

PCB IN 06-01I

ORIGINAL

YEAR

1 A bill to be entitled
2 An act relating to property and casualty insurance;
3 amending s. 193.155, F.S.; providing that certain changes
4 made to homestead property for purposes of disaster
5 preparedness do not increase the assessed value of the
6 property; amending s. 215.555, F.S.; providing a
7 definition; creating s. 215.558, F.S.; establishing the
8 Florida Hurricane Damage Prevention Endowment; providing
9 purpose and intent; providing definitions; providing for
10 administration and financial incentives for residential
11 hurricane damage prevention activities; creating an
12 advisory council; providing an appropriation; amending s.
13 627.062, F.S.; providing for exceptions to regulatory
14 review of residential property insurance rate filings;
15 requiring annual reports regarding the impact of flexible
16 rate regulation; amending s. 627.0628, F.S.; specifying
17 the nature of access to hurricane loss projection data
18 used by insurers in rate filings; limiting the type of
19 questions raised by such access; amending s. 627.0629,
20 F.S.; conditioning approval of specified rate filings upon
21 public hearings; amending s. 627.351, F.S.; providing
22 additional legislative intent regarding the Citizens
23 Property Insurance Corporation; specifying the existing
24 three separate accounts of the corporation as providing
25 coverage only for homestead property; providing a
26 definition; providing for an additional separate account
27 for nonhomestead property; requiring separate maintenance
28 of revenues, assets, liabilities, losses, and expenses
29 attributable to the nonhomestead account; specifying

PCB IN 06-01I

ORIGINAL

YEAR

30 | recourse of creditors' claims to such accounts; requiring
 31 | authorized insurers to perform servicing functions on
 32 | policies for the peril of wind only; providing coverage
 33 | and rate filing procedures; providing for claim adjusting;
 34 | providing for fees; providing for limitation on liability;
 35 | providing for deficit assessments against nonhomestead
 36 | account policyholders under certain circumstances;
 37 | authorizing the board of governors of the corporation to
 38 | make loans from the homestead accounts to the nonhomestead
 39 | account under certain circumstances; providing for
 40 | ineligibility of coverage for specified value dwellings;
 41 | providing for an exception from rate review for certain
 42 | policies; providing additional requirements of the plan of
 43 | operation of the corporation; authorizing arbitration of
 44 | certain high risk account filings; providing additional
 45 | legislative intent relating to rate adequacy in the
 46 | residual market; specifying criteria for determining
 47 | inadequacy of certain rates; providing a criterion for
 48 | calculating reduction or increase in probable maximum
 49 | loss; delaying the reduction of boundaries of the high-
 50 | risk area eligible for wind-only coverages; providing for
 51 | application of provisions relating to homestead and
 52 | nonhomestead accounts to certain policies; requiring
 53 | specified employees of corporation to comply with the Code
 54 | of Ethics; amending s. 627.4035, F.S.; providing for
 55 | waiver of a written authorization requirement regarding
 56 | electronic payment of claims; amending s. 627.7011, F.S.;
 57 | specifying requirements for law and ordinance coverage;
 58 | modifying insurers obligations to pay replacement costs;

PCB IN 06-01I

ORIGINAL

YEAR

59 | amending s. 627.7019, F.S.; mandating certain standardized
60 | requirements applicable to insurers after natural
61 | disasters; providing timeframes for issuance of emergency
62 | orders; prohibiting emergency rule making in specified
63 | situations; amending s. 631.57, F.S.; revising
64 | requirements and limitations for obligations of the
65 | Florida Insurance Guaranty Association for covered claims;
66 | authorizing the association to contract with counties and
67 | municipalities to issue revenue bonds for certain
68 | purposes; authorizing the association to levy an emergency
69 | assessment to secure the bonds; limiting the emergency
70 | assessment; providing for use of the emergency assessment;
71 | creating s. 631.695, F.S.; providing legislative findings
72 | and purposes; providing for issuance of revenue bonds
73 | through counties and municipalities to fund assistance
74 | programs for paying covered claims for hurricane damage;
75 | providing procedures, requirements, and limitations for
76 | counties, municipalities, and the Florida Insurance
77 | Guaranty Association, Inc., relating to issuance and
78 | validation of such bonds; providing for payments on and
79 | retirement of such bonds from certain assessments;
80 | prohibiting pledging the funds, credit, property, and
81 | taxing power of the state, counties, and municipalities
82 | for payment of bonds; specifying authorized uses of bond
83 | proceeds; limiting the term of bonds; specifying a state
84 | covenant to protect bondholders from adverse actions
85 | relating to such bonds; specifying exemptions for bonds,
86 | notes, and other obligations of counties and
87 | municipalities from certain taxes or assessments on

PCB IN 06-01I

ORIGINAL

YEAR

88 | property and revenues; authorizing counties and
 89 | municipalities to create a legal entity to exercise
 90 | certain powers; requiring the association to issue an
 91 | annual report on the status of certain uses of bond
 92 | proceeds; providing report requirements; requiring the
 93 | association to provide a copy of the report to the
 94 | Legislature and Chief Financial Officer; prohibiting
 95 | repeal of certain provisions relating to certain bonds
 96 | under certain circumstances; amending s. 817.234, F.S.;
 97 | providing an additional circumstance that constitutes
 98 | committing insurance fraud; removing an exemption to the
 99 | Florida Building Code; providing an effective date.

100 |
 101 | Be It Enacted by the Legislature of the State of Florida:
 102 |

103 | Section 1. Paragraph (a) of subsection (4) of section
 104 | 193.155, Florida Statutes, is amended to read:

105 | 193.155 Homestead assessments.--Homestead property shall be
 106 | assessed at just value as of January 1, 1994. Property receiving
 107 | the homestead exemption after January 1, 1994, shall be assessed
 108 | at just value as of January 1 of the year in which the property
 109 | receives the exemption.

110 | (4) (a) Changes, additions, or improvements to homestead
 111 | property, except the addition of storm shutters, impact-resistant
 112 | glazing, hurricane clips and straps, or generators for purposes
 113 | of disaster preparedness, shall be assessed at just value as of
 114 | the first January 1 after the changes, additions, or improvements
 115 | are substantially completed. The addition of storm shutters,
 116 | impact-resistant glazing, hurricane clips and straps, or

PCB IN 06-01I

ORIGINAL

YEAR

117 generators for purposes of disaster preparedness shall not
 118 increase the assessed value of homestead property.

119 Section 2. Paragraph (a) of subsection (2) of section
 120 215.555, Florida Statutes, is amended to read:

121 215.555 Florida Hurricane Catastrophe Fund.--

122 (2) DEFINITIONS.--As used in this section:

123 (a) "Actuarially indicated" means, with respect to premiums
 124 paid by insurers for reimbursement provided by the fund, an
 125 amount determined according to principles of actuarial science to
 126 be adequate, but not excessive, in the aggregate, to pay current
 127 and future obligations and expenses of the fund, including
 128 additional amounts if needed to pay debt service on revenue bonds
 129 issued under this section and to provide required debt service
 130 coverage in excess of the amounts required to pay actual debt
 131 service on revenue bonds issued under subsection (6), and
 132 determined according to principles of actuarial science to
 133 reflect each insurer's relative exposure to hurricane losses.
 134 The term "actuarially indicated" includes both the anticipated
 135 annualized payout from the fund and an appropriate risk load of
 136 no less than 25 percent of the anticipated annualized payout.

137 Section 3. Section 215.558, Florida Statutes, is created to
 138 read:

139 215.558 Florida Hurricane Damage Prevention Endowment.--

140 (1) PURPOSE AND INTENT.--The purpose of this section is to
 141 provide a continuing source of funding for financial incentives
 142 to encourage Florida residential property owners to retrofit
 143 their properties make them less vulnerable to hurricane damage
 144 and to provide matching funds to local governments and nonprofit
 145 entities for projects that will reduce hurricane damage to

PCB IN 06-01I

ORIGINAL

YEAR

146 homestead properties. It is the intent of the Legislature that
 147 this section be construed liberally to effectuate its purpose.

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

149 (a) "Board" means the State Board of Administration.

