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1 A bill to be entitled
2 An act relating to property and casualty insurance;
3 amending s. 215.555, F.S.; revising the definition of
4 "losses," relating to the Florida Hurricane
5 Catastrophe Fund, to exclude certain losses; providing
6 applicability; amending s. 215.5595, F.S.; authorizing
7 an insurer to renegotiate the terms a surplus note
8 issued before a certain date; providing limitations;
9 amending s. 624.407, F.S.; revising the amount of
10 surplus funds required for domestic insurers applying
11 for a certificate of authority after a certain date;
12 amending s. 624.408, F.S.; revising the minimum
13 surplus that must be maintained by certain insurers;
14 authorizing the Office of Insurance Regulation to
15 reduce the surplus requirement under specified
16 circumstances; amending s. 624.4095, F.S.; excluding
17 certain premiums for federal multiple-peril crop
18 insurance from calculations for an insurer's gross
19 writing ratio; requiring insurers to disclose the
20 gross written premiums for federal multiple-peril crop
21 insurance in a financial statement; amending s.
22 624.424, F.S.; revising the frequency that an insurer
23 may use the same accountant or partner to prepare an
24 annual audited financial report; amending s. 626.7452,
25 F.S.; deleting an exception relating to the
26 examination of managing general agents; amending s.
27 626.852, F.S.; providing an exemption from licensure
28 as an adjuster to persons who provide mortgage-related
29 claims adjusting services to certain institutions;

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

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59 insured's adjuster from having reasonable access to or
60 inspecting the insured's property; authorizing the
61 insured's adjuster to be present for the inspection;
62 prohibiting a licensed contractor or subcontractor
63 from adjusting a claim on behalf of an insured if such
64 contractor or subcontractor is not a licensed public
65 adjuster; providing an exception; amending s.
66 626.8651, F.S.; requiring that a public adjuster
67 apprentice complete a minimum number of hours of
68 continuing education to qualify for licensure;
69 amending s. 626.8796, F.S.; providing requirements for
70 a public adjuster contract; creating s. 626.70132,
71 F.S.; requiring that notice of a claim, supplemental
72 claim, or reopened claim be given to the insurer
73 within a specified period after a windstorm or
74 hurricane occurs; providing a definition for the terms
75 "supplemental claim" or "reopened claim"; providing
76 applicability; repealing s. 627.0613(4), F.S.,
77 relating to the requirement that the consumer advocate
78 for the Chief Financial Officer prepare an annual
79 report card for each personal residential property
80 insurer; amending s. 627.062, F.S.; requiring that the
81 office issue an approval rather than a notice of
82 intent to approve following its approval of a file and
83 use filing; authorizing the office to disapprove a
84 rate filing because the coverage is inadequate or the
85 insurer charges a higher premium due to certain
86 discriminatory factors; extending the expiration date
87 for making a "file and use" filing; prohibiting the

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88 Office of Insurance Regulation from, directly or
89 indirectly, impeding the right of an insurer to
90 acquire policyholders, advertise or appoint agents, or
91 regulate agent commissions; revising the information
92 that must be included in a rate filing relating to
93 certain reinsurance or financing products; deleting a
94 provision that prohibited an insurer from making
95 certain rate filings within a certain period of time
96 after a rate increase; deleting a provision
97 prohibiting an insurer from filing for a rate increase
98 within 6 months after it makes certain rate filings;
99 deleting obsolete provisions relating to legislation
100 enacted during the 2003 Special Session D of the
101 Legislature; providing for the submission of
102 additional or supplementary information pursuant to a
103 rate filing; amending s. 627.06281, F.S.; providing
104 limitations on fees charged for use of the public
105 hurricane model; amending s. 627.0629, F.S.; deleting
106 obsolete provisions; deleting a requirement that the
107 Office of Insurance Regulation propose a method for
108 establishing discounts, debits, credits, and other
109 rate differentials for hurricane mitigation by a
110 certain date; requiring the Financial Services
111 Commission to adopt rules relating to such debits by a
112 certain date; deleting a provision that prohibits an
113 insurer from including an expense or profit load in
114 the cost of reinsurance to replace the Temporary
115 Increase in Coverage Limits; conforming provisions to
116 changes made by the act; amending s. 627.351, F.S.;

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117 requiring the Citizens Property Insurance
118 Corporation's logo to include certain language;
119 requiring policies issued by the corporation to
120 include a provision that prohibits policyholders from
121 engaging the services of a public adjuster until after
122 the corporation has tendered an offer; limiting an
123 adjuster's fee for a claim against the corporation;
124 renaming the "high-risk account" as the "coastal
125 account"; revising the conditions under which the
126 Citizens policyholder surcharge may be imposed;
127 providing that members of the Citizens Property
128 Insurance Corporation Board of Governors are not
129 prohibited from practicing in a certain profession if
130 not prohibited by law or ordinance; limiting coverage
131 for damage from sinkholes after a certain date and
132 providing that the corporation must require repair of
133 the property as a condition of any payment;
134 prohibiting board members from voting on certain
135 measures; exempting sinkhole coverage from the
136 corporation's annual rate increase requirements;
137 deleting a requirement that the board reduce the
138 boundaries of certain high-risk areas eligible for
139 wind-only coverages under certain circumstances;
140 amending s. 627.3511, F.S.; conforming provisions to
141 changes made by the act; amending s. 627.4133, F.S.;
142 revising the requirements for providing an insured
143 with notice of nonrenewal, cancellation, or
144 termination of personal lines or commercial
145 residential property insurance; authorizing an insurer

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146 to cancel policies after 45 days' notice if the Office
147 of Insurance Regulation determines that the
148 cancellation of policies is necessary to protect the
149 interests of the public or policyholders; authorizing
150 the Office of Insurance Regulation to place an insurer
151 under administrative supervision or appoint a receiver
152 upon the consent of the insurer under certain
153 circumstances; creating s. 627.43141, F.S.; providing
154 definitions; requiring the delivery of a "Notice of
155 Change in Policy Terms" under certain circumstances;
156 specifying requirements for such notice; specifying
157 actions constituting proof of notice; authorizing
158 policy renewals to contain a change in policy terms;
159 providing that receipt of payment by an insurer is
160 deemed acceptance of new policy terms by an insured;
161 providing that the original policy remains in effect
162 until the occurrence of specified events if an insurer
163 fails to provide notice; providing intent; amending s.
164 627.7011, F.S.; requiring the insurer to pay the
165 actual cash value of an insured loss for a dwelling,
166 less any applicable deductible; requiring a
167 policyholder to enter into a contract for the
168 performance of building and structural repairs unless
169 waived by the insurer; restricting insurers and
170 contractors from requiring advance payments for
171 repairs and expenses; requiring the insurer to offer
172 coverage under which the insurer is obligated to pay
173 replacement costs; authorizing the insurer to offer
174 coverage that limits the initial payment for personal

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175 property to the actual cash value of the property to
176 be replaced and to require the insured to provide
177 receipts for purchases; requiring the insurer to
178 provide notice of this process in the insurance
179 contract; prohibiting an insurer from requiring the
180 insured to advance payment; amending s. 627.70131,
181 F.S.; specifying application of certain time periods
182 to initial or supplemental property insurance claim
183 notices and payments; providing legislative findings
184 with respect to 2005 statutory changes relating to
185 sinkhole insurance coverage and statutory changes in
186 this act; amending s. 627.706, F.S.; authorizing an
187 insurer to limit coverage for catastrophic ground
188 cover collapse to the principal building and to have
189 discretion to provide additional coverage; allowing
190 the deductible to include costs relating to an
191 investigation of whether sinkhole activity is present;
192 revising definitions; defining the term "structural
193 damage"; providing an insurer with discretion to
194 provide a policyholder with an opportunity to purchase
195 an endorsement to sinkhole coverage; placing a 2-year
196 statute of repose on claims for sinkhole coverage;
197 amending s. 627.7061, F.S.; conforming provisions to
198 changes made by the act; repealing s. 627.7065, F.S.,
199 relating to the establishment of a sinkhole database;
200 amending s. 627.707, F.S.; revising provisions
201 relating to the investigation of sinkholes by
202 insurers; deleting a requirement that the insurer
203 provide a policyholder with a statement regarding

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204 testing for sinkhole activity; providing a time
205 limitation for demanding sinkhole testing by a
206 policyholder and entering into a contract for repairs;
207 requiring all repairs to be completed within a certain
208 time; providing exceptions; providing a criminal
209 penalty on a policyholder for accepting rebates from
210 persons performing repairs; amending s. 627.7073,
211 F.S.; revising provisions relating to inspection
212 reports; providing that the presumption that the
213 report is correct shifts the burden of proof; revising
214 the reports that an insurer must file with the clerk
215 of the court; requiring the policyholder to file
216 certain reports as a precondition to accepting
217 payment; requiring the professional engineer
218 responsible for monitoring sinkhole repairs to issue a
219 report and certification to the property owner and
220 file such report with the court; providing that the
221 act does not create liability for an insurer based on
222 a representation or certification by the engineer;
223 amending s. 627.7074, F.S.; revising provisions
224 relating to neutral evaluation; requiring evaluation
225 in order to make certain determinations; requiring
226 that the neutral evaluator be allowed access to
227 structures being evaluated; providing grounds for
228 disqualifying an evaluator; allowing the Department of
229 Financial Services to appoint an evaluator if the
230 parties cannot come to agreement; revising the
231 timeframes for scheduling a neutral evaluation
232 conference; authorizing an evaluator to enlist another

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233 evaluator or other professionals; providing a time
234 certain for issuing a report; providing that certain
235 information is confidential; revising provisions
236 relating to compliance with the evaluator's
237 recommendations; providing that the evaluator is an
238 agent of the department for the purposes of immunity
239 from suit; requiring the department to adopt rules;
240 amending s. 627.711, F.S.; deleting the requirement
241 that the insurer pay for verification of a uniform
242 mitigation verification form that the insurer
243 requires; amending s. 627.712, F.S.; conforming
244 provisions to changes made by the act; providing for
245 applicability; providing effective dates.

246
247 Be It Enacted by the Legislature of the State of Florida:

248
249 Section 1. Effective June 1, 2011, paragraph (d) of
250 subsection (2) of section 215.555, Florida Statutes, is amended
251 to read:

252 215.555 Florida Hurricane Catastrophe Fund.—

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

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

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

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262 income, or business interruption losses;

263 2. Losses under liability coverages;

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

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

271 5. Amounts paid to reimburse a policyholder for condominium
272 association or homeowners' association loss assessments or under
273 similar coverages for contractual liabilities;

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

276 7. Amounts in excess of the coverage limits under the
277 covered policy; or

278 8. Allocated or unallocated loss adjustment expenses.

279 Section 2. The amendment to s. 215.555, Florida Statutes,
280 made by this act applies first to the Florida Hurricane
281 Catastrophe Fund reimbursement contract that takes effect June
282 1, 2011.

283 Section 3. Subsection (12) is added to section 215.5595,
284 Florida Statutes, to read:

285 215.5595 Insurance Capital Build-Up Incentive Program.—

286 (12) The insurer may request that the board renegotiate the
287 terms of any surplus note issued under this section before
288 January 1, 2011. The request must be submitted to the board by
289 January 1, 2012. If the insurer agrees to accelerate the payment
290 period of the note by at least 5 years, the board must agree to

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291 exempt the insurer from the premium-to-surplus ratios required
292 under paragraph (2) (d). If the insurer agrees to an acceleration
293 of the payment period for less than 5 years, the board may,
294 after consultation with the Office of Insurance Regulation,
295 agree to an appropriate revision of the premium-to-surplus
296 ratios required under paragraph (2) (d) for the remaining term of
297 the note if the revised ratios are not lower than a minimum
298 writing ratio of net premium to surplus of at least 1 to 1 and,
299 alternatively, a minimum writing ratio of gross premium to
300 surplus of at least 3 to 1.

301 Section 4. Section 624.407, Florida Statutes, is amended to
302 read:

303 624.407 Surplus ~~Capital~~ funds required; new insurers.—

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

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

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

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

317 (d) For all insurers other than life insurers and life and
318 health insurers, 10 percent of the insurer's total liabilities;
319 or

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320 (e) Notwithstanding paragraph (a) or paragraph (d), for a
321 domestic insurer that transacts residential property insurance
322 and is:

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

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

329 (2) Notwithstanding subsection (1), a new insurer may not
330 be required, but no insurer shall be required under this
331 subsection to have surplus as to policyholders greater than \$100
332 million.

333 (3)~~(2)~~ The requirements of this section shall be based upon
334 all the kinds of insurance actually transacted or to be
335 transacted by the insurer in any and all areas in which it
336 operates, whether or not only a portion of such kinds of
337 insurance are ~~to be~~ transacted in this state.

338 (4)~~(3)~~ As to surplus funds as to policyholders required for
339 qualification to transact one or more kinds of insurance,
340 domestic mutual insurers are governed by chapter 628, and
341 domestic reciprocal insurers are governed by chapter 629.

342 (5)~~(4)~~ For the purposes of this section, liabilities do
343 ~~shall~~ not include liabilities required under s. 625.041(4). For
344 purposes of computing minimum surplus funds as to policyholders
345 pursuant to s. 625.305(1), liabilities ~~shall~~ include liabilities
346 required under s. 625.041(4).

347 (6)~~(5)~~ The provisions of this section, as amended by
348 chapter 89-360, Laws of Florida ~~this act, shall~~ apply only to

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349 insurers applying for a certificate of authority on or after
350 October 1, 1989 ~~the effective date of this act.~~

351 Section 5. Section 624.408, Florida Statutes, is amended to
352 read:

353 624.408 Surplus funds as to policyholders required; current
354 ~~new and existing~~ insurers.—

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

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

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

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

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

370 (e)5. For property and casualty insurers, \$4 million, †
371 except for property and casualty insurers authorized to
372 underwrite any line of residential property insurance.

373 (f)(b) For residential any property insurers not and
374 ~~casualty insurer~~ holding a certificate of authority before July
375 1, 2011 ~~on December 1, 1993,~~ \$15 million. ~~the~~

376 (g) For residential property insurers holding a certificate
377 of authority before July 1, 2011, and until June 30, 2016, \$5

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378 million; on or after July 1, 2016, and until June 30, 2021, \$10
379 million; on or after July 1, 2021, \$15 million. The office may
380 reduce this surplus requirement if the insurer is not writing
381 new business, has premiums in force of less than \$1 million per
382 year in residential property insurance, or is a mutual insurance
383 company. following amounts apply instead of the \$4 million
384 required by subparagraph (a)5.:

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

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

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

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

392 (2) For purposes of this section, liabilities do ~~shall~~ not
393 include liabilities required under s. 625.041(4). For purposes
394 of computing minimum surplus as to policyholders pursuant to s.
395 625.305(1), liabilities ~~shall~~ include liabilities required under
396 s. 625.041(4).

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

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

402 Section 6. Subsection (7) is added to section 624.4095,
403 Florida Statutes, to read:

404 624.4095 Premiums written; restrictions.—

405 (7) For the purposes of this section and ss. 624.407 and
406 624.408, with respect to capital and surplus requirements, gross

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407 written premiums for federal multiple-peril crop insurance which
408 are ceded to the Federal Crop Insurance Corporation or
409 authorized reinsurers may not be included in the calculation of
410 an insurer's gross writing ratio. The liabilities for ceded
411 reinsurance premiums payable for federal multiple-peril crop
412 insurance ceded to the Federal Crop Insurance Corporation and
413 authorized reinsurers shall be netted against the asset for
414 amounts recoverable from reinsurers. Each insurer that writes
415 other insurance products together with federal multiple-peril
416 crop insurance must disclose in the notes to its annual and
417 quarterly financial statements, or in a supplement to those
418 statements, the gross written premiums for federal multiple-
419 peril crop insurance.

420 Section 7. Paragraph (d) of subsection (8) of section
421 624.424, Florida Statutes, is amended to read:

422 624.424 Annual statement and other information.-

423 (8)

424 (d) An insurer may not use the same accountant or partner
425 of an accounting firm responsible for preparing the report
426 required by this subsection for more than 5 7 consecutive years.
427 Following this period, the insurer may not use such accountant
428 or partner for a period of 5 2 years, but may use another
429 accountant or partner of the same firm. An insurer may request
430 the office to waive this prohibition based upon an unusual
431 hardship to the insurer and a determination that the accountant
432 is exercising independent judgment that is not unduly influenced
433 by the insurer considering such factors as the number of
434 partners, expertise of the partners or the number of insurance
435 clients of the accounting firm; the premium volume of the

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436 insurer; and the number of jurisdictions in which the insurer
437 transacts business.

438 Section 8. Section 626.7452, Florida Statutes, is amended
439 to read:

440 626.7452 Managing general agents; examination authority.—
441 The acts of the managing general agent are considered to be the
442 acts of the insurer on whose behalf it is acting. A managing
443 general agent may be examined as if it were the insurer ~~except~~
444 ~~in the case where the managing general agent solely represents a~~
445 ~~single domestic insurer.~~

446 Section 9. Subsection (7) is added to section 626.852,
447 Florida Statutes, to read:

448 626.852 Scope of this part.—

449 (7) Notwithstanding any other provision of law, a person
450 who provides claims adjusting services solely to institutions
451 that service or guarantee mortgages with regard to policies
452 covering the mortgaged properties is exempt from licensure as an
453 adjuster. This exemption does not apply to any person who
454 provides insurance, property repair, or preservation services or
455 to any affiliate of such persons.

456 Section 10. Effective June 1, 2011, subsection (11) of
457 section 626.854, Florida Statutes, is amended to read:

458 626.854 "Public adjuster" defined; prohibitions.—The
459 Legislature finds that it is necessary for the protection of the
460 public to regulate public insurance adjusters and to prevent the
461 unauthorized practice of law.

462 (11) (a) If a public adjuster enters into a contract with an
463 insured or claimant to reopen a claim or ~~to~~ file a supplemental
464 claim that seeks additional payments for a claim that has been

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465 previously paid in part or in full or settled by the insurer,
466 the public adjuster may not charge, agree to, or accept any
467 compensation, payment, commission, fee, or other thing of value
468 based on a previous settlement or previous claim payments by the
469 insurer for the same cause of loss. The charge, compensation,
470 payment, commission, fee, or other thing of value must ~~may~~ be
471 based only on the claim payments or settlement obtained through
472 the work of the public adjuster after entering into the contract
473 with the insured or claimant. Compensation for the reopened or
474 supplemental claim may not exceed 20 percent of the reopened or
475 supplemental claim payment. The contracts described in this
476 paragraph are not subject to the limitations in paragraph (b).

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

480 1. Ten percent of the amount of insurance claim payments
481 made by the insurer for claims based on events that are the
482 subject of a declaration of a state of emergency by the
483 Governor. This provision applies to claims made during the
484 period of 1 year after the declaration of emergency. After that
485 year, the limitations in subparagraph 2. apply.

486 2. Twenty percent of the amount of ~~all other~~ insurance
487 claim payments made by the insurer for claims that are not based
488 on events that are the subject of a declaration of a state of
489 emergency by the Governor.

490
491 The provisions of subsections (5)-(13) apply only to residential
492 property insurance policies and condominium association policies
493 as defined in s. 718.111(11).

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494 Section 11. Effective January 1, 2012, section 626.854,
495 Florida Statutes, as amended by this act, is amended to read:

496 626.854 "Public adjuster" defined; prohibitions.—The
497 Legislature finds that it is necessary for the protection of the
498 public to regulate public insurance adjusters and to prevent the
499 unauthorized practice of law.

500 (1) A "public adjuster" is any person, except a duly
501 licensed attorney at law as exempted under ~~hereinafter in s.~~
502 626.860 ~~provided~~, who, for money, commission, or any other thing
503 of value, prepares, completes, or files an insurance claim form
504 for an insured or third-party claimant or who, for money,
505 commission, or any other thing of value, acts ~~or aids in any~~
506 ~~manner~~ on behalf of, or aids an insured or third-party claimant
507 in negotiating for or effecting the settlement of a claim or
508 claims for loss or damage covered by an insurance contract or
509 who advertises for employment as an adjuster of such claims. The
510 term, ~~and~~ also includes any person who, for money, commission,
511 or any other thing of value, solicits, investigates, or adjusts
512 such claims on behalf of a ~~any such~~ public adjuster.

513 (2) This definition does not apply to:

514 (a) A licensed health care provider or employee thereof who
515 prepares or files a health insurance claim form on behalf of a
516 patient.

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

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

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

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

531 (6) A public adjuster may not directly or indirectly
532 through any other person or entity initiate contact or engage in
533 face-to-face or telephonic solicitation or enter into a contract
534 with any insured or claimant under an insurance policy until at
535 least 48 hours after the occurrence of an event that may be the
536 subject of a claim under the insurance policy unless contact is
537 initiated by the insured or claimant.

538 (7) An insured or claimant may cancel a public adjuster's
539 contract to adjust a claim without penalty or obligation within
540 3 business days after the date on which the contract is executed
541 or within 3 business days after the date on which the insured or
542 claimant has notified the insurer of the claim, by phone or in
543 writing, whichever is later. The public adjuster's contract must
544 ~~shall~~ disclose to the insured or claimant his or her right to
545 cancel the contract and advise the insured or claimant that
546 notice of cancellation must be submitted in writing and sent by
547 certified mail, return receipt requested, or other form of
548 mailing that ~~which~~ provides proof thereof, to the public
549 adjuster at the address specified in the contract; provided,
550 during any state of emergency as declared by the Governor and
551 for ~~a period of~~ 1 year after the date of loss, the insured or

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552 claimant has ~~shall have~~ 5 business days after the date on which
553 the contract is executed to cancel a public adjuster's contract.

554 (8) It is an unfair and deceptive insurance trade practice
555 pursuant to s. 626.9541 for a public adjuster or any other
556 person to circulate or disseminate any advertisement,
557 announcement, or statement containing any assertion,
558 representation, or statement with respect to the business of
559 insurance which is untrue, deceptive, or misleading.

560 (a) The following statements, made in any public adjuster's
561 advertisement or solicitation, are considered deceptive or
562 misleading:

563 1. A statement or representation that invites an insured
564 policyholder to submit a claim when the policyholder does not
565 have covered damage to insured property.

566 2. A statement or representation that invites an insured
567 policyholder to submit a claim by offering monetary or other
568 valuable inducement.

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

572 4. A statement or representation, or use of a logo or
573 shield, that implies or could mistakenly be construed to imply
574 that the solicitation was issued or distributed by a
575 governmental agency or is sanctioned or endorsed by a
576 governmental agency.

577 (b) For purposes of this paragraph, the term "written
578 advertisement" includes only newspapers, magazines, flyers, and
579 bulk mailers. The following disclaimer, which is not required to
580 be printed on standard size business cards, must be added in

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581 bold print and capital letters in typeface no smaller than the
582 typeface of the body of the text to all written advertisements
583 by a public adjuster:

584 "THIS IS A SOLICITATION FOR BUSINESS. IF YOU HAVE HAD
585 A CLAIM FOR AN INSURED PROPERTY LOSS OR DAMAGE AND YOU
586 ARE SATISFIED WITH THE PAYMENT BY YOUR INSURER, YOU
587 MAY DISREGARD THIS ADVERTISEMENT."
588

589 (9) A public adjuster, a public adjuster apprentice, or any
590 person or entity acting on behalf of a public adjuster or public
591 adjuster apprentice may not give or offer to give a monetary
592 loan or advance to a client or prospective client.

