptance or rejection of a risk by the corporation shall
2053 be construed as the private placement of insurance, and the
2054 provisions of chapter 120 do ~~shall~~ not apply.

2055 9. Must provide that the corporation ~~shall~~ make its best
2056 efforts to procure catastrophe reinsurance at reasonable rates,
2057 to cover its projected 100-year probable maximum loss as
2058 determined by the board of governors.

2059 10. The policies issued by the corporation must provide

601-02340A-11

2011408c2

2060 that, if the corporation or the market assistance plan obtains
2061 an offer from an authorized insurer to cover the risk at its
2062 approved rates, the risk is no longer eligible for renewal
2063 through the corporation, except as otherwise provided in this
2064 subsection.

2065 11. Corporation policies and applications must include a
2066 notice that the corporation policy could, under this section, be
2067 replaced with a policy issued by an authorized insurer which
2068 ~~that~~ does not provide coverage identical to the coverage
2069 provided by the corporation. The notice must ~~shall~~ also specify
2070 that acceptance of corporation coverage creates a conclusive
2071 presumption that the applicant or policyholder is aware of this
2072 potential.

2073 12. May establish, subject to approval by the office,
2074 different eligibility requirements and operational procedures
2075 for any line or type of coverage for any specified county or
2076 area if the board determines that such changes ~~to the~~
2077 ~~eligibility requirements and operational procedures~~ are
2078 justified due to the voluntary market being sufficiently stable
2079 and competitive in such area or for such line or type of
2080 coverage and that consumers who, in good faith, are unable to
2081 obtain insurance through the voluntary market through ordinary
2082 methods ~~would~~ continue to have access to coverage from the
2083 corporation. If ~~When~~ coverage is sought in connection with a
2084 real property transfer, the ~~such~~ requirements and procedures may
2085 ~~shall~~ not provide ~~for~~ an effective date of coverage later than
2086 the date of the closing of the transfer as established by the
2087 transferor, the transferee, and, if applicable, the lender.

2088 13. Must provide that, with respect to the coastal ~~high-~~

601-02340A-11

2011408c2

2089 ~~risk~~ account, any assessable insurer with a surplus as to
2090 policyholders of \$25 million or less writing 25 percent or more
2091 of its total countrywide property insurance premiums in this
2092 state may petition the office, within the first 90 days of each
2093 calendar year, to qualify as a limited apportionment company. A
2094 regular assessment levied by the corporation on a limited
2095 apportionment company for a deficit incurred by the corporation
2096 for the coastal ~~high-risk~~ account ~~in 2006 or thereafter~~ may be
2097 paid to the corporation on a monthly basis as the assessments
2098 are collected by the limited apportionment company from its
2099 insureds pursuant to s. 627.3512, but the regular assessment
2100 must be paid in full within 12 months after being levied by the
2101 corporation. A limited apportionment company shall collect from
2102 its policyholders any emergency assessment imposed under sub-
2103 subparagraph (b)3.d. The plan must ~~shall~~ provide that, if the
2104 office determines that any regular assessment will result in an
2105 impairment of the surplus of a limited apportionment company,
2106 the office may direct that all or part of such assessment be
2107 deferred as provided in subparagraph (q)4. However, ~~there shall~~
2108 ~~be no limitation or deferment of~~ an emergency assessment to be
2109 collected from policyholders under sub-subparagraph (b)3.d. may
2110 not be limited or deferred.

2111 14. Must provide that the corporation appoint as its
2112 licensed agents only those agents who also hold an appointment
2113 as defined in s. 626.015(3) with an insurer who at the time of
2114 the agent's initial appointment by the corporation is authorized
2115 to write and is actually writing personal lines residential
2116 property coverage, commercial residential property coverage, or
2117 commercial nonresidential property coverage within the state.

601-02340A-11

2011408c2

2118 15. Must provide, ~~by July 1, 2007,~~ a premium payment plan
2119 option to its policyholders which, ~~allows~~ at a minimum, allows
2120 for quarterly and semiannual payment of premiums. A monthly
2121 payment plan may, but is not required to, be offered.

2122 16. Must limit coverage on mobile homes or manufactured
2123 homes built before ~~prior to~~ 1994 to actual cash value of the
2124 dwelling rather than replacement costs of the dwelling.

2125 17. May provide such limits of coverage as the board
2126 determines, consistent with the requirements of this subsection.

2127 18. May require commercial property to meet specified
2128 hurricane mitigation construction features as a condition of
2129 eligibility for coverage.

2130 (d)1. All prospective employees for senior management
2131 positions, as defined by the plan of operation, are subject to
2132 background checks as a prerequisite for employment. The office
2133 shall conduct the background checks ~~on such prospective~~
2134 ~~employees~~ pursuant to ss. 624.34, 624.404(3), and 628.261.

2135 2. On or before July 1 of each year, employees of the
2136 corporation must ~~are required to~~ sign and submit a statement
2137 attesting that they do not have a conflict of interest, as
2138 defined in part III of chapter 112. As a condition of
2139 employment, all prospective employees must ~~are required to~~ sign
2140 and submit to the corporation a conflict-of-interest statement.

2141 3. Senior managers and members of the board of governors
2142 are subject to ~~the provisions of~~ part III of chapter 112,
2143 including, but not limited to, the code of ethics and public
2144 disclosure and reporting of financial interests, pursuant to s.
2145 112.3145. Notwithstanding s. 112.3143(2), a board member may not
2146 vote on any measure that would inure to his or her special

601-02340A-11

2011408c2

2147 private gain or loss; that he or she knows would inure to the
2148 special private gain or loss of any principal by whom he or she
2149 is retained or to the parent organization or subsidiary of a
2150 corporate principal by which he or she is retained, other than
2151 an agency as defined in s. 112.312; or that he or she knows
2152 would inure to the special private gain or loss of a relative or
2153 business associate of the public officer. Before the vote is
2154 taken, such member shall publicly state to the assembly the
2155 nature of his or her interest in the matter from which he or she
2156 is abstaining from voting and, within 15 days after the vote
2157 occurs, disclose the nature of his or her interest as a public
2158 record in a memorandum filed with the person responsible for
2159 recording the minutes of the meeting, who shall incorporate the
2160 memorandum in the minutes. Senior managers and board members are
2161 also required to file such disclosures with the Commission on
2162 Ethics and the Office of Insurance Regulation. The executive
2163 director of the corporation or his or her designee shall notify
2164 each existing and newly appointed ~~and existing~~ appointed member
2165 of the board of governors and senior managers of their duty to
2166 comply with the reporting requirements of part III of chapter
2167 112. At least quarterly, the executive director or his or her
2168 designee shall submit to the Commission on Ethics a list of
2169 names of the senior managers and members of the board of
2170 governors who are subject to the public disclosure requirements
2171 under s. 112.3145.

2172 4. Notwithstanding s. 112.3148 or s. 112.3149, or any other
2173 provision of law, an employee or board member may not knowingly
2174 accept, directly or indirectly, any gift or expenditure from a
2175 person or entity, or an employee or representative of such

601-02340A-11

2011408c2

2176 person or entity, which ~~that~~ has a contractual relationship with
2177 the corporation or who is under consideration for a contract. An
2178 employee or board member who fails to comply with subparagraph
2179 3. or this subparagraph is subject to penalties provided under
2180 ss. 112.317 and 112.3173.

2181 5. 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 representing another person or entity before the corporation for
2185 2 years after retirement or termination of employment from the
2186 corporation.

2187 6. Any senior manager of the corporation who is employed on
2188 or after January 1, 2007, regardless of the date of hire, who
2189 subsequently retires or terminates employment is prohibited from
2190 having any employment or contractual relationship for 2 years
2191 with an insurer that has entered into a take-out bonus agreement
2192 with the corporation.

2193 (v)1. Effective July 1, 2002, policies of the Residential
2194 Property and Casualty Joint Underwriting Association ~~shall~~
2195 become policies of the corporation. All obligations, rights,
2196 assets and liabilities of the ~~Residential Property and Casualty~~
2197 ~~Joint Underwriting~~ association, including bonds, note and debt
2198 obligations, and the financing documents pertaining to them
2199 become those of the corporation as of July 1, 2002. The
2200 corporation is not required to issue endorsements or
2201 certificates of assumption to insureds during the remaining term
2202 of in-force transferred policies.

2203 2. Effective July 1, 2002, policies of the Florida
2204 Windstorm Underwriting Association are transferred to the

601-02340A-11

2011408c2

2205 corporation and ~~shall~~ become policies of the corporation. All
2206 obligations, rights, assets, and liabilities of the ~~Florida~~
2207 ~~Windstorm Underwriting~~ association, including bonds, note and
2208 debt obligations, and the financing documents pertaining to them
2209 are transferred to and assumed by the corporation on July 1,
2210 2002. The corporation is not required to issue endorsements or
2211 certificates of assumption to insureds during the remaining term
2212 of in-force transferred policies.

