

Committee Substitute for Senate Bill No. 1486

An act relating to property insurance; amending s. 215.555, F.S.; revising the retention of losses for which an insurer is not entitled to reimbursement from the Florida Hurricane Catastrophe Fund; amending s. 215.559, F.S.; revising the allocation of funds appropriated to the Department of Community Affairs from the Florida Hurricane Catastrophe Fund for the Hurricane Loss Mitigation Program; requiring that the department establish a low-interest loan program and pilot project for hurricane loss mitigation; authorizing contractual agreements between the department and financial institutions; authorizing the Department of Community Affairs to adopt rules; amending s. 627.062, F.S.; requiring the Office of Insurance Regulation to submit a proposed plan to the Legislature establishing uniform rating territories to be used by insurers for residential property insurance rate filings; requiring a further act of the Legislature to implement the plan; limiting the recoupment by an insurer in its rates of the reimbursement premium it pays to the Florida Hurricane Catastrophe Fund; amending s. 627.0628, F.S.; restricting the admissibility and relevance in rate proceedings of findings of the Florida Commission on Hurricane Loss Projection Methodology; amending s. 627.0629, F.S.; lowering the percentage amount of a rate filing based on a computer model which requires a public hearing; creating s. 627.06281, F.S.; requiring residential property insurers and rating and advisory organizations to report hurricane loss data for development of a public hurricane model for hurricane loss projections; amending s. 627.351, F.S.; revising the appointments to the board and the approval of officers and employees of the corporation; providing additional legislative intent relating to the Citizens Property Insurance Corporation; authorizing the corporation to issue bonds and incur indebtedness for certain purposes; requiring creation of a Market Accountability Advisory Committee to assist the corporation for certain purposes; providing for appointment of committee members; providing for terms; requiring reports to the corporation; revising requirements for the plan of operation of the corporation; deleting an obsolete reporting requirement; establishing a pilot program; specifying nonapplication of certain policy requirements in a county lacking reasonable degrees of competition for certain policies under certain circumstances; requiring the commission to adopt rules; deleting an obsolete rate methodology panel reporting requirement provision; creating s. 627.40951, F.S.; providing legislative findings and intent; providing for an advisory committee; providing for membership; providing for recommendations to be submitted to the Legislature regarding standard residential property insurance policies; amending s. 627.411, F.S.; adding grounds for which the Office of Insurance Regulation must disapprove a form filed by an insurer; amending s. 627.4133, F.S.; prohibiting insurers from canceling or nonrenewing residential property insurance policies under certain emergency circumstances; providing exceptions; providing notice requirements; providing application to personal

residential and commercial residential policies covering certain damaged property; extending the effective date of certain policies under certain hurricane circumstances; authorizing the insurer to collect premiums for the extended period; providing nonapplication; amending s. 627.4143, F.S.; requiring insurers to provide personal lines property insurance policyholders with a checklist of items contained in policies; authorizing the Financial Services Commission to adopt rules; prescribing elements to be contained in the checklist; requiring the checklist and outline of insurance coverage to be sent with each renewal; clarifying that homeowners' insurance includes mobile homeowners', dwelling, and condominium unit owners' insurance for purposes of the outline of coverage; amending s. 627.701, F.S.; increasing the maximum allowable hurricane deductible for personal lines and certain commercial lines residential policies; requiring insurers to offer specified hurricane deductibles for such policies; requiring insurers to provide written notice explaining hurricane deductible options for such policies; providing for computation and display of the dollar value of hurricane deductibles; requiring insurers to compute and display actual dollar values of certain riders for certain policies; amending s. 627.701, F.S.; providing that the requirement for a hurricane deductible to apply on an annual basis applies to personal lines residential property insurance policies; requiring insurers that provide commercial residential property insurance to offer alternative hurricane deductibles that apply on an annual basis or to each hurricane; amending s. 627.7011, F.S.; requiring insurers to offer coverage for additional costs of repair due to laws and ordinances; requiring insurers to pay the replacement cost for a loss insured on that basis, whether or not the insured replaces or repairs the dwelling or property; requiring certain homeowner's insurance policies to contain a specified statement; providing intent; amending s. 627.7015, F.S.; revising purpose and scope provisions relating to an alternative procedure for resolution of disputed property insurance claims; providing that failure of an insurer to notify a claimant of the availability of mediation excuses an insured from being required to submit to certain loss appraisal processes; amending s. 627.702, F.S.; providing legislative intent regarding the requirement that an insurer pay policy limits if there is a total loss of a building; providing nonapplication of certain insurer liability requirements under certain circumstances; limiting an insurer's liability to certain loss covered by a covered peril; amending s. 627.706, F.S., relating to sinkhole insurance; providing definitions; creating s. 627.7065, F.S.; providing legislative findings; requiring the Department of Financial Services and the Office of the Insurance Consumer Advocate to consult with the Florida Geological Survey and the Department of Environmental Protection to implement a statewide automated database of sinkholes and related activity; providing requirements for the form and content of the database; authorizing the Department of Financial Services to require insurers to provide certain information; providing for management of the database; requiring the department to investigate sinkhole activity reports and include findings and investigations in the

database; requiring the Department of Environmental Protection to report on the database to the Governor, Legislature, and Chief Financial Officer; authorizing the Department of Financial Services to adopt implementing rules; amending s. 627.707, F.S.; revising standards for investigations of sinkhole claims by insurers; requiring an insurer to engage an engineer or professional geologist for certain purposes; requiring a report under certain circumstances; requiring an insurer to provide written notice to a policyholder disclosing certain information; authorizing an insurer to deny a claim under certain circumstances; authorizing a policyholder to demand certain testing; providing requirements; specifying required activities for insurers if a sinkhole loss is verified; specifying payment requirements for insurers; providing limitations; requiring the insurer to pay fees of the engineer and geologist; authorizing an insurer to engage a structural engineer for certain purposes; creating s. 627.7072, F.S.; specifying requirements for sinkhole testing by engineers and geologists; creating s. 627.7073, F.S.; providing reporting requirements for engineers and geologists after testing for sinkholes; specifying a presumption of correctness of certain findings; requiring an insurer paying a sinkhole loss claim to file a report and certification with the county property appraiser; requiring the property appraiser to record the report and certification; requiring the insurer to bear the cost of filing and recording; requiring a seller of certain property to make certain disclosures to property buyers under certain circumstances; creating s. 627.711, F.S.; requiring insurers to notify applicants or policyholders of the availability and amounts of certain discounts, credits, rate differentials, or reductions in deductibles for properties on which certain fixtures have been installed or construction techniques have been implemented; requiring insurers to provide qualifying information; authorizing the Financial Services Commission to adopt rules; creating s. 627.712, F.S.; requiring property insurers to pay or deny claims within certain time periods; providing that overdue payments bear interest; creating the Task Force on Long-Term Solutions for Florida's Hurricane Insurance Market; requiring the Executive Office of the Governor, the Department of Financial Services, and the Office of Insurance Regulation to provide administrative support and staff support; providing membership; providing purpose and intent; providing for research and hearings on specified issues; requiring the task force to submit a report of findings and recommendations to the Governor, the Chief Financial Officer, the President of the Senate, and the Speaker of the House of Representatives; providing for additional activities; providing for expiration of the task force; requiring the Office of Insurance Regulation to submit a report to the Legislature relating to residential property insurance; providing report requirements; requiring the Office of the Auditor General to conduct an operational audit of Citizens Property Insurance Corporation; specifying audit requirements; requiring a report; requiring the board of governors of the Citizens Property Insurance Corporation to submit a report to the Legislature relating to property and casualty insurance; specifying report requirements; providing an appro-

priation and authorizing positions; providing a contingent effective date; providing effective dates.

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

Section 1. Effective June 1, 2005, paragraph (e) of subsection (2) of section 215.555, Florida Statutes, is amended to read:

215.555 Florida Hurricane Catastrophe Fund.—

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

(e) “Retention” means the amount of losses below which an insurer is not entitled to reimbursement from the fund. An insurer’s retention shall be calculated as follows:

1. The board shall calculate and report to each insurer the retention multiples for that year. For the contract year beginning June 1, ~~2005~~ 2004, the retention multiple shall be equal to \$4.5 billion divided by the total estimated reimbursement premium for the contract year; for subsequent years, the retention multiple shall be equal to \$4.5 billion, adjusted based upon the reported exposure from the prior contract year to reflect the percentage growth in exposure to the fund for covered policies since ~~2004~~ 2003, divided by the total estimated reimbursement premium for the contract year. Total reimbursement premium for purposes of the calculation under this subparagraph shall be estimated using the assumption that all insurers have selected the 90-percent coverage level.

2. The retention multiple as determined under subparagraph 1. shall be adjusted to reflect the coverage level elected by the insurer. For insurers electing the 90-percent coverage level, the adjusted retention multiple is 100 percent of the amount determined under subparagraph 1. For insurers electing the 75-percent coverage level, the retention multiple is 120 percent of the amount determined under subparagraph 1. For insurers electing the 45-percent coverage level, the adjusted retention multiple is 200 percent of the amount determined under subparagraph 1.

3. An insurer shall determine its provisional retention by multiplying its provisional reimbursement premium by the applicable adjusted retention multiple and shall determine its actual retention by multiplying its actual reimbursement premium by the applicable adjusted retention multiple.

4. For insurers who experience multiple covered events causing loss during the contract year, beginning June 1, 2005, each insurer’s full retention shall be applied to each of the covered events causing the two largest losses for that insurer. For each other covered event resulting in losses, the insurer’s retention shall be reduced to one-third of the full retention. The reimbursement contract shall provide for the reimbursement of losses for each covered event based on the full retention with adjustments made to reflect the reduced retentions after January 1 of the contract year provided the insurer reports its losses as specified in the reimbursement contract.

