

Amendment No.

CHAMBER ACTION

Senate

House

.

1 Representative Wood offered the following:

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

4 Remove everything after the enacting clause and insert:

5 Section 1. Subsection (2) of section 95.11, Florida
6 Statutes, is amended to read:

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

10 (2) WITHIN FIVE YEARS.—

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

15 (b) A legal or equitable action on a contract, obligation,
16 or liability founded on a written instrument, except for an
399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

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

20 (c) An action to foreclose a mortgage.

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

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

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

28 215.555 Florida Hurricane Catastrophe Fund.—

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

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

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

37 2. Losses under liability coverages;

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

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

399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

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

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

51 7. Amounts in excess of the coverage limits under the
52 covered policy; or

53 8. Allocated or unallocated loss adjustment expenses.

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

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

60 215.5595 Insurance Capital Build-Up Incentive Program.—

61 (12) The insurer may request that the board renegotiate
62 the terms of any surplus note issued under this section before
63 January 1, 2011. The request must be submitted to the board by
64 January 1, 2012. If the insurer agrees to accelerate the payment
65 period of the note by at least 5 years, the board must agree to
66 exempt the insurer from the premium-to-surplus ratios required
67 under paragraph (2) (d). If the insurer agrees to an acceleration
68 of the payment period for less than 5 years, the board may,
69 after consultation with the Office of Insurance Regulation,
70 agree to an appropriate revision of the premium-to-surplus
71 ratios required under paragraph (2) (d) for the remaining term of
72 the note if the revised ratios are not lower than a minimum

399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

73 writing ratio of net premium to surplus of at least 1 to 1 and,
74 alternatively, a minimum writing ratio of gross premium to
75 surplus of at least 3 to 1.

76 Section 5. Section 624.407, Florida Statutes, is amended
77 to read:

78 624.407 Surplus ~~Capital funds~~ required; new insurers.—

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

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

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

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

92 (d) For all insurers other than life insurers and life and
93 health insurers, 10 percent of the insurer's total liabilities;

94 or

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

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

399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

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

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

108 (3)~~(2)~~ The requirements of this section shall be based
109 upon all the kinds of insurance actually transacted or to be
110 transacted by the insurer in any and all areas in which it
111 operates, whether or not only a portion of such kinds of
112 insurance are ~~to be~~ transacted in this state.

113 (4)~~(3)~~ As to surplus as to policyholders required for
114 qualification to transact one or more kinds of insurance,
115 domestic mutual insurers are governed by chapter 628, and
116 domestic reciprocal insurers are governed by chapter 629.

117 (5)~~(4)~~ For the purposes of this section, liabilities do
118 ~~shall~~ not include liabilities required under s. 625.041(4). For
119 purposes of computing minimum surplus as to policyholders
120 pursuant to s. 625.305(1), liabilities ~~shall~~ include liabilities
121 required under s. 625.041(4).

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

125 Section 6. Section 624.408, Florida Statutes, is amended
126 to read:

399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

127 624.408 Surplus ~~as to policyholders~~ required; current new
128 ~~and existing~~ insurers.-

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

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

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

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

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

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

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

150 (g) For residential property insurers holding a
151 certificate of authority before July 1, 2011, and until June 30,
152 2016, \$5 million; on or after July 1, 2016, and until June 30,
153 2021, \$10 million; on or after July 1, 2021, \$15 million.

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399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

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

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

163 ~~2. On December 31, 2002, and until December 30, 2003,~~
164 ~~\$3.25 million.~~

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

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

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

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

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

178 Section 7. Subsection (7) is added to section 626.852,
179 Florida Statutes, to read:

180 626.852 Scope of this part.—

181 (7) Notwithstanding any other provision of law, a person
182 who provides claims adjusting services solely to institutions

399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

183 that service or guarantee mortgages with regard to policies
184 covering the mortgaged properties is exempt from licensure as an
185 adjuster. This exemption does not apply to any person who
186 provides insurance or to any affiliate of such person.

187 Section 8. Effective June 1, 2011, section 626.854,
188 Florida Statutes, is amended to read:

189 626.854 "Public adjuster" defined; prohibitions.—The
190 Legislature finds that it is necessary for the protection of the
191 public to regulate public insurance adjusters and to prevent the
192 unauthorized practice of law.

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

206 (2) This definition does not apply to:

207 (a) A licensed health care provider or employee thereof
208 who prepares or files a health insurance claim form on behalf of
209 a patient.

399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

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

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

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

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

224 (6) A public adjuster may not directly or indirectly
225 through any other person or entity initiate contact or engage in
226 face-to-face or telephonic solicitation or enter into a contract
227 with any insured or claimant under an insurance policy until at
228 least 48 hours after the occurrence of an event that may be the
229 subject of a claim under the insurance policy unless contact is
230 initiated by the insured or claimant.

231 (7) An insured or claimant may cancel a public adjuster's
232 contract to adjust a claim without penalty or obligation within
233 3 business days after the date on which the contract is executed
234 or within 3 business days after the date on which the insured or
235 claimant has notified the insurer of the claim, by phone or in
236 writing, whichever is later. The public adjuster's contract
237 shall disclose to the insured or claimant his or her right to

399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

238 cancel the contract and advise the insured or claimant that
239 notice of cancellation must be submitted in writing and sent by
240 certified mail, return receipt requested, or other form of
241 mailing which provides proof thereof, to the public adjuster at
242 the address specified in the contract; provided, during any
243 state of emergency as declared by the Governor and for a period
244 of 1 year after the date of loss, the insured or claimant shall
245 have 5 business days after the date on which the contract is
246 executed to cancel a public adjuster's contract.

247 (8) It is an unfair and deceptive insurance trade practice
248 pursuant to s. 626.9541 for a public adjuster or any other
249 person to circulate or disseminate any advertisement,
250 announcement, or statement containing any assertion,
251 representation, or statement with respect to the business of
252 insurance which is untrue, deceptive, or misleading.

253 (9) A public adjuster, a public adjuster apprentice, or
254 any person or entity acting on behalf of a public adjuster or
255 public adjuster apprentice may not give or offer to give a
256 monetary loan or advance to a client or prospective client.

257 (10) A public adjuster, public adjuster apprentice, or any
258 individual or entity acting on behalf of a public adjuster or
259 public adjuster apprentice may not give or offer to give,
260 directly or indirectly, any article of merchandise having a
261 value in excess of \$25 to any individual for the purpose of
262 advertising or as an inducement to entering into a contract with
263 a public adjuster.

264 (11) (a) If a public adjuster enters into a contract with
265 an insured or claimant to reopen a claim or ~~to~~ file a

399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

266 supplemental claim that seeks additional payments for a claim
267 that has been previously paid in part or in full or settled by
268 the insurer, the public adjuster may not charge, agree to, or
269 accept any compensation, payment, commission, fee, or other
270 thing of value based on a previous settlement or previous claim
271 payments by the insurer for the same cause of loss. The charge,
272 compensation, payment, commission, fee, or other thing of value
273 may be based only on the claim payments or settlement obtained
274 through the work of the public adjuster after entering into the
275 contract with the insured or claimant. Compensation for the
276 reopened or supplemental claim may not exceed 20 percent of the
277 reopened or supplemental claim payment. The contracts described
278 in this paragraph are not subject to the limitations in
279 paragraph (b).

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

283 1. Ten percent of the amount of insurance claim payments
284 made by the insurer for claims based on events that are the
285 subject of a declaration of a state of emergency by the
286 Governor. This provision applies to claims made during the
287 period of 1 year after the declaration of emergency. After that
288 1-year period, 20 percent of the amount of insurance claim
289 payments made by the insurer.

290 2. Twenty percent of the amount of ~~all other~~ insurance
291 claim payments made by the insurer for claims that are not based
292 on events that are the subject of a declaration of a state of
293 emergency by the Governor.

399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

294 (12) Each public adjuster shall provide to the claimant or
295 insured a written estimate of the loss to assist in the
296 submission of a proof of loss or any other claim for payment of
297 insurance proceeds. The public adjuster shall retain such
298 written estimate for at least 5 years and shall make such
299 estimate available to the claimant or insured and the department
300 upon request.

301 (13) A public adjuster, public adjuster apprentice, or any
302 person acting on behalf of a public adjuster or apprentice may
303 not accept referrals of business from any person with whom the
304 public adjuster conducts business if there is any form or manner
305 of agreement to compensate the person, whether directly or
306 indirectly, for referring business to the public adjuster. A
307 public adjuster may not compensate any person, except for
308 another public adjuster, whether directly or indirectly, for the
309 principal purpose of referring business to the public adjuster.

310
311 The provisions of subsections (5)-(13) apply only to residential
312 property insurance policies and condominium unit owner
313 ~~association~~ policies as defined in s. 718.111(11).

314 Section 9. Effective January 1, 2012, section 626.854,
315 Florida Statutes, as amended by this act, is amended to read:

316 626.854 "Public adjuster" defined; prohibitions.—The
317 Legislature finds that it is necessary for the protection of the
318 public to regulate public insurance adjusters and to prevent the
319 unauthorized practice of law.

320 (1) A "public adjuster" is any person, except a duly
321 licensed attorney at law as exempted under ~~hereinafter in~~ s.
399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

322 626.860 ~~provided~~, who, for money, commission, or any other thing
323 of value, prepares, completes, or files an insurance claim form
324 for an insured or third-party claimant or who, for money,
325 commission, or any other thing of value, acts ~~or aids in any~~
326 ~~manner~~ on behalf of, or aids an insured or third-party claimant
327 in negotiating for or effecting the settlement of a claim or
328 claims for loss or damage covered by an insurance contract or
329 who advertises for employment as an adjuster of such claims. The
330 term, ~~and~~ also includes any person who, for money, commission,
331 or any other thing of value, solicits, investigates, or adjusts
332 such claims on behalf of a ~~any such~~ public adjuster.

333 (2) This definition does not apply to:

334 (a) A licensed health care provider or employee thereof
335 who prepares or files a health insurance claim form on behalf of
336 a patient.

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

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

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

346 (5) A public adjuster may not directly or indirectly
347 through any other person or entity solicit an insured or
348 claimant by any means except on Monday through Saturday of each

399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

349 week and only between the hours of 8 a.m. and 8 p.m. on those
350 days.

351 (6) A public adjuster may not directly or indirectly
352 through any other person or entity initiate contact or engage in
353 face-to-face or telephonic solicitation or enter into a contract
354 with any insured or claimant under an insurance policy until at
355 least 48 hours after the occurrence of an event that may be the
356 subject of a claim under the insurance policy unless contact is
357 initiated by the insured or claimant.

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

374 (8) It is an unfair and deceptive insurance trade practice
375 pursuant to s. 626.9541 for a public adjuster or any other
376 person to circulate or disseminate any advertisement,

399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

377 announcement, or statement containing any assertion,
378 representation, or statement with respect to the business of
379 insurance which is untrue, deceptive, or misleading.

380 (a) The following statements, made in any public
381 adjuster's advertisement or solicitation, are considered
382 deceptive or misleading:

383 1. A statement or representation that invites an insured
384 policyholder to submit a claim when the policyholder does not
385 have covered damage to insured property.

386 2. A statement or representation that invites an insured
387 policyholder to submit a claim by offering monetary or other
388 valuable inducement.

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

392 4. A statement or representation, or use of a logo or
393 shield, that implies or could mistakenly be construed to imply
394 that the solicitation was issued or distributed by a
395 governmental agency or is sanctioned or endorsed by a
396 governmental agency.

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

399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

404 "THIS IS A SOLICITATION FOR BUSINESS. IF YOU HAVE HAD
405 A CLAIM FOR AN INSURED PROPERTY LOSS OR DAMAGE AND YOU
406 ARE SATISFIED WITH THE PAYMENT BY YOUR INSURER, YOU
407 MAY DISREGARD THIS ADVERTISEMENT."
408

409 (9) A public adjuster, a public adjuster apprentice, or
410 any person or entity acting on behalf of a public adjuster or
411 public adjuster apprentice may not give or offer to give a
412 monetary loan or advance to a client or prospective client.

413 (10) A public adjuster, public adjuster apprentice, or any
414 individual or entity acting on behalf of a public adjuster or
415 public adjuster apprentice may not give or offer to give,
416 directly or indirectly, any article of merchandise having a
417 value in excess of \$25 to any individual for the purpose of
418 advertising or as an inducement to entering into a contract with
419 a public adjuster.

420 (11) (a) If a public adjuster enters into a contract with
421 an insured or claimant to reopen a claim or file a supplemental
422 claim that seeks additional payments for a claim that has been
423 previously paid in part or in full or settled by the insurer,
424 the public adjuster may not charge, agree to, or accept any
425 compensation, payment, commission, fee, or other thing of value
426 based on a previous settlement or previous claim payments by the
427 insurer for the same cause of loss. The charge, compensation,
428 payment, commission, fee, or other thing of value must be based
429 only on the claim payments or settlement obtained through the
430 work of the public adjuster after entering into the contract
431 with the insured or claimant. Compensation for the reopened or

399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

432 supplemental claim may not exceed 20 percent of the reopened or
433 supplemental claim payment. The contracts described in this
434 paragraph are not subject to the limitations in paragraph (b).

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

438 1. Ten percent of the amount of insurance claim payments
439 made by the insurer for claims based on events that are the
440 subject of a declaration of a state of emergency by the
441 Governor. This provision applies to claims made during the year
442 after the declaration of emergency. After that year, the
443 limitations in subparagraph 2. apply.

444 2. Twenty percent of the amount of insurance claim
445 payments made by the insurer for claims that are not based on
446 events that are the subject of a declaration of a state of
447 emergency by the Governor.

448 (12) Each public adjuster must ~~shall~~ provide to the
449 claimant or insured a written estimate of the loss to assist in
450 the submission of a proof of loss or any other claim for payment
451 of insurance proceeds. The public adjuster shall retain such
452 written estimate for at least 5 years and shall make the ~~such~~
453 estimate available to the claimant or insured, the insurer, and
454 the department upon request.

455 (13) A public adjuster, public adjuster apprentice, or any
456 person acting on behalf of a public adjuster or apprentice may
457 not accept referrals of business from any person with whom the
458 public adjuster conducts business if there is any form or manner
459 of agreement to compensate the person, ~~whether~~ directly or

399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

460 indirectly, for referring business to the public adjuster. A
461 public adjuster may not compensate any person, except for
462 another public adjuster, ~~whether~~ directly or indirectly, for the
463 principal purpose of referring business to the public adjuster.

464 (14) A company employee adjuster, independent adjuster,
465 attorney, investigator, or other persons acting on behalf of an
466 insurer that needs access to an insured or claimant or to the
467 insured property that is the subject of a claim must provide at
468 least 48 hours' notice to the insured or claimant, public
469 adjuster, or legal representative before scheduling a meeting
470 with the claimant or an onsite inspection of the insured
471 property. The insured or claimant may deny access to the
472 property if the notice has not been provided. The insured or
473 claimant may waive the 48-hour notice.

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

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

399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

488 agreement as to the scope of the covered loss under the
489 insurance policy. This section does not impair the terms and
490 conditions of the insurance policy in effect at the time the
491 claim is filed.

492 (b) A public adjuster may not restrict or prevent an
493 insurer, company employee adjuster, independent adjuster,
494 attorney, investigator, or other person acting on behalf of the
495 insurer from having reasonable access at reasonable times to an
496 insured or claimant or to the insured property that is the
497 subject of a claim.

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

510 (16) A licensed contractor under part I of chapter 489, or
511 a subcontractor, may not adjust a claim on behalf of an insured
512 unless licensed and compliant as a public adjuster under this
513 chapter. However, the contractor may discuss or explain a bid
514 for construction or repair of covered property with the
515 residential property owner who has suffered loss or damage

399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

516 covered by a property insurance policy, or the insurer of such
517 property, if the contractor is doing so for the usual and
518 customary fees applicable to the work to be performed as stated
519 in the contract between the contractor and the insured.

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

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

525 626.8796 Public adjuster contracts; fraud statement.—

526 (1) All contracts for public adjuster services must be in
527 writing and ~~must~~ prominently display the following statement on
528 the contract: "Pursuant to s. 817.234, Florida Statutes, any
529 person who, with the intent to injure, defraud, or deceive an
530 ~~any~~ insurer or insured, prepares, presents, or causes to be
531 presented a proof of loss or estimate of cost or repair of
532 damaged property in support of a claim under an insurance policy
533 knowing that the proof of loss or estimate of claim or repairs
534 contains ~~any~~ false, incomplete, or misleading information
535 concerning any fact or thing material to the claim commits a
536 felony of the third degree, punishable as provided in s.
537 775.082, s. 775.083, or s. 775.084, Florida Statutes."

538 (2) A public adjuster contract relating to a property and
539 casualty claim must contain the full name, permanent business
540 address, and license number of the public adjuster; the full
541 name of the public adjusting firm; and the insured's full name
542 and street address, together with a brief description of the
543 loss. The contract must state the percentage of compensation for

399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

544 the public adjuster's services; the type of claim, including an
545 emergency claim, nonemergency claim, or supplemental claim; the
546 signatures of the public adjuster and all named insureds; and
547 the signature date. If all of the named insureds signatures are
548 not available, the public adjuster must submit an affidavit
549 signed by the available named insureds attesting that they have
550 authority to enter into the contract and settle all claim issues
551 on behalf of the named insureds. An unaltered copy of the
552 executed contract must be remitted to the insurer within 30 days
553 after execution.

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

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

399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

572 Section 12. Subsection (4) of section 627.0613, Florida
573 Statutes, is repealed.

574 Section 13. Section 627.062, Florida Statutes, is amended
575 to read:

576 627.062 Rate standards.—

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

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

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

589 1. If the filing is made at least 90 days before the
590 proposed effective date and ~~the filing~~ is not implemented during
591 the office's review of the filing and any proceeding and
592 judicial review, ~~then~~ such filing is ~~shall be~~ considered a "file
593 and use" filing. In such case, the office shall finalize its
594 review by issuance of a notice of intent to approve or a notice
595 of intent to disapprove within 90 days after receipt of the
596 filing. The notice of intent to approve and the notice of intent
597 to disapprove constitute agency action for purposes of the
598 Administrative Procedure Act. Requests for supporting
599 information, requests for mathematical or mechanical

399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

600 corrections, or notification to the insurer by the office of its
601 preliminary findings does ~~shall~~ not toll the 90-day period
602 during any such proceedings and subsequent judicial review. The
603 rate shall be deemed approved if the office does not issue a
604 notice of intent to approve or a notice of intent to disapprove
605 within 90 days after receipt of the filing.

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

614 3. For all property insurance filings made or submitted
615 after January 25, 2007, but before May 1, 2012 ~~December 31,~~
616 ~~2010~~, an insurer seeking a rate that is greater than the rate
617 most recently approved by the office shall make a "file and use"
618 filing. For purposes of this subparagraph, motor vehicle
619 collision and comprehensive coverages are not considered ~~to be~~
620 property coverages.

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

626 1. Past and prospective loss experience within and without
627 this state.

399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

- 628 2. Past and prospective expenses.
- 629 3. The degree of competition among insurers for the risk
630 insured.
- 631 4. Investment income reasonably expected by the insurer,
632 consistent with the insurer's investment practices, from
633 investable premiums anticipated in the filing, plus any other
634 expected income from currently invested assets representing the
635 amount expected on unearned premium reserves and loss reserves.
636 The commission may adopt rules using reasonable techniques of
637 actuarial science and economics to specify the manner in which
638 insurers ~~shall~~ calculate investment income attributable to ~~such~~
639 classes of insurance written in this state and the manner in
640 which ~~such~~ investment income is ~~shall be~~ used to calculate
641 insurance rates. Such manner must ~~shall~~ contemplate allowances
642 for an underwriting profit factor and full consideration of
643 investment income which produce a reasonable rate of return;
644 however, investment income from invested surplus may not be
645 considered.
- 646 5. The reasonableness of the judgment reflected in the
647 filing.
- 648 6. Dividends, savings, or unabsorbed premium deposits
649 allowed or returned to Florida policyholders, members, or
650 subscribers.
- 651 7. The adequacy of loss reserves.
- 652 8. The cost of reinsurance. The office may ~~shall~~ not
653 disapprove a rate as excessive solely due to the insurer having
654 obtained catastrophic reinsurance to cover the insurer's

399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

655 estimated 250-year probable maximum loss or any lower level of
656 loss.

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

659 10. Conflagration and catastrophe hazards, if applicable.

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

664 12. A reasonable margin for underwriting profit and
665 contingencies.

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

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

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

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

399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

683 received by an insurer purchasing reinsurance for catastrophes
684 must ~~shall~~ be placed in the catastrophe reserve.

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

689 1. Rates shall be deemed excessive if they are likely to
690 produce a profit from Florida business which ~~that~~ is
691 unreasonably high in relation to the risk involved in the class
692 of business or if expenses are unreasonably high in relation to
693 services rendered.

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

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

702 4. A rating plan, including discounts, credits, or
703 surcharges, shall be deemed unfairly discriminatory if it fails
704 to clearly and equitably reflect consideration of the
705 policyholder's participation in a risk management program
706 adopted pursuant to s. 627.0625.

707 5. A rate shall be deemed inadequate as to the premium
708 charged to a risk or group of risks if discounts or credits are
709 allowed which exceed a reasonable reflection of expense savings

399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

710 and reasonably expected loss experience from the risk or group
711 of risks.

