CHAPTER 2007-1

Committee Substitute for House Bill No. 1-A

An act relating to hurricane preparedness and insurance; amending s. 163.01, F.S., relating to the Florida Interlocal Cooperation Act; redefining the term "public agency" to include certain legal or administrative entities; authorizing such entities to finance the provision of property coverage contracts for or from local government property insurance pools or property coverage contracts; providing a definition; authorizing certain hospitals to jointly issue bonds to finance windstorm coverages and claims; granting authority to individual hospitals and teaching hospitals to jointly issue bond anticipation notes; authorizing validation of bonds issued to certain hospital entities; specifying that a hospital's immunity caps are not waived through issuance of bonds to pay windstorm coverage or claims; amending s. 215.555, F.S., relating to the Florida Hurricane Catastrophe Fund; revising certain provisions of the reimbursement contracts for insurers; deleting a rapid cash buildup requirement from a reimbursement premium formula factor; expanding the State Board of Administration's reinsurance procurement powers and duties for certain purposes; providing for temporary emergency options for additional coverage and for temporary increase in coverage limit options; providing legislative findings and intent; providing for application of certain provisions; providing additional definitions; providing for a reimbursement contract addendum for certain insurers; providing requirements and procedures under the addendum; providing for certain reimbursement premiums for such insurers; providing for calculation of such premiums; providing for effect on claims-paying capacity of fund; requiring insurers electing optional coverages offered by the Florida Hurricane Catastrophe Fund to make rate filings that reflect savings or reduction in loss exposure; requiring that the Office of Insurance Regulation specify, by order, the dates on which such filings must be made; requiring certain insurers to make additional rate filings; specifying rate filing requirements; amending s. 215.5586, F.S.; revising criteria for wind certification and hurricane mitigation inspectors; requiring a level 2 background check for wind certification and hurricane mitigation inspectors; authorizing the Department of Financial Services to conduct criminal records checks of inspectors; requiring payment of fingerprint processing fees; revising certain financial wind certification and mitigation grant criteria and use provisions; providing additional uses for grant funding for certain homeowners; authorizing the department to contract with not-for-profit corporations to conduct the Florida Comprehensive Hurricane Damage Mitigation Program and enhance awareness of the benefits of mitigation; requiring the department to develop and maintain a list of wind certification and hurricane mitigation inspectors; amending s. 215.5595, F.S.; including manufactured housing insurers in the Insurance Capital Build-Up Incentive Program; providing manufactured housing insurer program contribution requirements; providing surplus requirements; prioritizing funding for manufactured housing insur-

ers; providing premium to surplus ratio requirements for certain manufactured housing insurers; creating s. 395.106, F.S.; authorizing certain hospitals and hospital systems to pool and spread windstorm property exposure risk among members; providing criteria for participation; providing definitions; subjecting alliances not in compliance with risk-pooling requirements to the Insurance Code; excluding an alliance meeting provision requirements from participation in or coverage by an insurance guaranty association established by ch. 631, F.S.; amending s. 553.73, F.S.; prohibiting the Florida Building Commission from modifying certain foundation codes relating to wind resistance or the prevention of water intrusion unless the modification enhances such provisions; amending s. 553.775, F.S., relating to interpretations of the Florida Building Code; conforming a cross-reference; requiring jurisdictions having authority to enforce the Florida Building Code to require wind-borne-debris protection according to specified requirements; requiring that the Florida Building Commission amend the Florida Building Code to reflect the requirements of the act and eliminate certain less stringent requirements; providing an exception; requiring the commission to develop voluntary guidelines for increasing the hurricane resistance of buildings; requiring that the guidelines be included in the commission's report to the 2008 Legislature; amending s. 624.407, F.S., relating to capitalization requirements for insurers writing property insurance; specifying certain minimum surplus amounts; prohibiting insurers writing private passenger automobile insurance from writing such insurance under certain circumstances; amending s. 624.462, F.S.; revising requirements for the establishment of a commercial self-insurance fund by a not-for-profit group; amending s. 624.4622, F.S.; authorizing local government self-insurance funds to insure or self-insure real or personal property against loss or damage; creating s. 624.4625, F.S.; authorizing two or more corporations not for profit to form a self-insurance fund for certain purposes; providing specific requirements; providing a definition; providing limitations; providing for application of certain provisions to certain premiums, contributions, and assessments; providing for payment of insurance premium tax at a reduced rate by corporation not-for-profit self-insurance funds; subjecting a corporation not for profit self-insurance fund to certain group self-insurance fund provisions under certain circumstances; amending s. 624.610, F.S.; prescribing responsibilities of the Commissioner of Insurance Regulation relating to allowing credit for reinsurance; amending s. 626.2815, F.S.; requiring continuing education for certain agents and customer representatives on the subject of premium discounts for hurricane mitigation options; amending s. 627.0613, F.S.; providing additional duties of the consumer advocate; amending s. 627.062, F.S.; requiring that an insurer make a "file and use" filing under certain circumstances; deleting provisions exempting certain rate filings from review by the Office of Insurance Regulation; requiring certain rate filings to account for certain mitigation measures; requiring the chief executive officer, chief financial officer, or chief actuary of a property insurer to certify the information

contained in a rate filing; providing penalties for knowingly making a false certification; authorizing the Financial Services Commission to adopt rules; amending s. 627.0629, F.S.; providing legislative intent relating to savings to customers for windstorm mitigation efforts; providing for reductions in deductibles for mitigation measures; creating s. 627.0655, F.S.; authorizing insurers to provide certain premium discounts under certain circumstances; amending s. 627.351, F.S., relating to the Citizens Property Insurance Corporation; deleting provisions that deny certain nonhomestead property eligibility for coverage by the corporation; including commercial nonresidential policies into an account of the corporation; authorizing the corporation to issue multiperil coverage and continue to offer wind-only coverage in the high-risk account after a specified date; deleting provisions authorizing the Office of Insurance Regulation to remove territory from the area eligible for wind-only and quota share coverage; requiring the board of governors of the corporation to levy an assessment against nonhomestead property policyholders if certain deficits occur after a specified date; restricting the eligibility of a risk for a policy issued by the corporation under certain circumstances; authorizing the plan of operation to establish limits of coverage and to require commercial property to meet specified hurricane-mitigation features; requiring that the corporation annually file recommended rates; requiring that the office issue a final order establishing the rates within a specified period; prohibiting the corporation from pursuing administrative or judicial review of such order; deleting provisions specifying circumstances under which a rate is deemed inadequate; deleting legislative intent concerning rate adequacy in the residual market; deleting provisions providing requirements for personal lines residential policies and residential wind-only policies; deleting an exemption provided for coverage provided by the corporation in Monroe County under certain circumstances; deleting a requirement that the corporation certify to the office that its rates comply with certain requirements; deleting a requirement for a notice to policyholders and applicants; rescinding certain rate filings by the corporation which took effect January 1, 2007; reinstating certain rates in effect on December 31, 2006; clarifying the effect of a policy that is taken out, assumed, or removed from the corporation; providing legislative intent that commercial nonresidential property insurance be made available from Citizens Property Insurance Corporation; requiring that Citizens Property Insurance Corporation adopt a plan providing for the transition of such coverage from the Property and Casualty Joint Underwriting Association to Citizens; providing requirements for the plan; amending s. 627.3515, F.S.; requiring Citizens Property Insurance Corporation to develop a business plan, which must be approved by the commission; providing that an insurer is not liable and there is no cause of action against an insurer acting within the scope of its authority; amending s. 627.4035, F.S.; requiring insurers to provide certain premium payment plan options to policyholders; requiring prior approval of such plans by the office; amending s. 627.4133, F.S.; increasing a period of notice for nonrenewals, cancellations,

and terminations; requiring residential property insurers to return excess profits to policyholders except as directed by the Office of Insurance Regulation; providing a formula for determining excess profits; transferring, renumbering, and amending s. 627.4261, F.S.; requiring insurers to pay or deny certain claims within a time certain; providing an exception; providing penalties; amending s. 627.701, F.S.; requiring insurers to provide insureds options for certain deductibles, credits, or rate differentials; creating s. 627.7018, F.S.; providing a prohibition and requirements for insurers in denying coverage; amending s. 627.706, F.S., relating to sinkhole insurance; defining the term "catastrophic ground cover collapse"; requiring property insurers to provide coverage for catastrophic ground cover collapse; allowing property insurers to charge an appropriate additional premium for coverage for sinkhole loss; specifying the date on which coverage for catastrophic ground cover collapse may take effect; requiring insurers offering policies that exclude coverage for sinkhole losses to provide notice to policyholders; amending s. 627.711, F.S.; requiring certain notices to specify combinations of discounts, credits, rate differentials, and reductions in deductibles; requiring the Financial Services Commission to develop uniform mitigation verification inspection forms; providing duties of the commission; creating s. 627.712, F.S.; requiring insurers issuing residential property insurance to provide hurricane or windstorm coverage; authorizing a policyholder to make a written rejection of such coverage by signing a statement acknowledging the lack of insurance or providing a statement from the mortgageholder or lienholder; requiring insurers issuing residential property insurance to make available an exclusion of coverage for contents; providing for the policyholder to make a written rejection of such coverage; requiring that the insurer keep documentation of such statements; requiring the Financial Services Commission to adopt rules; creating s. 627.713, F.S.; authorizing the office to require property insurers to report data regarding hurricane claims and underwriting costs; amending s. 627.7277, F.S.; requiring certain information to be included in notices of renewal premium; providing for rules; amending s. 631.57, F.S.; revising criteria and requirements for levy of emergency assessments by the Florida Insurance Guaranty Association; revising characterizations of emergency assessments; providing legislative intent; amending s. 718.111, F.S.; providing for windstorm insurance for condominium associations; creating the Task Force on Citizens Property Insurance Claims Handling and Resolution; providing for administration of the task force; providing for membership; providing for reimbursement of expenses but no compensation; providing purpose and intent; requiring the task force to address certain issues; requiring reports and recommendations; providing additional responsibilities of the task force; providing for expiration of the task force; creating the Windstorm Mitigation Study Committee for the purpose of analyzing solutions and programs that could address the state's need to mitigate the effects of windstorms on structures; providing for membership and qualifications; providing that the members are entitled to reimbursement

for expenses incurred in connection with their duties; providing for reimbursement of travel expenses; requiring the Department of Financial Services, the Office of Insurance Regulation, the Citizens Property Insurance Corporation, and other state agencies to supply information, assistance, and facilities to the committee; requiring the department to provide staff assistance; specifying duties of the committee; requiring the committee to report to the Governor, the Legislature, the Chief Financial Officer, and the Commissioner of Insurance Regulation by a specified date; providing for expiration of the committee; requiring the Financial Services Commission to adopt a uniform home grading scale for certain purposes; providing criteria; requiring the Department of Community Affairs to implement the 2006 Disaster Recovery Program for the purpose of assisting local governments in hardening low-income housing against the effects of hurricanes; specifying that the act does not create an entitlement or obligate the state; providing for program administration; specifying the entities that are eligible to apply for funding; providing for the use of funds under the program; prohibiting insurers writing private passenger automobile insurance from writing such insurance under certain circumstances; expressing the intent of the Legislature to create a grant program to assist low-income persons in purchasing property insurance; repealing s. 627.0629(6), F.S., relating to certain limitations on writing residential property insurance; providing appropriations; providing for severability; providing effective dates.

WHEREAS, homeowners in the State of Florida are struggling under increased insurance costs and increased housing prices as a result of damage caused by hurricanes and tropical storms, and

WHEREAS, this increase in the cost of property insurance for the state's residents demands immediate attention, and

WHEREAS, the affordability of property insurance creates financial burdens for Florida's residents and financial crises for some property owners, and

WHEREAS, in addition to affordability, the availability and stability of property insurance rates are critical issues to the residents of this state, and

WHEREAS, because there is no single, quick, or easy solution to the current crisis, a comprehensive and creative approach is required, and

WHEREAS, property insurance is so interwoven with other forms of insurance, through business, regulation, advocacy, purchasing, and other interactions, that the viability of the insurance market in Florida is at risk, and

WHEREAS, expanding coverage offered by the Florida Hurricane Catastrophe Fund can help to address this crisis, and

WHEREAS, taking steps to control or reduce the premiums charged by Citizens Property Insurance Corporation can help to address this crisis, and

WHEREAS, strengthening the Florida Building Code and providing for voluntary guidelines in addition to the requirements of the code can help to address this crisis, and

WHEREAS, sinkhole coverage is a critical part of the crisis in certain areas of the state and must be addressed as part of any comprehensive solution, and

WHEREAS, requiring property insurers to offer additional deductibles and exclusions that apply at the option of the property owner can help to address this crisis, and

WHEREAS, authorizing various groups of public and private entities to enter into forms of self-insurance or guaranty groups can help to address this crisis, and

WHEREAS, strengthening the processes for establishing property insurance rates can help to address this crisis, and

WHEREAS, the role of consumer advocacy is a critical part of addressing this crisis and consumer advocacy for property insurance is a critical, if not the predominant, part of consumer advocacy regarding insurance, and

WHEREAS, promoting, through financial and regulatory methods, the ability of property insurers and reinsurers to do business in Florida can help to address this crisis, and

WHEREAS, promoting, through financial and regulatory incentives for property owners, the strengthening of property to withstand the effects of windstorm damage can help to address this crisis, NOW, THEREFORE,

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

Section 1. Paragraph (b) of subsection (3) and paragraph (e) of subsection (7) of section 163.01, Florida Statutes, are amended, and paragraph (h) is added to subsection (7) of that section, to read:

163.01 Florida Interlocal Cooperation Act of 1969.—

(3) As used in this section:

(b) "Public agency" means a political subdivision, agency, or officer of this state or of any state of the United States, including, but not limited to, state government, county, city, school district, single and multipurpose special district, single and multipurpose public authority, metropolitan or consolidated government, a separate legal entity or administrative entity created under subsection (7), an independently elected county officer, any agency of the United States Government, a federally recognized Native American tribe, and any similar entity of any other state of the United States.

(7)

(e)1. Notwithstanding the provisions of paragraph (c), any separate legal entity, created pursuant to the provisions of this section and controlled by

counties or municipalities of this state, the membership of which consists or is to consist only of public agencies of this state, may, for the purpose of financing the provision or acquisition of liability or property coverage contracts for or from one or more local government liability or property pools to provide liability or property coverage for counties, municipalities, or other public agencies of this state, exercise all powers in connection with the authorization, issuance, and sale of bonds. All of the privileges, benefits, powers, and terms of s. 125.01 relating to counties and s. 166.021 relating to municipalities shall be fully applicable to such entity and such entity shall be considered a unit of local government for all of the privileges, benefits, powers, and terms of part I of chapter 159. Bonds issued by such entity shall be deemed issued on behalf of counties, municipalities, or public agencies which enter into loan agreements with such entity as provided in this paragraph. Proceeds of bonds issued by such entity may be loaned to counties, municipalities, or other public agencies of this state, whether or not such counties, municipalities, or other public agencies are also members of the entity issuing the bonds, and such counties, municipalities, or other public agencies may in turn deposit such loan proceeds with a separate local government liability or property pool for purposes of providing or acquiring liability or property coverage contracts.

2. Counties or municipalities of this state are authorized pursuant to this section, in addition to the authority provided by s. 125.01, part II of chapter 166, and other applicable law, to issue bonds for the purpose of acquiring liability coverage contracts from a local government liability pool. Any individual county or municipality may, by entering into interlocal agreements with other counties, municipalities, or public agencies of this state, issue bonds on behalf of itself and other counties, municipalities, or other public agencies, for purposes of acquiring a liability coverage contract or contracts from a local government liability pool. Counties, municipalities, or other public agencies are also authorized to enter into loan agreements with any entity created pursuant to subparagraph 1., or with any county or municipality issuing bonds pursuant to this subparagraph, for the purpose of obtaining bond proceeds with which to acquire liability coverage contracts from a local government liability pool. No county, municipality, or other public agency shall at any time have more than one loan agreement outstanding for the purpose of obtaining bond proceeds with which to acquire liability coverage contracts from a local government liability pool. Obligations of any county, municipality, or other public agency of this state pursuant to a loan agreement as described above may be validated as provided in chapter 75. Prior to the issuance of any bonds pursuant to subparagraph 1. or this subparagraph for the purpose of acquiring liability coverage contracts from a local government liability pool, the reciprocal insurer or the manager of any self-insurance program shall demonstrate to the satisfaction of the Office of Insurance Regulation of the Financial Services Commission that excess liability coverage for counties, municipalities, or other public agencies is reasonably unobtainable in the amounts provided by such pool or that the liability coverage obtained through acquiring contracts from a local government liability pool, after taking into account costs of issuance of bonds and any other administrative fees, is less expensive to counties, municipalities, or special districts than similar commercial coverage then reasonably available.

3. Any entity created pursuant to this section or any county or municipality may also issue bond anticipation notes, as provided by s. 215.431, in connection with the authorization, issuance, and sale of such bonds. In addition, the governing body of such legal entity or the governing body of such county or municipality may also authorize bonds to be issued and sold from time to time and may delegate, to such officer, official, or agent of such legal entity as the governing body of such legal entity may select, the power to determine the time; manner of sale, public or private; maturities; rate or rates of interest, which may be fixed or may vary at such time or times and in accordance with a specified formula or method of determination; and other terms and conditions as may be deemed appropriate by the officer, official, or agent so designated by the governing body of such legal entity. However, the amounts and maturities of such bonds and the interest rate or rates of such bonds shall be within the limits prescribed by the governing body of such legal entity and its resolution delegating to such officer, official, or agent the power to authorize the issuance and sale of such bonds. Any series of bonds issued pursuant to this paragraph for liability coverage shall mature no later than 7 years following the date of issuance ~~thereof~~. A series of bonds issued pursuant to this paragraph for property coverage shall mature no later than 30 years following the date of issuance.

4. Bonds issued pursuant to subparagraph 1. may be validated as provided in chapter 75. The complaint in any action to validate such bonds shall be filed only in the Circuit Court for Leon County. The notice required to be published by s. 75.06 shall be published in Leon County and in each county which is an owner of the entity issuing the bonds, or in which a member of the entity is located, and the complaint and order of the circuit court shall be served only on the State Attorney of the Second Judicial Circuit and on the state attorney of each circuit in each county or municipality which is an owner of the entity issuing the bonds or in which a member of the entity is located.

5. Bonds issued pursuant to subparagraph 2. may be validated as provided in chapter 75. The complaint in any action to validate such bonds shall be filed in the circuit court of the county or municipality which will issue the bonds. The notice required to be published by s. 75.06 shall be published only in the county where the complaint is filed, and the complaint and order of the circuit court shall be served only on the state attorney of the circuit in the county or municipality which will issue the bonds.

6. The participation by any county, municipality, or other public agency of this state in a local government liability pool shall not be deemed a waiver of immunity to the extent of liability coverage, nor shall any contract entered regarding such a local government liability pool be required to contain any provision for waiver.