2213 3. The Florida Windstorm Underwriting Association and the
2214 Residential Property and Casualty Joint Underwriting Association
2215 shall take all actions necessary ~~as may be proper~~ to further
2216 evidence the transfers and ~~shall~~ provide the documents and
2217 instruments of further assurance as may reasonably be requested
2218 by the corporation for that purpose. The corporation shall
2219 execute assumptions and instruments as the trustees or other
2220 parties to the financing documents of the Florida Windstorm
2221 Underwriting Association or the Residential Property and
2222 Casualty Joint Underwriting Association may reasonably request
2223 to further evidence the transfers and assumptions, which
2224 transfers and assumptions, however, are effective on the date
2225 provided under this paragraph whether or not, and regardless of
2226 the date on which, the assumptions or instruments are executed
2227 by the corporation. Subject to the relevant financing documents
2228 pertaining to their outstanding bonds, notes, indebtedness, or
2229 other financing obligations, the moneys, investments,
2230 receivables, choses in action, and other intangibles of the
2231 Florida Windstorm Underwriting Association shall be credited to
2232 the coastal ~~high-risk~~ account of the corporation, and those of
2233 the personal lines residential coverage account and the

601-02340A-11

2011408c2

2234 commercial lines residential coverage account of the Residential
2235 Property and Casualty Joint Underwriting Association shall be
2236 credited to the personal lines account and the commercial lines
2237 account, respectively, of the corporation.

2238 4. Effective July 1, 2002, a new applicant for property
2239 insurance coverage who would otherwise have been eligible for
2240 coverage in the Florida Windstorm Underwriting Association is
2241 eligible for coverage from the corporation as provided in this
2242 subsection.

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

601-02340A-11

2011408c2

2263 participating insurer with its own exposures, reimbursement
2264 premium, and loss reimbursement. Likewise, the personal lines
2265 and commercial lines accounts shall be viewed together, for all
2266 ~~Florida Hurricane Catastrophe~~ fund purposes, as if the two
2267 accounts were one and represent a single, separate participating
2268 insurer with its own exposures, reimbursement premium, and loss
2269 reimbursement. The coverage provided by the ~~Florida Hurricane~~
2270 ~~Catastrophe~~ fund to the corporation shall constitute and operate
2271 as a full transfer of coverage from the Florida Windstorm
2272 Underwriting Association and Residential Property and Casualty
2273 Joint Underwriting to the corporation.

2274 (y) It is the intent of the Legislature that the amendments
2275 to this subsection enacted in 2002 should, over time, reduce the
2276 probable maximum windstorm losses in the residual markets and
2277 ~~should reduce~~ the potential assessments to be levied on property
2278 insurers and policyholders statewide. In furtherance of this
2279 intent, ÷

2280 ~~1-~~ the board shall, on or before February 1 of each year,
2281 provide a report to the President of the Senate and the Speaker
2282 of the House of Representatives showing the reduction or
2283 increase in the 100-year probable maximum loss attributable to
2284 wind-only coverages and the quota share program under this
2285 subsection combined, as compared to the benchmark 100-year
2286 probable maximum loss of the Florida Windstorm Underwriting
2287 Association. For purposes of this paragraph, the benchmark 100-
2288 year probable maximum loss of the Florida Windstorm Underwriting
2289 Association is ~~shall be~~ the calculation dated February 2001 and
2290 based on November 30, 2000, exposures. In order to ensure
2291 comparability of data, the board shall use the same methods for

601-02340A-11

2011408c2

2292 calculating its probable maximum loss as were used to calculate
2293 the benchmark probable maximum loss.

2294 ~~2. Beginning December 1, 2010, if the report under~~
2295 ~~subparagraph 1. for any year indicates that the 100-year~~
2296 ~~probable maximum loss attributable to wind-only coverages and~~
2297 ~~the quota share program combined does not reflect a reduction of~~
2298 ~~at least 25 percent from the benchmark, the board shall reduce~~
2299 ~~the boundaries of the high-risk area eligible for wind-only~~
2300 ~~coverages under this subsection in a manner calculated to reduce~~
2301 ~~such probable maximum loss to an amount at least 25 percent~~
2302 ~~below the benchmark.~~

2303 ~~3. Beginning February 1, 2015, if the report under~~
2304 ~~subparagraph 1. for any year indicates that the 100-year~~
2305 ~~probable maximum loss attributable to wind-only coverages and~~
2306 ~~the quota share program combined does not reflect a reduction of~~
2307 ~~at least 50 percent from the benchmark, the boundaries of the~~
2308 ~~high-risk area eligible for wind-only coverages under this~~
2309 ~~subsection shall be reduced by the elimination of any area that~~
2310 ~~is not seaward of a line 1,000 feet inland from the Intracoastal~~
2311 ~~Waterway.~~

2312 Section 16. Paragraph (a) of subsection (5) of section
2313 627.3511, Florida Statutes, is amended to read:

2314 627.3511 Depopulation of Citizens Property Insurance
2315 Corporation.—

2316 (5) APPLICABILITY.—

2317 (a) The take-out bonus provided by subsection (2) and the
2318 exemption from assessment provided by paragraph (3) (a) apply
2319 only if the corporation policy is replaced by ~~either~~ a standard
2320 policy including wind coverage or, if consistent with the

601-02340A-11

2011408c2

2321 insurer's underwriting rules ~~as~~ filed with the office, a basic
2322 policy including wind coverage; however, for ~~with respect to~~
2323 risks located in areas where coverage through the coastal high-
2324 ~~risk~~ account of the corporation is available, the replacement
2325 policy need not provide wind coverage. The insurer must renew
2326 the replacement policy at approved rates on substantially
2327 similar terms for four additional 1-year terms, unless canceled
2328 or not renewed by the policyholder. If an insurer assumes the
2329 corporation's obligations for a policy, it must issue a
2330 replacement policy for a 1-year term upon expiration of the
2331 corporation policy and must renew the replacement policy at
2332 approved rates on substantially similar terms for four
2333 additional 1-year terms, unless canceled or not renewed by the
2334 policyholder. For each replacement policy canceled or nonrenewed
2335 by the insurer for any reason during the 5-year coverage period
2336 ~~required by this paragraph~~, the insurer must remove from the
2337 corporation one additional policy covering a risk similar to the
2338 risk covered by the canceled or nonrenewed policy. In addition
2339 ~~to these requirements~~, the corporation must place the bonus
2340 moneys in escrow for ~~a period of~~ 5 years; such moneys may be
2341 released from escrow only to pay claims. If the policy is
2342 canceled or nonrenewed before the end of the 5-year period, the
2343 amount of the take-out bonus must be prorated for the time
2344 period the policy was insured. A take-out bonus provided by
2345 subsection (2) or subsection (6) is ~~shall not be considered~~
2346 premium income for purposes of taxes and assessments under the
2347 Florida Insurance Code and ~~shall~~ remain the property of the
2348 corporation, subject to the prior security interest of the
2349 insurer under the escrow agreement until it is released from

601-02340A-11

2011408c2

2350 escrow; ~~and~~ after it is released from escrow it is ~~shall be~~
2351 considered an asset of the insurer and credited to the insurer's
2352 capital and surplus.

2353 Section 17. Paragraph (b) of subsection (2) of section
2354 627.4133, Florida Statutes, is amended to read:

2355 627.4133 Notice of cancellation, nonrenewal, or renewal
2356 premium.—

2357 (2) With respect to any personal lines or commercial
2358 residential property insurance policy, including, but not
2359 limited to, any homeowner's, mobile home owner's, farmowner's,
2360 condominium association, condominium unit owner's, apartment
2361 building, or other policy covering a residential structure or
2362 its contents:

2363 (b) The insurer shall give the named insured written notice
2364 of nonrenewal, cancellation, or termination at least 90 ~~100~~ days
2365 before ~~prior to~~ the effective date of the nonrenewal,
2366 cancellation, or termination. ~~However, the insurer shall give at~~
2367 ~~least 100 days' written notice, or written notice by June 1,~~
2368 ~~whichever is earlier, for any nonrenewal, cancellation, or~~
2369 ~~termination that would be effective between June 1 and November~~
2370 ~~30. The notice must include the reason or reasons for the~~
2371 ~~nonrenewal, cancellation, or termination, except that:~~

2372 ~~1. The insurer shall give the named insured written notice~~
2373 ~~of nonrenewal, cancellation, or termination at least 180 days~~
2374 ~~prior to the effective date of the nonrenewal, cancellation, or~~
2375 ~~termination for a named insured whose residential structure has~~
2376 ~~been insured by that insurer or an affiliated insurer for at~~
2377 ~~least a 5-year period immediately prior to the date of the~~
2378 ~~written notice.~~