150 (b) "Corpus" means the money that has been appropriated to
 151 the endowment by the 2006 Legislature, together with any amounts
 152 subsequently appropriated to the endowment that are specifically
 153 designated as contributions to the corpus, and together with any
 154 grants, gifts, or donations to the endowment that are
 155 specifically designated as contributions to the corpus.

156 (c) "Earnings" means any money in the endowment in excess of
 157 the corpus, including any income generated by investments, any
 158 increase in the market value of investments net of decreases in
 159 market value, and any appropriations, grants, gifts, or donations
 160 to the endowment not specifically designated as contributions to
 161 the corpus.

162 (d) "Endowment" means the Florida Hurricane Damage
 163 Prevention Endowment Fund created by HB _____.

164 (3) ADMINISTRATION.—

165 (a) The board shall administer the endowment as provided in
 166 this section.

167 (b) The board may invest and reinvest funds of the
 168 endowment in accordance with s. 215.47 and consistent with an
 169 investment policy statement developed by the executive director
 170 and approved by the board.

171 (c) The endowment shall be managed as an annuity. The
 172 investment objective shall be long-term preservation of the real
 173 value of the corpus and a specified regular annual cash outflow
 174 for appropriation, as nonrecurring revenue, for the purposes

PCB IN 06-01I

ORIGINAL

YEAR

175 specified in subsection (4).

176 (d) In accordance with s. 215.44, the board shall include
 177 separate sections on the financial status of the endowment in its
 178 annual investment report to the Legislature.

179 (e) Costs and fees of the board for investment services
 180 shall be deducted from the earnings accruing to the endowment.
 181 Fees for investment services shall be no greater than fees
 182 charged to the Florida Retirement System.

183 (4) FINANCIAL INCENTIVES FOR RESIDENTIAL HURRICANE DAMAGE
 184 PREVENTION ACTIVITIES.—

185 (a) The Legislature shall annually appropriate not less than
 186 80 percent of the earnings of the endowment to the board for
 187 financial incentives to residential property owners as described
 188 in paragraph (b), and shall annually appropriate the remainder of
 189 the earnings of the endowment to the board for matching fund
 190 grants to local governments and nonprofit entities for projects
 191 that will reduce hurricane damage to residential properties as
 192 described in paragraph (c) and for operating expenses of the
 193 endowment. Any appropriated funds not expended by the board for
 194 these purposes shall be returned to the endowment.

195 (b)1. The board shall, by rule, establish a request for
 196 proposal process to annually solicit proposals from lending
 197 institutions under which the lending institution will provide
 198 interest-free loans to homestead property owners to pay for
 199 improvements to existing residential properties intended to
 200 reduce the homestead property's vulnerability to hurricane
 201 damage, in exchange for funding from the endowment.

202 2. In order to qualify for funding under this paragraph, an
 203 interest-free loan program must include a means for verifying

PCB IN 06-01I

ORIGINAL

YEAR

204 that the improvements to be paid for from loan proceeds have been
 205 demonstrated to reduce a homestead property's vulnerability to
 206 hurricane damage and must include a means for verifying that the
 207 proceeds were actually spent on such improvements. The program
 208 must include a method for awarding loans according to the
 209 following priorities:

210 a. The highest priority must be given to single-family
 211 owner-occupied homestead dwellings, insured at \$500,000 or less
 212 located in the areas designated as high-risk areas for purposes
 213 of Citizens Property Insurance Corporation coverage.

214 b. The next-highest priority must be given to single-family
 215 owner-occupied homestead dwellings, insured at \$500,000 or less
 216 covered by Citizens Property Insurance Corporation, wherever
 217 located.

218 c. The next-highest priority must be given to single-family
 219 owner-occupied homestead dwellings, insured at \$500,000 or less
 220 that are more than 40 years old.

221 d. The next-highest priority must be given to all other
 222 single-family homestead owner-occupied dwellings, insured at
 223 \$500,000 or less.

224 3. The board shall evaluate proposals based on the following
 225 factors:

226 a. The degree to which the proposal meets the requirements
 227 of subparagraph 2.

228 b. The lending institution's plan for marketing the loans.

229 c. The anticipated number of loans to be granted relative to
 230 the total amount of funding sought.

231 3. The board shall annually solicit proposals from local
 232 governments and nonprofit entities for projects that will reduce

PCB IN 06-01I

ORIGINAL

YEAR

233 hurricane damage to homestead properties. The board may provide
 234 up to 50 percent of the funding for such a project. The projects
 235 may include educational programs, repair services, property
 236 inspections and hurricane vulnerability analyses, and such other
 237 projects as the board determines to be consistent with the
 238 purposes of this section.

239 (5) ADVISORY COUNCIL.— There is created an advisory council
 240 to provide advice and assistance to the board with regard to its
 241 administration of the endowment. The advisory council shall
 242 consist of:

243 (a) A representative of lending institutions, selected by
 244 the board from a list of at least three persons recommended by
 245 the Florida Bankers Association.

246 (b) A representative of residential property insurers,
 247 selected by the board from a list of at least three persons
 248 recommended by the Florida Insurance Council.

249 (c) A representative of home builders, selected by the board
 250 from a list of at least three persons recommended by the Florida
 251 Home Builders Association.

252 (d) A faculty member of a state university selected by the
 253 board who is an expert in hurricane-resistant construction
 254 methodologies and materials.

255 (e) Two members of the House of Representatives selected by
 256 the Speaker of the House of Representatives.

257 (f) Two members of the Senate selected by the President of
 258 the Senate.

259 (g) The senior officer of the Florida Hurricane Catastrophe
 260 Fund.

261 (h) The executive director of Citizens Property Insurance

PCB IN 06-01I

ORIGINAL

YEAR

262 Corporation.
 263 (i) The director of the Division of Emergency Management.
 264
 265 Members appointed under paragraphs (a)-(d) shall serve at the
 266 pleasure of the board. Members appointed under paragraphs (e) and
 267 (f) shall serve at the pleasure of the appointing officer. All
 268 other members shall serve ex officio. Members of the advisory
 269 council shall serve without compensation, but may receive
 270 reimbursement as provided in s. 112.061 for per diem and travel
 271 expenses incurred in the performance of their official duties.
 272 Section 4. The sum of \$100 million is appropriated from the
 273 General Revenue Fund to the Florida Hurricane Damage Prevention
 274 Endowment, as a nonrecurring appropriation for the purposes
 275 specified in s. 215.558, Florida Statutes, as created by this
 276 act.
 277 Section 5. Paragraph (j) is added to subsection (2) and
 278 subsection (9) of section 627.062, Florida Statutes, is added to
 279 read:
 280 627.062 Rate standards.--
 281 (2) As to all such classes of insurance:
 282 (a) Insurers or rating organizations shall establish and
 283 use rates, rating schedules, or rating manuals to allow the
 284 insurer a reasonable rate of return on such classes of insurance
 285 written in this state. A copy of rates, rating schedules, rating
 286 manuals, premium credits or discount schedules, and surcharge
 287 schedules, and changes thereto, shall be filed with the office
 288 under one of the following procedures:
 289 1. If the filing is made at least 90 days before the
 290 proposed effective date and the filing is not implemented during

PCB IN 06-01I

ORIGINAL

YEAR

291 the office's review of the filing and any proceeding and judicial
 292 review, then such filing shall be considered a "file and use"
 293 filing. In such case, the office shall finalize its review by
 294 issuance of a notice of intent to approve or a notice of intent
 295 to disapprove within 90 days after receipt of the filing. The
 296 notice of intent to approve and the notice of intent to
 297 disapprove constitute agency action for purposes of the
 298 Administrative Procedure Act. Requests for supporting
 299 information, requests for mathematical or mechanical corrections,
 300 or notification to the insurer by the office of its preliminary
 301 findings shall not toll the 90-day period during any such
 302 proceedings and subsequent judicial review. The rate shall be
 303 deemed approved if the office does not issue a notice of intent
 304 to approve or a notice of intent to disapprove within 90 days
 305 after receipt of the filing.