(h)1. Notwithstanding the provisions of paragraph (c), any separate legal entity consisting of an alliance, as defined in s. 395.106(2)(a), created pursuant to this paragraph and controlled by and whose members consist of eligible entities comprised of special districts created pursuant to a special act and having the authority to own or operate one or more hospitals licensed in this state or hospitals licensed in this state that are owned, operated, or funded by a county or municipality, for the purpose of providing

property insurance coverage as defined in s. 395.106(2)(c), for such eligible entities, may exercise all powers under this subsection in connection with borrowing funds for such purposes, including, without limitation, the authorization, issuance, and sale of bonds, notes, or other obligations of indebtedness. Borrowed funds, including, but not limited to, bonds issued by such alliance shall be deemed issued on behalf of such eligible entities that enter into loan agreements with such separate legal entity as provided in this paragraph.

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

3. Any bonds, notes, or other obligations to be issued or incurred by a separate legal entity created pursuant to this paragraph shall be authorized by resolution of the governing body of such entity and bear the date or dates; mature at the time or times, not exceeding 30 years from their respective dates; bear interest at the rate or rates, which may be fixed or vary at such time or times and in accordance with a specified formula or method of determination; be payable at the time or times; be in the denomination; be in the form; carry the registration privileges; be executed in the manner; be payable from the sources and in the medium of payment and at the place; and be subject to redemption, including redemption prior to maturity, as the resolution may provide. The bonds, notes, or other obligations may be sold at public or private sale for such price as the governing body of the separate legal entity shall determine. The bonds may be secured by such credit enhancement, if any, as the governing body of the separate legal entity deems appropriate. The bonds may be secured by an indenture of trust or trust agreement. In addition, the governing body of the separate legal entity may delegate, to such officer or official of such entity as the governing body may select, the power to determine the time; manner of sale, public or private; maturities; rate or rates of interest, which may be fixed or may vary at such time or times and in accordance with a specified formula or method of determination; and other terms and conditions as may be deemed appropriate by the officer or official so designated by the governing body of such separate legal entity. However, the amounts and maturities of such bonds, the interest rate or rates, and the purchase price of such bonds shall be within the limits prescribed by the governing body of such separate legal entity in its resolution delegating to such officer or official the power to authorize the issuance and sale of such bonds.

4. Bonds issued pursuant to this paragraph may be validated as provided in chapter 75. The complaint in any action to validate such bonds shall be filed only in the Circuit Court for Leon County. The notice required to be published by s. 75.06 shall be published in Leon County and in each county

in which an eligible entity that is a member of an alliance is located. The complaint and order of the circuit court shall be served only on the state attorney of the Second Judicial Circuit and on the state attorney of each circuit in each county in which an eligible entity receiving bond proceeds is located.

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

6. The participation by any eligible entity in an alliance or a separate legal entity created pursuant to this paragraph may not be deemed a waiver of immunity to the extent of liability or any other coverage and a contract entered regarding such alliance is not required to contain any provision for waiver.

Section 2. Paragraphs (b), (c), and (d) of subsection (4), paragraph (b) of subsection (5), and paragraph (a) of subsection (7) of section 215.555, Florida Statutes, are amended, and subsections (16) and (17) are added to that section, to read:

215.555 Florida Hurricane Catastrophe Fund.—

(4) REIMBURSEMENT CONTRACTS.—

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

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

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

4. Notwithstanding any other provision contained in this section, the board shall make available to insurers that participated in 2006, insurers qualifying as limited apportionment companies under s. 627.351(6)(c) which began writing property insurance in 2007, and insurers that were approved to participate in 2006 or that are approved in 2007 for the Insurance Capital Build-Up Incentive Program pursuant to s. 215.5595, a contract or contract addendum that provides an additional amount of reimbursement coverage of up to $10 million. The premium to be charged for this additional reimbursement coverage shall be 50 percent of the additional reimbursement coverage provided, which shall include one prepaid reinstatement. The minimum retention level that an eligible participating insurer must retain associated with this additional coverage layer is 30 percent of the insurer's surplus as of December ~~March~~ 31, 2006. This coverage shall be in addition to all other coverage that may be provided under this section. The coverage provided by the fund under this subsection shall be in addition to the claims-paying capacity as defined in subparagraph (c)1., but only with respect to those insurers that select the additional coverage option and meet the requirements of this subsection. The claims-paying capacity with respect to all other participating insurers and limited apportionment companies that do not select the additional coverage option shall be limited to their reimbursement premium's proportionate share of the actual claims-paying capacity otherwise defined in subparagraph (c)1. and as provided for under the terms of the reimbursement contract. Coverage provided in the reimbursement contract ~~for participating insurers~~ will not be affected by the additional premiums paid by participating insurers ~~limited apportionment companies~~ exercising the additional coverage option allowed in this subparagraph. This subparagraph expires on May 31, 2008 ~~2007~~.

(c)1. The contract shall also provide that the obligation of the board with respect to all contracts covering a particular contract year shall not exceed the actual claims-paying capacity of the fund up to a limit of $15 billion for that contract year 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 2003, provided the dollar growth in the limit may not increase in any year by an amount greater than the dollar growth of the balance of the fund as of December 31, less any premiums or interest attributable to optional coverage, as defined by rule which occurred over the prior calendar year.

2. In May before the start of the upcoming contract year and in October during the contract year, the board shall publish in the Florida Administrative Weekly a statement of the fund's estimated borrowing capacity and the projected balance of the fund as of December 31. After the end of each calendar year, the board shall notify insurers of the estimated borrowing capacity and the balance of the fund as of December 31 to provide insurers with data necessary to assist them in determining their retention and projected payout from the fund for loss reimbursement purposes. In conjunction with the development of the premium formula, as provided for in subsection (5), the board shall publish factors or multiples that assist insurers in determining their retention and projected payout for the next contract year. For all regulatory and reinsurance purposes, an insurer may calculate its projected payout from the fund as its share of the total fund premium for the

current contract year multiplied by the sum of the projected balance of the fund as of December 31 and the estimated borrowing capacity for that contract year as reported under this subparagraph.

(d)1. For purposes of determining potential liability and to aid in the sound administration of the fund, the contract shall require each insurer to report such insurer's losses from each covered event on an interim basis, as directed by the board. The contract shall require the insurer to report to the board no later than December 31 of each year, and quarterly thereafter, its reimbursable losses from covered events for the year. The contract shall require the board to determine and pay, as soon as practicable after receiving these reports of reimbursable losses, the initial amount of reimbursement due and adjustments to this amount based on later loss information. The adjustments to reimbursement amounts shall require the board to pay, or the insurer to return, amounts reflecting the most recent calculation of losses.

2. In determining reimbursements pursuant to this subsection, the contract shall provide that the board shall~~:~~

~~a. Next~~ pay to each insurer such insurer's projected payout, which is the amount of reimbursement it is owed, up to an amount equal to the insurer's share of the actual premium paid for that contract year, multiplied by the actual claims-paying capacity available for that contract year~~; provided, entities created pursuant to s. 627.351 shall be further reimbursed in accordance with sub-subparagraph b.~~

~~b. Thereafter, establish the prorated reimbursement level at the highest level for which any remaining fund balance or bond proceeds are sufficient to reimburse entities created pursuant to s. 627.351 based on reimbursable losses exceeding the amounts payable pursuant to sub-subparagraph a. for the current contract year~~.

(5) REIMBURSEMENT PREMIUMS.—

(b) The State Board of Administration shall select an independent consultant to develop a formula for determining the actuarially indicated premium to be paid to the fund. The formula shall specify, for each zip code or other limited geographical area, the amount of premium to be paid by an insurer for each $1,000 of insured value under covered policies in that zip code or other area. In establishing premiums, the board shall consider the coverage elected under paragraph (4)(b) and any factors that tend to enhance the actuarial sophistication of ratemaking for the fund, including deductibles, type of construction, type of coverage provided, relative concentration of risks, and other such factors deemed by the board to be appropriate. The formula may provide for a procedure to determine the premiums to be paid by new insurers that begin writing covered policies after the beginning of a contract year, taking into consideration when the insurer starts writing covered policies, the potential exposure of the insurer, the potential exposure of the fund, the administrative costs to the insurer and to the fund, and any other factors deemed appropriate by the board. ~~The formula shall include a factor of 25 percent of the fund's actuarially indicated premium in order to provide for more rapid cash buildup in the fund.~~

The formula must be approved by unanimous vote of the board. The board may, at any time, revise the formula pursuant to the procedure provided in this paragraph.

(7) ADDITIONAL POWERS AND DUTIES.—

(a) The board may procure reinsurance from reinsurers acceptable to the Office of Insurance Regulation for the purpose of maximizing the capacity of the fund and may enter into capital market transactions, including, but not limited to, industry loss warranties, catastrophe bonds, side-car arrangements, or financial contracts permissible for the board's usage under s. 215.47(10) and (11), consistent with prudent management of the fund.

(16) TEMPORARY EMERGENCY OPTIONS FOR ADDITIONAL COVERAGE.—

(a) Findings and intent.—

1. The Legislature finds that:

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

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

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

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

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

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

(d) Additional definitions.—As used in this subsection, the term:

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

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

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

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

a. The board shall calculate and report to each TEACO insurer the TEACO retention multiples. There shall be three TEACO retention multiples for defining coverage. Each multiple shall be calculated by dividing $3 billion, $4 billion, or $5 billion by the total estimated TEACO reimbursement premium assuming all insurers selected that option. Total estimated TEACO reimbursement premium for purposes of the calculation under this sub-subparagraph shall be calculated using the assumption that all insurers have selected a specific TEACO retention multiple option and have selected the 90-percent coverage level.

b. The TEACO retention multiples as determined under sub-subparagraph a. 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 sub-subparagraph a. For insurers electing the 75-percent coverage level, the retention multiple is 120 percent of the amount determined under sub-subparagraph a. For insurers electing the 45-percent coverage level, the adjusted retention multiple is 200 percent of the amount determined under sub-subparagraph a.

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

d. For TEACO insurers who experience multiple covered events causing loss during the contract year, the insurer's full TEACO retention shall be applied to each of the covered events causing the two largest losses for that insurer. For other covered events resulting in losses, the TEACO option does not apply and the insurer's retention shall be one-third of the full retention as calculated under paragraph (2)(e).

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

(e) TEACO addendum.—

1. The TEACO addendum shall provide for reimbursement of TEACO insurers for covered events occurring during the contract year, in exchange

for the TEACO reimbursement premium paid into the fund under paragraph (f). Any insurer writing covered policies has the option of choosing to accept the TEACO addendum for any of the three contract years that the coverage is offered.

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

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

4. The TEACO addendum shall also provide that the obligation of the board with respect to all TEACO addenda shall not exceed an amount equal to two times the difference between the industry retention level calculated under paragraph (2)(e) and the $3 billion, $4 billion, or $5 billion industry TEACO retention level options actually selected, but in no event may the board's obligation exceed the actual claims-paying capacity of the fund plus the additional capacity created in paragraph (g). If the actual claims-paying capacity and the additional capacity created under paragraph (g) fall short of the board's obligations under the reimbursement contract, each insurer's share of the fund's capacity shall be pro rated based on the premium an insurer pays for its normal reimbursement coverage and the premium paid for its optional TEACO coverage as each such premium bears to the total premiums paid to the fund times the available capacity.

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

6. A TEACO insurer's maximum reimbursement under the TEACO addendum shall be calculated by multiplying the insurer's share of the estimated total TEACO reimbursement premium as calculated under sub-subparagraph (d)4.a. by an amount equal to two times the difference between the industry retention level calculated under paragraph (2)(e) and the $3 billion, $4 billion, or $5 billion industry TEACO retention level specified in sub-subparagraph (d)4.a. as selected by the TEACO insurer.

(f) TEACO reimbursement premiums.—

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

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

a. The industry TEACO reimbursement premium associated with the $3 billion retention option would be equal to 85 percent of the difference be-

tween the industry retention level calculated under paragraph (2)(e) and the $3 billion industry TEACO retention level.

b. The TEACO reimbursement premium associated with the $4 billion retention option would be equal to 80 percent of the difference between the industry retention level calculated under paragraph (2)(e) and the $4 billion industry TEACO retention level.

c. The TEACO premium associated with the $5 billion retention option would be equal to 75 percent of the difference between the industry retention level calculated under paragraph (2)(e) and the $5 billion industry TEACO retention level.

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

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

(17) TEMPORARY INCREASE IN COVERAGE LIMIT OPTIONS.—

(a) Findings and intent.—

1. The Legislature finds that:

a. Because of temporary disruptions in the market for catastrophic reinsurance, many property insurers were unable to procure sufficient amounts of reinsurance for the 2006 hurricane season or were able to procure such reinsurance only by incurring substantially higher costs than in prior years.

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

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

2. It is the intent of the Legislature to create options for insurers to purchase a temporary increased coverage limit above the statutorily determined limit in subparagraph (4)(c)1., applicable for the 2007, 2008, and 2009 hurricane seasons, to address market disruptions and enable insurers, at their option, to procure additional coverage from the Florida Hurricane Catastrophe Fund.

(b) Applicability of other provisions of this section.—All provisions of this section and the rules adopted under this section apply to the coverage created by this subsection unless specifically superseded by provisions in this subsection.

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

(d) Additional definitions.—As used in this subsection, the term:

1. "FHCF" means Florida Hurricane Catastrophe Fund.

2. "FHCF reimbursement premium" means the premium paid by an insurer for its coverage as a mandatory participant in the FHCF, but does not include additional premiums for optional coverages.

3. "Payout multiple" means the number or multiple created by dividing the statutorily defined claims-paying capacity as determined in subparagraph (4)(c)1. by the aggregate reimbursement premiums paid by all insurers estimated or projected as of calendar year-end.

4. "TICL" means the temporary increase in coverage limit.

5. "TICL options" means the temporary increase in coverage options created under this subsection.

6. "TICL insurer" means an insurer that has opted to obtain coverage under the TICL options addendum in addition to the coverage provided to the insurer under its FHCF reimbursement contract.

7. "TICL reimbursement premium" means the premium charged by the fund for coverage provided under the TICL option.

8. "TICL coverage multiple" means the coverage multiple when multiplied by an insurer's reimbursement premium that defines the temporary increase in coverage limit.

9. "TICL coverage" means the coverage for an insurer's losses above the insurer's statutorily determined claims-paying capacity based on the claims-paying limit in subparagraph (4)(c)1., which an insurer selects as its temporary increase in coverage from the fund under the TICL options selected. A TICL insurer's increased coverage limit options shall be calculated as follows:

a. The board shall calculate and report to each TICL insurer the TICL coverage multiples based on twelve options for increasing the insurer's FHCF coverage limit. Each TICL coverage multiple shall be calculated by dividing $1 billion, $2 billion, $3 billion, $4 billion, $5 billion, $6 billion, $7 billion, $8 billion, $9 billion, $10 billion, $11 billion, or $12 billion by the total estimated aggregate FHCF reimbursement premiums for the 2007-2008 contract year, the 2008-2009 contract year, and the 2009-2010 contract year.

b. The TICL insurer's increased coverage shall be the FHCF reimbursement premium multiplied by the TICL coverage multiple. In order to determine an insurer's total limit of coverage, an insurer shall add its TICL coverage multiple to its payout multiple. The total shall represent a number that, when multiplied by an insurer's FHCF reimbursement premium for a given reimbursement contract year, defines an insurer's total limit of FHCF reimbursement coverage for that reimbursement contract year.

10. "TICL options addendum" means an addendum to the reimbursement contract reflecting the obligations of the fund and insurers selecting an option to increase an insurer's FHCF coverage limit.

(e) TICL options addendum.—

1. The TICL options addendum shall provide for reimbursement of TICL insurers for covered events occurring between June 1, 2007, May 31, 2008, and between June 1, 2008, and May 31, 2009, or between June 1, 2009, and May 31, 2010, in exchange for the TICL reimbursement premium paid into the fund under paragraph (e). Any insurer writing covered policies has the option of selecting an increased limit of coverage under the TICL options addendum and shall select such coverage at the time that it executes the FHCF reimbursement contract.

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

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

4. The priorities, schedule, and method of reimbursements under the TICL addendum shall be the same as provided under subsection (4).

(f) TICL reimbursement premiums.—Each TICL insurer shall pay to the fund, in the manner and at the time provided in the reimbursement contract for payment of reimbursement premiums, a TICL reimbursement premium determined as specified in subsection (5).

(g) Effect on claims-paying capacity of the fund.—For the contract terms commencing June 1, 2007, June 1, 2008, and June 1, 2009, the program created by this subsection shall increase the claims-paying capacity of the fund as provided in subparagraph (4)(c)1. by an amount not to exceed $12 billion dollars and shall depend on the TICL coverage options selected and the number of insurers that select the TICL optional coverage. The additional capacity shall apply only to the additional coverage provided under the TICL options and shall not otherwise affect any insurer's reimbursement from the fund if the insurer chooses not to select the temporary option to increase its limit of coverage under the FHCF.

(h) Increasing the claims-paying capacity of the fund.—For the contract years commencing June 1, 2007, June 1, 2008, and June 1, 2009, the board may increase the claims-paying capacity of the fund as provided in paragraph (g) by an amount not to exceed $4 billion in four $1 billion options and shall depend on the TICL coverage options selected and the number of insurers that select the TICL optional coverage. Each insurer's TICL premium shall be calculated based upon the additional limit of increased coverage that the insurer selects. Such limit is determined by multiplying the TICL multiple associated with one of the four options times the insurer's FHCF reimbursement premium. The reimbursement premium associated with the additional coverage provided in this paragraph shall be determined as specified in subsection (5).

Section 3. (1) Every residential property insurer must make a rate filing with the Office of Insurance Regulation, pursuant to the "file and use" provisions of s. 627.062(2)(a)1., Florida Statutes, which reflects the savings or reduction in loss exposure to the insurer due to the provisions of section 2 of this act. An insurer may not obtain a rate increase due to the election of coverage options from the Florida Hurricane Catastrophe Fund pursuant to s. 215.555(4), (16), or (17), Florida Statutes.

(2) The office shall specify, by order, the date or dates on which the rate filings required by this section must be made and be effective in order to provide rate relief to policyholders a soon as practicable.

(3) By March 15, 2007, the Office of Insurance Regulation shall calculate a presumed factor or factors to be used in the rate filings required by this section to reflect the impact to rates of the changes made by section 2 of this act and this section.

(4) In determining the presumed factor, the Office of Insurance Regulation shall use generally accepted actuarial techniques and standards in determining the expected impact on losses, expenses, and investment income of insurers.

(5) The office may contract with an appropriate vendor to advise the office in determining the presumed factor or factors.

(6) Each residential property insurer shall reflect a rate change that takes into account the presumed factor determined under subsection (3) for any policy written or renewed on or after June 1, 2007. Such factor must be taken into account for the coverage options offered pursuant to s. 215.555(4), (16), and (17), Florida Statutes, for an insurer eligible to elect such optional coverage, whether or not the insurer purchases that coverage. Any additional cost for private reinsurance or loss exposure that duplicates such coverage options may not be factored in the rate, whether or not such coverage options are purchased.

(7) The sum of $250,000 in nonrecurring funds is appropriated from the Insurance Regulatory Trust Fund in the Department of Financial Services to the Office of Insurance Regulation for the 2006-2007 fiscal year for the purpose of implementing this section.

