

1 A bill to be entitled
2 An act relating to hurricane preparedness and insurance;
3 amending s. 163.01, F.S.; correcting a cross-reference;
4 amending s. 215.555, F.S.; revising certain reimbursement
5 contract requirements; revising criteria, requirements,
6 and limitations on temporary emergency options for
7 additional coverage under the Florida Hurricane
8 Catastrophe Fund; amending s. 215.5595, F.S.; providing
9 eligibility of certain insurers for a surplus note;
10 providing an aggregate requirement; amending s. 624.407,
11 F.S.; revising an insurer criterion for capital funds
12 requirements for new insurers; amending s. 624.408, F.S.;
13 specifying an additional surplus to policyholder amount
14 requirement for certain insurers; amending s. 627.0613,
15 F.S.; limiting application of certain annual report card
16 preparation powers of the consumer advocate to personal
17 residential property insurers; amending s. 627.062, F.S.;
18 specifying application of certain "file and use"
19 requirements to residential property insurance only;
20 amending s. 627.0629, F.S.; requiring property insurers to
21 periodically reevaluate certain discounts, credits, rate
22 differentials, and deductible reductions and make certain
23 adjustments relating to mitigation measures; requiring
24 insurers to make rate filings for certain purposes;
25 amending s. 627.0655, F.S.; revising criteria for certain
26 inclusion of discounts in certain premiums; amending s.
27 627.351, F.S.; revising a premium payment plan option
28 provision of the operating plan requirements of Citizens

29 | Property Insurance Corporation; amending s. 627.3511,
30 | F.S.; correcting a cross-reference; amending s. 627.3515,
31 | F.S.; revising criteria for an electronic database for a
32 | business plan; amending s. 627.3517, F.S.; deleting a
33 | provision specifying nonapplication for a certain period;
34 | amending s. 627.4035, F.S.; revising a premium payment
35 | plan option provision for certain insurers; amending s.
36 | 627.4133, F.S.; specifying requirements for notices of
37 | renewal premium of property insurance policies;
38 | authorizing the Financial Services Commission to adopt
39 | rules; amending s. 627.701, F.S.; revising requirements
40 | for deductibles for certain personal lines residential
41 | property insurance policies; amending s. 627.70131, F.S.;
42 | revising certain payment or denial of claim requirements;
43 | providing for application to residential property
44 | insurance claims only; specifying regulatory action as an
45 | exclusive remedy for certain violations; amending s.
46 | 627.712, F.S.; limiting application of certain residential
47 | hurricane coverage requirements to personal lines
48 | policies; specifying a period of application of certain
49 | exclusions; providing for implementation of changes to
50 | certain exclusions; amending s. 627.713, F.S.; limiting
51 | application of certain reporting requirements to the
52 | conclusion of the Atlantic hurricane season; amending s.
53 | 627.7277, F.S.; deleting certain notice of renewal premium
54 | requirements; deleting authority of the commission to
55 | adopt rules; amending s. 631.57, F.S.; revising certain
56 | emergency assessment provisions relating to insurers

57 rendered insolvent by the effects of hurricanes;
 58 preserving certain Florida Building Code internal design
 59 options for certain building permits for a certain time;
 60 providing for retroactive application; providing
 61 severability; limiting application of certain rate filing
 62 requirements relating to presumed factor savings to
 63 certain catastrophe reinsurance contracts; excusing
 64 certain insurers from being required to reflect certain
 65 savings in presumed factor rate filings; providing
 66 effective dates.

67

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

69

70 Section 1. Paragraph (h) of subsection (7) of section
 71 163.01, Florida Statutes, as amended by chapter 2007-1, Laws of
 72 Florida, is amended to read:

73 163.01 Florida Interlocal Cooperation Act of 1969.--

74 (7)

75 (h)1. Notwithstanding the provisions of paragraph (c), any
 76 separate legal entity consisting of an alliance, as defined in
 77 s. 395.106(2) (a), created pursuant to this paragraph and
 78 controlled by and whose members consist of eligible entities
 79 comprised of special districts created pursuant to a special act
 80 and having the authority to own or operate one or more hospitals
 81 licensed in this state or hospitals licensed in this state that
 82 are owned, operated, or funded by a county or municipality, for
 83 the purpose of providing property insurance coverage as defined
 84 in s. 395.106(2) (b) ~~(e)~~, for such eligible entities, may exercise

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85 all powers under this subsection in connection with borrowing
86 funds for such purposes, including, without limitation, the
87 authorization, issuance, and sale of bonds, notes, or other
88 obligations of indebtedness. Borrowed funds, including, but not
89 limited to, bonds issued by such alliance shall be deemed issued
90 on behalf of such eligible entities that enter into loan
91 agreements with such separate legal entity as provided in this
92 paragraph.

93 2. Any such separate legal entity shall have all the
94 powers that are provided by the interlocal agreement under which
95 the entity is created or that are necessary to finance, operate,
96 or manage the alliance's property insurance coverage program.
97 Proceeds of bonds, notes, or other obligations issued by such an
98 entity may be loaned to any one or more eligible entities. Such
99 eligible entities are authorized to enter into loan agreements
100 with any separate legal entity created pursuant to this
101 paragraph for the purpose of obtaining moneys with which to
102 finance property insurance coverage or claims. Obligations of
103 any eligible entity pursuant to a loan agreement as described in
104 this paragraph may be validated as provided in chapter 75.

105 3. Any bonds, notes, or other obligations to be issued or
106 incurred by a separate legal entity created pursuant to this
107 paragraph shall be authorized by resolution of the governing
108 body of such entity and bear the date or dates; mature at the
109 time or times, not exceeding 30 years from their respective
110 dates; bear interest at the rate or rates, which may be fixed or
111 vary at such time or times and in accordance with a specified
112 formula or method of determination; be payable at the time or

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113 | times; be in the denomination; be in the form; carry the
114 | registration privileges; be executed in the manner; be payable
115 | from the sources and in the medium of payment and at the place;
116 | and be subject to redemption, including redemption prior to
117 | maturity, as the resolution may provide. The bonds, notes, or
118 | other obligations may be sold at public or private sale for such
119 | price as the governing body of the separate legal entity shall
120 | determine. The bonds may be secured by such credit enhancement,
121 | if any, as the governing body of the separate legal entity deems
122 | appropriate. The bonds may be secured by an indenture of trust
123 | or trust agreement. In addition, the governing body of the
124 | separate legal entity may delegate, to such officer or official
125 | of such entity as the governing body may select, the power to
126 | determine the time; manner of sale, public or private;
127 | maturities; rate or rates of interest, which may be fixed or may
128 | vary at such time or times and in accordance with a specified
129 | formula or method of determination; and other terms and
130 | conditions as may be deemed appropriate by the officer or
131 | official so designated by the governing body of such separate
132 | legal entity. However, the amounts and maturities of such bonds,
133 | the interest rate or rates, and the purchase price of such bonds
134 | shall be within the limits prescribed by the governing body of
135 | such separate legal entity in its resolution delegating to such
136 | officer or official the power to authorize the issuance and sale
137 | of such bonds.

138 | 4. Bonds issued pursuant to this paragraph may be
139 | validated as provided in chapter 75. The complaint in any action
140 | to validate such bonds shall be filed only in the Circuit Court

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141 for Leon County. The notice required to be published by s. 75.06
142 shall be published in Leon County and in each county in which an
143 eligible entity that is a member of an alliance is located. The
144 complaint and order of the circuit court shall be served only on
145 the State Attorney of the Second Judicial Circuit and on the
146 state attorney of each circuit in each county in which an
147 eligible entity receiving bond proceeds is located.

148 5. The accomplishment of the authorized purposes of a
149 separate legal entity created under this paragraph is deemed in
150 all respects for the benefit, increase of the commerce and
151 prosperity, and improvement of the health and living conditions
152 of the people of this state. Inasmuch as the separate legal
153 entity performs essential public functions in accomplishing its
154 purposes, the separate legal entity is not required to pay any
155 taxes or assessments of any kind upon any property acquired or
156 used by the entity for such purposes or upon any revenues at any
157 time received by the entity. The bonds, notes, and other
158 obligations of such separate legal entity, the transfer of and
159 income from such bonds, notes, and other obligations, including
160 any profits made on the sale of such bonds, notes, and other
161 obligations, are at all times free from taxation of any kind of
162 the state or by any political subdivision or other agency or
163 instrumentality of the state. The exemption granted in this
164 paragraph does not apply to any tax imposed by chapter 220 on
165 interest, income, or profits on debt obligations owned by
166 corporations.

167 6. The participation by any eligible entity in an alliance
168 or a separate legal entity created pursuant to this paragraph

169 may not be deemed a waiver of immunity to the extent of
 170 liability or any other coverage, and a contract entered
 171 regarding such alliance is not required to contain any provision
 172 for waiver.

173 Section 2. Paragraph (b) of subsection (4) and subsection
 174 (16) of section 215.555, Florida Statutes, as amended by chapter
 175 2007-1, Laws of Florida, are amended to read:

176 215.555 Florida Hurricane Catastrophe Fund.--

177 (4) REIMBURSEMENT CONTRACTS.--

178 (b)1. The contract shall contain a promise by the board to
 179 reimburse the insurer for 45 percent, 75 percent, or 90 percent
 180 of its losses from each covered event in excess of the insurer's
 181 retention, plus 5 percent of the reimbursed losses to cover loss
 182 adjustment expenses.

183 2. The insurer must elect one of the percentage coverage
 184 levels specified in this paragraph and may, upon renewal of a
 185 reimbursement contract, elect a lower percentage coverage level
 186 if no revenue bonds issued under subsection (6) after a covered
 187 event are outstanding, or elect a higher percentage coverage
 188 level, regardless of whether or not revenue bonds are
 189 outstanding. All members of an insurer group must elect the same
 190 percentage coverage level. Any joint underwriting association,
 191 risk apportionment plan, or other entity created under s.
 192 627.351 must elect the 90-percent coverage level.

193 3. The contract shall provide that reimbursement amounts
 194 shall not be reduced by reinsurance paid or payable to the
 195 insurer from other sources.

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196 4. Notwithstanding any other provision contained in this
197 section, the board shall make available to insurers that
198 purchased coverage provided by this subparagraph ~~participated in~~
199 2006, insurers qualifying as limited apportionment companies
200 under s. 627.351(6)(c) ~~which began writing property insurance in~~
201 ~~2007~~, and insurers that were approved to participate in 2006 or
202 that are approved in 2007 for the Insurance Capital Build-Up
203 Incentive Program pursuant to s. 215.5595, a contract or
204 contract addendum that provides an additional amount of
205 reimbursement coverage of up to \$10 million. The premium to be
206 charged for this additional reimbursement coverage shall be 50
207 percent of the additional reimbursement coverage provided, which
208 shall include one prepaid reinstatement. The minimum retention
209 level that an eligible participating insurer must retain
210 associated with this additional coverage layer is 30 percent of
211 the insurer's surplus as of December 31, 2006. This coverage
212 shall be in addition to all other coverage that may be provided
213 under this section. The coverage provided by the fund under this
214 subsection shall be in addition to the claims-paying capacity as
215 defined in subparagraph (c)1., but only with respect to those
216 insurers that select the additional coverage option and meet the
217 requirements of this subsection. The claims-paying capacity with
218 respect to all other participating insurers and limited
219 apportionment companies that do not select the additional
220 coverage option shall be limited to their reimbursement
221 premium's proportionate share of the actual claims-paying
222 capacity otherwise defined in subparagraph (c)1. and as provided
223 for under the terms of the reimbursement contract. Coverage

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224 provided in the reimbursement contract will not be affected by
225 the additional premiums paid by participating insurers
226 exercising the additional coverage option allowed in this
227 subparagraph. This subparagraph expires on May 31, 2008.

228 (16) TEMPORARY EMERGENCY OPTIONS FOR ADDITIONAL
229 COVERAGE.--

230 (a) Findings and intent.--

231 1. The Legislature finds that:

232 a. Because of temporary disruptions in the market for
233 catastrophic reinsurance, many property insurers were unable to
234 procure reinsurance for the 2006 hurricane season with an
235 attachment point below the insurers' respective Florida
236 Hurricane Catastrophe Fund attachment points, were unable to
237 procure sufficient amounts of such reinsurance, or were able to
238 procure such reinsurance only by incurring substantially higher
239 costs than in prior years.