593 (10) A public adjuster, public adjuster apprentice, or any
594 individual or entity acting on behalf of a public adjuster or
595 public adjuster apprentice may not give or offer to give,
596 directly or indirectly, any article of merchandise having a
597 value in excess of \$25 to any individual for the purpose of
598 advertising or as an inducement to entering into a contract with
599 a public adjuster.

600 (11) (a) If a public adjuster enters into a contract with an
601 insured or claimant to reopen a claim or file a supplemental
602 claim that seeks additional payments for a claim that has been
603 previously paid in part or in full or settled by the insurer,
604 the public adjuster may not charge, agree to, or accept any
605 compensation, payment, commission, fee, or other thing of value
606 based on a previous settlement or previous claim payments by the
607 insurer for the same cause of loss. The charge, compensation,
608 payment, commission, fee, or other thing of value must be based
609 only on the claim payments or settlement obtained through the

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610 work of the public adjuster after entering into the contract
611 with the insured or claimant. Compensation for the reopened or
612 supplemental claim may not exceed 20 percent of the reopened or
613 supplemental claim payment. The contracts described in this
614 paragraph are not subject to the limitations in paragraph (b).

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

618 1. Ten percent of the amount of insurance claim payments
619 made by the insurer for claims based on events that are the
620 subject of a declaration of a state of emergency by the
621 Governor. This provision applies to claims made during the year
622 after the declaration of emergency. After that year, the
623 limitations in subparagraph 2. apply.

624 2. Twenty percent of the amount of insurance claim payments
625 made by the insurer for claims that are not based on events that
626 are the subject of a declaration of a state of emergency by the
627 Governor.

628 (12) Each public adjuster must ~~shall~~ provide to the
629 claimant or insured a written estimate of the loss to assist in
630 the submission of a proof of loss or any other claim for payment
631 of insurance proceeds. The public adjuster shall retain such
632 written estimate for at least 5 years and shall make the ~~such~~
633 estimate available to the claimant or insured, the insurer, and
634 the department upon request.

635 (13) A public adjuster, public adjuster apprentice, or any
636 person acting on behalf of a public adjuster or apprentice may
637 not accept referrals of business from any person with whom the
638 public adjuster conducts business if there is any form or manner

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639 of agreement to compensate the person, ~~whether~~ directly or
640 indirectly, for referring business to the public adjuster. A
641 public adjuster may not compensate any person, except for
642 another public adjuster, ~~whether~~ directly or indirectly, for the
643 principal purpose of referring business to the public adjuster.

644 (14) A company employee adjuster, independent adjuster,
645 attorney, investigator, or other persons acting on behalf of an
646 insurer that needs access to an insured or claimant or to the
647 insured property that is the subject of a claim must provide at
648 least 48 hours' notice to the insured or claimant, public
649 adjuster, or legal representative before scheduling a meeting
650 with the claimant or an onsite inspection of the insured
651 property. The insured or claimant may deny access to the
652 property if the notice has not been provided. The insured or
653 claimant may waive the 48-hour notice.

654 (15) A public adjuster must ensure prompt notice of
655 property loss claims submitted to an insurer by or through a
656 public adjuster or on which a public adjuster represents the
657 insured at the time the claim or notice of loss is submitted to
658 the insurer. The public adjuster must ensure that notice is
659 given to the insurer, the public adjuster's contract is provided
660 to the insurer, the property is available for inspection of the
661 loss or damage by the insurer, and the insurer is given an
662 opportunity to interview the insured directly about the loss and
663 claim. The insurer must be allowed to obtain necessary
664 information to investigate and respond to the claim.

665 (a) The insurer may not exclude the public adjuster from
666 its in-person meetings with the insured. The insurer shall meet
667 or communicate with the public adjuster in an effort to reach

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668 agreement as to the scope of the covered loss under the
669 insurance policy. This section does not impair the terms and
670 conditions of the insurance policy in effect at the time the
671 claim is filed.

672 (b) A public adjuster may not restrict or prevent an
673 insurer, company employee adjuster, independent adjuster,
674 attorney, investigator, or other person acting on behalf of the
675 insurer from having reasonable access at reasonable times to an
676 insured or claimant or to the insured property that is the
677 subject of a claim.

678 (c) A public adjuster may not act or fail to reasonably act
679 in any manner that obstructs or prevents an insurer or insurer's
680 adjuster from timely conducting an inspection of any part of the
681 insured property for which there is a claim for loss or damage.
682 The public adjuster representing the insured may be present for
683 the insurer's inspection, but if the unavailability of the
684 public adjuster otherwise delays the insurer's timely inspection
685 of the property, the public adjuster or the insured must allow
686 the insurer to have access to the property without the
687 participation or presence of the public adjuster or insured in
688 order to facilitate the insurer's prompt inspection of the loss
689 or damage.

690 (16) A licensed contractor under part I of chapter 489, or
691 a subcontractor, may not adjust a claim on behalf of an insured
692 unless licensed and compliant as a public adjuster under this
693 chapter. However, the contractor may discuss or explain a bid
694 for construction or repair of covered property with the
695 residential property owner who has suffered loss or damage
696 covered by a property insurance policy, or the insurer of such

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697 property, if the contractor is doing so for the usual and
698 customary fees applicable to the work to be performed as stated
699 in the contract between the contractor and the insured.

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

703 Section 12. Effective January 1, 2012, subsection (6) of
704 section 626.8651, Florida Statutes, is amended to read:

705 626.8651 Public adjuster apprentice license;
706 qualifications.-

707 (6) To qualify for licensure as a public adjuster, a public
708 adjuster apprentice ~~must~~ shall complete: at

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

714 (b) A minimum of 8 hours of continuing education specific
715 to the practice of a public adjuster, 2 hours of which must
716 relate to ethics. The continuing education must be designed to
717 inform the licensee about the current insurance laws of this
718 state for the purpose of enabling him or her to engage in
719 business as an insurance adjuster fairly and without injury to
720 the public and to adjust all claims in accordance with the
721 insurance contract and the laws of this state.

722 Section 13. Effective January 1, 2012, section 626.8796,
723 Florida Statutes, is amended to read:

724 626.8796 Public adjuster contracts; fraud statement.-

725 (1) All contracts for public adjuster services must be in

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726 writing and ~~must~~ prominently display the following statement on
727 the contract: "Pursuant to s. 817.234, Florida Statutes, any
728 person who, with the intent to injure, defraud, or deceive an
729 ~~any~~ insurer or insured, prepares, presents, or causes to be
730 presented a proof of loss or estimate of cost or repair of
731 damaged property in support of a claim under an insurance policy
732 knowing that the proof of loss or estimate of claim or repairs
733 contains ~~any~~ false, incomplete, or misleading information
734 concerning any fact or thing material to the claim commits a
735 felony of the third degree, punishable as provided in s.
736 775.082, s. 775.083, or s. 775.084, Florida Statutes."

737 (2) A public adjuster contract must contain the full name,
738 permanent business address, and license number of the public
739 adjuster; the full name of the public adjusting firm; and the
740 insured's full name and street address, together with a brief
741 description of the loss. The contract must state the percentage
742 of compensation for the public adjuster's services; the type of
743 claim, including an emergency claim, nonemergency claim, or
744 supplemental claim; the signatures of the public adjuster and
745 all named insureds; and the signature date. If all of the named
746 insureds signatures are not available, the public adjuster must
747 submit an affidavit signed by the available named insureds
748 attesting that they have authority to enter into the contract
749 and settle all claim issues on behalf of the named insureds. An
750 unaltered copy of the executed contract must be remitted to the
751 insurer within 30 days after execution.

752 Section 14. Effective June 1, 2011, section 626.70132,
753 Florida Statutes, is created to read:

754 626.70132 Notice of windstorm or hurricane claim.—A claim,

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755 supplemental claim, or reopened claim under an insurance policy
756 that provides property insurance, as defined in s. 624.604, for
757 loss or damage caused by the peril of windstorm or hurricane is
758 barred unless notice of the claim, supplemental claim, or
759 reopened claim was given to the insurer in accordance with the
760 terms of the policy within 3 years after the hurricane first
761 made landfall or the windstorm caused the covered damage. For
762 purposes of this section, the term "supplemental claim" or
763 "reopened claim" means any additional claim for recovery from
764 the insurer for losses from the same hurricane or windstorm
765 which the insurer has previously adjusted pursuant to the
766 initial claim. This section does not affect any applicable
767 limitation on civil actions provided in s. 95.11 for claims,
768 supplemental claims, or reopened claims timely filed under this
769 section.

770 Section 15. Subsection (4) of section 627.0613, Florida
771 Statutes, is repealed.

772 Section 16. Section 627.062, Florida Statutes, is amended
773 to read:

774 627.062 Rate standards.—

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

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

779 (a) Insurers or rating organizations shall establish and
780 use rates, rating schedules, or rating manuals that ~~to~~ allow the
781 insurer a reasonable rate of return on the ~~such~~ classes of
782 insurance written in this state. A copy of rates, rating
783 schedules, rating manuals, premium credits or discount

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784 schedules, and surcharge schedules, and changes thereto, must
785 ~~shall~~ be filed with the office under one of the following
786 procedures ~~except as provided in subparagraph 3.~~:

787 1. If the filing is made at least 90 days before the
788 proposed effective date and ~~the filing~~ is not implemented during
789 the office's review of the filing and any proceeding and
790 judicial review, ~~then~~ such filing is ~~shall be~~ considered a "file
791 and use" filing. In such case, the office shall finalize its
792 review by issuance of an approval ~~a notice of intent to approve~~
793 or a notice of intent to disapprove within 90 days after receipt
794 of the filing. The approval ~~notice of intent to approve~~ and the
795 notice of intent to disapprove constitute agency action for
796 purposes of the Administrative Procedure Act. Requests for
797 supporting information, requests for mathematical or mechanical
798 corrections, or notification to the insurer by the office of its
799 preliminary findings does ~~shall~~ not toll the 90-day period
800 during any such proceedings and subsequent judicial review. The
801 rate shall be deemed approved if the office does not issue an
802 approval ~~a notice of intent to approve~~ or a notice of intent to
803 disapprove within 90 days after receipt of the filing.

804 2. If the filing is not made in accordance with ~~the~~
805 ~~provisions of~~ subparagraph 1., such filing must ~~shall~~ be made as
806 soon as practicable, but within ~~no later than~~ 30 days after the
807 effective date, and is ~~shall be~~ considered a "use and file"
808 filing. An insurer making a "use and file" filing is potentially
809 subject to an order by the office to return to policyholders
810 those portions of rates found to be excessive, as provided in
811 paragraph (h).

812 3. For all property insurance filings made or submitted

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813 after January 25, 2007, but before May 1, 2012 ~~December 31,~~
814 ~~2010~~, an insurer seeking a rate that is greater than the rate
815 most recently approved by the office shall make a "file and use"
816 filing. For purposes of this subparagraph, motor vehicle
817 collision and comprehensive coverages are not considered ~~to be~~
818 property coverages.

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

824 1. Past and prospective loss experience within and without
825 this state.

826 2. Past and prospective expenses.

827 3. The degree of competition among insurers for the risk
828 insured.

829 4. Investment income reasonably expected by the insurer,
830 consistent with the insurer's investment practices, from
831 investable premiums anticipated in the filing, plus any other
832 expected income from currently invested assets representing the
833 amount expected on unearned premium reserves and loss reserves.
834 The commission may adopt rules using reasonable techniques of
835 actuarial science and economics to specify the manner in which
836 insurers ~~shall~~ calculate investment income attributable to ~~such~~
837 classes of insurance written in this state and the manner in
838 which ~~such~~ investment income is ~~shall be~~ used to calculate
839 insurance rates. Such manner must ~~shall~~ contemplate allowances
840 for an underwriting profit factor and full consideration of
841 investment income which produce a reasonable rate of return;

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842 however, investment income from invested surplus may not be
843 considered.

844 5. The reasonableness of the judgment reflected in the
845 filing.

846 6. Dividends, savings, or unabsorbed premium deposits
847 allowed or returned to Florida policyholders, members, or
848 subscribers.

849 7. The adequacy of loss reserves.

850 8. The cost of reinsurance. The office may ~~shall~~ not
851 disapprove a rate as excessive solely due to the insurer having
852 obtained catastrophic reinsurance to cover the insurer's
853 estimated 250-year probable maximum loss or any lower level of
854 loss.

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

857 10. Conflagration and catastrophe hazards, if applicable.

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

862 12. A reasonable margin for underwriting profit and
863 contingencies.

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

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

867 (c) In the case of fire insurance rates, consideration must
868 ~~shall~~ be given to the availability of water supplies and the
869 experience of the fire insurance business during a period of not
870 less than the most recent 5-year period for which such

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871 experience is available.

872 (d) If conflagration or catastrophe hazards are considered
873 ~~given consideration~~ by an insurer in its rates or rating plan,
874 including surcharges and discounts, the insurer shall establish
875 a reserve for that portion of the premium allocated to such
876 hazard and ~~shall~~ maintain the premium in a catastrophe reserve.
877 ~~Any~~ Removal of such premiums from the reserve for purposes other
878 than paying claims associated with a catastrophe or purchasing
879 reinsurance for catastrophes must be approved by ~~shall be~~
880 ~~subject to approval of~~ the office. Any ceding commission
881 received by an insurer purchasing reinsurance for catastrophes
882 must ~~shall~~ be placed in the catastrophe reserve.

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

887 1. Rates shall be deemed excessive if they are likely to
888 produce a profit from Florida business which ~~that~~ is
889 unreasonably high in relation to the risk involved in the class
890 of business or if expenses are unreasonably high in relation to
891 services rendered.

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

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

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900 4. A rating plan, including discounts, credits, or
901 surcharges, shall be deemed unfairly discriminatory if it fails
902 to clearly and equitably reflect consideration of the
903 policyholder's participation in a risk management program
904 adopted pursuant to s. 627.0625.

905 5. A rate shall be deemed inadequate as to the premium
906 charged to a risk or group of risks if discounts or credits are
907 allowed which exceed a reasonable reflection of expense savings
908 and reasonably expected loss experience from the risk or group
909 of risks.

910 6. A rate shall be deemed unfairly discriminatory as to a
911 risk or group of risks if the application of premium discounts,
912 credits, or surcharges among such risks does not bear a
913 reasonable relationship to the expected loss and expense
914 experience among the various risks.

915 (f) In reviewing a rate filing, the office may require the
916 insurer to provide, at the insurer's expense, all information
917 necessary to evaluate the condition of the company and the
918 reasonableness of the filing according to the criteria
919 enumerated in this section.

920 (g) The office may at any time review a rate, rating
921 schedule, rating manual, or rate change; the pertinent records
922 of the insurer; and market conditions. If the office finds on a
923 preliminary basis that a rate may be excessive, inadequate, or
924 unfairly discriminatory, the office shall initiate proceedings
925 to disapprove the rate and shall so notify the insurer. However,
926 the office may not disapprove as excessive any rate for which it
927 has given final approval or which has been deemed approved for a
928 ~~period of~~ 1 year after the effective date of the filing unless

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929 the office finds that a material misrepresentation or material
930 error was made by the insurer or was contained in the filing.
931 Upon being ~~se~~ notified, the insurer or rating organization
932 shall, within 60 days, file with the office all information that
933 ~~which~~, in the belief of the insurer or organization, proves the
934 reasonableness, adequacy, and fairness of the rate or rate
935 change. The office shall issue an approval ~~a notice of intent to~~
936 ~~approve~~ or a notice of intent to disapprove pursuant to ~~the~~
937 ~~procedures of~~ paragraph (a) within 90 days after receipt of the
938 insurer's initial response. In such instances and in any
939 administrative proceeding relating to the legality of the rate,
940 the insurer or rating organization shall carry the burden of
941 proof by a preponderance of the evidence to show that the rate
942 is not excessive, inadequate, or unfairly discriminatory. After
943 the office notifies an insurer that a rate may be excessive,
944 inadequate, or unfairly discriminatory, unless the office
945 withdraws the notification, the insurer may ~~shall~~ not alter the
946 rate except to conform to ~~with~~ the office's notice until the
947 earlier of 120 days after the date the notification was provided
948 or 180 days after the date of implementing ~~the implementation of~~
949 the rate. The office ~~may~~, subject to chapter 120, may disapprove
950 without the 60-day notification any rate increase filed by an
951 insurer within the prohibited time period or during the time
952 that the legality of the increased rate is being contested.

953 (h) If ~~In the event~~ the office finds that a rate or rate
954 change is excessive, inadequate, or unfairly discriminatory, the
955 office shall issue an order of disapproval specifying that a new
956 rate or rate schedule, which responds to the findings of the
957 office, be filed by the insurer. The office shall further order,

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958 for any "use and file" filing made in accordance with
959 subparagraph (a)2., that premiums charged each policyholder
960 constituting the portion of the rate above that which was
961 actuarially justified be returned to the ~~such~~ policyholder in
962 the form of a credit or refund. If the office finds that an
963 insurer's rate or rate change is inadequate, the new rate or
964 rate schedule filed with the office in response to such a
965 finding is ~~shall be~~ applicable only to new or renewal business
966 of the insurer written on or after the effective date of the
967 responsive filing.

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

970 1. Prohibit any insurer, including any residual market plan
971 or joint underwriting association, from paying acquisition costs
972 based on the full amount of premium, as defined in s. 627.403,
973 applicable to any policy, or prohibit any such insurer from
974 including the full amount of acquisition costs in a rate filing;
975 or-

976 2. Impede, abridge, or otherwise compromise an insurer's
977 right to acquire policyholders, advertise, or appoint agents,
978 including the calculation, manner, or amount of such agent
979 commissions, if any.

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

983 (k)1. An insurer may make a separate filing limited solely
984 to an adjustment of its rates for reinsurance or financing costs
985 incurred in the purchase of reinsurance or financing products to
986 replace or finance the payment of the amount covered by the

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987 Temporary Increase in Coverage Limits (TICL) portion of the
988 Florida Hurricane Catastrophe Fund including replacement
989 reinsurance for the TICL reductions made pursuant to s.
990 215.555(17)(e); the actual cost paid due to the application of
991 the TICL premium factor pursuant to s. 215.555(17)(f); and the
992 actual cost paid due to the application of the cash build-up
993 factor pursuant to s. 215.555(5)(b) if the insurer:

994 a. Elects to purchase financing products such as a
995 liquidity instrument or line of credit, in which case the cost
996 included in ~~the~~ filing for the liquidity instrument or line of
997 credit may not result in a premium increase exceeding 3 percent
998 for any individual policyholder. All costs contained in the
999 filing may not result in an overall premium increase of more
1000 than 10 percent for any individual policyholder.

1001 b. An insurer that makes a separate filing relating to
1002 reinsurance or financing products must include ~~Includes in the~~
1003 ~~filing~~ a copy of all of its reinsurance, liquidity instrument,
1004 or line of credit contracts; proof of the billing or payment for
1005 the contracts; and the calculation upon which the proposed rate
1006 change is based demonstrating ~~demonstrates~~ that the costs meet
1007 the criteria of this section ~~and are not loaded for expenses or~~
1008 ~~profit for the insurer making the filing.~~

1009 ~~e. Includes no other changes to its rates in the filing.~~

1010 d. ~~Has not implemented a rate increase within the 6 months~~
1011 ~~immediately preceding the filing.~~

1012 e. ~~Does not file for a rate increase under any other~~
1013 ~~paragraph within 6 months after making a filing under this~~
1014 ~~paragraph.~~

1015 c.f. An insurer that purchases reinsurance or financing

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1016 products from an affiliated company may make a separate filing
1017 ~~in compliance with this paragraph does so~~ only if the costs for
1018 such reinsurance or financing products are charged at or below
1019 charges made for comparable coverage by nonaffiliated reinsurers
1020 or financial entities making such coverage or financing products
1021 available in this state.

1022 2. An insurer may ~~only~~ make only one filing per ~~in any~~ 12-
1023 month period under this paragraph.

1024 3. An insurer that elects to implement a rate change under
1025 this paragraph must file its rate filing with the office at
1026 least 45 days before the effective date of the rate change.
1027 After an insurer submits a complete filing that meets all of the
1028 requirements of this paragraph, the office has 45 days after the
1029 date of the filing to review the rate filing and determine if
1030 the rate is excessive, inadequate, or unfairly discriminatory.

1031 (1) The office may disapprove a rate for sinkhole coverage
1032 only if the rate is inadequate or the insurer charges an
1033 applicant or an insured a higher premium solely because of the
1034 applicant's or the insured's race, religion, sex, national
1035 origin, or marital status. Policies subject to this paragraph
1036 may not be counted in the calculation under s. 627.171(2).

1037
1038 The provisions of this subsection do ~~shall~~ not apply to workers'
1039 compensation, and employer's liability insurance, and ~~to~~ motor
1040 vehicle insurance.

1041 (3) (a) For individual risks that are not rated in
1042 accordance with the insurer's rates, rating schedules, rating
1043 manuals, and underwriting rules filed with the office and that
1044 ~~which~~ have been submitted to the insurer for individual rating,

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1045 the insurer must maintain documentation on each risk subject to
1046 individual risk rating. The documentation must identify the
1047 named insured and specify the characteristics and classification
1048 of the risk supporting the reason for the risk being
1049 individually risk rated, including any modifications to existing
1050 approved forms to be used on the risk. The insurer must maintain
1051 these records for ~~a period of~~ at least 5 years after the
1052 effective date of the policy.

1053 (b) Individual risk rates and modifications to existing
1054 approved forms are not subject to this part or part II, except
1055 for paragraph (a) and ss. 627.402, 627.403, 627.4035, 627.404,
1056 627.405, 627.406, 627.407, 627.4085, 627.409, 627.4132,
1057 627.4133, 627.415, 627.416, 627.417, 627.419, 627.425, 627.426,
1058 627.4265, 627.427, and 627.428, but are subject to all other
1059 applicable provisions of this code and rules adopted thereunder.

1060 (c) This subsection does not apply to private passenger
1061 motor vehicle insurance.

1062 (d)1. The following categories or kinds of insurance and
1063 types of commercial lines risks are not subject to paragraph
1064 (2) (a) or paragraph (2) (f):

1065 a. Excess or umbrella.

1066 b. Surety and fidelity.

1067 c. Boiler and machinery and leakage and fire extinguishing
1068 equipment.

1069 d. Errors and omissions.

1070 e. Directors and officers, employment practices, and
1071 management liability.

1072 f. Intellectual property and patent infringement liability.

1073 g. Advertising injury and Internet liability insurance.

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1074 h. Property risks rated under a highly protected risks
1075 rating plan.