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

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

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

PCB IN 06-01I

ORIGINAL

YEAR

- 320 2. Past and prospective expenses.
- 321 3. The degree of competition among insurers for the risk
- 322 insured.
- 323 4. Investment income reasonably expected by the insurer,
- 324 consistent with the insurer's investment practices, from
- 325 investable premiums anticipated in the filing, plus any other
- 326 expected income from currently invested assets representing the
- 327 amount expected on unearned premium reserves and loss reserves.
- 328 The commission may adopt rules utilizing reasonable techniques of
- 329 actuarial science and economics to specify the manner in which
- 330 insurers shall calculate investment income attributable to such
- 331 classes of insurance written in this state and the manner in
- 332 which such investment income shall be used in the calculation of
- 333 insurance rates. Such manner shall contemplate allowances for an
- 334 underwriting profit factor and full consideration of investment
- 335 income which produce a reasonable rate of return; however,
- 336 investment income from invested surplus shall not be considered.
- 337 5. The reasonableness of the judgment reflected in the
- 338 filing.
- 339 6. Dividends, savings, or unabsorbed premium deposits
- 340 allowed or returned to Florida policyholders, members, or
- 341 subscribers.
- 342 7. The adequacy of loss reserves.
- 343 8. The cost of reinsurance.
- 344 9. Trend factors, including trends in actual losses per
- 345 insured unit for the insurer making the filing.
- 346 10. Conflagration and catastrophe hazards, if applicable.
- 347 11. A reasonable margin for underwriting profit and
- 348 contingencies.

PCB IN 06-01I

ORIGINAL

YEAR

349 | 12. The cost of medical services, if applicable.

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

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

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

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

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

376 | 2. Rates shall be deemed excessive if, among other things,
377 | the rate structure established by a stock insurance company

PCB IN 06-01I

ORIGINAL

YEAR

378 provides for replenishment of surpluses from premiums, when the
 379 replenishment is attributable to investment losses.

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

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

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

394 6. A rate shall be deemed unfairly discriminatory as to a
 395 risk or group of risks if the application of premium discounts,
 396 credits, or surcharges among such risks does not bear a
 397 reasonable relationship to the expected loss and expense
 398 experience among the various risks.

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

404 (g) The office may at any time review a rate, rating
 405 schedule, rating manual, or rate change; the pertinent records of
 406 the insurer; and market conditions. If the office finds on a

PCB IN 06-01I

ORIGINAL

YEAR

407 preliminary basis that a rate may be excessive, inadequate, or
 408 unfairly discriminatory, the office shall initiate proceedings to
 409 disapprove the rate and shall so notify the insurer. However, the
 410 office may not disapprove as excessive any rate for which it has
 411 given final approval or which has been deemed approved for a
 412 period of 1 year after the effective date of the filing unless
 413 the office finds that a material misrepresentation or material
 414 error was made by the insurer or was contained in the filing.
 415 Upon being so notified, the insurer or rating organization shall,
 416 within 60 days, file with the office all information which, in
 417 the belief of the insurer or organization, proves the
 418 reasonableness, adequacy, and fairness of the rate or rate
 419 change. The office shall issue a notice of intent to approve or a
 420 notice of intent to disapprove pursuant to the procedures of
 421 paragraph (a) within 90 days after receipt of the insurer's
 422 initial response. In such instances and in any administrative
 423 proceeding relating to the legality of the rate, the insurer or
 424 rating organization shall carry the burden of proof by a
 425 preponderance of the evidence to show that the rate is not
 426 excessive, inadequate, or unfairly discriminatory. After the
 427 office notifies an insurer that a rate may be excessive,
 428 inadequate, or unfairly discriminatory, unless the office
 429 withdraws the notification, the insurer shall not alter the rate
 430 except to conform with the office's notice until the earlier of
 431 120 days after the date the notification was provided or 180 days
 432 after the date of the implementation of the rate. The office may,
 433 subject to chapter 120, disapprove without the 60-day
 434 notification any rate increase filed by an insurer within the

PCB IN 06-01I

ORIGINAL

YEAR

435 prohibited time period or during the time that the legality of
 436 the increased rate is being contested.

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

451 (i) Except as otherwise specifically provided in this
 452 chapter, the office shall not prohibit any insurer, including any
 453 residual market plan or joint underwriting association, from
 454 paying acquisition costs based on the full amount of premium, as
 455 defined in s. 627.403, applicable to any policy, or prohibit any
 456 such insurer from including the full amount of acquisition costs
 457 in a rate filing.

458 (j) Effective January 1, 2007, notwithstanding any other
 459 provision of this section:

460 1. With respect to any residential property insurance
 461 subject to regulation under this section, a rate filing with
 462 respect to any policy form, including endorsements issued with
 463 the form, that results in an overall average statewide premium

PCB IN 06-01I

ORIGINAL

YEAR

464 increase or decrease of no more than ten percent, above or below
 465 the premium that would result from the insurer's rates then in
 466 effect, shall not be subject to a determination by the officer
 467 that the rate is excessive or unfairly discriminatory except as
 468 provided in subparagraph 3, or other section of Florida Statutes,
 469 provided all changes specified in the filing do not result in an
 470 overall premium increase of more than 25 percent for any one
 471 territory, for reasons related solely to the rate change. As
 472 used in this subparagraph, the phrase "insurer's rates then in
 473 effect" includes only rates that have been lawfully in effect
 474 under this section or rates that have been determined to be
 475 lawful through administrative proceedings or judicial
 476 proceedings.

477 2. An insurer may not make filings under this paragraph
 478 with respect to any policy form, including endorsements issued
 479 with the form, if the overall premium changes resulting from such
 480 filings exceed the amounts specified in this paragraph in any
 481 twelve month period. An insurer may proceed under other
 482 paragraphs of this section or other Florida Statutes if it seeks
 483 to exceed the premium or rate limitations of this paragraph.

484 3. This paragraph does not affect the authority of the
 485 office to disapprove a rate as inadequate or to disapprove a
 486 filing for the unlawful use of unfairly discriminatory rating
 487 factors that are prohibited by Florida law. An insurer electing
 488 to implement a rate change under this paragraph shall submit a
 489 filing to the office at least 30 days prior to the effective date
 490 of the rate change. The office shall have 30 days after the
 491 filing's submission to review the filing and determine if the
 492 rate is inadequate or uses unfairly discriminatory rating

PCB IN 06-01I

ORIGINAL

YEAR

493 factors. Absent a finding by the office within the 30 days that
494 the rate is inadequate or that the insurer has used unfairly
495 discriminatory rating factors, the filing is deemed approved. If
496 the office finds during the 30-day period that the filing will
497 result in inadequate premiums or otherwise endanger the insurer's
498 solvency, the rate decrease shall be suspended. If the insurer
499 is implementing an overall rate increase, the results of which
500 continue to produce an inadequate rate such increase shall
501 proceed pending additional action by the office to insure the
502 adequacy of the rate.

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

505
506 The provisions of this subsection shall not apply to workers'
507 compensation and employer's liability insurance and to motor
508 vehicle insurance.

509 (9) (a) Beginning January 1, 2007, the Office of Insurance
510 Regulation shall annually provide a report to the President of
511 the Senate, the Speaker of the House of Representatives, the
512 minority party leader of each house of the Legislature, and the
513 chairs of the standing committees of each house of the
514 Legislature having jurisdiction over insurance issues, specifying
515 the impact of flexible rate regulation under paragraph (2) (j) on
516 the degree of competition in insurance markets in this state.

517 (b) The report shall include a year-by-year comparison of the
518 number of companies participating in the market for each class of
519 insurance and the relative rate levels. The report shall also
520 specify:

PCB IN 06-01I

ORIGINAL

YEAR

521 1. The number of rate filings made under paragraph (2)(j),
 522 the rate levels under those filings, and the market share
 523 affected by those filings;

524 2. The number of filings made on a file and use basis, the
 525 rate levels under those filings, and the market share affected by
 526 those filings;

527 3. The number of filings made on a use and file basis, the
 528 rate levels under those filings, and the market share affected by
 529 those filings; and

530 4. Recommendations to promote competition in the insurance
 531 market and further protect insurance consumers.