Section 2. Effective July 1, 2005, section 215.559, Florida Statutes, is amended to read:

215.559 Hurricane Loss Mitigation Program.—

(1) There is created a Hurricane Loss Mitigation Program. The Legislature shall annually appropriate \$10 million of the moneys authorized for appropriation under s. 215.555(7)(c) from the Florida Hurricane Catastrophe Fund to the Department of Community Affairs for the purposes set forth in this section.

(2)(a) Seven million dollars in funds provided in subsection (1) shall be used for programs to improve the wind resistance of residences and mobile homes, including loans, subsidies, grants, demonstration projects, and direct assistance; cooperative programs with local governments and the Federal Government; and other efforts to prevent or reduce losses or reduce the cost of rebuilding after a disaster.

(b) Three million dollars in funds provided in subsection (1) shall be used to retrofit existing facilities used as public hurricane shelters. The department must prioritize the use of these funds for projects included in the September 1, 2000, version of the Shelter Retrofit Report prepared in accordance with s. 252.385(3), and each annual report thereafter. The department must give funding priority to projects in regional planning council regions that have shelter deficits and to projects that maximize use of state funds.

(3) By the 2006-2007 fiscal year, the Department of Community Affairs shall develop a low-interest loan program for homeowners and mobile home owners to retrofit their homes with fixtures or apply construction techniques that have been demonstrated to reduce the amount of damage or loss due to a hurricane. Funding for the program shall be used to subsidize or guaranty private-sector loans for this purpose to qualified homeowners by financial institutions chartered by the state or Federal Government. The department may enter into contracts with financial institutions for this purpose. The department shall establish criteria for determining eligibility for the loans and selecting recipients, standards for retrofitting homes or mobile homes, limitations on loan subsidies and loan guaranties, and other terms and conditions of the program, which must be specified in the department's report to the Legislature on January 1, 2006, required by subsection (8). For the 2005-2006 fiscal year, the Department of Community Affairs may use up to \$1 million of the funds appropriated pursuant to paragraph (2)(a) to begin the low-interest loan program as a pilot project in one or more counties. The Department of Financial Services, the Office of Financial Regulation, the Florida Housing Finance Corporation, and the Office of Tourism, Trade, and Economic Development shall assist the Department of Community Affairs in establishing the program and pilot project. The department may use up to 2.5 percent of the funds appropriated in any given fiscal year for administering the loan program. The department may adopt rules to implement the program.

~~(4)~~(3) Forty percent of the total appropriation in paragraph (2)(a) shall be used to inspect and improve tie-downs for mobile homes. Within 30 days

after the effective date of that appropriation, the department shall contract with a public higher educational institution in this state which has previous experience in administering the programs set forth in this subsection to serve as the administrative entity and fiscal agent pursuant to s. 216.346 for the purpose of administering the programs set forth in this subsection in accordance with established policy and procedures. The administrative entity working with the advisory council set up under subsection ~~(6)~~ (5) shall develop a list of mobile home parks and counties that may be eligible to participate in the tie-down program.

~~(5)~~(4) Of moneys provided to the Department of Community Affairs in paragraph ~~(2)~~(a), 10 percent shall be allocated to a Type I Center within the State University System dedicated to hurricane research. The Type I Center shall develop a preliminary work plan approved by the advisory council set forth in subsection ~~(6)~~ (5) to eliminate the state and local barriers to upgrading existing mobile homes and communities, research and develop a program for the recycling of existing older mobile homes, and support programs of research and development relating to hurricane loss reduction devices and techniques for site-built residences. The State University System also shall consult with the Department of Community Affairs and assist the department with the report required under subsection ~~(8)~~ (7).

~~(6)~~(5) ~~Except for the program set forth in subsection (3),~~ The Department of Community Affairs shall develop the programs set forth in this section in consultation with an advisory council consisting of a representative designated by the Chief Financial Officer, a representative designated by the Florida Home Builders Association, a representative designated by the Florida Insurance Council, a representative designated by the Federation of Manufactured Home Owners, a representative designated by the Florida Association of Counties, and a representative designated by the Florida Manufactured Housing Association.

~~(7)~~(6) Moneys provided to the Department of Community Affairs under this section are intended to supplement other funding sources of the Department of Community Affairs and may not supplant other funding sources of the Department of Community Affairs.

~~(8)~~(7) On January 1st of each year, the Department of Community Affairs shall provide a full report and accounting of activities under this section and an evaluation of such activities to the Speaker of the House of Representatives, the President of the Senate, and the Majority and Minority Leaders of the House of Representatives and the Senate.

~~(9)~~(8) This section is repealed June 30, 2011.

Section 3. Subsections ~~(4)~~ and ~~(5)~~ of section 627.062, Florida Statutes, are amended to read:

627.062 Rate standards.—

~~(4)~~ The establishment of any rate, rating classification, rating plan or schedule, or variation thereof in violation of part IX of chapter 626 is also in violation of this section. In order to enhance the ability of consumers to

compare premiums and to increase the accuracy and usefulness of rate-comparison information provided by the office to the public, the office shall develop a proposed standard rating territory plan to be used by all authorized property and casualty insurers for residential property insurance. In adopting the proposed plan, the office may consider geographical characteristics relevant to risk, county lines, major roadways, existing rating territories used by a significant segment of the market, and other relevant factors. Such plan shall be submitted to the President of the Senate and the Speaker of the House of Representatives by January 15, 2006. The plan may not be implemented unless authorized by further act of the Legislature.

(5) With respect to a rate filing involving coverage of the type for which the insurer is required to pay a reimbursement premium to the Florida Hurricane Catastrophe Fund, the insurer may fully recoup in its property insurance premiums any reimbursement premiums paid to the Florida Hurricane Catastrophe Fund, together with reasonable costs of other reinsurance, but may not recoup reinsurance costs that duplicate coverage provided by the Florida Hurricane Catastrophe Fund. An insurer may not recoup more than 1 year of reimbursement premium at a time. Any under-recoupment from the prior year may be added to the following year's reimbursement premium and any over-recoupment shall be subtracted from the following year's reimbursement premium.

Section 4. Paragraph (c) of subsection (1) and paragraph (c) of subsection (3) of section 627.0628, Florida Statutes, are amended to read:

627.0628 Florida Commission on Hurricane Loss Projection Methodology.—

(1) LEGISLATIVE FINDINGS AND INTENT.—

(c) It is the intent of the Legislature to create the Florida Commission on Hurricane Loss Projection Methodology as a panel of experts to provide the most actuarially sophisticated guidelines and standards for projection of hurricane losses possible, given the current state of actuarial science. It is the further intent of the Legislature that such standards and guidelines must be used by the State Board of Administration in developing reimbursement premium rates for the Florida Hurricane Catastrophe Fund, and, subject to paragraph (3)(c), may be used by insurers in rate filings under s. 627.062 unless the way in which such standards and guidelines were applied by the insurer was erroneous, as shown by a preponderance of the evidence.

(3) ADOPTION AND EFFECT OF STANDARDS AND GUIDELINES.—

(c) With respect to a rate filing under s. 627.062, an insurer may employ actuarial methods, principles, standards, models, or output ranges found by the commission to be accurate or reliable to determine hurricane loss factors for use in a rate filing under s. 627.062. Such, which findings and factors are admissible and relevant in consideration of a rate filing by the office or in any arbitration or administrative or judicial review only if the office and the consumer advocate appointed pursuant to s. 627.0613 have access to all of the assumptions and factors that were used in developing the actuarial

methods, principles, standards, models, or output ranges, and are not precluded from disclosing such information in a rate proceeding.

Section 5. Subsection (7) of section 627.0629, Florida Statutes, is amended to read:

627.0629 Residential property insurance; rate filings.—

(7) Any rate filing that is based in whole or part on data from a computer model may not exceed 15 ~~25~~ percent unless there is a public hearing.

Section 6. Section 627.06281, Florida Statutes, is created to read:

627.06281 Public hurricane loss projection model; reporting of data by insurers.—Within 30 days after a written request for loss data and associated exposure data by the office or a type I center within the State University System established to study mitigation, residential property insurers and licensed rating and advisory organizations that compile residential property insurance loss data shall provide loss data and associated exposure data for residential property insurance policies to the office or to a type I center within the State University System established to study mitigation, as directed by the office, for the purposes of developing, maintaining, and updating a public model for hurricane loss projections. The loss data and associated exposure data provided shall be in writing.

Section 7. Paragraphs (a), (c), and (d) of subsection (6) of section 627.351, Florida Statutes, are amended to read:

627.351 Insurance risk apportionment plans.—

(6) CITIZENS PROPERTY INSURANCE CORPORATION.—

(a)1. The Legislature finds that actual and threatened catastrophic losses to property in this state from hurricanes have caused insurers to be unwilling or unable to provide property insurance coverage to the extent sought and needed. It is in the public interest and a public purpose to assist in assuring that property in the state is insured so as to facilitate the remediation, reconstruction, and replacement of damaged or destroyed property in order to reduce or avoid the negative effects otherwise resulting to the public health, safety, and welfare; to the economy of the state; and to the revenues of the state and local governments needed to provide for the public welfare. It is necessary, therefore, to provide property insurance to applicants who are in good faith entitled to procure insurance through the voluntary market but are unable to do so. The Legislature intends by this subsection that property insurance be provided and that it continues, as long as necessary, through an entity organized to achieve efficiencies and economies, while providing service to policyholders, applicants, and agents that is no less than the quality generally provided in the voluntary market, all toward the achievement of the foregoing public purposes. Because it is essential for the corporation to have the maximum financial resources to pay claims following a catastrophic hurricane, it is the intent of the Legislature that the income of the corporation be exempt from federal income taxation and that interest on the debt obligations issued by the corporation be exempt from federal income taxation.