1076 i. Any other commercial lines categories or kinds of
1077 insurance or types of commercial lines risks that the office
1078 determines should not be subject to paragraph (2) (a) or
1079 paragraph (2) (f) because of the existence of a competitive
1080 market for such insurance, similarity of such insurance to other
1081 categories or kinds of insurance not subject to paragraph (2) (a)
1082 or paragraph (2) (f), or to improve the general operational
1083 efficiency of the office.

1084 2. Insurers or rating organizations shall establish and use
1085 rates, rating schedules, or rating manuals to allow the insurer
1086 a reasonable rate of return on insurance and risks described in
1087 subparagraph 1. which are written in this state.

1088 3. An insurer must notify the office of any changes to
1089 rates for insurance and risks described in subparagraph 1.
1090 within no later than 30 days after the effective date of the
1091 change. The notice must include the name of the insurer, the
1092 type or kind of insurance subject to rate change, total premium
1093 written during the immediately preceding year by the insurer for
1094 the type or kind of insurance subject to the rate change, and
1095 the average statewide percentage change in rates. Underwriting
1096 files, premiums, losses, and expense statistics with regard to
1097 such insurance and risks ~~described in subparagraph 1.~~ written by
1098 an insurer must ~~shall~~ be maintained by the insurer and subject
1099 to examination by the office. Upon examination, the office
1100 ~~shall~~, in accordance with generally accepted and reasonable
1101 actuarial techniques, shall consider the rate factors in
1102 paragraphs (2) (b), (c), and (d) and the standards in paragraph

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1103 (2) (e) to determine if the rate is excessive, inadequate, or
1104 unfairly discriminatory.

1105 4. A rating organization must notify the office of any
1106 changes to loss cost for insurance and risks described in
1107 subparagraph 1. within ~~no later than~~ 30 days after the effective
1108 date of the change. The notice must include the name of the
1109 rating organization, the type or kind of insurance subject to a
1110 loss cost change, loss costs during the immediately preceding
1111 year for the type or kind of insurance subject to the loss cost
1112 change, and the average statewide percentage change in loss
1113 cost. Loss and exposure statistics with regard to risks
1114 applicable to loss costs for a rating organization not subject
1115 to paragraph (2) (a) or paragraph (2) (f) must ~~shall~~ be maintained
1116 by the rating organization and are subject to examination by the
1117 office. Upon examination, the office ~~shall~~, in accordance with
1118 generally accepted and reasonable actuarial techniques, shall
1119 consider the rate factors in paragraphs (2) (b)-(d) and the
1120 standards in paragraph (2) (e) to determine if the rate is
1121 excessive, inadequate, or unfairly discriminatory.

1122 5. In reviewing a rate, the office may require the insurer
1123 to provide, at the insurer's expense, all information necessary
1124 to evaluate the condition of the company and the reasonableness
1125 of the rate according to the applicable criteria described in
1126 this section.

1127 (4) The establishment of any rate, rating classification,
1128 rating plan or schedule, or variation thereof in violation of
1129 part IX of chapter 626 is also in violation of this section. ~~In~~
1130 ~~order to enhance the ability of consumers to compare premiums~~
1131 ~~and to increase the accuracy and usefulness of rate comparison~~

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1132 ~~information provided by the office to the public, the office~~
1133 ~~shall develop a proposed standard rating territory plan to be~~
1134 ~~used by all authorized property and casualty insurers for~~
1135 ~~residential property insurance. In adopting the proposed plan,~~
1136 ~~the office may consider geographical characteristics relevant to~~
1137 ~~risk, county lines, major roadways, existing rating territories~~
1138 ~~used by a significant segment of the market, and other relevant~~
1139 ~~factors. Such plan shall be submitted to the President of the~~
1140 ~~Senate and the Speaker of the House of Representatives by~~
1141 ~~January 15, 2006. The plan may not be implemented unless~~
1142 ~~authorized by further act of the Legislature.~~

1143 (5) With respect to a rate filing involving coverage of the
1144 type for which the insurer is required to pay a reimbursement
1145 premium to the Florida Hurricane Catastrophe Fund, the insurer
1146 may fully recoup in its property insurance premiums any
1147 reimbursement premiums paid to the ~~Florida Hurricane Catastrophe~~
1148 ~~fund~~, together with reasonable costs of other reinsurance;
1149 however, ~~but~~ except as otherwise provided in this section, the
1150 insurer may not recoup reinsurance costs that duplicate coverage
1151 provided by the ~~Florida Hurricane Catastrophe~~ fund. An insurer
1152 may not recoup more than 1 year of reimbursement premium at a
1153 time. Any under-recoupment from the prior year may be added to
1154 the following year's reimbursement premium, and any over-
1155 recoupment must ~~shall~~ be subtracted from the following year's
1156 reimbursement premium.

1157 (6) (a) If an insurer requests an administrative hearing
1158 pursuant to s. 120.57 related to a rate filing under this
1159 section, the director of the Division of Administrative Hearings
1160 shall expedite the hearing and assign an administrative law

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1161 judge who shall commence the hearing within 30 days after the
1162 receipt of the formal request and ~~shall~~ enter a recommended
1163 order within 30 days after the hearing or within 30 days after
1164 receipt of the hearing transcript by the administrative law
1165 judge, whichever is later. Each party shall have ~~be allowed~~ 10
1166 days in which to submit written exceptions to the recommended
1167 order. The office shall enter a final order within 30 days after
1168 the entry of the recommended order. The provisions of this
1169 paragraph may be waived upon stipulation of all parties.

1170 (b) Upon entry of a final order, the insurer may request a
1171 expedited appellate review pursuant to the Florida Rules of
1172 Appellate Procedure. It is the intent of the Legislature that
1173 the First District Court of Appeal grant an insurer's request
1174 for an expedited appellate review.

1175 (7)~~(a)~~ The provisions of this subsection apply only ~~with~~
1176 ~~respect~~ to rates for medical malpractice insurance and ~~shall~~
1177 control to the extent of any conflict with other provisions of
1178 this section.

1179 (a)~~(b)~~ Any portion of a judgment entered or settlement paid
1180 as a result of a statutory or common-law bad faith action and
1181 any portion of a judgment entered which awards punitive damages
1182 against an insurer may not be included in the insurer's rate
1183 base, and ~~shall not be~~ used to justify a rate or rate change.
1184 Any common-law bad faith action identified as such, any portion
1185 of a settlement entered as a result of a statutory or common-law
1186 action, or any portion of a settlement wherein an insurer agrees
1187 to pay specific punitive damages may not be used to justify a
1188 rate or rate change. The portion of the taxable costs and
1189 attorney's fees which is identified as being related to the bad

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1190 faith and punitive damages ~~in these judgments and settlements~~
1191 may not be included in the insurer's rate base and used ~~may not~~
1192 ~~be utilized~~ to justify a rate or rate change.

1193 (b)~~(e)~~ Upon reviewing a rate filing and determining whether
1194 the rate is excessive, inadequate, or unfairly discriminatory,
1195 the office shall consider, in accordance with generally accepted
1196 and reasonable actuarial techniques, past and present
1197 prospective loss experience, ~~either~~ using loss experience solely
1198 for this state or giving greater credibility to this state's
1199 loss data after applying actuarially sound methods of assigning
1200 credibility to such data.

1201 (c)~~(d)~~ Rates shall be deemed excessive if, among other
1202 standards established by this section, the rate structure
1203 provides for replenishment of reserves or surpluses from
1204 premiums when the replenishment is attributable to investment
1205 losses.

1206 (d)~~(e)~~ The insurer must apply a discount or surcharge based
1207 on the health care provider's loss experience or ~~shall~~ establish
1208 an alternative method giving due consideration to the provider's
1209 loss experience. The insurer must include in the filing a copy
1210 of the surcharge or discount schedule or a description of the
1211 alternative method used, and ~~must~~ provide a copy ~~of such~~
1212 ~~schedule or description~~, as approved by the office, to
1213 policyholders at the time of renewal and to prospective
1214 policyholders at the time of application for coverage.

1215 (e)~~(f)~~ Each medical malpractice insurer must make a rate
1216 filing under this section, sworn to by at least two executive
1217 officers of the insurer, at least once each calendar year.

1218 ~~(8)(a)1. No later than 60 days after the effective date of~~

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1219 ~~medical malpractice legislation enacted during the 2003 Special~~
1220 ~~Session D of the Florida Legislature, the office shall calculate~~
1221 ~~a presumed factor that reflects the impact that the changes~~
1222 ~~contained in such legislation will have on rates for medical~~
1223 ~~malpractice insurance and shall issue a notice informing all~~
1224 ~~insurers writing medical malpractice coverage of such presumed~~
1225 ~~factor. In determining the presumed factor, the office shall use~~
1226 ~~generally accepted actuarial techniques and standards provided~~
1227 ~~in this section in determining the expected impact on losses,~~
1228 ~~expenses, and investment income of the insurer. To the extent~~
1229 ~~that the operation of a provision of medical malpractice~~
1230 ~~legislation enacted during the 2003 Special Session D of the~~
1231 ~~Florida Legislature is stayed pending a constitutional~~
1232 ~~challenge, the impact of that provision shall not be included in~~
1233 ~~the calculation of a presumed factor under this subparagraph.~~

1234 ~~2. No later than 60 days after the office issues its notice~~
1235 ~~of the presumed rate change factor under subparagraph 1., each~~
1236 ~~insurer writing medical malpractice coverage in this state shall~~
1237 ~~submit to the office a rate filing for medical malpractice~~
1238 ~~insurance, which will take effect no later than January 1, 2004,~~
1239 ~~and apply retroactively to policies issued or renewed on or~~
1240 ~~after the effective date of medical malpractice legislation~~
1241 ~~enacted during the 2003 Special Session D of the Florida~~
1242 ~~Legislature. Except as authorized under paragraph (b), the~~
1243 ~~filing shall reflect an overall rate reduction at least as great~~
1244 ~~as the presumed factor determined under subparagraph 1. With~~
1245 ~~respect to policies issued on or after the effective date of~~
1246 ~~such legislation and prior to the effective date of the rate~~
1247 ~~filing required by this subsection, the office shall order the~~

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1248 ~~insurer to make a refund of the amount that was charged in~~
1249 ~~excess of the rate that is approved.~~

1250 ~~(b) Any insurer or rating organization that contends that~~
1251 ~~the rate provided for in paragraph (a) is excessive, inadequate,~~
1252 ~~or unfairly discriminatory shall separately state in its filing~~
1253 ~~the rate it contends is appropriate and shall state with~~
1254 ~~specificity the factors or data that it contends should be~~
1255 ~~considered in order to produce such appropriate rate. The~~
1256 ~~insurer or rating organization shall be permitted to use all of~~
1257 ~~the generally accepted actuarial techniques provided in this~~
1258 ~~section in making any filing pursuant to this subsection. The~~
1259 ~~office shall review each such exception and approve or~~
1260 ~~disapprove it prior to use. It shall be the insurer's burden to~~
1261 ~~actuarially justify any deviations from the rates required to be~~
1262 ~~filed under paragraph (a). The insurer making a filing under~~
1263 ~~this paragraph shall include in the filing the expected impact~~
1264 ~~of medical malpractice legislation enacted during the 2003~~
1265 ~~Special Session D of the Florida Legislature on losses,~~
1266 ~~expenses, and rates.~~

1267 ~~(c) If any provision of medical malpractice legislation~~
1268 ~~enacted during the 2003 Special Session D of the Florida~~
1269 ~~Legislature is held invalid by a court of competent~~
1270 ~~jurisdiction, the office shall permit an adjustment of all~~
1271 ~~medical malpractice rates filed under this section to reflect~~
1272 ~~the impact of such holding on such rates so as to ensure that~~
1273 ~~the rates are not excessive, inadequate, or unfairly~~
1274 ~~discriminatory.~~

1275 ~~(d) Rates approved on or before July 1, 2003, for medical~~
1276 ~~malpractice insurance shall remain in effect until the effective~~

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1277 ~~date of a new rate filing approved under this subsection.~~

1278 ~~(c) The calculation and notice by the office of the~~
1279 ~~presumed factor pursuant to paragraph (a) is not an order or~~
1280 ~~rule that is subject to chapter 120. If the office enters into a~~
1281 ~~contract with an independent consultant to assist the office in~~
1282 ~~calculating the presumed factor, such contract shall not be~~
1283 ~~subject to the competitive solicitation requirements of s.~~
1284 ~~287.057.~~

1285 (8)~~(9)~~(a) The chief executive officer or chief financial
1286 officer of a property insurer and the chief actuary of a
1287 property insurer must certify under oath and subject to the
1288 penalty of perjury, on a form approved by the commission, the
1289 following information, which must accompany a rate filing:

1290 1. The signing officer and actuary have reviewed the rate
1291 filing;

1292 2. Based on the signing officer's and actuary's knowledge,
1293 the rate filing does not contain any untrue statement of a
1294 material fact or omit to state a material fact necessary ~~in~~
1295 ~~order~~ to make the statements made, in light of the circumstances
1296 under which such statements were made, not misleading;

1297 3. Based on the signing officer's and actuary's knowledge,
1298 the information and other factors described in paragraph (2) (b),
1299 including, but not limited to, investment income, fairly present
1300 in all material respects the basis of the rate filing for the
1301 periods presented in the filing; and

1302 4. Based on the signing officer's and actuary's knowledge,
1303 the rate filing reflects all premium savings that are reasonably
1304 expected to result from legislative enactments and are in
1305 accordance with generally accepted and reasonable actuarial

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1306 techniques.

1307 (b) A signing officer or actuary who knowingly makes ~~making~~
1308 a false certification under this subsection commits a violation
1309 of s. 626.9541(1)(e) and is subject to the penalties under s.
1310 626.9521.

1311 (c) Failure to provide such certification by the officer
1312 and actuary shall result in the rate filing being disapproved
1313 without prejudice to be refiled.

1314 (d) The certification made pursuant to paragraph (a) is not
1315 rendered false if, after making the subject rate filing, the
1316 insurer provides the office with additional or supplementary
1317 information pursuant to a formal or informal request from the
1318 office. However, the actuary who is primarily responsible for
1319 preparing and submitting such information must certify the
1320 information in accordance with the certification required under
1321 paragraph (a) and the penalties in paragraph (b), except that
1322 the chief executive officer, chief financial officer, or chief
1323 actuary need not certify the additional or supplementary
1324 information.

1325 (e)~~(d)~~ The commission may adopt rules and forms ~~pursuant to~~
1326 ~~ss. 120.536(1) and 120.54~~ to administer this subsection.

1327 (9)~~(10)~~ The burden is on the office to establish that rates
1328 are excessive for personal lines residential coverage with a
1329 dwelling replacement cost of \$1 million or more or for a single
1330 condominium unit with a combined dwelling and contents
1331 replacement cost of \$1 million or more. Upon request of the
1332 office, the insurer shall provide ~~to the office~~ such loss and
1333 expense information as the office reasonably needs to meet this
1334 burden.

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1335 ~~(10)(11)~~ Any interest paid pursuant to s. 627.70131(5) may
1336 not be included in the insurer's rate base and may not be used
1337 to justify a rate or rate change.

1338 Section 17. Paragraph (b) of subsection (3) of section
1339 627.06281, Florida Statutes, is amended to read:

1340 627.06281 Public hurricane loss projection model; reporting
1341 of data by insurers.—

1342 (3)

1343 (b) The fees charged for private sector access and use of
1344 the model shall be the reasonable costs associated with the
1345 operation and maintenance of the model by the office. Such fees
1346 do not apply to access and use of the model by the office. By
1347 ~~January 1, 2009, The office shall establish by rule a fee~~
1348 ~~schedule for access to and the use of the model. The fee~~
1349 ~~schedule must be reasonably calculated to cover only the actual~~
1350 ~~costs of providing access to and the use of the model.~~

1351 Section 18. Subsections (1) and (5) and paragraph (b) of
1352 subsection (8) of section 627.0629, Florida Statutes, are
1353 amended to read:

1354 627.0629 Residential property insurance; rate filings.—

1355 (1)~~(a)~~ It is the intent of the Legislature that insurers
1356 ~~must~~ provide savings to consumers who install or implement
1357 windstorm damage mitigation techniques, alterations, or
1358 solutions to their properties to prevent windstorm losses. A
1359 rate filing for residential property insurance must include
1360 actuarially reasonable discounts, credits, or other rate
1361 differentials, or appropriate reductions in deductibles, for
1362 properties on which fixtures or construction techniques
1363 demonstrated to reduce the amount of loss in a windstorm have

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1364 been installed or implemented. The fixtures or construction
1365 techniques must ~~shall~~ include, but are not ~~be~~ limited to,
1366 fixtures or construction techniques that ~~which~~ enhance roof
1367 strength, roof covering performance, roof-to-wall strength,
1368 wall-to-floor-to-foundation strength, opening protection, and
1369 window, door, and skylight strength. Credits, discounts, or
1370 other rate differentials, or appropriate reductions in
1371 deductibles, for fixtures and construction techniques that ~~which~~
1372 meet the minimum requirements of the Florida Building Code must
1373 be included in the rate filing. All insurance companies must
1374 make a rate filing that ~~which~~ includes the credits, discounts,
1375 or other rate differentials or reductions in deductibles by
1376 February 28, 2003. By July 1, 2007, the office shall reevaluate
1377 the discounts, credits, other rate differentials, and
1378 appropriate reductions in deductibles for fixtures and
1379 construction techniques that meet the minimum requirements of
1380 the Florida Building Code, based upon actual experience or any
1381 other loss relativity studies available to the office. The
1382 office shall determine the discounts, credits, other rate
1383 differentials, and appropriate reductions in deductibles that
1384 reflect the full actuarial value of such revaluation, which may
1385 be used by insurers in rate filings.

1386 ~~(b) By February 1, 2011, the Office of Insurance~~
1387 ~~Regulation, in consultation with the Department of Financial~~
1388 ~~Services and the Department of Community Affairs, shall develop~~
1389 ~~and make publicly available a proposed method for insurers to~~
1390 ~~establish discounts, credits, or other rate differentials for~~
1391 ~~hurricane mitigation measures which directly correlate to the~~
1392 ~~numerical rating assigned to a structure pursuant to the uniform~~

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1393 ~~home grading scale adopted by the Financial Services Commission~~
1394 ~~pursuant to s. 215.55865, including any proposed changes to the~~
1395 ~~uniform home grading scale. By October 1, 2011, the commission~~
1396 ~~shall adopt rules requiring insurers to make rate filings for~~
1397 ~~residential property insurance which revise insurers' discounts,~~
1398 ~~credits, or other rate differentials for hurricane mitigation~~
1399 ~~measures so that such rate differentials correlate directly to~~
1400 ~~the uniform home grading scale. The rules may include such~~
1401 ~~changes to the uniform home grading scale as the commission~~
1402 ~~determines are necessary, and may specify the minimum required~~
1403 ~~discounts, credits, or other rate differentials. Such rate~~
1404 ~~differentials must be consistent with generally accepted~~
1405 ~~actuarial principles and wind-loss mitigation studies. The rules~~
1406 ~~shall allow a period of at least 2 years after the effective~~
1407 ~~date of the revised mitigation discounts, credits, or other rate~~
1408 ~~differentials for a property owner to obtain an inspection or~~
1409 ~~otherwise qualify for the revised credit, during which time the~~
1410 ~~insurer shall continue to apply the mitigation credit that was~~
1411 ~~applied immediately prior to the effective date of the revised~~
1412 ~~credit. Discounts, credits, and other rate differentials~~
1413 ~~established for rate filings under this paragraph shall~~
1414 ~~supersede, after adoption, the discounts, credits, and other~~
1415 ~~rate differentials included in rate filings under paragraph (a).~~

1416 (5) In order to provide an appropriate transition period,
1417 an insurer may, ~~in its sole discretion,~~ implement an approved
1418 rate filing for residential property insurance over a period of
1419 years. Such ~~An~~ insurer electing to phase in its rate filing must
1420 provide an informational notice to the office setting out its
1421 schedule for implementation of the phased-in rate filing. The ~~An~~

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1422 insurer may include in its rate the actual cost of private
1423 market reinsurance that corresponds to available coverage of the
1424 Temporary Increase in Coverage Limits, TICL, from the Florida
1425 Hurricane Catastrophe Fund. The insurer may also include the
1426 cost of reinsurance to replace the TICL reduction implemented
1427 pursuant to s. 215.555(17)(d)9. However, this cost ~~for~~
1428 ~~reinsurance may not include any expense or profit load or result~~
1429 in a total annual base rate increase in excess of 10 percent.

1430 (8) EVALUATION OF RESIDENTIAL PROPERTY STRUCTURAL
1431 SOUNDNESS.—

1432 (b) To the extent ~~that~~ funds are provided for this purpose
1433 in the General Appropriations Act, ~~the Legislature hereby~~
1434 ~~authorizes~~ the establishment of a program to be administered by
1435 the Citizens Property Insurance Corporation for homeowners
1436 insured in the coastal high-risk account is authorized.

1437 Section 19. Paragraphs (a), (b), (c), (d), (n), (v), and
1438 (y) of subsection (6) of section 627.351, Florida Statutes, are
1439 amended to read:

1440 627.351 Insurance risk apportionment plans.—

1441 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

1442 (a) ~~1. It is~~ The public purpose of this subsection is to
1443 ensure that there is ~~the existence of~~ an orderly market for
1444 property insurance for residents ~~Floridians~~ and ~~Florida~~
1445 businesses of this state.

1446 1. The Legislature finds that private insurers are
1447 unwilling or unable to provide affordable property insurance
1448 coverage in this state to the extent sought and needed. The
1449 absence of affordable property insurance threatens the public
1450 health, safety, and welfare and likewise threatens the economic

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1451 health of the state. The state therefore has a compelling public
1452 interest and a public purpose to assist in assuring that
1453 property in the state is insured and that it is insured at
1454 affordable rates so as to facilitate the remediation,
1455 reconstruction, and replacement of damaged or destroyed property
1456 in order to reduce or avoid the negative effects otherwise
1457 resulting to the public health, safety, and welfare, to the
1458 economy of the state, and to the revenues of the state and local
1459 governments which are needed to provide for the public welfare.
1460 It is necessary, therefore, to provide affordable property
1461 insurance to applicants who are in good faith entitled to
1462 procure insurance through the voluntary market but are unable to
1463 do so. The Legislature intends, therefore, ~~by this subsection~~
1464 that affordable property insurance be provided and that it
1465 continue to be provided, as long as necessary, through Citizens
1466 Property Insurance Corporation, a government entity that is an
1467 integral part of the state, and that is not a private insurance
1468 company. To that end, the ~~Citizens Property Insurance~~
1469 corporation shall strive to increase the availability of
1470 affordable property insurance in this state, while achieving
1471 efficiencies and economies, and while providing service to
1472 policyholders, applicants, and agents which is no less than the
1473 quality generally provided in the voluntary market, for the
1474 achievement of the foregoing public purposes. Because it is
1475 essential for this government entity to have the maximum
1476 financial resources to pay claims following a catastrophic
1477 hurricane, it is the intent of the Legislature that the ~~Citizens~~
1478 ~~Property Insurance~~ corporation continue to be an integral part
1479 of the state and that the income of the corporation be exempt

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1480 from federal income taxation and that interest on the debt
1481 obligations issued by the corporation be exempt from federal
1482 income taxation. The corporate logo of the corporation must
1483 include the name of the corporation and the words "A Taxpayer-
1484 Funded Corporation."