532 Section 6. Subsection (3) of section 627.0628, Florida
 533 Statutes, is amended to read:

534 627.0628 Florida Commission on Hurricane Loss Projection
 535 Methodology; public records exemption; public meetings
 536 exemption.--

537 (3) ADOPTION AND EFFECT OF STANDARDS AND GUIDELINES.--

538 (a) The commission shall consider any actuarial methods,
 539 principles, standards, models, or output ranges that have the
 540 potential for improving the accuracy of or reliability of the
 541 hurricane loss projections used in residential property insurance
 542 rate filings. The commission shall, from time to time, adopt
 543 findings as to the accuracy or reliability of particular methods,
 544 principles, standards, models, or output ranges.

545 (b) In establishing reimbursement premiums for the Florida
 546 Hurricane Catastrophe Fund, the State Board of Administration
 547 must, to the extent feasible, employ actuarial methods,
 548 principles, standards, models, or output ranges found by the
 549 commission to be accurate or reliable.

PCB IN 06-01I

ORIGINAL

YEAR

550 (c) With respect to a rate filing under s. 627.062, an
 551 insurer may employ actuarial methods, principles, standards,
 552 models, or output ranges found by the commission to be accurate
 553 or reliable to determine hurricane loss factors for use in a rate
 554 filing under s. 627.062. Such findings and factors are admissible
 555 and relevant in consideration of a rate filing by the office or
 556 in any arbitration or administrative or judicial review only if
 557 the office and the consumer advocate appointed pursuant to s.
 558 627.0613 have a reasonable opportunity to review ~~access to~~ all of
 559 the basic assumptions and factors that were used in developing
 560 the actuarial methods, principles, standards, models, or output
 561 ranges. Inasmuch as the commission has already conducted an
 562 exhaustive review of certain models, neither the office nor the
 563 consumer advocate may pose any questions generated from their
 564 respective reviews, that duplicate or compromise the conclusions
 565 of the commission relative to the accuracy or reliability of the
 566 models in producing hurricane loss factors for use in a rate
 567 filing under s. 627.062. ~~, and are not precluded from disclosing~~
 568 ~~such information in a rate proceeding.~~

569 (d) The commission shall adopt revisions to previously
 570 adopted actuarial methods, principles, standards, models, or
 571 output ranges at least annually.

572 (e)1. A trade secret, as defined in s. 812.081, that is
 573 used in designing and constructing a hurricane loss model and
 574 that is provided pursuant to this section, by a private company,
 575 to the commission, office, or consumer advocate appointed
 576 pursuant to s. 627.0613, is confidential and exempt from s.
 577 119.07(1) and s. 24(a), Art. I of the State Constitution.

PCB IN 06-01I

ORIGINAL

YEAR

578 2. That portion of a meeting of the commission or of a rate
579 proceeding on an insurer's rate filing at which a trade secret
580 made confidential and exempt by this paragraph is discussed is
581 exempt from s. 286.011 and s. 24(b), Art. I of the State
582 Constitution.

583 3. This paragraph is subject to the Open Government Sunset
584 Review Act of 1995 in accordance with s. 119.15, and shall stand
585 repealed on October 2, 2010, unless reviewed and saved from
586 repeal through reenactment by the Legislature.

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

589 627.0629 Residential property insurance; rate filings.--

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

593 Section 8. Subsection (6) of section 627.351, Florida
594 Statutes, is amended to read:

595 627.351 Insurance risk apportionment plans.--

596 (6) CITIZENS PROPERTY INSURANCE CORPORATION.--

597 (a)1.a. The Legislature finds that actual and threatened
598 catastrophic losses to property in this state from hurricanes
599 have caused insurers to be unwilling or unable to provide
600 property insurance coverage to the extent sought and needed. It
601 is in the public interest and a public purpose to assist in
602 assuring that homestead property in the state is insured so as to
603 facilitate the remediation, reconstruction, and replacement of
604 damaged or destroyed property in order to reduce or avoid the
605 negative effects otherwise resulting to the public health,
606 safety, and welfare; to the economy of the state; and to the

PCB IN 06-01I

ORIGINAL

YEAR

607 revenues of the state and local governments needed to provide for
 608 the public welfare. It is necessary, therefore, to provide
 609 property insurance to applicants who are in good faith entitled
 610 to procure insurance through the voluntary market but are unable
 611 to do so. The Legislature intends by this subsection that
 612 property insurance be provided and that it continues, as long as
 613 necessary, through an entity organized to achieve efficiencies
 614 and economies, while providing service to policyholders,
 615 applicants, and agents that is no less than the quality generally
 616 provided in the voluntary market, all toward the achievement of
 617 the foregoing public purposes. Because it is essential for the
 618 corporation to have the maximum financial resources to pay claims
 619 following a catastrophic hurricane, it is the intent of the
 620 Legislature that the income of the corporation be exempt from
 621 federal income taxation and that interest on the debt obligations
 622 issued by the corporation be exempt from federal income taxation.

623 b. The Legislature finds and declares that:

624 (I) The commitment of the state, as expressed in sub-
 625 subparagraph a., to providing a means of ensuring the
 626 availability of property insurance through a residual market
 627 mechanism is hereby reaffirmed.

628 (II) Despite legislative efforts to ensure that the
 629 residual market for property insurance is self-supporting to the
 630 greatest reasonable extent, residual market policyholders are to
 631 some degree subsidized by the general public through assessments
 632 on owners of property insured in the voluntary market and their
 633 insurers and through the potential use of general revenues of the
 634 state to eliminate or reduce residual market deficits.

635 (III) The degree of such subsidy is a matter of public

PCB IN 06-01I

ORIGINAL

YEAR

636 policy. It is the intent of the Legislature to better control the
 637 subsidy through at least the following means:

638 (A) Restructuring the residual market mechanism to provide
 639 separate treatment of homestead and nonhomestead properties, with
 640 the intent of continuing to provide an insurance program with
 641 limited subsidies for homestead properties while providing a
 642 nonsubsidized insurance program for nonhomestead properties.

643 (B) Redefining the concept of rate adequacy in the
 644 subsidized residual market with the intent of ensuring a rate
 645 structure that will enable the subsidized residual market to be
 646 self-supporting except in the event of hurricane losses of a
 647 legislatively specified magnitude. It is the intent of the
 648 Legislature that the funding of the subsidized residual market be
 649 structured to be self-supporting up to the point of its 50-year
 650 probable maximum loss and that the funding be structured to make
 651 reliance on assessments or other sources of public funding
 652 necessary only in the event of a 50-year probable maximum loss or
 653 larger loss.

654 2. The Residential Property and Casualty Joint Underwriting
 655 Association originally created by this statute shall be known, as
 656 of July 1, 2002, as the Citizens Property Insurance Corporation.
 657 The corporation shall provide insurance for homesteaded
 658 residential property and may provide insurance for residential
 659 and commercial property, for applicants who are in good faith
 660 entitled, but are unable, to procure insurance through the
 661 voluntary market. The corporation shall operate pursuant to a
 662 plan of operation approved by order of the office. The plan is
 663 subject to continuous review by the office. The office may, by
 664 order, withdraw approval of all or part of a plan if the office

PCB IN 06-01I

ORIGINAL

YEAR

665 determines that conditions have changed since approval was
 666 granted and that the purposes of the plan require changes in the
 667 plan. For the purposes of this subsection, residential coverage
 668 includes both personal lines residential coverage, which consists
 669 of the type of coverage provided by homeowner's, mobile home
 670 owner's, dwelling, tenant's, condominium unit owner's, and
 671 similar policies, and commercial lines residential coverage,
 672 which consists of the type of coverage provided by condominium
 673 association, apartment building, and similar policies.

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

683 (b)1. All insurers authorized to write one or more subject
 684 lines of business in this state are subject to assessment by the
 685 corporation and, for the purposes of this subsection, are
 686 referred to collectively as "assessable insurers." Insurers
 687 writing one or more subject lines of business in this state
 688 pursuant to part VIII of chapter 626 are not assessable insurers,
 689 but insureds who procure one or more subject lines of business in
 690 this state pursuant to part VIII of chapter 626 are subject to
 691 assessment by the corporation and are referred to collectively as
 692 "assessable insureds." An authorized insurer's assessment
 693 liability shall begin on the first day of the calendar year

PCB IN 06-01I

ORIGINAL

YEAR

694 following the year in which the insurer was issued a certificate
 695 of authority to transact insurance for subject lines of business
 696 in this state and shall terminate 1 year after the end of the
 697 first calendar year during which the insurer no longer holds a
 698 certificate of authority to transact insurance for subject lines
 699 of business in this state.