712 6. A rate shall be deemed unfairly discriminatory as to a
713 risk or group of risks if the application of premium discounts,
714 credits, or surcharges among such risks does not bear a
715 reasonable relationship to the expected loss and expense
716 experience among the various risks.

717 (f) In reviewing a rate filing, the office may require the
718 insurer to provide, at the insurer's expense, all information
719 necessary to evaluate the condition of the company and the
720 reasonableness of the filing according to the criteria
721 enumerated in this section.

722 (g) The office may at any time review a rate, rating
723 schedule, rating manual, or rate change; the pertinent records
724 of the insurer; and market conditions. If the office finds on a
725 preliminary basis that a rate may be excessive, inadequate, or
726 unfairly discriminatory, the office shall initiate proceedings
727 to disapprove the rate and shall so notify the insurer. However,
728 the office may not disapprove as excessive any rate for which it
729 has given final approval or which has been deemed approved for a
730 ~~period of~~ 1 year after the effective date of the filing unless
731 the office finds that a material misrepresentation or material
732 error was made by the insurer or was contained in the filing.
733 Upon being ~~so~~ notified, the insurer or rating organization
734 shall, within 60 days, file with the office all information that
735 ~~which~~, in the belief of the insurer or organization, proves the
736 reasonableness, adequacy, and fairness of the rate or rate
737 change. The office shall issue a notice of intent to approve or
399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

738 a notice of intent to disapprove pursuant to ~~the procedures of~~
739 paragraph (a) within 90 days after receipt of the insurer's
740 initial response. In such instances and in any administrative
741 proceeding relating to the legality of the rate, the insurer or
742 rating organization shall carry the burden of proof by a
743 preponderance of the evidence to show that the rate is not
744 excessive, inadequate, or unfairly discriminatory. After the
745 office notifies an insurer that a rate may be excessive,
746 inadequate, or unfairly discriminatory, unless the office
747 withdraws the notification, the insurer may ~~shall~~ not alter the
748 rate except to conform to ~~with~~ the office's notice until the
749 earlier of 120 days after the date the notification was provided
750 or 180 days after the date of implementing ~~the implementation of~~
751 the rate. The office ~~may~~, subject to chapter 120, may disapprove
752 without the 60-day notification any rate increase filed by an
753 insurer within the prohibited time period or during the time
754 that the legality of the increased rate is being contested.

755 (h) ~~If In the event~~ the office finds that a rate or rate
756 change is excessive, inadequate, or unfairly discriminatory, the
757 office shall issue an order of disapproval specifying that a new
758 rate or rate schedule, which responds to the findings of the
759 office, be filed by the insurer. The office shall further order,
760 for any "use and file" filing made in accordance with
761 subparagraph (a)2., that premiums charged each policyholder
762 constituting the portion of the rate above that which was
763 actuarially justified be returned to the ~~such~~ policyholder in
764 the form of a credit or refund. If the office finds that an
765 insurer's rate or rate change is inadequate, the new rate or
399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

766 rate schedule filed with the office in response to such a
767 finding ~~is shall be~~ applicable only to new or renewal business
768 of the insurer written on or after the effective date of the
769 responsive filing.

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

773 1. Prohibit any insurer, including any residual market
774 plan or joint underwriting association, from paying acquisition
775 costs based on the full amount of premium, as defined in s.
776 627.403, applicable to any policy, or prohibit any such insurer
777 from including the full amount of acquisition costs in a rate
778 filing; ~~or.~~

779 2. Impede, abridge, or otherwise compromise an insurer's
780 right to acquire policyholders, advertise, or appoint agents,
781 including the calculation, manner, or amount of such agent
782 commissions, if any.

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

786 (k)1. A residential property ~~An~~ insurer may make a
787 separate filing limited solely to an adjustment of its rates for
788 reinsurance, the cost of financing products used as a
789 replacement for reinsurance, ~~or~~ financing costs incurred in the
790 purchase of reinsurance, ~~or financing products to replace or~~
791 ~~finance the payment of the amount covered by the Temporary~~
792 ~~Increase in Coverage Limits (TICL) portion of the Florida~~
793 ~~Hurricane Catastrophe Fund including replacement reinsurance for~~
399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

794 ~~the TICL reductions made pursuant to s. 215.555(17)(e); the~~
795 ~~actual cost paid due to the application of the TICL premium~~
796 ~~factor pursuant to s. 215.555(17)(f); and the actual cost paid~~
797 ~~due to the application of the cash build-up factor pursuant to~~
798 ~~s. 215.555(5)(b) if the insurer:~~

799 a. Elects to purchase financing products such as a
800 liquidity instrument or line of credit, in which case the cost
801 included in ~~the~~ filing for the liquidity instrument or line of
802 credit may not result in a premium increase exceeding 3 percent
803 for any individual policyholder. All costs contained in the
804 filing may not result in an overall premium increase of more
805 than 15 ~~10~~ percent for any individual policyholder.

806 b. Includes in the filing a copy of all of its
807 reinsurance, liquidity instrument, or line of credit contracts;
808 proof of the billing or payment for the contracts; and the
809 calculation upon which the proposed rate change is based
810 demonstrating ~~demonstrates~~ that the costs meet the criteria of
811 this section ~~and are not loaded for expenses or profit for the~~
812 ~~insurer making the filing.~~

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

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

816 ~~e. Does not file for a rate increase under any other~~
817 ~~paragraph within 6 months after making a filing under this~~
818 ~~paragraph.~~

819 2.f. An insurer that purchases reinsurance or financing
820 products from an affiliated company may make a separate filing
821 ~~in compliance with this paragraph does so~~ only if the costs for
399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

822 such reinsurance or financing products are charged at or below
823 charges made for comparable coverage by nonaffiliated reinsurers
824 or financial entities making such coverage or financing products
825 available in this state.

826 ~~3.2.~~ An insurer may ~~only~~ make only one filing per ~~in any~~
827 12-month period under this paragraph.

828 ~~4.3.~~ An insurer that elects to implement a rate change
829 under this paragraph must file its rate filing with the office
830 at least 45 days before the effective date of the rate change.
831 After an insurer submits a complete filing that meets all of the
832 requirements of this paragraph, the office has 45 days after the
833 date of the filing to review the rate filing and determine if
834 the rate is excessive, inadequate, or unfairly discriminatory.

835
836 The provisions of this subsection do ~~shall~~ not apply to workers'
837 compensation, and employer's liability insurance, and ~~to~~ motor
838 vehicle insurance.

839 (3) (a) For individual risks that are not rated in
840 accordance with the insurer's rates, rating schedules, rating
841 manuals, and underwriting rules filed with the office and that
842 ~~which~~ have been submitted to the insurer for individual rating,
843 the insurer must maintain documentation on each risk subject to
844 individual risk rating. The documentation must identify the
845 named insured and specify the characteristics and classification
846 of the risk supporting the reason for the risk being
847 individually risk rated, including any modifications to existing
848 approved forms to be used on the risk. The insurer must maintain

399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

849 these records for ~~a period of~~ at least 5 years after the
850 effective date of the policy.

851 (b) Individual risk rates and modifications to existing
852 approved forms are not subject to this part or part II, except
853 for paragraph (a) and ss. 627.402, 627.403, 627.4035, 627.404,
854 627.405, 627.406, 627.407, 627.4085, 627.409, 627.4132,
855 627.4133, 627.415, 627.416, 627.417, 627.419, 627.425, 627.426,
856 627.4265, 627.427, and 627.428, but are subject to all other
857 applicable provisions of this code and rules adopted thereunder.

858 (c) This subsection does not apply to private passenger
859 motor vehicle insurance.

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

863 a. Excess or umbrella.

864 b. Surety and fidelity.

865 c. Boiler and machinery and leakage and fire extinguishing
866 equipment.

867 d. Errors and omissions.

868 e. Directors and officers, employment practices, and
869 management liability.

870 f. Intellectual property and patent infringement
871 liability.

872 g. Advertising injury and Internet liability insurance.

873 h. Property risks rated under a highly protected risks
874 rating plan.

875 i. Any other commercial lines categories or kinds of
876 insurance or types of commercial lines risks that the office
399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

877 determines should not be subject to paragraph (2) (a) or
878 paragraph (2) (f) because of the existence of a competitive
879 market for such insurance, similarity of such insurance to other
880 categories or kinds of insurance not subject to paragraph (2) (a)
881 or paragraph (2) (f), or to improve the general operational
882 efficiency of the office.

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

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

399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

904 4. A rating organization must notify the office of any
905 changes to loss cost for insurance and risks described in
906 subparagraph 1. within ~~no later than~~ 30 days after the effective
907 date of the change. The notice must include the name of the
908 rating organization, the type or kind of insurance subject to a
909 loss cost change, loss costs during the immediately preceding
910 year for the type or kind of insurance subject to the loss cost
911 change, and the average statewide percentage change in loss
912 cost. Loss and exposure statistics with regard to risks
913 applicable to loss costs for a rating organization not subject
914 to paragraph (2) (a) or paragraph (2) (f) must ~~shall~~ be maintained
915 by the rating organization and are subject to examination by the
916 office. Upon examination, the office ~~shall~~, in accordance with
917 generally accepted and reasonable actuarial techniques, shall
918 consider the rate factors in paragraphs (2) (b)-(d) and the
919 standards in paragraph (2) (e) to determine if the rate is
920 excessive, inadequate, or unfairly discriminatory.

921 5. In reviewing a rate, the office may require the insurer
922 to provide, at the insurer's expense, all information necessary
923 to evaluate the condition of the company and the reasonableness
924 of the rate according to the applicable criteria described in
925 this section.

926 (4) The establishment of any rate, rating classification,
927 rating plan or schedule, or variation thereof in violation of
928 part IX of chapter 626 is also in violation of this section. ~~In~~
929 ~~order to enhance the ability of consumers to compare premiums~~
930 ~~and to increase the accuracy and usefulness of rate comparison~~
931 ~~information provided by the office to the public, the office~~

399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

932 ~~shall develop a proposed standard rating territory plan to be~~
933 ~~used by all authorized property and casualty insurers for~~
934 ~~residential property insurance. In adopting the proposed plan,~~
935 ~~the office may consider geographical characteristics relevant to~~
936 ~~risk, county lines, major roadways, existing rating territories~~
937 ~~used by a significant segment of the market, and other relevant~~
938 ~~factors. Such plan shall be submitted to the President of the~~
939 ~~Senate and the Speaker of the House of Representatives by~~
940 ~~January 15, 2006. The plan may not be implemented unless~~
941 ~~authorized by further act of the Legislature.~~

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

956 (6) (a) If an insurer requests an administrative hearing
957 pursuant to s. 120.57 related to a rate filing under this
958 section, the director of the Division of Administrative Hearings
959 shall expedite the hearing and assign an administrative law
399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

960 judge who shall commence the hearing within 30 days after the
961 receipt of the formal request and ~~shall~~ enter a recommended
962 order within 30 days after the hearing or within 30 days after
963 receipt of the hearing transcript by the administrative law
964 judge, whichever is later. Each party shall have ~~be allowed~~ 10
965 days in which to submit written exceptions to the recommended
966 order. The office shall enter a final order within 30 days after
967 the entry of the recommended order. The provisions of this
968 paragraph may be waived upon stipulation of all parties.

969 (b) Upon entry of a final order, the insurer may request a
970 expedited appellate review pursuant to the Florida Rules of
971 Appellate Procedure. It is the intent of the Legislature that
972 the First District Court of Appeal grant an insurer's request
973 for an expedited appellate review.

974 (7) ~~(a)~~ The provisions of this subsection apply only ~~with~~
975 ~~respect~~ to rates for medical malpractice insurance and ~~shall~~
976 control to the extent of any conflict with other provisions of
977 this section.

978 (a) ~~(b)~~ Any portion of a judgment entered or settlement
979 paid as a result of a statutory or common-law bad faith action
980 and any portion of a judgment entered which awards punitive
981 damages against an insurer may not be included in the insurer's
982 rate base, and ~~shall not be~~ used to justify a rate or rate
983 change. Any common-law bad faith action identified as such, any
984 portion of a settlement entered as a result of a statutory or
985 common-law action, or any portion of a settlement wherein an
986 insurer agrees to pay specific punitive damages may not be used
987 to justify a rate or rate change. The portion of the taxable
399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

988 costs and attorney's fees which is identified as being related
989 to the bad faith and punitive damages ~~in these judgments and~~
990 ~~settlements~~ may not be included in the insurer's rate base and
991 used ~~may not be utilized~~ to justify a rate or rate change.

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

1000 (c) ~~(d)~~ Rates shall be deemed excessive if, among other
1001 standards established by this section, the rate structure
1002 provides for replenishment of reserves or surpluses from
1003 premiums when the replenishment is attributable to investment
1004 losses.

1005 (d) ~~(e)~~ The insurer must apply a discount or surcharge
1006 based on the health care provider's loss experience or ~~shall~~
1007 establish an alternative method giving due consideration to the
1008 provider's loss experience. The insurer must include in the
1009 filing a copy of the surcharge or discount schedule or a
1010 description of the alternative method used, and ~~must~~ provide a
1011 ~~copy of such schedule or description~~, as approved by the office,
1012 to policyholders at the time of renewal and to prospective
1013 policyholders at the time of application for coverage.

399507

Approved For Filing: 5/3/2011 1:10:09 AM

Page 37 of 136

Amendment No.

1014 ~~(e) (f)~~ Each medical malpractice insurer must make a rate
1015 filing under this section, sworn to by at least two executive
1016 officers of the insurer, at least once each calendar year.

1017 ~~(8) (a) 1.~~ No later than 60 days after the effective date of
1018 medical malpractice legislation enacted during the 2003 Special
1019 Session D of the Florida Legislature, the office shall calculate
1020 a presumed factor that reflects the impact that the changes
1021 contained in such legislation will have on rates for medical
1022 malpractice insurance and shall issue a notice informing all
1023 insurers writing medical malpractice coverage of such presumed
1024 factor. In determining the presumed factor, the office shall use
1025 generally accepted actuarial techniques and standards provided
1026 in this section in determining the expected impact on losses,
1027 expenses, and investment income of the insurer. To the extent
1028 that the operation of a provision of medical malpractice
1029 legislation enacted during the 2003 Special Session D of the
1030 Florida Legislature is stayed pending a constitutional
1031 challenge, the impact of that provision shall not be included in
1032 the calculation of a presumed factor under this subparagraph.

1033 ~~2.~~ No later than 60 days after the office issues its
1034 notice of the presumed rate change factor under subparagraph 1.,
1035 each insurer writing medical malpractice coverage in this state
1036 shall submit to the office a rate filing for medical malpractice
1037 insurance, which will take effect no later than January 1, 2004,
1038 and apply retroactively to policies issued or renewed on or
1039 after the effective date of medical malpractice legislation
1040 enacted during the 2003 Special Session D of the Florida
1041 Legislature. Except as authorized under paragraph (b), the

399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

1042 ~~filing shall reflect an overall rate reduction at least as great~~
1043 ~~as the presumed factor determined under subparagraph 1. With~~
1044 ~~respect to policies issued on or after the effective date of~~
1045 ~~such legislation and prior to the effective date of the rate~~
1046 ~~filing required by this subsection, the office shall order the~~
1047 ~~insurer to make a refund of the amount that was charged in~~
1048 ~~excess of the rate that is approved.~~

1049 ~~(b) Any insurer or rating organization that contends that~~
1050 ~~the rate provided for in paragraph (a) is excessive, inadequate,~~
1051 ~~or unfairly discriminatory shall separately state in its filing~~
1052 ~~the rate it contends is appropriate and shall state with~~
1053 ~~specificity the factors or data that it contends should be~~
1054 ~~considered in order to produce such appropriate rate. The~~
1055 ~~insurer or rating organization shall be permitted to use all of~~
1056 ~~the generally accepted actuarial techniques provided in this~~
1057 ~~section in making any filing pursuant to this subsection. The~~
1058 ~~office shall review each such exception and approve or~~
1059 ~~disapprove it prior to use. It shall be the insurer's burden to~~
1060 ~~actuarially justify any deviations from the rates required to be~~
1061 ~~filed under paragraph (a). The insurer making a filing under~~
1062 ~~this paragraph shall include in the filing the expected impact~~
1063 ~~of medical malpractice legislation enacted during the 2003~~
1064 ~~Special Session D of the Florida Legislature on losses,~~
1065 ~~expenses, and rates.~~

1066 ~~(c) If any provision of medical malpractice legislation~~
1067 ~~enacted during the 2003 Special Session D of the Florida~~
1068 ~~Legislature is held invalid by a court of competent~~
1069 ~~jurisdiction, the office shall permit an adjustment of all~~
399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

1070 ~~medical malpractice rates filed under this section to reflect~~
1071 ~~the impact of such holding on such rates so as to ensure that~~
1072 ~~the rates are not excessive, inadequate, or unfairly~~
1073 ~~discriminatory.~~

1074 ~~(d) Rates approved on or before July 1, 2003, for medical~~
1075 ~~malpractice insurance shall remain in effect until the effective~~
1076 ~~date of a new rate filing approved under this subsection.~~

1077 ~~(e) The calculation and notice by the office of the~~
1078 ~~presumed factor pursuant to paragraph (a) is not an order or~~
1079 ~~rule that is subject to chapter 120. If the office enters into a~~
1080 ~~contract with an independent consultant to assist the office in~~
1081 ~~calculating the presumed factor, such contract shall not be~~
1082 ~~subject to the competitive solicitation requirements of s.~~
1083 ~~287.057.~~

1084 ~~(8)-(9)~~ (a) The chief executive officer or chief financial
1085 officer of a property insurer and the chief actuary of a
1086 property insurer must certify under oath and subject to the
1087 penalty of perjury, on a form approved by the commission, the
1088 following information, which must accompany a rate filing:

1089 1. The signing officer and actuary have reviewed the rate
1090 filing;

1091 2. Based on the signing officer's and actuary's knowledge,
1092 the rate filing does not contain any untrue statement of a
1093 material fact or omit to state a material fact necessary ~~in~~
1094 ~~order~~ to make the statements made, in light of the circumstances
1095 under which such statements were made, not misleading;

1096 3. Based on the signing officer's and actuary's knowledge,
1097 the information and other factors described in paragraph (2) (b),
399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

1098 including, but not limited to, investment income, fairly present
1099 in all material respects the basis of the rate filing for the
1100 periods presented in the filing; and

1101 4. Based on the signing officer's and actuary's knowledge,
1102 the rate filing reflects all premium savings that are reasonably
1103 expected to result from legislative enactments and are in
1104 accordance with generally accepted and reasonable actuarial
1105 techniques.

1106 (b) A signing officer or actuary who knowingly makes
1107 ~~making~~ a false certification under this subsection commits a
1108 violation of s. 626.9541(1)(e) and is subject to the penalties
1109 under s. 626.9521.

1110 (c) Failure to provide such certification by the officer
1111 and actuary shall result in the rate filing being disapproved
1112 without prejudice to be refiled.

1113 (d) The certification made pursuant to paragraph (a) is
1114 not rendered false if, after making the subject rate filing, the
1115 insurer provides the office with additional or supplementary
1116 information pursuant to a formal or informal request from the
1117 office. However, the actuary who is primarily responsible for
1118 preparing and submitting such information must certify the
1119 information in accordance with the certification required under
1120 paragraph (a) and the penalties in paragraph (b), except that
1121 the chief executive officer, chief financial officer, or chief
1122 actuary need not certify the additional or supplementary
1123 information.

1124 (e) ~~(d)~~ The commission may adopt rules and forms pursuant
1125 ~~to ss. 120.536(1) and 120.54~~ to administer this subsection.

399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

1126 ~~(9)~~~~(10)~~ The burden is on the office to establish that
1127 rates are excessive for personal lines residential coverage with
1128 a dwelling replacement cost of \$1 million or more or for a
1129 single condominium unit with a combined dwelling and contents
1130 replacement cost of \$1 million or more. Upon request of the
1131 office, the insurer shall provide ~~to the office~~ such loss and
1132 expense information as the office reasonably needs to meet this
1133 burden.

1134 ~~(10)~~~~(11)~~ Any interest paid pursuant to s. 627.70131(5) may
1135 not be included in the insurer's rate base and may not be used
1136 to justify a rate or rate change.