1485 2. The Residential Property and Casualty Joint Underwriting
1486 Association originally created by this statute shall be known~~7~~
1487 ~~as of July 1, 2002,~~ as the Citizens Property Insurance
1488 Corporation. The corporation shall provide insurance for
1489 residential and commercial property, for applicants who are ~~in~~
1490 ~~good faith~~ entitled, but, in good faith, are unable~~7~~ to procure
1491 insurance through the voluntary market. The corporation shall
1492 operate pursuant to a plan of operation approved by order of the
1493 Financial Services Commission. The plan is subject to continuous
1494 review by the commission. The commission may, by order, withdraw
1495 approval of all or part of a plan if the commission determines
1496 that conditions have changed since approval was granted and that
1497 the purposes of the plan require changes in the plan. ~~The~~
1498 ~~corporation shall continue to operate pursuant to the plan of~~
1499 ~~operation approved by the Office of Insurance Regulation until~~
1500 ~~October 1, 2006.~~ For the purposes of this subsection,
1501 residential coverage includes both personal lines residential
1502 coverage, which consists of the type of coverage provided by
1503 homeowner's, mobile home owner's, dwelling, tenant's,
1504 condominium unit owner's, and similar policies;~~7~~ and commercial
1505 lines residential coverage, which consists of the type of
1506 coverage provided by condominium association, apartment
1507 building, and similar policies.

1508 3. Effective January 1, 2009, a personal lines residential

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1509 structure that has a dwelling replacement cost of \$2 million or
1510 more, or a single condominium unit that has a combined dwelling
1511 and contents ~~content~~ replacement cost of \$2 million or more is
1512 not eligible for coverage by the corporation. Such dwellings
1513 insured by the corporation on December 31, 2008, may continue to
1514 be covered by the corporation until the end of the policy term.
1515 However, such dwellings ~~that are insured by the corporation and~~
1516 ~~become ineligible for coverage due to the provisions of this~~
1517 ~~subparagraph~~ may reapply and obtain coverage if the property
1518 owner provides the corporation with a sworn affidavit from one
1519 or more insurance agents, on a form provided by the corporation,
1520 stating that the agents have made their best efforts to obtain
1521 coverage and that the property has been rejected for coverage by
1522 at least one authorized insurer and at least three surplus lines
1523 insurers. If such conditions are met, the dwelling may be
1524 insured by the corporation for up to 3 years, after which time
1525 the dwelling is ineligible for coverage. The office shall
1526 approve the method used by the corporation for valuing the
1527 dwelling replacement cost for the purposes of this subparagraph.
1528 If a policyholder is insured by the corporation prior to being
1529 determined to be ineligible pursuant to this subparagraph and
1530 such policyholder files a lawsuit challenging the determination,
1531 the policyholder may remain insured by the corporation until the
1532 conclusion of the litigation.

1533 4. It is the intent of the Legislature that policyholders,
1534 applicants, and agents of the corporation receive service and
1535 treatment of the highest possible level but never less than that
1536 generally provided in the voluntary market. It is also ~~is~~
1537 intended that the corporation be held to service standards no

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1538 less than those applied to insurers in the voluntary market by
1539 the office with respect to responsiveness, timeliness, customer
1540 courtesy, and overall dealings with policyholders, applicants,
1541 or agents of the corporation.

1542 5. Effective January 1, 2009, a personal lines residential
1543 structure that is located in the "wind-borne debris region," as
1544 defined in s. 1609.2, International Building Code (2006), and
1545 that has an insured value on the structure of \$750,000 or more
1546 is not eligible for coverage by the corporation unless the
1547 structure has opening protections as required under the Florida
1548 Building Code for a newly constructed residential structure in
1549 that area. A residential structure shall be deemed to comply
1550 with ~~the requirements of~~ this subparagraph if it has shutters or
1551 opening protections on all openings and if such opening
1552 protections complied with the Florida Building Code at the time
1553 they were installed.

1554 6. In recognition of the corporation's status as a
1555 governmental entity, policies issued by the corporation must
1556 include a provision stating that as a condition of coverage with
1557 the corporation, policyholders may not engage the services of a
1558 public adjuster to represent the policyholder with respect to
1559 any claim filed under a policy issued by the corporation until
1560 after the corporation has tendered an offer with respect to such
1561 claim. For any claim filed under any policy of the corporation,
1562 a public adjuster may not charge, agree to, or accept any
1563 compensation, payment, commission, fee, or other thing of value
1564 greater than 10 percent of the additional amount actually paid
1565 over the amount that was originally offered by the corporation
1566 for any one claim.

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1567 (b)1. All insurers authorized to write one or more subject
1568 lines of business in this state are subject to assessment by the
1569 corporation and, for the purposes of this subsection, are
1570 referred to collectively as "assessable insurers." Insurers
1571 writing one or more subject lines of business in this state
1572 pursuant to part VIII of chapter 626 are not assessable
1573 insurers, but insureds who procure one or more subject lines of
1574 business in this state pursuant to part VIII of chapter 626 are
1575 subject to assessment by the corporation and are referred to
1576 collectively as "assessable insureds." An ~~authorized~~ insurer's
1577 assessment liability begins ~~shall begin~~ on the first day of the
1578 calendar year following the year in which the insurer was issued
1579 a certificate of authority to transact insurance for subject
1580 lines of business in this state and terminates ~~shall terminate~~ 1
1581 year after the end of the first calendar year during which the
1582 insurer no longer holds a certificate of authority to transact
1583 insurance for subject lines of business in this state.

1584 2.a. All revenues, assets, liabilities, losses, and
1585 expenses of the corporation shall be divided into three separate
1586 accounts as follows:

1587 (I) A personal lines account for personal residential
1588 policies issued by the corporation, or issued by the Residential
1589 Property and Casualty Joint Underwriting Association and renewed
1590 by the corporation, which provides ~~that provide~~ comprehensive,
1591 multiperil coverage on risks that are not located in areas
1592 eligible for coverage by ~~in~~ the Florida Windstorm Underwriting
1593 Association as those areas were defined on January 1, 2002, and
1594 for ~~such~~ policies that do not provide coverage for the peril of
1595 wind on risks that are located in such areas;

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1596 (II) A commercial lines account for commercial residential
1597 and commercial nonresidential policies issued by the
1598 corporation, or issued by the Residential Property and Casualty
1599 Joint Underwriting Association and renewed by the corporation, which provides ~~that provide~~
1600 coverage for basic property perils
1601 on risks that are not located in areas eligible for coverage by
1602 ~~in~~ the Florida Windstorm Underwriting Association as those areas
1603 were defined on January 1, 2002, and for ~~such~~ policies that do
1604 not provide coverage for the peril of wind on risks that are
1605 located in such areas; and

1606 (III) A coastal ~~high-risk~~ account for personal residential
1607 policies and commercial residential and commercial
1608 nonresidential property policies issued by the corporation, or
1609 transferred to the corporation, which provides ~~that provide~~
1610 coverage for the peril of wind on risks that are located in
1611 areas eligible for coverage by ~~in~~ the Florida Windstorm
1612 Underwriting Association as those areas were defined on January
1613 1, 2002. The corporation may offer policies that provide
1614 multiperil coverage and the corporation shall continue to offer
1615 policies that provide coverage only for the peril of wind for
1616 risks located in areas eligible for coverage in the coastal
1617 ~~high-risk~~ account. In issuing multiperil coverage, the
1618 corporation may use its approved policy forms and rates for the
1619 personal lines account. An applicant or insured who is eligible
1620 to purchase a multiperil policy from the corporation may
1621 purchase a multiperil policy from an authorized insurer without
1622 prejudice to the applicant's or insured's eligibility to
1623 prospectively purchase a policy that provides coverage only for
1624 the peril of wind from the corporation. An applicant or insured

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1625 who is eligible for a corporation policy that provides coverage
1626 only for the peril of wind may elect to purchase or retain such
1627 policy and also purchase or retain coverage excluding wind from
1628 an authorized insurer without prejudice to the applicant's or
1629 insured's eligibility to prospectively purchase a policy that
1630 provides multiperil coverage from the corporation. It is the
1631 goal of the Legislature that there ~~would~~ be an overall average
1632 savings of 10 percent or more for a policyholder who currently
1633 has a wind-only policy with the corporation, and an ex-wind
1634 policy with a voluntary insurer or the corporation, and who ~~then~~
1635 obtains a multiperil policy from the corporation. It is the
1636 intent of the Legislature that the offer of multiperil coverage
1637 in the coastal ~~high-risk~~ account be made and implemented in a
1638 manner that does not adversely affect the tax-exempt status of
1639 the corporation or creditworthiness of or security for currently
1640 outstanding financing obligations or credit facilities of the
1641 coastal ~~high-risk~~ account, the personal lines account, or the
1642 commercial lines account. The coastal ~~high-risk~~ account must
1643 also include quota share primary insurance under subparagraph
1644 (c)2. The area eligible for coverage under the coastal ~~high-risk~~
1645 account also includes the area within Port Canaveral, which is
1646 bordered on the south by the City of Cape Canaveral, bordered on
1647 the west by the Banana River, and bordered on the north by
1648 Federal Government property.

1649 b. The three separate accounts must be maintained as long
1650 as financing obligations entered into by the Florida Windstorm
1651 Underwriting Association or Residential Property and Casualty
1652 Joint Underwriting Association are outstanding, in accordance
1653 with the terms of the corresponding financing documents. If ~~When~~

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1654 the financing obligations are no longer outstanding, ~~in~~
1655 ~~accordance with the terms of the corresponding financing~~
1656 ~~documents,~~ the corporation may use a single account for all
1657 revenues, assets, liabilities, losses, and expenses of the
1658 corporation. Consistent with ~~the requirement of this~~
1659 subparagraph and prudent investment policies that minimize the
1660 cost of carrying debt, the board shall exercise its best efforts
1661 to retire existing debt or ~~to~~ obtain the approval of necessary
1662 parties to amend the terms of existing debt, so as to structure
1663 the most efficient plan to consolidate the three separate
1664 accounts into a single account.

1665 c. Creditors of the Residential Property and Casualty Joint
1666 Underwriting Association and ~~of~~ the accounts specified in sub-
1667 sub-subparagraphs a.(I) and (II) may have a claim against, and
1668 recourse to, those ~~the~~ accounts referred to in sub-sub-
1669 ~~subparagraphs a.(I) and (II) and shall have~~ no claim against, or
1670 recourse to, the account referred to in sub-sub-subparagraph
1671 a.(III). Creditors of the Florida Windstorm Underwriting
1672 Association ~~shall~~ have a claim against, and recourse to, the
1673 account referred to in sub-sub-subparagraph a.(III) and ~~shall~~
1674 ~~have~~ no claim against, or recourse to, the accounts referred to
1675 in sub-sub-subparagraphs a.(I) and (II).

1676 d. Revenues, assets, liabilities, losses, and expenses not
1677 attributable to particular accounts shall be prorated among the
1678 accounts.

1679 e. The Legislature finds that the revenues of the
1680 corporation are revenues that are necessary to meet the
1681 requirements set forth in documents authorizing the issuance of
1682 bonds under this subsection.

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1683 f. No part of the income of the corporation may inure to
1684 the benefit of any private person.

1685 3. With respect to a deficit in an account:

1686 a. After accounting for the ~~Citizens~~ policyholder surcharge
1687 imposed under sub-subparagraph h. i., ~~if when~~ the remaining
1688 projected deficit incurred in a particular calendar year:

1689 (I) Is not greater than 6 percent of the aggregate
1690 statewide direct written premium for the subject lines of
1691 business for the prior calendar year, the entire deficit shall
1692 be recovered through regular assessments of assessable insurers
1693 under paragraph (q) and assessable insureds.

1694 (II) ~~b. After accounting for the Citizens policyholder~~
1695 ~~surcharge imposed under sub-subparagraph i., when the remaining~~
1696 ~~projected deficit incurred in a particular calendar year Exceeds~~
1697 6 percent of the aggregate statewide direct written premium for
1698 the subject lines of business for the prior calendar year, the
1699 corporation shall levy regular assessments on assessable
1700 insurers under paragraph (q) and on assessable insureds in an
1701 amount equal to the greater of 6 percent of the deficit or 6
1702 percent of the aggregate statewide direct written premium for
1703 the subject lines of business for the prior calendar year. Any
1704 remaining deficit shall be recovered through emergency
1705 assessments under sub-subparagraph c. ~~d.~~

1706 b.e. Each assessable insurer's share of the amount being
1707 assessed under sub-subparagraph a. must ~~or sub-subparagraph b.~~
1708 ~~shall~~ be in the proportion that the assessable insurer's direct
1709 written premium for the subject lines of business for the year
1710 preceding the assessment bears to the aggregate statewide direct
1711 written premium for the subject lines of business for that year.

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1712 The applicable assessment percentage ~~applicable to each~~
1713 ~~assessable insured~~ is the ratio of the amount being assessed
1714 under sub-subparagraph a. ~~or sub-subparagraph b.~~ to the
1715 aggregate statewide direct written premium for the subject lines
1716 of business for the prior year. Assessments levied by the
1717 corporation on assessable insurers under sub-subparagraph a.
1718 must ~~sub-subparagraphs a. and b.~~ shall be paid as required by
1719 the corporation's plan of operation and paragraph (q).
1720 Assessments levied by the corporation on assessable insureds
1721 under sub-subparagraph a. ~~sub-subparagraphs a. and b.~~ shall be
1722 collected by the surplus lines agent at the time the surplus
1723 lines agent collects the surplus lines tax required by s.
1724 626.932, and ~~shall be~~ paid to the Florida Surplus Lines Service
1725 Office at the time the surplus lines agent pays the surplus
1726 lines tax to that ~~the Florida Surplus Lines Service~~ office. Upon
1727 receipt of regular assessments from surplus lines agents, the
1728 Florida Surplus Lines Service Office shall transfer the
1729 assessments directly to the corporation as determined by the
1730 corporation.

1731 ~~c.d.~~ Upon a determination by the board of governors that a
1732 deficit in an account exceeds the amount that will be recovered
1733 through regular assessments under sub-subparagraph a. ~~or sub-~~
1734 ~~subparagraph b.~~, plus the amount that is expected to be
1735 recovered through surcharges under sub-subparagraph h. i., ~~as to~~
1736 ~~the remaining projected deficit~~ the board ~~shall levy~~, after
1737 verification by the office, shall levy emergency assessments,
1738 for as many years as necessary to cover the deficits, to be
1739 collected by assessable insurers and the corporation and
1740 collected from assessable insureds upon issuance or renewal of

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1741 policies for subject lines of business, excluding National Flood
1742 Insurance policies. The amount ~~of the emergency assessment~~
1743 collected in a particular year must ~~shall~~ be a uniform
1744 percentage of that year's direct written premium for subject
1745 lines of business and all accounts of the corporation, excluding
1746 National Flood Insurance Program policy premiums, as annually
1747 determined by the board and verified by the office. The office
1748 shall verify the arithmetic calculations involved in the board's
1749 determination within 30 days after receipt of the information on
1750 which the determination was based. Notwithstanding any other
1751 provision of law, the corporation and each assessable insurer
1752 that writes subject lines of business shall collect emergency
1753 assessments from its policyholders without such obligation being
1754 affected by any credit, limitation, exemption, or deferment.
1755 Emergency assessments levied by the corporation on assessable
1756 insureds shall be collected by the surplus lines agent at the
1757 time the surplus lines agent collects the surplus lines tax
1758 required by s. 626.932 and ~~shall be~~ paid to the Florida Surplus
1759 Lines Service Office at the time the surplus lines agent pays
1760 the surplus lines tax to that ~~the Florida Surplus Lines Service~~
1761 office. The emergency assessments ~~so~~ collected shall be
1762 transferred directly to the corporation on a periodic basis as
1763 determined by the corporation and ~~shall be~~ held by the
1764 corporation solely in the applicable account. The aggregate
1765 amount of emergency assessments levied for an account under this
1766 sub-subparagraph in any calendar year may, ~~at the discretion of~~
1767 ~~the board of governors,~~ be less than but may not exceed the
1768 greater of 10 percent of the amount needed to cover the deficit,
1769 plus interest, fees, commissions, required reserves, and other

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1770 costs associated with financing ~~of~~ the original deficit, or 10
1771 percent of the aggregate statewide direct written premium for
1772 subject lines of business and ~~for~~ all accounts of the
1773 corporation for the prior year, plus interest, fees,
1774 commissions, required reserves, and other costs associated with
1775 financing the deficit.

1776 d.e. The corporation may pledge the proceeds of
1777 assessments, projected recoveries from the Florida Hurricane
1778 Catastrophe Fund, other insurance and reinsurance recoverables,
1779 policyholder surcharges and other surcharges, and other funds
1780 available to the corporation as the source of revenue for and to
1781 secure bonds issued under paragraph (q), bonds or other
1782 indebtedness issued under subparagraph (c)3., or lines of credit
1783 or other financing mechanisms issued or created under this
1784 subsection, or to retire any other debt incurred as a result of
1785 deficits or events giving rise to deficits, or in any other way
1786 that the board determines will efficiently recover such
1787 deficits. The purpose of the lines of credit or other financing
1788 mechanisms is to provide additional resources to assist the
1789 corporation in covering claims and expenses attributable to a
1790 catastrophe. As used in this subsection, the term "assessments"
1791 includes regular assessments under sub-subparagraph a., ~~sub-~~
1792 ~~subparagraph b.~~, or subparagraph (q)1. and emergency assessments
1793 under sub-subparagraph d. Emergency assessments collected under
1794 sub-subparagraph d. are not part of an insurer's rates, are not
1795 premium, and are not subject to premium tax, fees, or
1796 commissions; however, failure to pay the emergency assessment
1797 shall be treated as failure to pay premium. The emergency
1798 assessments under sub-subparagraph c. ~~d.~~ shall continue as long

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1799 as any bonds issued or other indebtedness incurred with respect
1800 to a deficit for which the assessment was imposed remain
1801 outstanding, unless adequate provision has been made for the
1802 payment of such bonds or other indebtedness pursuant to the
1803 documents governing such bonds or ~~other~~ indebtedness.

1804 ~~e.f.~~ As used in this subsection for purposes of any deficit
1805 incurred on or after January 25, 2007, the term "subject lines
1806 of business" means insurance written by assessable insurers or
1807 procured by assessable insureds for all property and casualty
1808 lines of business in this state, but not including workers'
1809 compensation or medical malpractice. As used in this ~~the~~ sub-
1810 subparagraph, the term "property and casualty lines of business"
1811 includes all lines of business identified on Form 2, Exhibit of
1812 Premiums and Losses, in the annual statement required of
1813 authorized insurers under ~~by~~ s. 624.424 and any rule adopted
1814 under this section, except for those lines identified as
1815 accident and health insurance and except for policies written
1816 under the National Flood Insurance Program or the Federal Crop
1817 Insurance Program. For purposes of this sub-subparagraph, the
1818 term "workers' compensation" includes both workers' compensation
1819 insurance and excess workers' compensation insurance.

1820 ~~f.g.~~ The Florida Surplus Lines Service Office shall
1821 determine annually the aggregate statewide written premium in
1822 subject lines of business procured by assessable insureds and
1823 ~~shall~~ report that information to the corporation in a form and
1824 at a time the corporation specifies to ensure that the
1825 corporation can meet the requirements of this subsection and the
1826 corporation's financing obligations.

1827 ~~g.h.~~ The Florida Surplus Lines Service Office shall verify

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1828 the proper application by surplus lines agents of assessment
1829 percentages for regular assessments and emergency assessments
1830 levied under this subparagraph on assessable insureds and ~~shall~~
1831 assist the corporation in ensuring the accurate, timely
1832 collection and payment of assessments by surplus lines agents as
1833 required by the corporation.

1834 ~~h.i.~~ If a deficit is incurred in any account in 2008 or
1835 thereafter, the board of governors shall levy a ~~Citizens~~
1836 policyholder surcharge against all policyholders of the
1837 corporation. ~~for a 12-month period, which~~

1838 (I) The surcharge shall be levied ~~collected at the time of~~
1839 ~~issuance or renewal of a policy,~~ as a uniform percentage of the
1840 premium for the policy of up to 15 percent of such premium,
1841 which funds shall be used to offset the deficit.

1842 (II) The surcharge is payable upon cancellation or
1843 termination of the policy, upon renewal of the policy, or upon
1844 issuance of a new policy by the corporation within the first 12
1845 months after the date of the levy or the period of time
1846 necessary to fully collect the surcharge amount.

1847 (III) The corporation may not levy any regular assessments
1848 under paragraph (q) pursuant to sub-subparagraph a. or sub-
1849 subparagraph b. with respect to a particular year's deficit
1850 until the corporation has first levied the full amount of the
1851 surcharge authorized by this sub-subparagraph.

1852 (IV) The surcharge is ~~Citizens policyholder surcharges~~
1853 ~~under this sub-subparagraph~~ are not considered premium and is
1854 ~~are~~ not subject to commissions, fees, or premium taxes. However,
1855 failure to pay the surcharge ~~such surcharges~~ shall be treated as
1856 failure to pay premium.

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1857 ~~i.j.~~ If the amount of any assessments or surcharges
1858 collected from corporation policyholders, assessable insurers or
1859 their policyholders, or assessable insureds exceeds the amount
1860 of the deficits, such excess amounts shall be remitted to and
1861 retained by the corporation in a reserve to be used by the
1862 corporation, as determined by the board of governors and
1863 approved by the office, to pay claims or reduce any past,
1864 present, or future plan-year deficits or to reduce outstanding
1865 debt.

1866 (c) The corporation's plan of operation ~~of the corporation~~:

1867 1. Must provide for adoption of residential property and
1868 casualty insurance policy forms and commercial residential and
1869 nonresidential property insurance forms, which ~~forms~~ must be
1870 approved by the office before ~~prior to~~ use. The corporation
1871 shall adopt the following policy forms:

1872 a. Standard personal lines policy forms that are
1873 comprehensive multiperil policies providing full coverage of a
1874 residential property equivalent to the coverage provided in the
1875 private insurance market under an HO-3, HO-4, or HO-6 policy.

1876 b. Basic personal lines policy forms that are policies
1877 similar to an HO-8 policy or a dwelling fire policy that provide
1878 coverage meeting the requirements of the secondary mortgage
1879 market, but which ~~coverage~~ is more limited than the coverage
1880 under a standard policy.

1881 c. Commercial lines residential and nonresidential policy
1882 forms that are generally similar to the basic perils of full
1883 coverage obtainable for commercial residential structures and
1884 commercial nonresidential structures in the admitted voluntary
1885 market.

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1886 d. Personal lines and commercial lines residential property
1887 insurance forms that cover the peril of wind only. The forms are
1888 applicable only to residential properties located in areas
1889 eligible for coverage under the coastal ~~high-risk~~ account
1890 referred to in sub-subparagraph (b)2.a.