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

703 (I) Three separate homestead accounts which may provide
 704 coverage only for homestead properties. The term "homestead
 705 property" means a residential property which has been granted a
 706 homestead exemption under chapter 196. The term also includes a
 707 property that is qualified for such exemption but has not applied
 708 for the exemption as of the date of issuance of the policy
 709 provided the policyholder obtains the exemption within 1 year
 710 after initial issuance of the policy. With respect to commercial
 711 residential policies, a property is homestead property for
 712 purposes of this sub-sub-subparagraph if a majority of the
 713 residential units of the property constitute homestead properties
 714 as defined in this sub-sub-subparagraph. The accounts providing
 715 coverage only for homestead properties are:

716 (A) ~~(I)~~ A personal lines account for personal residential
 717 policies issued by the corporation or issued by the Residential
 718 Property and Casualty Joint Underwriting Association and renewed
 719 by the corporation that provide comprehensive, multiperil
 720 coverage on risks that are not located in areas eligible for
 721 coverage in the Florida Windstorm Underwriting Association as
 722 those areas were defined on January 1, 2002, and for such

PCB IN 06-01I

ORIGINAL

YEAR

723 policies that do not provide coverage for the peril of wind on
 724 risks that are located in such areas;
 725 (B)~~(II)~~ A commercial lines account for commercial
 726 residential policies issued by the corporation or issued by the
 727 Residential Property and Casualty Joint Underwriting Association
 728 and renewed by the corporation that provide coverage for basic
 729 property perils on risks that are not located in areas eligible
 730 for coverage in the Florida Windstorm Underwriting Association as
 731 those areas were defined on January 1, 2002, and for such
 732 policies that do not provide coverage for the peril of wind on
 733 risks that are located in such areas; and
 734 (C)~~(III)~~ A high-risk account for personal residential
 735 policies and commercial residential and commercial nonresidential
 736 property policies issued by the corporation or transferred to the
 737 corporation that provide coverage for the peril of wind on risks
 738 that are located in areas eligible for coverage in the Florida
 739 Windstorm Underwriting Association as those areas were defined on
 740 January 1, 2002. The high-risk account must also include quota
 741 share primary insurance under subparagraph (c)2. The area
 742 eligible for coverage under the high-risk account also includes
 743 the area within Port Canaveral, which is bordered on the south by
 744 the City of Cape Canaveral, bordered on the west by the Banana
 745 River, and bordered on the north by Federal Government property.
 746 The office may remove territory from the area eligible for wind-
 747 only and quota share coverage if, after a public hearing, the
 748 office finds that authorized insurers in the voluntary market are
 749 willing and able to write sufficient amounts of personal and
 750 commercial residential coverage for all perils in the territory,
 751 including coverage for the peril of wind, such that risks covered

PCB IN 06-01I

ORIGINAL

YEAR

752 by wind-only policies in the removed territory could be issued a
753 policy by the corporation in either the personal lines or
754 commercial lines account without a significant increase in the
755 corporation's probable maximum loss in such account. Removal of
756 territory from the area eligible for wind-only or quota share
757 coverage does not alter the assignment of wind coverage written
758 in such areas to the high-risk account.

759 (II) A separate nonhomestead account for all properties
760 that otherwise meet all of the criteria for eligibility for
761 coverage within one of the three homestead accounts described in
762 sub-sub-subparagraph (I) but that do not meet the definition of
763 homestead property specified in sub-sub-subparagraph (I). The
764 nonhomestead account shall provide the same types of coverage as
765 are provided by the three homestead accounts, including wind-only
766 coverage in the high-risk account area.

767 b. The three separate homestead accounts must be maintained
768 as long as financing obligations entered into by the Florida
769 Windstorm Underwriting Association or Residential Property and
770 Casualty Joint Underwriting Association are outstanding, in
771 accordance with the terms of the corresponding financing
772 documents. When the financing obligations are no longer
773 outstanding, in accordance with the terms of the corresponding
774 financing documents, the corporation may use a single homestead
775 account for all revenues, assets, liabilities, losses, and
776 expenses of the corporation. All revenues, assets, liabilities,
777 losses, and expenses attributable to the nonhomestead account
778 shall be maintained separately.

779 c. Creditors of the Residential Property and Casualty Joint
780 Underwriting Association shall have a claim against, and recourse

PCB IN 06-01I

ORIGINAL

YEAR

781 to, the accounts referred to in sub-sub-sub-subparagraphs ~~sub-~~
 782 ~~sub-subparagraphs~~ a. (I) (A) and (B) ~~(II)~~ and shall have no claim
 783 against, or recourse to, the account referred to in sub-sub-sub-
 784 subparagraph ~~sub-sub-subparagraph~~ a. (I) (C) ~~(III)~~. Creditors of the
 785 Florida Windstorm Underwriting Association shall have a claim
 786 against, and recourse to, the account referred to in sub-sub-sub-
 787 subparagraph ~~sub-sub-subparagraph~~ a. (I) (C) ~~(III)~~ and shall have no
 788 claim against, or recourse to, the accounts referred to in sub-
 789 sub-sub-subparagraphs ~~sub-sub-subparagraphs~~ a. (I) (A) and (B) ~~(II)~~.

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

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

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

799 g. Policies for the peril of wind only in the high risk
 800 account of the corporation on or after January 1, 2007 shall be
 801 issued by authorized insurers issuing the multi peril policy on
 802 the risk in the high risk account of the corporation. Such
 803 insurers are deemed to be acting on a "write your own" basis,
 804 performing only servicing functions on behalf of the corporation
 805 for a fee and not as risk bearers for the exposure of wind,
 806 unless otherwise opting to do so as provided in this section.
 807 The authorized insurer may choose to provide such wind coverage
 808 by either endorsing its existing multi peril policy with a
 809 corporation wind only policy or by issuing its own approved multi

PCB IN 06-01I

ORIGINAL

YEAR

810 peril policy including coverage for the peril of wind.
 811 Authorized insurers issuing policies to policyholders including
 812 the peril of wind may not charge a rate for the peril of wind
 813 which is higher than the wind only rate of the high risk account
 814 of the corporation. An authorized insurer may use its own
 815 procedures, methodologies, rates, and computer systems to issue
 816 policies covering wind in the high risk account of the
 817 corporation. Any filing affecting rates for wind coverage in the
 818 high risk account submitted by any authorized insurer for risks
 819 located in areas eligible for the high risk account of the
 820 corporation shall be deemed approved whenever such rate is less
 821 than the approved rate, for each individual risk, of the high
 822 risk account. In the event of a loss incurred by a risk in the
 823 high risk account of the corporation, the authorized insurer
 824 shall adjust the claim and submit the claim file to the
 825 corporation for payment of the claim by the corporation, or the
 826 authorized insurer may choose to pay the claim and seek
 827 reimbursement of the amount of the claim from the corporation.
 828 Producer commissions for high risk account policies shall be set
 829 and determined by the authorized insurer writing the multi peril
 830 policy, but shall not be less than the effective rate of
 831 commission currently in effect for the high risk account on new
 832 and renewal policies when applied to the full premium.

833 h. Authorized insurers that issue wind coverage for
 834 policies insured in the high risk account of the corporation on
 835 or after January 1, 2007 shall be responsible for servicing those
 836 policies, including but not limited to policy administration and
 837 claims administration. Authorized insurers that issue wind
 838 coverage for policies insured in the high risk account of the

PCB IN 06-01I

ORIGINAL

YEAR

839 corporation are required to adjust all claims for those high risk
 840 account policies. Authorized insurers that issue wind coverage
 841 for policies insured in the high risk account of the corporation
 842 on or after January 1, 2007 shall be paid a fee to service,
 843 process, issue and maintain such policies including but not
 844 limited to adjusting claims. Such fee shall be retained by the
 845 authorized insurer from the wind portion of the premium collected
 846 from the policyholder with the balance forwarded to the
 847 corporation for payment of claims. The corporation shall
 848 determine the fee paid to the authorized insurer without prior
 849 approval of the office, and the amount of the fee shall be
 850 subject to binding arbitration, as set forth in s. 627.062.