601-02340A-11

2011408c2

2379 1.2. ~~If when~~ cancellation is for nonpayment of premium, at
2380 least 10 days' written notice of cancellation accompanied by the
2381 reason therefor must ~~shall~~ be given. As used in this
2382 subparagraph, the term "nonpayment of premium" means failure of
2383 the named insured to discharge when due ~~any of~~ her or his
2384 obligations in connection with the payment of premiums on a
2385 policy or any installment of such premium, whether the premium
2386 is payable directly to the insurer or its agent or indirectly
2387 under any premium finance plan or extension of credit, or
2388 failure to maintain membership in an organization if such
2389 membership is a condition precedent to insurance coverage. The
2390 term ~~"Nonpayment of premium"~~ also means the failure of a
2391 financial institution to honor an insurance applicant's check
2392 after delivery to a licensed agent for payment of a premium,
2393 even if the agent has previously delivered or transferred the
2394 premium to the insurer. If a dishonored check represents the
2395 initial premium payment, the contract and all contractual
2396 obligations are ~~shall be~~ void ab initio unless the nonpayment is
2397 cured within the earlier of 5 days after actual notice by
2398 certified mail is received by the applicant or 15 days after
2399 notice is sent to the applicant by certified mail or registered
2400 mail, and if the contract is void, any premium received by the
2401 insurer from a third party must ~~shall~~ be refunded to that party
2402 in full.

2403 2.3. ~~If when~~ such cancellation or termination occurs during
2404 the first 90 days ~~during which~~ the insurance is in force and the
2405 insurance is canceled or terminated for reasons other than
2406 nonpayment of premium, at least 20 days' written notice of
2407 cancellation or termination accompanied by the reason therefor

601-02340A-11

2011408c2

2408 must ~~shall~~ be given unless ~~except where~~ there has been a
2409 material misstatement or misrepresentation or failure to comply
2410 with the underwriting requirements established by the insurer.

2411 3.4. The requirement for providing written notice ~~of~~
2412 ~~nonrenewal~~ by June 1 of any nonrenewal that would be effective
2413 between June 1 and November 30 does not apply to the following
2414 situations, but the insurer remains subject to the requirement
2415 to provide such notice at least 100 days before ~~prior to~~ the
2416 effective date of nonrenewal:

2417 a. A policy that is nonrenewed due to a revision in the
2418 coverage for sinkhole losses and catastrophic ground cover
2419 collapse pursuant to s. 627.706, ~~as amended by s. 30, chapter~~
2420 ~~2007-1, Laws of Florida.~~

2421 b. A policy that is nonrenewed by Citizens Property
2422 Insurance Corporation, pursuant to s. 627.351(6), for a policy
2423 that has been assumed by an authorized insurer offering
2424 replacement ~~or renewal~~ coverage to the policyholder is exempt
2425 from the notice requirements of paragraph (a) and this
2426 paragraph. In such cases, the corporation must give the named
2427 insured written notice of nonrenewal at least 45 days before the
2428 effective date of the nonrenewal.

2429
2430 After the policy has been in effect for 90 days, the policy may
2431 ~~shall~~ not be canceled by the insurer unless ~~except when~~ there
2432 has been a material misstatement, a nonpayment of premium, a
2433 failure to comply with underwriting requirements established by
2434 the insurer within 90 days after ~~of~~ the date of effectuation of
2435 coverage, or a substantial change in the risk covered by the
2436 policy or if ~~when~~ the cancellation is for all insureds under

601-02340A-11

2011408c2

2437 such policies for a given class of insureds. This paragraph does
2438 not apply to individually rated risks having a policy term of
2439 less than 90 days.

2440 4. Notwithstanding any other provision of law, an insurer
2441 may cancel or nonrenew a property insurance policy after at
2442 least 45 days' notice if the office finds that the early
2443 cancellation of some or all of the insurer's policies is
2444 necessary to protect the best interests of the public or
2445 policyholders and the office approves the insurer's plan for
2446 early cancellation or nonrenewal of some or all of its policies.
2447 The office may base such finding upon the financial condition of
2448 the insurer, lack of adequate reinsurance coverage for hurricane
2449 risk, or other relevant factors. The office may condition its
2450 finding on the consent of the insurer to be placed under
2451 administrative supervision pursuant to s. 624.81 or to the
2452 appointment of a receiver under chapter 631.

2453 Section 18. Section 627.43141, Florida Statutes, is created
2454 to read:

2455 627.43141 Notice of change in policy terms.-

2456 (1) As used in this section, the term:

2457 (a) "Change in policy terms" means the modification,
2458 addition, or deletion of any term, coverage, duty, or condition
2459 from the previous policy. The correction of typographical or
2460 scrivener's errors or the application of mandated legislative
2461 changes is not a change in policy terms.

2462 (b) "Policy" means a written contract or written agreement
2463 for personal lines property and casualty insurance, or the
2464 certificate of such insurance, by whatever name called, and
2465 includes all clauses, riders, endorsements, and papers that are

601-02340A-11

2011408c2

2466 a part of such policy. The term does not include a binder as
2467 defined in s. 627.420 unless the duration of the binder period
2468 exceeds 60 days.

2469 (c) "Renewal" means the issuance and delivery by an insurer
2470 of a policy superseding at the end of the policy period a policy
2471 previously issued and delivered by the same insurer or the
2472 issuance and delivery of a certificate or notice extending the
2473 term of a policy beyond its policy period or term. Any policy
2474 that has a policy period or term of less than 6 months or that
2475 does not have a fixed expiration date shall, for purposes of
2476 this section, be considered as written for successive policy
2477 periods or terms of 6 months.

2478 (2) A renewal policy may contain a change in policy terms.
2479 If a renewal policy does contains such change, the insurer must
2480 give the named insured written notice of the change, which must
2481 be enclosed along with the written notice of renewal premium
2482 required by ss. 627.4133 and 627.728. Such notice shall be
2483 entitled "Notice of Change in Policy Terms."

2484 (3) Although not required, proof of mailing or registered
2485 mailing through the United States Postal Service of the Notice
2486 of Change in Policy Terms to the named insured at the address
2487 shown in the policy is sufficient proof of notice.

2488 (4) Receipt of the premium payment for the renewal policy
2489 by the insurer is deemed to be acceptance of the new policy
2490 terms by the named insured.

2491 (5) If an insurer fails to provide the notice required in
2492 subsection (2), the original policy terms remain in effect until
2493 the next renewal and the proper service of the notice, or until
2494 the effective date of replacement coverage obtained by the named

601-02340A-11

2011408c2

2495 insured, whichever occurs first.

2496 (6) The intent of this section is to:

2497 (a) Allow an insurer to make a change in policy terms
2498 without nonrenewing those policyholders that the insurer wishes
2499 to continue insuring.

2500 (b) Alleviate concern and confusion to the policyholder
2501 caused by the required policy nonrenewal for the limited issue
2502 if an insurer intends to renew the insurance policy, but the new
2503 policy contains a change in policy terms.

2504 (c) Encourage policyholders to discuss their coverages with
2505 their insurance agents.

2506 Section 19. Section 627.7011, Florida Statutes, is amended
2507 to read:

2508 627.7011 Homeowners' policies; offer of replacement cost
2509 coverage and law and ordinance coverage.-

2510 (1) Before ~~Prior to~~ issuing or renewing a homeowner's
2511 insurance policy on or after October 1, 2005, or prior to the
2512 first renewal of a homeowner's insurance policy on or after
2513 October 1, 2005, the insurer must offer each of the following:

2514 (a) A policy or endorsement providing that any loss that
2515 ~~which~~ is repaired or replaced will be adjusted on the basis of
2516 replacement costs to the dwelling not exceeding policy limits ~~as~~
2517 ~~to the dwelling,~~ rather than actual cash value, but not
2518 including costs necessary to meet applicable laws and ordinances
2519 regulating the construction, use, or repair of any property or
2520 requiring the tearing down of any property, including the costs
2521 of removing debris.

2522 (b) A policy or endorsement providing that, subject to
2523 other policy provisions, any loss that ~~which~~ is repaired or

601-02340A-11

2011408c2

2524 replaced at any location will be adjusted on the basis of
2525 replacement costs to the dwelling not exceeding policy limits ~~as~~
2526 ~~to the dwelling~~, rather than actual cash value, and also
2527 including costs necessary to meet applicable laws and ordinances
2528 regulating the construction, use, or repair of any property or
2529 requiring the tearing down of any property, including the costs
2530 of removing debris. ~~+~~ However, ~~such~~ additional costs necessary to
2531 meet applicable laws and ordinances may be limited to ~~either~~ 25
2532 percent or 50 percent of the dwelling limit, as selected by the
2533 policyholder, and such coverage applies ~~shall apply~~ only to
2534 repairs of the damaged portion of the structure unless the total
2535 damage to the structure exceeds 50 percent of the replacement
2536 cost of the structure.