2. The Residential Property and Casualty Joint Underwriting Association originally created by this statute shall be known, as of July 1, 2002, as the Citizens Property Insurance Corporation. The corporation shall provide insurance for residential and commercial property, for applicants who are in good faith entitled, but are unable, to procure insurance through the voluntary market. The corporation shall operate pursuant to a plan of operation approved by order of the office. The plan is subject to continuous review by the office. The office may, by order, withdraw approval of all or part of a plan if the office determines that conditions have changed since approval was granted and that the purposes of the plan require changes in the plan. For the purposes of this subsection, residential coverage includes both personal lines residential coverage, which consists of the type of coverage provided by homeowner's, mobile home owner's, dwelling, tenant's, condominium unit owner's, and similar policies, and commercial lines residential coverage, which consists of the type of coverage provided by condominium association, apartment building, and similar policies.

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

(c) The plan of operation of the corporation:

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

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

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

c. Commercial lines residential policy forms that are generally similar to the basic perils of full coverage obtainable for commercial residential structures in the admitted voluntary market.

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

e. Commercial lines nonresidential property insurance forms that cover the peril of wind only. The forms are applicable only to nonresidential prop-

erties located in areas eligible for coverage under the high-risk account referred to in sub-subparagraph (b)2.a.

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

(I) "Quota share primary insurance" means an arrangement in which the primary hurricane coverage of an eligible risk is provided in specified percentages by the corporation and an authorized insurer. The corporation and authorized insurer are each solely responsible for a specified percentage of hurricane coverage of an eligible risk as set forth in a quota share primary insurance agreement between the corporation and an authorized insurer and the insurance contract. The responsibility of the corporation or authorized insurer to pay its specified percentage of hurricane losses of an eligible risk, as set forth in the quota share primary insurance agreement, may not be altered by the inability of the other party to the agreement to pay its specified percentage of hurricane losses. Eligible risks that are provided hurricane coverage through a quota share primary insurance arrangement must be provided policy forms that set forth the obligations of the corporation and authorized insurer under the arrangement, clearly specify the percentages of quota share primary insurance provided by the corporation and authorized insurer, and conspicuously and clearly state that neither the authorized insurer nor the corporation may be held responsible beyond its specified percentage of coverage of hurricane losses.

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

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

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

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

e. Any quota share primary insurance agreement entered into between an authorized insurer and the corporation is subject to review and approval by the office. However, such agreement shall be authorized only as to insur-

ance contracts entered into between an authorized insurer and an insured who is already insured by the corporation for wind coverage.

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

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

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

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

funds available to the corporation as security for bonds or other indebtedness. In recognition of s. 10, Art. I of the State Constitution, prohibiting the impairment of obligations of contracts, it is the intent of the Legislature that no action be taken whose purpose is to impair any bond indenture or financing agreement or any revenue source committed by contract to such bond or other indebtedness.

4.a. Must require that the corporation operate subject to the supervision and approval of a board of governors consisting of 8 7 individuals who are residents of this state, from different geographical areas of this state, appointed by the Chief Financial Officer. The Governor, the Chief Financial Officer, the President of the Senate, and the Speaker of the House of Representatives shall each appoint two members of the board, effective August 1, 2005. At least one of the two members appointed by each appointing officer must have demonstrated expertise in insurance. The Chief Financial Officer shall designate one of the appointees as chair. All board members serve at the pleasure of the appointing officer Chief Financial Officer. All board members, including the chair, must be appointed to serve for 3-year terms beginning annually on a date designated by the plan. Any board vacancy shall be filled for the unexpired term by the appointing officer Chief Financial Officer. The Chief Financial Officer shall appoint a technical advisory group to provide information and advice to the board of governors in connection with the board's duties under this subsection. The executive director and senior managers of the corporation shall be engaged by the board, as recommended by the Chief Financial Officer and serve at the pleasure of the board Chief Financial Officer. The executive director is responsible for employing other staff as the corporation may require, subject to review and concurrence by the board and office of the Chief Financial Officer.

b. The board shall create a Market Accountability Advisory Committee to assist the corporation in developing awareness of its rates and its customer and agent service levels in relationship to the voluntary market insurers writing similar coverage. The members of the advisory committee shall consist of the following 11 persons, one of whom must be elected chair by the members of the committee: four representatives, one appointed by the Florida Association of Insurance Agents, one by the Florida Association of Insurance and Financial Advisors, one by the Professional Insurance Agents of Florida, and one by the Latin American Association of Insurance Agencies; three representatives appointed by the insurers with the three highest voluntary market share of residential property insurance business in the state; one representative from the Office of Insurance Regulation; one consumer appointed by the board who is insured by the corporation at the time of appointment to the committee; one representative appointed by the Florida Association of Realtors; and one representative appointed by the Florida Bankers Association. All members must serve for 3-year terms and may serve for consecutive terms. The committee shall report to the corporation at each board meeting on insurance market issues which may include rates and rate competition with the voluntary market; service, including policy issuance, claims processing, and general responsiveness to policyholders, applicants, and agents; and matters relating to depopulation.

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

a. Subject to the provisions of s. 627.3517, with respect to personal lines residential risks, if the risk is offered coverage from an authorized insurer at the insurer's approved rate under either a standard policy including wind coverage or, if consistent with the insurer's underwriting rules as filed with the office, a basic policy including wind coverage, the risk is not eligible for any policy issued by the corporation. If the risk is not able to obtain any such offer, the risk is eligible for either a standard policy including wind coverage or a basic policy including wind coverage issued by the corporation; however, if the risk could not be insured under a standard policy including wind coverage regardless of market conditions, the risk shall be eligible for a basic policy including wind coverage unless rejected under subparagraph 8. The corporation shall determine the type of policy to be provided on the basis of objective standards specified in the underwriting manual and based on generally accepted underwriting practices.

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

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

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

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

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

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

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

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

b. With respect to commercial lines residential risks, if the risk is offered coverage under a policy including wind coverage from an authorized insurer at its approved rate, the risk is not eligible for any policy issued by the corporation. If the risk is not able to obtain any such offer, the risk is eligible for a policy including wind coverage issued by the corporation.

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

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

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

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

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

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

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

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

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

7. Must provide that if premium and investment income for an account attributable to a particular calendar year are in excess of projected losses

and expenses for the account attributable to that year, such excess shall be held in surplus in the account. Such surplus shall be available to defray deficits in that account as to future years and shall be used for that purpose prior to assessing assessable insurers and assessable insureds as to any calendar year.

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

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

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

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

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

10. Must provide that in the event of regular deficit assessments under sub-subparagraph (b)3.a. or sub-subparagraph (b)3.b., in the personal lines account, the commercial lines residential account, or the high-risk account, the corporation shall levy upon corporation policyholders in its next rate filing, or by a separate rate filing solely for this purpose, a market equalization surcharge arising from a regular assessment in such account in a percentage equal to the total amount of such regular assessments divided by the aggregate statewide direct written premium for subject lines of business for the prior calendar year. Market equalization surcharges under this subparagraph are not considered premium and are not subject to commissions, fees, or premium taxes; however, failure to pay a market equalization surcharge shall be treated as failure to pay premium.

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

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

13. May establish, subject to approval by the office, different eligibility requirements and operational procedures for any line or type of coverage for any specified county or area if the board determines that such changes to

the eligibility requirements and operational procedures are justified due to the voluntary market being sufficiently stable and competitive in such area or for such line or type of coverage and that consumers who, in good faith, are unable to obtain insurance through the voluntary market through ordinary methods would continue to have access to coverage from the corporation. When coverage is sought in connection with a real property transfer, such requirements and procedures shall not provide for an effective date of coverage later than the date of the closing of the transfer as established by the transferor, the transferee, and, if applicable, the lender.

14. Must provide that, with respect to the high-risk account, any assessable insurer with a surplus as to policyholders of \$25 million or less writing 25 percent or more of its total countrywide property insurance premiums in this state may petition the office, within the first 90 days of each calendar year, to qualify as a limited apportionment company. In no event shall a limited apportionment company be required to participate in the portion of any assessment, within the high-risk account, pursuant to sub-subparagraph (b)3.a. or sub-subparagraph (b)3.b. in the aggregate which exceeds \$50 million after payment of available high-risk account funds in any calendar year. However, a limited apportionment company shall collect from its policyholders any emergency assessment imposed under sub-subparagraph (b)3.d. The plan shall provide that, if the office determines that any regular assessment will result in an impairment of the surplus of a limited apportionment company, the office may direct that all or part of such assessment be deferred as provided in subparagraph (g)4. However, there shall be no limitation or deferment of an emergency assessment to be collected from policyholders under sub-subparagraph (b)3.d.

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

(d)1. It is the intent of the Legislature that the rates for coverage provided by the corporation be actuarially sound and not competitive with approved rates charged in the admitted voluntary market, so that the corporation functions as a residual market mechanism to provide insurance only when the insurance cannot be procured in the voluntary market. Rates shall include an appropriate catastrophe loading factor that reflects the actual catastrophic exposure of the corporation.

2. For each county, the average rates of the corporation for each line of business for personal lines residential policies excluding rates for wind-only policies shall be no lower than the average rates charged by the insurer that had the highest average rate in that county among the 20 insurers with the greatest total direct written premium in the state for that line of business in the preceding year, except that with respect to mobile home coverages, the average rates of the corporation shall be no lower than the average rates charged by the insurer that had the highest average rate in that county among the 5 insurers with the greatest total written premium for mobile home owner's policies in the state in the preceding year.