Section 4. Paragraph (b) of subsection (1) and subsection (2) of section 215.5586, Florida Statutes, are amended, and subsections (7) and (8) are added to that section, to read:

215.5586 Florida Comprehensive Hurricane Damage Mitigation Program.—There is established within the Department of Financial Services the Florida Comprehensive Hurricane Damage Mitigation Program. This section does not create an entitlement for property owners or obligate the state in any way to fund the inspection or retrofitting of residential property in this state. Implementation of this program is subject to annual legislative appropriations. The program shall be administered by an individual with prior executive experience in the private sector in the areas of insurance, business, or construction. The program shall develop and implement a comprehensive and coordinated approach for hurricane damage mitigation that shall include the following:

(1) WIND CERTIFICATION AND HURRICANE MITIGATION INSPECTIONS.—

(b) To qualify for selection by the department as a provider of wind certification and hurricane mitigation inspections, the entity shall, at a minimum:

1. Use wind certification and hurricane mitigation inspectors who:

a. Have prior experience in residential construction or inspection and have received specialized training in hurricane mitigation procedures.

b. Have undergone drug testing and level 2 background checks pursuant to s. 435.04. The department is authorized to conduct criminal record checks of inspectors. Inspectors must submit a set of the fingerprints to the department for state and national criminal history checks and must pay the fingerprint processing fee set forth in s. 624.501. The fingerprints shall be sent by the department to the Department of Law Enforcement and forwarded to the Federal Bureau of Investigation for processing. The results shall be returned to the department for screening. The fingerprints shall be taken by a law enforcement agency, designated examination center, or other department-approved entity. Wind certification and hurricane mitigation inspectors participating in the program on the effective date of this act shall have until June 1, 2007, to meet the requirements for a criminal record check.

c. Have been certified, in a manner satisfactory to the department, to conduct the inspections.

2. Provide a quality assurance program including a reinspection component.

(2) GRANTS.—Financial grants shall be used to encourage single-family, site-built, owner-occupied, residential property owners to retrofit their properties to make them less vulnerable to hurricane damage.

(a) To be eligible for a grant, a residential property must:

1. Have been granted a homestead exemption under chapter 196.

2. Be a dwelling with an insured value of $500,000 or less. Homeowners who are low-income persons, as defined in s. 420.0004(10), are exempt from this requirement.

3. Have undergone an acceptable wind certification and hurricane mitigation inspection, if the property is an existing structure.

A residential property which is part of a multifamily residential unit may receive a grant only if all homeowners participate and the total number of units does not exceed four.

(b) All grants must be matched on a dollar-for-dollar basis for a total of $10,000 for the mitigation project with the state's contribution not to exceed $5,000.

(c) The program shall create a process in which mitigation contractors agree to participate and seek reimbursement from the state and homeowners select from a list of participating contractors. All mitigation must be based upon the securing of all required local permits and inspections. Mitigation projects are subject to random reinspection of up to at least 10 percent of all projects.

(d) Matching fund grants shall also be made available to local governments and nonprofit entities for projects that will reduce hurricane damage to single-family, site-built, owner-occupied, residential property.

(e) Grants may be used for the following improvements:

1. Roof deck attachment.~~;~~

2. Secondary water barrier.~~;~~

3. Roof covering.~~;~~

4. Brace gable ends.~~;~~

5. Reinforce roof-to-wall connections.~~;~~

6. Opening protection.~~; and~~

7. Exterior doors, including garage doors.

(f) Grants may be used on a previously inspected existing structure or on a rebuild. A rebuild is defined as a site-built, single-family dwelling under construction to replace a home that was destroyed or significantly damaged by a hurricane and deemed unlivable by a regulatory authority. The homeowner must have had a homestead exemption prior to the hurricane and maintained the homestead exemption.

(g)~~(f)~~ Low-income homeowners, as defined in s. 420.0004(10)~~(9)~~, who otherwise meet the requirements of paragraphs (a), ~~and~~ (c), (e), and (f) are eligible for a grant of up to $5,000 and are not required to provide a matching

amount to receive the grant. Additionally, for low-income homeowners, grant funding may be used for repair to existing structures leading to any of the mitigation improvements provided in paragraph (e), limited to 20 percent of the grant value. ~~Such grants shall be used to retrofit single-family, site-built, owner-occupied, residential properties in order to make them less vulnerable to hurricane damage.~~

(7) CONTRACTS WITH NOT-FOR-PROFIT CORPORATIONS.—The Department of Financial Services is authorized to contract with not-for-profit corporations to conduct all or portions of the program and to increase the awareness of the benefits of mitigation among homeowners in this state. The department shall consider the not-for-profit corporation's ability to raise funds from the private sector to provide for mitigation grants, as well as administrative capabilities for conducting other business related to the program.

(8) WIND CERTIFICATION AND HURRICANE MITIGATION INSPECTOR LIST.—The department shall develop and maintain as a public record a current list of wind certification and hurricane mitigation inspectors authorized to conduct wind certification and hurricane mitigation inspections pursuant to this section.

Section 5. Paragraphs (a), (c), and (g) of subsection (2) of section 215.5595, Florida Statutes, are amended, and paragraph (i) is added to that subsection, to read:

215.5595 Insurance Capital Build-Up Incentive Program.—

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

(a) The amount of the surplus note for any insurer or insurer group, other than an insurer writing only manufactured housing policies, may not exceed $25 million or 20 percent of the total amount of funds available under the program, whichever is greater. The amount of the surplus note for any insurer or insurer group writing residential property insurance covering only manufactured housing may not exceed $7 million.

(c) The insurer's surplus, new capital, and the surplus note must total at least $50 million, except for insurers writing residential property insurance covering only manufactured housing. The insurer's surplus, new capital, and the surplus note must total at least $14 million for insurers writing only residential property insurance covering manufactured housing policies as provided in paragraph (a).

(g) The total amount of funds available for the program is limited to the amount appropriated by the Legislature for this purpose. If the amount of surplus notes requested by insurers exceeds the amount of funds available, the board may prioritize insurers that are eligible and approved, with priority for funding given to insurers writing only manufactured housing policies, regardless of the date of application, based on the financial strength of the

insurer, the viability of its proposed business plan for writing additional residential property insurance in the state, and the effect on competition in the residential property insurance market.

(i) Notwithstanding paragraph (d), a newly formed manufactured housing insurer that is eligible for a surplus note under this section shall meet the premium to surplus ratio provisions of s. 624.4095.

Section 6. Section 395.106, Florida Statutes, is created to read:

395.106 Risk pooling by certain hospitals and hospital systems.—

(1) Notwithstanding any other provision of law, any two or more hospitals licensed in this state and located in this state may form an alliance for the purpose of pooling and spreading liabilities of its members relative to property exposure or securing such property insurance coverage for the benefit of its members, provided an alliance that is created:

(a) Has annual premiums in excess of $3 million.

(b) Maintains a continuing program of premium calculation and evaluation and reserve evaluation to protect the financial stability of the alliance in an amount and manner determined by consultants using catastrophic (CAT) modeling criteria or other risk-estimating methodologies, including those used by qualified and independent actuaries.

(c) Causes to be prepared annually a fiscal year-end financial statement based upon generally accepted accounting principles and audited by an independent certified public accountant within 6 months after the end of the fiscal year.

(d) Has a governing body comprised entirely of member entities whose representatives on such governing body are specified by the organizational documents of the alliance.

(2) For purposes of this section, the term:

(a) "Alliance" means a corporation, association, limited liability company, or partnership or any other legal entity formed by a group of eligible entities.

(b) "Property coverage" means property coverage provided by self-insurance or insurance for real or personal property of every kind and every interest in such property against loss or damage from any hazard or cause and against any loss consequential to such loss or damage.

(3) An alliance that meets the requirements of this section is not subject to any provision of the Insurance Code.

(4) An alliance that meets the requirements of this section is not an insurer for purposes of participation in or coverage by the Florida Insurance Guaranty Association established in part II of chapter 631. Alliance self-insured coverage is not subject to insurance premium tax, and any such

alliance formed pursuant to this section may not be assessed for purposes of s. 627.351 or s. 215.555.

Section 7. Section 553.73, Florida Statutes, is amended to read:

553.73 Florida Building Code.—

(1)(a) The commission shall adopt, by rule pursuant to ss. 120.536(1) and 120.54, the Florida Building Code which shall contain or incorporate by reference all laws and rules which pertain to and govern the design, construction, erection, alteration, modification, repair, and demolition of public and private buildings, structures, and facilities and enforcement of such laws and rules, except as otherwise provided in this section.

(b) The technical portions of the Florida Accessibility Code for Building Construction shall be contained in their entirety in the Florida Building Code. The civil rights portions and the technical portions of the accessibility laws of this state shall remain as currently provided by law. Any revision or amendments to the Florida Accessibility Code for Building Construction pursuant to part II shall be considered adopted by the commission as part of the Florida Building Code. Neither the commission nor any local government shall revise or amend any standard of the Florida Accessibility Code for Building Construction except as provided for in part II.

(c) The Florida Fire Prevention Code and the Life Safety Code shall be referenced in the Florida Building Code, but shall be adopted, modified, revised, or amended, interpreted, and maintained by the Department of Financial Services by rule adopted pursuant to ss. 120.536(1) and 120.54. The Florida Building Commission may not adopt a fire prevention or life-safety code, and nothing in the Florida Building Code shall affect the statutory powers, duties, and responsibilities of any fire official or the Department of Financial Services.

(d) Conflicting requirements between the Florida Building Code and the Florida Fire Prevention Code and Life Safety Code of the state established pursuant to ss. 633.022 and 633.025 shall be resolved by agreement between the commission and the State Fire Marshal in favor of the requirement that offers the greatest degree of lifesafety or alternatives that would provide an equivalent degree of lifesafety and an equivalent method of construction. If the commission and State Fire Marshal are unable to agree on a resolution, the question shall be referred to a mediator, mutually agreeable to both parties, to resolve the conflict in favor of the provision that offers the greatest lifesafety, or alternatives that would provide an equivalent degree of lifesafety and an equivalent method of construction.

(e) Subject to the provisions of this act, responsibility for enforcement, interpretation, and regulation of the Florida Building Code shall be vested in a specified local board or agency, and the words “local government” and “local governing body” as used in this part shall be construed to refer exclusively to such local board or agency.

(2) The Florida Building Code shall contain provisions or requirements for public and private buildings, structures, and facilities relative to struc-

tural, mechanical, electrical, plumbing, energy, and gas systems, existing buildings, historical buildings, manufactured buildings, elevators, coastal construction, lodging facilities, food sales and food service facilities, health care facilities, including assisted living facilities, adult day care facilities, hospice residential and inpatient facilities and units, and facilities for the control of radiation hazards, public or private educational facilities, swimming pools, and correctional facilities and enforcement of and compliance with such provisions or requirements. Further, the Florida Building Code must provide for uniform implementation of ss. 515.25, 515.27, and 515.29 by including standards and criteria for residential swimming pool barriers, pool covers, latching devices, door and window exit alarms, and other equipment required therein, which are consistent with the intent of s. 515.23. Technical provisions to be contained within the Florida Building Code are restricted to requirements related to the types of materials used and construction methods and standards employed in order to meet criteria specified in the Florida Building Code. Provisions relating to the personnel, supervision or training of personnel, or any other professional qualification requirements relating to contractors or their workforce may not be included within the Florida Building Code, and subsections (4), (5), (6), ~~and~~ (7), and (8) are not to be construed to allow the inclusion of such provisions within the Florida Building Code by amendment. This restriction applies to both initial development and amendment of the Florida Building Code.

(3) The commission shall select from available national or international model building codes, or other available building codes and standards currently recognized by the laws of this state, to form the foundation for the Florida Building Code. The commission may modify the selected model codes and standards as needed to accommodate the specific needs of this state. Standards or criteria referenced by the selected model codes shall be similarly incorporated by reference. If a referenced standard or criterion requires amplification or modification to be appropriate for use in this state, only the amplification or modification shall be specifically set forth in the Florida Building Code. The Florida Building Commission may approve technical amendments to the code, subject to the requirements of subsections (7) and (8), after the amendments have been subject to the following conditions:

(a) The proposed amendment has been published on the commission's website for a minimum of 45 days and all the associated documentation has been made available to any interested party before any consideration by any Technical Advisory Committee;

(b) In order for a Technical Advisory Committee to make a favorable recommendation to the commission, the proposal must receive a three-fourths vote of the members present at the Technical Advisory Committee meeting and at least half of the regular members must be present in order to conduct a meeting;

(c) After Technical Advisory Committee consideration and a recommendation for approval of any proposed amendment, the proposal must be published on the commission's website for not less than 45 days before any consideration by the commission; and

(d) Any proposal may be modified by the commission based on public testimony and evidence from a public hearing held in accordance with chapter 120.

The commission shall incorporate within sections of the Florida Building Code provisions which address regional and local concerns and variations. The commission shall make every effort to minimize conflicts between the Florida Building Code, the Florida Fire Prevention Code, and the Life Safety Code.

(4)(a) All entities authorized to enforce the Florida Building Code pursuant to s. 553.80 shall comply with applicable standards for issuance of mandatory certificates of occupancy, minimum types of inspections, and procedures for plans review and inspections as established by the commission by rule. Local governments may adopt amendments to the administrative provisions of the Florida Building Code, subject to the limitations of this paragraph. Local amendments shall be more stringent than the minimum standards described herein and shall be transmitted to the commission within 30 days after enactment. The local government shall make such amendments available to the general public in a usable format. The State Fire Marshal is responsible for establishing the standards and procedures required in this paragraph for governmental entities with respect to applying the Florida Fire Prevention Code and the Life Safety Code.

(b) Local governments may, subject to the limitations of this section, adopt amendments to the technical provisions of the Florida Building Code which apply solely within the jurisdiction of such government and which provide for more stringent requirements than those specified in the Florida Building Code, not more than once every 6 months. A local government may adopt technical amendments that address local needs if:

1. The local governing body determines, following a public hearing which has been advertised in a newspaper of general circulation at least 10 days before the hearing, that there is a need to strengthen the requirements of the Florida Building Code. The determination must be based upon a review of local conditions by the local governing body, which review demonstrates by evidence or data that the geographical jurisdiction governed by the local governing body exhibits a local need to strengthen the Florida Building Code beyond the needs or regional variation addressed by the Florida Building Code, that the local need is addressed by the proposed local amendment, and that the amendment is no more stringent than necessary to address the local need.

2. Such additional requirements are not discriminatory against materials, products, or construction techniques of demonstrated capabilities.

3. Such additional requirements may not introduce a new subject not addressed in the Florida Building Code.

4. The enforcing agency shall make readily available, in a usable format, all amendments adopted pursuant to this section.

5. Any amendment to the Florida Building Code shall be transmitted within 30 days by the adopting local government to the commission. The commission shall maintain copies of all such amendments in a format that is usable and obtainable by the public. Local technical amendments shall not become effective until 30 days after the amendment has been received and published by the commission.

6. Any amendment to the Florida Building Code adopted by a local government pursuant to this paragraph shall be effective only until the adoption by the commission of the new edition of the Florida Building Code every third year. At such time, the commission shall review such amendment for consistency with the criteria in paragraph (8)(a) ~~(7)(a)~~ and adopt such amendment as part of the Florida Building Code or rescind the amendment. The commission shall immediately notify the respective local government of the rescission of any amendment. After receiving such notice, the respective local government may readopt the rescinded amendment pursuant to the provisions of this paragraph.

7. Each county and municipality desiring to make local technical amendments to the Florida Building Code shall by interlocal agreement establish a countywide compliance review board to review any amendment to the Florida Building Code, adopted by a local government within the county pursuant to this paragraph, that is challenged by any substantially affected party for purposes of determining the amendment's compliance with this paragraph. If challenged, the local technical amendments shall not become effective until time for filing an appeal pursuant to subparagraph 8. has expired or, if there is an appeal, until the commission issues its final order determining the adopted amendment is in compliance with this subsection.

8. If the compliance review board determines such amendment is not in compliance with this paragraph, the compliance review board shall notify such local government of the noncompliance and that the amendment is invalid and unenforceable until the local government corrects the amendment to bring it into compliance. The local government may appeal the decision of the compliance review board to the commission. If the compliance review board determines such amendment to be in compliance with this paragraph, any substantially affected party may appeal such determination to the commission. Any such appeal shall be filed with the commission within 14 days of the board's written determination. The commission shall promptly refer the appeal to the Division of Administrative Hearings for the assignment of an administrative law judge. The administrative law judge shall conduct the required hearing within 30 days, and shall enter a recommended order within 30 days of the conclusion of such hearing. The commission shall enter a final order within 30 days thereafter. The provisions of chapter 120 and the uniform rules of procedure shall apply to such proceedings. The local government adopting the amendment that is subject to challenge has the burden of proving that the amendment complies with this paragraph in proceedings before the compliance review board and the commission, as applicable. Actions of the commission are subject to judicial review pursuant to s. 120.68. The compliance review board shall determine whether its decisions apply to a respective local jurisdiction or apply countywide.

9. An amendment adopted under this paragraph shall include a fiscal impact statement which documents the costs and benefits of the proposed amendment. Criteria for the fiscal impact statement shall include the impact to local government relative to enforcement, the impact to property and building owners, as well as to industry, relative to the cost of compliance. The fiscal impact statement may not be used as a basis for challenging the amendment for compliance.

10. In addition to subparagraphs 7. and 9., the commission may review any amendments adopted pursuant to this subsection and make nonbinding recommendations related to compliance of such amendments with this subsection.

(c) Any amendment adopted by a local enforcing agency pursuant to this subsection shall not apply to state or school district owned buildings, manufactured buildings or factory-built school buildings approved by the commission, or prototype buildings approved pursuant to s. 553.77(3). The respective responsible entities shall consider the physical performance parameters substantiating such amendments when designing, specifying, and constructing such exempt buildings.

(5) The initial adoption of, and any subsequent update or amendment to, the Florida Building Code by the commission is deemed adopted for use statewide without adoptions by local government. For a building permit for which an application is submitted prior to the effective date of the Florida Building Code, the state minimum building code in effect in the permitting jurisdiction on the date of the application governs the permitted work for the life of the permit and any extension granted to the permit.

(6)(a) The commission, by rule adopted pursuant to ss. 120.536(1) and 120.54, shall update the Florida Building Code every 3 years. When updating the Florida Building Code, the commission shall select the most current version of the International Building Code, the International Fuel Gas Code, the International Mechanical Code, the International Plumbing Code, and the International Residential Code, all of which are adopted by the International Code Council, and the National Electrical Code, which is adopted by the National Fire Protection Association, to form the foundation codes of the updated Florida Building Code, if the version has been adopted by the applicable model code entity and made available to the public at least 6 months prior to its selection by the commission.

(b) Codes regarding noise contour lines shall be reviewed annually, and the most current federal guidelines shall be adopted.

(c) The commission may modify any portion of the foundation codes only as needed to accommodate the specific needs of this state, maintaining Florida-specific amendments previously adopted by the commission and not addressed by the updated foundation code. Standards or criteria referenced by the codes shall be incorporated by reference. If a referenced standard or criterion requires amplification or modification to be appropriate for use in this state, only the amplification or modification shall be set forth in the Florida Building Code. The commission may approve technical amendments to the updated Florida Building Code after the amendments have been

subject to the conditions set forth in paragraphs (3)(a)-(d). Amendments to the foundation codes which are adopted in accordance with this subsection shall be clearly marked in printed versions of the Florida Building Code so that the fact that the provisions are Florida-specific amendments to the foundation codes is readily apparent.