2537
2538 An insurer is not required to make the offers required by this
2539 subsection with respect to the issuance or renewal of a
2540 homeowner's policy that contains the provisions specified in
2541 paragraph (b) for law and ordinance coverage limited to 25
2542 percent of the dwelling limit, except that the insurer must
2543 offer the law and ordinance coverage limited to 50 percent of
2544 the dwelling limit. This subsection does not prohibit the offer
2545 of a guaranteed replacement cost policy.

2546 (2) Unless the insurer obtains the policyholder's written
2547 refusal of the policies or endorsements specified in subsection
2548 (1), any policy covering the dwelling is deemed to include the
2549 law and ordinance coverage limited to 25 percent of the dwelling
2550 limit. The rejection or selection of alternative coverage shall
2551 be made on a form approved by the office. The form must ~~shall~~
2552 fully advise the applicant of the nature of the coverage being

601-02340A-11

2011408c2

2553 rejected. If this form is signed by a named insured, it is ~~will~~
2554 ~~be~~ conclusively presumed that there was an informed, knowing
2555 rejection of the coverage or election of the alternative
2556 coverage on behalf of all insureds. Unless the policyholder
2557 requests in writing the coverage specified in this section, it
2558 need not be provided in or supplemental to any other policy that
2559 renews, insures, extends, changes, supersedes, or replaces an
2560 existing policy if ~~when~~ the policyholder has rejected the
2561 coverage specified in this section or has selected alternative
2562 coverage. The insurer must provide the ~~such~~ policyholder with
2563 notice of the availability of such coverage in a form approved
2564 by the office at least once every 3 years. The failure to
2565 provide such notice constitutes a violation of this code, but
2566 does not affect the coverage provided under the policy.

2567 (3) In the event of a loss for which a dwelling or personal
2568 property is insured on the basis of replacement costs:

2569 (a) For a dwelling, the insurer must initially pay at least
2570 the actual cash value of the insured loss, less any applicable
2571 deductible. To receive payment from an insurer for replacement
2572 costs, the policyholder must enter into a contract for the
2573 performance of building and structural repairs, unless the
2574 requirement for a contract is waived by the insurer. The insurer
2575 shall pay any remaining amounts necessary to perform such
2576 repairs as work is performed and expenses are incurred. The
2577 insurer or any contractor or subcontractor may not require the
2578 policyholder to advance payment for such repairs or expenses,
2579 with the exception of incidental expenses to mitigate further
2580 damage. If a total loss of a dwelling occurs, the insurer shall
2581 pay the replacement cost coverage without reservation or

601-02340A-11

2011408c2

2582 holdback of any depreciation in value, pursuant to s. 627.702.

2583 (b) For personal property, the insurer may limit the
2584 initial payment to the actual cash value of the personal
2585 property to be replaced. An insurer may require an insured to
2586 provide receipts for the purchase of the property financed by
2587 the initial payment and use such receipts to make the next
2588 payment requested by the insured for the replacement of insured
2589 property, and continue this process until the insured remits all
2590 receipts up to the policy limits for replacement costs. The
2591 insurer must provide clear notice of this process in the
2592 insurance contract. The insurer may not require the policyholder
2593 to advance payment for the replaced property, the insurer shall
2594 pay the replacement cost without reservation or holdback of any
2595 depreciation in value, whether or not the insured replaces or
2596 repairs the dwelling or property.

2597 (4) A ~~Any~~ homeowner's insurance policy ~~issued or renewed on~~
2598 ~~or after October 1, 2005,~~ must include in bold type no smaller
2599 than 18 points the following statement:

2600
2601 "LAW AND ORDINANCE COVERAGE IS AN IMPORTANT COVERAGE
2602 THAT YOU MAY WISH TO PURCHASE. YOU MAY ALSO NEED TO
2603 CONSIDER THE PURCHASE OF FLOOD INSURANCE FROM THE
2604 NATIONAL FLOOD INSURANCE PROGRAM. WITHOUT THIS
2605 COVERAGE, YOU MAY HAVE UNCOVERED LOSSES. PLEASE
2606 DISCUSS THESE COVERAGES WITH YOUR INSURANCE AGENT."

2607
2608 The intent of this subsection is to encourage policyholders to
2609 purchase sufficient coverage to protect them in case events
2610 excluded from the standard homeowners policy, such as law and

601-02340A-11

2011408c2

2611 ordinance enforcement and flood, combine with covered events to
2612 produce damage or loss to the insured property. The intent is
2613 also to encourage policyholders to discuss these issues with
2614 their insurance agent.

2615 ~~(5) Nothing in This section does not: shall be construed to~~

2616 (a) Apply to policies not considered to be "homeowners'
2617 policies," as that term is commonly understood in the insurance
2618 industry. ~~This section specifically does not~~

2619 (b) Apply to mobile home policies. ~~Nothing in this section~~

2620 (c) Limit ~~shall be construed as limiting~~ the ability of an
2621 any insurer to reject or nonrenew any insured or applicant on
2622 the grounds that the structure does not meet underwriting
2623 criteria applicable to replacement cost or law and ordinance
2624 policies or for other lawful reasons.

2625 (d) ~~(6) This section does not~~ Prohibit an insurer from
2626 limiting its liability under a policy or endorsement providing
2627 that loss will be adjusted on the basis of replacement costs to
2628 the lesser of:

2629 1. ~~(a)~~ The limit of liability shown on the policy
2630 declarations page;

2631 2. ~~(b)~~ The reasonable and necessary cost to repair the
2632 damaged, destroyed, or stolen covered property; or

2633 3. ~~(c)~~ The reasonable and necessary cost to replace the
2634 damaged, destroyed, or stolen covered property.

2635 (e) ~~(7) This section does not~~ Prohibit an insurer from
2636 exercising its right to repair damaged property in compliance
2637 with its policy and s. 627.702(7).

2638 Section 20. Paragraph (a) of subsection (5) of section
2639 627.70131, Florida Statutes, is amended to read:

601-02340A-11

2011408c2

2640 627.70131 Insurer's duty to acknowledge communications
2641 regarding claims; investigation.-

2642 (5) (a) Within 90 days after an insurer receives notice of
2643 an initial, reopened, or supplemental ~~a~~ property insurance claim
2644 from a policyholder, the insurer shall pay or deny such claim or
2645 a portion of the claim unless the failure to pay ~~such claim or a~~
2646 ~~portion of the claim~~ is caused by factors beyond the control of
2647 the insurer which reasonably prevent such payment. Any payment
2648 of an initial or supplemental ~~a~~ claim or portion of such ~~a~~ claim
2649 made paid 90 days after the insurer receives notice of the
2650 claim, or made paid more than 15 days after there are no longer
2651 factors beyond the control of the insurer which reasonably
2652 prevented such payment, whichever is later, bears ~~shall bear~~
2653 interest at the rate set forth in s. 55.03. Interest begins to
2654 accrue from the date the insurer receives notice of the claim.
2655 The provisions of this subsection may not be waived, voided, or
2656 nullified by the terms of the insurance policy. If there is a
2657 right to prejudgment interest, the insured shall select whether
2658 to receive prejudgment interest or interest under this
2659 subsection. Interest is payable when the claim or portion of the
2660 claim is paid. Failure to comply with this subsection
2661 constitutes a violation of this code. However, failure to comply
2662 with this subsection does ~~shall~~ not form the sole basis for a
2663 private cause of action.

2664 Section 21. The Legislature finds and declares:

2665 (1) There is a compelling state interest in maintaining a
2666 viable and orderly private-sector market for property insurance
2667 in this state. The lack of a viable and orderly property market
2668 reduces the availability of property insurance coverage to state

601-02340A-11

2011408c2

2669 residents, increases the cost of property insurance, and
2670 increases the state's reliance on a residual property insurance
2671 market and its potential for imposing assessments on
2672 policyholders throughout the state.

2673 (2) In 2005, the Legislature revised ss. 627.706-627.7074,
2674 Florida Statutes, to adopt certain geological or technical
2675 terms; to increase reliance on objective, scientific testing
2676 requirements; and generally to reduce the number of sinkhole
2677 claims and related disputes arising under prior law. The
2678 Legislature determined that since the enactment of these
2679 statutory revisions, both private-sector insurers and Citizens
2680 Property Insurance Corporation have, nevertheless, continued to
2681 experience high claims frequency and severity for sinkhole
2682 insurance claims. In addition, many properties remain unrepaired
2683 even after loss payments, which reduces the local property tax
2684 base and adversely affects the real estate market. Therefore,
2685 the Legislature finds that losses associated with sinkhole
2686 claims adversely affect the public health, safety, and welfare
2687 of this state and its citizens.