851 i. There shall be no liability on the part of, and no cause
 852 of action of any nature shall arise against, any authorized
 853 insurer acting within the scope of its authority under this
 854 subsection or its agents or employees for any action taken by
 855 them in the performance of their duties or responsibilities under
 856 this subsection. Such immunity does not apply to actions for
 857 breach of any contract or agreement pertaining to insurance, or
 858 any willful tort.

859 3. With respect to a deficit in any of the homestead
 860 accounts ~~an account~~:

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

PCB IN 06-01I

ORIGINAL

YEAR

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

877 | c. Each assessable insurer's share of the amount being
 878 | assessed under sub-subparagraph a. or sub-subparagraph b. shall
 879 | be in the proportion that the assessable insurer's direct written
 880 | premium for the subject lines of business for the year preceding
 881 | the assessment bears to the aggregate statewide direct written
 882 | premium for the subject lines of business for that year. The
 883 | assessment percentage applicable to each assessable insured is
 884 | the ratio of the amount being assessed under sub-subparagraph a.
 885 | or sub-subparagraph b. to the aggregate statewide direct written
 886 | premium for the subject lines of business for the prior year.
 887 | Assessments levied by the corporation on assessable insurers
 888 | under sub-subparagraphs a. and b. shall be paid as required by
 889 | the corporation's plan of operation and paragraph (g).
 890 | Assessments levied by the corporation on assessable insureds
 891 | under sub-subparagraphs a. and b. shall be collected by the
 892 | surplus lines agent at the time the surplus lines agent collects
 893 | the surplus lines tax required by s. 626.932 and shall be paid to
 894 | the Florida Surplus Lines Service Office at the time the surplus
 895 | lines agent pays the surplus lines tax to the Florida Surplus

PCB IN 06-01I

ORIGINAL

YEAR

896 Lines Service Office. Upon receipt of regular assessments from
 897 surplus lines agents, the Florida Surplus Lines Service Office
 898 shall transfer the assessments directly to the corporation as
 899 determined by the corporation.

900 d. Upon a determination by the board of governors that a
 901 deficit in an account exceeds the amount that will be recovered
 902 through regular assessments under sub-subparagraph a. or sub-
 903 subparagraph b., the board shall levy, after verification by the
 904 office, emergency assessments, for as many years as necessary to
 905 cover the deficits, to be collected by assessable insurers and
 906 the corporation and collected from assessable insureds upon
 907 issuance or renewal of policies for subject lines of business,
 908 excluding National Flood Insurance policies. The amount of the
 909 emergency assessment collected in a particular year shall be a
 910 uniform percentage of that year's direct written premium for
 911 subject lines of business and all accounts of the corporation,
 912 excluding National Flood Insurance Program policy premiums, as
 913 annually determined by the board and verified by the office. The
 914 office shall verify the arithmetic calculations involved in the
 915 board's determination within 30 days after receipt of the
 916 information on which the determination was based. Notwithstanding
 917 any other provision of law, the corporation and each assessable
 918 insurer that writes subject lines of business shall collect
 919 emergency assessments from its policyholders without such
 920 obligation being affected by any credit, limitation, exemption,
 921 or deferment. Emergency assessments levied by the corporation on
 922 assessable insureds shall be collected by the surplus lines agent
 923 at the time the surplus lines agent collects the surplus lines
 924 tax required by s. 626.932 and shall be paid to the Florida

PCB IN 06-01I

ORIGINAL

YEAR

925 Surplus Lines Service Office at the time the surplus lines agent
 926 pays the surplus lines tax to the Florida Surplus Lines Service
 927 Office. The emergency assessments so collected shall be
 928 transferred directly to the corporation on a periodic basis as
 929 determined by the corporation and shall be held by the
 930 corporation solely in the applicable account. The aggregate
 931 amount of emergency assessments levied for an account under this
 932 sub-subparagraph in any calendar year may not exceed the greater
 933 of 10 percent of the amount needed to cover the original deficit,
 934 plus interest, fees, commissions, required reserves, and other
 935 costs associated with financing of the original deficit, or 10
 936 percent of the aggregate statewide direct written premium for
 937 subject lines of business and for all accounts of the corporation
 938 for the prior year, plus interest, fees, commissions, required
 939 reserves, and other costs associated with financing the original
 940 deficit.

941 e. The corporation may pledge the proceeds of assessments,
 942 projected recoveries from the Florida Hurricane Catastrophe Fund,
 943 other insurance and reinsurance recoverables, market equalization
 944 surcharges and other surcharges, and other funds available to the
 945 corporation as the source of revenue for and to secure bonds
 946 issued under paragraph (g), bonds or other indebtedness issued
 947 under subparagraph (c)3., or lines of credit or other financing
 948 mechanisms issued or created under this subsection, or to retire
 949 any other debt incurred as a result of deficits or events giving
 950 rise to deficits, or in any other way that the board determines
 951 will efficiently recover such deficits. The purpose of the lines
 952 of credit or other financing mechanisms is to provide additional
 953 resources to assist the corporation in covering claims and

PCB IN 06-01I

ORIGINAL

YEAR

954 expenses attributable to a catastrophe. As used in this
 955 subsection, the term "assessments" includes regular assessments
 956 under sub-subparagraph a., sub-subparagraph b., or subparagraph
 957 (g)1. and emergency assessments under sub-subparagraph d.
 958 Emergency assessments collected under sub-subparagraph d. are not
 959 part of an insurer's rates, are not premium, and are not subject
 960 to premium tax, fees, or commissions; however, failure to pay the
 961 emergency assessment shall be treated as failure to pay premium.
 962 The emergency assessments under sub-subparagraph d. shall
 963 continue as long as any bonds issued or other indebtedness
 964 incurred with respect to a deficit for which the assessment was
 965 imposed remain outstanding, unless adequate provision has been
 966 made for the payment of such bonds or other indebtedness pursuant
 967 to the documents governing such bonds or other indebtedness.

968 f. As used in this subsection, the term "subject lines of
 969 business" means insurance written by assessable insurers or
 970 procured by assessable insureds on real or personal property, as
 971 defined in s. 624.604, including insurance for fire, industrial
 972 fire, allied lines, farmowners multiperil, homeowners multiperil,
 973 commercial multiperil, and mobile homes, and including liability
 974 coverage on all such insurance, but excluding inland marine as
 975 defined in s. 624.607(3) and excluding vehicle insurance as
 976 defined in s. 624.605(1) other than insurance on mobile homes
 977 used as permanent dwellings.

978 g. The Florida Surplus Lines Service Office shall determine
 979 annually the aggregate statewide written premium in subject lines
 980 of business procured by assessable insureds and shall report that
 981 information to the corporation in a form and at a time the
 982 corporation specifies to ensure that the corporation can meet the

PCB IN 06-01I

ORIGINAL

YEAR

983 requirements of this subsection and the corporation's financing
 984 obligations.

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

992 4. With respect to a deficit in the nonhomestead account or
 993 to any cash flow shortfall that the board determines will create
 994 an inability for the nonhomestead account to pay claims when due:

995 a. The board may levy an immediate assessment against the
 996 premium of each nonhomestead account policyholder, expressed as a
 997 uniform percentage of the premium for the policy then in effect.
 998 The maximum amount of such assessment is 100 percent of such
 999 premium.

1000 b. If the assessment under sub-subparagraph a. is
 1001 insufficient to enable the account to pay claims and eliminate
 1002 the deficit in the account, the board may levy an additional
 1003 assessment to be collected at the time of any issuance or renewal
 1004 of a nonhomestead account policy during the 1-year period
 1005 following the levy of the assessment under sub-subparagraph a.,
 1006 expressed as a uniform percentage of the premium for the policy
 1007 for the forthcoming policy period. The maximum amount of such
 1008 assessment is 100 percent of such premium.