(d) The commission shall further consider the commission's own interpretations, declaratory statements, appellate decisions, and approved statewide and local technical amendments and shall incorporate such interpretations, statements, decisions, and amendments into the updated Florida Building Code only to the extent that they are needed to modify the foundation codes to accommodate the specific needs of the state. A change made by an institute or standards organization to any standard or criterion that is adopted by reference in the Florida Building Code does not become effective statewide until it has been adopted by the commission. Furthermore, the edition of the Florida Building Code which is in effect on the date of application for any permit authorized by the code governs the permitted work for the life of the permit and any extension granted to the permit.

(e) A rule updating the Florida Building Code in accordance with this subsection shall take effect no sooner than 6 months after publication of the updated code. Any amendment to the Florida Building Code which is adopted upon a finding by the commission that the amendment is necessary to protect the public from immediate threat of harm takes effect immediately.

(f) Provisions of the foundation codes, including those contained in referenced standards and criteria, relating to wind resistance or the prevention of water intrusion may not be modified to diminish those construction requirements; however, the commission may, subject to conditions in this subsection, modify the provisions to enhance those construction requirements.

(7)~~(f)~~ Upon the conclusion of a triennial update to the Florida Building Code, notwithstanding the provisions of ~~this subsection or~~ subsection (3) or subsection (6), the commission may address issues identified in this subsection ~~paragraph~~ by amending the code pursuant only to the rule adoption procedures contained in chapter 120. Provisions of the Florida Building Code, including those contained in referenced standards and criteria, relating to wind resistance or the prevention of water intrusion may not be amended pursuant to this subsection to diminish those construction requirements; however, the commission may, subject to conditions in this subsection, amend the provisions to enhance those construction requirements. Following the approval of any amendments to the Florida Building Code by the commission and publication of the amendments on the commission's website, authorities having jurisdiction to enforce the Florida Building Code may enforce the amendments. The commission may approve amendments that are needed to address:

(a)~~1.~~ Conflicts within the updated code;

(b)~~2.~~ Conflicts between the updated code and the Florida Fire Prevention Code adopted pursuant to chapter 633;

(c)~~3.~~ The omission of previously adopted Florida-specific amendments to the updated code if such omission is not supported by a specific recommendation of a technical advisory committee or particular action by the commission; or

(d)~~4.~~ Unintended results from the integration of previously adopted Florida-specific amendments with the model code.

(8)~~(7)~~(a) The commission may approve technical amendments to the Florida Building Code once each year for statewide or regional application upon a finding that the amendment:

1. Is needed in order to accommodate the specific needs of this state.

2. Has a reasonable and substantial connection with the health, safety, and welfare of the general public.

3. Strengthens or improves the Florida Building Code, or in the case of innovation or new technology, will provide equivalent or better products or methods or systems of construction.

4. Does not discriminate against materials, products, methods, or systems of construction of demonstrated capabilities.

5. Does not degrade the effectiveness of the Florida Building Code.

Furthermore, the Florida Building Commission may approve technical amendments to the code once each year to incorporate into the Florida Building Code its own interpretations of the code which are embodied in its opinions, final orders, declaratory statements, and interpretations of hearing officer panels under s. 553.775(3)(c), but shall do so only to the extent that incorporation of interpretations is needed to modify the foundation codes to accommodate the specific needs of this state. Amendments approved under this paragraph shall be adopted by rule pursuant to ss. 120.536(1) and 120.54, after the amendments have been subjected to the provisions of subsection (3).

(b) A proposed amendment shall include a fiscal impact statement which documents the costs and benefits of the proposed amendment. Criteria for the fiscal impact statement shall be established by rule by the commission and shall include the impact to local government relative to enforcement, the impact to property and building owners, as well as to industry, relative to the cost of compliance.

(c) The commission may not approve any proposed amendment that does not accurately and completely address all requirements for amendment which are set forth in this section. The commission shall require all proposed amendments and information submitted with proposed amendments to be reviewed by commission staff prior to consideration by any technical advisory committee. These reviews shall be for sufficiency only and are not intended to be qualitative in nature. Staff members shall reject any proposed amendment that fails to include a fiscal impact statement. Proposed

amendments rejected by members of the staff may not be considered by the commission or any technical advisory committee.

(d) Provisions of the Florida Building Code, including those contained in referenced standards and criteria, relating to wind resistance or the prevention of water intrusion may not be amended pursuant to this subsection to diminish those construction requirements; however, the commission may, subject to conditions in this subsection, amend the provisions to enhance those construction requirements.

(9)~~(8)~~ The following buildings, structures, and facilities are exempt from the Florida Building Code as provided by law, and any further exemptions shall be as determined by the Legislature and provided by law:

(a) Buildings and structures specifically regulated and preempted by the Federal Government.

(b) Railroads and ancillary facilities associated with the railroad.

(c) Nonresidential farm buildings on farms.

(d) Temporary buildings or sheds used exclusively for construction purposes.

(e) Mobile or modular structures used as temporary offices, except that the provisions of part II relating to accessibility by persons with disabilities shall apply to such mobile or modular structures.

(f) Those structures or facilities of electric utilities, as defined in s. 366.02, which are directly involved in the generation, transmission, or distribution of electricity.

(g) Temporary sets, assemblies, or structures used in commercial motion picture or television production, or any sound-recording equipment used in such production, on or off the premises.

(h) Storage sheds that are not designed for human habitation and that have a floor area of 720 square feet or less are not required to comply with the mandatory wind-borne-debris-impact standards of the Florida Building Code.

(i) Chickees constructed by the Miccosukee Tribe of Indians of Florida or the Seminole Tribe of Florida. As used in this paragraph, the term "chickee" means an open-sided wooden hut that has a thatched roof of palm or palmetto or other traditional materials, and that does not incorporate any electrical, plumbing, or other nonwood features.

With the exception of paragraphs (a), (b), (c), and (f), in order to preserve the health, safety, and welfare of the public, the Florida Building Commission may, by rule adopted pursuant to chapter 120, provide for exceptions to the broad categories of buildings exempted in this section, including exceptions for application of specific sections of the code or standards adopted therein. The Department of Agriculture and Consumer Services shall have exclusive

authority to adopt by rule, pursuant to chapter 120, exceptions to nonresidential farm buildings exempted in paragraph (c) when reasonably necessary to preserve public health, safety, and welfare. The exceptions must be based upon specific criteria, such as under-roof floor area, aggregate electrical service capacity, HVAC system capacity, or other building requirements. Further, the commission may recommend to the Legislature additional categories of buildings, structures, or facilities which should be exempted from the Florida Building Code, to be provided by law.

(10)~~(9)~~(a) In the event of a conflict between the Florida Building Code and the Florida Fire Prevention Code and the Life Safety Code as applied to a specific project, the conflict shall be resolved by agreement between the local building code enforcement official and the local fire code enforcement official in favor of the requirement of the code which offers the greatest degree of lifesafety or alternatives which would provide an equivalent degree of lifesafety and an equivalent method of construction.

(b) Any decision made by the local fire official and the local building official may be appealed to a local administrative board designated by the municipality, county, or special district having firesafety responsibilities. If the decision of the local fire official and the local building official is to apply the provisions of either the Florida Building Code or the Florida Fire Prevention Code and the Life Safety Code, the board may not alter the decision unless the board determines that the application of such code is not reasonable. If the decision of the local fire official and the local building official is to adopt an alternative to the codes, the local administrative board shall give due regard to the decision rendered by the local officials and may modify that decision if the administrative board adopts a better alternative, taking into consideration all relevant circumstances. In any case in which the local administrative board adopts alternatives to the decision rendered by the local fire official and the local building official, such alternatives shall provide an equivalent degree of lifesafety and an equivalent method of construction as the decision rendered by the local officials.

(c) If the local building official and the local fire official are unable to agree on a resolution of the conflict between the Florida Building Code and the Florida Fire Prevention Code and the Life Safety Code, the local administrative board shall resolve the conflict in favor of the code which offers the greatest degree of lifesafety or alternatives which would provide an equivalent degree of lifesafety and an equivalent method of construction.

(d) All decisions of the local administrative board, or if none exists, the decisions of the local building official and the local fire official, are subject to review by a joint committee composed of members of the Florida Building Commission and the Fire Code Advisory Council. If the joint committee is unable to resolve conflicts between the codes as applied to a specific project, the matter shall be resolved pursuant to the provisions of paragraph (1)(d).

(e) The local administrative board shall, to the greatest extent possible, be composed of members with expertise in building construction and firesafety standards.

(f) All decisions of the local building official and local fire official and all decisions of the administrative board shall be in writing and shall be binding upon all persons but shall not limit the authority of the State Fire Marshal or the Florida Building Commission pursuant to paragraph (1)(d) and ss. 663.01 and 633.161. Decisions of general application shall be indexed by building and fire code sections and shall be available for inspection during normal business hours.

(11)~~(10)~~ Except within coastal building zones as defined in s. 161.54, specification standards developed by nationally recognized code promulgation organizations to determine compliance with engineering criteria of the Florida Building Code for wind load design shall not apply to one or two family dwellings which are two stories or less in height unless approved by the commission for use or unless expressly made subject to said standards and criteria by local ordinance adopted in accordance with the provisions of subsection (4).

(12)~~(11)~~ The Florida Building Code does not apply to, and no code enforcement action shall be brought with respect to, zoning requirements, land use requirements, and owner specifications or programmatic requirements which do not pertain to and govern the design, construction, erection, alteration, modification, repair, or demolition of public or private buildings, structures, or facilities or to programmatic requirements that do not pertain to enforcement of the Florida Building Code. Additionally, a local code enforcement agency may not administer or enforce the Florida Building Code to prevent the siting of any publicly owned facility, including, but not limited to, correctional facilities, juvenile justice facilities, or state universities, community colleges, or public education facilities, as provided by law.

Section 8. Subsection (2) of section 553.775, Florida Statutes, is amended to read:

553.775 Interpretations.—

(2) Local enforcement agencies, local building officials, state agencies, and the commission shall interpret provisions of the Florida Building Code in a manner that is consistent with declaratory statements and interpretations entered by the commission, except that conflicts between the Florida Fire Prevention Code and the Florida Building Code shall be resolved in accordance with s. 553.73(10)(c) and (d) ~~s. 553.73(9)(c) and (d)~~.

Section 9. Upon the effective date of this act, each jurisdiction having authority to enforce the Florida Building Code shall, at a minimum, require wind-borne-debris protection in accordance with s. 1609.1, International Building Code (2006) and the International Residential Code (2006) within the "wind-borne-debris region" as that term is defined in s. 1609.2, International Building Code (2006), and s. R301.2, International Residential Code (2006).

Section 10. (1) The Florida Building Commission shall amend the Florida Building Code to reflect the application of provisions identified in section 9 of this act, and to eliminate all exceptions that provide less stringent requirements. The amendments by the commission shall apply throughout

the state with the exception of the High Velocity Hurricane Zone, which shall be governed as currently provided within the Florida Building Code. The commission shall fulfill these obligations before July 1, 2007, pursuant only to the provisions of chapter 120, Florida Statutes.

(2) The Florida Building Commission shall develop voluntary "Code Plus" guidelines for increasing the hurricane resistance of buildings. The guidelines may be modeled on the requirements for the High Velocity Hurricane Zone and must identify products, systems, and methods of construction that the commission anticipates could result in stronger construction. The commission shall include these guidelines in its report to the 2008 Legislature.

Section 11. Subsection (1) of section 624.407, Florida Statutes, is amended to read:

624.407 Capital funds required; new insurers.—

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

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

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

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

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

however, a domestic insurer that transacts residential property insurance and is a wholly owned subsidiary of an insurer authorized to do business in any other state shall possess surplus as to policyholders of at least $50 million, but no insurer shall be required under this subsection to have surplus as to policyholders greater than $100 million.

Section 12. Paragraph (a) of subsection (2) of section 624.462, Florida Statutes, is amended to read:

624.462 Commercial self-insurance funds.—

(2) As used in ss. 624.460-624.488, "commercial self-insurance fund" or "fund" means a group of members, operating individually and collectively through a trust or corporation, that must be:

(a) Established by:

1. A not-for-profit trade association, industry association, or professional association of employers or professionals which has a constitution or bylaws, which is incorporated under the laws of this state, and which has been

organized for purposes other than that of obtaining or providing insurance and operated in good faith for a continuous period of 1 year;

2. A self-insurance trust fund organized pursuant to s. 627.357 and maintained in good faith for a continuous period of 1 year for purposes other than that of obtaining or providing insurance pursuant to this section. Each member of a commercial self-insurance trust fund established pursuant to this subsection must maintain membership in the self-insurance trust fund organized pursuant to s. 627.357;

3. A group of 10 or more health care providers, as defined in s. 627.351(4)(h), for purposes of providing medical malpractice coverage; or

4. A not-for-profit group comprised of one or more community ~~no less than 10 condominium~~ associations responsible for operating at least 50 residential parcels or units created and operating under chapter 718, chapter 719, chapter 720, chapter 721, or chapter 723 ~~as defined in s. 718.103(2), which is incorporated under the laws of this state,~~ which restricts its membership to community ~~condominium~~ associations only~~,~~ and which has been organized and maintained in good faith for the purpose of pooling and spreading the liabilities of its group members relating to property or casualty risk or surety ~~a continuous period of 1 year for purposes other than that of obtaining or providing~~ insurance.

Section 13. Subsection (1) of section 624.4622, Florida Statutes, is amended to read:

624.4622 Local government self-insurance funds.—

(1) Any two or more local governmental entities may enter into interlocal agreements for the purpose of securing the payment of benefits under chapter 440, or insuring or self-insuring real or personal property of every kind and every interest in such property against loss or damage from any hazard or cause and against any loss consequential to such loss or damage, provided the local government self-insurance fund that is created must:

(a) Have annual normal premiums in excess of $5 million;

(b) Maintain a continuing program of excess insurance coverage and reserve evaluation to protect the financial stability of the fund in an amount and manner determined by a qualified and independent actuary;

(c) Submit annually an audited fiscal year-end financial statement by an independent certified public accountant within 6 months after the end of the fiscal year to the office; and

(d) Have a governing body which is comprised entirely of local elected officials.

Section 14. Section 624.4625, Florida Statutes, is created to read:

624.4625 Corporation not-for-profit self-insurance funds.—

(1) Notwithstanding any other provision of law, any two or more corporations not for profit located in and organized under the laws of this state may form a self-insurance fund for the purpose of pooling and spreading liabilities of its group members in any one or combination of property or casualty risk, provided the corporation not for profit self-insurance fund that is created:

(a) Has annual normal premiums in excess of $5 million.

(b) Requires for qualification that each participating member receive at least 75 percent of its revenues from local, state, or federal governmental sources or a combination of such sources.

(c) Uses a qualified actuary to determine rates using accepted actuarial principles and annually submits to the office a certification by the actuary that the rates are actuarially sound and are not inadequate, as defined in s. 627.062.

(d) Uses a qualified actuary to establish reserves for loss and loss adjustment expenses and annually submits to the office a certification by the actuary that the loss and loss adjustment expense reserves are adequate. If the actuary determines that reserves are not adequate, the fund shall file with the office a remedial plan for increasing the reserves or otherwise addressing the financial condition of the fund, subject to a determination by the office that the fund will operate on an actuarially sound basis and the fund does not pose a significant risk of insolvency.

(e) Maintains a continuing program of excess insurance coverage and reserve evaluation to protect the financial stability of the fund in an amount and manner determined by a qualified actuary. At a minimum, this program must:

1. Purchase excess insurance from authorized insurance carriers.

2. Retain a per-loss occurrence that does not exceed $350,000.

(f) Submits to the office annually an audited fiscal year-end financial statement by an independent certified public accountant within 6 months after the end of the fiscal year.

(g) Has a governing body that is comprised entirely of officials from corporations not for profit that are members of the corporation not-for-profit self-insurance fund.

(h) Uses knowledgeable persons or business entities to administer or service the fund in the areas of claims administration, claims adjusting, underwriting, risk management, loss control, policy administration, financial audit, and legal areas. Such persons must meet all applicable requirements of law for state licensure and must have at least 5 years' experience with commercial self-insurance funds formed under s. 624.462, self-insurance funds formed under s. 624.4622, or domestic insurers.

(i) Submits to the office copies of contracts used for its members that clearly establish the liability of each member for the obligations of the fund.

(j) Annually submits to the office a certification by the governing body of the fund that, to the best of its knowledge, the requirements of this section are met.

(2) As used in this section, the term "qualified actuary" means an actuary that is a member of the Casualty Actuarial Society or the American Academy of Actuaries.

(3) A corporation not-for-profit self-insurance fund that meets the requirements of this section is not:

(a) An insurer for purposes of participation in or coverage by any insurance guaranty association established by chapter 631; or

(b) Subject to s. 624.4621 and is not required to file any report with the department under s. 440.38(2)(b) that is uniquely required of group self-insurer funds qualified under s. 624.4621.

(4) Premiums, contributions, and assessments received by a corporation not-for-profit self-insurance fund are subject to ss. 624.509(1) and (2) and 624.5092, except that the tax rate shall be 1.6 percent of the gross amount of such premiums, contributions, and assessments.

(5) If any of the requirements of subsection (1) are not met, a corporation not-for-profit self-insurance fund is subject to the requirements of s. 624.4621 if the fund provides only workers' compensation coverage or is subject to the requirements of ss. 624.460-624.488 if the fund provides coverage for other property, casualty, or surety risks.

Section 15. Subsection (3) of section 624.610, Florida Statutes, is amended to read:

624.610 Reinsurance.—

(3)(a) Credit must be allowed when the reinsurance is ceded to an assuming insurer that is authorized to transact insurance or reinsurance in this state.

(b)1. Credit must be allowed when the reinsurance is ceded to an assuming insurer that is accredited as a reinsurer in this state. An accredited reinsurer is one that:

a. Files with the office evidence of its submission to this state's jurisdiction;

b. Submits to this state's authority to examine its books and records;

c. Is licensed or authorized to transact insurance or reinsurance in at least one state or, in the case of a United States branch of an alien assuming insurer, is entered through, licensed, or authorized to transact insurance or reinsurance in at least one state;

d. Files annually with the office a copy of its annual statement filed with the insurance department of its state of domicile any quarterly statements

if required by its state of domicile or such quarterly statements if specifically requested by the office, and a copy of its most recent audited financial statement; and

(I) Maintains a surplus as regards policyholders in an amount not less than $20 million and whose accreditation has not been denied by the office within 90 days after its submission; or

(II) Maintains a surplus as regards policyholders in an amount not less than $20 million and whose accreditation has been approved by the office.

2. The office may deny or revoke an assuming insurer's accreditation if the assuming insurer does not submit the required documentation pursuant to subparagraph 1., if the assuming insurer fails to meet all of the standards required of an accredited reinsurer, or if the assuming insurer's accreditation would be hazardous to the policyholders of this state. In determining whether to deny or revoke accreditation, the office may consider the qualifications of the assuming insurer with respect to all the following subjects:

a. Its financial stability;

b. The lawfulness and quality of its investments;

c. The competency, character, and integrity of its management;

d. The competency, character, and integrity of persons who own or have a controlling interest in the assuming insurer; and

e. Whether claims under its contracts are promptly and fairly adjusted and are promptly and fairly paid in accordance with the law and the terms of the contracts.