3. Rates for personal lines residential wind-only policies must be actuarially sound and not competitive with approved rates charged by authorized insurers. ~~However, for personal lines residential wind-only policies issued or renewed between July 1, 2002, and June 30, 2003, the maximum premium increase must be no greater than 10 percent of the Florida Windstorm Underwriting Association premium for that policy in effect on June 30, 2002, as adjusted for coverage changes and seasonal occupancy surcharges. For personal lines residential wind-only policies issued or renewed between July 1, 2003, and June 30, 2004, the corporation shall use its existing filed and approved wind-only rating and classification plans, provided, however, that the maximum premium increase must be no greater than 20 percent of the premium for that policy in effect on June 30, 2003, as adjusted for coverage changes and seasonal occupancy surcharges. Corporation rate manuals shall include a rate surcharge for seasonal occupancy. To ensure that personal lines residential wind-only rates effective on or after July 1, 2004, are not competitive with approved rates charged by authorized insurers, the corporation, in conjunction with the office, shall develop a wind-only ratemaking methodology, which methodology shall be contained in each a rate filing made by the corporation with the office by January 1, 2004. If the office thereafter determines that the wind-only rates or rating factors filed by the corporation fail to comply with the wind-only ratemaking methodology provided for in this subsection, it shall so notify the corporation and require the corporation to amend its rates or rating factors to come into compliance within 90 days of notice from the office. The office shall report to the Speaker of the House of Representatives and the President of the Senate on the provisions of the wind-only ratemaking methodology by January 31, 2004.~~

4. For the purposes of establishing a pilot program to evaluate issues relating to the availability and affordability of insurance in an area where historically there has been little market competition, the provisions of subparagraph 2. do not apply to coverage provided by the corporation in Monroe County if the office determines that a reasonable degree of competition does not exist for personal lines residential policies. The provisions of subparagraph 3. do not apply to coverage provided by the corporation in Monroe County if the office determines that a reasonable degree of competition does not exist for personal lines residential policies in the area of that county which is eligible for wind-only coverage. In this county, the rates for personal lines residential coverage shall be actuarially sound and not excessive, inadequate, or unfairly discriminatory and are subject to the other provisions of the paragraph and s. 627.062. The commission shall adopt rules establishing the criteria for determining whether a reasonable degree of competition exists for personal lines residential policies in Monroe County. By March 1, 2006, the office shall submit a report to the Legislature providing an evaluation of the implementation of the pilot program affecting Monroe County.

5.4. Rates for commercial lines coverage shall not be subject to the requirements of subparagraph 2., but shall be subject to all other requirements of this paragraph and s. 627.062.

6.5. Nothing in this paragraph shall require or allow the corporation to adopt a rate that is inadequate under s. 627.062.

7.6. The corporation shall certify to the office at least twice annually that its personal lines rates comply with the requirements of subparagraphs 1. and 2. If any adjustment in the rates or rating factors of the corporation is necessary to ensure such compliance, the corporation shall make and implement such adjustments and file its revised rates and rating factors with the office. If the office thereafter determines that the revised rates and rating factors fail to comply with the provisions of subparagraphs 1. and 2., it shall notify the corporation and require the corporation to amend its rates or rating factors in conjunction with its next rate filing. The office must notify the corporation by electronic means of any rate filing it approves for any insurer among the insurers referred to in subparagraph 2.

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

9.8.a. To assist the corporation in developing additional ratemaking methods to assure compliance with subparagraphs 1. and 4., the corporation shall appoint a rate methodology panel consisting of one person recommended by the Florida Association of Insurance Agents, one person recommended by the Professional Insurance Agents of Florida, one person recommended by the Florida Association of Insurance and Financial Advisors, one person recommended by the insurer with the highest voluntary market share of residential property insurance business in the state, one person recommended by the insurer with the second-highest voluntary market share of residential property insurance business in the state, one person recommended by an insurer writing commercial residential property insurance in this state, one person recommended by the Office of Insurance Regulation, and one board member designated by the board chairman, who shall serve as chairman of the panel.

b. By January 1, 2004, the rate methodology panel shall provide a report to the corporation of its findings and recommendations for the use of additional ratemaking methods and procedures, including the use of a rate equalization surcharge in an amount sufficient to assure that the total cost of coverage for policyholders or applicants to the corporation is sufficient to comply with subparagraph 1.

c. Within 30 days after such report, the corporation shall present to the President of the Senate, the Speaker of the House of Representatives, the minority party leaders of each house of the Legislature, and the chairs of the standing committees of each house of the Legislature having jurisdiction of insurance issues, a plan for implementing the additional ratemaking methods and an outline of any legislation needed to facilitate use of the new methods.

d. The plan must include a provision that producer commissions paid by the corporation shall not be calculated in such a manner as to include any rate equalization surcharge. However, without regard to the plan to be developed or its implementation, producer commissions paid by the corporation for each account, other than the quota share primary program, shall

remain fixed as to percentage, effective rate, calculation, and payment method until January 1, 2004.

10.9. By January 1, 2004, the corporation shall develop a notice to policyholders or applicants that the rates of Citizens Property Insurance Corporation are intended to be higher than the rates of any admitted carrier and providing other information the corporation deems necessary to assist consumers in finding other voluntary admitted insurers willing to insure their property.

Section 8. Section 627.40951, Florida Statutes, is created to read:

627.40951 Standard personal lines residential insurance policy.—

(1) The Legislature finds that many consumers who filed property loss claims as a result of the hurricanes that struck this state in 2004 were inadequately insured due to the difficulty consumers encounter in trying to understand the complex nature of property insurance policies. The purpose and intent of this section is to have property and casualty insurers offer standard personal lines residential property insurance policies and standard checklists of policy contents, in accordance with s. 627.4143, to consumers and to ensure that these policies and checklists are written in a simple format with easily readable language that will enable most consumers to understand the principal benefits and coverage provided in the policy; the principal exclusions and limitations or reductions contained in the policy, including, but not limited to, deductibles, coinsurance, and any other limitations or reductions; and any additional coverage provided through any rider or endorsement that accompanies the policy and renewal or cancellation provisions.

(2) The Chief Financial Officer shall appoint an advisory committee composed of two representatives of insurers currently selling personal lines residential property insurance coverage, two representatives of property and casualty agents, two representatives of consumers, two representatives of the Commissioner of Insurance Regulation, and the Insurance Consumer Advocate or her or his designee. The Chief Financial Officer or her or his designee shall serve as chair of the committee. The committee shall develop policy language for coverage that represents general industry standards in the market for comprehensive coverage under personal lines residential insurance policies and shall develop a checklist to be used with each type of personal lines residential property insurance policy. The committee shall review policies and related forms written by Insurance Services Office, Inc. The committee shall file a report containing its recommendations to the President of the Senate and the Speaker of the House of Representatives by January 15, 2006. No insurer shall be required to offer the standard policy unless required by further act of the Legislature.

Section 9. Subsection (1) of section 627.411, Florida Statutes, is amended to read:

627.411 Grounds for disapproval.—

(1) The office shall disapprove any form filed under s. 627.410, or withdraw any previous approval thereof, only if the form:

(a) Is in any respect in violation of, or does not comply with, this code.

(b) Contains or incorporates by reference, where such incorporation is otherwise permissible, any inconsistent, ambiguous, or misleading clauses, or exceptions and conditions which deceptively affect the risk purported to be assumed in the general coverage of the contract.

(c) Has any title, heading, or other indication of its provisions which is misleading.

(d) Is printed or otherwise reproduced in such manner as to render any material provision of the form substantially illegible.

(e) Is for residential property insurance and contains provisions that are unfair or inequitable or encourage misrepresentation.

(f)(e) Is for health insurance, and:

1. Provides benefits that are unreasonable in relation to the premium charged.;

2. Contains provisions that are unfair or inequitable or contrary to the public policy of this state or that encourage misrepresentation.;

3. Contains provisions that apply rating practices that result in unfair discrimination pursuant to s. 626.9541(1)(g)2.

(g)(f) Excludes coverage for human immunodeficiency virus infection or acquired immune deficiency syndrome or contains limitations in the benefits payable, or in the terms or conditions of such contract, for human immunodeficiency virus infection or acquired immune deficiency syndrome which are different than those which apply to any other sickness or medical condition.

Section 10. Paragraphs (d) and (e) are added to subsection (2) of section 627.4133, Florida Statutes, to read:

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

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

(d)1. Upon a declaration of an emergency pursuant to s. 252.36 and the filing of an order by the Commissioner of Insurance Regulation, an insurer may not cancel or nonrenew a personal residential or commercial residential property insurance policy covering a dwelling or residential property located in this state which has been damaged as a result of a hurricane or wind loss that is the subject of the declaration of emergency for a period of 90 days

after the dwelling or residential property has been repaired. A structure is deemed to be repaired when substantially completed and restored to the extent that it is insurable by another authorized insurer that is writing policies in this state.

2. However, an insurer or agent may cancel or nonrenew such a policy prior to the repair of the dwelling or residential property:

a. Upon 10 days' notice for nonpayment of premium; or

b. Upon 45 days' notice:

(I) For a material misstatement or fraud related to the claim;

(II) If the insurer determines that the insured has unreasonably caused a delay in the repair of the dwelling; or

(III) If the insurer has paid policy limits.

3. If the insurer elects to nonrenew a policy covering a property that has been damaged, the insurer shall provide at least 90 days' notice to the insured that the insurer intends to nonrenew the policy 90 days after the dwelling or residential property has been repaired. Nothing in this paragraph shall prevent the insurer from canceling or nonrenewing the policy 90 days after the repairs are complete for the same reasons the insurer would otherwise have canceled or nonrenewed the policy but for the limitations of subparagraph 1. The Financial Services Commission may adopt rules, and the Commissioner of Insurance Regulation may issue orders, necessary to implement this paragraph.

4. This paragraph shall also apply to personal residential and commercial residential policies covering property that was damaged as the result of Tropical Storm Bonnie, Hurricane Charley, Hurricane Frances, Hurricane Ivan, or Hurricane Jeanne.

(e) If any cancellation or nonrenewal of a policy subject to this subsection is to take effect during the duration of a hurricane as defined in s. 627.4025(2)(c), the effective date of such cancellation or nonrenewal is extended until the end of the duration of such hurricane. The insurer may collect premium at the prior rates or the rates then in effect for the period of time for which coverage is extended. This paragraph does not apply to any property with respect to which replacement coverage has been obtained and which is in effect for a claim occurring during the duration of the hurricane.