1137 Section 14. Paragraph (b) of subsection (3) of section
1138 627.06281, Florida Statutes, is amended to read:

1139 627.06281 Public hurricane loss projection model;
1140 reporting of data by insurers.—

1141 (3)

1142 (b) The fees charged for private sector access and use of
1143 the model shall be the reasonable costs associated with the
1144 operation and maintenance of the model by the office. Such fees
1145 do not apply to access and use of the model by the office. ~~By~~
1146 ~~January 1, 2009, The office shall establish by rule a fee~~
1147 ~~schedule for access to and the use of the model. The fee~~
1148 ~~schedule must be reasonably calculated to cover only the actual~~
1149 ~~costs of providing access to and the use of the model.~~

1150 Section 15. Subsections (1) and (5) of section 627.0629,
1151 Florida Statutes, are amended to read:

1152 627.0629 Residential property insurance; rate filings.—

399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

1153 (1)~~(a)~~ It is the intent of the Legislature that insurers
1154 ~~must~~ provide savings to consumers who install or implement
1155 windstorm damage mitigation techniques, alterations, or
1156 solutions to their properties to prevent windstorm losses. A
1157 rate filing for residential property insurance must include
1158 actuarially reasonable discounts, credits, or other rate
1159 differentials, or appropriate reductions in deductibles, for
1160 properties on which fixtures or construction techniques
1161 demonstrated to reduce the amount of loss in a windstorm have
1162 been installed or implemented. The fixtures or construction
1163 techniques must ~~shall~~ include, but are not ~~be~~ limited to,
1164 fixtures or construction techniques that ~~which~~ enhance roof
1165 strength, roof covering performance, roof-to-wall strength,
1166 wall-to-floor-to-foundation strength, opening protection, and
1167 window, door, and skylight strength. Credits, discounts, or
1168 other rate differentials, or appropriate reductions in
1169 deductibles, for fixtures and construction techniques that ~~which~~
1170 meet the minimum requirements of the Florida Building Code must
1171 be included in the rate filing. ~~All insurance companies must~~
1172 ~~make a rate filing which includes the credits, discounts, or~~
1173 ~~other rate differentials or reductions in deductibles by~~
1174 ~~February 28, 2003. By July 1, 2007, the office shall reevaluate~~
1175 ~~the discounts, credits, other rate differentials, and~~
1176 ~~appropriate reductions in deductibles for fixtures and~~
1177 ~~construction techniques that meet the minimum requirements of~~
1178 ~~the Florida Building Code, based upon actual experience or any~~
1179 ~~other loss relativity studies available to the office. The~~
1180 office shall determine the discounts, credits, other rate

399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

1181 differentials, and appropriate reductions in deductibles that
1182 reflect the full actuarial value of such revaluation, which may
1183 be used by insurers in rate filings.

1184 ~~(b) By February 1, 2011, the Office of Insurance~~
1185 ~~Regulation, in consultation with the Department of Financial~~
1186 ~~Services and the Department of Community Affairs, shall develop~~
1187 ~~and make publicly available a proposed method for insurers to~~
1188 ~~establish discounts, credits, or other rate differentials for~~
1189 ~~hurricane mitigation measures which directly correlate to the~~
1190 ~~numerical rating assigned to a structure pursuant to the uniform~~
1191 ~~home grading scale adopted by the Financial Services Commission~~
1192 ~~pursuant to s. 215.55865, including any proposed changes to the~~
1193 ~~uniform home grading scale. By October 1, 2011, the commission~~
1194 ~~shall adopt rules requiring insurers to make rate filings for~~
1195 ~~residential property insurance which revise insurers' discounts,~~
1196 ~~credits, or other rate differentials for hurricane mitigation~~
1197 ~~measures so that such rate differentials correlate directly to~~
1198 ~~the uniform home grading scale. The rules may include such~~
1199 ~~changes to the uniform home grading scale as the commission~~
1200 ~~determines are necessary, and may specify the minimum required~~
1201 ~~discounts, credits, or other rate differentials. Such rate~~
1202 ~~differentials must be consistent with generally accepted~~
1203 ~~actuarial principles and wind loss mitigation studies. The rules~~
1204 ~~shall allow a period of at least 2 years after the effective~~
1205 ~~date of the revised mitigation discounts, credits, or other rate~~
1206 ~~differentials for a property owner to obtain an inspection or~~
1207 ~~otherwise qualify for the revised credit, during which time the~~
1208 ~~insurer shall continue to apply the mitigation credit that was~~

399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

1209 ~~applied immediately prior to the effective date of the revised~~
1210 ~~credit. Discounts, credits, and other rate differentials~~
1211 ~~established for rate filings under this paragraph shall~~
1212 ~~supersede, after adoption, the discounts, credits, and other~~
1213 ~~rate differentials included in rate filings under paragraph (a).~~

1214 (5) In order to provide an appropriate transition period,
1215 an insurer may, ~~in its sole discretion,~~ implement an approved
1216 rate filing for residential property insurance over a period of
1217 years. Such ~~An insurer electing to phase in its rate filing~~ must
1218 provide an informational notice to the office setting out its
1219 schedule for implementation of the phased-in rate filing. The ~~An~~
1220 insurer may include in its rate the actual cost of private
1221 market reinsurance that corresponds to available coverage of the
1222 Temporary Increase in Coverage Limits, TICL, from the Florida
1223 Hurricane Catastrophe Fund. The insurer may also include the
1224 cost of reinsurance to replace the TICL reduction implemented
1225 pursuant to s. 215.555(17)(d)9. However, this cost for
1226 reinsurance may not include any expense or profit load or result
1227 in a total annual base rate increase in excess of 10 percent.

1228 Section 16. Paragraphs (a), (b), (c), (d), (n), (v), and
1229 (y) of subsection (6) of section 627.351, Florida Statutes, are
1230 amended to read:

1231 627.351 Insurance risk apportionment plans.—

1232 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

1233 (a)~~1.~~ ~~It is~~ The public purpose of this subsection is to
1234 ensure that there is ~~the existence of~~ an orderly market for
1235 property insurance for residents ~~Floridians~~ and Florida
1236 businesses of this state.

399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

1237 1. The Legislature finds that private insurers are
1238 unwilling or unable to provide affordable property insurance
1239 coverage in this state to the extent sought and needed. The
1240 absence of affordable property insurance threatens the public
1241 health, safety, and welfare and likewise threatens the economic
1242 health of the state. The state therefore has a compelling public
1243 interest and a public purpose to assist in assuring that
1244 property in the state is insured and that it is insured at
1245 affordable rates so as to facilitate the remediation,
1246 reconstruction, and replacement of damaged or destroyed property
1247 in order to reduce or avoid the negative effects otherwise
1248 resulting to the public health, safety, and welfare, to the
1249 economy of the state, and to the revenues of the state and local
1250 governments which are needed to provide for the public welfare.
1251 It is necessary, therefore, to provide affordable property
1252 insurance to applicants who are in good faith entitled to
1253 procure insurance through the voluntary market but are unable to
1254 do so. The Legislature intends, therefore, ~~by this subsection~~
1255 that affordable property insurance be provided and that it
1256 continue to be provided, as long as necessary, through Citizens
1257 Property Insurance Corporation, a government entity that is an
1258 integral part of the state, and that is not a private insurance
1259 company. To that end, the ~~Citizens Property Insurance~~
1260 corporation shall strive to increase the availability of
1261 affordable property insurance in this state, while achieving
1262 efficiencies and economies, and while providing service to
1263 policyholders, applicants, and agents which is no less than the
1264 quality generally provided in the voluntary market, for the
399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

1265 achievement of the foregoing public purposes. Because it is
1266 essential for this government entity to have the maximum
1267 financial resources to pay claims following a catastrophic
1268 hurricane, it is the intent of the Legislature that the Citizens
1269 ~~Property Insurance~~ corporation continue to be an integral part
1270 of the state and that the income of the corporation be exempt
1271 from federal income taxation and that interest on the debt
1272 obligations issued by the corporation be exempt from federal
1273 income taxation.

1274 2. The Residential Property and Casualty Joint
1275 Underwriting Association originally created by this statute
1276 shall be known, ~~as of July 1, 2002,~~ as the Citizens Property
1277 Insurance Corporation. The corporation shall provide insurance
1278 for residential and commercial property, for applicants who are
1279 ~~in good faith~~ entitled, but, in good faith, are unable, ~~to~~
1280 procure insurance through the voluntary market. The corporation
1281 shall operate pursuant to a plan of operation approved by order
1282 of the Financial Services Commission. The plan is subject to
1283 continuous review by the commission. The commission may, by
1284 order, withdraw approval of all or part of a plan if the
1285 commission determines that conditions have changed since
1286 approval was granted and that the purposes of the plan require
1287 changes in the plan. ~~The corporation shall continue to operate~~
1288 ~~pursuant to the plan of operation approved by the Office of~~
1289 ~~Insurance Regulation until October 1, 2006.~~ For the purposes of
1290 this subsection, residential coverage includes both personal
1291 lines residential coverage, which consists of the type of
1292 coverage provided by homeowner's, mobile home owner's, dwelling,
399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

1293 tenant's, condominium unit owner's, and similar policies; ~~7~~ and
1294 commercial lines residential coverage, which consists of the
1295 type of coverage provided by condominium association, apartment
1296 building, and similar policies.

1297 3. Effective January 1, 2009, a personal lines residential
1298 structure that has a dwelling replacement cost of \$2 million or
1299 more, or a single condominium unit that has a combined dwelling
1300 and contents ~~content~~ replacement cost of \$2 million or more is
1301 not eligible for coverage by the corporation. Such dwellings
1302 insured by the corporation on December 31, 2008, may continue to
1303 be covered by the corporation until the end of the policy term.
1304 However, such dwellings ~~that are insured by the corporation and~~
1305 ~~become ineligible for coverage due to the provisions of this~~
1306 ~~subparagraph~~ may reapply and obtain coverage if the property
1307 owner provides the corporation with a sworn affidavit from one
1308 or more insurance agents, on a form provided by the corporation,
1309 stating that the agents have made their best efforts to obtain
1310 coverage and that the property has been rejected for coverage by
1311 at least one authorized insurer and at least three surplus lines
1312 insurers. If such conditions are met, the dwelling may be
1313 insured by the corporation for up to 3 years, after which time
1314 the dwelling is ineligible for coverage. The office shall
1315 approve the method used by the corporation for valuing the
1316 dwelling replacement cost for the purposes of this subparagraph.
1317 If a policyholder is insured by the corporation prior to being
1318 determined to be ineligible pursuant to this subparagraph and
1319 such policyholder files a lawsuit challenging the determination,

399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

1320 the policyholder may remain insured by the corporation until the
1321 conclusion of the litigation.

1322 4. It is the intent of the Legislature that policyholders,
1323 applicants, and agents of the corporation receive service and
1324 treatment of the highest possible level but never less than that
1325 generally provided in the voluntary market. It is also ~~is~~
1326 intended that the corporation be held to service standards no
1327 less than those applied to insurers in the voluntary market by
1328 the office with respect to responsiveness, timeliness, customer
1329 courtesy, and overall dealings with policyholders, applicants,
1330 or agents of the corporation.

1331 5. Effective January 1, 2009, a personal lines residential
1332 structure that is located in the "wind-borne debris region," as
1333 defined in s. 1609.2, International Building Code (2006), and
1334 that has an insured value on the structure of \$750,000 or more
1335 is not eligible for coverage by the corporation unless the
1336 structure has opening protections as required under the Florida
1337 Building Code for a newly constructed residential structure in
1338 that area. A residential structure shall be deemed to comply
1339 with ~~the requirements of~~ this subparagraph if it has shutters or
1340 opening protections on all openings and if such opening
1341 protections complied with the Florida Building Code at the time
1342 they were installed.

1343 6. For any claim filed under any policy of the
1344 corporation, a public adjuster may not charge, agree to, or
1345 accept any compensation, payment, commission, fee, or other
1346 thing of value greater than 10 percent of the additional amount

399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

1347 actually paid over the amount that was originally offered by the
1348 corporation for any one claim.

1349 (b)1. All insurers authorized to write one or more subject
1350 lines of business in this state are subject to assessment by the
1351 corporation and, for the purposes of this subsection, are
1352 referred to collectively as "assessable insurers." Insurers
1353 writing one or more subject lines of business in this state
1354 pursuant to part VIII of chapter 626 are not assessable
1355 insurers, but insureds who procure one or more subject lines of
1356 business in this state pursuant to part VIII of chapter 626 are
1357 subject to assessment by the corporation and are referred to
1358 collectively as "assessable insureds." An ~~authorized~~ insurer's
1359 assessment liability begins ~~shall begin~~ on the first day of the
1360 calendar year following the year in which the insurer was issued
1361 a certificate of authority to transact insurance for subject
1362 lines of business in this state and terminates ~~shall terminate~~ 1
1363 year after the end of the first calendar year during which the
1364 insurer no longer holds a certificate of authority to transact
1365 insurance for subject lines of business in this state.

1366 2.a. All revenues, assets, liabilities, losses, and
1367 expenses of the corporation shall be divided into three separate
1368 accounts as follows:

1369 (I) A personal lines account for personal residential
1370 policies issued by the corporation, or issued by the Residential
1371 Property and Casualty Joint Underwriting Association and renewed
1372 by the corporation, which provides ~~that provide~~ comprehensive,
1373 multiperil coverage on risks that are not located in areas
1374 eligible for coverage by ~~in~~ the Florida Windstorm Underwriting
399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

1375 Association as those areas were defined on January 1, 2002, and
1376 for ~~such~~ policies that do not provide coverage for the peril of
1377 wind on risks that are located in such areas;

1378 (II) A commercial lines account for commercial residential
1379 and commercial nonresidential policies issued by the
1380 corporation, or issued by the Residential Property and Casualty
1381 Joint Underwriting Association and renewed by the corporation,
1382 which provides ~~that provide~~ coverage for basic property perils
1383 on risks that are not located in areas eligible for coverage by
1384 ~~in~~ the Florida Windstorm Underwriting Association as those areas
1385 were defined on January 1, 2002, and for ~~such~~ policies that do
1386 not provide coverage for the peril of wind on risks that are
1387 located in such areas; and

1388 (III) A coastal ~~high-risk~~ account for personal residential
1389 policies and commercial residential and commercial
1390 nonresidential property policies issued by the corporation, or
1391 transferred to the corporation, which provides ~~that provide~~
1392 coverage for the peril of wind on risks that are located in
1393 areas eligible for coverage by ~~in~~ the Florida Windstorm
1394 Underwriting Association as those areas were defined on January
1395 1, 2002. The corporation may offer policies that provide
1396 multiperil coverage and the corporation shall continue to offer
1397 policies that provide coverage only for the peril of wind for
1398 risks located in areas eligible for coverage in the coastal
1399 ~~high-risk~~ account. In issuing multiperil coverage, the
1400 corporation may use its approved policy forms and rates for the
1401 personal lines account. An applicant or insured who is eligible
1402 to purchase a multiperil policy from the corporation may

399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

1403 purchase a multiperil policy from an authorized insurer without
1404 prejudice to the applicant's or insured's eligibility to
1405 prospectively purchase a policy that provides coverage only for
1406 the peril of wind from the corporation. An applicant or insured
1407 who is eligible for a corporation policy that provides coverage
1408 only for the peril of wind may elect to purchase or retain such
1409 policy and also purchase or retain coverage excluding wind from
1410 an authorized insurer without prejudice to the applicant's or
1411 insured's eligibility to prospectively purchase a policy that
1412 provides multiperil coverage from the corporation. It is the
1413 goal of the Legislature that there ~~would~~ be an overall average
1414 savings of 10 percent or more for a policyholder who currently
1415 has a wind-only policy with the corporation, and an ex-wind
1416 policy with a voluntary insurer or the corporation, and who ~~then~~
1417 obtains a multiperil policy from the corporation. It is the
1418 intent of the Legislature that the offer of multiperil coverage
1419 in the coastal high-risk account be made and implemented in a
1420 manner that does not adversely affect the tax-exempt status of
1421 the corporation or creditworthiness of or security for currently
1422 outstanding financing obligations or credit facilities of the
1423 coastal high-risk account, the personal lines account, or the
1424 commercial lines account. The coastal high-risk account must
1425 also include quota share primary insurance under subparagraph
1426 (c)2. The area eligible for coverage under the coastal high-risk
1427 account also includes the area within Port Canaveral, which is
1428 bordered on the south by the City of Cape Canaveral, bordered on
1429 the west by the Banana River, and bordered on the north by
1430 Federal Government property.

399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

1431 b. The three separate accounts must be maintained as long
1432 as financing obligations entered into by the Florida Windstorm
1433 Underwriting Association or Residential Property and Casualty
1434 Joint Underwriting Association are outstanding, in accordance
1435 with the terms of the corresponding financing documents. ~~If~~ When
1436 the financing obligations are no longer outstanding, ~~in~~
1437 ~~accordance with the terms of the corresponding financing~~
1438 ~~documents,~~ the corporation may use a single account for all
1439 revenues, assets, liabilities, losses, and expenses of the
1440 corporation. Consistent with ~~the requirement of~~ this
1441 subparagraph and prudent investment policies that minimize the
1442 cost of carrying debt, the board shall exercise its best efforts
1443 to retire existing debt or ~~to~~ obtain the approval of necessary
1444 parties to amend the terms of existing debt, so as to structure
1445 the most efficient plan to consolidate the three separate
1446 accounts into a single account.

1447 c. Creditors of the Residential Property and Casualty
1448 Joint Underwriting Association and ~~of~~ the accounts specified in
1449 sub-sub-subparagraphs a.(I) and (II) may have a claim against,
1450 and recourse to, those ~~the~~ accounts ~~referred to in sub-sub-~~
1451 ~~subparagraphs a.(I) and (II) and shall have~~ no claim against, or
1452 recourse to, the account referred to in sub-sub-subparagraph
1453 a.(III). Creditors of the Florida Windstorm Underwriting
1454 Association ~~shall~~ have a claim against, and recourse to, the
1455 account referred to in sub-sub-subparagraph a.(III) and ~~shall~~
1456 ~~have~~ no claim against, or recourse to, the accounts referred to
1457 in sub-sub-subparagraphs a.(I) and (II).

399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

1458 d. Revenues, assets, liabilities, losses, and expenses not
1459 attributable to particular accounts shall be prorated among the
1460 accounts.

1461 e. The Legislature finds that the revenues of the
1462 corporation are revenues that are necessary to meet the
1463 requirements set forth in documents authorizing the issuance of
1464 bonds under this subsection.

1465 f. No part of the income of the corporation may inure to
1466 the benefit of any private person.

1467 3. With respect to a deficit in an account:

1468 a. After accounting for the Citizens policyholder
1469 surcharge imposed under sub-subparagraph h. i., if ~~when~~ the
1470 remaining projected deficit incurred in a particular calendar
1471 year:

1472 (I) Is not greater than 6 percent of the aggregate
1473 statewide direct written premium for the subject lines of
1474 business for the prior calendar year, the entire deficit shall
1475 be recovered through regular assessments of assessable insurers
1476 under paragraph (q) and assessable insureds.

1477 (II) ~~b. After accounting for the Citizens policyholder~~
1478 ~~surcharge imposed under sub-subparagraph i., when the remaining~~
1479 ~~projected deficit incurred in a particular calendar year Exceeds~~
1480 6 percent of the aggregate statewide direct written premium for
1481 the subject lines of business for the prior calendar year, the
1482 corporation shall levy regular assessments on assessable
1483 insurers under paragraph (q) and on assessable insureds in an
1484 amount equal to the greater of 6 percent of the deficit or 6
1485 percent of the aggregate statewide direct written premium for
399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

1486 the subject lines of business for the prior calendar year. Any
1487 remaining deficit shall be recovered through emergency
1488 assessments under sub-subparagraph c. ~~d.~~

1489 ~~b.e.~~ Each assessable insurer's share of the amount being
1490 assessed under sub-subparagraph a. must ~~or sub-subparagraph b.~~
1491 ~~shall~~ be in the proportion that the assessable insurer's direct
1492 written premium for the subject lines of business for the year
1493 preceding the assessment bears to the aggregate statewide direct
1494 written premium for the subject lines of business for that year.
1495 The applicable assessment percentage ~~applicable to each~~
1496 ~~assessable insured~~ is the ratio of the amount being assessed
1497 under sub-subparagraph a. ~~or sub-subparagraph b.~~ to the
1498 aggregate statewide direct written premium for the subject lines
1499 of business for the prior year. Assessments levied by the
1500 corporation on assessable insurers under sub-subparagraph a.
1501 must ~~sub-subparagraphs a. and b.~~ shall be paid as required by
1502 the corporation's plan of operation and paragraph (q).
1503 Assessments levied by the corporation on assessable insureds
1504 under sub-subparagraph a. ~~sub-subparagraphs a. and b.~~ shall be
1505 collected by the surplus lines agent at the time the surplus
1506 lines agent collects the surplus lines tax required by s.
1507 626.932, and ~~shall be~~ paid to the Florida Surplus Lines Service
1508 Office at the time the surplus lines agent pays the surplus
1509 lines tax to that ~~the Florida Surplus Lines Service~~ office. Upon
1510 receipt of regular assessments from surplus lines agents, the
1511 Florida Surplus Lines Service Office shall transfer the
1512 assessments directly to the corporation as determined by the
1513 corporation.