2688 (3) Pursuant to sections 19 through 24 of this act,
2689 technical or scientific definitions adopted in the 2005
2690 legislation are clarified to implement and advance the
2691 Legislature's intended reduction of sinkhole claims and
2692 disputes. The legal presumption intended by the Legislature is
2693 clarified to reduce disputes and litigation associated with the
2694 technical reviews associated with sinkhole claims. Certain other
2695 revisions to ss. 627.706-627.7074, Florida Statutes, are enacted
2696 to advance legislative intent to rely on scientific or technical
2697 determinations relating to sinkholes and sinkhole claims, reduce

601-02340A-11

2011408c2

2698 the number and cost of disputes relating to sinkhole claims, and
2699 ensure that repairs are made commensurate with the scientific
2700 and technical determinations and insurance claims payments.

2701 Section 22. Section 627.706, Florida Statutes, is reordered
2702 and amended to read:

2703 627.706 Sinkhole insurance; catastrophic ground cover
2704 collapse; definitions.—

2705 (1) Every insurer authorized to transact residential
2706 property insurance, as described in s. 627.4025, in this state
2707 must ~~shall~~ provide coverage for a catastrophic ground cover
2708 collapse. However, the insurer may restrict such coverage to the
2709 principal building, as defined in the applicable policy. The
2710 insurer may ~~and shall~~ make available, for an appropriate
2711 additional premium, coverage for sinkhole losses on any
2712 structure, including the contents of personal property contained
2713 therein, to the extent provided in the form to which the
2714 coverage attaches. A policy for residential property insurance
2715 may include a deductible amount applicable to sinkhole losses,
2716 including any expenses incurred by an insurer investigating
2717 whether sinkhole activity is present. The deductible may be
2718 equal to 1 percent, 2 percent, 5 percent, or 10 percent of the
2719 policy dwelling limits, with appropriate premium discounts
2720 offered with each deductible amount.

2721 (2) As used in ss. 627.706-627.7074, and as used in
2722 connection with any policy providing coverage for a catastrophic
2723 ground cover collapse or for sinkhole losses, the term:

2724 (a) "Catastrophic ground cover collapse" means geological
2725 activity that results in all the following:

2726 1. The abrupt collapse of the ground cover;

601-02340A-11

2011408c2

2727 2. A depression in the ground cover clearly visible to the
2728 naked eye;

2729 3. Structural damage to the covered building, including the
2730 foundation; and

2731 4. The insured structure being condemned and ordered to be
2732 vacated by the governmental agency authorized by law to issue
2733 such an order for that structure.

2734

2735 Contents coverage applies if there is a loss resulting from a
2736 catastrophic ground cover collapse. ~~Structural~~ Damage consisting
2737 merely of the settling or cracking of a foundation, structure,
2738 or building does not constitute a loss resulting from a
2739 catastrophic ground cover collapse.

2740 (b) "Neutral evaluation" means the alternative dispute
2741 resolution provided in s. 627.7074.

2742 (c) "Neutral evaluator" means a professional engineer or a
2743 professional geologist who has completed a course of study in
2744 alternative dispute resolution designed or approved by the
2745 department for use in the neutral evaluation process and who is
2746 determined to be fair and impartial.

2747 (f) ~~(b)~~ "Sinkhole" means a landform created by subsidence of
2748 soil, sediment, or rock as underlying strata are dissolved by
2749 groundwater. A sinkhole forms ~~may form~~ by collapse into
2750 subterranean voids created by dissolution of limestone or
2751 dolostone or by subsidence as these strata are dissolved.

2752 (h) ~~(e)~~ "Sinkhole loss" means structural damage to the
2753 covered building, including the foundation, caused by sinkhole
2754 activity. Contents coverage and additional living expenses ~~shall~~
2755 apply only if there is structural damage to the covered building

601-02340A-11

2011408c2

2756 caused by sinkhole activity.

2757 (g)~~(d)~~ "Sinkhole activity" means settlement or systematic
 2758 weakening of the earth supporting ~~such~~ property only if the ~~when~~
 2759 ~~such~~ settlement or systematic weakening results from
 2760 contemporary movement or raveling of soils, sediments, or rock
 2761 materials into subterranean voids created by the effect of water
 2762 on a limestone or similar rock formation.

2763 (d)~~(e)~~ "Professional engineer" means a person, as defined
 2764 in s. 471.005, who has a bachelor's degree or higher in
 2765 engineering and has successfully completed at least five courses
 2766 in any combination of the following: geotechnical engineering,
 2767 structural engineering, soil mechanics, foundations, or geology
 2768 ~~with a specialty in the geotechnical engineering field. A~~
 2769 professional engineer must also have ~~geotechnical~~ experience and
 2770 expertise in the identification of sinkhole activity as well as
 2771 other potential causes of structural damage ~~to the structure.~~

2772 (e)~~(f)~~ "Professional geologist" means a person, as defined
 2773 in ~~by~~ s. 492.102, who has a bachelor's degree or higher in
 2774 geology or related earth science and ~~with expertise in the~~
 2775 ~~geology of Florida. A professional geologist must have~~
 2776 ~~geological~~ experience and expertise in the identification of
 2777 sinkhole activity as well as other potential geologic causes of
 2778 structural damage ~~to the structure.~~

2779 (i) "Structural damage" means:

2780 1. A covered building that suffers foundation movement
 2781 outside an acceptable variance under the applicable building
 2782 code;

2783 2. Damage to a covered building, including the foundation,
 2784 which prevents the primary structural members or primary

601-02340A-11

2011408c2

2785 structural systems from supporting the loads and forces they
2786 were designed to support; and

2787 3. As may be further defined by the applicable policy.

2788 ~~(3) On or before June 1, 2007, Every insurer authorized to~~
2789 ~~transact property insurance in this state shall make a proper~~
2790 ~~filing with the office for the purpose of extending the~~
2791 ~~appropriate forms of property insurance to include coverage for~~
2792 ~~eatastrophic ground cover collapse or for sinkhole losses.~~
2793 ~~coverage for catastrophic ground cover collapse may not go into~~
2794 ~~effect until the effective date provided for in the filing~~
2795 ~~approved by the office.~~

2796 ~~(3)~~(4) Insurers offering policies that exclude coverage for
2797 sinkhole losses must ~~shall~~ inform policyholders in bold type of
2798 not less than 14 points as follows: "YOUR POLICY PROVIDES
2799 COVERAGE FOR A CATASTROPHIC GROUND COVER COLLAPSE THAT RESULTS
2800 IN THE PROPERTY BEING CONDEMNED AND UNINHABITABLE. OTHERWISE,
2801 YOUR POLICY DOES NOT PROVIDE COVERAGE FOR SINKHOLE LOSSES. ~~YOU~~
2802 ~~MAY PURCHASE ADDITIONAL COVERAGE FOR SINKHOLE LOSSES FOR AN~~
2803 ~~ADDITIONAL PREMIUM."~~

2804 ~~(4)~~(5) An insurer offering sinkhole coverage to
2805 policyholders before or after the adoption of s. 30, chapter
2806 2007-1, Laws of Florida, may nonrenew the policies of
2807 policyholders maintaining sinkhole coverage ~~in Pasco County or~~
2808 ~~Hernando County,~~ at the option of the insurer, and provide an
2809 offer of coverage that ~~to such policyholders which~~ includes
2810 catastrophic ground cover collapse and excludes sinkhole
2811 coverage. Insurers acting in accordance with this subsection are
2812 subject to the following requirements:

2813 (a) Policyholders must be notified that a nonrenewal is for

601-02340A-11

2011408c2

2814 purposes of removing sinkhole coverage, and that the
2815 policyholder is ~~still~~ being offered a policy that provides
2816 coverage for catastrophic ground cover collapse.

2817 (b) Policyholders must be provided an actuarially
2818 reasonable premium credit or discount for the removal of
2819 sinkhole coverage and provision of only catastrophic ground
2820 cover collapse.

2821 (c) Subject to the provisions of this subsection and the
2822 insurer's approved underwriting or insurability guidelines, the
2823 insurer may ~~shall~~ provide each policyholder with the opportunity
2824 to purchase an endorsement to his or her policy providing
2825 sinkhole coverage and may require an inspection of the property
2826 before issuance of a sinkhole coverage endorsement.

2827 (d) Section 624.4305 does not apply to nonrenewal notices
2828 issued pursuant to this subsection.

2829 (5) Any claim, including, but not limited to, initial,
2830 supplemental, and reopened claims under an insurance policy that
2831 provides sinkhole coverage is barred unless notice of the claim
2832 was given to the insurer in accordance with the terms of the
2833 policy within 2 years after the policyholder knew or reasonably
2834 should have known about the sinkhole loss.