Section 11. Effective January 1, 2006, section 627.4143, Florida Statutes, is amended to read:

627.4143 Outline of coverage.—

(1) No private passenger automobile or basic homeowner's policy shall be delivered or issued for delivery in this state unless an appropriate outline of coverage has been delivered prior to issuance of the policy or accompanies the policy when issued.

(2) The outline of coverage for a private passenger motor vehicle insurance policy shall contain all of the following:

(a) A brief description of the principal benefits and coverage provided in the policy, broken down by each class or type of coverage provided under the policy for which a premium is charged, and itemization of the applicable premium.

(b) A summary statement of the principal exclusions and limitations or reductions contained in the policy by class or type, including, but not limited to, deductibles, coinsurance, and any other limitations or reductions.

(c) A summary statement of any renewal or cancellation provisions.

(d) A description of the credit or surcharge plan that is being applied. The description may display numerical or alphabetical codes on the declarations page or premium notice to enable the insured to determine the reason or reasons why her or his policy is being surcharged or is receiving a credit.

(e) A list of any additional coverage provided through any rider or endorsement which accompanies the policy. The list shall contain a descriptive reference to each additional coverage, rather than solely a reference to a form or code number.

(f) ~~For a private passenger motor vehicle insurance policy,~~ The extent of coverage provided to the insured in the event of collision damage to a rental vehicle rented by the insured. The proof-of-insurance card required by s. 316.646 must also specify whether rental car coverage is provided, and may refer to the outline of coverage as to the details or extent of coverage.

(3) A basic homeowners', mobile homeowners', dwelling, or condominium unit owners' policy may not be delivered or issued for delivery in this state unless a comprehensive checklist of coverage on a form adopted by the commission and an appropriate outline of coverage have been delivered prior to issuance of the policy or accompanies the policy when issued. The commission shall, by rule, adopt a form for the checklist for each type of policy to which this subsection applies. Each form shall indicate that it was adopted by the commission.

(a) The checklist must contain a list of the standard provisions and elements that may typically be included in these policies, whether or not they are included in the particular policy being issued, in a format that allows the insurer to place a check mark next to the provisions elements that are included so that the consumer can see both what is included and what is not included in the policy. As an alternative to checking the boxes on the checklist, an insurer may delete the check boxes from the form and replace them with text indicating whether the provision's elements are included or not. Limits of liability shall be listed for each item. The checklist must include, but is not limited to, the following:

1. Property coverage for the principal premises shown in the declarations.

2. Property coverage for other structures on the residence premises.
3. Whether the principal premises and other structures are insured against the following perils:
 - a. Fire.
 - b. Lightning.
 - c. Explosion.
 - d. Hurricane loss.
 - e. Nonhurricane wind loss.
 - f. Collapse.
 - g. Mold.
 - h. Sinkhole loss.
 - i. Vandalism.
4. Personal property coverage.
5. Whether personal property is insured against the following perils:
 - a. Fire.
 - b. Lightning.
 - c. Hurricane loss.
 - d. Nonhurricane wind loss.
 - e. Collapse.
 - f. Mold.
 - g. Sinkhole loss.
 - h. Theft.
6. The following additional coverages:
 - a. Debris removal.
 - b. Loss assessment.
 - c. Additional living expenses.
7. Personal liability coverage.
8. Medical payments coverage.
9. Discounts applied to the premium.

10. Deductibles for loss due to hurricane and loss to other perils.
11. Building ordinance or law coverage.
12. Replacement cost coverage.
13. Actual cash value coverage.

(b) The forms shall allow insurers to place other coverages on the checklists which may or may not be included in the insurer's policies.

(c) The outline of coverage must contain:

1. A brief description of the principal benefits and coverage provided in the policy, broken down by each class or type of coverage provided under the policy for which a premium is charged, and itemization of the applicable premium.

2. A summary statement of the principal exclusions and limitations or reductions contained in the policy by class or type, including, but not limited to, deductibles, coinsurance, and any other limitations or reductions.

3. A summary statement of any renewal or cancellation provisions.

4. A description of the credit or surcharge plan that is being applied. The description may display numerical or alphabetical codes on the declarations page or premium notice to enable the insured to determine the reason or reasons why her or his policy is being surcharged or is receiving a credit.

5. A summary of any additional coverage provided through any rider or endorsement that accompanies the policy.

(4)(3) The outline of coverage for a private passenger motor vehicle policy is required only on the initial policy issued by an insurer. The outline of coverage and the checklist for a basic homeowners', mobile homeowners', dwelling, or condominium unit owners' policy is required on the initial policy and each renewal thereof issued by an insurer.

(5)(4) An insurer must insert the following language on the outline of coverage:

"The following outline of coverage or checklist is for informational purposes only. Florida law prohibits this outline or checklist from changing any of the provisions of the insurance contract which is the subject of this outline. Any endorsement regarding changes in types of coverage, exclusions, limitations, reductions, deductibles, coinsurance, renewal provisions, cancellation provisions, surcharges, or credits will be sent separately."

(6)(5) Neither this section nor the outline of coverage or checklist mandated by this section alters or modifies the terms of the insurance contract, creates a cause of action, or is admissible in any civil action.

Section 12. Effective October 1, 2005, subsections (3), (4), (8), and (9) of section 627.701, Florida Statutes, as amended by section 4 of chapter 2004-480, Laws of Florida, are amended to read:

627.701 Liability of insureds; coinsurance; deductibles.—

(3)(a) A policy of residential property insurance shall include a deductible amount applicable to hurricane ~~or wind~~ losses no lower than \$500 and no higher than 2 percent of the policy dwelling limits with respect to personal lines residential risks, and no higher than 3 percent of the policy limits with respect to commercial lines residential risks; however, if a risk was covered on August 24, 1992, under a policy having a higher deductible than the deductibles allowed by this paragraph, a policy covering such risk may include a deductible no higher than the deductible in effect on August 24, 1992. Notwithstanding the other provisions of this paragraph, a personal lines residential policy covering a risk valued at \$50,000 or less may include a deductible amount attributable to hurricane ~~or wind~~ losses no lower than \$250, and a personal lines residential policy covering a risk valued at \$100,000 or more may include a deductible amount attributable to hurricane ~~or wind~~ losses no higher than ~~10~~ 5 percent of the policy limits unless subject to a higher deductible on August 24, 1992; however, no maximum deductible is required with respect to a personal lines residential policy covering a risk valued at more than \$500,000. An insurer may require a higher deductible, provided such deductible is the same as or similar to a deductible program lawfully in effect on June 14, 1995. In addition to the deductible amounts authorized by this paragraph, an insurer may also offer policies with a copayment provision under which, after exhaustion of the deductible, the policyholder is responsible for 10 percent of the next \$10,000 of insured hurricane ~~or wind~~ losses.

(b)1. Except as otherwise provided in this paragraph, prior to issuing a personal lines residential property insurance policy on or after January 1, 2006 ~~April 1, 1996~~, or prior to the first renewal of a residential property insurance policy on or after January 1, 2006 ~~April 1, 1996~~, the insurer must offer alternative deductible amounts applicable to hurricane ~~or wind~~ losses equal to \$500, and 2 percent, 5 percent, and 10 percent of the policy dwelling limits, unless the specific percentage ~~2 percent~~ deductible is less than \$500. The written notice of the offer shall specify the hurricane or wind deductible to be applied in the event that the applicant or policyholder fails to affirmatively choose a hurricane deductible. The insurer must provide such policyholder with notice of the availability of the deductible amounts specified in this paragraph in a form approved by the office in conjunction with each renewal of the policy. The failure to provide such notice constitutes a violation of this code but does not affect the coverage provided under the policy.

2. This paragraph does not apply with respect to a deductible program lawfully in effect on June 14, 1995, or to any similar deductible program, if the deductible program requires a minimum deductible amount of no less than 2 percent of the policy limits.

3. With respect to a policy covering a risk with dwelling limits of at least \$100,000, but less than \$250,000, the insurer may, in lieu of offering a policy with a \$500 hurricane or wind deductible as required by subparagraph 1., offer a policy that the insurer guarantees it will not nonrenew for reasons of reducing hurricane loss for one renewal period and that contains up to a 2 percent hurricane or wind deductible as required by subparagraph 1.

4. With respect to a policy covering a risk with dwelling limits of \$250,000 or more, the insurer need not offer the \$500 hurricane or wind deductible as required by subparagraph 1., but must, except as otherwise provided in this subsection, offer the other 2 percent hurricane deductibles or wind deductible as required by subparagraph 1.

~~(c) In order to provide for the transition from wind deductibles to hurricane deductibles as required by this subsection, an insurer is required to provide wind deductibles meeting the requirements of this subsection until the effective date of the insurer's first rate filing made after January 1, 1997, and is thereafter required to provide hurricane deductibles meeting the requirements of this subsection.~~

(4)(a) Any policy that contains a separate hurricane deductible must on its face include in boldfaced type no smaller than 18 points the following statement: "THIS POLICY CONTAINS A SEPARATE DEDUCTIBLE FOR HURRICANE LOSSES, WHICH MAY RESULT IN HIGH OUT-OF-POCKET EXPENSES TO YOU." A policy containing a coinsurance provision applicable to hurricane losses must on its face include in boldfaced type no smaller than 18 points the following statement: "THIS POLICY CONTAINS A CO-PAY PROVISION THAT MAY RESULT IN HIGH OUT-OF-POCKET EXPENSES TO YOU."

(b) Beginning October 1, 2005, for any personal lines residential property insurance policy containing a separate hurricane deductible, the insurer shall compute and prominently display the actual dollar value of the hurricane deductible on the declarations page of the policy at issuance and, for renewal, on the renewal declarations page of the policy or on the premium renewal notice.