399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

1514 ~~c.d.~~ Upon a determination by the board of governors that a
1515 deficit in an account exceeds the amount that will be recovered
1516 through regular assessments under sub-subparagraph a. ~~or sub-~~
1517 ~~subparagraph b.~~, plus the amount that is expected to be
1518 recovered through surcharges under sub-subparagraph h. i., ~~as to~~
1519 ~~the remaining projected deficit~~ the board ~~shall levy~~, after
1520 verification by the office, shall levy emergency assessments,
1521 for as many years as necessary to cover the deficits, to be
1522 collected by assessable insurers and the corporation and
1523 collected from assessable insureds upon issuance or renewal of
1524 policies for subject lines of business, excluding National Flood
1525 Insurance policies. The amount ~~of the emergency assessment~~
1526 collected in a particular year must ~~shall~~ be a uniform
1527 percentage of that year's direct written premium for subject
1528 lines of business and all accounts of the corporation, excluding
1529 National Flood Insurance Program policy premiums, as annually
1530 determined by the board and verified by the office. The office
1531 shall verify the arithmetic calculations involved in the board's
1532 determination within 30 days after receipt of the information on
1533 which the determination was based. Notwithstanding any other
1534 provision of law, the corporation and each assessable insurer
1535 that writes subject lines of business shall collect emergency
1536 assessments from its policyholders without such obligation being
1537 affected by any credit, limitation, exemption, or deferment.
1538 Emergency assessments levied by the corporation on assessable
1539 insureds shall be collected by the surplus lines agent at the
1540 time the surplus lines agent collects the surplus lines tax
1541 required by s. 626.932 and ~~shall be~~ paid to the Florida Surplus
399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

1542 Lines Service Office at the time the surplus lines agent pays
1543 the surplus lines tax to that ~~the Florida Surplus Lines Service~~
1544 office. The emergency assessments ~~so~~ collected shall be
1545 transferred directly to the corporation on a periodic basis as
1546 determined by the corporation and ~~shall be~~ held by the
1547 corporation solely in the applicable account. The aggregate
1548 amount of emergency assessments levied for an account under this
1549 sub-subparagraph in any calendar year may, ~~at the discretion of~~
1550 ~~the board of governors,~~ be less than but may not exceed the
1551 greater of 10 percent of the amount needed to cover the deficit,
1552 plus interest, fees, commissions, required reserves, and other
1553 costs associated with financing ~~of~~ the original deficit, or 10
1554 percent of the aggregate statewide direct written premium for
1555 subject lines of business and ~~for~~ all accounts of the
1556 corporation for the prior year, plus interest, fees,
1557 commissions, required reserves, and other costs associated with
1558 financing the deficit.

1559 ~~d.e.~~ The corporation may pledge the proceeds of
1560 assessments, projected recoveries from the Florida Hurricane
1561 Catastrophe Fund, other insurance and reinsurance recoverables,
1562 policyholder surcharges and other surcharges, and other funds
1563 available to the corporation as the source of revenue for and to
1564 secure bonds issued under paragraph (q), bonds or other
1565 indebtedness issued under subparagraph (c)3., or lines of credit
1566 or other financing mechanisms issued or created under this
1567 subsection, or to retire any other debt incurred as a result of
1568 deficits or events giving rise to deficits, or in any other way
1569 that the board determines will efficiently recover such

399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

1570 deficits. The purpose of the lines of credit or other financing
1571 mechanisms is to provide additional resources to assist the
1572 corporation in covering claims and expenses attributable to a
1573 catastrophe. As used in this subsection, the term "assessments"
1574 includes regular assessments under sub-subparagraph a., ~~sub-~~
1575 ~~subparagraph b.~~ or subparagraph (q)1. and emergency assessments
1576 under sub-subparagraph d. Emergency assessments collected under
1577 sub-subparagraph d. are not part of an insurer's rates, are not
1578 premium, and are not subject to premium tax, fees, or
1579 commissions; however, failure to pay the emergency assessment
1580 shall be treated as failure to pay premium. The emergency
1581 assessments under sub-subparagraph c. ~~d.~~ shall continue as long
1582 as any bonds issued or other indebtedness incurred with respect
1583 to a deficit for which the assessment was imposed remain
1584 outstanding, unless adequate provision has been made for the
1585 payment of such bonds or other indebtedness pursuant to the
1586 documents governing such bonds or ~~other~~ indebtedness.

1587 e.f. As used in this subsection for purposes of any
1588 deficit incurred on or after January 25, 2007, the term "subject
1589 lines of business" means insurance written by assessable
1590 insurers or procured by assessable insureds for all property and
1591 casualty lines of business in this state, but not including
1592 workers' compensation or medical malpractice. As used in this
1593 ~~the~~ sub-subparagraph, the term "property and casualty lines of
1594 business" includes all lines of business identified on Form 2,
1595 Exhibit of Premiums and Losses, in the annual statement required
1596 of authorized insurers under ~~by~~ s. 624.424 and any rule adopted
1597 under this section, except for those lines identified as

399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

1598 accident and health insurance and except for policies written
1599 under the National Flood Insurance Program or the Federal Crop
1600 Insurance Program. For purposes of this sub-subparagraph, the
1601 term "workers' compensation" includes both workers' compensation
1602 insurance and excess workers' compensation insurance.

1603 ~~f.g.~~ The Florida Surplus Lines Service Office shall
1604 determine annually the aggregate statewide written premium in
1605 subject lines of business procured by assessable insureds and
1606 ~~shall~~ report that information to the corporation in a form and
1607 at a time the corporation specifies to ensure that the
1608 corporation can meet the requirements of this subsection and the
1609 corporation's financing obligations.

1610 ~~g.h.~~ The Florida Surplus Lines Service Office shall verify
1611 the proper application by surplus lines agents of assessment
1612 percentages for regular assessments and emergency assessments
1613 levied under this subparagraph on assessable insureds and ~~shall~~
1614 assist the corporation in ensuring the accurate, timely
1615 collection and payment of assessments by surplus lines agents as
1616 required by the corporation.

1617 ~~h.i.~~ If a deficit is incurred in any account in 2008 or
1618 thereafter, the board of governors shall levy a Citizens
1619 policyholder surcharge against all policyholders of the
1620 corporation. ~~for a 12-month period, which~~

1621 (I) The surcharge shall be levied ~~collected at the time of~~
1622 ~~issuance or renewal of a policy,~~ as a uniform percentage of the
1623 premium for the policy of up to 15 percent of such premium,
1624 which funds shall be used to offset the deficit.

399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

1625 (II) The surcharge is payable upon cancellation or
1626 termination of the policy, upon renewal of the policy, or upon
1627 issuance of a new policy by the corporation within the first 12
1628 months after the date of the levy or the period of time
1629 necessary to fully collect the surcharge amount.

1630 (III) The corporation may not levy any regular assessments
1631 under paragraph (q) pursuant to sub-subparagraph a. or sub-
1632 subparagraph b. with respect to a particular year's deficit
1633 until the corporation has first levied the full amount of the
1634 surcharge authorized by this sub-subparagraph.

1635 (IV) The surcharge is ~~Citizens policyholder surcharges~~
1636 ~~under this sub-subparagraph~~ are not considered premium and is
1637 ~~are~~ not subject to commissions, fees, or premium taxes. However,
1638 failure to pay the surcharge ~~such surcharges~~ shall be treated as
1639 failure to pay premium.

1640 ~~i.j.~~ If the amount of any assessments or surcharges
1641 collected from corporation policyholders, assessable insurers or
1642 their policyholders, or assessable insureds exceeds the amount
1643 of the deficits, such excess amounts shall be remitted to and
1644 retained by the corporation in a reserve to be used by the
1645 corporation, as determined by the board of governors and
1646 approved by the office, to pay claims or reduce any past,
1647 present, or future plan-year deficits or to reduce outstanding
1648 debt.

1649 (c) The corporation's plan of operation ~~of the~~
1650 ~~corporation~~:

1651 1. Must provide for adoption of residential property and
1652 casualty insurance policy forms and commercial residential and
399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

1653 nonresidential property insurance forms, which ~~forms~~ must be
1654 approved by the office before ~~prior to~~ use. The corporation
1655 shall adopt the following policy forms:

1656 a. Standard personal lines policy forms that are
1657 comprehensive multiperil policies providing full coverage of a
1658 residential property equivalent to the coverage provided in the
1659 private insurance market under an HO-3, HO-4, or HO-6 policy.

1660 b. Basic personal lines policy forms that are policies
1661 similar to an HO-8 policy or a dwelling fire policy that provide
1662 coverage meeting the requirements of the secondary mortgage
1663 market, but which ~~coverage~~ is more limited than the coverage
1664 under a standard policy.

1665 c. Commercial lines residential and nonresidential policy
1666 forms that are generally similar to the basic perils of full
1667 coverage obtainable for commercial residential structures and
1668 commercial nonresidential structures in the admitted voluntary
1669 market.

1670 d. Personal lines and commercial lines residential
1671 property insurance forms that cover the peril of wind only. The
1672 forms are applicable only to residential properties located in
1673 areas eligible for coverage under the coastal ~~high-risk~~ account
1674 referred to in sub-subparagraph (b)2.a.

1675 e. Commercial lines nonresidential property insurance
1676 forms that cover the peril of wind only. The forms are
1677 applicable only to nonresidential properties located in areas
1678 eligible for coverage under the coastal ~~high-risk~~ account
1679 referred to in sub-subparagraph (b)2.a.

399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

1680 f. The corporation may adopt variations of the policy
1681 forms listed in sub-subparagraphs a.-e. which ~~that~~ contain more
1682 restrictive coverage.

1683 ~~2.a.~~ Must provide that the corporation adopt a program in
1684 which the corporation and authorized insurers enter into quota
1685 share primary insurance agreements for hurricane coverage, as
1686 defined in s. 627.4025(2)(a), for eligible risks, and adopt
1687 property insurance forms for eligible risks which cover the
1688 peril of wind only.

1689 a. As used in this subsection, the term:

1690 (I) "Quota share primary insurance" means an arrangement
1691 in which the primary hurricane coverage of an eligible risk is
1692 provided in specified percentages by the corporation and an
1693 authorized insurer. The corporation and authorized insurer are
1694 each solely responsible for a specified percentage of hurricane
1695 coverage of an eligible risk as set forth in a quota share
1696 primary insurance agreement between the corporation and an
1697 authorized insurer and the insurance contract. The
1698 responsibility of the corporation or authorized insurer to pay
1699 its specified percentage of hurricane losses of an eligible
1700 risk, as set forth in the ~~quota share primary insurance~~
1701 agreement, may not be altered by the inability of the other
1702 party ~~to the agreement~~ to pay its specified percentage of
1703 ~~hurricane~~ losses. Eligible risks that are provided hurricane
1704 coverage through a quota share primary insurance arrangement
1705 must be provided policy forms that set forth the obligations of
1706 the corporation and authorized insurer under the arrangement,
1707 clearly specify the percentages of quota share primary insurance
399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

1708 provided by the corporation and authorized insurer, and
1709 conspicuously and clearly state that ~~neither~~ the authorized
1710 insurer and ~~nor~~ the corporation may not be held responsible
1711 beyond their ~~its~~ specified percentage of coverage of hurricane
1712 losses.

1713 (II) "Eligible risks" means personal lines residential and
1714 commercial lines residential risks that meet the underwriting
1715 criteria of the corporation and are located in areas that were
1716 eligible for coverage by the Florida Windstorm Underwriting
1717 Association on January 1, 2002.

1718 b. The corporation may enter into quota share primary
1719 insurance agreements with authorized insurers at corporation
1720 coverage levels of 90 percent and 50 percent.

1721 c. If the corporation determines that additional coverage
1722 levels are necessary to maximize participation in quota share
1723 primary insurance agreements by authorized insurers, the
1724 corporation may establish additional coverage levels. However,
1725 the corporation's quota share primary insurance coverage level
1726 may not exceed 90 percent.

1727 d. Any quota share primary insurance agreement entered
1728 into between an authorized insurer and the corporation must
1729 provide for a uniform specified percentage of coverage of
1730 hurricane losses, by county or territory as set forth by the
1731 corporation board, for all eligible risks of the authorized
1732 insurer covered under the ~~quota share primary insurance~~
1733 agreement.

1734 e. Any quota share primary insurance agreement entered
1735 into between an authorized insurer and the corporation is

399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

1736 subject to review and approval by the office. However, such
1737 agreement shall be authorized only as to insurance contracts
1738 entered into between an authorized insurer and an insured who is
1739 already insured by the corporation for wind coverage.

1740 f. For all eligible risks covered under quota share
1741 primary insurance agreements, the exposure and coverage levels
1742 for both the corporation and authorized insurers shall be
1743 reported by the corporation to the Florida Hurricane Catastrophe
1744 Fund. For all policies of eligible risks covered under such
1745 ~~quota share primary insurance~~ agreements, the corporation and
1746 the authorized insurer must ~~shall~~ maintain complete and accurate
1747 records for the purpose of exposure and loss reimbursement
1748 audits as required by ~~Florida Hurricane Catastrophe~~ fund rules.
1749 The corporation and the authorized insurer shall each maintain
1750 duplicate copies of policy declaration pages and supporting
1751 claims documents.

1752 g. The corporation board shall establish in its plan of
1753 operation standards for quota share agreements which ensure that
1754 there is no discriminatory application among insurers as to the
1755 terms of the ~~quota share~~ agreements, pricing of the ~~quota share~~
1756 agreements, incentive provisions if any, and consideration paid
1757 for servicing policies or adjusting claims.

1758 h. The quota share primary insurance agreement between the
1759 corporation and an authorized insurer must set forth the
1760 specific terms under which coverage is provided, including, but
1761 not limited to, the sale and servicing of policies issued under
1762 the agreement by the insurance agent of the authorized insurer
1763 producing the business, the reporting of information concerning
399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

1764 eligible risks, the payment of premium to the corporation, and
1765 arrangements for the adjustment and payment of hurricane claims
1766 incurred on eligible risks by the claims adjuster and personnel
1767 of the authorized insurer. Entering into a quota sharing
1768 insurance agreement between the corporation and an authorized
1769 insurer is ~~shall be~~ voluntary and at the discretion of the
1770 authorized insurer.

1771 3.a. May provide that the corporation may employ or
1772 otherwise contract with individuals or other entities to provide
1773 administrative or professional services that may be appropriate
1774 to effectuate the plan. The corporation may ~~shall have the power~~
1775 ~~to~~ borrow funds, by issuing bonds or by incurring other
1776 indebtedness, and shall have other powers reasonably necessary
1777 to effectuate the requirements of this subsection, including,
1778 without limitation, the power to issue bonds and incur other
1779 indebtedness in order to refinance outstanding bonds or other
1780 indebtedness. The corporation may, ~~but is not required to~~, seek
1781 judicial validation of its bonds or other indebtedness under
1782 chapter 75. The corporation may issue bonds or incur other
1783 indebtedness, or have bonds issued on its behalf by a unit of
1784 local government pursuant to subparagraph (q)2.7 in the absence
1785 of a hurricane or other weather-related event, upon a
1786 determination by the corporation, subject to approval by the
1787 office, that such action would enable it to efficiently meet the
1788 financial obligations of the corporation and that such
1789 financings are reasonably necessary to effectuate the
1790 requirements of this subsection. The corporation may ~~is~~
1791 ~~authorized to~~ take all actions needed to facilitate tax-free

399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

1792 status for ~~any~~ such bonds or indebtedness, including formation
1793 of trusts or other affiliated entities. The corporation may
1794 ~~shall have the authority to~~ pledge assessments, projected
1795 recoveries from the Florida Hurricane Catastrophe Fund, other
1796 reinsurance recoverables, market equalization and other
1797 surcharges, and other funds available to the corporation as
1798 security for bonds or other indebtedness. In recognition of s.
1799 10, Art. I of the State Constitution, prohibiting the impairment
1800 of obligations of contracts, it is the intent of the Legislature
1801 that no action be taken whose purpose is to impair any bond
1802 indenture or financing agreement or any revenue source committed
1803 by contract to such bond or other indebtedness.

1804 b. To ensure that the corporation is operating in an
1805 efficient and economic manner while providing quality service to
1806 policyholders, applicants, and agents, the board shall
1807 commission an independent third-party consultant having
1808 expertise in insurance company management or insurance company
1809 management consulting to prepare a report and make
1810 recommendations on the relative costs and benefits of
1811 outsourcing various policy issuance and service functions to
1812 private servicing carriers or entities performing similar
1813 functions in the private market for a fee, rather than
1814 performing such functions in house. In making such
1815 recommendations, the consultant shall consider how other
1816 residual markets, both in this state and around the country,
1817 outsource appropriate functions or use servicing carriers to
1818 better match expenses with revenues that fluctuate based on a
1819 widely varying policy count. The report must be completed by

399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

1820 July 1, 2012. Upon receiving the report, the board shall develop
1821 a plan to implement the report and submit the plan for review,
1822 modification, and approval to the Financial Services Commission.
1823 Upon the commission's approval of the plan, the board shall
1824 begin implementing the plan by January 1, 2013.

1825 4.a. Must require that the corporation operate subject to
1826 the supervision and approval of a board of governors consisting
1827 of eight individuals who are residents of this state, from
1828 different geographical areas of this state.

1829 a. The Governor, the Chief Financial Officer, the
1830 President of the Senate, and the Speaker of the House of
1831 Representatives shall each appoint two members of the board. At
1832 least one of the two members appointed by each appointing
1833 officer must have demonstrated expertise in insurance, and is
1834 deemed to be within the scope of the exemption provided in s.
1835 112.313(7)(b). The Chief Financial Officer shall designate one
1836 of the appointees as chair. All board members serve at the
1837 pleasure of the appointing officer. All members of the board ~~of~~
1838 ~~governors~~ are subject to removal at will by the officers who
1839 appointed them. All board members, including the chair, must be
1840 appointed to serve for 3-year terms beginning annually on a date
1841 designated by the plan. However, for the first term beginning on
1842 or after July 1, 2009, each appointing officer shall appoint one
1843 member of the board for a 2-year term and one member for a 3-
1844 year term. A ~~Any~~ board vacancy shall be filled for the unexpired
1845 term by the appointing officer. The Chief Financial Officer
1846 shall appoint a technical advisory group to provide information
1847 and advice to the board ~~of governors~~ in connection with the

399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

1848 board's duties under this subsection. The executive director and
1849 senior managers of the corporation shall be engaged by the board
1850 and serve at the pleasure of the board. Any executive director
1851 appointed on or after July 1, 2006, is subject to confirmation
1852 by the Senate. The executive director is responsible for
1853 employing other staff as the corporation may require, subject to
1854 review and concurrence by the board.

1855 b. The board shall create a Market Accountability Advisory
1856 Committee to assist the corporation in developing awareness of
1857 its rates and its customer and agent service levels in
1858 relationship to the voluntary market insurers writing similar
1859 coverage.

1860 (I) The members of the advisory committee ~~shall~~ consist of
1861 the following 11 persons, one of whom must be elected chair by
1862 the members of the committee: four representatives, one
1863 appointed by the Florida Association of Insurance Agents, one by
1864 the Florida Association of Insurance and Financial Advisors, one
1865 by the Professional Insurance Agents of Florida, and one by the
1866 Latin American Association of Insurance Agencies; three
1867 representatives appointed by the insurers with the three highest
1868 voluntary market share of residential property insurance
1869 business in the state; one representative from the Office of
1870 Insurance Regulation; one consumer appointed by the board who is
1871 insured by the corporation at the time of appointment to the
1872 committee; one representative appointed by the Florida
1873 Association of Realtors; and one representative appointed by the
1874 Florida Bankers Association. All members shall be appointed to
1875 ~~must serve for~~ 3-year terms and may serve for consecutive terms.

399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

1876 (II) The committee shall report to the corporation at each
1877 board meeting on insurance market issues which may include rates
1878 and rate competition with the voluntary market; service,
1879 including policy issuance, claims processing, and general
1880 responsiveness to policyholders, applicants, and agents; and
1881 matters relating to depopulation.

1882 5. Must provide a procedure for determining the
1883 eligibility of a risk for coverage, as follows:

1884 a. Subject to ~~the provisions of~~ s. 627.3517, with respect
1885 to personal lines residential risks, if the risk is offered
1886 coverage from an authorized insurer at the insurer's approved
1887 rate under ~~either~~ a standard policy including wind coverage or,
1888 if consistent with the insurer's underwriting rules as filed
1889 with the office, a basic policy including wind coverage, for a
1890 new application to the corporation for coverage, the risk is not
1891 eligible for any policy issued by the corporation unless the
1892 premium for coverage from the authorized insurer is more than 15
1893 percent greater than the premium for comparable coverage from
1894 the corporation. If the risk is not able to obtain ~~any~~ such
1895 offer, the risk is eligible for ~~either~~ a standard policy
1896 including wind coverage or a basic policy including wind
1897 coverage issued by the corporation; however, if the risk could
1898 not be insured under a standard policy including wind coverage
1899 regardless of market conditions, the risk is ~~shall be~~ eligible
1900 for a basic policy including wind coverage unless rejected under
1901 subparagraph 8. However, ~~with regard to~~ a policyholder of the
1902 corporation or a policyholder removed from the corporation
1903 through an assumption agreement until the end of the assumption
399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

1904 period, ~~the policyholder~~ remains eligible for coverage from the
1905 corporation regardless of any offer of coverage from an
1906 authorized insurer or surplus lines insurer. The corporation
1907 shall determine the type of policy to be provided on the basis
1908 of objective standards specified in the underwriting manual and
1909 based on generally accepted underwriting practices.

1910 (I) If the risk accepts an offer of coverage through the
1911 market assistance plan or ~~an offer of coverage~~ through a
1912 mechanism established by the corporation before a policy is
1913 issued to the risk by the corporation or during the first 30
1914 days of coverage by the corporation, and the producing agent who
1915 submitted the application to the plan or to the corporation is
1916 not currently appointed by the insurer, the insurer shall:

1917 (A) Pay to the producing agent of record of the policy,
1918 for the first year, an amount that is the greater of the
1919 insurer's usual and customary commission for the type of policy
1920 written or a fee equal to the usual and customary commission of
1921 the corporation; or

1922 (B) Offer to allow the producing agent of record of the
1923 policy to continue servicing the policy for at least ~~a period of~~
1924 ~~not less than~~ 1 year and offer to pay the agent the greater of
1925 the insurer's or the corporation's usual and customary
1926 commission for the type of policy written.