240 b. The reinsurance market problems were responsible, at
241 least in part, for substantial premium increases to many
242 consumers and increases in the number of policies issued by the
243 Citizens Property Insurance Corporation.

244 c. It is likely that the reinsurance market disruptions
245 will not significantly abate prior to the 2007 hurricane season.

246 2. It is the intent of the Legislature to create a
247 temporary emergency program, applicable to the 2007, 2008, and
248 2009 hurricane seasons, to address these market disruptions and
249 enable insurers, at their option, to procure additional coverage
250 from the Florida Hurricane Catastrophe Fund.

251 (b) Applicability of other provisions of this
 252 section.--All provisions of this section and the rules adopted
 253 under this section apply to the program created by this
 254 subsection unless specifically superseded by this subsection.

255 (c) Optional coverage.--For the contract year commencing
 256 June 1, 2007, and ending May 31, 2008, the contract year
 257 commencing June 1, 2008, and ending May 31, 2009, and the
 258 contract year commencing June 1, 2009, and ending May 31, 2010,
 259 the board shall offer for each of such years the optional
 260 coverage as provided in this subsection.

261 (d) Additional definitions.--As used in this subsection,
 262 the term:

263 1. "TEACO options" means the temporary emergency
 264 additional coverage options created under this subsection.

265 2. "TEACO insurer" means an insurer that has opted to
 266 obtain coverage under the TEACO options in addition to the
 267 coverage provided to the insurer under its reimbursement
 268 contract.

269 3. "TEACO reimbursement premium" means the premium charged
 270 by the fund for coverage provided under the TEACO options.

271 4. "TEACO retention" means the amount of losses below
 272 which a TEACO insurer is not entitled to reimbursement from the
 273 fund under the TEACO option selected. A TEACO insurer's
 274 retention options shall be calculated as follows:

275 a. The board shall calculate and report to each TEACO
 276 insurer the TEACO retention multiples. There shall be three
 277 TEACO retention multiples for defining coverage. Each multiple
 278 shall be calculated by dividing \$3 billion, \$4 billion, or \$5

279 billion by the total estimated mandatory FHCF ~~TEACO~~
 280 reimbursement premium assuming all insurers ~~selected that~~
 281 ~~option. Total estimated TEACO reimbursement premium for purposes~~
 282 ~~of the calculation under this sub-subparagraph shall be~~
 283 ~~calculated using the assumption that all insurers have selected~~
 284 ~~a specific TEACO retention multiple option and have selected the~~
 285 90-percent coverage level.

286 b. The TEACO retention multiples as determined under sub-
 287 subparagraph a. shall be adjusted to reflect the coverage level
 288 elected by the insurer. For insurers electing the 90-percent
 289 coverage level, the adjusted retention multiple is 100 percent
 290 of the amount determined under sub-subparagraph a. For insurers
 291 electing the 75-percent coverage level, the retention multiple
 292 is 120 percent of the amount determined under sub-subparagraph
 293 a. For insurers electing the 45-percent coverage level, the
 294 adjusted retention multiple is 200 percent of the amount
 295 determined under sub-subparagraph a.

296 c. An insurer shall determine its provisional TEACO
 297 retention by multiplying its estimated mandatory FHCF
 298 ~~provisional TEACO~~ reimbursement premium by the applicable
 299 adjusted TEACO retention multiple and shall determine its actual
 300 TEACO retention by multiplying its actual mandatory FHCF ~~TEACO~~
 301 reimbursement premium by the applicable adjusted TEACO retention
 302 multiple.

303 d. For TEACO insurers who experience multiple covered
 304 events causing loss during the contract year, the insurer's full
 305 TEACO retention shall be applied to each of the covered events
 306 causing the two largest losses for that insurer. For other

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307 covered events resulting in losses, the TEACO option does not
308 apply and the insurer's retention shall be one-third of the full
309 retention as calculated under paragraph (2)(e).

310 5. "TEACO addendum" means an addendum to the reimbursement
311 contract reflecting the obligations of the fund and TEACO
312 insurers under the program created by this subsection.

313 (e) TEACO addendum.--

314 1. The TEACO addendum shall provide for reimbursement of
315 TEACO insurers for covered events occurring during the contract
316 year, in exchange for the TEACO reimbursement premium paid into
317 the fund under paragraph (f). Any insurer writing covered
318 policies has the option of choosing to accept the TEACO addendum
319 for any of the 3 contract years that the coverage is offered.

320 2. The TEACO addendum shall contain a promise by the board
321 to reimburse the TEACO insurer for 45 percent, 75 percent, or 90
322 percent of its losses from each covered event in excess of the
323 insurer's TEACO retention, plus 5 percent of the reimbursed
324 losses to cover loss adjustment expenses. The percentage shall
325 be the same as the coverage level selected by the insurer under
326 paragraph (4)(b).

327 3. The TEACO addendum shall provide that reimbursement
328 amounts shall not be reduced by reinsurance paid or payable to
329 the insurer from other sources.

330 4. The TEACO addendum shall also provide that the
331 obligation of the board with respect to all TEACO addenda shall
332 not exceed an amount equal to two times the difference between
333 the industry retention level calculated under paragraph (2)(e)
334 and the \$3 billion, \$4 billion, or \$5 billion industry TEACO

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335 retention level options actually selected, but in no event may
336 the board's obligation exceed the actual claims-paying capacity
337 of the fund plus the additional capacity created in paragraph
338 (g). If the actual claims-paying capacity and the additional
339 capacity created under paragraph (g) fall short of the board's
340 obligations under the reimbursement contract, each insurer's
341 share of the fund's capacity shall be prorated based on the
342 premium an insurer pays for its mandatory ~~normal~~ reimbursement
343 coverage and the premium paid for its optional TEACO coverage as
344 each such premium bears to the total premiums paid to the fund
345 times the available capacity.

346 5. The priorities, schedule, and method of reimbursements
347 under the TEACO addendum shall be the same as provided under
348 subsection (4).

349 6. A TEACO insurer's maximum reimbursement for a single
350 event shall be equal to the product of multiplying its mandatory
351 FHCF premium by the difference between its FHCF retention
352 multiple and its TEACO retention multiple under the TEACO option
353 selected and by the coverage selected under paragraph (4) (b),
354 plus an additional 5 percent for loss adjustment expenses. A
355 TEACO insurer's maximum reimbursement under the TEACO option
356 selected for a TEACO insurer's two largest events addendum shall
357 be twice its maximum reimbursement for a single event calculated
358 ~~by multiplying the insurer's share of the estimated total TEACO~~
359 ~~reimbursement premium as calculated under sub-subparagraph~~
360 ~~(d)4.a. by an amount equal to two times the difference between~~
361 ~~the industry retention level calculated under paragraph (2) (e)~~
362 ~~and the \$3 billion, \$4 billion, or \$5 billion industry TEACO~~

363 ~~retention level specified in sub subparagraph (d) 4.a. as~~
 364 ~~selected by the TEACO insurer.~~

365 (f) TEACO reimbursement premiums.--

366 1. Each TEACO insurer shall pay to the fund, in the manner
 367 and at the time provided in the reimbursement contract for
 368 payment of reimbursement premiums, a TEACO reimbursement premium
 369 calculated as specified in this paragraph.

370 2. ~~The TEACO reimbursement premiums shall be calculated~~
 371 ~~based on the assumption that, if all insurers entering into~~
 372 ~~reimbursement contracts under subsection (4) also accepted the~~
 373 ~~TEACO option.~~

374 a. The insurer's industry TEACO reimbursement premium
 375 associated with the \$3 billion retention option shall ~~would~~ be
 376 equal to 85 percent of a TEACO insurer's maximum reimbursement
 377 for a single event as calculated under subparagraph (e) 6. ~~the~~
 378 ~~difference between the industry retention level calculated under~~
 379 ~~paragraph (2)(c) and the \$3 billion industry TEACO retention~~
 380 ~~level.~~

381 b. The TEACO reimbursement premium associated with the \$4
 382 billion retention option shall ~~would~~ be equal to 80 percent of a
 383 TEACO insurer's maximum reimbursement for a single event as
 384 calculated under subparagraph (e) 6. ~~the difference between the~~
 385 ~~industry retention level calculated under paragraph (2)(c) and~~
 386 ~~the \$4 billion industry TEACO retention level.~~

387 e. The TEACO premium associated with the \$5 billion
 388 retention option shall ~~would~~ be equal to 75 percent of a TEACO
 389 insurer's maximum reimbursement for a single event as calculated
 390 under subparagraph (e) 6. ~~the difference between the industry~~

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391 ~~retention level calculated under paragraph (2)(e) and the \$5~~
392 ~~billion industry TEACO retention level.~~

393 ~~3. Each insurer's TEACO premium shall be calculated based~~
394 ~~on its share of the total TEACO reimbursement premiums based on~~
395 ~~its coverage selection under the TEACO addendum.~~

396 (g) Effect on claims-paying capacity of the fund.--For the
397 contract term commencing June 1, 2007, the contract year
398 commencing June 1, 2008, and the contract term beginning June 1,
399 2009, the program created by this subsection shall increase the
400 claims-paying capacity of the fund as provided in subparagraph
401 (4)(c)1. by an amount equal to two times the difference between
402 the industry retention level calculated under paragraph (2)(e)
403 and the \$3 billion industry TEACO retention level specified in
404 sub-subparagraph (d)4.a. The additional capacity shall apply
405 only to the additional coverage provided by the TEACO option and
406 shall not otherwise affect any insurer's reimbursement from the
407 fund.

408 Section 3. Paragraph (b) of subsection (2) of section
409 215.5595, Florida Statutes, is amended to read:

410 215.5595 Insurance Capital Build-Up Incentive Program.--

411 (2) The purpose of this section is to provide surplus
412 notes to new or existing authorized residential property
413 insurers under the Insurance Capital Build-Up Incentive Program
414 administered by the State Board of Administration, under the
415 following conditions:

416 (b) The insurer must contribute an amount of new capital
417 to its surplus which is at least equal to the amount of the
418 surplus note and must apply to the board by July 1, 2006. If an

419 insurer applies after July 1, 2006, but before June 1, 2007, the
 420 amount of the surplus note is limited to one-half of the new
 421 capital that the insurer contributes to its surplus. For
 422 purposes of this section, new capital must be in the form of
 423 cash or cash equivalents as specified in s. 625.012(1). An
 424 insurer writing only manufactured housing policies that applies
 425 for funds under this section after July 1, 2006, but before June
 426 1, 2007, is eligible to receive a surplus note in the amount of
 427 \$7 million. The insurer's surplus, new capital, and the surplus
 428 note must total at least \$14 million.

429 Section 4. Subsection (1) of section 624.407, Florida
 430 Statutes, as amended by chapter 2007-1, Laws of Florida, is
 431 amended to read:

432 624.407 Capital funds required; new insurers.--

433 (1) To receive authority to transact any one kind or
 434 combinations of kinds of insurance, as defined in part V of this
 435 chapter, an insurer applying for its original certificate of
 436 authority in this state after the effective date of this section
 437 shall possess surplus as to policyholders not less than the
 438 greater of:

439 (a) Five million dollars for a property and casualty
 440 insurer, or \$2.5 million for any other insurer;

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

443 (c) For life and health insurers, 4 percent of the
 444 insurer's total liabilities, plus 6 percent of the insurer's
 445 liabilities relative to health insurance; or

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446 (d) For all insurers other than life insurers and life and
 447 health insurers, 10 percent of the insurer's total liabilities;
 448
 449 however, a domestic insurer that transacts residential property
 450 insurance and is a wholly owned subsidiary of an insurer
 451 domiciled ~~authorized to do business~~ in any other state shall
 452 possess surplus as to policyholders of at least \$50 million, but
 453 no insurer shall be required under this subsection to have
 454 surplus as to policyholders greater than \$100 million.