(c) Beginning October 1, 2005, for any personal lines residential property insurance policy containing an inflation guard rider, the insurer shall compute and prominently display the actual dollar value of the hurricane deductible on the declarations page of the policy at issuance and, for renewal, on the renewal declarations page of the policy or on the premium renewal notice. In addition, beginning October 1, 2005, for any personal lines residential property insurance policy containing an inflation guard rider, the insurer shall notify the policyholder of the possibility that the hurricane deductible may be higher than indicated when loss occurs due to application of the inflation guard rider. Such notification shall be made on the declarations page of the policy at issuance and, for renewal, on the renewal declarations page of the policy or on the premium renewal notice.

~~(8)(a) The Legislature finds that property insurance coverage has become unaffordable for a significant number of mobile home owners, as evidenced by reports that up to 100,000 mobile home owners have terminated their insurance coverage because they cannot afford to pay approved rates charged in the voluntary or residual markets. The Legislature further finds that additional flexibility in available coverages will enable mobile home owners to obtain affordable insurance and increase capacity.~~

~~(b) Notwithstanding the provisions of subsection (3), with respect to mobile home policies:~~

~~1. The deductible for hurricane coverage may not exceed 10 percent of the property value if the property is not subject to any liens and may not exceed 5 percent of the property value if the property is subject to any liens.~~

~~2. The insurer need not make the offers required by paragraph (3)(b).~~

(8)(9) Notwithstanding the other provisions of this section or of other law, but only as to hurricane coverage as defined in s. 627.4025 for commercial lines residential coverages, an insurer may offer a deductible in an amount not exceeding ~~5 percent of the insured value with respect to a condominium association or cooperative association policy, or in an amount not exceeding 10 percent of the insured value with respect to any other commercial lines residential policy,~~ if, at the time of such offer and at each renewal, the insurer also offers to the policyholder a deductible in the amount of 3 percent of the insured value. Nothing in this subsection prohibits any deductible otherwise authorized by this section. All forms by which the offers authorized in this subsection are made or required to be made shall be on forms that are adopted or approved by the commission or office.

Section 13. Subsection (5) of section 627.701, Florida Statutes, as amended by section 4 of chapter 2004-480, Laws of Florida, is amended to read:

627.701 Liability of Insureds; coinsurance; deductibles.—

(5)(a) The hurricane deductible of any personal lines residential property insurance policy issued or renewed on or after May 1, 2005, shall be applied as follows:

1.(a) The hurricane deductible shall apply on an annual basis to all covered hurricane losses that occur during the calendar year for losses that are covered under one or more policies issued by the same insurer or an insurer in the same insurer group.

2.(b) If a hurricane deductible applies separately to each of one or more structures insured under a single policy, the requirements of this paragraph subsection apply with respect to the deductible for each structure.

3.(c) If there was a hurricane loss for a prior hurricane or hurricanes during the calendar year, the insurer may apply a deductible to a subsequent hurricane which ~~that~~ is the greater of the remaining amount of the hurricane deductible or the amount of the deductible that applies to perils other than a hurricane. Insurers may require policyholders to report hurricane losses that are below the hurricane deductible or to maintain receipts or other records of such hurricane losses in order to apply such losses to subsequent hurricane claims.

4.(d) If there are hurricane losses in a calendar year on more than one policy issued by the same insurer or an insurer in the same insurer group, the hurricane deductible shall be the highest amount stated in any one of the policies. If a policyholder who had a hurricane loss under the prior policy is provided or offered a lower hurricane deductible under the new or renewal policy, the insurer must notify the policyholder, in writing, at the time the

lower hurricane deductible is provided or offered, that the lower hurricane deductible will not apply until January 1 of the following calendar year.

(b) For commercial residential property insurance policies issued or renewed on or after January 1, 2006, the insurer must offer the policyholder the following alternative hurricane deductibles:

1. A hurricane deductible that applies on an annual basis as provided in paragraph (a); and

2. A hurricane deductible that applies to each hurricane.

Section 14. Effective October 1, 2005, section 627.7011, Florida Statutes, is amended to read:

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

(1) Prior to issuing a homeowner's insurance policy on or after October 1, 2005 ~~June 1, 1994~~, or prior to the first renewal of a homeowner's insurance policy on or after October 1, 2005 ~~June 1, 1994~~, the insurer must offer each of the following:

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

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

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

(2) Unless the insurer obtains the policyholder's written refusal of the policies or endorsements specified in subsection (1), any policy covering the

dwelling is deemed to include the coverage specified in paragraph (1)(b). The rejection or selection of alternative coverage shall be made on a form approved by the office. The form shall fully advise the applicant of the nature of the coverage being rejected. If this form is signed by a named insured, it will be conclusively presumed that there was an informed, knowing rejection of the coverage or election of the alternative coverage on behalf of all insureds. Unless the policyholder requests in writing the coverage specified in this section, it need not be provided in or supplemental to any other policy that renews, insures, extends, changes, supersedes, or replaces an existing policy when the policyholder has rejected the coverage specified in this section or has selected alternative coverage. The insurer must provide such policyholder with notice of the availability of such coverage in a form approved by the office at least once every 3 years. The failure to provide such notice constitutes a violation of this code, but does not affect the coverage provided under the policy.

(3) In the event of a loss for which a dwelling or personal property is insured on the basis of replacement costs, the insurer shall pay the replacement cost without reservation or holdback of any depreciation in value, whether or not the insured replaces or repairs the dwelling or property.

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

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

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

(5)(3) Nothing in this section shall be construed to apply to policies not considered to be “homeowners’ policies,” as that term is commonly understood in the insurance industry. This section specifically does not apply to mobile home policies. Nothing in this section shall be construed as limiting the ability of any insurer to reject or nonrenew any insured or applicant on the grounds that the structure does not meet underwriting criteria applicable to replacement cost or law and ordinance policies or for other lawful reasons.

Section 15. Effective July 1, 2005, subsections (1) and (7) of section 627.7015, Florida Statutes, are amended, and subsection (2) of that section is reenacted, to read:

627.7015 Alternative procedure for resolution of disputed property insurance claims.—

(1) **PURPOSE AND SCOPE.**—This section sets forth a nonadversarial alternative dispute resolution procedure for a mediated claim resolution conference prompted by the need for effective, fair, and timely handling of property insurance claims. There is a particular need for an informal, non-threatening forum for helping parties who elect this procedure to resolve their claims disputes because most homeowner's and commercial residential insurance policies obligate insureds to participate in a potentially expensive and time-consuming adversarial appraisal process prior to litigation. The procedure set forth in this section is designed to bring the parties together for a mediated claims settlement conference without any of the trappings or drawbacks of an adversarial process. Before resorting to these procedures, insureds and insurers are encouraged to resolve claims as quickly and fairly as possible. This section is available with respect to claims under personal lines and commercial residential policies for all claimants and insurers prior to commencing the appraisal process, or commencing litigation. If requested by the insured, participation by legal counsel shall be permitted. Mediation under this section is also available to litigants referred to the department by a county court or circuit court. This section does not apply to commercial coverages, to private passenger motor vehicle insurance coverages, or to disputes relating to liability coverages in policies of property insurance.

(2) At the time a first-party claim within the scope of this section is filed, the insurer shall notify all first-party claimants of their right to participate in the mediation program under this section. The department shall prepare a consumer information pamphlet for distribution to persons participating in mediation under this section.

(7) If the insurer fails to comply with subsection (2) by failing to notify a first-party claimant of its right to participate in the mediation program under this section or if the insurer requests the mediation, and the mediation results are rejected by either party, the insured shall not be required to submit to or participate in any contractual loss appraisal process of the property loss damage as a precondition to legal action for breach of contract against the insurer for its failure to pay the policyholder's claims covered by the policy.

Section 16. Subsection (1) of section 627.702, Florida Statutes, is amended to read:

627.702 Valued policy law.—

(1)(a) In the event of the total loss of any building, structure, mobile home as defined in s. 320.01(2), or manufactured building as defined in s. 553.36(12), located in this state and insured by any insurer as to a covered peril, in the absence of any change increasing the risk without the insurer's consent and in the absence of fraudulent or criminal fault on the part of the insured or one acting in her or his behalf, the insurer's liability, ~~if any,~~ under the policy for such total loss, if caused by a covered peril, shall be in the amount of money for which such property was so insured as specified in the policy and for which a premium has been charged and paid.

(b) The intent of this subsection is not to deprive an insurer of any proper defense under the policy, to create new or additional coverage under the policy, or to require an insurer to pay for a loss caused by a peril other than the covered peril. In furtherance of such legislative intent, when a loss was caused in part by a covered peril and in part by a noncovered peril, paragraph (a) does not apply. In such circumstances, the insurer's liability under this section shall be limited to the amount of the loss caused by the covered peril. However, if the covered perils alone would have caused the total loss, paragraph (a) shall apply. The insurer is never liable for more than the amount necessary to repair, rebuild, or replace the structure following the total loss, after considering all other benefits actually paid for the total loss.

(c) It is the intent of the Legislature that the amendment to this section shall not be applied retroactively and shall apply only to claims filed after effective date of such amendment.

Section 17. Section 627.706, Florida Statutes, is amended to read:

627.706 Sinkhole insurance; definitions.—

(1) Every insurer authorized to transact property insurance in this state shall make available coverage for insurable sinkhole losses on any structure, including contents of personal property contained therein, to the extent provided in the form to which the sinkhole coverage attaches.

(2) As used in ss. 627.706-627.7074, and as used in connection with any policy providing coverage for sinkhole losses:

(a) "Sinkhole" means a landform created by subsidence of soil, sediment, or rock as underlying strata are dissolved by ground water. A sinkhole may form by collapse into subterranean voids created by dissolution of limestone or dolostone or by subsidence as these strata are dissolved.

(b)(2) "Sinkhole loss" means structural damage to the building, including the foundation, caused by sinkhole activity. Contents coverage shall apply only if there is structural damage to the building caused by sinkhole activity.