1927
1928 If the producing agent is unwilling or unable to accept
1929 appointment, the new insurer shall pay the agent in accordance
1930 with sub-sub-sub-subparagraph (A).

399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

1931 (II) ~~If~~ When the corporation enters into a contractual
1932 agreement for a take-out plan, the producing agent of record of
1933 the corporation policy is entitled to retain any unearned
1934 commission on the policy, and the insurer shall:

1935 (A) Pay to the producing agent of record ~~of the~~
1936 ~~corporation policy~~, for the first year, an amount that is the
1937 greater of the insurer's usual and customary commission for the
1938 type of policy written or a fee equal to the usual and customary
1939 commission of the corporation; or

1940 (B) Offer to allow the producing agent of record ~~of the~~
1941 ~~corporation policy~~ to continue servicing the policy for at least
1942 ~~a period of not less than~~ 1 year and offer to pay the agent the
1943 greater of the insurer's or the corporation's usual and
1944 customary commission for the type of policy written.

1945
1946 If the producing agent is unwilling or unable to accept
1947 appointment, the new insurer shall pay the agent in accordance
1948 with sub-sub-sub-subparagraph (A).

1949 b. With respect to commercial lines residential risks, for
1950 a new application to the corporation for coverage, if the risk
1951 is offered coverage under a policy including wind coverage from
1952 an authorized insurer at its approved rate, the risk is not
1953 eligible for a ~~any~~ policy issued by the corporation unless the
1954 premium for coverage from the authorized insurer is more than 15
1955 percent greater than the premium for comparable coverage from
1956 the corporation. If the risk is not able to obtain any such
1957 offer, the risk is eligible for a policy including wind coverage
1958 issued by the corporation. However, ~~with regard to a~~

399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

1959 | policyholder of the corporation or a policyholder removed from
1960 | the corporation through an assumption agreement until the end of
1961 | the assumption period, ~~the policyholder~~ remains eligible for
1962 | coverage from the corporation regardless of an ~~any~~ offer of
1963 | coverage from an authorized insurer or surplus lines insurer.

1964 | (I) If the risk accepts an offer of coverage through the
1965 | market assistance plan or ~~an offer of coverage~~ through a
1966 | mechanism established by the corporation before a policy is
1967 | issued to the risk by the corporation or during the first 30
1968 | days of coverage by the corporation, and the producing agent who
1969 | submitted the application to the plan or the corporation is not
1970 | currently appointed by the insurer, the insurer shall:

1971 | (A) Pay to the producing agent of record of the policy,
1972 | for the first year, an amount that is the greater of the
1973 | insurer's usual and customary commission for the type of policy
1974 | written or a fee equal to the usual and customary commission of
1975 | the corporation; or

1976 | (B) Offer to allow the producing agent of record of the
1977 | policy to continue servicing the policy for at least ~~a period of~~
1978 | ~~not less than~~ 1 year and offer to pay the agent the greater of
1979 | the insurer's or the corporation's usual and customary
1980 | commission for the type of policy written.

1981 |
1982 | If the producing agent is unwilling or unable to accept
1983 | appointment, the new insurer shall pay the agent in accordance
1984 | with sub-sub-sub-subparagraph (A).

1985 | (II) If ~~When~~ the corporation enters into a contractual
1986 | agreement for a take-out plan, the producing agent of record of
399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

1987 the corporation policy is entitled to retain any unearned
1988 commission on the policy, and the insurer shall:

1989 (A) Pay to the producing agent of record ~~of the~~
1990 ~~corporation~~ policy, for the first year, an amount that is the
1991 greater of the insurer's usual and customary commission for the
1992 type of policy written or a fee equal to the usual and customary
1993 commission of the corporation; or

1994 (B) Offer to allow the producing agent of record ~~of the~~
1995 ~~corporation policy~~ to continue servicing the policy for at least
1996 ~~a period of not less than~~ 1 year and offer to pay the agent the
1997 greater of the insurer's or the corporation's usual and
1998 customary commission for the type of policy written.

1999
2000 If the producing agent is unwilling or unable to accept
2001 appointment, the new insurer shall pay the agent in accordance
2002 with sub-sub-sub-subparagraph (A).

2003 c. For purposes of determining comparable coverage under
2004 sub-subparagraphs a. and b., the comparison must ~~shall~~ be based
2005 on those forms and coverages that are reasonably comparable. The
2006 corporation may rely on a determination of comparable coverage
2007 and premium made by the producing agent who submits the
2008 application to the corporation, made in the agent's capacity as
2009 the corporation's agent. A comparison may be made solely of the
2010 premium with respect to the main building or structure only on
2011 the following basis: the same coverage A or other building
2012 limits; the same percentage hurricane deductible that applies on
2013 an annual basis or that applies to each hurricane for commercial
2014 residential property; the same percentage of ordinance and law

399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

2015 coverage, if the same limit is offered by both the corporation
2016 and the authorized insurer; the same mitigation credits, to the
2017 extent the same types of credits are offered both by the
2018 corporation and the authorized insurer; the same method for loss
2019 payment, such as replacement cost or actual cash value, if the
2020 same method is offered both by the corporation and the
2021 authorized insurer in accordance with underwriting rules; and
2022 any other form or coverage that is reasonably comparable as
2023 determined by the board. If an application is submitted to the
2024 corporation for wind-only coverage in the coastal ~~high-risk~~
2025 account, the premium for the corporation's wind-only policy plus
2026 the premium for the ex-wind policy that is offered by an
2027 authorized insurer to the applicant must ~~shall~~ be compared to
2028 the premium for multiperil coverage offered by an authorized
2029 insurer, subject to the standards for comparison specified in
2030 this subparagraph. If the corporation or the applicant requests
2031 from the authorized insurer a breakdown of the premium of the
2032 offer by types of coverage so that a comparison may be made by
2033 the corporation or its agent and the authorized insurer refuses
2034 or is unable to provide such information, the corporation may
2035 treat the offer as not being an offer of coverage from an
2036 authorized insurer at the insurer's approved rate.

2037 6. Must include rules for classifications of risks and
2038 rates ~~therefor~~.

2039 7. Must provide that if premium and investment income for
2040 an account attributable to a particular calendar year are in
2041 excess of projected losses and expenses for the account
2042 attributable to that year, such excess shall be held in surplus
399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

2043 in the account. Such surplus must ~~shall~~ be available to defray
2044 deficits in that account as to future years and ~~shall be~~ used
2045 for that purpose before ~~prior to~~ assessing assessable insurers
2046 and assessable insureds as to any calendar year.

2047 8. Must provide objective criteria and procedures to be
2048 uniformly applied to ~~for~~ all applicants in determining whether
2049 an individual risk is so hazardous as to be uninsurable. In
2050 making this determination and in establishing the criteria and
2051 procedures, the following must ~~shall~~ be considered:

2052 a. Whether the likelihood of a loss for the individual
2053 risk is substantially higher than for other risks of the same
2054 class; and

2055 b. Whether the uncertainty associated with the individual
2056 risk is such that an appropriate premium cannot be determined.

2057
2058 The acceptance or rejection of a risk by the corporation shall
2059 be construed as the private placement of insurance, and the
2060 provisions of chapter 120 do ~~shall~~ not apply.

2061 9. Must provide that the corporation ~~shall~~ make its best
2062 efforts to procure catastrophe reinsurance at reasonable rates,
2063 to cover its projected 100-year probable maximum loss as
2064 determined by the board of governors.

2065 10. The policies issued by the corporation must provide
2066 that, if the corporation or the market assistance plan obtains
2067 an offer from an authorized insurer to cover the risk at its
2068 approved rates, the risk is no longer eligible for renewal
2069 through the corporation, except as otherwise provided in this
2070 subsection.

399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

2071 11. Corporation policies and applications must include a
2072 notice that the corporation policy could, under this section, be
2073 replaced with a policy issued by an authorized insurer which
2074 ~~that~~ does not provide coverage identical to the coverage
2075 provided by the corporation. The notice must ~~shall~~ also specify
2076 that acceptance of corporation coverage creates a conclusive
2077 presumption that the applicant or policyholder is aware of this
2078 potential.

2079 12. May establish, subject to approval by the office,
2080 different eligibility requirements and operational procedures
2081 for any line or type of coverage for any specified county or
2082 area if the board determines that such changes ~~to the~~
2083 ~~eligibility requirements and operational procedures~~ are
2084 justified due to the voluntary market being sufficiently stable
2085 and competitive in such area or for such line or type of
2086 coverage and that consumers who, in good faith, are unable to
2087 obtain insurance through the voluntary market through ordinary
2088 methods ~~would~~ continue to have access to coverage from the
2089 corporation. If ~~When~~ coverage is sought in connection with a
2090 real property transfer, the ~~such~~ requirements and procedures may
2091 ~~shall~~ not provide ~~for~~ an effective date of coverage later than
2092 the date of the closing of the transfer as established by the
2093 transferor, the transferee, and, if applicable, the lender.

2094 13. Must provide that, with respect to the coastal high-
2095 ~~risk~~ account, any assessable insurer with a surplus as to
2096 policyholders of \$25 million or less writing 25 percent or more
2097 of its total countrywide property insurance premiums in this
2098 state may petition the office, within the first 90 days of each
399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

2099 calendar year, to qualify as a limited apportionment company. A
2100 regular assessment levied by the corporation on a limited
2101 apportionment company for a deficit incurred by the corporation
2102 for the coastal ~~high-risk~~ account ~~in 2006 or thereafter~~ may be
2103 paid to the corporation on a monthly basis as the assessments
2104 are collected by the limited apportionment company from its
2105 insureds pursuant to s. 627.3512, but the regular assessment
2106 must be paid in full within 12 months after being levied by the
2107 corporation. A limited apportionment company shall collect from
2108 its policyholders any emergency assessment imposed under sub-
2109 subparagraph (b)3.d. The plan must ~~shall~~ provide that, if the
2110 office determines that any regular assessment will result in an
2111 impairment of the surplus of a limited apportionment company,
2112 the office may direct that all or part of such assessment be
2113 deferred as provided in subparagraph (q)4. However, ~~there shall~~
2114 ~~be no limitation or deferment of~~ an emergency assessment to be
2115 collected from policyholders under sub-subparagraph (b)3.d. may
2116 not be limited or deferred.

2117 14. Must provide that the corporation appoint as its
2118 licensed agents only those agents who also hold an appointment
2119 as defined in s. 626.015(3) with an insurer who at the time of
2120 the agent's initial appointment by the corporation is authorized
2121 to write and is actually writing personal lines residential
2122 property coverage, commercial residential property coverage, or
2123 commercial nonresidential property coverage within the state.

2124 15. Must provide, ~~by July 1, 2007,~~ a premium payment plan
2125 option to its policyholders which, allows at a minimum, allows

399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

2126 for quarterly and semiannual payment of premiums. A monthly
2127 payment plan may, but is not required to, be offered.

2128 16. Must limit coverage on mobile homes or manufactured
2129 homes built before ~~prior to~~ 1994 to actual cash value of the
2130 dwelling rather than replacement costs of the dwelling.

2131 17. May provide such limits of coverage as the board
2132 determines, consistent with the requirements of this subsection.

2133 18. May require commercial property to meet specified
2134 hurricane mitigation construction features as a condition of
2135 eligibility for coverage.

2136 19. Must provide that new or renewal policies issued by
2137 the corporation on or after January 1, 2012, which cover
2138 sinkhole loss do not include coverage for any loss to
2139 appurtenant structures, driveways, sidewalks, decks, or patios
2140 that are directly or indirectly caused by sinkhole activity. The
2141 corporation shall exclude such coverage using a notice of
2142 coverage change, which may be included with the policy renewal,
2143 and not by issuance of a notice of nonrenewal of the excluded
2144 coverage upon renewal of the current policy.

2145 20. As of January 1, 2012, must require that the agent
2146 obtain from an applicant for coverage from the corporation an
2147 acknowledgement signed by the applicant, which includes, at a
2148 minimum, the following statement:

2149
2150 ACKNOWLEDGEMENT OF POTENTIAL SURCHARGE

2151 AND ASSESSMENT LIABILITY:

2152
399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

2153 1. AS A POLICYHOLDER OF CITIZENS PROPERTY
2154 INSURANCE CORPORATION, I UNDERSTAND THAT IF THE
2155 CORPORATION SUSTAINS A DEFICIT AS A RESULT OF
2156 HURRICANE LOSSES OR FOR ANY OTHER REASON, MY POLICY
2157 COULD BE SUBJECT TO SURCHARGES, WHICH WILL BE DUE AND
2158 PAYABLE UPON RENEWAL, CANCELLATION, OR TERMINATION OF
2159 THE POLICY, AND THAT THE SURCHARGES COULD BE AS HIGH
2160 AS 45 PERCENT OF MY PREMIUM, OR A DIFFERENT AMOUNT AS
2161 IMPOSED BY THE FLORIDA LEGISLATURE.

2162 2. I ALSO UNDERSTAND THAT I MAY BE SUBJECT TO
2163 EMERGENCY ASSESSMENTS TO THE SAME EXTENT AS
2164 POLICYHOLDERS OF OTHER INSURANCE COMPANIES, OR A
2165 DIFFERENT AMOUNT AS IMPOSED BY THE FLORIDA
2166 LEGISLATURE.

2167 3. I ALSO UNDERSTAND THAT CITIZENS PROPERTY
2168 INSURANCE CORPORATION IS NOT SUPPORTED BY THE FULL
2169 FAITH AND CREDIT OF THE STATE OF FLORIDA.

2170
2171 a. The corporation shall maintain, in electronic format or
2172 otherwise, a copy of the applicant's signed acknowledgement and
2173 provide a copy of the statement to the policyholder as part of
2174 the first renewal after the effective date of this subparagraph.

2175 b. The signed acknowledgement form creates a conclusive
2176 presumption that the policyholder understood and accepted his or
2177 her potential surcharge and assessment liability as a
2178 policyholder of the corporation.

2179 (d)1. All prospective employees for senior management
2180 positions, as defined by the plan of operation, are subject to
399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

2181 background checks as a prerequisite for employment. The office
2182 shall conduct the background checks ~~on such prospective~~
2183 ~~employees~~ pursuant to ss. 624.34, 624.404(3), and 628.261.

2184 2. On or before July 1 of each year, employees of the
2185 corporation must ~~are required to~~ sign and submit a statement
2186 attesting that they do not have a conflict of interest, as
2187 defined in part III of chapter 112. As a condition of
2188 employment, all prospective employees must ~~are required to~~ sign
2189 and submit to the corporation a conflict-of-interest statement.

2190 3. Senior managers and members of the board of governors
2191 are subject to ~~the provisions of~~ part III of chapter 112,
2192 including, but not limited to, the code of ethics and public
2193 disclosure and reporting of financial interests, pursuant to s.
2194 112.3145. Notwithstanding s. 112.3143(2), a board member may not
2195 vote on any measure that would inure to his or her special
2196 private gain or loss; that he or she knows would inure to the
2197 special private gain or loss of any principal by whom he or she
2198 is retained or to the parent organization or subsidiary of a
2199 corporate principal by which he or she is retained, other than
2200 an agency as defined in s. 112.312; or that he or she knows
2201 would inure to the special private gain or loss of a relative or
2202 business associate of the public officer. Before the vote is
2203 taken, such member shall publicly state to the assembly the
2204 nature of his or her interest in the matter from which he or she
2205 is abstaining from voting and, within 15 days after the vote
2206 occurs, disclose the nature of his or her interest as a public
2207 record in a memorandum filed with the person responsible for
2208 recording the minutes of the meeting, who shall incorporate the
399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

2209 memorandum in the minutes. Senior managers and board members are
2210 also required to file such disclosures with the Commission on
2211 Ethics and the Office of Insurance Regulation. The executive
2212 director of the corporation or his or her designee shall notify
2213 each existing and newly appointed ~~and existing appointed~~ member
2214 of the board of governors and senior managers of their duty to
2215 comply with the reporting requirements of part III of chapter
2216 112. At least quarterly, the executive director or his or her
2217 designee shall submit to the Commission on Ethics a list of
2218 names of the senior managers and members of the board of
2219 governors who are subject to the public disclosure requirements
2220 under s. 112.3145.

2221 4. Notwithstanding s. 112.3148 or s. 112.3149, or any
2222 other provision of law, an employee or board member may not
2223 knowingly accept, directly or indirectly, any gift or
2224 expenditure from a person or entity, or an employee or
2225 representative of such person or entity, which ~~that~~ has a
2226 contractual relationship with the corporation or who is under
2227 consideration for a contract. An employee or board member who
2228 fails to comply with subparagraph 3. or this subparagraph is
2229 subject to penalties provided under ss. 112.317 and 112.3173.

2230 5. Any senior manager of the corporation who is employed
2231 on or after January 1, 2007, regardless of the date of hire, who
2232 subsequently retires or terminates employment is prohibited from
2233 representing another person or entity before the corporation for
2234 2 years after retirement or termination of employment from the
2235 corporation.

399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

2236 6. Any senior manager of the corporation who is employed
2237 on or after January 1, 2007, regardless of the date of hire, who
2238 subsequently retires or terminates employment is prohibited from
2239 having any employment or contractual relationship for 2 years
2240 with an insurer that has entered into a take-out bonus agreement
2241 with the corporation.

2242 (n)1. Rates for coverage provided by the corporation must
2243 ~~shall~~ be actuarially sound and subject to ~~the requirements of s.~~
2244 627.062, except as otherwise provided in this paragraph. The
2245 corporation shall file its recommended rates with the office at
2246 least annually. The corporation shall provide any additional
2247 information regarding the rates which the office requires. The
2248 office shall consider the recommendations of the board and issue
2249 a final order establishing the rates for the corporation within
2250 45 days after the recommended rates are filed. The corporation
2251 may not pursue an administrative challenge or judicial review of
2252 the final order of the office.

2253 2. In addition to the rates otherwise determined pursuant
2254 to this paragraph, the corporation shall impose and collect an
2255 amount equal to the premium tax provided ~~for~~ in s. 624.509 to
2256 augment the financial resources of the corporation.

2257 3. After the public hurricane loss-projection model under
2258 s. 627.06281 has been found to be accurate and reliable by the
2259 Florida Commission on Hurricane Loss Projection Methodology, the
2260 ~~that~~ model shall serve as the minimum benchmark for determining
2261 the windstorm portion of the corporation's rates. This
2262 subparagraph does not require or allow the corporation to adopt

399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

2263 rates lower than the rates otherwise required or allowed by this
2264 paragraph.

2265 4. The rate filings for the corporation which were
2266 approved by the office and ~~which~~ took effect January 1, 2007,
2267 are rescinded, except for those rates that were lowered. As soon
2268 as possible, the corporation shall begin using the lower rates
2269 that were in effect on December 31, 2006, and ~~shall~~ provide
2270 refunds to policyholders who ~~have~~ paid higher rates as a result
2271 of that rate filing. The rates in effect on December 31, 2006,
2272 ~~shall~~ remain in effect for the 2007 and 2008 calendar years
2273 except for any rate change that results in a lower rate. The
2274 next rate change that may increase rates shall take effect
2275 pursuant to a new rate filing recommended by the corporation and
2276 established by the office, subject to ~~the requirements of this~~
2277 paragraph.

2278 5. Beginning on July 15, 2009, and annually ~~each year~~
2279 thereafter, the corporation must make a recommended actuarially
2280 sound rate filing for each personal and commercial line of
2281 business it writes, to be effective no earlier than January 1,
2282 2010.

2283 6. Beginning on or after January 1, 2010, and
2284 notwithstanding the board's recommended rates and the office's
2285 final order regarding the corporation's filed rates under
2286 subparagraph 1., the corporation shall annually implement a rate
2287 increase ~~each year~~ which, except for sinkhole coverage, does not
2288 exceed 10 percent for any single policy issued by the
2289 corporation, excluding coverage changes and surcharges.

399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

2290 7. The corporation may also implement an increase to
2291 reflect the effect on the corporation of the cash buildup factor
2292 pursuant to s. 215.555(5) (b).

2293 8. The corporation's implementation of rates as prescribed
2294 in subparagraph 6. shall cease for any line of business written
2295 by the corporation upon the corporation's implementation of
2296 actuarially sound rates. Thereafter, the corporation shall
2297 annually make a recommended actuarially sound rate filing for
2298 each commercial and personal line of business the corporation
2299 writes.

2300 (v)1. Effective July 1, 2002, policies of the Residential
2301 Property and Casualty Joint Underwriting Association ~~shall~~
2302 become policies of the corporation. All obligations, rights,
2303 assets and liabilities of the ~~Residential Property and Casualty~~
2304 ~~Joint Underwriting~~ association, including bonds, note and debt
2305 obligations, and the financing documents pertaining to them
2306 become those of the corporation as of July 1, 2002. The
2307 corporation is not required to issue endorsements or
2308 certificates of assumption to insureds during the remaining term
2309 of in-force transferred policies.