455 Section 5. Paragraph (a) of subsection (1) of section
 456 624.408, Florida Statutes, is amended to read:

457 624.408 Surplus as to policyholders required; new and
 458 existing insurers.--

459 (1)(a) To maintain a certificate of authority to transact
 460 any one kind or combinations of kinds of insurance, as defined
 461 in part V of this chapter, an insurer in this state shall at all
 462 times maintain surplus as to policyholders not less than the
 463 greater of:

464 1. Except as provided in subparagraph 5. and paragraph
 465 (b), \$1.5 million;

466 2. For life insurers, 4 percent of the insurer's total
 467 liabilities;

468 3. For life and health insurers, 4 percent of the
 469 insurer's total liabilities plus 6 percent of the insurer's
 470 liabilities relative to health insurance; or

471 4. For all insurers other than mortgage guaranty insurers,
 472 life insurers, and life and health insurers, 10 percent of the
 473 insurer's total liabilities.

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474 5. For property and casualty insurers, \$4 million;
475 however, a domestic insurer that transacts residential property
476 insurance and is a wholly owned subsidiary of an insurer
477 domiciled in any other state shall possess surplus as to
478 policyholders of at least \$50 million.

479 Section 6. Subsection (4) of section 627.0613, Florida
480 Statutes, as amended by chapter 2007-1, Laws of Florida, is
481 amended to read:

482 627.0613 Consumer advocate.--The Chief Financial Officer
483 must appoint a consumer advocate who must represent the general
484 public of the state before the department and the office. The
485 consumer advocate must report directly to the Chief Financial
486 Officer, but is not otherwise under the authority of the
487 department or of any employee of the department. The consumer
488 advocate has such powers as are necessary to carry out the
489 duties of the office of consumer advocate, including, but not
490 limited to, the powers to:

491 (4) Prepare an annual report card for each authorized
492 personal residential property insurer, on a form and using a
493 letter-grade scale developed by the commission by rule, which
494 grades each insurer based on the following factors:

495 (a) The number and nature of consumer complaints received
496 by the department against the insurer.

497 (b) The disposition of all complaints received by the
498 department.

499 (c) The average length of time for payment of claims by
500 the insurer.

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501 (d) Any other factors the commission identifies as
502 assisting policyholders in making informed choices about
503 homeowner's insurance.

504 Section 7. Paragraph (a) of subsection (2) of section
505 627.062, Florida Statutes, as amended by chapter 2007-1, Laws of
506 Florida, is amended to read:

507 627.062 Rate standards.--

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

509 (a) Insurers or rating organizations shall establish and
510 use rates, rating schedules, or rating manuals to allow the
511 insurer a reasonable rate of return on such classes of insurance
512 written in this state. A copy of rates, rating schedules, rating
513 manuals, premium credits or discount schedules, and surcharge
514 schedules, and changes thereto, shall be filed with the office
515 under one of the following procedures except as provided in
516 subparagraph 3.:

517 1. If the filing is made at least 90 days before the
518 proposed effective date and the filing is not implemented during
519 the office's review of the filing and any proceeding and
520 judicial review, then such filing shall be considered a "file
521 and use" filing. In such case, the office shall finalize its
522 review by issuance of a notice of intent to approve or a notice
523 of intent to disapprove within 90 days after receipt of the
524 filing. The notice of intent to approve and the notice of intent
525 to disapprove constitute agency action for purposes of the
526 Administrative Procedure Act. Requests for supporting
527 information, requests for mathematical or mechanical
528 corrections, or notification to the insurer by the office of its

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529 preliminary findings shall not toll the 90-day period during any
530 such proceedings and subsequent judicial review. The rate shall
531 be deemed approved if the office does not issue a notice of
532 intent to approve or a notice of intent to disapprove within 90
533 days after receipt of the filing.

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

541 3. For all filings made or submitted after January 25,
542 2007, but ~~en-er~~ before December 31, 2008, an insurer seeking a
543 rate that is greater than the rate most recently approved by the
544 office shall make a "file and use" filing. This subparagraph
545 applies solely to residential property insurance.

546
547 The provisions of this subsection shall not apply to workers'
548 compensation and employer's liability insurance and to motor
549 vehicle insurance.

550 Section 8. Subsection (1) of section 627.0629, Florida
551 Statutes, is amended to read:

552 627.0629 Residential property insurance; rate filings.--

553 (1) It is the intent of the Legislature that insurers must
554 provide savings to consumers who install or implement windstorm
555 damage mitigation techniques, alterations, or solutions to their
556 properties to prevent windstorm losses. A rate filing for

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557 residential property insurance must include actuarially
558 reasonable discounts, credits, or other rate differentials, or
559 appropriate reductions in deductibles, for properties on which
560 fixtures or construction techniques demonstrated to reduce the
561 amount of loss in a windstorm have been installed or
562 implemented. The fixtures or construction techniques shall
563 include, but not be limited to, fixtures or construction
564 techniques which enhance roof strength, roof covering
565 performance, roof-to-wall strength, wall-to-floor-to-foundation
566 strength, opening protection, and window, door, and skylight
567 strength. Credits, discounts, or other rate differentials, or
568 appropriate reductions in deductibles, for fixtures and
569 construction techniques which meet the minimum requirements of
570 the Florida Building Code must be included in the rate filing.
571 All insurance companies must make a rate filing which includes
572 the credits, discounts, or other rate differentials or
573 reductions in deductibles by February 28, 2003. By July 1, 2007,
574 the office shall reevaluate the discounts, credits, other rate
575 differentials, and appropriate reductions in deductibles for
576 fixtures and construction techniques that meet the minimum
577 requirements of the Florida Building Code, based upon actual
578 experience or any other loss relativity studies available to the
579 office. The office shall determine the discounts, credits, other
580 rate differentials, and appropriate reductions in deductibles
581 that reflect the full actuarial value of such revaluation, which
582 may be used by insurers in rate filings. A property insurer
583 shall reevaluate the discounts, credits, or other rate
584 differentials or appropriate reductions in deductibles provided

585 pursuant to this subsection at least every 5 years and shall
 586 submit a rate filing to the office for a reduction in the
 587 discount, credit, or rate differential or an increase in the
 588 applicable deductible to account for the effectiveness of the
 589 mitigation measure installed or implemented.

590 Section 9. Section 627.0655, Florida Statutes, as created
 591 by chapter 2007-1, Laws of Florida, is amended, to read:

592 627.0655 Policyholder loss or expense-related premium
 593 discounts.--An insurer or person authorized to engage in the
 594 business of insurance in this state may include, in the premium
 595 charged an insured for any policy, contract, or certificate of
 596 insurance, a discount based on the fact that another policy,
 597 contract, or certificate of any type has been purchased by the
 598 insured from the same insurer or insurer group.

599 Section 10. Paragraphs (b), (c), (n), and (v) of
 600 subsection (6) of section 627.351, Florida Statutes, as amended
 601 by chapter 2007-1, Laws of Florida, are amended to read:

602 627.351 Insurance risk apportionment plans.--

603 (6) CITIZENS PROPERTY INSURANCE CORPORATION.--

604 (b)1. All insurers authorized to write one or more subject
 605 lines of business in this state are subject to assessment by the
 606 corporation and, for the purposes of this subsection, are
 607 referred to collectively as "assessable insurers." Insurers
 608 writing one or more subject lines of business in this state
 609 pursuant to part VIII of chapter 626 are not assessable
 610 insurers, but insureds who procure one or more subject lines of
 611 business in this state pursuant to part VIII of chapter 626 are
 612 subject to assessment by the corporation and are referred to

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613 collectively as "assessable insureds." An authorized insurer's
614 assessment liability shall begin on the first day of the
615 calendar year following the year in which the insurer was issued
616 a certificate of authority to transact insurance for subject
617 lines of business in this state and shall terminate 1 year after
618 the end of the first calendar year during which the insurer no
619 longer holds a certificate of authority to transact insurance
620 for subject lines of business in this state.

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

624 (I) A personal lines account for personal residential
625 policies issued by the corporation or issued by the Residential
626 Property and Casualty Joint Underwriting Association and renewed
627 by the corporation that provide comprehensive, multiperil
628 coverage on risks that are not located in areas eligible for
629 coverage in the Florida Windstorm Underwriting Association as
630 those areas were defined on January 1, 2002, and for such
631 policies that do not provide coverage for the peril of wind on
632 risks that are located in such areas;

633 (II) A commercial lines account for commercial residential
634 and commercial nonresidential policies issued by the corporation
635 or issued by the Residential Property and Casualty Joint
636 Underwriting Association and renewed by the corporation that
637 provide coverage for basic property perils on risks that are not
638 located in areas eligible for coverage in the Florida Windstorm
639 Underwriting Association as those areas were defined on January

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640 1, 2002, and for such policies that do not provide coverage for
641 the peril of wind on risks that are located in such areas; and
642 (III) A high-risk account for personal residential
643 policies and commercial residential and commercial
644 nonresidential property policies issued by the corporation or
645 transferred to the corporation that provide coverage for the
646 peril of wind on risks that are located in areas eligible for
647 coverage in the Florida Windstorm Underwriting Association as
648 those areas were defined on January 1, 2002. Subject to the
649 approval of a business plan by the Financial Services Commission
650 and Legislative Budget Commission as provided in this sub-sub-
651 subparagraph, but no earlier than March 31, 2007, the
652 corporation may offer policies that provide multiperil coverage
653 and the corporation shall continue to offer policies that
654 provide coverage only for the peril of wind for risks located in
655 areas eligible for coverage in the high-risk account. In issuing
656 multiperil coverage, the corporation may use its approved policy
657 forms and rates for the personal lines account. An applicant or
658 insured who is eligible to purchase a multiperil policy from the
659 corporation may purchase a multiperil policy from an authorized
660 insurer without prejudice to the applicant's or insured's
661 eligibility to prospectively purchase a policy that provides
662 coverage only for the peril of wind from the corporation. An
663 applicant or insured who is eligible for a corporation policy
664 that provides coverage only for the peril of wind may elect to
665 purchase or retain such policy and also purchase or retain
666 coverage excluding wind from an authorized insurer without
667 prejudice to the applicant's or insured's eligibility to

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668 prospectively purchase a policy that provides multiperil
669 coverage from the corporation. It is the goal of the Legislature
670 that there would be an overall average savings of 10 percent or
671 more for a policyholder who currently has a wind-only policy
672 with the corporation, and an ex-wind policy with a voluntary
673 insurer or the corporation, and who then obtains a multiperil
674 policy from the corporation. It is the intent of the Legislature
675 that the offer of multiperil coverage in the high-risk account
676 be made and implemented in a manner that does not adversely
677 affect the tax-exempt status of the corporation or
678 creditworthiness of or security for currently outstanding
679 financing obligations or credit facilities of the high-risk
680 account, the personal lines account, or the commercial lines
681 account. By March 1, 2007, the corporation shall prepare and
682 submit for approval by the Financial Services Commission and
683 Legislative Budget Commission a report detailing the
684 corporation's business plan for issuing multiperil coverage in
685 the high-risk account. The business plan shall be approved or
686 disapproved within 30 days after receipt, as submitted or
687 modified and resubmitted by the corporation. The business plan
688 must include: the impact of such multiperil coverage on the
689 corporation's financial resources, the impact of such multiperil
690 coverage on the corporation's tax-exempt status, the manner in
691 which the corporation plans to implement the processing of
692 applications and policy forms for new and existing
693 policyholders, the impact of such multiperil coverage on the
694 corporation's ability to deliver customer service at the high
695 level required by this subsection, the ability of the

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696 corporation to process claims, the ability of the corporation to
697 quote and issue policies, the impact of such multiperil coverage
698 on the corporation's agents, the impact of such multiperil
699 coverage on the corporation's existing policyholders, and the
700 impact of such multiperil coverage on rates and premium. The
701 high-risk account must also include quota share primary
702 insurance under subparagraph (c)2. The area eligible for
703 coverage under the high-risk account also includes the area
704 within Port Canaveral, which is bordered on the south by the
705 City of Cape Canaveral, bordered on the west by the Banana
706 River, and bordered on the north by Federal Government property.

707 b. The three separate accounts must be maintained as long
708 as financing obligations entered into by the Florida Windstorm
709 Underwriting Association or Residential Property and Casualty
710 Joint Underwriting Association are outstanding, in accordance
711 with the terms of the corresponding financing documents. When
712 the financing obligations are no longer outstanding, in
713 accordance with the terms of the corresponding financing
714 documents, the corporation may use a single account for all
715 revenues, assets, liabilities, losses, and expenses of the
716 corporation. Consistent with the requirement of this
717 subparagraph and prudent investment policies that minimize the
718 cost of carrying debt, the board shall exercise its best efforts
719 to retire existing debt or to obtain approval of necessary
720 parties to amend the terms of existing debt, so as to structure
721 the most efficient plan to consolidate the three separate
722 accounts into a single account. By February 1, 2007, the board
723 shall submit a report to the Financial Services Commission, the

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724 President of the Senate, and the Speaker of the House of
725 Representatives which includes an analysis of consolidating the
726 accounts, the actions the board has taken to minimize the cost
727 of carrying debt, and its recommendations for executing the most
728 efficient plan.