3. Credit must not be allowed a ceding insurer if the assuming insurer's accreditation has been revoked by the office after notice and the opportunity for a hearing.

4. The actual costs and expenses incurred by the office to review a reinsurer's request for accreditation and subsequent reviews must be charged to and collected from the requesting reinsurer. If the reinsurer fails to pay the actual costs and expenses promptly when due, the office may refuse to accredit the reinsurer or may revoke the reinsurer's accreditation.

(c)1. Credit must be allowed when the reinsurance is ceded to an assuming insurer that maintains a trust fund in a qualified United States financial institution, as defined in paragraph (5)(b), for the payment of the valid claims of its United States ceding insurers and their assigns and successors in interest. To enable the office to determine the sufficiency of the trust fund, the assuming insurer shall report annually to the office information substantially the same as that required to be reported on the NAIC Annual Statement form by authorized insurers. The assuming insurer shall submit to examination of its books and records by the office and bear the expense of examination.

2.a. Credit for reinsurance must not be granted under this subsection unless the form of the trust and any amendments to the trust have been approved by:

(I) The insurance regulator of the state in which the trust is domiciled; or

(II) The insurance regulator of another state who, pursuant to the terms of the trust instrument, has accepted principal regulatory oversight of the trust.

b. The form of the trust and any trust amendments must be filed with the insurance regulator of every state in which the ceding insurer beneficiaries of the trust are domiciled. The trust instrument must provide that contested claims are valid and enforceable upon the final order of any court of competent jurisdiction in the United States. The trust must vest legal title to its assets in its trustees for the benefit of the assuming insurer's United States ceding insurers and their assigns and successors in interest. The trust and the assuming insurer are subject to examination as determined by the insurance regulator.

c. The trust remains in effect for as long as the assuming insurer has outstanding obligations due under the reinsurance agreements subject to the trust. No later than February 28 of each year, the trustee of the trust shall report to the insurance regulator in writing the balance of the trust and list the trust's investments at the preceding year end, and shall certify that the trust will not expire prior to the following December 31.

3. The following requirements apply to the following categories of assuming insurer:

a. The trust fund for a single assuming insurer consists of funds in trust in an amount not less than the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers, and, in addition, the assuming insurer shall maintain a trusteed surplus of not less than $20 million. Not less than 50 percent of the funds in the trust covering the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers and trusteed surplus shall consist of assets of a quality substantially similar to that required in part II of chapter 625. Clean, irrevocable, unconditional, and evergreen letters of credit, issued or confirmed by a qualified United States financial institution, as defined in paragraph (5)(a), effective no later than December 31 of the year for which the filing is made and in the possession of the trust on or before the filing date of its annual statement, may be used to fund the remainder of the trust and trusteed surplus.

b.(I) In the case of a group including incorporated and individual unincorporated underwriters:

(A) For reinsurance ceded under reinsurance agreements with an inception, amendment, or renewal date on or after August 1, 1995, the trust consists of a trusteed account in an amount not less than the group's several

liabilities attributable to business ceded by United States domiciled ceding insurers to any member of the group;

(B) For reinsurance ceded under reinsurance agreements with an inception date on or before July 31, 1995, and not amended or renewed after that date, notwithstanding the other provisions of this section, the trust consists of a trusteed account in an amount not less than the group's several insurance and reinsurance liabilities attributable to business written in the United States; and

(C) In addition to these trusts, the group shall maintain in trust a trusteed surplus of which $100 million must be held jointly for the benefit of the United States domiciled ceding insurers of any member of the group for all years of account.

(II) The incorporated members of the group must not be engaged in any business other than underwriting of a member of the group, and are subject to the same level of regulation and solvency control by the group's domiciliary regulator as the unincorporated members.

(III) Within 90 days after its financial statements are due to be filed with the group's domiciliary regulator, the group shall provide to the insurance regulator an annual certification by the group's domiciliary regulator of the solvency of each underwriter member or, if a certification is unavailable, financial statements, prepared by independent public accountants, of each underwriter member of the group.

(d) Credit must be allowed when the reinsurance is ceded to an assuming insurer not meeting the requirements of paragraph (a), paragraph (b), or paragraph (c), but only as to the insurance of risks located in jurisdictions in which the reinsurance is required to be purchased by a particular entity by applicable law or regulation of that jurisdiction.

(e) If the reinsurance is ceded to an assuming insurer not meeting the requirements of paragraph (a), paragraph (b), paragraph (c), or paragraph (d), the commissioner may allow credit, but only if the assuming insurer holds surplus in excess of $100 million and has a secure financial strength rating from at least two nationally recognized statistical rating organizations deemed acceptable by the commissioner. In determining whether credit should be allowed, the commissioner shall consider the following:

1. The domiciliary regulatory jurisdiction of the assuming insurer.

2. The structure and authority of the domiciliary regulator with regard to solvency regulation requirements and the financial surveillance of the reinsurer.

3. The substance of financial and operating standards for reinsurers in the domiciliary jurisdiction.

4. The form and substance of financial reports required to be filed by the reinsurers in the domiciliary jurisdiction or other public financial statements filed in accordance with generally accepted accounting principles.

5. The domiciliary regulator's willingness to cooperate with United States regulators in general and the office in particular.

6. The history of performance by reinsurers in the domiciliary jurisdiction.

7. Any documented evidence of substantial problems with the enforcement of valid United States judgments in the domiciliary jurisdiction.

8. Any other matters deemed relevant by the commissioner. The commissioner shall give appropriate consideration to insurer group ratings that may have been issued. The commissioner may, in lieu of granting full credit under this subsection, reduce the amount required to be held in trust under paragraph (c).

(f)~~(e)~~ If the assuming insurer is not authorized or accredited to transact insurance or reinsurance in this state pursuant to paragraph (a) or paragraph (b), the credit permitted by paragraph (c) or paragraph (d) must not be allowed unless the assuming insurer agrees in the reinsurance agreements:

1.a. That in the event of the failure of the assuming insurer to perform its obligations under the terms of the reinsurance agreement, the assuming insurer, at the request of the ceding insurer, shall submit to the jurisdiction of any court of competent jurisdiction in any state of the United States, will comply with all requirements necessary to give the court jurisdiction, and will abide by the final decision of the court or of any appellate court in the event of an appeal; and

b. To designate the Chief Financial Officer, pursuant to s. 48.151, or a designated attorney as its true and lawful attorney upon whom may be served any lawful process in any action, suit, or proceeding instituted by or on behalf of the ceding company.

2. This paragraph is not intended to conflict with or override the obligation of the parties to a reinsurance agreement to arbitrate their disputes, if this obligation is created in the agreement.

(g)~~(f)~~ If the assuming insurer does not meet the requirements of paragraph (a) or paragraph (b), the credit permitted by paragraph (c) or paragraph (d) is not allowed unless the assuming insurer agrees in the trust agreements, in substance, to the following conditions:

1. Notwithstanding any other provisions in the trust instrument, if the trust fund is inadequate because it contains an amount less than the amount required by paragraph (c), or if the grantor of the trust has been declared insolvent or placed into receivership, rehabilitation, liquidation, or similar proceedings under the laws of its state or country of domicile, the trustee shall comply with an order of the insurance regulator with regulatory oversight over the trust or with an order of a United States court of competent jurisdiction directing the trustee to transfer to the insurance regulator with regulatory oversight all of the assets of the trust fund.

2. The assets must be distributed by and claims must be filed with and valued by the insurance regulator with regulatory oversight in accordance with the laws of the state in which the trust is domiciled which are applicable to the liquidation of domestic insurance companies.

3. If the insurance regulator with regulatory oversight determines that the assets of the trust fund or any part thereof are not necessary to satisfy the claims of the United States ceding insurers of the grantor of the trust, the assets or part thereof must be returned by the insurance regulator with regulatory oversight to the trustee for distribution in accordance with the trust agreement.

4. The grantor shall waive any right otherwise available to it under United States law which is inconsistent with this provision.

Section 16. Paragraph (a) of subsection (3) of section 626.2815, Florida Statutes, is amended to read:

626.2815 Continuing education required; application; exceptions; requirements; penalties.—

(3)(a) Each person subject to the provisions of this section must, except as set forth in paragraphs (b), (c), and (d), complete a minimum of 24 hours of continuing education courses every 2 years in basic or higher-level courses prescribed by this section or in other courses approved by the department. Each person subject to the provisions of this section must complete, as part of his or her required number of continuing education hours, 3 hours of continuing education, approved by the department, every 2 years on the subject matter of ethics. Each licensed general lines agent and customer representative subject to this section must complete, as part of his or her required number of continuing education hours, 1 hour of continuing education, approved by the department, every 2 years on the subject matter of premium discounts available on property insurance policies based on various hurricane mitigation options and the means for obtaining the discounts.

Section 17. Section 627.0613, Florida Statutes, is amended to read:

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

(1) Recommend to the department or office, by petition, the commencement of any proceeding or action; appear in any proceeding or action before the department or office; or appear in any proceeding before the Division of Administrative Hearings or arbitration panel specified in s. 627.062(6) relating to subject matter under the jurisdiction of the department or office.

(2) Have access to and use of all files, records, and data of the department or office.

(3) Examine rate and form filings submitted to the office, hire consultants as necessary to aid in the review process, and recommend to the department or office any position deemed by the consumer advocate to be in the public interest.

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

1. The number and nature of consumer complaints received by the department against the insurer.

2. The disposition of all complaints received by the department.

3. The average length of time for payment of claims by the insurer.

4. Any other factors the commission identifies as assisting policyholders in making informed choices about homeowner's insurance.

(5)~~(4)~~ Prepare an annual budget for presentation to the Legislature by the department, which budget must be adequate to carry out the duties of the office of consumer advocate.

Section 18. Subsection (2) and paragraph (a) of subsection (6) of section 627.062, Florida Statutes, are amended, present subsection (9) of that section is redesignated as subsection (10), and a new subsection (9) is added to that section, to read:

627.062 Rate standards.—

(2) As to all such classes of insurance:

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

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

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

3. For all filings made on or before December 31, 2008, an insurer seeking a rate that is greater than the rate most recently approved by the office shall make a "file and use" filing.

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

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

2. Past and prospective expenses.

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

4. Investment income reasonably expected by the insurer, consistent with the insurer's investment practices, from investable premiums anticipated in the filing, plus any other expected income from currently invested assets representing the amount expected on unearned premium reserves and loss reserves. The commission may adopt rules utilizing reasonable techniques of actuarial science and economics to specify the manner in which insurers shall calculate investment income attributable to such classes of insurance written in this state and the manner in which such investment income shall be used in the calculation of insurance rates. Such manner shall contemplate allowances for an underwriting profit factor and full consideration of investment income which produce a reasonable rate of return; however, investment income from invested surplus shall not be considered.

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

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

7. The adequacy of loss reserves.

8. The cost of reinsurance.

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

10. Conflagration and catastrophe hazards, if applicable.

11. A reasonable margin for underwriting profit and contingencies. For that portion of the rate covering the risk of hurricanes and other catastrophic losses for which the insurer has not purchased reinsurance and has

exposed its capital and surplus to such risk, the office must approve a rating factor that provides the insurer a reasonable rate of return that is commensurate with such risk.

12. The cost of medical services, if applicable.

13. Other relevant factors which impact upon the frequency or severity of claims or upon expenses.

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

(d) If conflagration or catastrophe hazards are given consideration by an insurer in its rates or rating plan, including surcharges and discounts, the insurer shall establish a reserve for that portion of the premium allocated to such hazard and shall maintain the premium in a catastrophe reserve. Any removal of such premiums from the reserve for purposes other than paying claims associated with a catastrophe or purchasing reinsurance for catastrophes shall be subject to approval of the office. Any ceding commission received by an insurer purchasing reinsurance for catastrophes shall be placed in the catastrophe reserve.

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

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

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

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

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

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

6. A rate shall be deemed unfairly discriminatory as to a risk or group of risks if the application of premium discounts, credits, or surcharges

among such risks does not bear a reasonable relationship to the expected loss and expense experience among the various risks.

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

(g) The office may at any time review a rate, rating schedule, rating manual, or rate change; the pertinent records of the insurer; and market conditions. If the office finds on a preliminary basis that a rate may be excessive, inadequate, or unfairly discriminatory, the office shall initiate proceedings to disapprove the rate and shall so notify the insurer. However, the office may not disapprove as excessive any rate for which it has given final approval or which has been deemed approved for a period of 1 year after the effective date of the filing unless the office finds that a material misrepresentation or material error was made by the insurer or was contained in the filing. Upon being so notified, the insurer or rating organization shall, within 60 days, file with the office all information which, in the belief of the insurer or organization, proves the reasonableness, adequacy, and fairness of the rate or rate change. The office shall issue a notice of intent to approve or a notice of intent to disapprove pursuant to the procedures of paragraph (a) within 90 days after receipt of the insurer's initial response. In such instances and in any administrative proceeding relating to the legality of the rate, the insurer or rating organization shall carry the burden of proof by a preponderance of the evidence to show that the rate is not excessive, inadequate, or unfairly discriminatory. After the office notifies an insurer that a rate may be excessive, inadequate, or unfairly discriminatory, unless the office withdraws the notification, the insurer shall not alter the rate except to conform with the office's notice until the earlier of 120 days after the date the notification was provided or 180 days after the date of the implementation of the rate. The office may, subject to chapter 120, disapprove without the 60-day notification any rate increase filed by an insurer within the prohibited time period or during the time that the legality of the increased rate is being contested.

(h) In the event the office finds that a rate or rate change is excessive, inadequate, or unfairly discriminatory, the office shall issue an order of disapproval specifying that a new rate or rate schedule which responds to the findings of the office be filed by the insurer. The office shall further order, for any "use and file" filing made in accordance with subparagraph (a)2., that premiums charged each policyholder constituting the portion of the rate above that which was actuarially justified be returned to such policyholder in the form of a credit or refund. If the office finds that an insurer's rate or rate change is inadequate, the new rate or rate schedule filed with the office in response to such a finding shall be applicable only to new or renewal business of the insurer written on or after the effective date of the responsive filing.

(i) Except as otherwise specifically provided in this chapter, the office shall not prohibit any insurer, including any residual market plan or joint underwriting association, from paying acquisition costs based on the full

amount of premium, as defined in s. 627.403, applicable to any policy, or prohibit any such insurer from including the full amount of acquisition costs in a rate filing.

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

~~(j) Effective July 1, 2007, notwithstanding any other provision of this section:~~

~~1. With respect to any residential property insurance subject to regulation under this section for any area for which the office determines a reasonable degree of competition exists, a rate filing, including, but not limited to, any rate changes, rating factors, territories, classification, discounts, and credits, with respect to any policy form, including endorsements issued with the form, that results in an overall average statewide premium increase or decrease of no more than 5 percent above or below the premium that would result from the insurer's rates then in effect shall not be subject to a determination by the office that the rate is excessive or unfairly discriminatory except as provided in subparagraph 3., or any other provision of law, provided all changes specified in the filing do not result in an overall premium increase of more than 10 percent for any one territory, for reasons related solely to the rate change. As used in this subparagraph, the term "insurer's rates then in effect" includes only rates that have been lawfully in effect under this section or rates that have been determined to be lawful through administrative proceedings or judicial proceedings.~~

~~2. An insurer may not make filings under this paragraph with respect to any policy form, including endorsements issued with the form, if the overall premium changes resulting from such filings exceed the amounts specified in this paragraph in any 12-month period. An insurer may proceed under other provisions of this section or other provisions of law if the insurer seeks to exceed the premium or rate limitations of this paragraph.~~

~~3. This paragraph does not affect the authority of the office to disapprove a rate as inadequate or to disapprove a filing for the unlawful use of unfairly discriminatory rating factors that are prohibited by the laws of this state. An insurer electing to implement a rate change under this paragraph shall submit a filing to the office at least 40 days prior to the effective date of the rate change. The office shall have 30 days after the filing's submission to review the filing and determine if the rate is inadequate or uses unfairly discriminatory rating factors. Absent a finding by the office within such 30-day period that the rate is inadequate or that the insurer has used unfairly discriminatory rating factors, the filing is deemed approved. If the office finds during the 30-day period that the filing will result in inadequate premiums or otherwise endanger the insurer's solvency, the office shall suspend the rate decrease. If the insurer is implementing an overall rate increase, the results of which continue to produce an inadequate rate, such increase shall proceed pending additional action by the office to ensure the adequacy of the rate.~~

~~4. This paragraph does not apply to rate filings for any insurance other than residential property insurance.~~

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

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

(6)(a) After any action with respect to a rate filing that constitutes agency action for purposes of the Administrative Procedure Act, except for a rate filing for medical malpractice, an insurer may, in lieu of demanding a hearing under s. 120.57, require arbitration of the rate filing. However, the arbitration option provision in this subsection does not apply to a rate filing that is made on or after the effective date of this act until January 1, 2009. Arbitration shall be conducted by a board of arbitrators consisting of an arbitrator selected by the office, an arbitrator selected by the insurer, and an arbitrator selected jointly by the other two arbitrators. Each arbitrator must be certified by the American Arbitration Association. A decision is valid only upon the affirmative vote of at least two of the arbitrators. No arbitrator may be an employee of any insurance regulator or regulatory body or of any insurer, regardless of whether or not the employing insurer does business in this state. The office and the insurer must treat the decision of the arbitrators as the final approval of a rate filing. Costs of arbitration shall be paid by the insurer.

(9)(a) Effective March 1, 2007, the chief executive officer or chief financial officer of a property insurer and the chief actuary of a property insurer must certify under oath and subject to the penalty of perjury, on a form approved by the commission, the following information, which must accompany a rate filing:

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

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

3. Based on the signing officer's and actuary's knowledge, the information and other factors described in s. 627.062(2)(b), including, but not limited to, investment income, fairly present in all material respects the basis of the rate filing for the periods presented in the filing; and

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

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

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

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

Section 19. Subsection (1) of section 627.0629, Florida Statutes, is amended to read:

627.0629 Residential property insurance; rate filings.—

(1) It is the intent of the Legislature that insurers must provide savings to consumers who install or implement windstorm damage mitigation techniques, alterations, or solutions to their properties to prevent windstorm losses. ~~Effective June 1, 2002,~~ A rate filing for residential property insurance must include actuarially reasonable discounts, credits, or other rate differentials, or appropriate reductions in deductibles, for properties on which fixtures or construction techniques demonstrated to reduce the amount of loss in a windstorm have been installed or implemented. The fixtures or construction techniques shall include, but not be limited to, fixtures or construction techniques which enhance roof strength, roof covering performance, roof-to-wall strength, wall-to-floor-to-foundation strength, opening protection, and window, door, and skylight strength. Credits, discounts, or other rate differentials, or appropriate reductions in deductibles, for fixtures and construction techniques which meet the minimum requirements of the Florida Building Code must be included in the rate filing. All insurance companies must make a rate filing which includes the credits, discounts, or other rate differentials or reductions in deductibles by February 28, 2003. By July 1, 2007, the office shall reevaluate the discounts, credits, other rate differentials, and appropriate reductions in deductibles for fixtures and construction techniques that meet the minimum requirements of the Florida Building Code, based upon actual experience or any other loss relativity studies available to the office. The office shall determine the discounts, credits, other rate differentials, and appropriate reductions in deductibles that reflect the full actuarial value of such revaluation, which may be used by insurers in rate filings.