1891 e. Commercial lines nonresidential property insurance forms
1892 that cover the peril of wind only. The forms are applicable only
1893 to nonresidential properties located in areas eligible for
1894 coverage under the coastal ~~high-risk~~ account referred to in sub-
1895 subparagraph (b)2.a.

1896 f. The corporation may adopt variations of the policy forms
1897 listed in sub-subparagraphs a.-e. which ~~that~~ contain more
1898 restrictive coverage.

1899 ~~2.a.~~ Must provide that the corporation adopt a program in
1900 which the corporation and authorized insurers enter into quota
1901 share primary insurance agreements for hurricane coverage, as
1902 defined in s. 627.4025(2) (a), for eligible risks, and adopt
1903 property insurance forms for eligible risks which cover the
1904 peril of wind only.

1905 a. As used in this subsection, the term:

1906 (I) "Quota share primary insurance" means an arrangement in
1907 which the primary hurricane coverage of an eligible risk is
1908 provided in specified percentages by the corporation and an
1909 authorized insurer. The corporation and authorized insurer are
1910 each solely responsible for a specified percentage of hurricane
1911 coverage of an eligible risk as set forth in a quota share
1912 primary insurance agreement between the corporation and an
1913 authorized insurer and the insurance contract. The
1914 responsibility of the corporation or authorized insurer to pay

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1915 its specified percentage of hurricane losses of an eligible
1916 risk, as set forth in the ~~quota share primary insurance~~
1917 agreement, may not be altered by the inability of the other
1918 party ~~to the agreement~~ to pay its specified percentage of
1919 ~~hurricane~~ losses. Eligible risks that are provided hurricane
1920 coverage through a quota share primary insurance arrangement
1921 must be provided policy forms that set forth the obligations of
1922 the corporation and authorized insurer under the arrangement,
1923 clearly specify the percentages of quota share primary insurance
1924 provided by the corporation and authorized insurer, and
1925 conspicuously and clearly state that ~~neither~~ the authorized
1926 insurer and ~~nor~~ the corporation may not be held responsible
1927 beyond their ~~its~~ specified percentage of coverage of hurricane
1928 losses.

1929 (II) "Eligible risks" means personal lines residential and
1930 commercial lines residential risks that meet the underwriting
1931 criteria of the corporation and are located in areas that were
1932 eligible for coverage by the Florida Windstorm Underwriting
1933 Association on January 1, 2002.

1934 b. The corporation may enter into quota share primary
1935 insurance agreements with authorized insurers at corporation
1936 coverage levels of 90 percent and 50 percent.

1937 c. If the corporation determines that additional coverage
1938 levels are necessary to maximize participation in quota share
1939 primary insurance agreements by authorized insurers, the
1940 corporation may establish additional coverage levels. However,
1941 the corporation's quota share primary insurance coverage level
1942 may not exceed 90 percent.

1943 d. Any quota share primary insurance agreement entered into

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

1949 e. Any quota share primary insurance agreement entered into
1950 between an authorized insurer and the corporation is subject to
1951 review and approval by the office. However, such agreement shall
1952 be authorized only as to insurance contracts entered into
1953 between an authorized insurer and an insured who is already
1954 insured by the corporation for wind coverage.

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

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

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

1986 3. May provide that the corporation may employ or otherwise
1987 contract with individuals or other entities to provide
1988 administrative or professional services that may be appropriate
1989 to effectuate the plan. The corporation may ~~shall have the power~~
1990 ~~to~~ borrow funds, by issuing bonds or by incurring other
1991 indebtedness, and shall have other powers reasonably necessary
1992 to effectuate the requirements of this subsection, including,
1993 without limitation, the power to issue bonds and incur other
1994 indebtedness in order to refinance outstanding bonds or other
1995 indebtedness. The corporation ~~may, but is not required to,~~ seek
1996 judicial validation of its bonds or other indebtedness under
1997 chapter 75. The corporation may issue bonds or incur other
1998 indebtedness, or have bonds issued on its behalf by a unit of
1999 local government pursuant to subparagraph (q)2.7 in the absence
2000 of a hurricane or other weather-related event, upon a
2001 determination by the corporation, subject to approval by the

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2002 office, that such action would enable it to efficiently meet the
2003 financial obligations of the corporation and that such
2004 financings are reasonably necessary to effectuate the
2005 requirements of this subsection. The corporation may ~~is~~
2006 ~~authorized to~~ take all actions needed to facilitate tax-free
2007 status for ~~any~~ such bonds or indebtedness, including formation
2008 of trusts or other affiliated entities. The corporation may
2009 ~~shall have the authority to~~ pledge assessments, projected
2010 recoveries from the Florida Hurricane Catastrophe Fund, other
2011 reinsurance recoverables, market equalization and other
2012 surcharges, and other funds available to the corporation as
2013 security for bonds or other indebtedness. In recognition of s.
2014 10, Art. I of the State Constitution, prohibiting the impairment
2015 of obligations of contracts, it is the intent of the Legislature
2016 that no action be taken whose purpose is to impair any bond
2017 indenture or financing agreement or any revenue source committed
2018 by contract to such bond or other indebtedness.

2019 4.~~a.~~ Must require that the corporation operate subject to
2020 the supervision and approval of a board of governors consisting
2021 of eight individuals who are residents of this state, from
2022 different geographical areas of this state.

2023 a. The Governor, the Chief Financial Officer, the President
2024 of the Senate, and the Speaker of the House of Representatives
2025 shall each appoint two members of the board. At least one of the
2026 two members appointed by each appointing officer must have
2027 demonstrated expertise in insurance, and is deemed to be within
2028 the scope of the exemption provided in s. 112.313(7)(b). The
2029 Chief Financial Officer shall designate one of the appointees as
2030 chair. All board members serve at the pleasure of the appointing

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2031 officer. All members of the board of ~~governors~~ are subject to
2032 removal at will by the officers who appointed them. All board
2033 members, including the chair, must be appointed to serve for 3-
2034 year terms beginning annually on a date designated by the plan.
2035 However, for the first term beginning on or after July 1, 2009,
2036 each appointing officer shall appoint one member of the board
2037 for a 2-year term and one member for a 3-year term. A ~~Any~~ board
2038 vacancy shall be filled for the unexpired term by the appointing
2039 officer. The Chief Financial Officer shall appoint a technical
2040 advisory group to provide information and advice to the board of ~~of~~
2041 ~~governors~~ in connection with the board's duties under this
2042 subsection. The executive director and senior managers of the
2043 corporation shall be engaged by the board and serve at the
2044 pleasure of the board. Any executive director appointed on or
2045 after July 1, 2006, is subject to confirmation by the Senate.
2046 The executive director is responsible for employing other staff
2047 as the corporation may require, subject to review and
2048 concurrence by the board.

2049 b. The board shall create a Market Accountability Advisory
2050 Committee to assist the corporation in developing awareness of
2051 its rates and its customer and agent service levels in
2052 relationship to the voluntary market insurers writing similar
2053 coverage.

2054 (I) The members of the advisory committee ~~shall~~ consist of
2055 the following 11 persons, one of whom must be elected chair by
2056 the members of the committee: four representatives, one
2057 appointed by the Florida Association of Insurance Agents, one by
2058 the Florida Association of Insurance and Financial Advisors, one
2059 by the Professional Insurance Agents of Florida, and one by the

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2060 Latin American Association of Insurance Agencies; three
2061 representatives appointed by the insurers with the three highest
2062 voluntary market share of residential property insurance
2063 business in the state; one representative from the Office of
2064 Insurance Regulation; one consumer appointed by the board who is
2065 insured by the corporation at the time of appointment to the
2066 committee; one representative appointed by the Florida
2067 Association of Realtors; and one representative appointed by the
2068 Florida Bankers Association. All members shall be appointed to
2069 ~~must serve for~~ 3-year terms and may serve for consecutive terms.

2070 (II) The committee shall report to the corporation at each
2071 board meeting on insurance market issues which may include rates
2072 and rate competition with the voluntary market; service,
2073 including policy issuance, claims processing, and general
2074 responsiveness to policyholders, applicants, and agents; and
2075 matters relating to depopulation.

2076 5. Must provide a procedure for determining the eligibility
2077 of a risk for coverage, as follows:

2078 a. Subject to ~~the provisions of~~ s. 627.3517, with respect
2079 to personal lines residential risks, if the risk is offered
2080 coverage from an authorized insurer at the insurer's approved
2081 rate under ~~either~~ a standard policy including wind coverage or,
2082 if consistent with the insurer's underwriting rules as filed
2083 with the office, a basic policy including wind coverage, for a
2084 new application to the corporation for coverage, the risk is not
2085 eligible for any policy issued by the corporation unless the
2086 premium for coverage from the authorized insurer is more than 15
2087 percent greater than the premium for comparable coverage from
2088 the corporation. If the risk is not able to obtain ~~any~~ such

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2089 offer, the risk is eligible for ~~either~~ a standard policy
2090 including wind coverage or a basic policy including wind
2091 coverage issued by the corporation; however, if the risk could
2092 not be insured under a standard policy including wind coverage
2093 regardless of market conditions, the risk is ~~shall be~~ eligible
2094 for a basic policy including wind coverage unless rejected under
2095 subparagraph 8. However, ~~with regard to~~ a policyholder of the
2096 corporation or a policyholder removed from the corporation
2097 through an assumption agreement until the end of the assumption
2098 period, ~~the policyholder~~ remains eligible for coverage from the
2099 corporation regardless of any offer of coverage from an
2100 authorized insurer or surplus lines insurer. The corporation
2101 shall determine the type of policy to be provided on the basis
2102 of objective standards specified in the underwriting manual and
2103 based on generally accepted underwriting practices.

2104 (I) If the risk accepts an offer of coverage through the
2105 market assistance plan or ~~an offer of coverage~~ through a
2106 mechanism established by the corporation before a policy is
2107 issued to the risk by the corporation or during the first 30
2108 days of coverage by the corporation, and the producing agent who
2109 submitted the application to the plan or to the corporation is
2110 not currently appointed by the insurer, the insurer shall:

2111 (A) Pay to the producing agent of record of the policy, ~~for~~
2112 the first year, an amount that is the greater of the insurer's
2113 usual and customary commission for the type of policy written or
2114 a fee equal to the usual and customary commission of the
2115 corporation; or

2116 (B) Offer to allow the producing agent of record of the
2117 policy to continue servicing the policy for at least ~~a period of~~

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2118 ~~not less than~~ 1 year and offer to pay the agent the greater of
2119 the insurer's or the corporation's usual and customary
2120 commission for the type of policy written.

2121
2122 If the producing agent is unwilling or unable to accept
2123 appointment, the new insurer shall pay the agent in accordance
2124 with sub-sub-sub-subparagraph (A).

2125 (II) If ~~When~~ the corporation enters into a contractual
2126 agreement for a take-out plan, the producing agent of record of
2127 the corporation policy is entitled to retain any unearned
2128 commission on the policy, and the insurer shall:

2129 (A) Pay to the producing agent of record ~~of the corporation~~
2130 ~~policy~~, for the first year, an amount that is the greater of the
2131 insurer's usual and customary commission for the type of policy
2132 written or a fee equal to the usual and customary commission of
2133 the corporation; or

2134 (B) Offer to allow the producing agent of record ~~of the~~
2135 ~~corporation policy~~ to continue servicing the policy for at least
2136 ~~a period of not less than~~ 1 year and offer to pay the agent the
2137 greater of the insurer's or the corporation's usual and
2138 customary commission for the type of policy written.

2139
2140 If the producing agent is unwilling or unable to accept
2141 appointment, the new insurer shall pay the agent in accordance
2142 with sub-sub-sub-subparagraph (A).

2143 b. With respect to commercial lines residential risks, for
2144 a new application to the corporation for coverage, if the risk
2145 is offered coverage under a policy including wind coverage from
2146 an authorized insurer at its approved rate, the risk is not

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2147 eligible for a ~~any~~ policy issued by the corporation unless the
2148 premium for coverage from the authorized insurer is more than 15
2149 percent greater than the premium for comparable coverage from
2150 the corporation. If the risk is not able to obtain any such
2151 offer, the risk is eligible for a policy including wind coverage
2152 issued by the corporation. However, ~~with regard to~~ a
2153 policyholder of the corporation or a policyholder removed from
2154 the corporation through an assumption agreement until the end of
2155 the assumption period, ~~the policyholder~~ remains eligible for
2156 coverage from the corporation regardless of an ~~any~~ offer of
2157 coverage from an authorized insurer or surplus lines insurer.

2158 (I) If the risk accepts an offer of coverage through the
2159 market assistance plan or ~~an offer of coverage~~ through a
2160 mechanism established by the corporation before a policy is
2161 issued to the risk by the corporation or during the first 30
2162 days of coverage by the corporation, and the producing agent who
2163 submitted the application to the plan or the corporation is not
2164 currently appointed by the insurer, the insurer shall:

2165 (A) Pay to the producing agent of record of the policy, for
2166 the first year, an amount that is the greater of the insurer's
2167 usual and customary commission for the type of policy written or
2168 a fee equal to the usual and customary commission of the
2169 corporation; or

2170 (B) Offer to allow the producing agent of record of the
2171 policy to continue servicing the policy for at least ~~a period of~~
2172 ~~not less than~~ 1 year and offer to pay the agent the greater of
2173 the insurer's or the corporation's usual and customary
2174 commission for the type of policy written.

2175

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2176 If the producing agent is unwilling or unable to accept
2177 appointment, the new insurer shall pay the agent in accordance
2178 with sub-sub-sub-subparagraph (A).

2179 (II) If ~~When~~ the corporation enters into a contractual
2180 agreement for a take-out plan, the producing agent of record of
2181 the corporation policy is entitled to retain any unearned
2182 commission on the policy, and the insurer shall:

2183 (A) Pay to the producing agent of record ~~of the corporation~~
2184 policy, for the first year, an amount that is the greater of the
2185 insurer's usual and customary commission for the type of policy
2186 written or a fee equal to the usual and customary commission of
2187 the corporation; or

2188 (B) Offer to allow the producing agent of record ~~of the~~
2189 ~~corporation policy~~ to continue servicing the policy for at least
2190 ~~a period of not less than~~ 1 year and offer to pay the agent the
2191 greater of the insurer's or the corporation's usual and
2192 customary commission for the type of policy written.

2193

2194 If the producing agent is unwilling or unable to accept
2195 appointment, the new insurer shall pay the agent in accordance
2196 with sub-sub-sub-subparagraph (A).

2197 c. For purposes of determining comparable coverage under
2198 sub-subparagraphs a. and b., the comparison must ~~shall~~ be based
2199 on those forms and coverages that are reasonably comparable. The
2200 corporation may rely on a determination of comparable coverage
2201 and premium made by the producing agent who submits the
2202 application to the corporation, made in the agent's capacity as
2203 the corporation's agent. A comparison may be made solely of the
2204 premium with respect to the main building or structure only on

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2205 the following basis: the same coverage A or other building
2206 limits; the same percentage hurricane deductible that applies on
2207 an annual basis or that applies to each hurricane for commercial
2208 residential property; the same percentage of ordinance and law
2209 coverage, if the same limit is offered by both the corporation
2210 and the authorized insurer; the same mitigation credits, to the
2211 extent the same types of credits are offered both by the
2212 corporation and the authorized insurer; the same method for loss
2213 payment, such as replacement cost or actual cash value, if the
2214 same method is offered both by the corporation and the
2215 authorized insurer in accordance with underwriting rules; and
2216 any other form or coverage that is reasonably comparable as
2217 determined by the board. If an application is submitted to the
2218 corporation for wind-only coverage in the coastal ~~high-risk~~
2219 account, the premium for the corporation's wind-only policy plus
2220 the premium for the ex-wind policy that is offered by an
2221 authorized insurer to the applicant must ~~shall~~ be compared to
2222 the premium for multiperil coverage offered by an authorized
2223 insurer, subject to the standards for comparison specified in
2224 this subparagraph. If the corporation or the applicant requests
2225 from the authorized insurer a breakdown of the premium of the
2226 offer by types of coverage so that a comparison may be made by
2227 the corporation or its agent and the authorized insurer refuses
2228 or is unable to provide such information, the corporation may
2229 treat the offer as not being an offer of coverage from an
2230 authorized insurer at the insurer's approved rate.

2231 6. Must include rules for classifications of risks and
2232 rates ~~therefor~~.

2233 7. Must provide that if premium and investment income for

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2234 an account attributable to a particular calendar year are in
2235 excess of projected losses and expenses for the account
2236 attributable to that year, such excess shall be held in surplus
2237 in the account. Such surplus must ~~shall~~ be available to defray
2238 deficits in that account as to future years and ~~shall be~~ used
2239 for that purpose before ~~prior to~~ assessing assessable insurers
2240 and assessable insureds as to any calendar year.

2241 8. Must provide objective criteria and procedures to be
2242 uniformly applied to ~~for~~ all applicants in determining whether
2243 an individual risk is so hazardous as to be uninsurable. In
2244 making this determination and in establishing the criteria and
2245 procedures, the following must ~~shall~~ be considered:

2246 a. Whether the likelihood of a loss for the individual risk
2247 is substantially higher than for other risks of the same class;
2248 and

2249 b. Whether the uncertainty associated with the individual
2250 risk is such that an appropriate premium cannot be determined.

2251
2252 The acceptance or rejection of a risk by the corporation shall
2253 be construed as the private placement of insurance, and the
2254 provisions of chapter 120 do ~~shall~~ not apply.

2255 9. Must provide that the corporation ~~shall~~ make its best
2256 efforts to procure catastrophe reinsurance at reasonable rates,
2257 to cover its projected 100-year probable maximum loss as
2258 determined by the board of governors.

2259 10. The policies issued by the corporation must provide
2260 that, if the corporation or the market assistance plan obtains
2261 an offer from an authorized insurer to cover the risk at its
2262 approved rates, the risk is no longer eligible for renewal

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2263 through the corporation, except as otherwise provided in this
2264 subsection.

2265 11. Corporation policies and applications must include a
2266 notice that the corporation policy could, under this section, be
2267 replaced with a policy issued by an authorized insurer which
2268 ~~that~~ does not provide coverage identical to the coverage
2269 provided by the corporation. The notice must ~~shall~~ also specify
2270 that acceptance of corporation coverage creates a conclusive
2271 presumption that the applicant or policyholder is aware of this
2272 potential.

2273 12. May establish, subject to approval by the office,
2274 different eligibility requirements and operational procedures
2275 for any line or type of coverage for any specified county or
2276 area if the board determines that such changes ~~to the~~
2277 ~~eligibility requirements and operational procedures~~ are
2278 justified due to the voluntary market being sufficiently stable
2279 and competitive in such area or for such line or type of
2280 coverage and that consumers who, in good faith, are unable to
2281 obtain insurance through the voluntary market through ordinary
2282 methods ~~would~~ continue to have access to coverage from the
2283 corporation. If ~~When~~ coverage is sought in connection with a
2284 real property transfer, the ~~such~~ requirements and procedures may
2285 ~~shall~~ not provide ~~for~~ an effective date of coverage later than
2286 the date of the closing of the transfer as established by the
2287 transferor, the transferee, and, if applicable, the lender.

2288 13. Must provide that, with respect to the coastal high-
2289 ~~risk~~ account, any assessable insurer with a surplus as to
2290 policyholders of \$25 million or less writing 25 percent or more
2291 of its total countrywide property insurance premiums in this

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2292 state may petition the office, within the first 90 days of each
2293 calendar year, to qualify as a limited apportionment company. A
2294 regular assessment levied by the corporation on a limited
2295 apportionment company for a deficit incurred by the corporation
2296 for the coastal high-risk account ~~in 2006 or thereafter~~ may be
2297 paid to the corporation on a monthly basis as the assessments
2298 are collected by the limited apportionment company from its
2299 insureds pursuant to s. 627.3512, but the regular assessment
2300 must be paid in full within 12 months after being levied by the
2301 corporation. A limited apportionment company shall collect from
2302 its policyholders any emergency assessment imposed under sub-
2303 subparagraph (b)3.d. The plan must ~~shall~~ provide that, if the
2304 office determines that any regular assessment will result in an
2305 impairment of the surplus of a limited apportionment company,
2306 the office may direct that all or part of such assessment be
2307 deferred as provided in subparagraph (q)4. However, ~~there shall~~
2308 ~~be no limitation or deferment of~~ an emergency assessment to be
2309 collected from policyholders under sub-subparagraph (b)3.d. may
2310 not be limited or deferred.

2311 14. Must provide that the corporation appoint as its
2312 licensed agents only those agents who also hold an appointment
2313 as defined in s. 626.015(3) with an insurer who at the time of
2314 the agent's initial appointment by the corporation is authorized
2315 to write and is actually writing personal lines residential
2316 property coverage, commercial residential property coverage, or
2317 commercial nonresidential property coverage within the state.

2318 15. Must provide, ~~by July 1, 2007,~~ a premium payment plan
2319 option to its policyholders which, ~~allows~~ at a minimum, allows
2320 for quarterly and semiannual payment of premiums. A monthly

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2321 payment plan may, but is not required to, be offered.

2322 16. Must limit coverage on mobile homes or manufactured
2323 homes built before ~~prior to~~ 1994 to actual cash value of the
2324 dwelling rather than replacement costs of the dwelling.

2325 17. May provide such limits of coverage as the board
2326 determines, consistent with the requirements of this subsection.

2327 18. May require commercial property to meet specified
2328 hurricane mitigation construction features as a condition of
2329 eligibility for coverage.

2330 19. Must offer sinkhole coverage. However, effective
2331 February 1, 2012, coverage is not included for losses to
2332 appurtenant structures, driveways, sidewalks, decks, or patios
2333 that are directly or indirectly caused by sinkhole activity. The
2334 corporation shall exclude such coverage using a notice of
2335 coverage change, which may be included with the policy renewal,
2336 and not by issuance of a notice of nonrenewal of the excluded
2337 coverage upon renewal of the current policy.

2338 20. As a condition for making payment for damage caused by
2339 the peril of sinkhole, regardless of whether such payment is
2340 made pursuant to the contract, mediation, neutral evaluation,
2341 appraisal, arbitration, settlement, or litigation, the payment
2342 must be dedicated entirely to the costs of repairing the
2343 structure or remediation of the land. Unless this condition is
2344 met, the corporation is prohibited from making payment.

2345 (d)1. All prospective employees for senior management
2346 positions, as defined by the plan of operation, are subject to
2347 background checks as a prerequisite for employment. The office
2348 shall conduct the background checks ~~on such prospective~~
2349 ~~employees~~ pursuant to ss. 624.34, 624.404(3), and 628.261.

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2350 2. On or before July 1 of each year, employees of the
2351 corporation must ~~are required to~~ sign and submit a statement
2352 attesting that they do not have a conflict of interest, as
2353 defined in part III of chapter 112. As a condition of
2354 employment, all prospective employees must ~~are required to~~ sign
2355 and submit to the corporation a conflict-of-interest statement.