2310 2. Effective July 1, 2002, policies of the Florida
2311 Windstorm Underwriting Association are transferred to the
2312 corporation and ~~shall~~ become policies of the corporation. All
2313 obligations, rights, assets, and liabilities of the ~~Florida~~
2314 ~~Windstorm Underwriting~~ association, including bonds, note and
2315 debt obligations, and the financing documents pertaining to them
2316 are transferred to and assumed by the corporation on July 1,
2317 2002. The corporation is not required to issue endorsements or
399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

2318 certificates of assumption to insureds during the remaining term
2319 of in-force transferred policies.

2320 3. The Florida Windstorm Underwriting Association and the
2321 Residential Property and Casualty Joint Underwriting Association
2322 shall take all actions necessary ~~as may be proper~~ to further
2323 evidence the transfers and ~~shall~~ provide the documents and
2324 instruments of further assurance as may reasonably be requested
2325 by the corporation for that purpose. The corporation shall
2326 execute assumptions and instruments as the trustees or other
2327 parties to the financing documents of the Florida Windstorm
2328 Underwriting Association or the Residential Property and
2329 Casualty Joint Underwriting Association may reasonably request
2330 to further evidence the transfers and assumptions, which
2331 transfers and assumptions, however, are effective on the date
2332 provided under this paragraph whether or not, and regardless of
2333 the date on which, the assumptions or instruments are executed
2334 by the corporation. Subject to the relevant financing documents
2335 pertaining to their outstanding bonds, notes, indebtedness, or
2336 other financing obligations, the moneys, investments,
2337 receivables, choses in action, and other intangibles of the
2338 Florida Windstorm Underwriting Association shall be credited to
2339 the coastal ~~high-risk~~ account of the corporation, and those of
2340 the personal lines residential coverage account and the
2341 commercial lines residential coverage account of the Residential
2342 Property and Casualty Joint Underwriting Association shall be
2343 credited to the personal lines account and the commercial lines
2344 account, respectively, of the corporation.

399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

2345 4. Effective July 1, 2002, a new applicant for property
2346 insurance coverage who would otherwise have been eligible for
2347 coverage in the Florida Windstorm Underwriting Association is
2348 eligible for coverage from the corporation as provided in this
2349 subsection.

2350 5. The transfer of all policies, obligations, rights,
2351 assets, and liabilities from the Florida Windstorm Underwriting
2352 Association to the corporation and the renaming of the
2353 Residential Property and Casualty Joint Underwriting Association
2354 as the corporation does not ~~shall in no way~~ affect the coverage
2355 with respect to covered policies as defined in s. 215.555(2)(c)
2356 provided to these entities by the Florida Hurricane Catastrophe
2357 Fund. The coverage provided by the ~~Florida Hurricane Catastrophe~~
2358 fund to the Florida Windstorm Underwriting Association based on
2359 its exposures as of June 30, 2002, and each June 30 thereafter
2360 shall be redesignated as coverage for the coastal ~~high-risk~~
2361 account of the corporation. Notwithstanding any other provision
2362 of law, the coverage provided by the ~~Florida Hurricane~~
2363 ~~Catastrophe~~ fund to the Residential Property and Casualty Joint
2364 Underwriting Association based on its exposures as of June 30,
2365 2002, and each June 30 thereafter shall be transferred to the
2366 personal lines account and the commercial lines account of the
2367 corporation. Notwithstanding any other provision of law, the
2368 coastal ~~high-risk~~ account shall be treated, for all Florida
2369 Hurricane Catastrophe Fund purposes, as if it were a separate
2370 participating insurer with its own exposures, reimbursement
2371 premium, and loss reimbursement. Likewise, the personal lines
2372 and commercial lines accounts shall be viewed together, for all
399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

2373 ~~Florida Hurricane Catastrophe~~ fund purposes, as if the two
2374 accounts were one and represent a single, separate participating
2375 insurer with its own exposures, reimbursement premium, and loss
2376 reimbursement. The coverage provided by the ~~Florida Hurricane~~
2377 ~~Catastrophe~~ fund to the corporation shall constitute and operate
2378 as a full transfer of coverage from the Florida Windstorm
2379 Underwriting Association and Residential Property and Casualty
2380 Joint Underwriting to the corporation.

2381 (y) It is the intent of the Legislature that the
2382 amendments to this subsection enacted in 2002 should, over time,
2383 reduce the probable maximum windstorm losses in the residual
2384 markets and ~~should reduce~~ the potential assessments to be levied
2385 on property insurers and policyholders statewide. ~~In furtherance~~
2386 ~~of this intent:~~

2387 ~~1. the board shall, on or before February 1 of each year,~~
2388 ~~provide a report to the President of the Senate and the Speaker~~
2389 ~~of the House of Representatives showing the reduction or~~
2390 ~~increase in the 100-year probable maximum loss attributable to~~
2391 ~~wind-only coverages and the quota share program under this~~
2392 ~~subsection combined, as compared to the benchmark 100-year~~
2393 ~~probable maximum loss of the Florida Windstorm Underwriting~~
2394 ~~Association. For purposes of this paragraph, the benchmark 100-~~
2395 ~~year probable maximum loss of the Florida Windstorm Underwriting~~
2396 ~~Association shall be the calculation dated February 2001 and~~
2397 ~~based on November 30, 2000, exposures. In order to ensure~~
2398 ~~comparability of data, the board shall use the same methods for~~
2399 ~~calculating its probable maximum loss as were used to calculate~~
2400 ~~the benchmark probable maximum loss.~~

399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

2401 ~~2. Beginning December 1, 2010, if the report under~~
2402 ~~subparagraph 1. for any year indicates that the 100-year~~
2403 ~~probable maximum loss attributable to wind-only coverages and~~
2404 ~~the quota share program combined does not reflect a reduction of~~
2405 ~~at least 25 percent from the benchmark, the board shall reduce~~
2406 ~~the boundaries of the high-risk area eligible for wind-only~~
2407 ~~coverages under this subsection in a manner calculated to reduce~~
2408 ~~such probable maximum loss to an amount at least 25 percent~~
2409 ~~below the benchmark.~~

2410 ~~3. Beginning February 1, 2015, if the report under~~
2411 ~~subparagraph 1. for any year indicates that the 100-year~~
2412 ~~probable maximum loss attributable to wind-only coverages and~~
2413 ~~the quota share program combined does not reflect a reduction of~~
2414 ~~at least 50 percent from the benchmark, the boundaries of the~~
2415 ~~high-risk area eligible for wind-only coverages under this~~
2416 ~~subsection shall be reduced by the elimination of any area that~~
2417 ~~is not seaward of a line 1,000 feet inland from the Intracoastal~~
2418 ~~Waterway.~~

2419 Section 17. Paragraph (a) of subsection (5) of section
2420 627.3511, Florida Statutes, is amended to read:

2421 627.3511 Depopulation of Citizens Property Insurance
2422 Corporation.—

2423 (5) APPLICABILITY.—

2424 (a) The take-out bonus provided by subsection (2) and the
2425 exemption from assessment provided by paragraph (3)(a) apply
2426 only if the corporation policy is replaced by ~~either~~ a standard
2427 policy including wind coverage or, if consistent with the
2428 insurer's underwriting rules ~~as~~ filed with the office, a basic
399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

2429 policy including wind coverage; however, for ~~with respect to~~
2430 risks located in areas where coverage through the coastal high-
2431 ~~risk~~ account of the corporation is available, the replacement
2432 policy need not provide wind coverage. The insurer must renew
2433 the replacement policy at approved rates on substantially
2434 similar terms for four additional 1-year terms, unless canceled
2435 or not renewed by the policyholder. If an insurer assumes the
2436 corporation's obligations for a policy, it must issue a
2437 replacement policy for a 1-year term upon expiration of the
2438 corporation policy and must renew the replacement policy at
2439 approved rates on substantially similar terms for four
2440 additional 1-year terms, unless canceled or not renewed by the
2441 policyholder. For each replacement policy canceled or nonrenewed
2442 by the insurer for any reason during the 5-year coverage period
2443 ~~required by this paragraph~~, the insurer must remove from the
2444 corporation one additional policy covering a risk similar to the
2445 risk covered by the canceled or nonrenewed policy. In addition
2446 ~~to these requirements~~, the corporation must place the bonus
2447 moneys in escrow for ~~a period of~~ 5 years; such moneys may be
2448 released from escrow only to pay claims. If the policy is
2449 canceled or nonrenewed before the end of the 5-year period, the
2450 amount of the take-out bonus must be prorated for the time
2451 period the policy was insured. A take-out bonus provided by
2452 subsection (2) or subsection (6) is ~~shall~~ not be considered
2453 premium income for purposes of taxes and assessments under the
2454 Florida Insurance Code and ~~shall~~ remain the property of the
2455 corporation, subject to the prior security interest of the
2456 insurer under the escrow agreement until it is released from
399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

2457 escrow; ~~and~~ and after it is released from escrow it is ~~shall be~~
2458 considered an asset of the insurer and credited to the insurer's
2459 capital and surplus.

2460 Section 18. Paragraph (b) of subsection (2) of section
2461 627.4133, Florida Statutes, is amended to read:

2462 627.4133 Notice of cancellation, nonrenewal, or renewal
2463 premium.—

2464 (2) With respect to any personal lines or commercial
2465 residential property insurance policy, including, but not
2466 limited to, any homeowner's, mobile home owner's, farmowner's,
2467 condominium association, condominium unit owner's, apartment
2468 building, or other policy covering a residential structure or
2469 its contents:

2470 (b) The insurer shall give the named insured written
2471 notice of nonrenewal, cancellation, or termination at least 100
2472 days before ~~prior to~~ the effective date of the nonrenewal,
2473 cancellation, or termination. However, the insurer shall give at
2474 least 100 days' written notice, or written notice by June 1,
2475 whichever is earlier, for any nonrenewal, cancellation, or
2476 termination that would be effective between June 1 and November
2477 30. The notice must include the reason or reasons for the
2478 nonrenewal, cancellation, or termination, except that:

2479 1. The insurer shall give the named insured written notice
2480 of nonrenewal, cancellation, or termination at least 120 ~~180~~
2481 days prior to the effective date of the nonrenewal,
2482 cancellation, or termination for a named insured whose
2483 residential structure has been insured by that insurer or an

399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

2484 affiliated insurer for at least a 5-year period immediately
2485 prior to the date of the written notice.

2486 2. ~~If~~ ~~When~~ cancellation is for nonpayment of premium, at
2487 least 10 days' written notice of cancellation accompanied by the
2488 reason therefor must ~~shall~~ be given. As used in this
2489 subparagraph, the term "nonpayment of premium" means failure of
2490 the named insured to discharge when due ~~any~~ of her or his
2491 obligations in connection with the payment of premiums on a
2492 policy or any installment of such premium, whether the premium
2493 is payable directly to the insurer or its agent or indirectly
2494 under any premium finance plan or extension of credit, or
2495 failure to maintain membership in an organization if such
2496 membership is a condition precedent to insurance coverage. The
2497 term "~~Nonpayment of premium~~" also means the failure of a
2498 financial institution to honor an insurance applicant's check
2499 after delivery to a licensed agent for payment of a premium,
2500 even if the agent has previously delivered or transferred the
2501 premium to the insurer. If a dishonored check represents the
2502 initial premium payment, the contract and all contractual
2503 obligations are ~~shall be~~ void ab initio unless the nonpayment is
2504 cured within the earlier of 5 days after actual notice by
2505 certified mail is received by the applicant or 15 days after
2506 notice is sent to the applicant by certified mail or registered
2507 mail, and if the contract is void, any premium received by the
2508 insurer from a third party must ~~shall~~ be refunded to that party
2509 in full.

2510 3. ~~If~~ ~~When~~ such cancellation or termination occurs during
2511 the first 90 days ~~during which~~ the insurance is in force and the
399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

2512 insurance is canceled or terminated for reasons other than
2513 nonpayment of premium, at least 20 days' written notice of
2514 cancellation or termination accompanied by the reason therefor
2515 must ~~shall~~ be given unless ~~except where~~ there has been a
2516 material misstatement or misrepresentation or failure to comply
2517 with the underwriting requirements established by the insurer.

2518 4. The requirement for providing written notice ~~of~~
2519 ~~nonrenewal~~ by June 1 of any nonrenewal that would be effective
2520 between June 1 and November 30 does not apply to the following
2521 situations, but the insurer remains subject to the requirement
2522 to provide such notice at least 100 days before ~~prior to~~ the
2523 effective date of nonrenewal:

2524 a. A policy that is nonrenewed due to a revision in the
2525 coverage for sinkhole losses and catastrophic ground cover
2526 collapse pursuant to s. 627.706, ~~as amended by s. 30, chapter~~
2527 ~~2007-1, Laws of Florida.~~

2528 b. A policy that is nonrenewed by Citizens Property
2529 Insurance Corporation, pursuant to s. 627.351(6), for a policy
2530 that has been assumed by an authorized insurer offering
2531 replacement ~~or renewal~~ coverage to the policyholder is exempt
2532 from the notice requirements of paragraph (a) and this
2533 paragraph. In such cases, the corporation must give the named
2534 insured written notice of nonrenewal at least 45 days before the
2535 effective date of the nonrenewal.

2536
2537 After the policy has been in effect for 90 days, the policy may
2538 ~~shall~~ not be canceled by the insurer unless ~~except when~~ there
2539 has been a material misstatement, a nonpayment of premium, a
399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

2540 failure to comply with underwriting requirements established by
2541 the insurer within 90 days after ~~of~~ the date of effectuation of
2542 coverage, or a substantial change in the risk covered by the
2543 policy or if ~~when~~ the cancellation is for all insureds under
2544 such policies for a given class of insureds. This paragraph does
2545 not apply to individually rated risks having a policy term of
2546 less than 90 days.

2547 5. Notwithstanding any other provision of law, an insurer
2548 may cancel or nonrenew a property insurance policy after at
2549 least 45 days' notice if the office finds that the early
2550 cancellation of some or all of the insurer's policies is
2551 necessary to protect the best interests of the public or
2552 policyholders and the office approves the insurer's plan for
2553 early cancellation or nonrenewal of some or all of its policies.
2554 The office may base such finding upon the financial condition of
2555 the insurer, lack of adequate reinsurance coverage for hurricane
2556 risk, or other relevant factors. The office may condition its
2557 finding on the consent of the insurer to be placed under
2558 administrative supervision pursuant to s. 624.81 or to the
2559 appointment of a receiver under chapter 631.

2560 6. A policy covering both a home and motor vehicle may be
2561 nonrenewed for any reason applicable to either the property or
2562 motor vehicle insurance after providing 90 days' notice.

2563 Section 19. Section 627.43141, Florida Statutes, is
2564 created to read:

2565 627.43141 Notice of change in policy terms.—

2566 (1) As used in this section, the term:

399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

2567 (a) "Change in policy terms" means the modification,
2568 addition, or deletion of any term, coverage, duty, or condition
2569 from the previous policy. The correction of typographical or
2570 scrivener's errors or the application of mandated legislative
2571 changes is not a change in policy terms.

2572 (b) "Policy" means a written contract of property and
2573 casualty insurance or written agreement for such insurance, by
2574 whatever name called, and includes all clauses, riders,
2575 endorsements, and papers that are a part of such policy. The
2576 term does not include a binder as defined in s. 627.420 unless
2577 the duration of the binder period exceeds 60 days.

2578 (c) "Renewal" means the issuance and delivery by an
2579 insurer of a policy superseding at the end of the policy period
2580 a policy previously issued and delivered by the same insurer or
2581 the issuance and delivery of a certificate or notice extending
2582 the term of a policy beyond its policy period or term. Any
2583 policy that has a policy period or term of less than 6 months or
2584 that does not have a fixed expiration date shall, for purposes
2585 of this section, be considered as written for successive policy
2586 periods or terms of 6 months.

2587 (2) A renewal policy may contain a change in policy terms.
2588 If a renewal policy does contains such change, the insurer must
2589 give the named insured written notice of the change, which must
2590 be enclosed along with the written notice of renewal premium
2591 required by ss. 627.4133 and 627.728. Such notice shall be
2592 entitled "Notice of Change in Policy Terms."

2593 (3) Although not required, proof of mailing or registered
2594 mailing through the United States Postal Service of the Notice
399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

2595 of Change in Policy Terms to the named insured at the address
2596 shown in the policy is sufficient proof of notice.

2597 (4) Receipt of the premium payment for the renewal policy
2598 by the insurer is deemed to be acceptance of the new policy
2599 terms by the named insured.

2600 (5) If an insurer fails to provide the notice required in
2601 subsection (2), the original policy terms remain in effect until
2602 the next renewal and the proper service of the notice, or until
2603 the effective date of replacement coverage obtained by the named
2604 insured, whichever occurs first.

2605 (6) The intent of this section is to:

2606 (a) Allow an insurer to make a change in policy terms
2607 without nonrenewing those policyholders that the insurer wishes
2608 to continue insuring.

2609 (b) Alleviate concern and confusion to the policyholder
2610 caused by the required policy nonrenewal for the limited issue
2611 if an insurer intends to renew the insurance policy, but the new
2612 policy contains a change in policy terms.

2613 (c) Encourage policyholders to discuss their coverages
2614 with their insurance agents.

2615 Section 20. Section 627.7011, Florida Statutes, is amended
2616 to read:

2617 627.7011 Homeowners' policies; offer of replacement cost
2618 coverage and law and ordinance coverage.—

2619 (1) Prior to issuing a homeowner's insurance policy ~~on or~~
2620 ~~after October 1, 2005, or prior to the first renewal of a~~
2621 ~~homeowner's insurance policy on or after October 1, 2005,~~ the
2622 insurer must offer each of the following:

399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

2623 (a) A policy or endorsement providing that any loss that
2624 ~~which~~ is repaired or replaced will be adjusted on the basis of
2625 replacement costs to the dwelling not exceeding policy limits ~~as~~
2626 ~~to the dwelling~~, rather than actual cash value, but not
2627 including costs necessary to meet applicable laws and ordinances
2628 regulating the construction, use, or repair of any property or
2629 requiring the tearing down of any property, including the costs
2630 of removing debris.

2631 (b) A policy or endorsement providing that, subject to
2632 other policy provisions, any loss that ~~which~~ is repaired or
2633 replaced at any location will be adjusted on the basis of
2634 replacement costs to the dwelling not exceeding policy limits ~~as~~
2635 ~~to the dwelling~~, rather than actual cash value, and also
2636 including costs necessary to meet applicable laws and ordinances
2637 regulating the construction, use, or repair of any property or
2638 requiring the tearing down of any property, including the costs
2639 of removing debris. ~~+~~ However, ~~such~~ additional costs necessary to
2640 meet applicable laws and ordinances may be limited to ~~either~~ 25
2641 percent or 50 percent of the dwelling limit, as selected by the
2642 policyholder, and such coverage applies ~~shall apply~~ only to
2643 repairs of the damaged portion of the structure unless the total
2644 damage to the structure exceeds 50 percent of the replacement
2645 cost of the structure.

2646
2647 An insurer is not required to make the offers required by this
2648 subsection with respect to the issuance or renewal of a
2649 homeowner's policy that contains the provisions specified in
2650 paragraph (b) for law and ordinance coverage limited to 25

399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

2651 percent of the dwelling limit, except that the insurer must
2652 offer the law and ordinance coverage limited to 50 percent of
2653 the dwelling limit. This subsection does not prohibit the offer
2654 of a guaranteed replacement cost policy.

2655 (2) Unless the insurer obtains the policyholder's written
2656 refusal of the policies or endorsements specified in subsection
2657 (1), any policy covering the dwelling is deemed to include the
2658 law and ordinance coverage limited to 25 percent of the dwelling
2659 limit. The rejection or selection of alternative coverage shall
2660 be made on a form approved by the office. The form must ~~shall~~
2661 fully advise the applicant of the nature of the coverage being
2662 rejected. If this form is signed by a named insured, it is ~~will~~
2663 ~~be~~ conclusively presumed that there was an informed, knowing
2664 rejection of the coverage or election of the alternative
2665 coverage on behalf of all insureds. Unless the policyholder
2666 requests in writing the coverage specified in this section, it
2667 need not be provided in or supplemental to any other policy that
2668 renews, insures, extends, changes, supersedes, or replaces an
2669 existing policy if ~~when~~ the policyholder has rejected the
2670 coverage specified in this section or has selected alternative
2671 coverage. The insurer must provide the ~~such~~ policyholder with
2672 notice of the availability of such coverage in a form approved
2673 by the office at least once every 3 years. The failure to
2674 provide such notice constitutes a violation of this code, but
2675 does not affect the coverage provided under the policy.

2676 (3) In the event of a loss for which a dwelling or
2677 personal property is insured on the basis of replacement costs:

399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

2678 (a) For a dwelling, the insurer must initially pay at
2679 least the actual cash value of the insured loss, less any
2680 applicable deductible. The insurer shall pay any remaining
2681 amounts necessary to perform such repairs as work is performed
2682 and expenses are incurred. If a total loss of a dwelling occurs,
2683 the insurer shall pay the replacement cost coverage without
2684 reservation or holdback of any depreciation in value, pursuant
2685 to s. 627.702.

2686 (b) For personal property:

2687 1. The insurer must offer coverage under which the insurer
2688 is obligated to pay the replacement cost without reservation or
2689 holdback for any depreciation in value, whether or not the
2690 insured replaces the property.