Section 20. Section 627.0655, Florida Statutes, is created to read:

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

Section 21. Paragraphs (a), (b), (c), (m), (p), and (s) of subsection (6) of section 627.351, Florida Statutes, are amended, and paragraph (ee) is added to that subsection, 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 Financial Services Commission. The plan is subject to continuous review by the commission. The commission may, by order, withdraw approval of all or part of a plan if the commission determines that conditions have changed since approval was granted and that the purposes of the plan require changes in the plan. The corporation shall continue to operate pursuant to the plan of operation approved by the Office of Insurance Regulation until October 1, 2006. 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. For the purposes of this subsection, the term "homestead property" means:

a. Property that has been granted a homestead exemption under chapter 196;

b. Property for which the owner has a current, written lease with a renter for a term of at least 7 months and for which the dwelling is insured by the corporation for $200,000 or less;

c. An owner-occupied mobile home or manufactured home, as defined in s. 320.01, which is permanently affixed to real property, is owned by a Florida resident, and has been granted a homestead exemption under chapter 196 or, if the owner does not own the real property, the owner certifies that the mobile home or manufactured home is his or her principal place of residence;~~.~~

d. Tenant's coverage;

e. Commercial lines residential property; or

f. Any county, district, or municipal hospital; a hospital licensed by any not-for-profit corporation qualified under s. 501(c)(3) of the United States Internal Revenue Code; or a continuing care retirement community that is certified under chapter 651 and that receives an exemption from ad valorem taxes under chapter 196.

4. For the purposes of this subsection, the term "nonhomestead property" means property that is not homestead property.

5. Effective July 1, 2008, a personal lines residential structure that has a dwelling replacement cost of $1 million or more, or a single condominium unit that has a combined dwelling and content replacement cost of $1 million or more is not eligible for coverage by the corporation. Such dwellings insured by the corporation on June 30, 2008, may continue to be covered by the corporation until the end of the policy term. However, such dwellings that are insured by the corporation and become ineligible for coverage due to the provisions of this subparagraph may reapply and obtain coverage in the high-risk account and be considered "nonhomestead property" if the property owner provides the corporation with a sworn affidavit from one or more insurance agents, on a form provided by the corporation, stating that the agents have made their best efforts to obtain coverage and that the property has been rejected for coverage by at least one authorized insurer and at least three surplus lines insurers. If such conditions are met, the dwelling may be insured by the corporation for up to 3 years, after which time the dwelling is ineligible for coverage. The office shall approve the method used by the corporation for valuing the dwelling replacement cost for the purposes of this subparagraph. If a policyholder is insured by the corporation prior to being determined to be ineligible pursuant to this subparagraph and such policyholder files a lawsuit challenging the determination, the policyholder may remain insured by the corporation until the conclusion of the litigation.

6. For properties constructed on or after January 1,2009, the corporation may not insure any property located within 2,500 feet landward of the coastal construction control line created pursuant to s. 161.053 unless the property meets the requirements of the code-plus building standards developed by the Florida Building Commission.

~~6. Effective March 1, 2007, nonhomestead property is not eligible for coverage by the corporation and is not eligible for renewal of such coverage unless the property owner provides the corporation with a sworn affidavit from one or more insurance agents, on a form provided by the corporation,~~

~~stating that the agents have made their best efforts to obtain coverage and that the property has been rejected for coverage by at least one authorized insurer and at least three surplus lines insurers.~~

7. 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.

(b)1. All insurers authorized to write one or more subject lines of business in this state are subject to assessment by the corporation and, for the purposes of this subsection, are referred to collectively as "assessable insurers." Insurers writing one or more subject lines of business in this state pursuant to part VIII of chapter 626 are not assessable insurers, but insureds who procure one or more subject lines of business in this state pursuant to part VIII of chapter 626 are subject to assessment by the corporation and are referred to collectively as "assessable insureds." An authorized insurer's assessment liability shall begin on the first day of the calendar year following the year in which the insurer was issued a certificate of authority to transact insurance for subject lines of business in this state and shall terminate 1 year after the end of the first calendar year during which the insurer no longer holds a certificate of authority to transact insurance for subject lines of business in this state.

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

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

(II) A commercial lines account for commercial residential <u>and commercial nonresidential</u> policies issued by the corporation or issued by the Residential Property and Casualty Joint Underwriting Association and renewed by the corporation that provide coverage for basic property perils on risks that are not located in areas eligible for coverage in the Florida Windstorm Underwriting Association as those areas were defined on January 1, 2002, and for such policies that do not provide coverage for the peril of wind on risks that are located in such areas; and

(III) A high-risk account for personal residential policies and commercial residential and commercial nonresidential property policies issued by the corporation or transferred to the corporation that provide coverage for the peril of wind on risks that are located in areas eligible for coverage in the Florida Windstorm Underwriting Association as those areas were defined on January 1, 2002. <u>Subject to the approval of a business plan by the</u>

Financial Services Commission and Legislative Budget Commission as provided in this sub-sub-subparagraph, but no earlier than March 31, 2007, the corporation may offer policies that provide multiperil coverage and the corporation shall continue to offer policies that provide coverage only for the peril of wind for risks located in areas eligible for coverage in the high-risk account. In issuing multiperil coverage, the corporation may use its approved policy forms and rates for the personal lines account. An applicant or insured who is eligible to purchase a multiperil policy from the corporation may purchase a multiperil policy from an authorized insurer without prejudice to the applicant's or insured's eligibility to prospectively purchase a policy that provides coverage only for the peril of wind from the corporation. An applicant or insured who is eligible for a corporation policy that provides coverage only for the peril of wind may elect to purchase or retain such policy and also purchase or retain coverage excluding wind from an authorized insurer without prejudice to the applicant's or insured's eligibility to prospectively purchase a policy that provides multiperil coverage from the corporation. It is the goal of the Legislature that there would be an overall average savings of 10 percent or more for a policyholder who currently has a wind-only policy with the corporation, and an ex-wind policy with a voluntary insurer or the corporation, and who then obtains a multiperil policy from the corporation. It is the intent of the Legislature that the offer of multiperil coverage in the high-risk account be made and implemented in a manner that does not adversely affect the tax-exempt status of the corporation or creditworthiness of or security for currently outstanding financing obligations or credit facilities of the high-risk account, the personal lines account, or the commercial lines account. By March 1, 2007, the corporation shall prepare and submit for approval by the Financial Services Commission and Legislative Budget Commission a report detailing the corporation's business plan for issuing multiperil coverage in the high-risk account. The business plan shall be approved or disapproved within 30 days after receipt, as submitted or modified and resubmitted by the corporation. The business plan must include: the impact of such multiperil coverage on the corporation's financial resources, the impact of such multiperil coverage on the corporation's tax-exempt status, the manner in which the corporation plans to implement the processing of applications and policy forms for new and existing policyholders, the impact of such multiperil coverage on the corporation's ability to deliver customer service at the high level required by this subsection, the ability of the corporation to process claims, the ability of the corporation to quote and issue policies, the impact of such multiperil coverage on the corporation's agents, the impact of such multiperil coverage on the corporation's existing policyholders, and the impact of such multiperil coverage on rates and premium. The high-risk account must also include quota share primary insurance under subparagraph (c)2. The area eligible for coverage under the high-risk account also includes the area within Port Canaveral, which is bordered on the south by the City of Cape Canaveral, bordered on the west by the Banana River, and bordered on the north by Federal Government property. ~~The office may remove territory from the area eligible for wind-only and quota share coverage if, after a public hearing, the office finds that authorized insurers in the voluntary market are willing and able to write sufficient amounts of personal and commercial residential coverage for all perils in the territory, including coverage for the~~

~~peril of wind, such that risks covered by wind-only policies in the removed territory could be issued a policy by the corporation in either the personal lines or commercial lines account without a significant increase in the corporation's probable maximum loss in such account. Removal of territory from the area eligible for wind-only or quota share coverage does not alter the assignment of wind coverage written in such areas to the high-risk account.~~

b. The three separate accounts must be maintained as long as financing obligations entered into by the Florida Windstorm Underwriting Association or Residential Property and Casualty Joint Underwriting Association are outstanding, in accordance with the terms of the corresponding financing documents. When the financing obligations are no longer outstanding, in accordance with the terms of the corresponding financing documents, the corporation may use a single account for all revenues, assets, liabilities, losses, and expenses of the corporation. Consistent with the requirement of this subparagraph and prudent investment policies that minimize the cost of carrying debt, the board shall exercise its best efforts to retire existing debt or to obtain approval of necessary parties to amend the terms of existing debt, so as to structure the most efficient plan to consolidate the three separate accounts into a single account. By February 1, 2007, the board shall submit a report to the Financial Services Commission, the President of the Senate, and the Speaker of the House of Representatives which includes an analysis of consolidating the accounts, the actions the board has taken to minimize the cost of carrying debt, and its recommendations for executing the most efficient plan.

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

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

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

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

3. With respect to a deficit in an account:

a. When the deficit incurred in a particular calendar year is not greater than 10 percent of the aggregate statewide direct written premium for the subject lines of business for the prior calendar year, the entire deficit shall be recovered through regular assessments of assessable insurers under paragraph (p) and assessable insureds.

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

c. Each assessable insurer's share of the amount being assessed under sub-subparagraph a. or sub-subparagraph b. shall be in the proportion that the assessable insurer's direct written premium for the subject lines of business for the year preceding the assessment bears to the aggregate statewide direct written premium for the subject lines of business for that year. The assessment percentage applicable to each assessable insured is the ratio of the amount being assessed under sub-subparagraph a. or sub-subparagraph b. to the aggregate statewide direct written premium for the subject lines of business for the prior year. Assessments levied by the corporation on assessable insurers under sub-subparagraphs a. and b. shall be paid as required by the corporation's plan of operation and paragraph (p). Notwithstanding any other provision of this subsection, the aggregate amount of a regular assessment for a deficit incurred in a particular calendar year shall be reduced by the estimated amount to be received by the corporation from the Citizens policyholder surcharge under subparagraph (c)11. and the amount collected or estimated to be collected from the assessment on Citizens policyholders pursuant to sub-subparagraph i. Assessments levied by the corporation on assessable insureds under sub-subparagraphs a. and b. shall be collected by the surplus lines agent at the time the surplus lines agent collects the surplus lines tax required by s. 626.932 and shall be paid to the Florida Surplus Lines Service Office at the time the surplus lines agent pays the surplus lines tax to the Florida Surplus Lines Service Office. Upon receipt of regular assessments from surplus lines agents, the Florida Surplus Lines Service Office shall transfer the assessments directly to the corporation as determined by the corporation.

d. Upon a determination by the board of governors that a deficit in an account exceeds the amount that will be recovered through regular assessments under sub-subparagraph a. or sub-subparagraph b., the board shall levy, after verification by the office, emergency assessments, for as many years as necessary to cover the deficits, to be collected by assessable insurers and the corporation and collected from assessable insureds upon issuance or renewal of policies for subject lines of business, excluding National Flood Insurance policies. The amount of the emergency assessment collected in a particular year shall be a uniform percentage of that year's direct written premium for subject lines of business and all accounts of the corporation, excluding National Flood Insurance Program policy premiums, as annually determined by the board and verified by the office. The office shall verify the arithmetic calculations involved in the board's determination within 30 days after receipt of the information on which the determination was based. Notwithstanding any other provision of law, the corporation and each assessable insurer that writes subject lines of business shall collect emergency

assessments from its policyholders without such obligation being affected by any credit, limitation, exemption, or deferment. Emergency assessments levied by the corporation on assessable insureds shall be collected by the surplus lines agent at the time the surplus lines agent collects the surplus lines tax required by s. 626.932 and shall be paid to the Florida Surplus Lines Service Office at the time the surplus lines agent pays the surplus lines tax to the Florida Surplus Lines Service Office. The emergency assessments so collected shall be transferred directly to the corporation on a periodic basis as determined by the corporation and shall be held by the corporation solely in the applicable account. The aggregate amount of emergency assessments levied for an account under this sub-subparagraph in any calendar year may not exceed the greater of 10 percent of the amount needed to cover the original deficit, plus interest, fees, commissions, required reserves, and other costs associated with financing of the original deficit, or 10 percent of the aggregate statewide direct written premium for subject lines of business and for all accounts of the corporation for the prior year, plus interest, fees, commissions, required reserves, and other costs associated with financing the original deficit.

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

f. As used in this subsection, the term "subject lines of business" means insurance written by assessable insurers or procured by assessable insureds <u>for all property and casualty lines of business in this state, but not including workers' compensation or medical malpractice. As used in the sub-subparagraph, the term "property and casualty lines of business" includes all lines of business identified on Form 2, Exhibit of Premiums and Losses, in the annual statement required of authorized insurers by s. 624.424 and any rule adopted under this section, except for those lines identified as</u>

accident and health insurance and except for policies written under the National Flood Insurance program or the Federal Crop Insurance Program. For purposes of this sub-subparagraph, the term "workers' compensation" includes both workers' compensation insurance and excess workers' compensation insurance. ~~on real or personal property, as defined in s. 624.604, including insurance for fire, industrial fire, allied lines, farmowners multiperil, homeowners multiperil, commercial multiperil, and mobile homes, and including liability coverage on all such insurance, but excluding inland marine as defined in s. 624.607(3) and excluding vehicle insurance as defined in s. 624.605(1) other than insurance on mobile homes used as permanent dwellings.~~

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

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

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

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

(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 and nonresidential policy forms that are generally similar to the basic perils of full coverage obtainable for commercial residential structures and commercial nonresidential 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 properties located in areas eligible for coverage under the high-risk account referred to in sub-subparagraph (b)2.a.

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

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 insurance 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 eight individuals who are residents of this state, from different geographical areas of this state. 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. 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. <u>All members of the board of governors are subject to removal at will by the officers who appointed them.</u> 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. 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 and serve at the pleasure of the board. Any executive director appointed on or after July 1, 2006, is subject to confirmation by the Senate. The executive director is responsible for employing other staff as the corporation may require, subject to review and concurrence by the board.

b. The board shall create a Market Accountability Advisory Committee to assist the corporation in developing awareness of its rates and its cus-

tomer 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, <u>for a new application to the corporation for coverage,</u> the risk is not eligible for any policy issued by the corporation <u>unless the premium for coverage from the authorized insurer is more than 25 percent greater than the premium for comparable coverage from the corporation</u>. 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. <u>However, with regard to a policyholder of the corporation, the policyholder remains eligible for coverage from the corporation regardless of any offer of coverage from an authorized insurer or surplus lines insurer.</u> 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 commis-

sion 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).

b. With respect to commercial lines residential risks, for a new application to the corporation for coverage, 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 unless the premium for coverage from the authorized insurer is more than 25 percent greater than the premium for comparable coverage from 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. However, with regard to a policyholder of the corporation, the policyholder remains eligible for coverage from the corporation regardless of any offer of coverage from an authorized insurer or surplus lines insurer.

(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 provide by July 1, 2007, that an application for coverage for a new policy is subject to a waiting period of 10 days before coverage is effective, during which time the corporation shall make such application available for review by general lines agents and authorized property and casualty insurers. The board shall ~~may~~ approve an exception ~~exceptions~~ that allows ~~allow~~ for coverage to be effective before the end of the 10-day waiting period, for coverage issued in conjunction with a real estate closing. The board may approve, ~~and for~~ such other exceptions as the board determines are necessary to prevent lapses in coverage.

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

8. 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.

9. 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.

10. 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.

11. 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 Citizens policyholder 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. For purposes of calculating the Citizens policyholder surcharge to be levied under this subparagraph, the total amount of the regular assessment to which this surcharge is related shall be determined as set forth in subparagraph (b)3., without deducting the estimated Citizens policyholder surcharge. Citizens policyholder 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.

12. 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, except as otherwise provided in this subsection.

13. 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.

14. 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.

15. 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. A regular assessment levied by the corporation on a limited apportionment company for a deficit incurred by the corporation for the high-risk account in 2006 or thereafter may be paid to the corporation on a monthly basis as the assessments are collected by the limited apportionment company from its insureds pursuant to s. 627.3512, but the regular assessment must be paid in full within 12 months after being levied by the corporation. 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.

16. 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.

17. Must provide, by July 1, 2007, a premium payment plan option to its policyholders which allows for quarterly and semiannual payment of premiums.

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

19. Must limit coverage on mobile homes or manufactured homes built prior to 1994 to actual cash value of the dwelling rather than replacement costs of the dwelling.

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

21. May require commercial property to meet specified hurricane mitigation construction features as a condition of eligibility for coverage.

(m)1.

~~a.~~ Rates for coverage provided by the corporation shall be actuarially sound and subject to the requirements of s. 627.062, except as otherwise provided in this paragraph. The corporation shall file its recommended rates with the office at least annually. The corporation shall provide any additional information regarding the rates which the office requires. The office shall consider the recommendations of the board and issue a final order establishing the rates for the corporation within 45 days after the recommended rates are filed. The corporation may not pursue an administrative challenge or judicial review of the final order of the office. ~~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. For policies in the personal lines account and the commercial lines account issued or renewed on or after March 1, 2007, a rate is deemed inadequate if the rate, including investment income, is not sufficient to provide for the procurement of coverage under the Florida Hurricane Catastrophe Fund and private reinsurance costs, whether or not reinsurance is procured, and to pay all claims and expenses reasonably expected to result from a 100-year probable maximum loss event without resort to any regular or emergency assessments, long-term debt, state revenues, or other funding sources. For policies in the high-risk account issued or renewed on or after March 1, 2007, a rate is deemed inadequate if the rate, including investment income, is not sufficient to provide for the procurement of coverage under the Florida Hurricane Catastrophe Fund and private reinsurance costs, whether or not reinsurance is procured, and to pay all claims and expenses reasonably expected to result from a 70-year probable maximum loss event with resort to any regular or emergency assessments, long-term debt, state revenues, or other funding sources. For policies in the high-risk account issued or renewed in 2008 and 2009, the rate must be based upon an 85-year and 100-year probable maximum loss event, respectively.~~

~~b. It is the intent of the Legislature to reaffirm the requirement of rate adequacy in the residual market. Recognizing that rates may comply with the intent expressed in sub-subparagraph a. and yet be inadequate and recognizing the public need to limit subsidies within the residual market, it is the further intent of the Legislature to establish statutory standards for rate adequacy. Such standards are intended to supplement the standard specified in s. 627.062(2)(e)3., providing that rates are inadequate if they are~~

~~clearly insufficient to sustain projected losses and expenses in the class of business to which they apply.~~

~~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. If the filing under this subparagraph is made at least 90 days before the proposed effective date and the filing is not implemented during the office's review of the filing and any proceeding and judicial review, such filing shall be considered a "file and use" filing. In such case, the office shall finalize its review by issuance of a notice of intent to approve or a notice of intent to disapprove within 90 days after receipt of the filing. The notice of intent to approve and the notice of intent to disapprove constitute agency action for purposes of the Administrative Procedure Act. Requests for supporting information, requests for mathematical or mechanical corrections, or notification to the insurer by the office of its preliminary findings shall not toll the 90-day period during any such proceedings and subsequent judicial review. The rate shall be deemed approved if the office does not issue a notice of intent to approve or a notice of intent to disapprove within 90 days after receipt of the filing. Corporation rate manuals shall include a rate surcharge for seasonal occupancy. To ensure that personal lines residential wind-only rates 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 rate filing made by the corporation with the office. If the office 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.~~

~~4. The requirements of this paragraph that rates not be competitive with approved rates charged by authorized insurers do not apply in a county or area for which the office determines that no authorized insurer is offering coverage. The corporation shall amend its rates or rating factors for the affected county or area in conjunction with its next rate filing after such determination is made.~~

~~5. 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.~~

~~6. 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.~~

~~7. Nothing in this paragraph shall require or allow the corporation to adopt a rate that is inadequate under s. 627.062.~~

~~8. The corporation shall certify to the office at least twice annually that its personal lines rates comply with the requirements of subparagraphs 1., 2., and 3. 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., 2., and 3., 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.~~

2.~~9.~~ 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.