2356 3. Senior managers and members of the board of governors
2357 are subject to ~~the provisions of~~ part III of chapter 112,
2358 including, but not limited to, the code of ethics and public
2359 disclosure and reporting of financial interests, pursuant to s.
2360 112.3145. Notwithstanding s. 112.3143(2), a board member may not
2361 vote on any measure that would inure to his or her special
2362 private gain or loss; that he or she knows would inure to the
2363 special private gain or loss of any principal by whom he or she
2364 is retained or to the parent organization or subsidiary of a
2365 corporate principal by which he or she is retained, other than
2366 an agency as defined in s. 112.312; or that he or she knows
2367 would inure to the special private gain or loss of a relative or
2368 business associate of the public officer. Before the vote is
2369 taken, such member shall publicly state to the assembly the
2370 nature of his or her interest in the matter from which he or she
2371 is abstaining from voting and, within 15 days after the vote
2372 occurs, disclose the nature of his or her interest as a public
2373 record in a memorandum filed with the person responsible for
2374 recording the minutes of the meeting, who shall incorporate the
2375 memorandum in the minutes. Senior managers and board members are
2376 also required to file such disclosures with the Commission on
2377 Ethics and the Office of Insurance Regulation. The executive
2378 director of the corporation or his or her designee shall notify

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2379 each existing and newly appointed ~~and existing appointed~~ member
2380 of the board of governors and senior managers of their duty to
2381 comply with the reporting requirements of part III of chapter
2382 112. At least quarterly, the executive director or his or her
2383 designee shall submit to the Commission on Ethics a list of
2384 names of the senior managers and members of the board of
2385 governors who are subject to the public disclosure requirements
2386 under s. 112.3145.

2387 4. Notwithstanding s. 112.3148 or s. 112.3149, or any other
2388 provision of law, an employee or board member may not knowingly
2389 accept, directly or indirectly, any gift or expenditure from a
2390 person or entity, or an employee or representative of such
2391 person or entity, which ~~that~~ has a contractual relationship with
2392 the corporation or who is under consideration for a contract. An
2393 employee or board member who fails to comply with subparagraph
2394 3. or this subparagraph is subject to penalties provided under
2395 ss. 112.317 and 112.3173.

2396 5. Any senior manager of the corporation who is employed on
2397 or after January 1, 2007, regardless of the date of hire, who
2398 subsequently retires or terminates employment is prohibited from
2399 representing another person or entity before the corporation for
2400 2 years after retirement or termination of employment from the
2401 corporation.

2402 6. Any senior manager of the corporation who is employed on
2403 or after January 1, 2007, regardless of the date of hire, who
2404 subsequently retires or terminates employment is prohibited from
2405 having any employment or contractual relationship for 2 years
2406 with an insurer that has entered into a take-out bonus agreement
2407 with the corporation.

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2408 (n)1. Rates for coverage provided by the corporation must
2409 ~~shall~~ be actuarially sound and subject to ~~the requirements of~~ s.
2410 627.062, except as otherwise provided in this paragraph. The
2411 corporation shall file its recommended rates with the office at
2412 least annually. The corporation shall provide any additional
2413 information regarding the rates which the office requires. The
2414 office shall consider the recommendations of the board and issue
2415 a final order establishing the rates for the corporation within
2416 45 days after the recommended rates are filed. The corporation
2417 may not pursue an administrative challenge or judicial review of
2418 the final order of the office.

2419 2. In addition to the rates otherwise determined pursuant
2420 to this paragraph, the corporation shall impose and collect an
2421 amount equal to the premium tax provided ~~for~~ in s. 624.509 to
2422 augment the financial resources of the corporation.

2423 3. After the public hurricane loss-projection model under
2424 s. 627.06281 has been found to be accurate and reliable by the
2425 Florida Commission on Hurricane Loss Projection Methodology, the
2426 ~~that~~ model shall serve as the minimum benchmark for determining
2427 the windstorm portion of the corporation's rates. This
2428 subparagraph does not require or allow the corporation to adopt
2429 rates lower than the rates otherwise required or allowed by this
2430 paragraph.

2431 4. The rate filings for the corporation which were approved
2432 by the office and ~~which~~ took effect January 1, 2007, are
2433 rescinded, except for those rates that were lowered. As soon as
2434 possible, the corporation shall begin using the lower rates that
2435 were in effect on December 31, 2006, and ~~shall~~ provide refunds
2436 to policyholders who ~~have~~ paid higher rates as a result of that

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2437 rate filing. The rates in effect on December 31, 2006, ~~shall~~
2438 remain in effect for the 2007 and 2008 calendar years except for
2439 any rate change that results in a lower rate. The next rate
2440 change that may increase rates shall take effect pursuant to a
2441 new rate filing recommended by the corporation and established
2442 by the office, subject to ~~the requirements of~~ this paragraph.

2443 5. Beginning on July 15, 2009, and annually ~~each year~~
2444 thereafter, the corporation must make a recommended actuarially
2445 sound rate filing for each personal and commercial line of
2446 business it writes, to be effective no earlier than January 1,
2447 2010.

2448 6. Beginning on or after January 1, 2010, and
2449 notwithstanding the board's recommended rates and the office's
2450 final order regarding the corporation's filed rates under
2451 subparagraph 1., the corporation shall annually implement a rate
2452 increase ~~each year~~ which, except for sinkhole coverage, does not
2453 exceed 10 percent for any single policy issued by the
2454 corporation, excluding coverage changes and surcharges.

2455 7. The corporation may also implement an increase to
2456 reflect the effect on the corporation of the cash buildup factor
2457 pursuant to s. 215.555(5)(b).

2458 8. The corporation's implementation of rates as prescribed
2459 in subparagraph 6. shall cease for any line of business written
2460 by the corporation upon the corporation's implementation of
2461 actuarially sound rates. Thereafter, the corporation shall
2462 annually make a recommended actuarially sound rate filing for
2463 each commercial and personal line of business the corporation
2464 writes.

2465 (v)1. Effective July 1, 2002, policies of the Residential

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2466 Property and Casualty Joint Underwriting Association ~~shall~~
2467 become policies of the corporation. All obligations, rights,
2468 assets and liabilities of the ~~Residential Property and Casualty~~
2469 ~~Joint Underwriting~~ association, including bonds, note and debt
2470 obligations, and the financing documents pertaining to them
2471 become those of the corporation as of July 1, 2002. The
2472 corporation is not required to issue endorsements or
2473 certificates of assumption to insureds during the remaining term
2474 of in-force transferred policies.

2475 2. Effective July 1, 2002, policies of the Florida
2476 Windstorm Underwriting Association are transferred to the
2477 corporation and ~~shall~~ become policies of the corporation. All
2478 obligations, rights, assets, and liabilities of the ~~Florida~~
2479 ~~Windstorm Underwriting~~ association, including bonds, note and
2480 debt obligations, and the financing documents pertaining to them
2481 are transferred to and assumed by the corporation on July 1,
2482 2002. The corporation is not required to issue endorsements or
2483 certificates of assumption to insureds during the remaining term
2484 of in-force transferred policies.

2485 3. The Florida Windstorm Underwriting Association and the
2486 Residential Property and Casualty Joint Underwriting Association
2487 shall take all actions necessary ~~as may be proper~~ to further
2488 evidence the transfers and ~~shall~~ provide the documents and
2489 instruments of further assurance as may reasonably be requested
2490 by the corporation for that purpose. The corporation shall
2491 execute assumptions and instruments as the trustees or other
2492 parties to the financing documents of the Florida Windstorm
2493 Underwriting Association or the Residential Property and
2494 Casualty Joint Underwriting Association may reasonably request

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2495 to further evidence the transfers and assumptions, which
2496 transfers and assumptions, however, are effective on the date
2497 provided under this paragraph whether or not, and regardless of
2498 the date on which, the assumptions or instruments are executed
2499 by the corporation. Subject to the relevant financing documents
2500 pertaining to their outstanding bonds, notes, indebtedness, or
2501 other financing obligations, the moneys, investments,
2502 receivables, choses in action, and other intangibles of the
2503 Florida Windstorm Underwriting Association shall be credited to
2504 the coastal ~~high-risk~~ account of the corporation, and those of
2505 the personal lines residential coverage account and the
2506 commercial lines residential coverage account of the Residential
2507 Property and Casualty Joint Underwriting Association shall be
2508 credited to the personal lines account and the commercial lines
2509 account, respectively, of the corporation.

2510 4. Effective July 1, 2002, a new applicant for property
2511 insurance coverage who would otherwise have been eligible for
2512 coverage in the Florida Windstorm Underwriting Association is
2513 eligible for coverage from the corporation as provided in this
2514 subsection.

2515 5. The transfer of all policies, obligations, rights,
2516 assets, and liabilities from the Florida Windstorm Underwriting
2517 Association to the corporation and the renaming of the
2518 Residential Property and Casualty Joint Underwriting Association
2519 as the corporation does not ~~shall in no way~~ affect the coverage
2520 with respect to covered policies as defined in s. 215.555(2)(c)
2521 provided to these entities by the Florida Hurricane Catastrophe
2522 Fund. The coverage provided by the ~~Florida Hurricane Catastrophe~~
2523 fund to the Florida Windstorm Underwriting Association based on

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2524 its exposures as of June 30, 2002, and each June 30 thereafter
2525 shall be redesignated as coverage for the coastal ~~high-risk~~
2526 account of the corporation. Notwithstanding any other provision
2527 of law, the coverage provided by the ~~Florida Hurricane~~
2528 ~~Catastrophe~~ fund to the Residential Property and Casualty Joint
2529 Underwriting Association based on its exposures as of June 30,
2530 2002, and each June 30 thereafter shall be transferred to the
2531 personal lines account and the commercial lines account of the
2532 corporation. Notwithstanding any other provision of law, the
2533 coastal ~~high-risk~~ account shall be treated, for all Florida
2534 Hurricane Catastrophe Fund purposes, as if it were a separate
2535 participating insurer with its own exposures, reimbursement
2536 premium, and loss reimbursement. Likewise, the personal lines
2537 and commercial lines accounts shall be viewed together, for all
2538 ~~Florida Hurricane Catastrophe~~ fund purposes, as if the two
2539 accounts were one and represent a single, separate participating
2540 insurer with its own exposures, reimbursement premium, and loss
2541 reimbursement. The coverage provided by the ~~Florida Hurricane~~
2542 ~~Catastrophe~~ fund to the corporation shall constitute and operate
2543 as a full transfer of coverage from the Florida Windstorm
2544 Underwriting Association and Residential Property and Casualty
2545 Joint Underwriting to the corporation.

2546 (y) It is the intent of the Legislature that the amendments
2547 to this subsection enacted in 2002 should, over time, reduce the
2548 probable maximum windstorm losses in the residual markets and
2549 ~~should reduce~~ the potential assessments to be levied on property
2550 insurers and policyholders statewide. In furtherance of this
2551 intent, ÷

2552 ~~1.~~ the board shall, on or before February 1 of each year,

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2553 provide a report to the President of the Senate and the Speaker
2554 of the House of Representatives showing the reduction or
2555 increase in the 100-year probable maximum loss attributable to
2556 wind-only coverages and the quota share program under this
2557 subsection combined, as compared to the benchmark 100-year
2558 probable maximum loss of the Florida Windstorm Underwriting
2559 Association. For purposes of this paragraph, the benchmark 100-
2560 year probable maximum loss of the Florida Windstorm Underwriting
2561 Association is ~~shall be~~ the calculation dated February 2001 and
2562 based on November 30, 2000, exposures. In order to ensure
2563 comparability of data, the board shall use the same methods for
2564 calculating its probable maximum loss as were used to calculate
2565 the benchmark probable maximum loss.

2566 ~~2. Beginning December 1, 2010, if the report under~~
2567 ~~subparagraph 1. for any year indicates that the 100-year~~
2568 ~~probable maximum loss attributable to wind-only coverages and~~
2569 ~~the quota share program combined does not reflect a reduction of~~
2570 ~~at least 25 percent from the benchmark, the board shall reduce~~
2571 ~~the boundaries of the high-risk area eligible for wind-only~~
2572 ~~coverages under this subsection in a manner calculated to reduce~~
2573 ~~such probable maximum loss to an amount at least 25 percent~~
2574 ~~below the benchmark.~~

2575 ~~3. Beginning February 1, 2015, if the report under~~
2576 ~~subparagraph 1. for any year indicates that the 100-year~~
2577 ~~probable maximum loss attributable to wind-only coverages and~~
2578 ~~the quota share program combined does not reflect a reduction of~~
2579 ~~at least 50 percent from the benchmark, the boundaries of the~~
2580 ~~high-risk area eligible for wind-only coverages under this~~
2581 ~~subsection shall be reduced by the elimination of any area that~~

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2582 ~~is not seaward of a line 1,000 feet inland from the Intracoastal~~
2583 ~~Waterway.~~

2584 Section 20. Paragraph (a) of subsection (5) of section
2585 627.3511, Florida Statutes, is amended to read:

2586 627.3511 Depopulation of Citizens Property Insurance
2587 Corporation.—

2588 (5) APPLICABILITY.—

2589 (a) The take-out bonus provided by subsection (2) and the
2590 exemption from assessment provided by paragraph (3)(a) apply
2591 only if the corporation policy is replaced by ~~either~~ a standard
2592 policy including wind coverage or, if consistent with the
2593 insurer's underwriting rules ~~as~~ filed with the office, a basic
2594 policy including wind coverage; however, for ~~with respect to~~
2595 risks located in areas where coverage through the coastal high-
2596 ~~risk~~ account of the corporation is available, the replacement
2597 policy need not provide wind coverage. The insurer must renew
2598 the replacement policy at approved rates on substantially
2599 similar terms for four additional 1-year terms, unless canceled
2600 or not renewed by the policyholder. If an insurer assumes the
2601 corporation's obligations for a policy, it must issue a
2602 replacement policy for a 1-year term upon expiration of the
2603 corporation policy and must renew the replacement policy at
2604 approved rates on substantially similar terms for four
2605 additional 1-year terms, unless canceled or not renewed by the
2606 policyholder. For each replacement policy canceled or nonrenewed
2607 by the insurer for any reason during the 5-year coverage period
2608 ~~required by this paragraph~~, the insurer must remove from the
2609 corporation one additional policy covering a risk similar to the
2610 risk covered by the canceled or nonrenewed policy. In addition

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2611 ~~to these requirements,~~ the corporation must place the bonus
2612 moneys in escrow for ~~a period of~~ 5 years; such moneys may be
2613 released from escrow only to pay claims. If the policy is
2614 canceled or nonrenewed before the end of the 5-year period, the
2615 amount of the take-out bonus must be prorated for the time
2616 period the policy was insured. A take-out bonus provided by
2617 subsection (2) or subsection (6) is ~~shall not be considered~~
2618 premium income for purposes of taxes and assessments under the
2619 Florida Insurance Code and ~~shall~~ remain the property of the
2620 corporation, subject to the prior security interest of the
2621 insurer under the escrow agreement until it is released from
2622 escrow; ~~and~~ after it is released from escrow it is ~~shall be~~
2623 considered an asset of the insurer and credited to the insurer's
2624 capital and surplus.

2625 Section 21. Paragraph (b) of subsection (2) of section
2626 627.4133, Florida Statutes, is amended to read:

2627 627.4133 Notice of cancellation, nonrenewal, or renewal
2628 premium.—

2629 (2) With respect to any personal lines or commercial
2630 residential property insurance policy, including, but not
2631 limited to, any homeowner's, mobile home owner's, farmowner's,
2632 condominium association, condominium unit owner's, apartment
2633 building, or other policy covering a residential structure or
2634 its contents:

2635 (b) The insurer shall give the named insured written notice
2636 of nonrenewal, cancellation, or termination at least 90 ~~100~~ days
2637 before ~~prior to~~ the effective date of the nonrenewal,
2638 cancellation, or termination. ~~However, the insurer shall give at~~
2639 ~~least 100 days' written notice, or written notice by June 1,~~

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2640 ~~whichever is earlier, for any nonrenewal, cancellation, or~~
2641 ~~termination that would be effective between June 1 and November~~
2642 ~~30. The notice must include the reason or reasons for the~~
2643 ~~nonrenewal, cancellation, or termination, except that:~~

2644 1. A policy covering both a home and motor vehicle may be
2645 nonrenewed for any reason applicable to either the property or
2646 motor vehicle insurance after providing 90 days' notice. The
2647 ~~insurer shall give the named insured written notice of~~
2648 ~~nonrenewal, cancellation, or termination at least 180 days prior~~
2649 ~~to the effective date of the nonrenewal, cancellation, or~~
2650 ~~termination for a named insured whose residential structure has~~
2651 ~~been insured by that insurer or an affiliated insurer for at~~
2652 ~~least a 5-year period immediately prior to the date of the~~
2653 ~~written notice.~~

2654 2. If ~~When~~ cancellation is for nonpayment of premium, at
2655 least 10 days' written notice of cancellation accompanied by the
2656 reason therefor must ~~shall~~ be given. As used in this
2657 subparagraph, the term "nonpayment of premium" means failure of
2658 the named insured to discharge when due ~~any of~~ her or his
2659 obligations in connection with the payment of premiums on a
2660 policy or any installment of such premium, whether the premium
2661 is payable directly to the insurer or its agent or indirectly
2662 under any premium finance plan or extension of credit, or
2663 failure to maintain membership in an organization if such
2664 membership is a condition precedent to insurance coverage. The
2665 term ~~"Nonpayment of premium"~~ also means the failure of a
2666 financial institution to honor an insurance applicant's check
2667 after delivery to a licensed agent for payment of a premium,
2668 even if the agent has previously delivered or transferred the

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2669 premium to the insurer. If a dishonored check represents the
2670 initial premium payment, the contract and all contractual
2671 obligations are ~~shall be~~ void ab initio unless the nonpayment is
2672 cured within the earlier of 5 days after actual notice by
2673 certified mail is received by the applicant or 15 days after
2674 notice is sent to the applicant by certified mail or registered
2675 mail, and if the contract is void, any premium received by the
2676 insurer from a third party must ~~shall~~ be refunded to that party
2677 in full.

2678 3. If ~~When~~ such cancellation or termination occurs during
2679 the first 90 days ~~during which~~ the insurance is in force and the
2680 insurance is canceled or terminated for reasons other than
2681 nonpayment of premium, at least 20 days' written notice of
2682 cancellation or termination accompanied by the reason therefor
2683 must ~~shall~~ be given unless ~~except where~~ there has been a
2684 material misstatement or misrepresentation or failure to comply
2685 with the underwriting requirements established by the insurer.

2686 4. The requirement for providing written notice ~~of~~
2687 ~~nonrenewal~~ by June 1 of any nonrenewal that would be effective
2688 between June 1 and November 30 does not apply to the following
2689 situations, but the insurer remains subject to the requirement
2690 to provide such notice at least 100 days before ~~prior to~~ the
2691 effective date of nonrenewal:

2692 a. A policy that is nonrenewed due to a revision in the
2693 coverage for sinkhole losses and catastrophic ground cover
2694 collapse pursuant to s. 627.706, ~~as amended by s. 30, chapter~~
2695 ~~2007-1, Laws of Florida.~~

2696 b. A policy that is nonrenewed by Citizens Property
2697 Insurance Corporation, pursuant to s. 627.351(6), for a policy

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2698 that has been assumed by an authorized insurer offering
2699 replacement ~~or renewal~~ coverage to the policyholder is exempt
2700 from the notice requirements of paragraph (a) and this
2701 paragraph. In such cases, the corporation must give the named
2702 insured written notice of nonrenewal at least 45 days before the
2703 effective date of the nonrenewal.

2704

2705 After the policy has been in effect for 90 days, the policy may
2706 ~~shall~~ not be canceled by the insurer unless ~~except when~~ there
2707 has been a material misstatement, a nonpayment of premium, a
2708 failure to comply with underwriting requirements established by
2709 the insurer within 90 days after ~~of~~ the date of effectuation of
2710 coverage, or a substantial change in the risk covered by the
2711 policy or if ~~when~~ the cancellation is for all insureds under
2712 such policies for a given class of insureds. This paragraph does
2713 not apply to individually rated risks having a policy term of
2714 less than 90 days.

2715 5. Notwithstanding any other provision of law, an insurer
2716 may cancel or nonrenew a property insurance policy after at
2717 least 45 days' notice if the office finds that the early
2718 cancellation of some or all of the insurer's policies is
2719 necessary to protect the best interests of the public or
2720 policyholders and the office approves the insurer's plan for
2721 early cancellation or nonrenewal of some or all of its policies.
2722 The office may base such finding upon the financial condition of
2723 the insurer, lack of adequate reinsurance coverage for hurricane
2724 risk, or other relevant factors. The office may condition its
2725 finding on the consent of the insurer to be placed under
2726 administrative supervision pursuant to s. 624.81 or to the

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2727 appointment of a receiver under chapter 631.

2728 Section 22. Section 627.43141, Florida Statutes, is created
2729 to read:

2730 627.43141 Notice of change in policy terms.—

2731 (1) As used in this section, the term:

2732 (a) "Change in policy terms" means the modification,
2733 addition, or deletion of any term, coverage, duty, or condition
2734 from the previous policy. The correction of typographical or
2735 scrivener's errors or the application of mandated legislative
2736 changes is not a change in policy terms.

2737 (b) "Policy" means a written contract or written agreement
2738 for personal lines property and casualty insurance, or the
2739 certificate of such insurance, by whatever name called, and
2740 includes all clauses, riders, endorsements, and papers that are
2741 a part of such policy. The term does not include a binder as
2742 defined in s. 627.420 unless the duration of the binder period
2743 exceeds 60 days.

2744 (c) "Renewal" means the issuance and delivery by an insurer
2745 of a policy superseding at the end of the policy period a policy
2746 previously issued and delivered by the same insurer or the
2747 issuance and delivery of a certificate or notice extending the
2748 term of a policy beyond its policy period or term. Any policy
2749 that has a policy period or term of less than 6 months or that
2750 does not have a fixed expiration date shall, for purposes of
2751 this section, be considered as written for successive policy
2752 periods or terms of 6 months.

2753 (2) A renewal policy may contain a change in policy terms.
2754 If a renewal policy does contains such change, the insurer must
2755 give the named insured written notice of the change, which must

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2756 be enclosed along with the written notice of renewal premium
2757 required by ss. 627.4133 and 627.728. Such notice shall be
2758 entitled "Notice of Change in Policy Terms."

2759 (3) Although not required, proof of mailing or registered
2760 mailing through the United States Postal Service of the Notice
2761 of Change in Policy Terms to the named insured at the address
2762 shown in the policy is sufficient proof of notice.

2763 (4) Receipt of the premium payment for the renewal policy
2764 by the insurer is deemed to be acceptance of the new policy
2765 terms by the named insured.

2766 (5) If an insurer fails to provide the notice required in
2767 subsection (2), the original policy terms remain in effect until
2768 the next renewal and the proper service of the notice, or until
2769 the effective date of replacement coverage obtained by the named
2770 insured, whichever occurs first.

2771 (6) The intent of this section is to:

2772 (a) Allow an insurer to make a change in policy terms
2773 without nonrenewing those policyholders that the insurer wishes
2774 to continue insuring.