729 c. Creditors of the Residential Property and Casualty
730 Joint Underwriting Association shall have a claim against, and
731 recourse to, the accounts referred to in sub-sub-subparagraphs
732 a.(I) and (II) and shall have no claim against, or recourse to,
733 the account referred to in sub-sub-subparagraph a.(III).

734 Creditors of the Florida Windstorm Underwriting Association
735 shall have a claim against, and recourse to, the account
736 referred to in sub-sub-subparagraph a.(III) and shall have no
737 claim against, or recourse to, the accounts referred to in sub-
738 sub-subparagraphs a.(I) and (II).

739 d. Revenues, assets, liabilities, losses, and expenses not
740 attributable to particular accounts shall be prorated among the
741 accounts.

742 e. The Legislature finds that the revenues of the
743 corporation are revenues that are necessary to meet the
744 requirements set forth in documents authorizing the issuance of
745 bonds under this subsection.

746 f. No part of the income of the corporation may inure to
747 the benefit of any private person.

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

749 a. When the deficit incurred in a particular calendar year
750 is not greater than 10 percent of the aggregate statewide direct
751 written premium for the subject lines of business for the prior

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752 | calendar year, the entire deficit shall be recovered through
753 | regular assessments of assessable insurers under paragraph (p)
754 | and assessable insureds.

755 | b. When the deficit incurred in a particular calendar year
756 | exceeds 10 percent of the aggregate statewide direct written
757 | premium for the subject lines of business for the prior calendar
758 | year, the corporation shall levy regular assessments on
759 | assessable insurers under paragraph (p) and on assessable
760 | insureds in an amount equal to the greater of 10 percent of the
761 | deficit or 10 percent of the aggregate statewide direct written
762 | premium for the subject lines of business for the prior calendar
763 | year. Any remaining deficit shall be recovered through emergency
764 | assessments under sub-subparagraph d.

765 | c. Each assessable insurer's share of the amount being
766 | assessed under sub-subparagraph a. or sub-subparagraph b. shall
767 | be in the proportion that the assessable insurer's direct
768 | written premium for the subject lines of business for the year
769 | preceding the assessment bears to the aggregate statewide direct
770 | written premium for the subject lines of business for that year.
771 | The assessment percentage applicable to each assessable insured
772 | is the ratio of the amount being assessed under sub-subparagraph
773 | a. or sub-subparagraph b. to the aggregate statewide direct
774 | written premium for the subject lines of business for the prior
775 | year. Assessments levied by the corporation on assessable
776 | insurers under sub-subparagraphs a. and b. shall be paid as
777 | required by the corporation's plan of operation and paragraph
778 | (p). Notwithstanding any other provision of this subsection, the
779 | aggregate amount of a regular assessment for a deficit incurred

780 in a particular calendar year shall be reduced by the estimated
781 amount to be received by the corporation from the Citizens
782 policyholder surcharge under subparagraph (c) 10.11 and the
783 amount collected or estimated to be collected from the
784 assessment on Citizens policyholders pursuant to sub-
785 subparagraph i. Assessments levied by the corporation on
786 assessable insureds under sub-subparagraphs a. and b. shall be
787 collected by the surplus lines agent at the time the surplus
788 lines agent collects the surplus lines tax required by s.
789 626.932 and shall be paid to the Florida Surplus Lines Service
790 Office at the time the surplus lines agent pays the surplus
791 lines tax to the Florida Surplus Lines Service Office. Upon
792 receipt of regular assessments from surplus lines agents, the
793 Florida Surplus Lines Service Office shall transfer the
794 assessments directly to the corporation as determined by the
795 corporation.

796 d. Upon a determination by the board of governors that a
797 deficit in an account exceeds the amount that will be recovered
798 through regular assessments under sub-subparagraph a. or sub-
799 subparagraph b., the board shall levy, after verification by the
800 office, emergency assessments, for as many years as necessary to
801 cover the deficits, to be collected by assessable insurers and
802 the corporation and collected from assessable insureds upon
803 issuance or renewal of policies for subject lines of business,
804 excluding National Flood Insurance policies. The amount of the
805 emergency assessment collected in a particular year shall be a
806 uniform percentage of that year's direct written premium for
807 subject lines of business and all accounts of the corporation,

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808 | excluding National Flood Insurance Program policy premiums, as
809 | annually determined by the board and verified by the office. The
810 | office shall verify the arithmetic calculations involved in the
811 | board's determination within 30 days after receipt of the
812 | information on which the determination was based.

813 | Notwithstanding any other provision of law, the corporation and
814 | each assessable insurer that writes subject lines of business
815 | shall collect emergency assessments from its policyholders
816 | without such obligation being affected by any credit,
817 | limitation, exemption, or deferment. Emergency assessments
818 | levied by the corporation on assessable insureds shall be
819 | collected by the surplus lines agent at the time the surplus
820 | lines agent collects the surplus lines tax required by s.
821 | 626.932 and shall be paid to the Florida Surplus Lines Service
822 | Office at the time the surplus lines agent pays the surplus
823 | lines tax to the Florida Surplus Lines Service Office. The
824 | emergency assessments so collected shall be transferred directly
825 | to the corporation on a periodic basis as determined by the
826 | corporation and shall be held by the corporation solely in the
827 | applicable account. The aggregate amount of emergency
828 | assessments levied for an account under this sub-subparagraph in
829 | any calendar year may not exceed the greater of 10 percent of
830 | the amount needed to cover the original deficit, plus interest,
831 | fees, commissions, required reserves, and other costs associated
832 | with financing of the original deficit, or 10 percent of the
833 | aggregate statewide direct written premium for subject lines of
834 | business and for all accounts of the corporation for the prior

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835 | year, plus interest, fees, commissions, required reserves, and
836 | other costs associated with financing the original deficit.

837 | e. The corporation may pledge the proceeds of assessments,
838 | projected recoveries from the Florida Hurricane Catastrophe
839 | Fund, other insurance and reinsurance recoverables, policyholder
840 | surcharges and other surcharges, and other funds available to
841 | the corporation as the source of revenue for and to secure bonds
842 | issued under paragraph (p), bonds or other indebtedness issued
843 | under subparagraph (c)3., or lines of credit or other financing
844 | mechanisms issued or created under this subsection, or to retire
845 | any other debt incurred as a result of deficits or events giving
846 | rise to deficits, or in any other way that the board determines
847 | will efficiently recover such deficits. The purpose of the lines
848 | of credit or other financing mechanisms is to provide additional
849 | resources to assist the corporation in covering claims and
850 | expenses attributable to a catastrophe. As used in this
851 | subsection, the term "assessments" includes regular assessments
852 | under sub-subparagraph a., sub-subparagraph b., or subparagraph
853 | (p)1. and emergency assessments under sub-subparagraph d.
854 | Emergency assessments collected under sub-subparagraph d. are
855 | not part of an insurer's rates, are not premium, and are not
856 | subject to premium tax, fees, or commissions; however, failure
857 | to pay the emergency assessment shall be treated as failure to
858 | pay premium. The emergency assessments under sub-subparagraph d.
859 | shall continue as long as any bonds issued or other indebtedness
860 | incurred with respect to a deficit for which the assessment was
861 | imposed remain outstanding, unless adequate provision has been
862 | made for the payment of such bonds or other indebtedness

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863 pursuant to the documents governing such bonds or other
864 indebtedness.

865 f. As used in this subsection, the term "subject lines of
866 business" means insurance written by assessable insurers or
867 procured by assessable insureds for all property and casualty
868 lines of business in this state, but not including workers'
869 compensation or medical malpractice. As used in the sub-
870 subparagraph, the term "property and casualty lines of business"
871 includes all lines of business identified on Form 2, Exhibit of
872 Premiums and Losses, in the annual statement required of
873 authorized insurers by s. 624.424 and any rule adopted under
874 this section, except for those lines identified as accident and
875 health insurance and except for policies written under the
876 National Flood Insurance Program or the Federal Crop Insurance
877 Program. For purposes of this sub-subparagraph, the term
878 "workers' compensation" includes both workers' compensation
879 insurance and excess workers' compensation insurance.

880 g. The Florida Surplus Lines Service Office shall
881 determine annually the aggregate statewide written premium in
882 subject lines of business procured by assessable insureds and
883 shall report that information to the corporation in a form and
884 at a time the corporation specifies to ensure that the
885 corporation can meet the requirements of this subsection and the
886 corporation's financing obligations.

887 h. The Florida Surplus Lines Service Office shall verify
888 the proper application by surplus lines agents of assessment
889 percentages for regular assessments and emergency assessments
890 levied under this subparagraph on assessable insureds and shall

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891 assist the corporation in ensuring the accurate, timely
892 collection and payment of assessments by surplus lines agents as
893 required by the corporation.

894 i. If a deficit is incurred in any account in 2008 or
895 thereafter, the board of governors shall levy an immediate
896 assessment against the premium of each nonhomestead property
897 policyholder in all accounts of the corporation, as a uniform
898 percentage of the premium of the policy of up to 10 percent of
899 such premium, which funds shall be used to offset the deficit.
900 If this assessment is insufficient to eliminate the deficit, the
901 board of governors shall levy an additional assessment against
902 all policyholders of the corporation, which shall be collected
903 at the time of issuance or renewal of a policy, as a uniform
904 percentage of the premium for the policy of up to 10 percent of
905 such premium, which funds shall be used to further offset the
906 deficit.

907 j. The board of governors shall maintain separate
908 accounting records that consolidate data for nonhomestead
909 properties, including, but not limited to, number of policies,
910 insured values, premiums written, and losses. The board of
911 governors shall annually report to the office and the
912 Legislature a summary of such data.

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

914 1. Must provide for adoption of residential property and
915 casualty insurance policy forms and commercial residential and
916 nonresidential property insurance forms, which forms must be
917 approved by the office prior to use. The corporation shall adopt
918 the following policy forms:

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

923 b. Basic personal lines policy forms that are policies
924 similar to an HO-8 policy or a dwelling fire policy that provide
925 coverage meeting the requirements of the secondary mortgage
926 market, but which coverage is more limited than the coverage
927 under a standard policy.

928 c. Commercial lines residential and nonresidential policy
929 forms that are generally similar to the basic perils of full
930 coverage obtainable for commercial residential structures and
931 commercial nonresidential structures in the admitted voluntary
932 market.

933 d. Personal lines and commercial lines residential
934 property insurance forms that cover the peril of wind only. The
935 forms are applicable only to residential properties located in
936 areas eligible for coverage under the high-risk account referred
937 to in sub-subparagraph (b)2.a.

938 e. Commercial lines nonresidential property insurance
939 forms that cover the peril of wind only. The forms are
940 applicable only to nonresidential properties located in areas
941 eligible for coverage under the high-risk account referred to in
942 sub-subparagraph (b)2.a.

943 f. The corporation may adopt variations of the policy
944 forms listed in sub-subparagraphs a.-e. that contain more
945 restrictive coverage.

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946 2.a. Must provide that the corporation adopt a program in
947 which the corporation and authorized insurers enter into quota
948 share primary insurance agreements for hurricane coverage, as
949 defined in s. 627.4025(2)(a), for eligible risks, and adopt
950 property insurance forms for eligible risks which cover the
951 peril of wind only. As used in this subsection, the term:

952 (I) "Quota share primary insurance" means an arrangement
953 in which the primary hurricane coverage of an eligible risk is
954 provided in specified percentages by the corporation and an
955 authorized insurer. The corporation and authorized insurer are
956 each solely responsible for a specified percentage of hurricane
957 coverage of an eligible risk as set forth in a quota share
958 primary insurance agreement between the corporation and an
959 authorized insurer and the insurance contract. The
960 responsibility of the corporation or authorized insurer to pay
961 its specified percentage of hurricane losses of an eligible
962 risk, as set forth in the quota share primary insurance
963 agreement, may not be altered by the inability of the other
964 party to the agreement to pay its specified percentage of
965 hurricane losses. Eligible risks that are provided hurricane
966 coverage through a quota share primary insurance arrangement
967 must be provided policy forms that set forth the obligations of
968 the corporation and authorized insurer under the arrangement,
969 clearly specify the percentages of quota share primary insurance
970 provided by the corporation and authorized insurer, and
971 conspicuously and clearly state that neither the authorized
972 insurer nor the corporation may be held responsible beyond its
973 specified percentage of coverage of hurricane losses.