2835 Section 23. Section 627.7061, Florida Statutes, is amended
2836 to read:

2837 627.7061 Coverage inquiries.—Inquiries about coverage on a
2838 property insurance contract are not claim activity, unless an
2839 actual claim is filed by the policyholder which ~~insured that~~
2840 results in a company investigation of the claim.

2841 Section 24. Section 627.7065, Florida Statutes, is
2842 repealed.

601-02340A-11

2011408c2

2843 Section 25. Section 627.707, Florida Statutes, is amended
2844 to read:

2845 627.707 ~~Standards for~~ Investigation of sinkhole claims by
2846 policyholders insurers; insurer payment; nonrenewals.—Upon
2847 receipt of a claim for a sinkhole loss to a covered building, an
2848 insurer must meet the following standards in investigating a
2849 claim:

2850 (1) The insurer must inspect ~~make an inspection of~~ the
2851 policyholder's insured's premises to determine if there is
2852 structural ~~has been physical~~ damage that to the structure which
2853 may be the result of sinkhole activity.

2854 (2) If the insurer confirms that structural damage exists
2855 but is unable to identify a valid cause of such damage or
2856 discovers that such damage is consistent with sinkhole loss
2857 ~~Following the insurer's initial inspection,~~ the insurer shall
2858 engage a professional engineer or a professional geologist to
2859 conduct testing as provided in s. 627.7072 to determine the
2860 cause of the loss within a reasonable professional probability
2861 and issue a report as provided in s. 627.7073, only if sinkhole
2862 loss is covered under the policy. Except as provided in
2863 subsection (6), the fees and costs of the professional engineer
2864 or professional geologist shall be paid by the insurer.†

2865 ~~(a) The insurer is unable to identify a valid cause of the~~
2866 ~~damage or discovers damage to the structure which is consistent~~
2867 ~~with sinkhole loss; or~~

2868 ~~(b) The policyholder demands testing in accordance with~~
2869 ~~this section or s. 627.7072.~~

2870 (3) Following the initial inspection of the policyholder's
2871 ~~insured~~ premises, the insurer shall provide written notice to

601-02340A-11

2011408c2

2872 the policyholder disclosing the following information:

2873 (a) What the insurer has determined to be the cause of
2874 damage, if the insurer has made such a determination.

2875 (b) A statement of the circumstances under which the
2876 insurer is required to engage a professional engineer or a
2877 professional geologist to verify or eliminate sinkhole loss and
2878 to engage a professional engineer to make recommendations
2879 regarding land and building stabilization and foundation repair.

2880 ~~(c) A statement regarding the right of the policyholder to~~
2881 ~~request testing by a professional engineer or a professional~~
2882 ~~geologist and the circumstances under which the policyholder may~~
2883 ~~demand certain testing.~~

2884 (4) If the insurer determines that there is no sinkhole
2885 loss, the insurer may deny the claim. If coverage for sinkhole
2886 loss is available and ~~If the insurer denies the claim on such~~
2887 basis, without performing testing under s. 627.7072, the
2888 policyholder may demand testing by the insurer ~~under s.~~
2889 ~~627.7072.~~ The policyholder's demand for testing must be
2890 communicated to the insurer in writing within 60 days after the
2891 policyholder's receipt of the insurer's denial of the claim.

2892 (5) ~~(a) Subject to paragraph (b),~~ If a sinkhole loss is
2893 verified, the insurer shall pay to stabilize the land and
2894 building and repair the foundation in accordance with the
2895 recommendations of the professional engineer retained pursuant
2896 to subsection (2), as provided under s. 627.7073, and in
2897 ~~consultation~~ with notice to the policyholder, subject to the
2898 coverage and terms of the policy. The insurer shall pay for
2899 other repairs to the structure and contents in accordance with
2900 the terms of the policy.

601-02340A-11

2011408c2

2901 (a) ~~(b)~~ The insurer may limit its total claims payment to
2902 the actual cash value of the sinkhole loss, which does not
2903 include ~~including~~ underpinning or grouting or any other repair
2904 technique performed below the existing foundation of the
2905 building, until the policyholder enters into a contract for the
2906 performance of building stabilization or foundation repairs in
2907 accordance with the recommendations set forth in the insurer's
2908 report issued pursuant to s. 627.7073.

2909 (b) In order to prevent additional damage to the building
2910 or structure, the policyholder must enter into a contract for
2911 the performance of building stabilization or foundation repairs
2912 within 90 days after the insurance company confirms coverage for
2913 the sinkhole loss and notifies the policyholder of such
2914 confirmation. This time period is tolled if either party invokes
2915 the neutral evaluation process.

2916 (c) After the policyholder enters into the contract for the
2917 performance of building stabilization or foundation repairs, the
2918 insurer shall pay the amounts necessary to begin and perform
2919 such repairs as the work is performed and the expenses are
2920 incurred. The insurer may not require the policyholder to
2921 advance payment for such repairs. If repair covered by a
2922 personal lines residential property insurance policy has begun
2923 and the professional engineer selected or approved by the
2924 insurer determines that the repair cannot be completed within
2925 the policy limits, the insurer must ~~either~~ complete the
2926 professional engineer's recommended repair or tender the policy
2927 limits to the policyholder without a reduction for the repair
2928 expenses incurred.

2929 (d) The stabilization and all other repairs to the

601-02340A-11

2011408c2

2930 structure and contents must be completed within 12 months after
2931 entering into the contract for repairs described in paragraph
2932 (b) unless:

2933 1. There is a mutual agreement between the insurer and the
2934 policyholder;

2935 2. The claim is involved with the neutral evaluation
2936 process;

2937 3. The claim is in litigation; or

2938 4. The claim is under appraisal.

2939 (e) ~~(e)~~ Upon the insurer's obtaining the written approval of
2940 the policyholder and any lienholder, the insurer may make
2941 payment directly to the persons selected by the policyholder to
2942 perform the land and building stabilization and foundation
2943 repairs. The decision by the insurer to make payment to such
2944 persons does not hold the insurer liable for the work performed.
2945 The policyholder may not accept a rebate from any person
2946 performing the repairs specified in this section. If a
2947 policyholder does receive a rebate, coverage is void and the
2948 policyholder must refund the amount of the rebate to the
2949 insurer. Any person making the repairs specified in this section
2950 who offers a rebate, or any policyholder who accepts a rebate
2951 for such repairs, commits insurance fraud punishable as a third
2952 degree felony as provided in s. 775.082, s. 775.083, or s.
2953 775.084.

2954 ~~(6) Except as provided in subsection (7), the fees and~~
2955 ~~costs of the professional engineer or the professional geologist~~
2956 ~~shall be paid by the insurer.~~

2957 (6) ~~(7)~~ If the insurer obtains, pursuant to s. 627.7073,
2958 written certification that there is no sinkhole loss ~~or that the~~

601-02340A-11

2011408c2

2959 ~~cause of the damage was not sinkhole activity, and if the~~
2960 ~~policyholder has submitted the sinkhole claim without good faith~~
2961 ~~grounds for submitting such claim,~~ the policyholder shall
2962 reimburse the insurer for 50 percent of the actual costs of the
2963 analyses and services provided under ss. 627.7072 and 627.7073;
2964 however, a policyholder is not required to reimburse an insurer
2965 more than the deductible or \$2,500, whichever is greater, with
2966 respect to any claim. A policyholder is required to pay
2967 reimbursement under this subsection only if the policyholder
2968 requested the testing and report provided pursuant to ss.
2969 627.7072 and 627.7073 and the insurer, before ~~prior to~~ ordering
2970 the analysis under s. 627.7072, informs the policyholder in
2971 writing of the policyholder's potential liability for
2972 reimbursement and gives the policyholder the opportunity to
2973 withdraw the claim.

2974 (7) ~~(8)~~ ~~An~~ ~~no~~ insurer may not ~~shall~~ nonrenew any policy of
2975 property insurance on the basis of filing of claims for partial
2976 loss caused by sinkhole damage or clay shrinkage ~~if as long as~~
2977 the total of such payments does not equal or exceed the ~~current~~
2978 policy limits of coverage for the policy in effect on the date
2979 of loss, for property damage to the covered building, as set
2980 forth on the declarations page, or if ~~and provided~~ the
2981 policyholder insured has repaired the structure in accordance
2982 with the engineering recommendations made pursuant to subsection
2983 (2) upon which any payment or policy proceeds were based. If the
2984 insurer pays such limits, it may nonrenew the policy.

2985 (8) ~~(9)~~ The insurer may engage a professional structural
2986 engineer to make recommendations as to the repair of the
2987 structure.

601-02340A-11

2011408c2

2988 Section 26. Section 627.7073, Florida Statutes, is amended
2989 to read:

2990 627.7073 Sinkhole reports.—

2991 (1) Upon completion of testing as provided in s. 627.7072,
2992 the professional engineer or professional geologist shall issue
2993 a report and certification to the insurer and the policyholder
2994 as provided in this section.