2775 (b) Alleviate concern and confusion to the policyholder
2776 caused by the required policy nonrenewal for the limited issue
2777 if an insurer intends to renew the insurance policy, but the new
2778 policy contains a change in policy terms.

2779 (c) Encourage policyholders to discuss their coverages with
2780 their insurance agents.

2781 Section 23. Section 627.7011, Florida Statutes, is amended
2782 to read:

2783 627.7011 Homeowners' policies; offer of replacement cost
2784 coverage and law and ordinance coverage.-

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2785 (1) ~~Before~~ Prior to issuing or renewing a homeowner's
2786 insurance policy ~~on or after October 1, 2005, or prior to the~~
2787 ~~first renewal of a homeowner's insurance policy on or after~~
2788 ~~October 1, 2005,~~ the insurer must offer each of the following:

2789 (a) A policy or endorsement providing that any loss that
2790 ~~which~~ is repaired or replaced will be adjusted on the basis of
2791 replacement costs to the dwelling not exceeding policy limits ~~as~~
2792 ~~to the dwelling,~~ rather than actual cash value, but not
2793 including costs necessary to meet applicable laws and ordinances
2794 regulating the construction, use, or repair of any property or
2795 requiring the tearing down of any property, including the costs
2796 of removing debris.

2797 (b) A policy or endorsement providing that, subject to
2798 other policy provisions, any loss that ~~which~~ is repaired or
2799 replaced at any location will be adjusted on the basis of
2800 replacement costs to the dwelling not exceeding policy limits ~~as~~
2801 ~~to the dwelling,~~ rather than actual cash value, and also
2802 including costs necessary to meet applicable laws and ordinances
2803 regulating the construction, use, or repair of any property or
2804 requiring the tearing down of any property, including the costs
2805 of removing debris. ~~+~~ However, ~~such~~ additional costs necessary to
2806 meet applicable laws and ordinances may be limited to ~~either~~ 25
2807 percent or 50 percent of the dwelling limit, as selected by the
2808 policyholder, and such coverage applies ~~shall apply~~ only to
2809 repairs of the damaged portion of the structure unless the total
2810 damage to the structure exceeds 50 percent of the replacement
2811 cost of the structure.

2812
2813 An insurer is not required to make the offers required by this

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2814 subsection with respect to the issuance or renewal of a
2815 homeowner's policy that contains the provisions specified in
2816 paragraph (b) for law and ordinance coverage limited to 25
2817 percent of the dwelling limit, except that the insurer must
2818 offer the law and ordinance coverage limited to 50 percent of
2819 the dwelling limit. This subsection does not prohibit the offer
2820 of a guaranteed replacement cost policy.

2821 (2) Unless the insurer obtains the policyholder's written
2822 refusal of the policies or endorsements specified in subsection
2823 (1), any policy covering the dwelling is deemed to include the
2824 law and ordinance coverage limited to 25 percent of the dwelling
2825 limit. The rejection or selection of alternative coverage shall
2826 be made on a form approved by the office. The form must ~~shall~~
2827 fully advise the applicant of the nature of the coverage being
2828 rejected. If this form is signed by a named insured, it is ~~will~~
2829 ~~be~~ conclusively presumed that there was an informed, knowing
2830 rejection of the coverage or election of the alternative
2831 coverage on behalf of all insureds. Unless the policyholder
2832 requests in writing the coverage specified in this section, it
2833 need not be provided in or supplemental to any other policy that
2834 renews, insures, extends, changes, supersedes, or replaces an
2835 existing policy if ~~when~~ the policyholder has rejected the
2836 coverage specified in this section or has selected alternative
2837 coverage. The insurer must provide the ~~such~~ policyholder with
2838 notice of the availability of such coverage in a form approved
2839 by the office at least once every 3 years. The failure to
2840 provide such notice constitutes a violation of this code, but
2841 does not affect the coverage provided under the policy.

2842 (3) In the event of a loss for which a dwelling or personal

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2843 property is insured on the basis of replacement costs:

2844 (a) For a dwelling, the insurer must initially pay at least
2845 the actual cash value of the insured loss, less any applicable
2846 deductible. To receive payment from an insurer for replacement
2847 costs, the policyholder must enter into a contract for the
2848 performance of building and structural repairs, unless the
2849 requirement for a contract is waived by the insurer. The insurer
2850 shall pay any remaining amounts necessary to perform such
2851 repairs as work is performed and expenses are incurred. The
2852 insurer or any contractor or subcontractor may not require the
2853 policyholder to advance payment for such repairs or expenses,
2854 with the exception of incidental expenses to mitigate further
2855 damage. If a total loss of a dwelling occurs, the insurer shall
2856 pay the replacement cost coverage without reservation or
2857 holdback of any depreciation in value, pursuant to s. 627.702.

2858 (b) For personal property:

2859 1. The insurer must offer coverage under which the insurer
2860 is obligated to pay the replacement cost without reservation or
2861 holdback for any depreciation in value, whether or not the
2862 insured replaces the property.

2863 2. The insurer may also offer coverage under which the
2864 insurer may limit the initial payment to the actual cash value
2865 of the personal property to be replaced, require the insured to
2866 provide receipts for the purchase of the property financed by
2867 the initial payment, use such receipts to make the next payment
2868 requested by the insured for the replacement of insured
2869 property, and continue this process until the insured remits all
2870 receipts up to the policy limits for replacement costs. The
2871 insurer must provide clear notice of this process in the

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2872 insurance contract. The insurer may not require the policyholder
2873 to advance payment for the replaced property, ~~the insurer shall~~
2874 ~~pay the replacement cost without reservation or holdback of any~~
2875 ~~depreciation in value, whether or not the insured replaces or~~
2876 ~~repairs the dwelling or property.~~

2877 (4) A ~~Any~~ homeowner's insurance policy ~~issued or renewed on~~
2878 ~~or after October 1, 2005,~~ must include in bold type no smaller
2879 than 18 points the following statement:

2880 "LAW AND ORDINANCE COVERAGE IS AN IMPORTANT COVERAGE
2881 THAT YOU MAY WISH TO PURCHASE. YOU MAY ALSO NEED TO
2882 CONSIDER THE PURCHASE OF FLOOD INSURANCE FROM THE
2883 NATIONAL FLOOD INSURANCE PROGRAM. WITHOUT THIS
2884 COVERAGE, YOU MAY HAVE UNCOVERED LOSSES. PLEASE
2885 DISCUSS THESE COVERAGES WITH YOUR INSURANCE AGENT."

2886

2887 The intent of this subsection is to encourage policyholders to
2888 purchase sufficient coverage to protect them in case events
2889 excluded from the standard homeowners policy, such as law and
2890 ordinance enforcement and flood, combine with covered events to
2891 produce damage or loss to the insured property. The intent is
2892 also to encourage policyholders to discuss these issues with
2893 their insurance agent.

2894 (5) ~~Nothing in This section does not: shall be construed to~~

2895 (a) Apply to policies not considered to be "homeowners'
2896 policies," as that term is commonly understood in the insurance
2897 industry. ~~This section specifically does not~~

2898 (b) Apply to mobile home policies. ~~Nothing in this section~~

2899 (c) Limit ~~shall be construed as limiting~~ the ability of an
2900 ~~any~~ insurer to reject or nonrenew any insured or applicant on

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2901 the grounds that the structure does not meet underwriting
2902 criteria applicable to replacement cost or law and ordinance
2903 policies or for other lawful reasons.

2904 (d)~~(6)~~ ~~This section does not~~ Prohibit an insurer from
2905 limiting its liability under a policy or endorsement providing
2906 that loss will be adjusted on the basis of replacement costs to
2907 the lesser of:

2908 1.~~(a)~~ The limit of liability shown on the policy
2909 declarations page;

2910 2.~~(b)~~ The reasonable and necessary cost to repair the
2911 damaged, destroyed, or stolen covered property; or

2912 3.~~(c)~~ The reasonable and necessary cost to replace the
2913 damaged, destroyed, or stolen covered property.

2914 (e)~~(7)~~ ~~This section does not~~ Prohibit an insurer from
2915 exercising its right to repair damaged property in compliance
2916 with its policy and s. 627.702(7).

2917 Section 24. Paragraph (a) of subsection (5) of section
2918 627.70131, Florida Statutes, is amended to read:

2919 627.70131 Insurer's duty to acknowledge communications
2920 regarding claims; investigation.-

2921 (5) (a) Within 90 days after an insurer receives notice of
2922 an initial, reopened, or supplemental ~~a~~ property insurance claim
2923 from a policyholder, the insurer shall pay or deny such claim or
2924 a portion of the claim unless the failure to pay ~~such claim or a~~
2925 ~~portion of the claim~~ is caused by factors beyond the control of
2926 the insurer which reasonably prevent such payment. Any payment
2927 of an initial or supplemental ~~a~~ claim or portion of such ~~a~~ claim
2928 made ~~paid~~ 90 days after the insurer receives notice of the
2929 claim, or made ~~paid~~ more than 15 days after there are no longer

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2930 factors beyond the control of the insurer which reasonably
2931 prevented such payment, whichever is later, bears ~~shall bear~~
2932 interest at the rate set forth in s. 55.03. Interest begins to
2933 accrue from the date the insurer receives notice of the claim.
2934 The provisions of this subsection may not be waived, voided, or
2935 nullified by the terms of the insurance policy. If there is a
2936 right to prejudgment interest, the insured shall select whether
2937 to receive prejudgment interest or interest under this
2938 subsection. Interest is payable when the claim or portion of the
2939 claim is paid. Failure to comply with this subsection
2940 constitutes a violation of this code. However, failure to comply
2941 with this subsection does ~~shall~~ not form the sole basis for a
2942 private cause of action.

2943 Section 25. The Legislature finds and declares:

2944 (1) There is a compelling state interest in maintaining a
2945 viable and orderly private-sector market for property insurance
2946 in this state. The lack of a viable and orderly property market
2947 reduces the availability of property insurance coverage to state
2948 residents, increases the cost of property insurance, and
2949 increases the state's reliance on a residual property insurance
2950 market and its potential for imposing assessments on
2951 policyholders throughout the state.

2952 (2) In 2005, the Legislature revised ss. 627.706-627.7074,
2953 Florida Statutes, to adopt certain geological or technical
2954 terms; to increase reliance on objective, scientific testing
2955 requirements; and generally to reduce the number of sinkhole
2956 claims and related disputes arising under prior law. The
2957 Legislature determined that since the enactment of these
2958 statutory revisions, both private-sector insurers and Citizens

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2959 Property Insurance Corporation have, nevertheless, continued to
2960 experience high claims frequency and severity for sinkhole
2961 insurance claims. In addition, many properties remain unrepaired
2962 even after loss payments, which reduces the local property tax
2963 base and adversely affects the real estate market. Therefore,
2964 the Legislature finds that losses associated with sinkhole
2965 claims adversely affect the public health, safety, and welfare
2966 of this state and its citizens.

2967 (3) Pursuant to sections 19 through 24 of this act,
2968 technical or scientific definitions adopted in the 2005
2969 legislation are clarified to implement and advance the
2970 Legislature's intended reduction of sinkhole claims and
2971 disputes. The legal presumption intended by the Legislature is
2972 clarified to reduce disputes and litigation associated with the
2973 technical reviews associated with sinkhole claims. Certain other
2974 revisions to ss. 627.706-627.7074, Florida Statutes, are enacted
2975 to advance legislative intent to rely on scientific or technical
2976 determinations relating to sinkholes and sinkhole claims, reduce
2977 the number and cost of disputes relating to sinkhole claims, and
2978 ensure that repairs are made commensurate with the scientific
2979 and technical determinations and insurance claims payments.

2980 Section 26. Section 627.706, Florida Statutes, is reordered
2981 and amended to read:

2982 627.706 Sinkhole insurance; catastrophic ground cover
2983 collapse; definitions.—

2984 (1) Every insurer authorized to transact property insurance
2985 in this state must ~~shall~~ provide coverage for a catastrophic
2986 ground cover collapse. However, the insurer may restrict such
2987 coverage to the principal building, as defined in the applicable

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2988 policy. The insurer may ~~and shall~~ make available, for an
2989 appropriate additional premium, coverage for sinkhole losses on
2990 any structure, including the contents of personal property
2991 contained therein, to the extent provided in the form to which
2992 the coverage attaches. A policy for residential property
2993 insurance may include a deductible amount applicable to sinkhole
2994 losses, including any expenses incurred by an insurer
2995 investigating whether sinkhole activity is present. The
2996 deductible may be equal to 1 percent, 2 percent, 5 percent, or
2997 10 percent of the policy dwelling limits, with appropriate
2998 premium discounts offered with each deductible amount.

2999 (2) As used in ss. 627.706-627.7074, and as used in
3000 connection with any policy providing coverage for a catastrophic
3001 ground cover collapse or for sinkhole losses, the term:

3002 (a) "Catastrophic ground cover collapse" means geological
3003 activity that results in all the following:

3004 1. The abrupt collapse of the ground cover;

3005 2. A depression in the ground cover clearly visible to the
3006 naked eye;

3007 3. Structural damage to the covered building, including the
3008 foundation; and

3009 4. The insured structure being condemned and ordered to be
3010 vacated by the governmental agency authorized by law to issue
3011 such an order for that structure.

3012
3013 Contents coverage applies if there is a loss resulting from a
3014 catastrophic ground cover collapse. ~~Structural~~ Damage consisting
3015 merely of the settling or cracking of a foundation, structure,
3016 or building does not constitute a loss resulting from a

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3017 catastrophic ground cover collapse.

3018 (b) "Neutral evaluation" means the alternative dispute
3019 resolution provided in s. 627.7074.

3020 (c) "Neutral evaluator" means a professional engineer or a
3021 professional geologist who has completed a course of study in
3022 alternative dispute resolution designed or approved by the
3023 department for use in the neutral evaluation process and who is
3024 determined to be fair and impartial.

3025 (f) ~~(b)~~ "Sinkhole" means a landform created by subsidence of
3026 soil, sediment, or rock as underlying strata are dissolved by
3027 groundwater. A sinkhole forms ~~may form~~ by collapse into
3028 subterranean voids created by dissolution of limestone or
3029 dolostone or by subsidence as these strata are dissolved.

3030 (h) ~~(e)~~ "Sinkhole loss" means structural damage to the
3031 covered building, including the foundation, caused by sinkhole
3032 activity. Contents coverage and additional living expenses ~~shall~~
3033 apply only if there is structural damage to the covered building
3034 caused by sinkhole activity.

3035 (g) ~~(d)~~ "Sinkhole activity" means settlement or systematic
3036 weakening of the earth supporting ~~such~~ property only if the ~~when~~
3037 ~~such~~ settlement or systematic weakening results from
3038 contemporary movement or raveling of soils, sediments, or rock
3039 materials into subterranean voids created by the effect of water
3040 on a limestone or similar rock formation.

3041 (d) ~~(e)~~ "Professional engineer" means a person, as defined
3042 in s. 471.005, who has a bachelor's degree or higher in
3043 engineering ~~with a specialty in the geotechnical engineering~~
3044 ~~field~~. A professional engineer must also have ~~geotechnical~~
3045 experience and expertise in the identification of sinkhole

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3046 activity as well as other potential causes of structural damage
3047 ~~to the structure.~~

3048 ~~(e)(f)~~ "Professional geologist" means a person, as defined
3049 in ~~by~~ s. 492.102, who has a bachelor's degree or higher in
3050 geology or related earth science and ~~with expertise in the~~
3051 ~~geology of Florida. A professional geologist must have~~
3052 geological experience and expertise in the identification of
3053 sinkhole activity as well as other potential geologic causes of
3054 structural damage ~~to the structure.~~

3055 (i) "Structural damage" means:

3056 1. A covered building that suffers foundation movement
3057 outside an acceptable variance under the applicable building
3058 code; and

3059 2. Damage to a covered building, including the foundation,
3060 which prevents the primary structural members or primary
3061 structural systems from supporting the loads and forces they
3062 were designed to support.

3063 ~~(3) On or before June 1, 2007, Every insurer authorized to~~
3064 ~~transact property insurance in this state shall make a proper~~
3065 ~~filing with the office for the purpose of extending the~~
3066 ~~appropriate forms of property insurance to include coverage for~~
3067 ~~eatastrophic ground cover collapse or for sinkhole losses.~~
3068 ~~coverage for catastrophic ground cover collapse may not go into~~
3069 ~~effect until the effective date provided for in the filing~~
3070 ~~approved by the office.~~

3071 ~~(3)(4)~~ Insurers offering policies that exclude coverage for
3072 sinkhole losses must ~~shall~~ inform policyholders in bold type of
3073 not less than 14 points as follows: "YOUR POLICY PROVIDES
3074 COVERAGE FOR A CATASTROPHIC GROUND COVER COLLAPSE THAT RESULTS

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3075 IN THE PROPERTY BEING CONDEMNED AND UNINHABITABLE. OTHERWISE,
3076 YOUR POLICY DOES NOT PROVIDE COVERAGE FOR SINKHOLE LOSSES. ~~YOU~~
3077 ~~MAY PURCHASE ADDITIONAL COVERAGE FOR SINKHOLE LOSSES FOR AN~~
3078 ~~ADDITIONAL PREMIUM."~~

3079 (4)~~(5)~~ An insurer offering sinkhole coverage to
3080 policyholders before or after the adoption of s. 30, chapter
3081 2007-1, Laws of Florida, may nonrenew the policies of
3082 policyholders maintaining sinkhole coverage ~~in Pasco County or~~
3083 ~~Hernando County~~, at the option of the insurer, and provide an
3084 offer of coverage that ~~to such policyholders which~~ includes
3085 catastrophic ground cover collapse and excludes sinkhole
3086 coverage. Insurers acting in accordance with this subsection are
3087 subject to the following requirements:

3088 (a) Policyholders must be notified that a nonrenewal is for
3089 purposes of removing sinkhole coverage, and that the
3090 policyholder is ~~still~~ being offered a policy that provides
3091 coverage for catastrophic ground cover collapse.

3092 (b) Policyholders must be provided an actuarially
3093 reasonable premium credit or discount for the removal of
3094 sinkhole coverage and provision of only catastrophic ground
3095 cover collapse.

3096 (c) Subject to the provisions of this subsection and the
3097 insurer's approved underwriting or insurability guidelines, the
3098 insurer may ~~shall~~ provide each policyholder with the opportunity
3099 to purchase an endorsement to his or her policy providing
3100 sinkhole coverage and may require an inspection of the property
3101 before issuance of a sinkhole coverage endorsement.

3102 (d) Section 624.4305 does not apply to nonrenewal notices
3103 issued pursuant to this subsection.

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3104 (5) Any claim, including, but not limited to, initial,
3105 supplemental, and reopened claims under an insurance policy that
3106 provides sinkhole coverage is barred unless notice of the claim
3107 was given to the insurer in accordance with the terms of the
3108 policy within 2 years after the policyholder knew or reasonably
3109 should have known about the sinkhole loss.

3110 Section 27. Section 627.7061, Florida Statutes, is amended
3111 to read:

3112 627.7061 Coverage inquiries.—Inquiries about coverage on a
3113 property insurance contract are not claim activity, unless an
3114 actual claim is filed by the policyholder which ~~insured that~~
3115 results in a company investigation of the claim.

3116 Section 28. Section 627.7065, Florida Statutes, is
3117 repealed.

3118 Section 29. Section 627.707, Florida Statutes, is amended
3119 to read:

3120 627.707 ~~Standards for~~ Investigation of sinkhole claims by
3121 policyholders insurers; insurer payment; nonrenewals.—Upon
3122 receipt of a claim for a sinkhole loss to a covered building, an
3123 insurer must meet the following standards in investigating a
3124 claim:

3125 (1) The insurer must inspect ~~make an inspection of~~ the
3126 policyholder's insured's premises to determine if there is
3127 structural ~~has been physical~~ damage that ~~to the structure which~~
3128 may be the result of sinkhole activity.

3129 (2) If the insurer confirms that structural damage exists
3130 but is unable to identify a valid cause of such damage or
3131 discovers that such damage is consistent with sinkhole loss
3132 ~~Following the insurer's initial inspection,~~ the insurer shall

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3133 engage a professional engineer or a professional geologist to
3134 conduct testing as provided in s. 627.7072 to determine the
3135 cause of the loss within a reasonable professional probability
3136 and issue a report as provided in s. 627.7073, only if sinkhole
3137 loss is covered under the policy. Except as provided in
3138 subsection (6), the fees and costs of the professional engineer
3139 or professional geologist shall be paid by the insurer.:

3140 ~~(a) The insurer is unable to identify a valid cause of the~~
3141 ~~damage or discovers damage to the structure which is consistent~~
3142 ~~with sinkhole loss; or~~

3143 ~~(b) The policyholder demands testing in accordance with~~
3144 ~~this section or s. 627.7072.~~

3145 (3) Following the initial inspection of the policyholder's
3146 insured premises, the insurer shall provide written notice to
3147 the policyholder disclosing the following information:

3148 (a) What the insurer has determined to be the cause of
3149 damage, if the insurer has made such a determination.

3150 (b) A statement of the circumstances under which the
3151 insurer is required to engage a professional engineer or a
3152 professional geologist to verify or eliminate sinkhole loss and
3153 to engage a professional engineer to make recommendations
3154 regarding land and building stabilization and foundation repair.

3155 ~~(c) A statement regarding the right of the policyholder to~~
3156 ~~request testing by a professional engineer or a professional~~
3157 ~~geologist and the circumstances under which the policyholder may~~
3158 ~~demand certain testing.~~

3159 (4) If the insurer determines that there is no sinkhole
3160 loss, the insurer may deny the claim. If coverage for sinkhole
3161 loss is available and ~~If the insurer denies the claim~~ on such

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3162 basis, without performing testing under s. 627.7072, the
3163 policyholder may demand testing by the insurer ~~under s.~~
3164 ~~627.7072~~. The policyholder's demand for testing must be
3165 communicated to the insurer in writing within 60 days after the
3166 policyholder's receipt of the insurer's denial of the claim.

3167 (5) ~~(a) Subject to paragraph (b)~~, If a sinkhole loss is
3168 verified, the insurer shall pay to stabilize the land and
3169 building and repair the foundation in accordance with the
3170 recommendations of the professional engineer retained pursuant
3171 to subsection (2), ~~as provided under s. 627.7073, and in~~
3172 ~~consultation~~ with notice to the policyholder, subject to the
3173 coverage and terms of the policy. The insurer shall pay for
3174 other repairs to the structure and contents in accordance with
3175 the terms of the policy.

3176 ~~(a)~~ ~~(b)~~ The insurer may limit its total claims payment to
3177 the actual cash value of the sinkhole loss, which does not
3178 include ~~including~~ underpinning or grouting or any other repair
3179 technique performed below the existing foundation of the
3180 building, until the policyholder enters into a contract for the
3181 performance of building stabilization or foundation repairs in
3182 accordance with the recommendations set forth in the insurer's
3183 report issued pursuant to s. 627.7073.