(c)(3) "Sinkhole activity loss" means actual physical damage to the property covered arising out of or caused by sudden settlement or systematic weakening collapse of the earth supporting such property only when such settlement or systematic weakening collapse results from movement or raveling of soils, sediments, or rock materials into subterranean voids created by the effect action of water on a limestone or similar rock formation.

(d) "Engineer" means a person, as defined in s. 471.005, who has a bachelor degree or higher in engineering with a specialty in the geotechnical engineering field. An engineer must have geotechnical experience and expertise in the identification of sinkhole activity as well as other potential causes of damage to the structure.

(e) "Professional geologist" means a person, as defined by s. 492.102, who has a bachelor degree or higher in geology or related earth science with expertise in the geology of Florida. A professional geologist must have geo-

logical experience and expertise in the identification of sinkhole activity as well as other potential geologic causes of damage to the structure.

(3)(4) Every insurer authorized to transact property insurance in this state shall make a proper filing with the office for the purpose of extending the appropriate forms of property insurance to include coverage for ~~insurable~~ sinkhole losses.

Section 18. Section 627.7065, Florida Statutes, is created to read:

627.7065 Database of information relating to sinkholes; the Department of Financial Services and the Department of Environmental Protection.—

(1) The Legislature finds that there has been a dramatic increase in the number of sinkholes and insurance claims for sinkhole damage in the state during the past 10 years. Accordingly, the Legislature recognizes the need to track current and past sinkhole activity and to make the information available for prevention and remediation activities. The Legislature further finds that the Florida Geological Survey of the Department of Environmental Protection has created a partial database of some sinkholes identified in Florida, although the database is not reflective of all sinkholes or insurance claims for sinkhole damage. The Legislature determines that creating a complete electronic database of sinkhole activity serves an important purpose in protecting the public and in studying property claims activities in the insurance industry.

(2) The Department of Financial Services, including the employee of the Division of Consumer Services designated as the primary contact for consumers on issues relating to sinkholes, and the Office of the Insurance Consumer Advocate shall consult with the Florida Geological Survey and the Department of Environmental Protection to implement a statewide automated database of sinkholes and related activity identified in the state.

(3) Representatives of the Department of Financial Services, with the agreement of the Department of Environmental Protection, shall determine the form and content of the database. The content may include standards for reporting and investigating sinkholes for inclusion in the database and requirements for insurers to report to the departments the receipt of claims involving sinkhole loss and other similar activities. The Department of Financial Services may require insurers to report present and past data of sinkhole claims. The database also may include information of damage due to ground settling and other subsidence activity.

(4) The Department of Financial Services may manage the database or may contract for its management and maintenance. The Department of Environmental Protection shall investigate reports of sinkhole activity and include its findings and investigations in the database.

(5) The Department of Environmental Protection, in consultation with the Department of Financial Services, shall present a report of activities relating to the sinkhole database, including recommendations regarding the database and similar matters, to the Governor, the Speaker of the House of

Representatives, the President of the Senate, and the Chief Financial Officer by December 31, 2005. The report may consider the need for the Legislature to create an entity to study the increase in sinkhole activity in the state and other similar issues relating to sinkhole damage, including recommendations and costs for staffing the entity. The report may include other information, as appropriate.

(6) The Department of Financial Services, in consultation with the Department of Environmental Protection, may adopt rules to implement this section.

Section 19. Section 627.707, Florida Statutes, is amended to read:

627.707 ~~Minimum~~ Standards for investigation of sinkhole claims by insurers; nonrenewals.—

(4) Upon receipt of a claim for a sinkhole loss, an insurer must meet the following ~~minimum~~ standards in investigating a claim:

~~(1)(a) Upon receipt of a claim for a sinkhole loss, The insurer must make an inspection of the insured's premises to determine if there has been physical damage to the structure which may ~~might~~ be the result of sinkhole activity.~~

~~(b) If, upon the investigation pursuant to paragraph (a), the insurer discovers damage to a structure which is consistent with sinkhole activity or if the structure is located in close proximity to a structure in which sinkhole damage has been verified, then prior to denying a claim, the insurer must obtain a written certification from an individual qualified to determine the existence of sinkhole activity, stating that the cause of the claim is not sinkhole activity, and that the analysis conducted was of sufficient scope to eliminate sinkhole activity as the cause of damage within a reasonable professional probability. The written certification must also specify the professional discipline and professional licensure or registration under which the analysis was conducted.~~

(2) Following the insurer's initial inspection, the insurer shall engage an engineer or a professional geologist to conduct testing as provided in s. 627.7072 to determine the cause of the loss within a reasonable professional probability and issue a report as provided in s. 627.7073, if:

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

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

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

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

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

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

(4) If the insurer determines that there is no sinkhole loss, the insurer may deny the claim. If the insurer denies the claim, without performing testing under s. 627.7072, the policyholder may demand testing by the insurer under s. 627.7072. The policyholder's demand for testing must be communicated to the insurer in writing after the policyholder's receipt of the insurer's denial of the claim.

(5)(a) Subject to paragraph (b), if a sinkhole loss is verified, the insurer shall pay to stabilize the land and building and repair the foundation in accordance with the recommendations of the engineer as provided under s. 627.7073, and in consultation with the policyholder, subject to the coverage and terms of the policy. The insurer shall pay for other repairs to the structure and contents in accordance with the terms of the policy.

(b) The insurer may limit its payment to the actual cash value of the sinkhole loss, not including underpinning or grouting or any other repair technique performed below the existing foundation of the building, until the policyholder enters into a contract for the performance of building stabilization or foundation repairs. After the policyholder enters into the contract, the insurer shall pay the amounts necessary to begin and perform such repairs as the work is performed and the expenses are incurred. The insurer may not require the policyholder to advance payment for such repairs. If repair has begun and the engineer selected or approved by the insurer determines that the repair cannot be completed within the policy limits, the insurer must either complete the engineer's recommended repair or tender the policy limits to the policyholder without a reduction for the repair expenses incurred.

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

(7)(e) If the insurer obtains, pursuant to s. 627.7073 paragraph (b), written certification that ~~there is no sinkhole loss or that the cause of the damage claim~~ was not sinkhole activity, and if the policyholder has submitted the sinkhole claim without good faith grounds for submitting such claim, the policyholder shall reimburse the insurer for 50 percent of the actual costs cost of the analyses and services provided analysis under ss. 627.7072 and 627.7073 ~~paragraph (b)~~; however, a policyholder is not required to reimburse an insurer more than \$2,500 with respect to any claim. A policyholder is required to pay reimbursement under this subsection paragraph only if the insurer, prior to ordering the analysis under s. 627.7072 ~~paragraph (b)~~, informs the policyholder in writing of the policyholder's potential liability for reimbursement and gives the policyholder the opportunity to withdraw the claim.

(8)(2) No insurer shall nonrenew any policy of property insurance on the basis of filing of claims for partial loss caused by sinkhole damage or clay shrinkage as long as the total of such payments does not exceed the current policy limits of coverage for property damage, and provided the insured has repaired the structure in accordance with the engineering recommendations upon which any payment or policy proceeds were based.

(9) The insurer may engage a structural engineer to make recommendations as to the repair of the structure.

Section 20. Section 627.7072, Florida Statutes, is created to read:

627.7072 Testing standards for sinkholes.—

(1) The engineer and professional geologist shall perform such tests as sufficient, in their professional opinion, to determine the presence or absence of sinkhole loss or other cause of damage within reasonable professional probability and for the engineer to make recommendations regarding necessary building stabilization, and foundation repair.

(2) Testing by a professional geologist shall be conducted in compliance with the Florida Geological Survey Special Publication No. 57 (2005).

Section 21. Section 627.7073, Florida Statutes, is created to read:

627.7073 Sinkhole reports.—

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

(a) Sinkhole loss is verified if, based upon tests performed in accordance with s. 627.7072, an engineer and a professional geologist issue a written report and certification stating:

1. That the cause of the actual physical and structural damage is sinkhole activity within a reasonable professional probability.

2. That the analyses conducted were of sufficient scope to identify sinkhole activity as the cause of damage within a reasonable professional probability.

3. A description of the tests performed.

4. A recommendation by the engineer of methods for stabilizing the land and building and for making repairs to the foundation.

(b) If sinkhole activity is eliminated as the cause of damage to the structure, the engineer and professional geologist shall issue a written report and certification to the policyholder and the insurer stating:

1. That the cause of the damage is not sinkhole activity within a reasonable professional probability.

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

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

4. A description of the tests performed.

(c) The respective findings, opinions, and recommendations of the engineer and professional geologist as to the verification or elimination of a sinkhole loss and the findings, opinions, and recommendations of the engineer as to land and building stabilization and foundation repair shall be presumed correct.

(2) Any insurer that has paid a claim for a sinkhole loss shall file a copy of the report and certification, prepared pursuant to subsection (1), with the county property appraiser who shall record the report and certification with the parcel number. The insurer shall bear the cost of filing and recording the report and certification. There shall be no cause of action or liability against an insurer for compliance with this section. The seller of real property upon which a sinkhole claim has been made shall disclose to the buyer of such property that a claim has been paid and whether or not the full amount of the proceeds were used to repair the sinkhole damage.

Section 22. Effective October 1, 2005, and applicable to policies issued or renewed on or after that date, section 627.711, Florida Statutes, is created to read:

627.711 Notice of premium discounts for hurricane loss mitigation.— Using a form prescribed by the Office of Insurance Regulation, the insurer shall clearly notify the applicant or policyholder of any personal lines residential property insurance policy, at the time of the issuance of the policy and at each renewal, of the availability and the range of each premium discount, credit, other rate differential, or reduction in deductibles for properties on which fixtures or construction techniques demonstrated to reduce the amount of loss in a windstorm can or have been installed or implemented. The prescribed form shall describe generally what actions the policyholders may be able to take to reduce their windstorm premium. The prescribed form and a list of such ranges approved by the office for each insurer licensed in the state and providing such discounts, credits, other rate differentials, or reductions in deductibles for properties described in this subsection shall be available for electronic viewing and download from the Department of Financial Services' or the Office of Insurance Regulation's Internet website. The Financial Services Commission may adopt rules to implement this subsection.