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974 (II) "Eligible risks" means personal lines residential and
975 commercial lines residential risks that meet the underwriting
976 criteria of the corporation and are located in areas that were
977 eligible for coverage by the Florida Windstorm Underwriting
978 Association on January 1, 2002.

979 b. The corporation may enter into quota share primary
980 insurance agreements with authorized insurers at corporation
981 coverage levels of 90 percent and 50 percent.

982 c. If the corporation determines that additional coverage
983 levels are necessary to maximize participation in quota share
984 primary insurance agreements by authorized insurers, the
985 corporation may establish additional coverage levels. However,
986 the corporation's quota share primary insurance coverage level
987 may not exceed 90 percent.

988 d. Any quota share primary insurance agreement entered
989 into between an authorized insurer and the corporation must
990 provide for a uniform specified percentage of coverage of
991 hurricane losses, by county or territory as set forth by the
992 corporation board, for all eligible risks of the authorized
993 insurer covered under the quota share primary insurance
994 agreement.

995 e. Any quota share primary insurance agreement entered
996 into between an authorized insurer and the corporation is
997 subject to review and approval by the office. However, such
998 agreement shall be authorized only as to insurance contracts
999 entered into between an authorized insurer and an insured who is
1000 already insured by the corporation for wind coverage.

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1001 f. For all eligible risks covered under quota share
1002 primary insurance agreements, the exposure and coverage levels
1003 for both the corporation and authorized insurers shall be
1004 reported by the corporation to the Florida Hurricane Catastrophe
1005 Fund. For all policies of eligible risks covered under quota
1006 share primary insurance agreements, the corporation and the
1007 authorized insurer shall maintain complete and accurate records
1008 for the purpose of exposure and loss reimbursement audits as
1009 required by Florida Hurricane Catastrophe Fund rules. The
1010 corporation and the authorized insurer shall each maintain
1011 duplicate copies of policy declaration pages and supporting
1012 claims documents.

1013 g. The corporation board shall establish in its plan of
1014 operation standards for quota share agreements which ensure that
1015 there is no discriminatory application among insurers as to the
1016 terms of quota share agreements, pricing of quota share
1017 agreements, incentive provisions if any, and consideration paid
1018 for servicing policies or adjusting claims.

1019 h. The quota share primary insurance agreement between the
1020 corporation and an authorized insurer must set forth the
1021 specific terms under which coverage is provided, including, but
1022 not limited to, the sale and servicing of policies issued under
1023 the agreement by the insurance agent of the authorized insurer
1024 producing the business, the reporting of information concerning
1025 eligible risks, the payment of premium to the corporation, and
1026 arrangements for the adjustment and payment of hurricane claims
1027 incurred on eligible risks by the claims adjuster and personnel
1028 of the authorized insurer. Entering into a quota sharing

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1029 | insurance agreement between the corporation and an authorized
1030 | insurer shall be voluntary and at the discretion of the
1031 | authorized insurer.

1032 | 3. May provide that the corporation may employ or
1033 | otherwise contract with individuals or other entities to provide
1034 | administrative or professional services that may be appropriate
1035 | to effectuate the plan. The corporation shall have the power to
1036 | borrow funds, by issuing bonds or by incurring other
1037 | indebtedness, and shall have other powers reasonably necessary
1038 | to effectuate the requirements of this subsection, including,
1039 | without limitation, the power to issue bonds and incur other
1040 | indebtedness in order to refinance outstanding bonds or other
1041 | indebtedness. The corporation may, but is not required to, seek
1042 | judicial validation of its bonds or other indebtedness under
1043 | chapter 75. The corporation may issue bonds or incur other
1044 | indebtedness, or have bonds issued on its behalf by a unit of
1045 | local government pursuant to subparagraph (g)2., in the absence
1046 | of a hurricane or other weather-related event, upon a
1047 | determination by the corporation, subject to approval by the
1048 | office, that such action would enable it to efficiently meet the
1049 | financial obligations of the corporation and that such
1050 | financings are reasonably necessary to effectuate the
1051 | requirements of this subsection. The corporation is authorized
1052 | to take all actions needed to facilitate tax-free status for any
1053 | such bonds or indebtedness, including formation of trusts or
1054 | other affiliated entities. The corporation shall have the
1055 | authority to pledge assessments, projected recoveries from the
1056 | Florida Hurricane Catastrophe Fund, other reinsurance

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1057 recoverables, market equalization and other surcharges, and
1058 other funds available to the corporation as security for bonds
1059 or other indebtedness. In recognition of s. 10, Art. I of the
1060 State Constitution, prohibiting the impairment of obligations of
1061 contracts, it is the intent of the Legislature that no action be
1062 taken whose purpose is to impair any bond indenture or financing
1063 agreement or any revenue source committed by contract to such
1064 bond or other indebtedness.

1065 4.a. Must require that the corporation operate subject to
1066 the supervision and approval of a board of governors consisting
1067 of eight individuals who are residents of this state, from
1068 different geographical areas of this state. The Governor, the
1069 Chief Financial Officer, the President of the Senate, and the
1070 Speaker of the House of Representatives shall each appoint two
1071 members of the board. At least one of the two members appointed
1072 by each appointing officer must have demonstrated expertise in
1073 insurance. The Chief Financial Officer shall designate one of
1074 the appointees as chair. All board members serve at the pleasure
1075 of the appointing officer. All members of the board of governors
1076 are subject to removal at will by the officers who appointed
1077 them. All board members, including the chair, must be appointed
1078 to serve for 3-year terms beginning annually on a date
1079 designated by the plan. Any board vacancy shall be filled for
1080 the unexpired term by the appointing officer. The Chief
1081 Financial Officer shall appoint a technical advisory group to
1082 provide information and advice to the board of governors in
1083 connection with the board's duties under this subsection. The
1084 executive director and senior managers of the corporation shall

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1085 | be engaged by the board and serve at the pleasure of the board.
1086 | Any executive director appointed on or after July 1, 2006, is
1087 | subject to confirmation by the Senate. The executive director is
1088 | responsible for employing other staff as the corporation may
1089 | require, subject to review and concurrence by the board.

1090 | b. The board shall create a Market Accountability Advisory
1091 | Committee to assist the corporation in developing awareness of
1092 | its rates and its customer and agent service levels in
1093 | relationship to the voluntary market insurers writing similar
1094 | coverage. The members of the advisory committee shall consist of
1095 | the following 11 persons, one of whom must be elected chair by
1096 | the members of the committee: four representatives, one
1097 | appointed by the Florida Association of Insurance Agents, one by
1098 | the Florida Association of Insurance and Financial Advisors, one
1099 | by the Professional Insurance Agents of Florida, and one by the
1100 | Latin American Association of Insurance Agencies; three
1101 | representatives appointed by the insurers with the three highest
1102 | voluntary market share of residential property insurance
1103 | business in the state; one representative from the Office of
1104 | Insurance Regulation; one consumer appointed by the board who is
1105 | insured by the corporation at the time of appointment to the
1106 | committee; one representative appointed by the Florida
1107 | Association of Realtors; and one representative appointed by the
1108 | Florida Bankers Association. All members must serve for 3-year
1109 | terms and may serve for consecutive terms. The committee shall
1110 | report to the corporation at each board meeting on insurance
1111 | market issues which may include rates and rate competition with
1112 | the voluntary market; service, including policy issuance, claims

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1113 processing, and general responsiveness to policyholders,
1114 applicants, and agents; and matters relating to depopulation.

1115 5. Must provide a procedure for determining the
1116 eligibility of a risk for coverage, as follows:

1117 a. Subject to the provisions of s. 627.3517, with respect
1118 to personal lines residential risks, if the risk is offered
1119 coverage from an authorized insurer at the insurer's approved
1120 rate under either a standard policy including wind coverage or,
1121 if consistent with the insurer's underwriting rules as filed
1122 with the office, a basic policy including wind coverage, for a
1123 new application to the corporation for coverage, the risk is not
1124 eligible for any policy issued by the corporation unless the
1125 premium for coverage from the authorized insurer is more than 25
1126 percent greater than the premium for comparable coverage from
1127 the corporation. Coverage is deemed comparable when, with
1128 respect to the main building or structure only, the
1129 corporation's coverage would be provided using the same contract
1130 form and on the same basis, for either all risk or named perils;
1131 loss payment is calculated using the same method, for either
1132 replacement cost or actual cash value; and the percentage
1133 deductible applicable to hurricane losses is identical to the
1134 authorized insurer's offer. If the risk is not able to obtain
1135 any such offer, the risk is eligible for either a standard
1136 policy including wind coverage or a basic policy including wind
1137 coverage issued by the corporation; however, if the risk could
1138 not be insured under a standard policy including wind coverage
1139 regardless of market conditions, the risk shall be eligible for
1140 a basic policy including wind coverage unless rejected under

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1141 subparagraph 7. ~~8.~~ However, with regard to a policyholder of the
1142 corporation, the policyholder remains eligible for coverage from
1143 the corporation regardless of any offer of coverage from an
1144 authorized insurer or surplus lines insurer. The corporation
1145 shall determine the type of policy to be provided on the basis
1146 of objective standards specified in the underwriting manual and
1147 based on generally accepted underwriting practices.

1148 (I) If the risk accepts an offer of coverage through the
1149 market assistance plan or an offer of coverage through a
1150 mechanism established by the corporation before a policy is
1151 issued to the risk by the corporation or during the first 30
1152 days of coverage by the corporation, and the producing agent who
1153 submitted the application to the plan or to the corporation is
1154 not currently appointed by the insurer, the insurer shall:

1155 (A) Pay to the producing agent of record of the policy,
1156 for the first year, an amount that is the greater of the
1157 insurer's usual and customary commission for the type of policy
1158 written or a fee equal to the usual and customary commission of
1159 the corporation; or

1160 (B) Offer to allow the producing agent of record of the
1161 policy to continue servicing the policy for a period of not less
1162 than 1 year and offer to pay the agent the greater of the
1163 insurer's or the corporation's usual and customary commission
1164 for the type of policy written.

1165
1166 If the producing agent is unwilling or unable to accept
1167 appointment, the new insurer shall pay the agent in accordance
1168 with sub-sub-sub-subparagraph (A).

1169 (II) When the corporation enters into a contractual
 1170 agreement for a take-out plan, the producing agent of record of
 1171 the corporation policy is entitled to retain any unearned
 1172 commission on the policy, and the insurer shall:

1173 (A) Pay to the producing agent of record of the
 1174 corporation policy, for the first year, an amount that is the
 1175 greater of the insurer's usual and customary commission for the
 1176 type of policy written or a fee equal to the usual and customary
 1177 commission of the corporation; or

1178 (B) Offer to allow the producing agent of record of the
 1179 corporation policy to continue servicing the policy for a period
 1180 of not less than 1 year and offer to pay the agent the greater
 1181 of the insurer's or the corporation's usual and customary
 1182 commission for the type of policy written.

1183
 1184 If the producing agent is unwilling or unable to accept
 1185 appointment, the new insurer shall pay the agent in accordance
 1186 with sub-sub-sub-subparagraph (A).

1187 b. With respect to commercial lines residential risks, for
 1188 a new application to the corporation for coverage, if the risk
 1189 is offered coverage under a policy including wind coverage from
 1190 an authorized insurer at its approved rate, the risk is not
 1191 eligible for any policy issued by the corporation unless the
 1192 premium for coverage from the authorized insurer is more than 25
 1193 percent greater than the premium for comparable coverage from
 1194 the corporation. Coverage is deemed comparable when, with
 1195 respect to the main building or structure only, the
 1196 corporation's coverage would be provided using the same contract

1197 form and on the same basis, for either all risk or named perils;
 1198 loss payment is calculated using the same method, for either
 1199 replacement cost or actual cash value; and the percentage
 1200 deductible applicable to hurricane losses is identical to the
 1201 authorized insurer's offer. If the risk is not able to obtain
 1202 any such offer, the risk is eligible for a policy including wind
 1203 coverage issued by the corporation. However, with regard to a
 1204 policyholder of the corporation, the policyholder remains
 1205 eligible for coverage from the corporation regardless of any
 1206 offer of coverage from an authorized insurer or surplus lines
 1207 insurer.