2691 2. The insurer may also offer coverage under which the
2692 insurer may limit the initial payment to the actual cash value
2693 of the personal property to be replaced, require the insured to
2694 provide receipts for the purchase of the property financed by
2695 the initial payment, use such receipts to make the next payment
2696 requested by the insured for the replacement of insured
2697 property, and continue this process until the insured remits all
2698 receipts up to the policy limits for replacement costs. The
2699 insurer must provide clear notice of this process before the
2700 policy is bound. A policyholder must be provided an actuarially
2701 reasonable premium credit or discount for this coverage. The
2702 insurer may not require the policyholder to advance payment for
2703 the replaced property, the insurer shall pay the replacement
2704 cost without reservation or holdback of any depreciation in

399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

2705 ~~value, whether or not the insured replaces or repairs the~~
2706 ~~dwelling or property.~~

2707 (4) ~~A~~ Any homeowner's insurance policy ~~issued or renewed~~
2708 ~~on or after October 1, 2005,~~ must include in bold type no
2709 smaller than 18 points the following statement:

2710 "LAW AND ORDINANCE COVERAGE IS AN IMPORTANT COVERAGE
2711 THAT YOU MAY WISH TO PURCHASE. YOU MAY ALSO NEED TO
2712 CONSIDER THE PURCHASE OF FLOOD INSURANCE FROM THE
2713 NATIONAL FLOOD INSURANCE PROGRAM. WITHOUT THIS
2714 COVERAGE, YOU MAY HAVE UNCOVERED LOSSES. PLEASE
2715 DISCUSS THESE COVERAGES WITH YOUR INSURANCE AGENT."

2716
2717 The intent of this subsection is to encourage policyholders to
2718 purchase sufficient coverage to protect them in case events
2719 excluded from the standard homeowners policy, such as law and
2720 ordinance enforcement and flood, combine with covered events to
2721 produce damage or loss to the insured property. The intent is
2722 also to encourage policyholders to discuss these issues with
2723 their insurance agent.

2724 (5) ~~Nothing in~~ This section does not: ~~shall be construed~~
2725 ~~to~~

2726 (a) Apply to policies not considered to be "homeowners'
2727 policies," as that term is commonly understood in the insurance
2728 industry. ~~This section specifically does not~~

2729 (b) Apply to mobile home policies. ~~Nothing in this section~~

2730 (c) Limit ~~shall be construed as limiting~~ the ability of an
2731 ~~any~~ insurer to reject or nonrenew any insured or applicant on
2732 the grounds that the structure does not meet underwriting

399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

2733 criteria applicable to replacement cost or law and ordinance
2734 policies or for other lawful reasons.

2735 ~~(d)-(6)~~ This section does not Prohibit an insurer from
2736 limiting its liability under a policy or endorsement providing
2737 that loss will be adjusted on the basis of replacement costs to
2738 the lesser of:

2739 ~~1.(a)~~ The limit of liability shown on the policy
2740 declarations page;

2741 ~~2.(b)~~ The reasonable and necessary cost to repair the
2742 damaged, destroyed, or stolen covered property; or

2743 ~~3.(c)~~ The reasonable and necessary cost to replace the
2744 damaged, destroyed, or stolen covered property.

2745 ~~(e)-(7)~~ This section does not Prohibit an insurer from
2746 exercising its right to repair damaged property in compliance
2747 with its policy and s. 627.702(7).

2748 Section 21. Paragraph (a) of subsection (5) of section
2749 627.70131, Florida Statutes, is amended to read:

2750 627.70131 Insurer's duty to acknowledge communications
2751 regarding claims; investigation.-

2752 (5) (a) Within 90 days after an insurer receives notice of
2753 an initial, reopened, or supplemental a property insurance claim
2754 from a policyholder, the insurer shall pay or deny such claim or
2755 a portion of the claim unless the failure to pay ~~such claim or a~~
2756 ~~portion of the claim~~ is caused by factors beyond the control of
2757 the insurer which reasonably prevent such payment. Any payment
2758 of an initial or supplemental a claim or portion of such a claim
2759 made paid 90 days after the insurer receives notice of the
2760 claim, or made paid more than 15 days after there are no longer
399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

2761 factors beyond the control of the insurer which reasonably
2762 prevented such payment, whichever is later, bears ~~shall bear~~
2763 interest at the rate set forth in s. 55.03. Interest begins to
2764 accrue from the date the insurer receives notice of the claim.
2765 The provisions of this subsection may not be waived, voided, or
2766 nullified by the terms of the insurance policy. If there is a
2767 right to prejudgment interest, the insured shall select whether
2768 to receive prejudgment interest or interest under this
2769 subsection. Interest is payable when the claim or portion of the
2770 claim is paid. Failure to comply with this subsection
2771 constitutes a violation of this code. However, failure to comply
2772 with this subsection does ~~shall~~ not form the sole basis for a
2773 private cause of action.

2774 Section 22. The Legislature finds and declares:

2775 (1) There is a compelling state interest in maintaining a
2776 viable and orderly private-sector market for property insurance
2777 in this state. The lack of a viable and orderly property market
2778 reduces the availability of property insurance coverage to state
2779 residents, increases the cost of property insurance, and
2780 increases the state's reliance on a residual property insurance
2781 market and its potential for imposing assessments on
2782 policyholders throughout the state.

2783 (2) In 2005, the Legislature revised ss. 627.706-627.7074,
2784 Florida Statutes, to adopt certain geological or technical
2785 terms; to increase reliance on objective, scientific testing
2786 requirements; and generally to reduce the number of sinkhole
2787 claims and related disputes arising under prior law. The
2788 Legislature determined that since the enactment of these

399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

2789 statutory revisions, both private-sector insurers and Citizens
2790 Property Insurance Corporation have, nevertheless, continued to
2791 experience high claims frequency and severity for sinkhole
2792 insurance claims. In addition, many properties remain unrepaired
2793 even after loss payments, which reduces the local property tax
2794 base and adversely affects the real estate market. Therefore,
2795 the Legislature finds that losses associated with sinkhole
2796 claims adversely affect the public health, safety, and welfare
2797 of this state and its citizens.

2798 (3) Pursuant to sections 23 through 28 of this act,
2799 technical or scientific definitions adopted in the 2005
2800 legislation are clarified to implement and advance the
2801 Legislature's intended reduction of sinkhole claims and
2802 disputes. Certain other revisions to ss. 627.706-627.7074,
2803 Florida Statutes, are enacted to advance legislative intent to
2804 rely on scientific or technical determinations relating to
2805 sinkholes and sinkhole claims, reduce the number and cost of
2806 disputes relating to sinkhole claims, and ensure that repairs
2807 are made commensurate with the scientific and technical
2808 determinations and insurance claims payments.

2809 Section 23. Section 627.706, Florida Statutes, is
2810 reordered and amended to read:

2811 627.706 Sinkhole insurance; catastrophic ground cover
2812 collapse; definitions.—

2813 (1)(a) Every insurer authorized to transact property
2814 insurance in this state must ~~shall~~ provide coverage for a
2815 catastrophic ground cover collapse.

399507

Approved For Filing: 5/3/2011 1:10:09 AM

Page 102 of 136

Amendment No.

2816 (b) The insurer ~~and~~ shall make available, for an
2817 appropriate additional premium, coverage for sinkhole losses on
2818 any structure, including the contents of personal property
2819 contained therein, to the extent provided in the form to which
2820 the coverage attaches. The insurer may require an inspection of
2821 the property before issuance of sinkhole loss coverage. A policy
2822 for residential property insurance may include a deductible
2823 amount applicable to sinkhole losses equal to 1 percent, 2
2824 percent, 5 percent, or 10 percent of the policy dwelling limits,
2825 with appropriate premium discounts offered with each deductible
2826 amount.

2827 (c) The insurer may restrict catastrophic ground cover
2828 collapse and sinkhole loss coverage to the principal building,
2829 as defined in the applicable policy.

2830 (2) As used in ss. 627.706-627.7074, and as used in
2831 connection with any policy providing coverage for a catastrophic
2832 ground cover collapse or for sinkhole losses, the term:

2833 (a) "Catastrophic ground cover collapse" means geological
2834 activity that results in all the following:

- 2835 1. The abrupt collapse of the ground cover;
- 2836 2. A depression in the ground cover clearly visible to the
2837 naked eye;
- 2838 3. Structural damage to the covered building, including
2839 the foundation; and
- 2840 4. The insured structure being condemned and ordered to be
2841 vacated by the governmental agency authorized by law to issue
2842 such an order for that structure.

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399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

2844 Contents coverage applies if there is a loss resulting from a
2845 catastrophic ground cover collapse. ~~Structural~~ Damage consisting
2846 merely of the settling or cracking of a foundation, structure,
2847 or building does not constitute a loss resulting from a
2848 catastrophic ground cover collapse.

2849 (b) "Neutral evaluation" means the alternative dispute
2850 resolution provided in s. 627.7074.

2851 (c) "Neutral evaluator" means a professional engineer or a
2852 professional geologist who has completed a course of study in
2853 alternative dispute resolution designed or approved by the
2854 department for use in the neutral evaluation process and who is
2855 determined by the department to be fair and impartial.

2856 (h) ~~(b)~~ "Sinkhole" means a landform created by subsidence
2857 of soil, sediment, or rock as underlying strata are dissolved by
2858 groundwater. A sinkhole forms ~~may form~~ by collapse into
2859 subterranean voids created by dissolution of limestone or
2860 dolostone or by subsidence as these strata are dissolved.

2861 (j) ~~(e)~~ "Sinkhole loss" means structural damage to the
2862 covered building, including the foundation, caused by sinkhole
2863 activity. Contents coverage and additional living expenses ~~shall~~
2864 apply only if there is structural damage to the covered building
2865 caused by sinkhole activity.

2866 (i) ~~(d)~~ "Sinkhole activity" means settlement or systematic
2867 weakening of the earth supporting the covered building ~~such~~
2868 property only if the ~~when such~~ settlement or systematic
2869 weakening results from contemporaneous movement or raveling of
2870 soils, sediments, or rock materials into subterranean voids

399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

2871 created by the effect of water on a limestone or similar rock
2872 formation.

2873 ~~(f)-(e)~~ "Professional engineer" means a person, as defined
2874 in s. 471.005, who has a bachelor's degree or higher in
2875 engineering ~~with a specialty in the geotechnical engineering~~
2876 ~~field~~. A professional engineer must also have ~~geotechnical~~
2877 experience and expertise in the identification of sinkhole
2878 activity as well as other potential causes of structural damage
2879 ~~to the structure~~.

2880 ~~(g)-(f)~~ "Professional geologist" means a person, as defined
2881 ~~in~~ by s. 492.102, who has a bachelor's degree or higher in
2882 geology or related earth science and ~~with expertise in the~~
2883 ~~geology of Florida~~. A professional geologist must have
2884 ~~geological~~ experience and expertise in the identification of
2885 sinkhole activity as well as other potential geologic causes of
2886 structural damage ~~to the structure~~.

2887 (k) "Structural damage" means a covered building,
2888 regardless of the date of its construction, has experienced the
2889 following:

2890 1. Interior floor displacement or deflection in excess of
2891 acceptable variances as defined in ACI 117-90 or the Florida
2892 Building Code, which results in settlement related damage to the
2893 interior such that the interior building structure or members
2894 become unfit for service or represents a safety hazard as
2895 defined within the Florida Building Code;

2896 2. Foundation displacement or deflection in excess of
2897 acceptable variances as defined in ACI 318-95 or the Florida
2898 Building Code, which results in settlement related damage to the

399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

2899 primary structural members or primary structural systems that
2900 prevents those members or systems from supporting the loads and
2901 forces they were designed to support to the extent that stresses
2902 in those primary structural members or primary structural
2903 systems exceeds one and one-third the nominal strength allowed
2904 under the Florida Building Code for new buildings of similar
2905 structure, purpose, or location;

2906 3. Damage that results in listing, leaning, or buckling of
2907 the exterior load bearing walls or other vertical primary
2908 structural members to such an extent that a plumb line passing
2909 through the center of gravity does not fall inside the middle
2910 one-third of the base as defined within the Florida Building
2911 Code;

2912 4. Damage that results in the building, or any portion of
2913 the building containing primary structural members or primary
2914 structural systems, being significantly likely to imminently
2915 collapse because of the movement or instability of the ground
2916 within the influence zone of the supporting ground within the
2917 sheer plane necessary for the purpose of supporting such
2918 building as defined within the Florida Building Code; or

2919 5. Damage occurring on or after October 15, 2005, that
2920 qualifies as "substantial structural damage" as defined in the
2921 Florida Building Code.

2922 (d) "Primary structural member" means a structural element
2923 designed to provide support and stability for the vertical or
2924 lateral loads of the overall structure.

2925 (e) "Primary structural system" means an assemblage of
2926 primary structural members.

399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

2927 ~~(3) On or before June 1, 2007, Every insurer authorized to~~
2928 ~~transact property insurance in this state shall make a proper~~
2929 ~~filing with the office for the purpose of extending the~~
2930 ~~appropriate forms of property insurance to include coverage for~~
2931 ~~eatastrophic ground cover collapse or for sinkhole losses.~~
2932 ~~coverage for catastrophic ground cover collapse may not go into~~
2933 ~~effect until the effective date provided for in the filing~~
2934 ~~approved by the office.~~

2935 ~~(3)(4)~~ Insurers offering policies that exclude coverage
2936 for sinkhole losses must ~~shall~~ inform policyholders in bold type
2937 of not less than 14 points as follows: "YOUR POLICY PROVIDES
2938 COVERAGE FOR A CATASTROPHIC GROUND COVER COLLAPSE THAT RESULTS
2939 IN THE PROPERTY BEING CONDEMNED AND UNINHABITABLE. OTHERWISE,
2940 YOUR POLICY DOES NOT PROVIDE COVERAGE FOR SINKHOLE LOSSES. YOU
2941 MAY PURCHASE ADDITIONAL COVERAGE FOR SINKHOLE LOSSES FOR AN
2942 ADDITIONAL PREMIUM."

2943 ~~(4)(5)~~ An insurer offering sinkhole coverage to
2944 policyholders before or after the adoption of s. 30, chapter
2945 2007-1, Laws of Florida, may nonrenew the policies of
2946 policyholders maintaining sinkhole coverage ~~in Pasco County or~~
2947 ~~Hernando County,~~ at the option of the insurer, and provide an
2948 offer of coverage that ~~to such policyholders which~~ includes
2949 catastrophic ground cover collapse and excludes sinkhole
2950 coverage. Insurers acting in accordance with this subsection are
2951 subject to the following requirements:

2952 (a) Policyholders must be notified that a nonrenewal is
2953 for purposes of removing sinkhole coverage, and that the

399507

Approved For Filing: 5/3/2011 1:10:09 AM

Page 107 of 136

Amendment No.

2954 policyholder is ~~still~~ being offered a policy that provides
2955 coverage for catastrophic ground cover collapse.

2956 (b) Policyholders must be provided an actuarially
2957 reasonable premium credit or discount for the removal of
2958 sinkhole coverage and provision of only catastrophic ground
2959 cover collapse.

2960 (c) Subject to the provisions of this subsection and the
2961 insurer's approved underwriting or insurability guidelines, the
2962 insurer shall provide each policyholder with the opportunity to
2963 purchase an endorsement to his or her policy providing sinkhole
2964 coverage and may require an inspection of the property before
2965 issuance of a sinkhole coverage endorsement.

2966 (d) Section 624.4305 does not apply to nonrenewal notices
2967 issued pursuant to this subsection.

2968 (5) Any claim, including, but not limited to, initial,
2969 supplemental, and reopened claims under an insurance policy that
2970 provides sinkhole coverage is barred unless notice of the claim
2971 was given to the insurer in accordance with the terms of the
2972 policy within 2 years after the policyholder knew or reasonably
2973 should have known about the sinkhole loss.

2974 Section 24. Section 627.7061, Florida Statutes, is amended
2975 to read:

2976 627.7061 Coverage inquiries.—Inquiries about coverage on a
2977 property insurance contract are not claim activity, unless an
2978 actual claim is filed by the policyholder which ~~insured that~~
2979 results in a company investigation of the claim.

2980 Section 25. Section 627.7065, Florida Statutes, is
2981 repealed.

399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

2982 Section 26. Section 627.707, Florida Statutes, is amended
2983 to read:

2984 627.707 ~~Standards for~~ Investigation of sinkhole claims ~~by~~
2985 ~~insurers; insurer payment; nonrenewals.~~—Upon receipt of a claim
2986 for a sinkhole loss to a covered building, an insurer must meet
2987 the following standards in investigating a claim:

2988 (1) The insurer must inspect ~~make an inspection of the~~
2989 ~~policyholder's insured's~~ premises to determine if there is
2990 structural ~~has been physical~~ damage that ~~to the structure which~~
2991 may be the result of sinkhole activity.

2992 (2) If the insurer confirms that structural damage exists
2993 but is unable to identify a valid cause of such damage or
2994 discovers that such damage is consistent with sinkhole loss
2995 ~~Following the insurer's initial inspection~~, the insurer shall
2996 engage a professional engineer or a professional geologist to
2997 conduct testing as provided in s. 627.7072 to determine the
2998 cause of the loss within a reasonable professional probability
2999 and issue a report as provided in s. 627.7073, only if sinkhole
3000 loss is covered under the policy. Except as provided in
3001 subsections (4) and (6), the fees and costs of the professional
3002 engineer or professional geologist shall be paid by the
3003 insurer.÷

3004 ~~(a) The insurer is unable to identify a valid cause of the~~
3005 ~~damage or discovers damage to the structure which is consistent~~
3006 ~~with sinkhole loss; or~~

3007 ~~(b) The policyholder demands testing in accordance with~~
3008 ~~this section or s. 627.7072.~~

399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

3009 (3) Following the initial inspection of the policyholder's
3010 ~~insured~~ premises, the insurer shall provide written notice to
3011 the policyholder disclosing the following information:

3012 (a) What the insurer has determined to be the cause of
3013 damage, if the insurer has made such a determination.

3014 (b) A statement of the circumstances under which the
3015 insurer is required to engage a professional engineer or a
3016 professional geologist to verify or eliminate sinkhole loss and
3017 to engage a professional engineer to make recommendations
3018 regarding land and building stabilization and foundation repair.

3019 (c) A statement regarding the right of the policyholder to
3020 request testing by a professional engineer or a professional
3021 geologist, ~~and~~ the circumstances under which the policyholder
3022 may demand certain testing, and the circumstances under which
3023 the policyholder may incur costs associated with testing.

3024 (4) (a) If the insurer determines that there is no sinkhole
3025 loss, the insurer may deny the claim.

3026 (b) If coverage for sinkhole loss is available and ~~If~~ the
3027 insurer denies the claim, ~~without performing testing under s.~~
3028 627.7072, the policyholder may demand testing by the insurer
3029 under s. 627.7072.

3030 1. The policyholder's demand for testing must be
3031 communicated to the insurer in writing within 60 days after the
3032 policyholder's receipt of the insurer's denial of the claim.

3033 2. The policyholder shall pay 50 percent of the actual
3034 costs of the analyses and services provided under ss. 627.7072
3035 and 627.7073 or \$2,500, whichever is less.

399507

Approved For Filing: 5/3/2011 1:10:09 AM

Page 110 of 136

Amendment No.

3036 3. The insurer shall reimburse the policyholder for the
3037 costs if the insurer's engineer or geologist provides written
3038 certification pursuant to s. 627.7073 that there is sinkhole
3039 loss.

3040 ~~(5)(a) Subject to paragraph (b),~~ If a sinkhole loss is
3041 verified, the insurer shall pay to stabilize the land and
3042 building and repair the foundation in accordance with the
3043 recommendations of the professional engineer retained pursuant
3044 to subsection (2), as provided under s. 627.7073, and in
3045 ~~consultation~~ with notice to the policyholder, subject to the
3046 coverage and terms of the policy. The insurer shall pay for
3047 other repairs to the structure and contents in accordance with
3048 the terms of the policy.

3049 ~~(a)(b)~~ The insurer may limit its total claims payment to
3050 the actual cash value of the sinkhole loss, which does not
3051 include including underpinning or grouting or any other repair
3052 technique performed below the existing foundation of the
3053 building, until the policyholder enters into a contract for the
3054 performance of building stabilization or foundation repairs in
3055 accordance with the recommendations set forth in the insurer's
3056 report issued pursuant to s. 627.7073.

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

399507

Approved For Filing: 5/3/2011 1:10:09 AM

Page 111 of 136

Amendment No.

3063 the neutral evaluation process, and begins again 10 days after
3064 the conclusion of the neutral evaluation process.

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

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

3081 (b) unless:

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

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

3086 3. The claim is in litigation; or

3087 4. The claim is under appraisal or mediation.

3088 ~~(e)-(e)~~ Upon the insurer's obtaining the written approval
3089 of ~~the policyholder and~~ any lienholder, the insurer may make
3090 payment directly to the persons selected by the policyholder to
399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

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

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

3105 (6)(7) If the insurer obtains, pursuant to s. 627.7073,
3106 written certification that there is no sinkhole loss or that the
3107 cause of the damage was not sinkhole activity, and if the
3108 policyholder has submitted the sinkhole claim without good faith
3109 grounds for submitting such claim, the policyholder shall
3110 reimburse the insurer for 50 percent of the actual costs of the
3111 analyses and services provided under ss. 627.7072 and 627.7073;
3112 however, a policyholder is not required to reimburse an insurer
3113 more than \$2,500 with respect to any claim. A policyholder is
3114 required to pay reimbursement under this subsection only if the
3115 policyholder requested the analysis and services provided under
3116 ss. 627.7072 and 627.7073 and the insurer, before ~~prior to~~
3117 ordering the analysis under s. 627.7072, informs the
3118 policyholder in writing of the policyholder's potential

399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

3119 liability for reimbursement and gives the policyholder the
3120 opportunity to withdraw the claim.