Section 23. (1)(a) Upon an insurer's receiving a communication with respect to a claim, the insurer shall, within 14 calendar days, review and acknowledge receipt of such communication unless payment is made within that period of time or unless the failure to acknowledge is caused by factors beyond the control of the insurer which reasonably prevent such acknowledgement. If the acknowledgement is not in writing, a notification indicating

acknowledgement shall be made in the insurer's claim file and dated. A communication made to or by an agent of an insurer with respect to a claim shall constitute communication to or by the insurer.

(b) As used in this subsection, the term "agent" means any person to whom an insurer has granted authority or responsibility to receive or make such communications with respect to claims on behalf of the insurer.

(c) This subsection shall not apply to claimants represented by counsel beyond those communications necessary to provide forms and instructions.

(2) Such acknowledgement shall be responsive to the communication. If the communication constitutes a notification of a claim, unless the acknowledgement reasonably advises the claimant that the claim appears not to be covered by the insurer, the acknowledgement shall provide necessary claim forms, and instructions, including an appropriate telephone number.

(3) Unless otherwise provided by the policy of insurance or by law, within 10 working days after an insurer receives proof of loss statements the insurer shall begin such investigation as is reasonably necessary unless the failure to begin such investigation is caused by factors beyond the control of the insurer which reasonably prevent the commencement of such investigation.

(4) For purposes of this section, the term "insurer" means any residential property insurer.

Section 24. Task Force on Long-Term Solutions for Florida's Hurricane Insurance Market.—

(1) TASK FORCE CREATED.—There is created the Task Force on Long-Term Solutions for Florida's Hurricane Insurance Market.

(2) ADMINISTRATION.—The task force shall be administratively housed within the Office of the Chief Financial Officer, but shall operate independently of any state officer or agency. The Office of the Chief Financial Officer shall provide such administrative support as the task force deems necessary to accomplish its mission and shall provide necessary funding for the task force within its existing resources. The Executive Office of the Governor, the Department of Financial Services, and the Office of Insurance Regulation shall provide substantive staff support for the task force.

(3) MEMBERSHIP.—The members of the task force shall be appointed as follows:

(a) The Governor shall appoint three members who have expertise in financial matters, one of whom is a representative of the mortgage lending industry, one of whom is a representative of the real estate or construction industry, and one of whom is a representative of insurance consumers.

(b) The Chief Financial Officer shall appoint three members who have expertise in financial matters, one of whom is a representative of a national property insurer or of a Florida-only subsidiary of a national property in-

surer, one of whom is a representative of a domestic property insurer in this state, and one of whom is a representative of insurance agents.

(c) The President of the Senate shall appoint three members.

(d) The Speaker of the House of Representatives shall appoint three members.

(e) The Commissioner of Insurance Regulation shall serve as an ex officio voting member of the task force.

Members of the task force shall serve without compensation but are entitled to receive reimbursement for per diem and travel expenses as provided in section 112.061, Florida Statutes.

(4) PURPOSE AND INTENT.—The Legislature recognizes that the continued availability of hurricane insurance coverage for property owners in this state is essential to the state's economic survival. The Legislature further recognizes that legislative efforts to resolve problems in the hurricane insurance market in 2005 may not be sufficient to address this state's long-term needs and that further action may be necessary in subsequent legislative sessions. The purpose of the task force is to make recommendations to the legislative and executive branches of this state's government relating to the creation and maintenance of insurance capacity in the private sector and public sector which is sufficient to ensure that all property owners in this state are able to obtain appropriate insurance coverage for hurricane losses, as further described in this section.

(5) SPECIFIC TASKS.—The task force shall conduct such research and hearings as it deems necessary to achieve the purposes specified in subsection (4) and shall develop information on relevant issues, including, but not limited to, the following issues:

(a) Whether this state currently has sufficient hurricane insurance capacity to ensure the continuation of a healthy, competitive marketplace, taking into consideration both private-sector resources and public-sector resources.

(b) Identifying the future demands on this state's hurricane insurance capacity, taking into account population growth, coastal growth, and anticipated future hurricane activity.

(c) Whether the Florida Hurricane Catastrophe Fund fulfilled its purpose of creating additional insurance capacity sufficient to ameliorate the current dangers to the state's economy and to the public health, safety, and welfare in its response to the 2004 hurricane season.

(d) The extent to which the growth in Citizens Property Insurance Corporation is attributable to insufficient insurance capacity.

(e) The extent to which the growth trends of Citizens Property Insurance Corporation create long-term problems for property owners, buyers, and

sellers in this state and for other persons and businesses that depend on a viable market.

(f) The operation and role of Citizens Property Insurance Corporation, including:

1. How to ensure that the corporation operates as an insurer of last resort which does not compete with insurers in the voluntary market, but which charges rates that are not excessive, inadequate, or unfairly discriminatory;

2. Whether the bonuses paid by the corporation to carriers taking policies out of the corporation provide a cost-effective means of reducing the potential liability of the corporation;

3. Whether the “Consumer Choice” law should be repealed or amended to ensure that the corporation serves as the insurer of last resort;

4. Whether coverage amounts should be limited;

5. Whether the corporation has hired an adequate level of permanent claims and adjusting staff in addition to outsourcing its claims-adjusting functions to independent adjusting firms;

6. The effect of reducing or expanding the areas that are eligible for coverage in the high-risk, wind-only account;

7. Whether the corporation should purchase reinsurance or take other actions that reduce the potential for debt financing and deficit assessments; and

8. An evaluation of the infrastructure and administration of the corporation and how to improve customer service, claims handling, and communication and the exchange of information with agents of policyholders of the corporation.

(6) REPORT AND RECOMMENDATIONS.—By April 1, 2006, the task force shall provide a report containing findings relating to the tasks identified in subsection (5) and recommendations consistent with the purposes of this section and also consistent with such findings. The task force shall submit the report to the Governor, the Chief Financial Officer, the President of the Senate, and the Speaker of the House of Representatives. The task force may also submit such interim reports as it deems appropriate.

(7) ADDITIONAL ACTIVITIES.—The task force shall monitor the implementation of hurricane insurance-related legislation enacted during the 2005 Regular Session and shall make such additional recommendations as it deems appropriate for further legislative action during the 2004-2006 legislative biennium.

(8) EXPIRATION.—The task force shall expire at the end of the 2004-2006 legislative biennium.

Section 25. The Office of Insurance Regulation shall, by January 1, 2006, submit a report to the President of the Senate, the Speaker of the House of

Representatives, the minority party leaders of the Senate and the House of Representatives, and the chairs of the standing committees of the Senate and the House of Representatives having jurisdiction over matters relating to property and casualty insurance. The report shall include findings and recommendations on requiring residential property insurers to provide law and ordinance coverage for residential property insurance policies, the increase or decrease in insurance costs associated with requiring such coverage, and such other related information as the Office of Insurance Regulation determines is appropriate for the Legislature to consider.

Section 26. Notwithstanding that revenues of Citizens Property Insurance Corporation are not state revenues, the Auditor General shall perform an operational audit, as defined in section 11.45(1), Florida Statutes, of the Citizens Property Insurance Corporation created under section 627.351(6), Florida Statutes. The scope of the audit shall also include:

(1) An analysis of the corporation's infrastructure, customer service, claims handling, accessibility of policyholder information to the agent of record, take-out programs, take-out bonuses, and financing arrangements.

(2) An evaluation of costs associated with the administration and servicing of the policies issued by the corporation to determine alternatives by which costs can be reduced, customer service improved, and claims handling improved.

The audit shall contain policy alternatives for the Legislature to consider. The Auditor General shall submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives no later than February 1, 2006.

Section 27. The board of governors of the Citizens Property Insurance Corporation created under section 627.351(6), Florida Statutes, shall, by February 1, 2006, submit a report to the President of the Senate, the Speaker of the House of Representatives, the minority party leaders of the Senate and the House of Representatives, and the chairs of the standing committees of the Senate and the House of Representatives having jurisdiction over matters relating to property and casualty insurance. The report shall include the board's findings and recommendations on the following issues:

(1) The number of policies and the aggregate premium of the Citizens Property Insurance Corporation, before and after enactment of this act, and projections for future policy and premium growth.

(2) Increases or decreases in availability of residential property coverage in the voluntary market and the effectiveness of this act in improving the availability of residential property coverage in the voluntary market in the state.

(3) The board's efforts to depopulate the corporation and the willingness of insurers in the voluntary market to avail themselves of depopulation incentives.

(4) Further actions that could be taken by the Legislature to improve availability of residential property coverage in the voluntary and residual markets.

(5) Actions that the board has taken to restructure the corporation and recommendations for legislative action to restructure the corporation, including, but not limited to, actions relating to claims handling and customer service.

(6) Projected surpluses or deficits and possible means of providing funding to ensure the continued solvency of the corporation.

(7) The corporation's efforts to procure catastrophe reinsurance to cover its projected 100-year probable maximum loss with specification as to what best efforts were made by the corporation to procure such reinsurance.

(8) Such other issues as the board determines are worthy of the Legislature's consideration.

Section 28. For the 2005-2006 fiscal year, there is appropriated \$350,000 in recurring funds from the Insurance Regulatory Trust Fund and four positions are authorized to the Office of the Consumer Advocate within the Department of Financial Services for the purposes provided in section 627.0613, Florida Statutes.

Section 29. The amendment to section 627.0628, Florida Statutes, and the creation of section 627.06281, Florida Statutes, as provided in this act shall take effect on the same date that House Bill 1939, Senate Bill 1478, or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

Section 30. Except as otherwise expressly provided in this act, this act shall take effect upon becoming a law.

Approved by the Governor June 1, 2005.

Filed in Office Secretary of State June 1, 2005.