1208 (I) If the risk accepts an offer of coverage through the
 1209 market assistance plan or an offer of coverage through a
 1210 mechanism established by the corporation before a policy is
 1211 issued to the risk by the corporation or during the first 30
 1212 days of coverage by the corporation, and the producing agent who
 1213 submitted the application to the plan or the corporation is not
 1214 currently appointed by the insurer, the insurer shall:

1215 (A) Pay to the producing agent of record of the policy,
 1216 for the first year, an amount that is the greater of the
 1217 insurer's usual and customary commission for the type of policy
 1218 written or a fee equal to the usual and customary commission of
 1219 the corporation; or

1220 (B) Offer to allow the producing agent of record of the
 1221 policy to continue servicing the policy for a period of not less
 1222 than 1 year and offer to pay the agent the greater of the
 1223 insurer's or the corporation's usual and customary commission
 1224 for the type of policy written.

1225
 1226 If the producing agent is unwilling or unable to accept
 1227 appointment, the new insurer shall pay the agent in accordance
 1228 with sub-sub-sub-subparagraph (A).

1229 (II) When the corporation enters into a contractual
 1230 agreement for a take-out plan, the producing agent of record of
 1231 the corporation policy is entitled to retain any unearned
 1232 commission on the policy, and the insurer shall:

1233 (A) Pay to the producing agent of record of the
 1234 corporation policy, for the first year, an amount that is the
 1235 greater of the insurer's usual and customary commission for the
 1236 type of policy written or a fee equal to the usual and customary
 1237 commission of the corporation; or

1238 (B) Offer to allow the producing agent of record of the
 1239 corporation policy to continue servicing the policy for a period
 1240 of not less than 1 year and offer to pay the agent the greater
 1241 of the insurer's or the corporation's usual and customary
 1242 commission for the type of policy written.

1243
 1244 If the producing agent is unwilling or unable to accept
 1245 appointment, the new insurer shall pay the agent in accordance
 1246 with sub-sub-sub-subparagraph (A).

1247 ~~6. Must provide by July 1, 2007, that an application for~~
 1248 ~~coverage for a new policy is subject to a waiting period of 10~~
 1249 ~~days before coverage is effective, during which time the~~
 1250 ~~corporation shall make such application available for review by~~
 1251 ~~general lines agents and authorized property and casualty~~
 1252 ~~insurers. The board shall approve an exception that allows for~~

1253 ~~coverage to be effective before the end of the 10 day waiting~~
 1254 ~~period, for coverage issued in conjunction with a real estate~~
 1255 ~~closing. The board may approve such other exceptions as the~~
 1256 ~~board determines are necessary to prevent lapses in coverage.~~

1257 6.7. Must include rules for classifications of risks and
 1258 rates therefor.

1259 7.8. Must provide that if premium and investment income
 1260 for an account attributable to a particular calendar year are in
 1261 excess of projected losses and expenses for the account
 1262 attributable to that year, such excess shall be held in surplus
 1263 in the account. Such surplus shall be available to defray
 1264 deficits in that account as to future years and shall be used
 1265 for that purpose prior to assessing assessable insurers and
 1266 assessable insureds as to any calendar year.

1267 8.9. Must provide objective criteria and procedures to be
 1268 uniformly applied for all applicants in determining whether an
 1269 individual risk is so hazardous as to be uninsurable. In making
 1270 this determination and in establishing the criteria and
 1271 procedures, the following shall be considered:

1272 a. Whether the likelihood of a loss for the individual
 1273 risk is substantially higher than for other risks of the same
 1274 class; and

1275 b. Whether the uncertainty associated with the individual
 1276 risk is such that an appropriate premium cannot be determined.

1277
 1278 The acceptance or rejection of a risk by the corporation shall
 1279 be construed as the private placement of insurance, and the
 1280 provisions of chapter 120 shall not apply.

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1281 ~~9.10.~~ Must provide that the corporation shall make its
1282 best efforts to procure catastrophe reinsurance at reasonable
1283 rates, to cover its projected 100-year probable maximum loss as
1284 determined by the board of governors.

1285 10.11. Must provide that in the event of regular deficit
1286 assessments under sub-subparagraph (b)3.a. or sub-subparagraph
1287 (b)3.b., in the personal lines account, the commercial lines
1288 residential account, or the high-risk account, the corporation
1289 shall levy upon corporation policyholders in its next rate
1290 filing, or by a separate rate filing solely for this purpose, a
1291 Citizens policyholder surcharge arising from a regular
1292 assessment in such account in a percentage equal to the total
1293 amount of such regular assessments divided by the aggregate
1294 statewide direct written premium for subject lines of business
1295 for the prior calendar year. For purposes of calculating the
1296 Citizens policyholder surcharge to be levied under this
1297 subparagraph, the total amount of the regular assessment to
1298 which this surcharge is related shall be determined as set forth
1299 in subparagraph (b)3., without deducting the estimated Citizens
1300 policyholder surcharge. Citizens policyholder surcharges under
1301 this subparagraph are not considered premium and are not subject
1302 to commissions, fees, or premium taxes; however, failure to pay
1303 a market equalization surcharge shall be treated as failure to
1304 pay premium.

1305 ~~11.12.~~ The policies issued by the corporation must provide
1306 that, if the corporation or the market assistance plan obtains
1307 an offer from an authorized insurer to cover the risk at its
1308 approved rates, the risk is no longer eligible for renewal

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1309 through the corporation, except as otherwise provided in this
1310 subsection.

1311 ~~12.13-~~ Corporation policies and applications must include
1312 a notice that the corporation policy could, under this section,
1313 be replaced with a policy issued by an authorized insurer that
1314 does not provide coverage identical to the coverage provided by
1315 the corporation. The notice shall also specify that acceptance
1316 of corporation coverage creates a conclusive presumption that
1317 the applicant or policyholder is aware of this potential.

1318 ~~13.14-~~ May establish, subject to approval by the office,
1319 different eligibility requirements and operational procedures
1320 for any line or type of coverage for any specified county or
1321 area if the board determines that such changes to the
1322 eligibility requirements and operational procedures are
1323 justified due to the voluntary market being sufficiently stable
1324 and competitive in such area or for such line or type of
1325 coverage and that consumers who, in good faith, are unable to
1326 obtain insurance through the voluntary market through ordinary
1327 methods would continue to have access to coverage from the
1328 corporation. When coverage is sought in connection with a real
1329 property transfer, such requirements and procedures shall not
1330 provide for an effective date of coverage later than the date of
1331 the closing of the transfer as established by the transferor,
1332 the transferee, and, if applicable, the lender.

1333 ~~14.15-~~ Must provide that, with respect to the high-risk
1334 account, any assessable insurer with a surplus as to
1335 policyholders of \$25 million or less writing 25 percent or more
1336 of its total countrywide property insurance premiums in this

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1337 state may petition the office, within the first 90 days of each
1338 calendar year, to qualify as a limited apportionment company. A
1339 regular assessment levied by the corporation on a limited
1340 apportionment company for a deficit incurred by the corporation
1341 for the high-risk account in 2006 or thereafter may be paid to
1342 the corporation on a monthly basis as the assessments are
1343 collected by the limited apportionment company from its insureds
1344 pursuant to s. 627.3512, but the regular assessment must be paid
1345 in full within 12 months after being levied by the corporation.
1346 A limited apportionment company shall collect from its
1347 policyholders any emergency assessment imposed under sub-
1348 subparagraph (b)3.d. The plan shall provide that, if the office
1349 determines that any regular assessment will result in an
1350 impairment of the surplus of a limited apportionment company,
1351 the office may direct that all or part of such assessment be
1352 deferred as provided in subparagraph (g)4. However, there shall
1353 be no limitation or deferment of an emergency assessment to be
1354 collected from policyholders under sub-subparagraph (b)3.d.

1355 ~~15.16.~~ Must provide that the corporation appoint as its
1356 licensed agents only those agents who also hold an appointment
1357 as defined in s. 626.015(3) with an insurer who at the time of
1358 the agent's initial appointment by the corporation is authorized
1359 to write and is actually writing personal lines residential
1360 property coverage, commercial residential property coverage, or
1361 commercial nonresidential property coverage within the state.

1362 ~~16.17.~~ Must provide, by July 1, 2007, a premium payment
1363 plan option to its policyholders which allows at a minimum for

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1364 quarterly and semiannual payment of premiums. A monthly payment
1365 plan may, but is not required to, be offered.

1366 ~~17.18.~~ Must provide, effective June 1, 2007, that the
1367 corporation contract with each insurer providing the non-wind
1368 coverage for risks insured by the corporation in the high-risk
1369 account, requiring that the insurer provide claims adjusting
1370 services for the wind coverage provided by the corporation for
1371 such risks. An insurer is required to enter into this contract
1372 as a condition of providing non-wind coverage for a risk that is
1373 insured by the corporation in the high-risk account unless the
1374 board finds, after a hearing, that the insurer is not capable of
1375 providing adjusting services at an acceptable level of quality
1376 to corporation policyholders. The terms and conditions of such
1377 contracts must be substantially the same as the contracts that
1378 the corporation executed with insurers under the "adjust-your-
1379 own" program in 2006, except as may be mutually agreed to by the
1380 parties and except for such changes that the board determines
1381 are necessary to ensure that claims are adjusted appropriately.
1382 The corporation shall provide a process for neutral arbitration
1383 of any dispute between the corporation and the insurer regarding
1384 the terms of the contract. The corporation shall review and
1385 monitor the performance of insurers under these contracts.

1386 ~~18.19.~~ Must limit coverage on mobile homes or manufactured
1387 homes built prior to 1994 to actual cash value of the dwelling
1388 rather than replacement costs of the dwelling.

1389 ~~19.20.~~ May provide such limits of coverage as the board
1390 determines, consistent with the requirements of this subsection.

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1391 20.21. May require commercial property to meet specified
1392 hurricane mitigation construction features as a condition of
1393 eligibility for coverage.

1394 (n) If coverage in an account is deactivated pursuant to
1395 paragraph (f), coverage through the corporation shall be
1396 reactivated by order of the office only under one of the
1397 following circumstances:

1398 1. If the market assistance plan receives a minimum of 100
1399 applications for coverage within a 3-month period, or 200
1400 applications for coverage within a 1-year period or less for
1401 residential coverage, unless the market assistance plan provides
1402 a quotation from admitted carriers at their filed rates for at
1403 least 90 percent of such applicants. Any market assistance plan
1404 application that is rejected because an individual risk is so
1405 hazardous as to be uninsurable using the criteria specified in
1406 subparagraph (c) 7.8. shall not be included in the minimum
1407 percentage calculation provided herein. In the event that there
1408 is a legal or administrative challenge to a determination by the
1409 office that the conditions of this subparagraph have been met
1410 for eligibility for coverage in the corporation, any eligible
1411 risk may obtain coverage during the pendency of such challenge.

1412 2. In response to a state of emergency declared by the
1413 Governor under s. 252.36, the office may activate coverage by
1414 order for the period of the emergency upon a finding by the
1415 office that the emergency significantly affects the availability
1416 of residential property insurance.

1417 (v) Notwithstanding any other provision of law:

1418 1. The pledge or sale of, the lien upon, and the security
 1419 interest in any rights, revenues, or other assets of the
 1420 corporation created or purported to be created pursuant to any
 1421 financing documents to secure any bonds or other indebtedness of
 1422 the corporation shall be and remain valid and enforceable,
 1423 notwithstanding the commencement of and during the continuation
 1424 of, and after, any rehabilitation, insolvency, liquidation,
 1425 bankruptcy, receivership, conservatorship, reorganization, or
 1426 similar proceeding against the corporation under the laws of
 1427 this state.

1428 2. No such proceeding shall relieve the corporation of its
 1429 obligation, or otherwise affect its ability to perform its
 1430 obligation, to continue to collect, or levy and collect,
 1431 assessments, market equalization or other surcharges under
 1432 subparagraph (c) 9.10, or any other rights, revenues, or other
 1433 assets of the corporation pledged pursuant to any financing
 1434 documents.