~~10. 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.~~

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

4. The rate filings for the corporation which were approved by the office and which took effect January 1, 2007, are rescinded, except for those rates

that were lowered. As soon as possible, the corporation shall begin using the lower rates that were in effect on December 31, 2006, and shall provide refunds to policyholders who have paid higher rates as a result of that rate filing. The rates in effect on December 31, 2006, shall remain in effect for the 2007 calendar year except for any rate change that results in a lower rate. The next rate change that may increase rates shall take effect January 1, 2008, pursuant to a new rate filing recommended by the corporation and established by the office, subject to the requirements of this paragraph.

(p)1. The corporation shall certify to the office its needs for annual assessments as to a particular calendar year, and for any interim assessments that it deems to be necessary to sustain operations as to a particular year pending the receipt of annual assessments. Upon verification, the office shall approve such certification, and the corporation shall levy such annual or interim assessments. Such assessments shall be prorated as provided in paragraph (b). The corporation shall take all reasonable and prudent steps necessary to collect the amount of assessment due from each assessable insurer, including, if prudent, filing suit to collect such assessment. If the corporation is unable to collect an assessment from any assessable insurer, the uncollected assessments shall be levied as an additional assessment against the assessable insurers and any assessable insurer required to pay an additional assessment as a result of such failure to pay shall have a cause of action against such nonpaying assessable insurer. Assessments shall be included as an appropriate factor in the making of rates. The failure of a surplus lines agent to collect and remit any regular or emergency assessment levied by the corporation is considered to be a violation of s. 626.936 and subjects the surplus lines agent to the penalties provided in that section.

2. The governing body of any unit of local government, any residents of which are insured by the corporation, may issue bonds as defined in s. 125.013 or s. 166.101 from time to time to fund an assistance program, in conjunction with the corporation, for the purpose of defraying deficits of the corporation. In order to avoid needless and indiscriminate proliferation, duplication, and fragmentation of such assistance programs, any unit of local government, any residents of which are insured by the corporation, may provide for the payment of losses, regardless of whether or not the losses occurred within or outside of the territorial jurisdiction of the local government. Revenue bonds under this subparagraph may not be issued until validated pursuant to chapter 75, unless a state of emergency is declared by executive order or proclamation of the Governor pursuant to s. 252.36 making such findings as are necessary to determine that it is in the best interests of, and necessary for, the protection of the public health, safety, and general welfare of residents of this state and declaring it an essential public purpose to permit certain municipalities or counties to issue such bonds as will permit relief to claimants and policyholders of the corporation. Any such unit of local government may enter into such contracts with the corporation and with any other entity created pursuant to this subsection as are necessary to carry out this paragraph. Any bonds issued under this subparagraph shall be payable from and secured by moneys received by the corporation from emergency assessments under sub-subparagraph (b)3.d., and assigned and pledged to or on behalf of the unit of local government for the benefit of the holders of such bonds. The funds, credit, property,

and taxing power of the state or of the unit of local government shall not be pledged for the payment of such bonds. If any of the bonds remain unsold 60 days after issuance, the office shall require all insurers subject to assessment to purchase the bonds, which shall be treated as admitted assets; each insurer shall be required to purchase that percentage of the unsold portion of the bond issue that equals the insurer's relative share of assessment liability under this subsection. An insurer shall not be required to purchase the bonds to the extent that the office determines that the purchase would endanger or impair the solvency of the insurer.

3.a. The corporation shall adopt one or more programs subject to approval by the office for the reduction of both new and renewal writings in the corporation. Beginning January 1, 2008, any program the corporation adopts for the payment of bonuses to an insurer for each risk the insurer removes from the corporation shall comply with s. 627.3511(2) and may not exceed the amount referenced in s. 627.3511(2) for each risk removed. The corporation may consider any prudent and not unfairly discriminatory approach to reducing corporation writings, and may adopt a credit against assessment liability or other liability that provides an incentive for insurers to take risks out of the corporation and to keep risks out of the corporation by maintaining or increasing voluntary writings in counties or areas in which corporation risks are highly concentrated and a program to provide a formula under which an insurer voluntarily taking risks out of the corporation by maintaining or increasing voluntary writings will be relieved wholly or partially from assessments under sub-subparagraphs (b)3.a. and b. However, any "take-out bonus" or payment to an insurer must be conditioned on the property being insured for at least 5 years by the insurer, unless canceled or nonrenewed by the policyholder. If the policy is canceled or nonrenewed by the policyholder before the end of the 5-year period, the amount of the take-out bonus must be prorated for the time period the policy was insured. 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 such policy, and the insurer shall either:

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

(II) 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 insurer's usual and customary commission for the type of policy written. If the producing agent is unwilling or unable to accept appointment by the new insurer, the new insurer shall pay the agent in accordance with sub-sub-subparagraph (I).

b. Any credit or exemption from regular assessments adopted under this subparagraph shall last no longer than the 3 years following the cancellation or expiration of the policy by the corporation. With the approval of the office, the board may extend such credits for an additional year if the insurer guarantees an additional year of renewability for all policies removed from

the corporation, or for 2 additional years if the insurer guarantees 2 additional years of renewability for all policies so removed.

c. There shall be no credit, limitation, exemption, or deferment from emergency assessments to be collected from policyholders pursuant to sub-subparagraph (b)3.d.

4. The plan shall provide for the deferment, in whole or in part, of the assessment of an assessable insurer, other than an emergency assessment collected from policyholders pursuant to sub-subparagraph (b)3.d., if the office finds that payment of the assessment would endanger or impair the solvency of the insurer. In the event an assessment against an assessable insurer is deferred in whole or in part, the amount by which such assessment is deferred may be assessed against the other assessable insurers in a manner consistent with the basis for assessments set forth in paragraph (b).

5. Effective July 1, 2007, in order to evaluate the costs and benefits of approved take-out plans, if the corporation pays a bonus or other payment to an insurer for an approved take-out plan, it shall maintain a record of the address or such other identifying information on the property or risk removed in order to track if and when the property or risk is later insured by the corporation.

6. Any policy taken out, assumed, or removed from the corporation is, as of the effective date of the take-out, assumption, or removal, direct insurance issued by the insurer and not by the corporation, even if the corporation continues to service the policies. This subparagraph applies to policies of the corporation and not policies taken out, assumed, or removed from any other entity.

(s) For the purposes of s. 199.183(1), the corporation shall be considered a political subdivision of the state and shall be exempt from the corporate income tax. The premiums, assessments, investment income, and other revenue of the corporation are funds received for providing property insurance coverage as required by this subsection, paying claims for Florida citizens insured by the corporation, securing and repaying debt obligations issued by the corporation, and conducting all other activities of the corporation, and shall not be considered taxes, fees, licenses, or charges for services imposed by the Legislature on individuals, businesses, or agencies outside state government. Bonds and other debt obligations issued by or on behalf of the corporation are not to be considered "state bonds" within the meaning of s. 215.58(8). The corporation is not subject to the procurement provisions of chapter 287, and policies and decisions of the corporation relating to incurring debt, levying of assessments and the sale, issuance, continuation, terms and claims under corporation policies, and all services relating thereto, are not subject to the provisions of chapter 120. The corporation is not required to obtain or to hold a certificate of authority issued by the office, nor is it required to participate as a member insurer of the Florida Insurance Guaranty Association. However, the corporation is required to pay, in the same manner as an authorized insurer, assessments levied ~~pledged~~ by the Florida Insurance Guaranty Association ~~to secure bonds issued or other indebtedness incurred to pay covered claims arising from insurer insolvencies caused~~

~~by, or proximately related to, hurricane losses~~. It is the intent of the Legislature that the tax exemptions provided in this paragraph will augment the financial resources of the corporation to better enable the corporation to fulfill its public purposes. Any debt obligations issued by the corporation, their transfer, and the income therefrom, including any profit made on the sale thereof, shall at all times be free from taxation of every kind by the state and any political subdivision or local unit or other instrumentality thereof; however, this exemption does not apply to any tax imposed by chapter 220 on interest, income, or profits on debt obligations owned by corporations other than the corporation.

(ee) The assets of the corporation may be invested and managed by the State Board of Administration.

Section 22. It is the intent of the Legislature that commercial nonresidential property insurance coverage be made available from Citizens Property Insurance Corporation (Citizens), under s. 627.351(6), Florida Statutes, as amended by this act, rather than from the Property and Casualty Joint Underwriting Association (PCJUA), under s. 627.351(5), Florida Statutes. As soon as it is reasonably able to do so, Citizens shall adopt, subject to approval of the Office of Insurance Regulation, a plan providing for the transition of such coverage from the PCJUA to Citizens under such forms, rates, terms, and conditions as the board of Citizens considers appropriate. The plan shall include any contractual agreements between Citizens and the PCJUA which are required to effect the transition. In the transition plan, Citizens may assume policies or otherwise provide coverage for the commercial nonresidential policyholders of the PCJUA and may also provide for allocating to the appropriate account or accounts of Citizens the revenues, assets, liabilities, losses, and expenses associated with policies of the PCJUA which are assumed or otherwise covered by Citizens. It is the intent of the Legislature that the transition plan be implemented in a manner that does not adversely affect the creditworthiness of or security for currently outstanding financing obligations or credit facilities of the high-risk account, the personal lines account, or the commercial lines account. The order issued by the Office of Insurance Regulation may allow the PCJUA to continue to issue such coverage until the time that Citizens begins issuing such coverage.

Section 23. Subsection (3) is added to section 627.3515, Florida Statutes, to read:

627.3515 Market assistance plan; property and casualty risks.—

(3)(a) The plan and the corporation shall develop a business plan and present it to the Financial Services Commission for approval by September 1, 2007, to provide for the implementation of an electronic database for the purpose of confirming eligibility pursuant to s. 627.351(6).

(b) There shall be no liability on the part of, and no cause of action of any nature shall arise against, any authorized insurer acting within the scope of its authority under this subsection or its agents or employees for any action taken by them in the performance of their duties or responsibilities under this subsection.

Section 24. Subsection (1) of section 627.4035, Florida Statutes, is amended to read:

627.4035 Cash payment of premiums; claims.—

(1) The premiums for insurance contracts issued in this state or covering risk located in this state shall be paid in cash consisting of coins, currency, checks, or money orders or by using a debit card, credit card, automatic electronic funds transfer, or payroll deduction plan. By July 1, 2007, insurers issuing personal lines residential and commercial property policies shall provide a premium payment plan option to their policyholders which allows for quarterly and semiannual payment of premiums. Insurers issuing such policies must submit their premium payment plan option to the office for approval before use.

Section 25. Paragraph (b) of subsection (2) of section 627.4133, Florida Statutes, is amended 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:

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

1. When cancellation is for nonpayment of premium, at least 10 days' written notice of cancellation accompanied by the reason therefor shall be given. As used in this subparagraph, the term "nonpayment of premium" means failure of the named insured to discharge when due any of her or his obligations in connection with the payment of premiums on a policy or any installment of such premium, whether the premium is payable directly to the insurer or its agent or indirectly under any premium finance plan or extension of credit, or failure to maintain membership in an organization if such membership is a condition precedent to insurance coverage. "Nonpayment of premium" also means the failure of a financial institution to honor an insurance applicant's check after delivery to a licensed agent for payment of a premium, even if the agent has previously delivered or transferred the premium to the insurer. If a dishonored check represents the initial premium payment, the contract and all contractual obligations shall be void ab initio unless the nonpayment is cured within the earlier of 5 days after actual notice by certified mail is received by the applicant or 15 days after notice is sent to the applicant by certified mail or registered mail, and if the

contract is void, any premium received by the insurer from a third party shall be refunded to that party in full.

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

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

Section 26. A residential property insurer shall return all excess profits to policyholders except as otherwise directed by the Office of Insurance Regulation. A residential property insurer shall be deemed to have earned an excess profit if its surplus exceeds its direct probable maximum loss for a 1-in-250-year return period and it has earned a net underwriting gain in Florida in excess of 10 percent of earned premiums above its anticipated underwriting profit over the most recent 10-year period.

Section 27. Section 627.4261, Florida Statutes, is transferred and renumbered as section 627.70131, Florida Statutes, and subsection (5) is added to that section, to read:

627.70131 ~~627.4261~~ Insurer's duty to acknowledge communications regarding claims; investigation.—

(5) Within 90 days after an insurer receives notice of a property insurance claim from a policyholder, the insurer shall pay or deny such claim unless the failure to pay such claim is caused by factors beyond the control of the insurer which reasonably prevent such payment. Failure to comply with this subsection constitutes a violation of this code.

Section 28. Subsections (3), (4), and (9) of section 627.701, Florida Statutes, 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 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 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 losses no higher than 10 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 losses.~~

(a)~~(b)1.~~ Except as otherwise provided in this subsection ~~paragraph~~, prior to issuing a personal lines residential property insurance policy ~~on or after January 1, 2006, or prior to the first renewal of a residential property insurance policy on or after January 1, 2006~~, the insurer must offer alternative deductible amounts applicable to hurricane losses equal to $500, 2 percent, 5 percent, and 10 percent of the policy dwelling limits, unless the specific percentage 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.

(b)~~2.~~ This subsection ~~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.

(c)~~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 paragraph (a) ~~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 paragraph (a) ~~subparagraph 1~~.

(d)~~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 deductible as required by paragraph (a) ~~subparagraph 1.~~, but must, except as otherwise provided in this subsection, offer the other hurricane deductibles as required by paragraph (a) ~~subparagraph 1~~.

(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.

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

a. The policyholder must personally write and provide to the insurer the following statement in his or her own handwriting and signs his or her name, which must also be signed by every other named insured on the policy, and dated: "I do not want the insurance on my home to pay for the first (specify dollar value) of damage from hurricanes. I will pay those costs. My insurance will not."

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

2. A deductible subject to the requirements of this paragraph applies for the term of the policy and for each renewal unless the policyholder elects otherwise.

3. An insurer shall keep the original copy of the signed statement required by this paragraph and provide a copy to the policyholder providing the signed statement. A signed statement meeting the requirements of this

paragraph creates a presumption that there was an informed, knowing election of coverage.

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

(9) With respect to hurricane coverage provided in a policy of residential coverage, when the policyholder has taken appropriate hurricane mitigation measures regarding the residence covered under the policy, the insurer shall ~~may~~ provide the insured the option of selecting an appropriate reduction in the policy's hurricane deductible or ~~in lieu of~~ selecting the appropriate discount credit or other rate differential as provided in s. 627.0629. ~~If made available by the insurer,~~ The insurer must provide the policyholder with notice of the options available under this subsection on a form approved by the office.

Section 29. Effective April 1, 2007, section 627.7018, Florida Statutes, is created to read:

627.7018 Standards for determining risk of coverage.—In determining the risk of providing property insurance coverage, an insurer may not deny coverage solely on the basis of the age of the structure and shall consider the wind resistance of the structure and measures undertaken by the owner to protect the structure against hurricane loss.

Section 30. Section 627.706, Florida Statutes, is amended to read:

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

(1) Every insurer authorized to transact property insurance in this state shall provide coverage for a catastrophic ground cover collapse and shall make available, for an appropriate additional premium, 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. A policy for residential property insurance may include a deductible amount applicable to sinkhole losses equal to 1 percent, 2 percent, 5 percent, or 10 percent of the policy dwelling limits, with appropriate premium discounts offered with each deductible amount.

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

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

1. The abrupt collapse of the ground cover;

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

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

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

Contents coverage applies if there is a loss resulting from a catastrophic ground cover collapse. Structural damage consisting merely of the settling or cracking of a foundation, structure, or building does not constitute a loss resulting from a catastrophic ground cover collapse.

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

(c)~~(b)~~ "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.

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

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

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

(3) On or before June 1, 2007, 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 catastrophic ground cover collapse or for sinkhole losses. Coverage for catastrophic ground cover collapse may not go into effect until the effective date provided for in the filing approved by the office.

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

Section 31. Effective March 1, 2007, section 627.711, Florida Statutes, is amended to read:

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

(1) 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, and combinations of discounts, credits, rate differentials, or reductions in deductibles, for properties on which fixtures or construction techniques demonstrated to reduce the amount of loss in a windstorm can be 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.

(2) By July 1, 2007, the Financial Services Commission shall develop by rule a uniform mitigation verification inspection form that shall be used by all insurers when factoring discounts for wind insurance. In developing the form, the commission shall seek input from insurance, construction, and building code representatives. Further, the commission shall provide guidance as to the length of time the inspection results are valid.

Section 32. Effective July 1, 2007, section 627.712, Florida Statutes, is created to read:

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

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

(2) An insurer that is subject to subsection (1) must make available, at the option of the policyholder, an exclusion of hurricane coverage or windstorm coverage. The coverage may be excluded only if:

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

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

(3) An insurer issuing a residential property insurance policy, except for a condominium unit owner's policy, must make available, at the option of the policyholder, an exclusion of coverage for the contents. The coverage may be excluded only if the policyholder personally writes and provides to the insurer the following statement in his or her own handwriting and signs his or her signature, which must also be signed by every other named insured on the policy, and dated: "I do not want the insurance on my (home / mobile home) to pay for the costs to repair or replace any contents that are damaged. I will pay those costs. My insurance will not."

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

(5) The exclusions authorized by this section are valid for the term of the contract and for each renewal unless the policyholder elects otherwise.

(6) The commission shall adopt rules providing appropriate alternative methods for providing the statements required by this section for policyholders who have a handicapping or disabling condition that prevents them from providing a handwritten statement.

(7) This section is effective July 1, 2007, but the office may delay application of this section until a date no later than October 1, 2007, upon approval by the Financial Services Commission.

Section 33. Section 627.713, Florida Statutes, is created to read:

627.713 Report of hurricane loss data.—The office may require property insurers to report data regarding hurricane claims and underwriting costs, including, but not limited to:

(1) Number of claims.

(2) Amount of claim payments made.

(3) Number and amount of total-loss claims.

(4) Amount and percentage of losses covered by reinsurance or other loss-transfer agreements.