1009 c. If the assessments under sub-subparagraphs a. and b. are
 1010 insufficient to enable the account to pay claims and eliminate
 1011 the deficit in the account, the board may make a loan from any of

PCB IN 06-01I

ORIGINAL

YEAR

1012 the homestead accounts to the nonhomestead account, subject to
 1013 approval by the office and provided that such loan does not
 1014 impair the financial status of any of the homestead accounts.

1015 (c) The plan of operation of the corporation:

1016 1. Must provide for adoption of residential property and
 1017 casualty insurance policy forms and commercial residential and
 1018 nonresidential property insurance forms, which forms must be
 1019 approved by the office prior to use. The corporation shall adopt
 1020 the following policy forms:

1021 a. Standard personal lines policy forms that are
 1022 comprehensive multiperil policies providing full coverage of a
 1023 residential property equivalent to the coverage provided in the
 1024 private insurance market under an HO-3, HO-4, or HO-6 policy.

1025 b. Basic personal lines policy forms that are policies
 1026 similar to an HO-8 policy or a dwelling fire policy that provide
 1027 coverage meeting the requirements of the secondary mortgage
 1028 market, but which coverage is more limited than the coverage
 1029 under a standard policy.

1030 c. Commercial lines residential policy forms that are
 1031 generally similar to the basic perils of full coverage obtainable
 1032 for commercial residential structures in the admitted voluntary
 1033 market.

1034 d. Personal lines and commercial lines residential property
 1035 insurance forms that cover the peril of wind only. The forms are
 1036 applicable only to residential properties located in areas
 1037 eligible for coverage under the high-risk account referred to in
 1038 sub-subparagraph (b)2.a.

1039 e. Commercial lines nonresidential property insurance forms
 1040 that cover the peril of wind only. The forms are applicable only

PCB IN 06-01I

ORIGINAL

YEAR

1041 to nonresidential properties located in areas eligible for
 1042 coverage under the high-risk account referred to in sub-
 1043 subparagraph (b)2.a.

1044 2.a. Must provide that the corporation adopt a program in
 1045 which the corporation and authorized insurers enter into quota
 1046 share primary insurance agreements for hurricane coverage, as
 1047 defined in s. 627.4025(2)(a), for eligible risks, and adopt
 1048 property insurance forms for eligible risks which cover the peril
 1049 of wind only. As used in this subsection, the term:

1050 (I) "Quota share primary insurance" means an arrangement in
 1051 which the primary hurricane coverage of an eligible risk is
 1052 provided in specified percentages by the corporation and an
 1053 authorized insurer. The corporation and authorized insurer are
 1054 each solely responsible for a specified percentage of hurricane
 1055 coverage of an eligible risk as set forth in a quota share
 1056 primary insurance agreement between the corporation and an
 1057 authorized insurer and the insurance contract. The responsibility
 1058 of the corporation or authorized insurer to pay its specified
 1059 percentage of hurricane losses of an eligible risk, as set forth
 1060 in the quota share primary insurance agreement, may not be
 1061 altered by the inability of the other party to the agreement to
 1062 pay its specified percentage of hurricane losses. Eligible risks
 1063 that are provided hurricane coverage through a quota share
 1064 primary insurance arrangement must be provided policy forms that
 1065 set forth the obligations of the corporation and authorized
 1066 insurer under the arrangement, clearly specify the percentages of
 1067 quota share primary insurance provided by the corporation and
 1068 authorized insurer, and conspicuously and clearly state that
 1069 neither the authorized insurer nor the corporation may be held

PCB IN 06-01I

ORIGINAL

YEAR

1070 responsible beyond its specified percentage of coverage of
 1071 hurricane losses.

1072 (II) "Eligible risks" means personal lines residential and
 1073 commercial lines residential risks that meet the underwriting
 1074 criteria of the corporation and are located in areas that were
 1075 eligible for coverage by the Florida Windstorm Underwriting
 1076 Association on January 1, 2002.

1077 b. The corporation may enter into quota share primary
 1078 insurance agreements with authorized insurers at corporation
 1079 coverage levels of 90 percent and 50 percent.

1080 c. If the corporation determines that additional coverage
 1081 levels are necessary to maximize participation in quota share
 1082 primary insurance agreements by authorized insurers, the
 1083 corporation may establish additional coverage levels. However,
 1084 the corporation's quota share primary insurance coverage level
 1085 may not exceed 90 percent.

1086 d. Any quota share primary insurance agreement entered into
 1087 between an authorized insurer and the corporation must provide
 1088 for a uniform specified percentage of coverage of hurricane
 1089 losses, by county or territory as set forth by the corporation
 1090 board, for all eligible risks of the authorized insurer covered
 1091 under the quota share primary insurance agreement.

1092 e. Any quota share primary insurance agreement entered into
 1093 between an authorized insurer and the corporation is subject to
 1094 review and approval by the office. However, such agreement shall
 1095 be authorized only as to insurance contracts entered into between
 1096 an authorized insurer and an insured who is already insured by
 1097 the corporation for wind coverage.

PCB IN 06-01I

ORIGINAL

YEAR

1098 f. For all eligible risks covered under quota share primary
 1099 insurance agreements, the exposure and coverage levels for both
 1100 the corporation and authorized insurers shall be reported by the
 1101 corporation to the Florida Hurricane Catastrophe Fund. For all
 1102 policies of eligible risks covered under quota share primary
 1103 insurance agreements, the corporation and the authorized insurer
 1104 shall maintain complete and accurate records for the purpose of
 1105 exposure and loss reimbursement audits as required by Florida
 1106 Hurricane Catastrophe Fund rules. The corporation and the
 1107 authorized insurer shall each maintain duplicate copies of policy
 1108 declaration pages and supporting claims documents.

1109 g. The corporation board shall establish in its plan of
 1110 operation standards for quota share agreements which ensure that
 1111 there is no discriminatory application among insurers as to the
 1112 terms of quota share agreements, pricing of quota share
 1113 agreements, incentive provisions if any, and consideration paid
 1114 for servicing policies or adjusting claims.

1115 h. The quota share primary insurance agreement between the
 1116 corporation and an authorized insurer must set forth the specific
 1117 terms under which coverage is provided, including, but not
 1118 limited to, the sale and servicing of policies issued under the
 1119 agreement by the insurance agent of the authorized insurer
 1120 producing the business, the reporting of information concerning
 1121 eligible risks, the payment of premium to the corporation, and
 1122 arrangements for the adjustment and payment of hurricane claims
 1123 incurred on eligible risks by the claims adjuster and personnel
 1124 of the authorized insurer. Entering into a quota sharing
 1125 insurance agreement between the corporation and an authorized

PCB IN 06-01I

ORIGINAL

YEAR

1126 insurer shall be voluntary and at the discretion of the
 1127 authorized insurer.

1128 3. May provide that the corporation may employ or otherwise
 1129 contract with individuals or other entities to provide
 1130 administrative or professional services that may be appropriate
 1131 to effectuate the plan. The corporation shall have the power to
 1132 borrow funds, by issuing bonds or by incurring other
 1133 indebtedness, and shall have other powers reasonably necessary to
 1134 effectuate the requirements of this subsection, including,
 1135 without limitation, the power to issue bonds and incur other
 1136 indebtedness in order to refinance outstanding bonds or other
 1137 indebtedness. The corporation may, but is not required to, seek
 1138 judicial validation of its bonds or other indebtedness under
 1139 chapter 75. The corporation may issue bonds or incur other
 1140 indebtedness, or have bonds issued on its behalf by a unit of
 1141 local government pursuant to subparagraph (g)2., in the absence
 1142 of a hurricane or other weather-related event, upon a
 1143 determination by the corporation, subject to approval by the
 1144 office, that such action would enable it to efficiently meet the
 1145 financial obligations of the corporation and that such financings
 1146 are reasonably necessary to effectuate the requirements of this
 1147 subsection. The corporation is authorized to take all actions
 1148 needed to facilitate tax-free status for any such bonds or
 1149 indebtedness, including formation of trusts or other affiliated
 1150 entities. The corporation shall have the authority to pledge
 1151 assessments, projected recoveries from the Florida Hurricane
 1152 Catastrophe Fund, other reinsurance recoverables, market
 1153 equalization and other surcharges, and other funds available to
 1154 the corporation as security for bonds or other indebtedness. In

PCB IN 06-01I

ORIGINAL

YEAR

1155 recognition of s. 10, Art. I of the State Constitution,
 1156 prohibiting the impairment of obligations of contracts, it is the
 1157 intent of the Legislature that no action be taken whose purpose
 1158 is to impair any bond indenture or financing agreement or any
 1159 revenue source committed by contract to such bond or other
 1160 indebtedness.