1435 3. Each such pledge or sale of, lien upon, and security
 1436 interest in, including the priority of such pledge, lien, or
 1437 security interest, any such assessments, market equalization or
 1438 other surcharges, or other rights, revenues, or other assets
 1439 which are collected, or levied and collected, after the
 1440 commencement of and during the pendency of, or after, any such
 1441 proceeding shall continue unaffected by such proceeding. As used
 1442 in this subsection, the term "financing documents" means any
 1443 agreement or agreements, instrument or instruments, or other
 1444 document or documents now existing or hereafter created
 1445 evidencing any bonds or other indebtedness of the corporation or

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1446 pursuant to which any such bonds or other indebtedness has been
1447 or may be issued and pursuant to which any rights, revenues, or
1448 other assets of the corporation are pledged or sold to secure
1449 the repayment of such bonds or indebtedness, together with the
1450 payment of interest on such bonds or such indebtedness, or the
1451 payment of any other obligation or financial product, as defined
1452 in the plan of operation of the corporation related to such
1453 bonds or indebtedness.

1454 4. Any such pledge or sale of assessments, revenues,
1455 contract rights, or other rights or assets of the corporation
1456 shall constitute a lien and security interest, or sale, as the
1457 case may be, that is immediately effective and attaches to such
1458 assessments, revenues, or contract rights or other rights or
1459 assets, whether or not imposed or collected at the time the
1460 pledge or sale is made. Any such pledge or sale is effective,
1461 valid, binding, and enforceable against the corporation or other
1462 entity making such pledge or sale, and valid and binding against
1463 and superior to any competing claims or obligations owed to any
1464 other person or entity, including policyholders in this state,
1465 asserting rights in any such assessments, revenues, or contract
1466 rights or other rights or assets to the extent set forth in and
1467 in accordance with the terms of the pledge or sale contained in
1468 the applicable financing documents, whether or not any such
1469 person or entity has notice of such pledge or sale and without
1470 the need for any physical delivery, recordation, filing, or
1471 other action.

1472 5. As long as the corporation has any bonds outstanding,
1473 the corporation may not file a voluntary petition under chapter

1474 9 of the federal Bankruptcy Code or such corresponding chapter
 1475 or sections as may be in effect, from time to time, and a public
 1476 officer or any organization, entity, or other person may not
 1477 authorize the corporation to be or become a debtor under chapter
 1478 9 of the federal Bankruptcy Code or such corresponding chapter
 1479 or sections as may be in effect, from time to time, during any
 1480 such period.

1481 6. If ordered by a court of competent jurisdiction, the
 1482 corporation may assume policies or otherwise provide coverage
 1483 for policyholders of an insurer placed in liquidation under
 1484 chapter 631, under such forms, rates, terms, and conditions as
 1485 the corporation deems appropriate, subject to approval by the
 1486 office.

1487 Section 11. Subsection (4) of section 627.3511, Florida
 1488 Statutes, is amended to read:

1489 627.3511 Depopulation of Citizens Property Insurance
 1490 Corporation.--

1491 (4) AGENT BONUS.--When the corporation enters into a
 1492 contractual agreement for a take-out plan that provides a bonus
 1493 to the insurer, the producing agent of record of the corporation
 1494 policy is entitled to retain any unearned commission on such
 1495 policy, and the insurer shall either:

1496 (a) Pay to the producing agent of record of the
 1497 association policy, for the first year, an amount that is the
 1498 greater of the insurer's usual and customary commission for the
 1499 type of policy written or a fee equal to the usual and customary
 1500 commission of the corporation; or

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1501 (b) Offer to allow the producing agent of record of the
 1502 corporation policy to continue servicing the policy for a period
 1503 of not less than 1 year and offer to pay the agent the greater
 1504 of the insurer's or the corporation's usual and customary
 1505 commission for the type of policy written.

1506
 1507 If the producing agent is unwilling or unable to accept
 1508 appointment, the new insurer shall pay the agent in accordance
 1509 with paragraph (a). The requirement of this subsection that the
 1510 producing agent of record is entitled to retain the unearned
 1511 commission on an association policy does not apply to a policy
 1512 for which coverage has been provided in the association for 30
 1513 days or less or for which a cancellation notice has been issued
 1514 pursuant to s. 627.351(6)(c)~~10.11~~ during the first 30 days of
 1515 coverage.

1516 Section 12. Paragraph (a) of subsection (3) of section
 1517 627.3515, Florida Statutes, as amended by chapter 2007-1, Laws
 1518 of Florida, is amended to read:

1519 627.3515 Market assistance plan; property and casualty
 1520 risks.--

1521 (3)(a) The plan and the corporation shall develop a
 1522 business plan and present it to the Financial Services
 1523 Commission for approval by September 1, 2007, to provide for the
 1524 implementation of an electronic database for the purpose of
 1525 confirming eligibility pursuant to s. 627.351(6). The business
 1526 plan may provide that authorized insurers or agents of
 1527 authorized insurers may submit to the plan or the corporation in
 1528 electronic form, as determined by the plan or the corporation,

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1529 information determined necessary by the plan or the corporation
1530 to deny coverage to risks ineligible for coverage by the
1531 corporation. Any authorized insurer submitting such information
1532 that results in a risk being denied coverage by the corporation
1533 is required to provide coverage to the risk at its approved
1534 rates, for the coverage and premium quoted, for at least 1 year.

1535 Section 13. Section 627.3517, Florida Statutes, is amended
1536 to read:

1537 627.3517 Consumer choice.--

1538 (1) ~~Except as provided in subsection (2),~~ No provision of
1539 s. 627.351, s. 627.3511, or s. 627.3515 shall be construed to
1540 impair the right of any insurance risk apportionment plan
1541 policyholder, upon receipt of any keepout or take-out offer, to
1542 retain his or her current agent, so long as that agent is duly
1543 licensed and appointed by the insurance risk apportionment plan
1544 or otherwise authorized to place business with the insurance
1545 risk apportionment plan. This right shall not be canceled,
1546 suspended, impeded, abridged, or otherwise compromised by any
1547 rule, plan of operation, or depopulation plan, whether through
1548 keepout, take-out, midterm assumption, or any other means, of
1549 any insurance risk apportionment plan or depopulation plan,
1550 including, but not limited to, those described in s. 627.351, s.
1551 627.3511, or s. 627.3515. The commission shall adopt any rules
1552 necessary to cause any insurance risk apportionment plan or
1553 market assistance plan under such sections to demonstrate that
1554 the operations of the plan do not interfere with, promote, or
1555 allow interference with the rights created under this section.
1556 If the policyholder's current agent is unable or unwilling to be

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1557 appointed with the insurer making the take-out or keepout offer,
1558 the policyholder shall not be disqualified from participation in
1559 the appropriate insurance risk apportionment plan because of an
1560 offer of coverage in the voluntary market. An offer of full
1561 property insurance coverage by the insurer currently insuring
1562 either the ex-wind or wind-only coverage on the policy to which
1563 the offer applies shall not be considered a take-out or keepout
1564 offer. Any rule, plan of operation, or plan of depopulation,
1565 through keepout, take-out, midterm assumption, or any other
1566 means, of any property insurance risk apportionment plan under
1567 s. 627.351(2) or (6) is subject to ss. 627.351(2)(b) and (6)(c)
1568 and 627.351(4).

1569 ~~(2) This section does not apply during the first 10 days~~
1570 ~~after a new application for coverage has been submitted to~~
1571 ~~Citizens Property Insurance Corporation under s. 627.351(6),~~
1572 ~~whether or not coverage is bound during this period.~~

1573 Section 14. Subsection (1) of section 627.4035, Florida
1574 Statutes, as amended by chapter 2007-1, Laws of Florida, is
1575 amended to read:

1576 627.4035 Cash payment of premiums; claims.--

1577 (1) The premiums for insurance contracts issued in this
1578 state or covering risk located in this state shall be paid in
1579 cash consisting of coins, currency, checks, or money orders or
1580 by using a debit card, credit card, automatic electronic funds
1581 transfer, or payroll deduction plan. By July 1, 2007, insurers
1582 issuing personal lines residential and commercial property
1583 policies shall provide a premium payment plan option to their
1584 policyholders which allows for a minimum of quarterly and

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1585 semiannual payment of premiums. Insurers may, but are not
 1586 required to, offer monthly payment plans. Insurers issuing such
 1587 policies must submit their premium payment plan option to the
 1588 office for approval before use.

1589 Section 15. Subsection (7) is added to section 627.4133,
 1590 Florida Statutes, to read:

1591 627.4133 Notice of cancellation, nonrenewal, or renewal
 1592 premium.--

1593 (7) (a) With respect to any residential property insurance
 1594 policy, every notice of renewal premium must specify:

1595 1. The dollar amounts recouped for assessments by the
 1596 Florida Hurricane Catastrophe Fund, the Citizens Property
 1597 Insurance Corporation, and the Florida Insurance Guaranty
 1598 Association. The actual names of the entities must appear next
 1599 to the dollar amounts.

1600 2. The dollar amount of any premium increase that is due
 1601 to an approved rate increase and the dollar amounts that are due
 1602 to coverage changes.

1603 (b) The Financial Services Commission may adopt rules
 1604 pursuant to ss. 120.536(1) and 120.54 to implement this
 1605 subsection.

1606 Section 16. Paragraphs (a) and (c) of subsection (3) and
 1607 paragraph (d) of subsection (4) of section 627.701, Florida
 1608 Statutes, as amended by chapter 2007-1, Laws of Florida, are
 1609 amended, to read:

1610 627.701 Liability of insureds; coinsurance; deductibles.--

1611 (3) (a) Except as otherwise provided in this subsection,
 1612 prior to issuing a personal lines residential property insurance

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1613 policy, the insurer must offer alternative deductible amounts
1614 applicable to hurricane losses equal to \$500, 2 percent, 5
1615 percent, and 10 percent of the policy dwelling limits, unless
1616 the specific percentage deductible is less than \$500. The
1617 written notice of the offer shall specify the hurricane ~~or wind~~
1618 deductible to be applied in the event that the applicant or
1619 policyholder fails to affirmatively choose a hurricane
1620 deductible. The insurer must provide such policyholder with
1621 notice of the availability of the deductible amounts specified
1622 in this paragraph in a form approved by the office in
1623 conjunction with each renewal of the policy. The failure to
1624 provide such notice constitutes a violation of this code but
1625 does not affect the coverage provided under the policy.

1626 (c) With respect to a policy covering a risk with dwelling
1627 limits of at least \$100,000, but less than \$250,000, the insurer
1628 may, in lieu of offering a policy with a \$500 hurricane ~~or wind~~
1629 deductible as required by paragraph (a), offer a policy that the
1630 insurer guarantees it will not nonrenew for reasons of reducing
1631 hurricane loss for one renewal period and that contains up to a
1632 2 percent hurricane ~~or wind~~ deductible as required by paragraph
1633 (a).

1634 (4)

1635 (d)1. A personal lines residential property insurance
1636 policy covering a risk valued at less than \$500,000 may not have
1637 a hurricane deductible in excess of 10 percent of the policy
1638 dwelling limits, unless the following conditions are met:

1639 a. The policyholder must personally write and provide to
1640 the insurer the following statement in his or her own

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1641 handwriting and sign his or her name, which must also be signed
1642 by every other named insured on the policy, and dated: "I do not
1643 want the insurance on my home to pay for the first (specify
1644 dollar value) of damage from hurricanes. I will pay those costs.
1645 My insurance will not."

1646 b. If the structure insured by the policy is subject to a
1647 mortgage or lien, the policyholder must provide the insurer with
1648 a written statement from the mortgageholder or lienholder
1649 indicating that the mortgageholder or lienholder approves the
1650 policyholder electing to have the specified deductible.

1651 2. A deductible subject to the requirements of this
1652 paragraph applies for the term of the policy and for each
1653 renewal thereafter ~~unless the policyholder elects otherwise.~~
1654 Changes to the deductible percentage may be implemented only as
1655 of the date of renewal.

1656 3. An insurer shall keep the original copy of the signed
1657 statement required by this paragraph, electronically or
1658 otherwise, and provide a copy to the policyholder providing the
1659 signed statement. A signed statement meeting the requirements of
1660 this paragraph creates a presumption that there was an informed,
1661 knowing election of coverage.