(5) Amount of losses covered under specified deductibles.

(6) Claims and payments for specified insured values.

(7) Claims and payments for specified dollar values.

(8) Claims and payments for specified types of construction or mitigation features.

(9) Claims and payments for policies under specified underwriting criteria.

(10) Claims and payments for contents, additional living expense, and other specified coverages.

(11) Claims and payments by county for the information specified in this section.

(12) Any other data that the office requires.

Section 34. Effective August 1, 2007, section 627.7277, Florida Statutes, is amended to read:

627.7277 Notice of renewal premium.—

(1) As used in this section, the terms "policy" and "renewal" have the meaning ascribed in s. 627.728.

(2) An insurer shall mail or deliver to its policyholder at least 30 days' advance written notice of the renewal premium for the policy.

(3) If the insurer fails to provide the 30 days' notice of a renewal premium that results in a premium increase, the coverage under the policy remains in effect at the existing rates until 30 days after the notice is given or until the effective date of replacement coverage obtained by the insured, whichever occurs first.

(4) Every notice of renewal premium must specify:

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

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

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

Section 35. Paragraph (e) of subsection (3) and subsection (4) of section 631.57, Florida Statutes, are amended to read:

631.57 Powers and duties of the association.—

(3)

(e)1.a. In addition to assessments otherwise authorized in paragraph (a) and to the extent necessary to secure the funds for the account specified in s. 631.55(2)(c) for the direct payment of covered claims of insolvent homeowners insurers and to pay the reasonable costs to administer such claims,

or to retire indebtedness, including, without limitation, the principal, redemption premium, if any, and interest on, and related costs of issuance of, bonds issued under s. 631.695 and the funding of any reserves and other payments required under the bond resolution or trust indenture pursuant to which such bonds have been issued, the office, upon certification of the board of directors, shall levy emergency assessments upon insurers holding a certificate of authority. The emergency assessments payable under this paragraph by any insurer shall not exceed in any single year more than 2 percent of that insurer's direct written premiums, net of refunds, in this state during the preceding calendar year for the kinds of insurance within the account specified in s. 631.55(2)(c).

b. Any emergency assessments authorized under this paragraph shall be levied by the office upon insurers referred to in sub-subparagraph a., upon certification as to the need for such assessments by the board of directors. In the event the board of directors participates in the issuance of bonds in accordance with s. 631.695, emergency assessments shall be levied, in each year that bonds issued under s. 631.695 and secured by such emergency assessments are outstanding, in such amounts up to such 2-percent limit as required in order to provide for the full and timely payment of the principal of, redemption premium, if any, and interest on, and related costs of issuance of, such bonds. The emergency assessments provided for in this paragraph are assigned and pledged to the municipality, county, or legal entity issuing bonds under s. 631.695 for the benefit of the holders of such bonds, in order to enable such municipality, county, or legal entity to provide for the payment of the principal of, redemption premium, if any, and interest on such bonds, the cost of issuance of such bonds, and the funding of any reserves and other payments required under the bond resolution or trust indenture pursuant to which such bonds have been issued, without the necessity of any further action by the association, the office, or any other party. To the extent bonds are issued under s. 631.695 and the association determines to secure such bonds by a pledge of revenues received from the emergency assessments, such bonds, upon such pledge of revenues, shall be secured by and payable from the proceeds of such emergency assessments, and the proceeds of emergency assessments levied under this paragraph shall be remitted directly to and administered by the trustee or custodian appointed for such bonds.

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

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

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

2. In order to ensure that insurers paying emergency assessments levied under this paragraph continue to charge rates that are neither inadequate nor excessive, within 90 days after being notified of such assessments, each insurer that is to be assessed pursuant to this paragraph shall submit a rate filing for coverage included within the account specified in s. 631.55(2)(c) and for which rates are required to be filed under s. 627.062. If the filing reflects a rate change that, as a percentage, is equal to the difference between the rate of such assessment and the rate of the previous year's assessment under this paragraph, the filing shall consist of a certification so stating and shall be deemed approved when made. Any rate change of a different percentage shall be subject to the standards and procedures of s. 627.062.

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

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

(4) The department may exempt any insurer from any regular or emergency ~~an~~ assessment if an assessment would result in such insurer's financial statement reflecting an amount of capital or surplus less than the sum of the minimum amount required by any jurisdiction in which the insurer is authorized to transact insurance.

Section 36. It is the intent of the Legislature that the amendments to s. 631.57, Florida Statutes, by s. 34, chapter 2006-12, Laws of Florida, authorized the Florida Insurance Guaranty Association to certify, and the Office of Insurance Regulation to levy, an emergency assessment of up to 2 percent to directly pay the covered claims out of the account specified in s. 631.55(2)(c), Florida Statutes, or use such emergency assessment proceeds to retire the indebtedness and costs of bonds issued to pay such claims and reasonable claims administration costs.

Section 37. Subsection (11) of section 718.111, Florida Statutes, is amended to read:

718.111 The association.—

(11) INSURANCE.—In order to protect the safety, health, and welfare of the people of the State of Florida and to ensure consistency in the provision of insurance coverage to condominiums and their unit owners, paragraphs (b) and (c) are deemed to apply to every residential condominium in the state, regardless of the date of its declaration of condominium. It is the

intent of the Legislature to encourage lower or stable insurance premiums for associations described in this section. Therefore, the Legislature requires a report to be prepared by the Office of Insurance Regulation of the Department of Financial Services for publication 18 months from the effective date of this act, evaluating premium increases or decreases for associations, unit owner premium increases or decreases, recommended changes to better define common areas, or any other information the Office of Insurance Regulation deems appropriate.

(a) A unit-owner controlled association operating a residential condominium shall use its best efforts to obtain and maintain adequate insurance to protect the association, the association property, the common elements, and the condominium property required to be insured by the association pursuant to paragraph (b). If the association is developer controlled, the association shall exercise due diligence to obtain and maintain such insurance. Failure to obtain and maintain adequate insurance during any period of developer control shall constitute a breach of fiduciary responsibility by the developer-appointed members of the board of directors of the association, unless said members can show that despite such failure, they have exercised due diligence. The declaration of condominium as originally recorded, or amended pursuant to procedures provided therein, may require that condominium property consisting of freestanding buildings where there is no more than one building in or on such unit need not be insured by the association if the declaration requires the unit owner to obtain adequate insurance for the condominium property. An association may also obtain and maintain liability insurance for directors and officers, insurance for the benefit of association employees, and flood insurance for common elements, association property, and units. Adequate insurance, regardless of any requirement in the declaration of condominium for coverage by the association for "full insurable value," "replacement cost," or the like, may include reasonable deductibles as determined by the board based upon available funds or predetermined assessment authority at the time that the insurance is obtained.

1. Windstorm insurance coverage for a group of no fewer than three communities created and operating under chapter 718, chapter 719, chapter 720, or chapter 721 may be obtained and maintained for the communities if the insurance coverage is sufficient to cover an amount equal to the probable maximum loss for the communities for a 250-year windstorm event. Such probable maximum loss must be determined through the use of a competent model that has been accepted by the Florida Commission on Hurricane Loss Project Methodology. Such insurance coverage is deemed adequate windstorm insurance for the purposes of this section.

2. An association or group of associations may self-insure against claims against the association, the association property, and the condominium property required to be insured by an association, upon compliance with the applicable provisions of ss. 624.460-624.488, which shall be considered adequate insurance for the purposes of this section. A copy of each policy of insurance in effect shall be made available for inspection by unit owners at reasonable times.

(b) Every hazard insurance policy issued or renewed on or after January 1, 2004, to protect the condominium shall provide primary coverage for:

1. All portions of the condominium property located outside the units;

2. The condominium property located inside the units as such property was initially installed, or replacements thereof of like kind and quality and in accordance with the original plans and specifications or, if the original plans and specifications are not available, as they existed at the time the unit was initially conveyed; and

3. All portions of the condominium property for which the declaration of condominium requires coverage by the association.

Anything to the contrary notwithstanding, the terms "condominium property," "building," "improvements," "insurable improvements," "common elements," "association property," or any other term found in the declaration of condominium which defines the scope of property or casualty insurance that a condominium association must obtain shall exclude all floor, wall, and ceiling coverings, electrical fixtures, appliances, air conditioner or heating equipment, water heaters, water filters, built-in cabinets and countertops, and window treatments, including curtains, drapes, blinds, hardware, and similar window treatment components, or replacements of any of the foregoing which are located within the boundaries of a unit and serve only one unit and all air conditioning compressors that service only an individual unit, whether or not located within the unit boundaries. The foregoing is intended to establish the property or casualty insuring responsibilities of the association and those of the individual unit owner and do not serve to broaden or extend the perils of coverage afforded by any insurance contract provided to the individual unit owner. Beginning January 1, 2004, the association shall have the authority to amend the declaration of condominium, without regard to any requirement for mortgagee approval of amendments affecting insurance requirements, to conform the declaration of condominium to the coverage requirements of this section.

(c) Every hazard insurance policy issued or renewed on or after January 1, 2004, to an individual unit owner shall provide that the coverage afforded by such policy is excess over the amount recoverable under any other policy covering the same property. Each insurance policy issued to an individual unit owner providing such coverage shall be without rights of subrogation against the condominium association that operates the condominium in which such unit owner's unit is located. All real or personal property located within the boundaries of the unit owner's unit which is excluded from the coverage to be provided by the association as set forth in paragraph (b) shall be insured by the individual unit owner.

(d) The association shall obtain and maintain adequate insurance or fidelity bonding of all persons who control or disburse funds of the association. The insurance policy or fidelity bond must cover the maximum funds that will be in the custody of the association or its management agent at any one time. As used in this paragraph, the term "persons who control or disburse funds of the association" includes, but is not limited to, those individuals authorized to sign checks and the president, secretary, and treasurer of the association. The association shall bear the cost of bonding.

Section 38. Task Force on Citizens Property Insurance Claims Handling and Resolution.—

(1) TASK FORCE CREATED.—There is created the Task Force on Citizens Property Insurance Claims Handling and Resolution.

(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 one member who is a representative of insurance consumers.

(b) The Chief Financial Officer shall appoint one member who has expertise in claims handling.

(c) The President of the Senate shall appoint one member.

(d) The Speaker of the House of Representatives shall appoint one member.

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

(f) The Insurance Consumer Advocate, or his or her designee, shall serve as an ex officio voting member of the task force.

(g) The Executive Director of Citizens Property Insurance Corporation, or his or her designee, 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 s. 112.061, Florida Statutes.

(4) PURPOSE AND INTENT.—The Legislature recognizes that policyholders and applicants of Citizens Property Insurance Corporation should receive the highest possible level of service and treatment. This level should never be less than the private market. The Legislature further recognizes that Citizens Property Insurance Corporation's service standards should be no less than those applied to insurers in the voluntary market with respect to responsiveness, timeliness, customer courtesy, and overall dealings with policyholders and applicants. The purpose of the task force is to make recommendations to the legislative and executive branches of this state's government relating to the handling, service, and resolution of claims by Citizens

Property Insurance Corporation that are sufficient to ensure that all Citizens' policyholders and applicants in this state are able to obtain appropriate handling, service, and resolution of claims, as further described in this section.

(5) SPECIFIC ISSUES.—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:

(a) How Citizens Property Insurance Corporation can improve its customer service.

(b) How Citizens Property Insurance Corporation can improve its adjuster response time after a hurricane.

(c) How Citizens Property Insurance Corporation can efficiently use its available adjusting sources for claims.

(d) How Citizens Property Insurance Corporation can improve the time it takes to conduct damage assessments.

(e) How Citizens Property Insurance Corporation can dispose of and settle claims remaining from the 2004 and 2005 hurricane seasons and can improve the time it takes to dispose of and settle claims remaining from the 2004 and 2005 hurricane seasons.

(f) How Citizens Property Insurance Corporation can improve the time it takes to dispose of and settle claims.

(g) Whether Citizens Property Insurance 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) REPORTS AND RECOMMENDATIONS.—By July 1, 2007, the task force shall provide a report containing recommendations regarding the process Citizens Property Insurance Corporation should use to dispose of the claims remaining open from the 2004 and 2005 hurricane seasons. By July 1, 2008, the task force shall provide a report containing findings relating to the issues identified in subsection (5) and recommendations consistent with the purposes of this section and also consistent with such findings. The report shall include recommendations regarding the process Citizens Property Insurance Corporation should use to dispose of claims. The task force shall submit the reports 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 the provisions of chapter 2006-12, Laws of Florida, relating to the creation of the Office of Internal Auditor in Citizens Property Insurance Corporation and shall make such additional recommendations as it deems appropriate for further legislative action during the 2006-2008 legislative biennium.

(8) EXPIRATION.—The task force shall expire at the end of the 2006-2008 legislative biennium.

Section 39. Windstorm Mitigation Study Committee.—

(1)(a) The Windstorm Mitigation Study Committee is created and shall be composed of eight members as follows:

1. Two members shall be appointed by the Governor, with one designated by the Governor to serve as chair.

2. Two members shall be appointed by the Chief Financial Officer.

3. Two members shall be appointed by the President of the Senate.

4. Two members shall be appointed by the Speaker of the House of Representatives.

(b) Each member must be knowledgeable of issues concerning the mitigation of the effects of windstorms on structures in this state and at least one member must represent primarily the interests of homeowners.

(2)(a) The members of the committee shall serve without compensation, but are entitled to reimbursement for all necessary expenses incurred in performing their duties, including travel expenses, in accordance with s. 112.061, Florida Statutes. Reimbursements for travel shall be paid by the appointing entity.

(b) The committee shall meet as necessary, at the call of the chair, and at the time and place designated by the chair. The committee may conduct its meetings through teleconferences or other similar means. The first meeting of the committee shall occur no later than February 9, 2007.

(3) The Department of Financial Services, the Office of Insurance Regulation, the Citizens Property Insurance Corporation, and other agencies of this state shall supply any information, assistance, and facilities that are considered necessary by the committee to carry out its duties under this section. The department shall provide staff assistance as necessary in order to carry out the required clerical and administrative functions of the committee.

(4) The committee shall analyze those solutions and programs that address the state's acute need to mitigate the effects of windstorms on structures, especially residential property that is located in areas at greatest risk of windstorm damage, including programs or proposals that provide for:

(a) The availability of home inspections for windstorm resistance.

(b) Grants to assist homeowners, and possibly other groups of property owners, to harden their property against windstorm damage.

(c) The full actuarial value to be reflected in premium credits for windstorm mitigation.

(d) The most effective way to inform policyholders of the availability of and means by which to obtain premium credits for windstorm mitigation.

(e) Coordination among federal, local, and private initiatives.

(f) Streamlining or strengthening applicable state, regional, and local regulations.

(g) The stimulation of public and private efforts to mitigate against windstorm injury and damage.

(h) The discovery and assessment of funding sources for windstorm mitigation.

(i) Tax incentives for windstorm mitigation.

(j) Consumer information concerning the benefits of windstorm mitigation, including personal safety as well as property security.

(k) Research on windstorm mitigation.

The committee may develop any other solutions and programs that it considers appropriate.

(5) In performing its analysis, the committee shall consider both the safety of the residents of this state and the protection of real property, especially residential. In addition, the committee shall consider both short-term and long-term solutions and programs.

(6) The committee shall review, evaluate, and make recommendations regarding existing and proposed programs and initiatives for mitigating windstorm damage.

(7) The committee shall provide recommendations, including proposed legislation, to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Chief Financial Officer, and the Commissioner of Insurance Regulation by March 6, 2007.

(8) The committee shall expire on May 15, 2007.

Section 40. The Financial Services Commission shall adopt a uniform home grading scale to grade the ability of a home to withstand the wind load from a sustained severe tropical storm or hurricane. The commission shall coordinate with the Office of Insurance Regulation, the Department of Financial Services, and the Department of Community Affairs in developing the grading scale, which must be based upon and consistent with the rating system required by chapter 2006-12, Laws of Florida. The commission shall adopt the uniform grading scale by rule no later than June 30, 2007.

Section 41. Florida Disaster Recovery Program.—

(1) The Department of Community Affairs shall implement the 2006 Disaster Recovery Program from funds provided through the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror,

and Hurricane Recovery, 2006, for the purpose of assisting local governments in satisfying disaster-recovery needs in the areas of low-income housing and infrastructure, with a primary focus on the hardening of single-family and multifamily housing units, not only to ensure that affordable housing can withstand the effects of hurricane-force winds, but also to mitigate the increasing costs of insurance, which may ultimately render existing affordable homes unaffordable or uninsurable. This section does not create an entitlement for local governments or property owners or obligate the state in any way to fund disaster-recovery needs.

(2) Entitlement and nonentitlement counties identified under the Federal Disaster Declaration (FEMA-1609-DR), federally recognized Indian tribes, and nonprofit organizations are eligible to apply for funding.

(3) Up to 78 percent of these funds may be used to complement the grants awarded by the Department of Financial Services under s. 215.5586, Florida Statutes, and fund other eligible disaster-related activities supporting housing rehabilitation, hardening, mitigation, and infrastructure improvements at the request of the local governments in order to assist the State of Florida in better serving low-income homeowners in single-family housing units, including, but not limited to, condominiums. Up to 20 percent of the funds may be used to provide inspections and mitigation improvements to multifamily units receiving rental assistance under projects of the United States Department of Housing and Urban Development or the Rural Development Division of the United States Department of Agriculture.

(4) For the 2006-2007 fiscal year, the sum of $100,066,518 is appropriated in a Grant in Aid - Fixed Capital Outlay appropriation category from the Florida Small Cities Community Development Block Grant Program Fund to the Department of Community Affairs for the purpose of implementing the provisions of this section. These funds shall be used in a manner consistent with Federal Register, Vol. 71, No. 209, Docket No. FR-5089-N-01, and the State of Florida Action Plan for Disaster Recovery as approved by the United States Department of Housing and Urban Development.

Section 42. Effective January 1, 2008, no insurer writing private passenger automobile insurance in this state may continue to write such insurance if the insurer writes homeowners' insurance in another state but not in this state unless the insurer writing private passenger automobile insurance in this state is affiliated with an insurer writing homeowners' insurance in this state.

Section 43. It is the intent of the Legislature to create during the 2007 Legislative Session a grant program to assist persons whose income does not exceed that of "low-income persons" as defined in s. 420.602(8), Florida Statutes, for the purpose of purchasing property insurance to protect their homestead property.

Section 44. Effective July 1, 2007, subsection (6) of section 627.0629, Florida Statutes, is repealed.

Section 45. For the 2006-2007 fiscal year, there is appropriated $2 million from the Department of Financial Services' Insurance Regulatory Trust

Fund to the Department of Financial Services for the purposes of implementing section 40 of this act.

Section 46. Effective February 1, 2007, the sum of $105,000 is appropriated from the Insurance Regulatory Trust Fund and 193,000 in associated rate is provided to the Office of Insurance Regulation for the purpose of granting competitive pay adjustments for actuaries employed within the office. Adjustments shall be provided at the discretion of the Commissioner of Insurance Regulation.

Section 47. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Section 48. Except as otherwise expressly provided in this act, this act shall take effect upon becoming a law.

Approved by the Governor January 25, 2007.

Filed in Office Secretary of State January 25, 2007.