2995 (a) Sinkhole loss is verified if, based upon tests
2996 performed in accordance with s. 627.7072, a professional
2997 engineer or a professional geologist issues a written report and
2998 certification stating:

2999 1. That structural damage to the covered building has been
3000 identified within a reasonable professional probability.

3001 ~~2.1.~~ That the cause of the ~~actual physical and~~ structural
3002 damage is sinkhole activity within a reasonable professional
3003 probability.

3004 ~~3.2.~~ That the analyses conducted were of sufficient scope
3005 to identify sinkhole activity as the cause of damage within a
3006 reasonable professional probability.

3007 ~~4.3.~~ A description of the tests performed.

3008 ~~5.4.~~ A recommendation by the professional engineer of
3009 methods for stabilizing the land and building and for making
3010 repairs to the foundation.

3011 (b) If there is no structural damage or if sinkhole
3012 activity is eliminated as the cause of such damage to the
3013 covered building structure, the professional engineer or
3014 professional geologist shall issue a written report and
3015 certification to the policyholder and the insurer stating:

3016 1. That there is no structural damage or the cause of such

601-02340A-11

2011408c2

3017 ~~the~~ damage is not sinkhole activity within a reasonable
3018 professional probability.

3019 2. That the analyses and tests conducted were of sufficient
3020 scope to eliminate sinkhole activity as the cause of the
3021 structural damage within a reasonable professional probability.

3022 3. A statement of the cause of the structural damage within
3023 a reasonable professional probability.

3024 4. A description of the tests performed.

3025 (c) The respective findings, opinions, and recommendations
3026 of the professional engineer or professional geologist as to the
3027 cause of distress to the property and the findings, opinions,
3028 and recommendations of the insurer's professional engineer as to
3029 land and building stabilization and foundation repair set forth
3030 by s. 627.7072 shall be presumed correct, which presumption
3031 shifts the burden of proof in accordance with s. 90.302(2). The
3032 presumption of correctness is based upon public policy concerns
3033 regarding the affordability of sinkhole coverage, consistency in
3034 claims handling, and a reduction in the number of disputed
3035 sinkhole claims.

3036 (2) ~~(a)~~ An ~~Any~~ insurer that has paid a claim for a sinkhole
3037 loss shall file a copy of the report and certification, prepared
3038 pursuant to subsection (1), including the legal description of
3039 the real property and the name of the property owner, the
3040 neutral evaluator's report, if any, which indicates that
3041 sinkhole activity caused the damage claimed, a copy of the
3042 certification indicating that stabilization has been completed,
3043 if applicable, and the amount of the payment, with the county
3044 clerk of court, who shall record the report and certification.
3045 The insurer shall bear the cost of filing and recording one or

601-02340A-11

2011408c2

3046 more reports and certifications ~~the report and certification.~~

3047 There shall be no cause of action or liability against an
3048 insurer for compliance with this section.

3049 (a) The recording of the report and certification does not:

3050 1. Constitute a lien, encumbrance, or restriction on the
3051 title to the real property or constitute a defect in the title
3052 to the real property;

3053 2. Create any cause of action or liability against any
3054 grantor of the real property for breach of any warranty of good
3055 title or warranty against encumbrances; or

3056 3. Create any cause of action or liability against any
3057 title insurer that insures the title to the real property.

3058 (b) As a precondition to accepting payment for a sinkhole
3059 loss, the policyholder must file a copy of any sinkhole report
3060 regarding the insured property which was prepared on behalf or
3061 at the request of the policyholder. The policyholder shall bear
3062 the cost of filing and recording the sinkhole report. The
3063 recording of the report does not:

3064 1. Constitute a lien, encumbrance, or restriction on the
3065 title to the real property or constitute a defect in the title
3066 to the real property;

3067 2. Create any cause of action or liability against any
3068 grantor of the real property for breach of any warranty of good
3069 title or warranty against encumbrances; or

3070 3. Create any cause of action or liability against a title
3071 insurer that insures the title to the real property.

3072 (c) ~~(b)~~ The seller of real property upon which a sinkhole
3073 claim has been made by the seller and paid by the insurer must
3074 ~~shall~~ disclose to the buyer of such property, before the

601-02340A-11

2011408c2

3075 closing, that a claim has been paid and whether or not the full
3076 amount of the proceeds were used to repair the sinkhole damage.

3077 Section 27. Section 627.7074, Florida Statutes, is amended
3078 to read:

3079 627.7074 Alternative procedure for resolution of disputed
3080 sinkhole insurance claims.—

3081 ~~(1) As used in this section, the term:~~

3082 ~~(a) "Neutral evaluation" means the alternative dispute
3083 resolution provided for in this section.~~

3084 ~~(b) "Neutral evaluator" means a professional engineer or a
3085 professional geologist who has completed a course of study in
3086 alternative dispute resolution designed or approved by the
3087 department for use in the neutral evaluation process, who is
3088 determined to be fair and impartial.~~

3089 (1)(2)(a) The department shall:

3090 (a) Certify and maintain a list of persons who are neutral
3091 evaluators.

3092 ~~(b) The department shall~~ Prepare a consumer information
3093 pamphlet for distribution by insurers to policyholders which
3094 clearly describes the neutral evaluation process and includes
3095 information ~~and forms~~ necessary for the policyholder to request
3096 a neutral evaluation.

3097 (2) Neutral evaluation is available to either party if a
3098 sinkhole report has been issued pursuant to s. 627.7073. At a
3099 minimum, neutral evaluation must determine:

3100 (a) Causation;

3101 (b) All methods of stabilization and repair both above and
3102 below ground;

3103 (c) The costs for stabilization and all repairs; and

601-02340A-11

2011408c2

3104 (d) Information necessary to carry out subsection (12).

3105 (3) Following the receipt of the report provided under s.
3106 627.7073 or the denial of a claim for a sinkhole loss, the
3107 insurer shall notify the policyholder of his or her right to
3108 participate in the neutral evaluation program under this
3109 section. Neutral evaluation supersedes the alternative dispute
3110 resolution process under s. 627.7015, but does not invalidate
3111 the appraisal clause of the insurance policy. The insurer shall
3112 provide to the policyholder the consumer information pamphlet
3113 prepared by the department pursuant to subsection (1)
3114 electronically or by United States mail ~~paragraph (2)(b).~~

3115 (4) Neutral evaluation is nonbinding, but mandatory if
3116 requested by either party. A request for neutral evaluation may
3117 be filed with the department by the policyholder or the insurer
3118 on a form approved by the department. The request for neutral
3119 evaluation must state the reason for the request and must
3120 include an explanation of all the issues in dispute at the time
3121 of the request. Filing a request for neutral evaluation tolls
3122 the applicable time requirements for filing suit for ~~a period of~~
3123 60 days following the conclusion of the neutral evaluation
3124 process or the time prescribed in s. 95.11, whichever is later.

3125 (5) Neutral evaluation shall be conducted as an informal
3126 process in which formal rules of evidence and procedure need not
3127 be observed. A party to neutral evaluation is not required to
3128 attend neutral evaluation if a representative of the party
3129 attends and has the authority to make a binding decision on
3130 behalf of the party. All parties shall participate in the
3131 evaluation in good faith. The neutral evaluator must be allowed
3132 reasonable access to the interior and exterior of insured

601-02340A-11

2011408c2

3133 structures to be evaluated or for which a claim has been made.
3134 Any reports initiated by the policyholder, or an agent of the
3135 policyholder, confirming a sinkhole loss or disputing another
3136 sinkhole report regarding insured structures must be provided to
3137 the neutral evaluator before the evaluator's physical inspection
3138 of the insured property.

3139 (6) The insurer shall pay reasonable ~~the~~ costs associated
3140 with the neutral evaluation. However, if a party chooses to hire
3141 a court reporter or stenographer to contemporaneously record and
3142 document the neutral evaluation, that party must bear such
3143 costs.

3144 (7) Upon receipt of a request for neutral evaluation, the
3145 department shall provide the parties a list of certified neutral
3146 evaluators. ~~The parties shall mutually select a neutral~~
3147 ~~evaluator from the list and promptly inform the department. If~~
3148 ~~the parties cannot agree to a neutral evaluator within 10~~
3149 ~~business days,~~ The department shall allow the parties to submit
3150 requests to disqualify evaluators on the list for cause.

3151 (a) The department shall disqualify neutral evaluators for
3152 cause based only on any of the following grounds:

3153 1. A familial relationship exists between the neutral
3154 evaluator and either party or a representative of either party
3155 within the third degree.

3156 2. The proposed neutral evaluator has, in a professional
3157 capacity, previously represented either party or a
3158 representative of either party, in the same or a substantially
3159 related matter.