1662 4. The commission shall adopt rules providing appropriate
1663 alternative methods for providing the statements required by
1664 this section for policyholders who have a handicapping or
1665 disabling condition that prevents them from providing a
1666 handwritten statement.

1667 Section 17. Subsection (5) of section 627.70131, Florida
 1668 Statutes, as amended by chapter 2007-1, Laws of Florida, is
 1669 amended to read:

1670 627.70131 Insurer's duty to acknowledge communications
 1671 regarding claims; investigation.--

1672 (5) Within 90 days after an insurer receives proof of loss
 1673 ~~notice~~ of a residential property insurance claim from a
 1674 policyholder, the insurer shall pay or deny such claim unless
 1675 the failure to pay such claim is caused by factors beyond the
 1676 control of the insurer which reasonably prevent such payment.
 1677 The exclusive remedy for a violation of this subsection is a
 1678 regulatory action under this code. ~~Failure to comply with this~~
 1679 ~~subsection constitutes a violation of this code.~~

1680 Section 18. Subsections (2), (4), and (5) of section
 1681 627.712, Florida Statutes, as created by chapter 2007-1, Laws of
 1682 Florida, are amended to read:

1683 627.712 Residential hurricane coverage required;
 1684 availability of exclusions for windstorm or contents.--

1685 (1) An insurer issuing a residential property insurance
 1686 policy must provide hurricane or windstorm coverage as defined
 1687 in s. 627.4025. This subsection does not apply with respect to
 1688 risks that are eligible for wind-only coverage from Citizens
 1689 Property Insurance Corporation under s. 627.351(6).

1690 (2) A personal lines residential property ~~An~~ insurer that
 1691 is subject to subsection (1) must make available, at the option
 1692 of the policyholder, an exclusion of hurricane coverage or
 1693 windstorm coverage as provided within the applicable policy. The
 1694 coverage may be excluded only if:

1695 (a) The policyholder personally writes and provides to the
 1696 insurer the following statement in his or her own handwriting
 1697 and signs his or her name, which must also be signed by every
 1698 other named insured on the policy, and dated: "I do not want the
 1699 insurance on my (home/mobile home/condominium unit) to pay for
 1700 damage from windstorms or hurricanes. I will pay those costs. My
 1701 insurance will not."

1702 (b) If the structure insured by the policy is subject to a
 1703 mortgage or lien, the policyholder must provide the insurer with
 1704 a written statement from the mortgageholder or lienholder
 1705 indicating that the mortgageholder or lienholder approves the
 1706 policyholder electing to exclude windstorm coverage or hurricane
 1707 coverage from his or her residential property insurance policy.

1708 (4) An insurer shall keep the original copy of a signed
 1709 statement required by this section, electronically or otherwise,
 1710 and provide a copy to the policyholder providing the signed
 1711 statement. A signed statement meeting the requirements of this
 1712 section creates a presumption that there was an informed,
 1713 knowing rejection of coverage.

1714 (5) The exclusions authorized by this section apply for
 1715 the term of the policy and for each renewal thereafter. Changes
 1716 to the exclusions authorized by this section may be implemented
 1717 only as of the date of renewal. ~~The exclusions authorized by~~
 1718 ~~this section are valid for the term of the contract and for each~~
 1719 ~~renewal unless the policyholder elects otherwise.~~

1720 Section 19. Section 627.713, Florida Statutes, as created
 1721 by chapter 2007-1, Laws of Florida, is amended to read:

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1722 627.713 Report of hurricane loss data.--After the
 1723 conclusion of the Atlantic hurricane season each year, the
 1724 office may require property insurers to report data regarding
 1725 hurricane claims and underwriting costs, including, but not
 1726 limited to:

- 1727 (1) Number of claims.
- 1728 (2) Amount of claim payments made.
- 1729 (3) Number and amount of total-loss claims.
- 1730 (4) Amount and percentage of losses covered by reinsurance
 1731 or other loss-transfer agreements.
- 1732 (5) Amount of losses covered under specified deductibles.
- 1733 (6) Claims and payments for specified insured values.
- 1734 (7) Claims and payments for specified dollar values.
- 1735 (8) Claims and payments for specified types of
 1736 construction or mitigation features.
- 1737 (9) Claims and payments for policies under specified
 1738 underwriting criteria.
- 1739 (10) Claims and payments for contents, additional living
 1740 expense, and other specified coverages.
- 1741 (11) Claims and payments by county for the information
 1742 specified in this section.
- 1743 (12) Any other data that the office requires.

1744 Section 20. Subsections (4) and (5) of section 627.7277,
 1745 Florida Statutes, as amended by chapter 2007-1, Laws of Florida,
 1746 are amended to read:

1747 627.7277 Notice of renewal premium.--
 1748 ~~(4) Every notice of renewal premium must specify:~~

1749 ~~(a) The dollar amounts recouped for assessments by the~~
 1750 ~~Florida Hurricane Catastrophe Fund, the Citizens Property~~
 1751 ~~Insurance Corporation, and the Florida Insurance Guaranty~~
 1752 ~~Association. The actual names of the entities must appear next~~
 1753 ~~to the dollar amounts.~~

1754 ~~(b) The dollar amount of any premium increase that is due~~
 1755 ~~to a rate increase and the dollar amounts that are due to~~
 1756 ~~coverage changes.~~

1757 ~~(5) The Financial Services Commission may adopt rules~~
 1758 ~~pursuant to ss. 120.536(1) and 120.54 to implement this section.~~

1759 Section 21. Paragraph (e) of subsection (3) of section
 1760 631.57, Florida Statutes, as amended by chapter 2007-1, Laws of
 1761 Florida, is amended to read:

1762 631.57 Powers and duties of the association.--

1763 (3)

1764 (e)1.a. In addition to assessments otherwise authorized in
 1765 paragraph (a) and to the extent necessary to secure the funds
 1766 for the account specified in s. 631.55(2)(c) for the direct
 1767 payment of covered claims of insurers rendered insolvent by the
 1768 effects of a hurricane homeowners' insurers and to pay the
 1769 reasonable costs to administer such claims, or to retire
 1770 indebtedness, including, without limitation, the principal,
 1771 redemption premium, if any, and interest on, and related costs
 1772 of issuance of, bonds issued under s. 631.695 and the funding of
 1773 any reserves and other payments required under the bond
 1774 resolution or trust indenture pursuant to which such bonds have
 1775 been issued, the office, upon certification of the board of
 1776 directors, shall levy emergency assessments upon insurers

1777 holding a certificate of authority. The emergency assessments
 1778 payable under this paragraph by any insurer shall not exceed in
 1779 any single year more than 2 percent of that insurer's direct
 1780 written premiums, net of refunds, in this state during the
 1781 preceding calendar year for the kinds of insurance within the
 1782 account specified in s. 631.55(2)(c).

1783 b. Any emergency assessments authorized under this
 1784 paragraph shall be levied by the office upon insurers referred
 1785 to in sub-subparagraph a., upon certification as to the need for
 1786 such assessments by the board of directors. In the event the
 1787 board of directors participates in the issuance of bonds in
 1788 accordance with s. 631.695, emergency assessments shall be
 1789 levied in each year that bonds issued under s. 631.695 and
 1790 secured by such emergency assessments are outstanding, in such
 1791 amounts up to such 2-percent limit as required in order to
 1792 provide for the full and timely payment of the principal of,
 1793 redemption premium, if any, and interest on, and related costs
 1794 of issuance of, such bonds. The emergency assessments provided
 1795 for in this paragraph are assigned and pledged to the
 1796 municipality, county, or legal entity issuing bonds under s.
 1797 631.695 for the benefit of the holders of such bonds, in order
 1798 to enable such municipality, county, or legal entity to provide
 1799 for the payment of the principal of, redemption premium, if any,
 1800 and interest on such bonds, the cost of issuance of such bonds,
 1801 and the funding of any reserves and other payments required
 1802 under the bond resolution or trust indenture pursuant to which
 1803 such bonds have been issued, without the necessity of any
 1804 further action by the association, the office, or any other

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1805 party. To the extent bonds are issued under s. 631.695 and the
1806 association determines to secure such bonds by a pledge of
1807 revenues received from the emergency assessments, such bonds,
1808 upon such pledge of revenues, shall be secured by and payable
1809 from the proceeds of such emergency assessments, and the
1810 proceeds of emergency assessments levied under this paragraph
1811 shall be remitted directly to and administered by the trustee or
1812 custodian appointed for such bonds.

1813 c. Emergency assessments under this paragraph may be
1814 payable in a single payment or, at the option of the
1815 association, may be payable in 12 monthly installments with the
1816 first installment being due and payable at the end of the month
1817 after an emergency assessment is levied and subsequent
1818 installments being due not later than the end of each succeeding
1819 month.

1820 d. If emergency assessments are imposed, the report
1821 required by s. 631.695(7) shall include an analysis of the
1822 revenues generated from the emergency assessments imposed under
1823 this paragraph.

1824 e. If emergency assessments are imposed, the references in
1825 sub-subparagraph (1)(a)3.b. and s. 631.695(2) and (7) to
1826 assessments levied under paragraph (a) shall include emergency
1827 assessments imposed under this paragraph.

1828 2. In order to ensure that insurers paying emergency
1829 assessments levied under this paragraph continue to charge rates
1830 that are neither inadequate nor excessive, within 90 days after
1831 being notified of such assessments, each insurer that is to be
1832 assessed pursuant to this paragraph shall submit a rate filing

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1833 for coverage included within the account specified in s.
1834 631.55(2)(c) and for which rates are required to be filed under
1835 s. 627.062. If the filing reflects a rate change that, as a
1836 percentage, is equal to the difference between the rate of such
1837 assessment and the rate of the previous year's assessment under
1838 this paragraph, the filing shall consist of a certification so
1839 stating and shall be deemed approved when made. Any rate change
1840 of a different percentage shall be subject to the standards and
1841 procedures of s. 627.062.

1842 3. In the event the board of directors participates in the
1843 issuance of bonds in accordance with s. 631.695, an annual
1844 assessment under this paragraph shall continue while the bonds
1845 issued with respect to which the assessment was imposed are
1846 outstanding, including any bonds the proceeds of which were used
1847 to refund bonds issued pursuant to s. 631.695, unless adequate
1848 provision has been made for the payment of the bonds in the
1849 documents authorizing the issuance of such bonds.

1850 4. Emergency assessments under this paragraph are not
1851 premium and are not subject to the premium tax, to any fees, or
1852 to any commissions. An insurer is liable for all emergency
1853 assessments that the insurer collects and shall treat the
1854 failure of an insured to pay an emergency assessment as a
1855 failure to pay the premium. An insurer is not liable for
1856 uncollectible emergency assessments.

1857 Section 22. (1) Notwithstanding section 9 of chapter
1858 2007-1, Laws of Florida, the internal design option provided in
1859 s. 1609.1.4.1. of the Florida Building Code shall remain in

1860 effect until June 1, 2007, for a building permit application
 1861 made prior to that date.

1862 (2) This section shall take effect upon this act becoming
 1863 a law and shall apply retroactively to January 25, 2007. This
 1864 section shall apply to any actions taken on any building permit
 1865 affected by section 9 of chapter 2007-1, Laws of Florida,
 1866 including any actions, legal or ministerial, pertaining to the
 1867 issuance, revocation, or modifications of any building permit
 1868 initiated or issued prior to, on, after, or pending as of
 1869 January 25, 2007. If the retroactive application of any
 1870 provision of this section is held invalid, the invalidity shall
 1871 not affect the retroactive application of other provisions of
 1872 this section.

1873 Section 23. The rate filing requirement in section 3 of
 1874 chapter 2007-1, Laws of Florida, relating to savings to be
 1875 reflected due to the presumed factor set by the Office of
 1876 Insurance Regulation on March 15, 2007, shall apply solely to
 1877 catastrophe reinsurance contracts covering the 2007 hurricane
 1878 season entered into after January 25, 2007. If an insurer had
 1879 catastrophe reinsurance contracts covering the 2007 hurricane
 1880 season in place prior to January 25, 2007, such insurer shall
 1881 not be required to reflect a savings in its presumed factor rate
 1882 filing.

1883 Section 24. Except as otherwise expressly provided in this
 1884 act, this act shall take effect July 1, 2007.