3184 (b) In order to prevent additional damage to the building
3185 or structure, the policyholder must enter into a contract for
3186 the performance of building stabilization or foundation repairs
3187 within 90 days after the insurance company confirms coverage for
3188 the sinkhole loss and notifies the policyholder of such
3189 confirmation. This time period is tolled if either party invokes
3190 the neutral evaluation process.

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3191 (c) After the policyholder enters into the contract for the
3192 performance of building stabilization or foundation repairs, the
3193 insurer shall pay the amounts necessary to begin and perform
3194 such repairs as the work is performed and the expenses are
3195 incurred. The insurer may not require the policyholder to
3196 advance payment for such repairs. If repair covered by a
3197 personal lines residential property insurance policy has begun
3198 and the professional engineer selected or approved by the
3199 insurer determines that the repair cannot be completed within
3200 the policy limits, the insurer must ~~either~~ complete the
3201 professional engineer's recommended repair or tender the policy
3202 limits to the policyholder without a reduction for the repair
3203 expenses incurred.

3204 (d) The stabilization and all other repairs to the
3205 structure and contents must be completed within 12 months after
3206 entering into the contract for repairs described in paragraph
3207 (b) unless:

3208 1. There is a mutual agreement between the insurer and the
3209 policyholder;

3210 2. The claim is involved with the neutral evaluation
3211 process;

3212 3. The claim is in litigation; or

3213 4. The claim is under appraisal.

3214 (e) ~~(e)~~ Upon the insurer's obtaining the written approval of
3215 ~~the policyholder and~~ any lienholder, the insurer may make
3216 payment directly to the persons selected by the policyholder to
3217 perform the land and building stabilization and foundation
3218 repairs. The decision by the insurer to make payment to such
3219 persons does not hold the insurer liable for the work performed.

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3220 The policyholder may not accept a rebate from any person
3221 performing the repairs specified in this section. If a
3222 policyholder does receive a rebate, coverage is void and the
3223 policyholder must refund the amount of the rebate to the
3224 insurer. Any person making the repairs specified in this section
3225 who offers a rebate, or any policyholder who accepts a rebate
3226 for such repairs, commits insurance fraud punishable as a third
3227 degree felony as provided in s. 775.082, s. 775.083, or s.
3228 775.084.

3229 ~~(6) Except as provided in subsection (7), the fees and~~
3230 ~~costs of the professional engineer or the professional geologist~~
3231 ~~shall be paid by the insurer.~~

3232 (6)(7) If the insurer obtains, pursuant to s. 627.7073,
3233 written certification that there is no sinkhole loss or that the
3234 cause of the damage was not sinkhole activity, and if the
3235 policyholder has submitted the sinkhole claim without good faith
3236 grounds for submitting such claim, the policyholder shall
3237 reimburse the insurer for 50 percent of the actual costs of the
3238 analyses and services provided under ss. 627.7072 and 627.7073;
3239 however, a policyholder is not required to reimburse an insurer
3240 more than the deductible or \$2,500, whichever is greater, with
3241 respect to any claim. A policyholder is required to pay
3242 reimbursement under this subsection only if the policyholder
3243 requested the testing and report provided pursuant to ss.
3244 627.7072 and 627.7073 and the insurer, before ~~prior to~~ ordering
3245 the analysis under s. 627.7072, informs the policyholder in
3246 writing of the policyholder's potential liability for
3247 reimbursement and gives the policyholder the opportunity to
3248 withdraw the claim.

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3249 ~~(7)-(8)~~ An ~~No~~ insurer may not shall nonrenew any policy of
3250 property insurance on the basis of filing of claims for partial
3251 loss caused by sinkhole damage or clay shrinkage if as long as
3252 the total of such payments does not equal or exceed the ~~current~~
3253 policy limits of coverage for the policy in effect on the date
3254 of loss, for property damage to the covered building, as set
3255 forth on the declarations page, or if and provided the
3256 policyholder insured has repaired the structure in accordance
3257 with the engineering recommendations made pursuant to subsection
3258 (2) upon which any payment or policy proceeds were based. If the
3259 insurer pays such limits, it may nonrenew the policy.

3260 ~~(8)-(9)~~ The insurer may engage a professional structural
3261 engineer to make recommendations as to the repair of the
3262 structure.

3263 Section 30. Section 627.7073, Florida Statutes, is amended
3264 to read:

3265 627.7073 Sinkhole reports.-

3266 (1) Upon completion of testing as provided in s. 627.7072,
3267 the professional engineer or professional geologist shall issue
3268 a report and certification to the insurer and the policyholder
3269 as provided in this section.

3270 (a) Sinkhole loss is verified if, based upon tests
3271 performed in accordance with s. 627.7072, a professional
3272 engineer or a professional geologist issues a written report and
3273 certification stating:

3274 1. That structural damage to the covered building has been
3275 identified within a reasonable professional probability.

3276 2.1- That the cause of the ~~actual physical and~~ structural
3277 damage is sinkhole activity within a reasonable professional

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3278 probability.

3279 ~~3.2.~~ That the analyses conducted were of sufficient scope
3280 to identify sinkhole activity as the cause of damage within a
3281 reasonable professional probability.

3282 ~~4.3.~~ A description of the tests performed.

3283 ~~5.4.~~ A recommendation by the professional engineer of
3284 methods for stabilizing the land and building and for making
3285 repairs to the foundation.

3286 (b) If there is no structural damage or if sinkhole
3287 activity is eliminated as the cause of such damage to the
3288 covered building structure, the professional engineer or
3289 professional geologist shall issue a written report and
3290 certification to the policyholder and the insurer stating:

3291 1. That there is no structural damage or the cause of such
3292 ~~the~~ damage is not sinkhole activity within a reasonable
3293 professional probability.

3294 2. That the analyses and tests conducted were of sufficient
3295 scope to eliminate sinkhole activity as the cause of the
3296 structural damage within a reasonable professional probability.

3297 3. A statement of the cause of the structural damage within
3298 a reasonable professional probability.

3299 4. A description of the tests performed.

3300 (c) All of the respective findings, opinions, and
3301 recommendations of the insurer's professional engineer or
3302 professional geologist as to the cause of distress to the
3303 property and all of the findings, opinions, and recommendations
3304 of the insurer's professional engineer as to land and building
3305 stabilization and foundation repair set forth by s. 627.7072
3306 shall be presumed correct, which presumption shifts the burden

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3307 of proof in accordance with s. 90.302(2). The presumption of
3308 correctness is based upon public policy concerns regarding the
3309 affordability of sinkhole coverage, consistency in claims
3310 handling, and a reduction in the number of disputed sinkhole
3311 claims.

3312 (2)~~(a)~~ An ~~Any~~ insurer that has paid a claim for a sinkhole
3313 loss shall file a copy of the report and certification, prepared
3314 pursuant to subsection (1), including the legal description of
3315 the real property and the name of the property owner, the
3316 neutral evaluator's report, if any, which indicates that
3317 sinkhole activity caused the damage claimed, a copy of the
3318 certification indicating that stabilization has been completed,
3319 if applicable, and the amount of the payment, with the county
3320 clerk of court, who shall record the report and certification.
3321 The insurer shall bear the cost of filing and recording one or
3322 more reports and certifications ~~the report and certification.~~
3323 There shall be no cause of action or liability against an
3324 insurer for compliance with this section.

3325 (a) The recording of the report and certification does not:

3326 1. Constitute a lien, encumbrance, or restriction on the
3327 title to the real property or constitute a defect in the title
3328 to the real property;

3329 2. Create any cause of action or liability against any
3330 grantor of the real property for breach of any warranty of good
3331 title or warranty against encumbrances; or

3332 3. Create any cause of action or liability against any
3333 title insurer that insures the title to the real property.

3334 (b) As a precondition to accepting payment for a sinkhole
3335 loss, the policyholder must file a copy of any sinkhole report

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3336 regarding the insured property which was prepared on behalf or
3337 at the request of the policyholder. The policyholder shall bear
3338 the cost of filing and recording the sinkhole report. The
3339 recording of the report does not:

3340 1. Constitute a lien, encumbrance, or restriction on the
3341 title to the real property or constitute a defect in the title
3342 to the real property;

3343 2. Create any cause of action or liability against any
3344 grantor of the real property for breach of any warranty of good
3345 title or warranty against encumbrances; or

3346 3. Create any cause of action or liability against a title
3347 insurer that insures the title to the real property.

3348 (c) ~~(b)~~ The seller of real property upon which a sinkhole
3349 claim has been made by the seller and paid by the insurer must
3350 ~~shall~~ disclose to the buyer of such property, before the
3351 closing, that a claim has been paid and whether or not the full
3352 amount of the proceeds were used to repair the sinkhole damage.

3353 (3) Upon completion of any building stabilization or
3354 foundation repairs for a verified sinkhole loss, the
3355 professional engineer responsible for monitoring the repairs
3356 shall issue a report to the property owner which specifies what
3357 repairs have been performed and certifies within a reasonable
3358 degree of professional probability that such repairs have been
3359 properly performed. The professional engineer issuing the report
3360 shall file a copy of the report and certification, which
3361 includes a legal description of the real property and the name
3362 of the property owner, with the county clerk of the court, who
3363 shall record the report and certification. This subsection does
3364 not create liability for an insurer based on any representation

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3365 or certification by a professional engineer related to the
3366 stabilization or foundation repairs for the verified sinkhole
3367 loss.

3368 Section 31. Section 627.7074, Florida Statutes, is amended
3369 to read:

3370 627.7074 Alternative procedure for resolution of disputed
3371 sinkhole insurance claims.-

3372 ~~(1) As used in this section, the term:~~

3373 ~~(a) "Neutral evaluation" means the alternative dispute~~
3374 ~~resolution provided for in this section.~~

3375 ~~(b) "Neutral evaluator" means a professional engineer or a~~
3376 ~~professional geologist who has completed a course of study in~~
3377 ~~alternative dispute resolution designed or approved by the~~
3378 ~~department for use in the neutral evaluation process, who is~~
3379 ~~determined to be fair and impartial.~~

3380 (1)(2)(a) The department shall:

3381 (a) Certify and maintain a list of persons who are neutral
3382 evaluators.

3383 ~~(b) The department shall~~ Prepare a consumer information
3384 pamphlet for distribution by insurers to policyholders which
3385 clearly describes the neutral evaluation process and includes
3386 information ~~and forms~~ necessary for the policyholder to request
3387 a neutral evaluation.

3388 (2) Neutral evaluation is available to either party if a
3389 sinkhole report has been issued pursuant to s. 627.7073. At a
3390 minimum, neutral evaluation must determine:

3391 (a) Causation;

3392 (b) All methods of stabilization and repair both above and
3393 below ground;

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3394 (c) The costs for stabilization and all repairs; and

3395 (d) Information necessary to carry out subsection (12).

3396 (3) Following the receipt of the report provided under s.
3397 627.7073 or the denial of a claim for a sinkhole loss, the
3398 insurer shall notify the policyholder of his or her right to
3399 participate in the neutral evaluation program under this
3400 section. Neutral evaluation supersedes the alternative dispute
3401 resolution process under s. 627.7015, but does not invalidate
3402 the appraisal clause of the insurance policy. The insurer shall
3403 provide to the policyholder the consumer information pamphlet
3404 prepared by the department pursuant to subsection (1)
3405 electronically or by United States mail ~~paragraph (2) (b).~~

3406 (4) Neutral evaluation is nonbinding, but mandatory if
3407 requested by either party. A request for neutral evaluation may
3408 be filed with the department by the policyholder or the insurer
3409 on a form approved by the department. The request for neutral
3410 evaluation must state the reason for the request and must
3411 include an explanation of all the issues in dispute at the time
3412 of the request. Filing a request for neutral evaluation tolls
3413 the applicable time requirements for filing suit for ~~a period of~~
3414 60 days following the conclusion of the neutral evaluation
3415 process or the time prescribed in s. 95.11, whichever is later.

3416 (5) Neutral evaluation shall be conducted as an informal
3417 process in which formal rules of evidence and procedure need not
3418 be observed. A party to neutral evaluation is not required to
3419 attend neutral evaluation if a representative of the party
3420 attends and has the authority to make a binding decision on
3421 behalf of the party. All parties shall participate in the
3422 evaluation in good faith. The neutral evaluator must be allowed

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3423 reasonable access to the interior and exterior of insured
3424 structures to be evaluated or for which a claim has been made.
3425 Any reports initiated by the policyholder, or an agent of the
3426 policyholder, confirming a sinkhole loss or disputing another
3427 sinkhole report regarding insured structures must be provided to
3428 the neutral evaluator before the evaluator's physical inspection
3429 of the insured property.

3430 (6) The insurer shall pay reasonable ~~the~~ costs associated
3431 with the neutral evaluation. However, if a party chooses to hire
3432 a court reporter or stenographer to contemporaneously record and
3433 document the neutral evaluation, that party must bear such
3434 costs.

3435 (7) Upon receipt of a request for neutral evaluation, the
3436 department shall provide the parties a list of certified neutral
3437 evaluators. ~~The parties shall mutually select a neutral~~
3438 ~~evaluator from the list and promptly inform the department. If~~
3439 ~~the parties cannot agree to a neutral evaluator within 10~~
3440 ~~business days,~~ The department shall allow the parties to submit
3441 requests to disqualify evaluators on the list for cause.

3442 (a) The department shall disqualify neutral evaluators for
3443 cause based only on any of the following grounds:

3444 1. A familial relationship exists between the neutral
3445 evaluator and either party or a representative of either party
3446 within the third degree.

3447 2. The proposed neutral evaluator has, in a professional
3448 capacity, previously represented either party or a
3449 representative of either party, in the same or a substantially
3450 related matter.

3451 3. The proposed neutral evaluator has, in a professional

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3452 capacity, represented another person in the same or a
3453 substantially related matter and that person's interests are
3454 materially adverse to the interests of the parties. The term
3455 "substantially related matter" means participation by the
3456 neutral evaluator on the same claim, property, or adjacent
3457 property.

3458 4. The proposed neutral evaluator has, within the preceding
3459 5 years, worked as an employer or employee of any party to the
3460 case.

3461 (b) The parties shall appoint a neutral evaluator from the
3462 department list and promptly inform the department. If the
3463 parties cannot agree to a neutral evaluator within 14 days, the
3464 department shall appoint a neutral evaluator from the list of
3465 certified neutral evaluators. The department shall allow each
3466 party to disqualify two neutral evaluators without cause. Upon
3467 selection or appointment, the department shall promptly refer
3468 the request to the neutral evaluator.

3469 (c) Within ~~14~~ 5 business days after the referral, the
3470 neutral evaluator shall notify the policyholder and the insurer
3471 of the date, time, and place of the neutral evaluation
3472 conference. The conference may be held by telephone, if feasible
3473 and desirable. The neutral evaluator shall make reasonable
3474 efforts to hold the ~~neutral evaluation~~ conference ~~shall be held~~
3475 within ~~90~~ 45 days after the receipt of the request by the
3476 department. Failure of the neutral evaluator to hold the
3477 conference within 90 days does not invalidate either party's
3478 right to neutral evaluation or to a neutral evaluation
3479 conference held outside this timeframe.

3480 ~~(8) The department shall adopt rules of procedure for the~~

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3481 ~~neutral evaluation process.~~

3482 ~~(8)(9)~~ For policyholders not represented by an attorney, a
3483 consumer affairs specialist of the department or an employee
3484 designated as the primary contact for consumers on issues
3485 relating to sinkholes under s. 20.121 shall be available for
3486 consultation to the extent that he or she may lawfully do so.

3487 ~~(9)(10)~~ Evidence of an offer to settle a claim during the
3488 neutral evaluation process, as well as any relevant conduct or
3489 statements made in negotiations concerning the offer to settle a
3490 claim, is inadmissible to prove liability or absence of
3491 liability for the claim or its value, except as provided in
3492 subsection ~~(14)~~ ~~(13)~~.

3493 ~~(10)(11)~~ Regardless of when noticed, any court proceeding
3494 related to the subject matter of the neutral evaluation shall be
3495 stayed pending completion of the neutral evaluation and for 5
3496 days after the filing of the neutral evaluator's report with the
3497 court.

3498 (11) If, based upon his or her professional training and
3499 credentials, a neutral evaluator is qualified to determine only
3500 disputes relating to causation or method of repair, the
3501 department shall allow the neutral evaluator to enlist the
3502 assistance of another professional from the neutral evaluators
3503 list not previously stricken, who, based upon his or her
3504 professional training and credentials, is able to provide an
3505 opinion as to other disputed issues. A professional who would be
3506 disqualified for any reason listed in subsection (7) must be
3507 disqualified. The neutral evaluator may also use the services of
3508 professional engineers and professional geologists who are not
3509 certified as neutral evaluators, as well as licensed building

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3510 contractors, in order to ensure that all items in dispute are
3511 addressed and the neutral evaluation can be completed. Any
3512 professional engineer, professional geologist, or licensed
3513 building contractor retained may be disqualified for any of the
3514 reasons listed in subsection (7). The neutral evaluator may
3515 request the entity that performed the investigation pursuant to
3516 s. 627.7072 perform such additional and reasonable testing as
3517 deemed necessary in the professional opinion of the neutral
3518 evaluator.

3519 (12) ~~At For matters that are not resolved by the parties at~~
3520 the conclusion of the neutral evaluation, the neutral evaluator
3521 shall prepare a report describing all matters that are the
3522 subject of the neutral evaluation, including whether, stating
3523 ~~that~~ in his or her opinion, the sinkhole loss has been verified
3524 or eliminated within a reasonable degree of professional
3525 probability and, if verified, whether the sinkhole activity
3526 caused structural damage to the covered building, and if so, the
3527 need for and estimated costs of stabilizing the land and any
3528 covered ~~structures or~~ buildings and other appropriate
3529 remediation or necessary building ~~structural~~ repairs due to the
3530 sinkhole loss. The evaluator's report shall be sent to all
3531 parties ~~in attendance at the neutral evaluation~~ and to the
3532 department, within 14 days after completing the neutral
3533 evaluation conference.

3534 (13) The recommendation of the neutral evaluator is not
3535 binding on any party, and the parties retain access to the
3536 court. The neutral evaluator's written recommendation, oral
3537 testimony, and full report shall be admitted ~~is admissible~~ in
3538 any ~~subsequent~~ action, litigation, or proceeding relating to the

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3539 claim or to the cause of action giving rise to the claim.
3540 However, oral or written statements or nonverbal conduct
3541 intended to make an assertion made by a party or neutral
3542 evaluator during the course of neutral evaluation, other than
3543 those statements or conduct expressly required to be admitted by
3544 this subsection, are confidential and may not be disclosed to a
3545 person other than a party to neutral evaluation or a party's
3546 counsel.

3547 (14) If the neutral evaluator ~~first~~ verifies the existence
3548 of a sinkhole that caused structural damage and,~~second,~~
3549 recommends the need for and estimates costs of stabilizing the
3550 land and any covered ~~structures or~~ buildings and other
3551 appropriate remediation or building structural repairs, ~~which~~
3552 ~~costs~~ exceed the amount that the insurer estimates as necessary
3553 to stabilize and repair, and the insurer refuses to comply with
3554 the neutral evaluator's findings and recommendations ~~has offered~~
3555 ~~to pay the policyholder,~~ the insurer is liable to the
3556 policyholder for up to \$2,500 in attorney's fees for the
3557 attorney's participation in the neutral evaluation process. ~~For~~
3558 ~~purposes of this subsection, the term "offer to pay" means a~~
3559 ~~written offer signed by the insurer or its legal representative~~
3560 ~~and delivered to the policyholder within 10 days after the~~
3561 ~~insurer receives notice that a request for neutral evaluation~~
3562 ~~has been made under this section.~~

3563 (15) If the insurer timely agrees in writing to comply and
3564 timely complies with the recommendation of the neutral
3565 evaluator, but the policyholder declines to resolve the matter
3566 in accordance with the recommendation of the neutral evaluator
3567 pursuant to this section:

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3568 (a) The insurer is not liable for extracontractual damages
3569 related to a claim for a sinkhole loss but only as related to
3570 the issues determined by the neutral evaluation process. This
3571 section does not affect or impair claims for extracontractual
3572 damages unrelated to the issues determined by the neutral
3573 evaluation process contained in this section; and

3574 (b) The actions of the insurer are not a confession of
3575 judgment or admission of liability, and the insurer is not
3576 liable for attorney's fees under s. 627.428 or other provisions
3577 of the insurance code unless the policyholder obtains a judgment
3578 that is more favorable than the recommendation of the neutral
3579 evaluator.

3580 (16) If the insurer agrees to comply with the neutral
3581 evaluator's report, payments shall be made in accordance with
3582 the terms and conditions of the applicable insurance policy
3583 pursuant to s. 627.707(5).

3584 (17) Neutral evaluators are deemed to be agents of the
3585 department and have immunity from suit as provided in s. 44.107.

3586 (18) The department shall adopt rules of procedure for the
3587 neutral evaluation process.

3588 Section 32. Subsection (8) of section 627.711, Florida
3589 Statutes, is amended to read:

3590 627.711 Notice of premium discounts for hurricane loss
3591 mitigation; uniform mitigation verification inspection form.—

3592 (8) ~~At its expense,~~ The insurer may require that a any
3593 uniform mitigation verification form provided by a policyholder,
3594 a policyholder's agency, or an authorized mitigation inspector
3595 or inspection company be independently verified by an inspector,
3596 an inspection company, or an independent third-party quality

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3597 assurance provider which possesses ~~does possess~~ a quality
3598 assurance program before ~~prior to~~ accepting the uniform
3599 mitigation verification form as valid.

3600 Section 33. Subsection (1) of section 627.712, Florida
3601 Statutes, is amended to read:

3602 627.712 Residential windstorm coverage required;
3603 availability of exclusions for windstorm or contents.-

3604 (1) An insurer issuing a residential property insurance
3605 policy must provide windstorm coverage. Except as provided in
3606 paragraph (2)(c), this section does not apply ~~with respect~~ to
3607 risks that are eligible for wind-only coverage from Citizens
3608 Property Insurance Corporation under s. 627.351(6), and ~~with~~
3609 ~~respect to~~ risks that are not eligible for coverage from
3610 Citizens Property Insurance Corporation under s. 627.351(6)(a)3.
3611 or 5. A risk ineligible for ~~Citizens~~ coverage by the corporation
3612 under s. 627.351(6)(a)3. or 5. is exempt from ~~the requirements~~
3613 ~~of~~ this section only if the risk is located within the
3614 boundaries of the coastal ~~high-risk~~ account of the corporation.

3615 Section 34. The amendments made by this act in sections 22,
3616 23, 24, 26, 27, and 28 which affect procedural rights do not
3617 apply to insurance claims reported to an insurer before February
3618 1, 2011, but do apply to claims reported to an insurer on or
3619 after that date. Amendments made by this act in sections 22, 23,
3620 24, 26, 27, and 28 which affect substantive rights apply to
3621 claims reported to an insurer on or after July 1, 2011.

3622 Section 35. Except as otherwise expressly provided in this
3623 act and except for this section, which shall take effect June 1,
3624 2011, this act shall take effect July 1, 2011.