3160 3. The proposed neutral evaluator has, in a professional
3161 capacity, represented another person in the same or a

601-02340A-11

2011408c2

3162 substantially related matter and that person's interests are
3163 materially adverse to the interests of the parties. The term
3164 "substantially related matter" means participation by the
3165 neutral evaluator on the same claim, property, or adjacent
3166 property.

3167 4. The proposed neutral evaluator has, within the preceding
3168 5 years, worked as an employer or employee of any party to the
3169 case.

3170 (b) The parties shall appoint a neutral evaluator from the
3171 department list and promptly inform the department. If the
3172 parties cannot agree to a neutral evaluator within 14 days, the
3173 department shall appoint a neutral evaluator from the list of
3174 certified neutral evaluators. The department shall allow each
3175 party to disqualify two neutral evaluators without cause. Upon
3176 selection or appointment, the department shall promptly refer
3177 the request to the neutral evaluator.

3178 (c) Within 14 ~~5~~ business days after the referral, the
3179 neutral evaluator shall notify the policyholder and the insurer
3180 of the date, time, and place of the neutral evaluation
3181 conference. The conference may be held by telephone, if feasible
3182 and desirable. The neutral evaluator shall make reasonable
3183 efforts to hold the ~~neutral evaluation~~ conference ~~shall be held~~
3184 within 90 ~~45~~ days after the receipt of the request by the
3185 department. Failure of the neutral evaluator to hold the
3186 conference within 90 days does not invalidate either party's
3187 right to neutral evaluation or to a neutral evaluation
3188 conference held outside this timeframe.

3189 ~~(8) The department shall adopt rules of procedure for the~~
3190 ~~neutral evaluation process.~~

601-02340A-11

2011408c2

3191 ~~(8)(9)~~ For policyholders not represented by an attorney, a
3192 consumer affairs specialist of the department or an employee
3193 designated as the primary contact for consumers on issues
3194 relating to sinkholes under s. 20.121 shall be available for
3195 consultation to the extent that he or she may lawfully do so.

3196 ~~(9)(10)~~ Evidence of an offer to settle a claim during the
3197 neutral evaluation process, as well as any relevant conduct or
3198 statements made in negotiations concerning the offer to settle a
3199 claim, is inadmissible to prove liability or absence of
3200 liability for the claim or its value, except as provided in
3201 subsection (14) ~~(13)~~.

3202 ~~(10)(11)~~ Regardless of when noticed, any court proceeding
3203 related to the subject matter of the neutral evaluation shall be
3204 stayed pending completion of the neutral evaluation and for 5
3205 days after the filing of the neutral evaluator's report with the
3206 court.

3207 (11) If, based upon his or her professional training and
3208 credentials, a neutral evaluator is qualified to determine only
3209 disputes relating to causation or method of repair, the
3210 department shall allow the neutral evaluator to enlist the
3211 assistance of another professional from the neutral evaluators
3212 list not previously stricken, who, based upon his or her
3213 professional training and credentials, is able to provide an
3214 opinion as to other disputed issues. A professional who would be
3215 disqualified for any reason listed in subsection (7) must be
3216 disqualified. The neutral evaluator may also use the services of
3217 professional engineers and professional geologists who are not
3218 certified as neutral evaluators, as well as licensed building
3219 contractors, in order to ensure that all items in dispute are

601-02340A-11

2011408c2

3220 addressed and the neutral evaluation can be completed. Any
3221 professional engineer, professional geologist, or licensed
3222 building contractor retained may be disqualified for any of the
3223 reasons listed in subsection (7). The neutral evaluator may
3224 request the entity that performed the investigation pursuant to
3225 s. 627.7072 perform such additional and reasonable testing as
3226 deemed necessary in the professional opinion of the neutral
3227 evaluator.

3228 (12) ~~At For matters that are not resolved by the parties at~~
3229 the conclusion of the neutral evaluation, the neutral evaluator
3230 shall prepare a report describing all matters that are the
3231 subject of the neutral evaluation, including whether, ~~stating~~
3232 ~~that~~ in his or her opinion, the sinkhole loss has been verified
3233 or eliminated within a reasonable degree of professional
3234 probability and, if verified, whether the sinkhole activity
3235 caused structural damage to the covered building, and if so, the
3236 need for and estimated costs of stabilizing the land and any
3237 covered ~~structures or~~ buildings and other appropriate
3238 remediation or necessary building ~~structural~~ repairs due to the
3239 sinkhole loss. The evaluator's report shall be sent to all
3240 parties ~~in attendance at the neutral evaluation~~ and to the
3241 department, within 14 days after completing the neutral
3242 evaluation conference.

3243 (13) The recommendation of the neutral evaluator is not
3244 binding on any party, and the parties retain access to the
3245 court. The neutral evaluator's written recommendation, oral
3246 testimony, and full report shall be admitted ~~is admissible~~ in
3247 any ~~subsequent~~ action, litigation, or proceeding relating to the
3248 claim or to the cause of action giving rise to the claim.

601-02340A-11

2011408c2

3249 However, oral or written statements or nonverbal conduct
3250 intended to make an assertion made by a party or neutral
3251 evaluator during the course of neutral evaluation, other than
3252 those statements or conduct expressly required to be admitted by
3253 this subsection, are confidential and may not be disclosed to a
3254 person other than a party to neutral evaluation or a party's
3255 counsel.

3256 (14) If the neutral evaluator ~~first~~ verifies the existence
3257 of a sinkhole that caused structural damage and, ~~second,~~
3258 recommends the need for and estimates costs of stabilizing the
3259 land and any covered ~~structures or~~ buildings and other
3260 appropriate remediation or building structural repairs, ~~which~~
3261 ~~costs~~ exceed the amount that the insurer estimates as necessary
3262 to stabilize and repair, and the insurer refuses to comply with
3263 the neutral evaluator's findings and recommendations ~~has offered~~
3264 ~~to pay the policyholder,~~ the insurer is liable to the
3265 policyholder for up to \$2,500 in attorney's fees for the
3266 attorney's participation in the neutral evaluation process. ~~For~~
3267 ~~purposes of this subsection, the term "offer to pay" means a~~
3268 ~~written offer signed by the insurer or its legal representative~~
3269 ~~and delivered to the policyholder within 10 days after the~~
3270 ~~insurer receives notice that a request for neutral evaluation~~
3271 ~~has been made under this section.~~

3272 (15) If the insurer timely agrees in writing to comply and
3273 timely complies with the recommendation of the neutral
3274 evaluator, but the policyholder declines to resolve the matter
3275 in accordance with the recommendation of the neutral evaluator
3276 pursuant to this section:

3277 (a) The insurer is not liable for extracontractual damages

601-02340A-11

2011408c2

3278 related to a claim for a sinkhole loss but only as related to
3279 the issues determined by the neutral evaluation process. This
3280 section does not affect or impair claims for extracontractual
3281 damages unrelated to the issues determined by the neutral
3282 evaluation process contained in this section; and

3283 (b) The actions of the insurer are not a confession of
3284 judgment or admission of liability, and the insurer is not
3285 liable for attorney's fees under s. 627.428 or other provisions
3286 of the insurance code unless the policyholder obtains a judgment
3287 that is more favorable than the recommendation of the neutral
3288 evaluator.

3289 (16) If the insurer agrees to comply with the neutral
3290 evaluator's report, payments shall be made in accordance with
3291 the terms and conditions of the applicable insurance policy
3292 pursuant to s. 627.707(5).

3293 (17) Neutral evaluators are deemed to be agents of the
3294 department and have immunity from suit as provided in s. 44.107.

3295 (18) The department shall adopt rules of procedure for the
3296 neutral evaluation process.

3297 Section 28. Subsection (1) of section 627.712, Florida
3298 Statutes, is amended to read:

3299 627.712 Residential windstorm coverage required;
3300 availability of exclusions for windstorm or contents.—

3301 (1) An insurer issuing a residential property insurance
3302 policy must provide windstorm coverage. Except as provided in
3303 paragraph (2)(c), this section does not apply ~~with respect~~ to
3304 risks that are eligible for wind-only coverage from Citizens
3305 Property Insurance Corporation under s. 627.351(6), and ~~with~~
3306 ~~respect to~~ risks that are not eligible for coverage from

601-02340A-11

2011408c2

3307 Citizens Property Insurance Corporation under s. 627.351(6)(a)3.
3308 or 5. A risk ineligible for ~~Citizens~~ coverage by the corporation
3309 under s. 627.351(6)(a)3. or 5. is exempt from ~~the requirements~~
3310 ~~of~~ this section only if the risk is located within the
3311 boundaries of the coastal ~~high-risk~~ account of the corporation.

3312 Section 29. Except as otherwise expressly provided in this
3313 act and except for this section, which shall take effect June 1,
3314 2011, this act shall take effect July 1, 2011.