3121 ~~(7)-(8)~~ An ~~Ne~~ insurer may not ~~shall~~ nonrenew any policy of
3122 property insurance on the basis of filing of claims for sinkhole
3123 ~~partial~~ loss if ~~caused by sinkhole damage or clay shrinkage as~~
3124 ~~long as~~ the total of such payments does not equal or exceed the
3125 ~~current~~ policy limits of coverage for the policy in effect on
3126 the date of loss, for property damage to the covered building,
3127 as set forth on the declarations page, or if ~~and provided the~~
3128 policyholder insured has repaired the structure in accordance
3129 with the engineering recommendations made pursuant to subsection
3130 (2) upon which any payment or policy proceeds were based. If the
3131 insurer pays such limits, it may nonrenew the policy.

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

3135 Section 27. Section 627.7073, Florida Statutes, is amended
3136 to read:

3137 627.7073 Sinkhole reports.—

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

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

399507

Approved For Filing: 5/3/2011 1:10:09 AM

Page 114 of 136

Amendment No.

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

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

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

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

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

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

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

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

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

3172 4. A description of the tests performed.

399507

Approved For Filing: 5/3/2011 1:10:09 AM

Page 115 of 136

Amendment No.

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

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

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

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

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

399507

Approved For Filing: 5/3/2011 1:10:09 AM

Page 116 of 136

Amendment No.

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

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

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

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

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

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

3221 (3) Upon completion of any building stabilization or
3222 foundation repairs for a verified sinkhole loss, the
3223 professional engineer responsible for monitoring the repairs
3224 shall issue a report to the property owner which specifies what
3225 repairs have been performed and certifies within a reasonable
3226 degree of professional probability that such repairs have been
3227 properly performed. The professional engineer issuing the report

399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

3228 shall file a copy of the report and certification, which
3229 includes a legal description of the real property and the name
3230 of the property owner, with the county clerk of the court, who
3231 shall record the report and certification. This subsection does
3232 not create liability for an insurer based on any representation
3233 or certification by a professional engineer related to the
3234 stabilization or foundation repairs for the verified sinkhole
3235 loss.

3236 Section 28. Section 627.7074, Florida Statutes, is amended
3237 to read:

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

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

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

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

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

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

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

399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

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

3259 (a) Causation;

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

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

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

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

3274 (4) Neutral evaluation is nonbinding, but mandatory if
3275 requested by either party. A request for neutral evaluation may
3276 be filed with the department by the policyholder or the insurer
3277 on a form approved by the department. The request for neutral
3278 evaluation must state the reason for the request and must
3279 include an explanation of all the issues in dispute at the time
3280 of the request. Filing a request for neutral evaluation tolls
3281 the applicable time requirements for filing suit for ~~a period of~~
3282 60 days following the conclusion of the neutral evaluation
3283 process or the time prescribed in s. 95.11, whichever is later.

399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

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

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

3303 (7) Upon receipt of a request for neutral evaluation, the
3304 department shall provide the parties a list of certified neutral
3305 evaluators. ~~The parties shall mutually select a neutral~~
3306 ~~evaluator from the list and promptly inform the department. If~~
3307 ~~the parties cannot agree to a neutral evaluator within 10~~
3308 ~~business days,~~ The department shall allow the parties to submit
3309 requests to disqualify evaluators on the list for cause.

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

399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

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

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

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

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

3329 (b) The parties shall appoint a neutral evaluator from the
3330 department list and promptly inform the department. If the
3331 parties cannot agree to a neutral evaluator within 14 business
3332 days, the department shall appoint a neutral evaluator from the
3333 list of certified neutral evaluators. The department shall allow
3334 each party to disqualify two neutral evaluators without cause.
3335 Upon selection or appointment, the department shall promptly
3336 refer the request to the neutral evaluator.

3337 (c) Within 14 5 business days after the referral, the
3338 neutral evaluator shall notify the policyholder and the insurer
3339 of the date, time, and place of the neutral evaluation

399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

3340 conference. The conference may be held by telephone, if feasible
3341 and desirable. The neutral evaluator shall make reasonable
3342 efforts to hold the neutral evaluation conference shall be held
3343 within 90 ~~45~~ days after the receipt of the request by the
3344 department. Failure of the neutral evaluator to hold the
3345 conference within 90 days does not invalidate either party's
3346 right to neutral evaluation or to a neutral evaluation
3347 conference held outside this timeframe.

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

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

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

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

3366 (11) If, based upon his or her professional training and
3367 credentials, a neutral evaluator is qualified to determine only

399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

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

3387 (12) At ~~For matters that are not resolved by the parties~~
3388 ~~at~~ the conclusion of the neutral evaluation, the neutral
3389 evaluator shall prepare a report describing all matters that are
3390 the subject of the neutral evaluation, including whether,
3391 ~~stating that~~ in his or her opinion, the sinkhole loss has been
3392 verified or eliminated within a reasonable degree of
3393 professional probability and, if verified, whether the sinkhole
3394 activity caused structural damage to the covered building, and
3395 if so, the need for and estimated costs of stabilizing the land
399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

3396 and any covered ~~structures or~~ buildings and other appropriate
3397 remediation or necessary building structural repairs due to the
3398 sinkhole loss. The evaluator's report shall be sent to all
3399 parties ~~in attendance at the neutral evaluation~~ and to the
3400 department, within 14 days after completing the neutral
3401 evaluation conference.

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

3408 (14) If the neutral evaluator ~~first~~ verifies the existence
3409 of a sinkhole that caused structural damage and, ~~second,~~
3410 recommends the need for and estimates costs of stabilizing the
3411 land and any covered ~~structures or~~ buildings and other
3412 appropriate remediation or building structural repairs, which
3413 ~~costs~~ exceed the amount that the insurer has offered to pay the
3414 policyholder, the insurer is liable to the policyholder for up
3415 to \$2,500 in attorney's fees for the attorney's participation in
3416 the neutral evaluation process. For purposes of this subsection,
3417 the term "offer to pay" means a written offer signed by the
3418 insurer or its legal representative and delivered to the
3419 policyholder within 10 days after the insurer receives notice
3420 that a request for neutral evaluation has been made under this
3421 section.

3422 (15) If the insurer timely agrees in writing to comply and
3423 timely complies with the recommendation of the neutral

399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

3424 evaluator, but the policyholder declines to resolve the matter
3425 in accordance with the recommendation of the neutral evaluator
3426 pursuant to this section:

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

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

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

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

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

3447 Section 29. Subsection (8) of section 627.711, Florida
3448 Statutes, is amended to read:

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

399507

Approved For Filing: 5/3/2011 1:10:09 AM

Page 125 of 136

Amendment No.

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

3459 Section 30. Subsection (1) of section 627.712, Florida
3460 Statutes, is amended to read:

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

3463 (1) An insurer issuing a residential property insurance
3464 policy must provide windstorm coverage. Except as provided in
3465 paragraph (2)(c), this section does not apply ~~with respect~~ to
3466 risks that are eligible for wind-only coverage from Citizens
3467 Property Insurance Corporation under s. 627.351(6), and ~~with~~
3468 ~~respect to~~ risks that are not eligible for coverage from
3469 Citizens Property Insurance Corporation under s. 627.351(6)(a)3.
3470 or 5. A risk ineligible for ~~Citizens~~ coverage by the corporation
3471 under s. 627.351(6)(a)3. or 5. is exempt from ~~the requirements~~
3472 ~~of~~ this section only if the risk is located within the
3473 boundaries of the coastal ~~high-risk~~ account of the corporation.

3474 Section 31. Subsection (3) of section 631.54, Florida
3475 Statutes, is amended to read:

3476 631.54 Definitions.-As used in this part:

3477 (3) "Covered claim" means an unpaid claim, including one
3478 of unearned premiums, which arises out of, and is within the
399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

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

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

3493 (b) Any claim that would otherwise be a covered claim
3494 under this part that has been rejected by any other state
3495 guaranty fund on the grounds that an insured's net worth is
3496 greater than that allowed under that state's guaranty law.
3497 Member insurers shall have no right of subrogation,
3498 contribution, indemnification, or otherwise, sought directly or
3499 indirectly through a third party, against the insured of any
3500 insolvent member; or

3501 (c) Any amount payable for a sinkhole loss other than
3502 testing deemed appropriate by the association or payable for the
3503 actual repair of the loss, except that the association may not
3504 pay for attorney's fees or public adjuster's fees in connection
3505 with a sinkhole loss or pay the policyholder. The association

399507

Approved For Filing: 5/3/2011 1:10:09 AM

Page 127 of 136

Amendment No.

3506 may pay for actual repairs to the property, but is not liable
3507 for amounts in excess of policy limits.

3508 Section 32. If any provision of this act, or the
3509 application thereof to any person or circumstance is held
3510 invalid, such invalidity shall not affect other provisions or
3511 applications of this act which can be given effect without the
3512 invalid provision or application. It is the express intent of
3513 the Legislature to enact multiple important, but independent,
3514 reforms to Florida law relating to sinkhole insurance coverage
3515 and related claims. The Legislature further intends that the
3516 multiple reforms in the act could and should be enforced if one
3517 or more provisions are held invalid. To this end, the provisions
3518 of this act are declared to be severable.

3519 Section 33. Except as otherwise expressly provided in this
3520 act, this act shall take effect upon becoming a law.

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3524

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

3525

Remove the entire title and insert:

3526

A bill to be entitled

3527

An act relating to property and casualty insurance;

3528

amending s. 95.11, F.S.; specifying a statute of

3529

limitation for a breach of a property insurance contract

3530

runs from the date of loss; amending s. 215.555, F.S.;

3531

revising the definition of "losses," relating to the

3532

Florida Hurricane Catastrophe Fund, to exclude certain

3533

losses; providing applicability; amending s. 215.5595,

399507

Approved For Filing: 5/3/2011 1:10:09 AM

Amendment No.

3534 F.S.; authorizing an insurer to renegotiate the terms a
3535 surplus note issued before a certain date; providing
3536 limitations; amending s. 624.407, F.S.; revising the
3537 amount of surplus funds required for domestic insurers
3538 applying for a certificate of authority; amending s.
3539 624.408, F.S.; revising the minimum surplus that must be
3540 maintained by certain insurers; authorizing the Office of
3541 Insurance Regulation to reduce the surplus requirement
3542 under specified circumstances; amending s. 626.852, F.S.;
3543 providing an exemption from licensure as an adjuster to
3544 persons who provide mortgage-related claims adjusting
3545 services to certain institutions; providing an exception
3546 to the exemption; amending s. 626.854, F.S.; providing
3547 limitations on the amount of compensation that may be
3548 received by a public adjuster for a reopened or
3549 supplemental claim; providing limitations on the amount of
3550 compensation that may be received by a public adjuster for
3551 a claim; applying specified provisions regulating the
3552 conduct of public adjusters to condominium unit owners
3553 rather than to condominium associations as is currently
3554 required; providing statements that may be considered
3555 deceptive or misleading if made in any public adjuster's
3556 advertisement or solicitation; providing a definition for
3557 the term "written advertisement"; requiring that a
3558 disclaimer be included in any public adjuster's written
3559 advertisement; providing requirements for such disclaimer;
3560 requiring certain persons who act on behalf of an insurer
3561 to provide notice to the insurer, claimant, public

399507

Approved For Filing: 5/3/2011 1:10:09 AM

Page 129 of 136

Amendment No.

3562 adjuster, or legal representative for an onsite inspection
3563 of the insured property; authorizing the insured or
3564 claimant to deny access to the property if notice is not
3565 provided; requiring the public adjuster to ensure prompt
3566 notice of certain property loss claims; providing that an
3567 insurer be allowed to interview the insured directly about
3568 the loss claim; prohibiting the insurer from obstructing
3569 or preventing the public adjuster from communicating with
3570 the insured; requiring that the insurer communicate with
3571 the public adjuster in an effort to reach an agreement as
3572 to the scope of the covered loss under the insurance
3573 policy; prohibiting a public adjuster from restricting or
3574 preventing persons acting on behalf of the insured from
3575 having reasonable access to the insured or the insured's
3576 property; prohibiting a public adjuster from restricting
3577 or preventing the insured's adjuster from having
3578 reasonable access to or inspecting the insured's property;
3579 authorizing the insured's adjuster to be present for the
3580 inspection; prohibiting a licensed contractor or
3581 subcontractor from adjusting a claim on behalf of an
3582 insured if such contractor or subcontractor is not a
3583 licensed public adjuster; providing an exception; amending
3584 s. 626.8796, F.S.; providing requirements for a public
3585 adjuster contract; creating s. 626.70132, F.S.; requiring
3586 that notice of a claim, supplemental claim, or reopened
3587 claim be given to the insurer within a specified period
3588 after a windstorm or hurricane occurs; providing a
3589 definition for the terms "supplemental claim" or "reopened

399507

Approved For Filing: 5/3/2011 1:10:09 AM

Page 130 of 136

Amendment No.

3590 claim"; providing applicability; repealing s. 627.0613(4),
3591 F.S., relating to the requirement that the consumer
3592 advocate for the Chief Financial Officer prepare an annual
3593 report card for each personal residential property
3594 insurer; amending s. 627.062, F.S.; extending the
3595 expiration date for making a "file and use" filing;
3596 prohibiting the Office of Insurance Regulation from,
3597 directly or indirectly, impeding the right of an insurer
3598 to acquire policyholders, advertise or appoint agents, or
3599 regulate agent commissions; revising the information that
3600 must be included in a rate filing relating to certain
3601 reinsurance or financing products; deleting a provision
3602 that prohibited an insurer from making certain rate
3603 filings within a certain period of time after a rate
3604 increase; deleting a provision prohibiting an insurer from
3605 filing for a rate increase within 6 months after it makes
3606 certain rate filings; deleting obsolete provisions
3607 relating to legislation enacted during the 2003 Special
3608 Session D of the Legislature; providing for the submission
3609 of additional or supplementary information pursuant to a
3610 rate filing; revising provisions relating to the
3611 certifications that are required to be made under oath by
3612 certain officers or actuaries of an insurer regarding
3613 information that must accompany a rate filing; amending s.
3614 627.06281, F.S.; providing limitations on fees charged for
3615 use of the public hurricane model; amending s. 627.0629,
3616 F.S.; deleting obsolete provisions; deleting a requirement
3617 that the Office of Insurance Regulation propose a method

399507

Approved For Filing: 5/3/2011 1:10:09 AM

Page 131 of 136

Amendment No.

3618 for establishing discounts, debits, credits, and other
3619 rate differentials for hurricane mitigation by a certain
3620 date; conforming provisions to changes made by the act;
3621 amending s. 627.351, F.S.; limiting an adjuster's fee for
3622 a claim against the corporation; renaming the "high-risk
3623 account" as the "coastal account"; revising the conditions
3624 under which the Citizens policyholder surcharge may be
3625 imposed; providing that members of the Citizens Property
3626 Insurance Corporation Board of Governors are not
3627 prohibited from practicing in a certain profession if not
3628 prohibited by law or ordinance; requiring the corporation
3629 to commission a consultant to prepare a report on
3630 outsourcing various functions and to submit such report to
3631 the Financial Services Commission by a certain date;
3632 limiting coverage for damage from sinkholes after a
3633 certain date; requiring the policyholders to sign a
3634 statement acknowledging that they may be assessed
3635 surcharges to cover corporate deficits; prohibiting board
3636 members from voting on certain measures; exempting
3637 sinkhole coverage from the corporation's annual rate
3638 increase requirements; deleting a requirement that the
3639 board provide an annual report to the Legislature relating
3640 to certain coverages; deleting a requirement that the
3641 board reduce the boundaries of certain high-risk areas
3642 eligible for wind-only coverages under certain
3643 circumstances; amending s. 627.3511, F.S.; conforming
3644 provisions to changes made by the act; amending s.
3645 627.4133, F.S.; revising the requirements for providing an

399507

Approved For Filing: 5/3/2011 1:10:09 AM

Page 132 of 136

Amendment No.

3646 insured with notice of nonrenewal, cancellation, or
3647 termination of personal lines or commercial residential
3648 property insurance; authorizing an insurer to cancel
3649 policies after 45 days' notice if the Office of Insurance
3650 Regulation determines that the cancellation of policies is
3651 necessary to protect the interests of the public or
3652 policyholders; authorizing the Office of Insurance
3653 Regulation to place an insurer under administrative
3654 supervision or appoint a receiver upon the consent of the
3655 insurer under certain circumstances; providing criteria
3656 and notice requirements relating to the nonrenewal of
3657 policy covering both a home and motor vehicle; creating s.
3658 627.43141, F.S.; providing definitions; requiring the
3659 delivery of a "Notice of Change in Policy Terms" under
3660 certain circumstances; specifying requirements for such
3661 notice; specifying actions constituting proof of notice;
3662 authorizing policy renewals to contain a change in policy
3663 terms; providing that receipt of payment by an insurer is
3664 deemed acceptance of new policy terms by an insured;
3665 providing that the original policy remains in effect until
3666 the occurrence of specified events if an insurer fails to
3667 provide notice; providing intent; amending s. 627.7011,
3668 F.S.; requiring the insurer to pay the actual cash value
3669 of an insured loss for a dwelling, less any applicable
3670 deductible; requiring the insurer to offer coverage under
3671 which the insurer is obligated to pay replacement costs;
3672 authorizing the insurer to offer coverage that limits the
3673 initial payment for personal property to the actual cash

399507

Approved For Filing: 5/3/2011 1:10:09 AM

Page 133 of 136

Amendment No.

3674 value of the property to be replaced and to require the
3675 insured to provide receipts for purchases; requiring the
3676 insurer to provide notice of this process before the
3677 policy is bound; requiring certain premium credits or
3678 discounts for such coverage; prohibiting an insurer from
3679 requiring the insured to advance payment; amending s.
3680 627.70131, F.S.; specifying application of certain time
3681 periods to initial or supplemental property insurance
3682 claim notices and payments; providing legislative findings
3683 with respect to 2005 statutory changes relating to
3684 sinkhole insurance coverage and statutory changes in this
3685 act; amending s. 627.706, F.S.; authorizing an insurer to
3686 limit coverage for catastrophic ground cover collapse to
3687 the principal building; authorizing an insurer to require
3688 an inspection before issuance of sinkhole loss coverage;
3689 revising definitions; defining the term "structural
3690 damage"; placing a 2-year statute of repose on claims for
3691 sinkhole coverage; amending s. 627.7061, F.S.; conforming
3692 provisions to changes made by the act; repealing s.
3693 627.7065, F.S., relating to the establishment of a
3694 sinkhole database; amending s. 627.707, F.S.; revising
3695 provisions relating to the investigation of sinkholes by
3696 insurers; providing a time limitation for demanding
3697 sinkhole testing by a policyholder and entering into a
3698 contract for repairs; requiring all repairs to be
3699 completed within a certain time; providing exceptions;
3700 providing criminal penalties for a person performing
3701 repairs who offers a rebate; amending s. 627.7073, F.S.;

399507

Approved For Filing: 5/3/2011 1:10:09 AM

Page 134 of 136

Amendment No.

3702 revising provisions relating to inspection reports;
3703 revising the reports that an insurer must file with the
3704 clerk of the court; requiring the policyholder to file
3705 certain reports as a precondition to accepting payment;
3706 requiring the professional engineer responsible for
3707 monitoring sinkhole repairs to issue a report and
3708 certification to the property owner and file such report
3709 with the court; providing that the act does not create
3710 liability for an insurer based on a representation or
3711 certification by the engineer; amending s. 627.7074, F.S.;;
3712 revising provisions relating to neutral evaluation;
3713 requiring evaluation in order to make certain
3714 determinations; requiring that the neutral evaluator be
3715 allowed access to structures being evaluated; providing
3716 grounds for disqualifying an evaluator; allowing the
3717 Department of Financial Services to appoint an evaluator
3718 if the parties cannot come to agreement; revising the
3719 timeframes for scheduling a neutral evaluation conference;
3720 authorizing an evaluator to enlist another evaluator or
3721 other professionals; providing a time certain for issuing
3722 a report; revising provisions relating to compliance with
3723 the evaluator's recommendations; providing that the
3724 evaluator is an agent of the department for the purposes
3725 of immunity from suit; requiring the department to adopt
3726 rules; amending s. 627.711, F.S.; revising the requirement
3727 that the insurer pay for verification of a uniform
3728 mitigation verification form that the insurer requires;
3729 amending s. 627.712, F.S.; conforming provisions to

399507

Approved For Filing: 5/3/2011 1:10:09 AM

Page 135 of 136

Amendment No.

3730 changes made by the act; amending s. 631.54, F.S.;

3731 revising the definition of the term "covered claim" for

3732 purposes of the Florida Insurance Guaranty Association

3733 Act; providing for applicability; providing severability;

3734 providing effective dates.