1161 4.a. Must require that the corporation operate subject to
 1162 the supervision and approval of a board of governors consisting
 1163 of 8 individuals who are residents of this state, from different
 1164 geographical areas of this state. The Governor, the Chief
 1165 Financial Officer, the President of the Senate, and the Speaker
 1166 of the House of Representatives shall each appoint two members of
 1167 the board, effective August 1, 2005. At least one of the two
 1168 members appointed by each appointing officer must have
 1169 demonstrated expertise in insurance. The Chief Financial Officer
 1170 shall designate one of the appointees as chair. All board members
 1171 serve at the pleasure of the appointing officer. All board
 1172 members, including the chair, must be appointed to serve for 3-
 1173 year terms beginning annually on a date designated by the plan.
 1174 Any board vacancy shall be filled for the unexpired term by the
 1175 appointing officer. The Chief Financial Officer shall appoint a
 1176 technical advisory group to provide information and advice to the
 1177 board of governors in connection with the board's duties under
 1178 this subsection. The executive director and senior managers of
 1179 the corporation shall be engaged by the board, as recommended by
 1180 the Chief Financial Officer, and serve at the pleasure of the
 1181 board. The executive director is responsible for employing other
 1182 staff as the corporation may require, subject to review and
 1183 concurrence by the board and the Chief Financial Officer.

PCB IN 06-01I

ORIGINAL

YEAR

1184 b. The board shall create a Market Accountability Advisory
 1185 Committee to assist the corporation in developing awareness of
 1186 its rates and its customer and agent service levels in
 1187 relationship to the voluntary market insurers writing similar
 1188 coverage. The members of the advisory committee shall consist of
 1189 the following 11 persons, one of whom must be elected chair by
 1190 the members of the committee: four representatives, one appointed
 1191 by the Florida Association of Insurance Agents, one by the
 1192 Florida Association of Insurance and Financial Advisors, one by
 1193 the Professional Insurance Agents of Florida, and one by the
 1194 Latin American Association of Insurance Agencies; three
 1195 representatives appointed by the insurers with the three highest
 1196 voluntary market share of residential property insurance business
 1197 in the state; one representative from the Office of Insurance
 1198 Regulation; one consumer appointed by the board who is insured by
 1199 the corporation at the time of appointment to the committee; one
 1200 representative appointed by the Florida Association of Realtors;
 1201 and one representative appointed by the Florida Bankers
 1202 Association. All members must serve for 3-year terms and may
 1203 serve for consecutive terms. The committee shall report to the
 1204 corporation at each board meeting on insurance market issues
 1205 which may include rates and rate competition with the voluntary
 1206 market; service, including policy issuance, claims processing,
 1207 and general responsiveness to policyholders, applicants, and
 1208 agents; and matters relating to depopulation.

1209 5. Must provide a procedure for determining the eligibility
 1210 of a risk for coverage, as follows:

1211 a. Subject to the provisions of s. 627.3517, with respect
 1212 to personal lines residential risks, if the risk is offered

PCB IN 06-01I

ORIGINAL

YEAR

1213 coverage from an authorized insurer at the insurer's approved
 1214 rate under either a standard policy including wind coverage or,
 1215 if consistent with the insurer's underwriting rules as filed with
 1216 the office, a basic policy including wind coverage, the risk is
 1217 not eligible for any policy issued by the corporation. If the
 1218 risk is not able to obtain any such offer, the risk is eligible
 1219 for either a standard policy including wind coverage or a basic
 1220 policy including wind coverage issued by the corporation;
 1221 however, if the risk could not be insured under a standard policy
 1222 including wind coverage regardless of market conditions, the risk
 1223 shall be eligible for a basic policy including wind coverage
 1224 unless rejected under subparagraph 8. The corporation shall
 1225 determine the type of policy to be provided on the basis of
 1226 objective standards specified in the underwriting manual and
 1227 based on generally accepted underwriting practices.

1228 (I) If the risk accepts an offer of coverage through the
 1229 market assistance plan or an offer of coverage through a
 1230 mechanism established by the corporation before a policy is
 1231 issued to the risk by the corporation or during the first 30 days
 1232 of coverage by the corporation, and the producing agent who
 1233 submitted the application to the plan or to the corporation is
 1234 not currently appointed by the insurer, the insurer shall:

1235 (A) Pay to the producing agent of record of the policy, for
 1236 the first year, an amount that is the greater of the insurer's
 1237 usual and customary commission for the type of policy written or
 1238 a fee equal to the usual and customary commission of the
 1239 corporation; or

1240 (B) Offer to allow the producing agent of record of the
 1241 policy to continue servicing the policy for a period of not less

PCB IN 06-01I

ORIGINAL

YEAR

1242 | than 1 year and offer to pay the agent the greater of the
 1243 | insurer's or the corporation's usual and customary commission for
 1244 | the type of policy written.

1245 |
 1246 | If the producing agent is unwilling or unable to accept
 1247 | appointment, the new insurer shall pay the agent in accordance
 1248 | with sub-sub-sub-subparagraph (A).

1249 | (II) When the corporation enters into a contractual
 1250 | agreement for a take-out plan, the producing agent of record of
 1251 | the corporation policy is entitled to retain any unearned
 1252 | commission on the policy, and the insurer shall:

1253 | (A) Pay to the producing agent of record of the corporation
 1254 | policy, for the first year, an amount that is the greater of the
 1255 | insurer's usual and customary commission for the type of policy
 1256 | written or a fee equal to the usual and customary commission of
 1257 | the corporation; or

1258 | (B) Offer to allow the producing agent of record of the
 1259 | corporation policy to continue servicing the policy for a period
 1260 | of not less than 1 year and offer to pay the agent the greater of
 1261 | the insurer's or the corporation's usual and customary commission
 1262 | for the type of policy written.

1263 |
 1264 | If the producing agent is unwilling or unable to accept
 1265 | appointment, the new insurer shall pay the agent in accordance
 1266 | with sub-sub-sub-subparagraph (A).

1267 | b. With respect to commercial lines residential risks, if
 1268 | the risk is offered coverage under a policy including wind
 1269 | coverage from an authorized insurer at its approved rate, the
 1270 | risk is not eligible for any policy issued by the corporation. If

PCB IN 06-01I

ORIGINAL

YEAR

1271 the risk is not able to obtain any such offer, the risk is
 1272 eligible for a policy including wind coverage issued by the
 1273 corporation.

1274 (I) If the risk accepts an offer of coverage through the
 1275 market assistance plan or an offer of coverage through a
 1276 mechanism established by the corporation before a policy is
 1277 issued to the risk by the corporation or during the first 30 days
 1278 of coverage by the corporation, and the producing agent who
 1279 submitted the application to the plan or the corporation is not
 1280 currently appointed by the insurer, the insurer shall:

1281 (A) Pay to the producing agent of record of the policy, for
 1282 the first year, an amount that is the greater of the insurer's
 1283 usual and customary commission for the type of policy written or
 1284 a fee equal to the usual and customary commission of the
 1285 corporation; or

1286 (B) Offer to allow the producing agent of record of the
 1287 policy to continue servicing the policy for a period of not less
 1288 than 1 year and offer to pay the agent the greater of the
 1289 insurer's or the corporation's usual and customary commission for
 1290 the type of policy written.

1291
 1292 If the producing agent is unwilling or unable to accept
 1293 appointment, the new insurer shall pay the agent in accordance
 1294 with sub-sub-sub-subparagraph (A).

1295 (II) When the corporation enters into a contractual
 1296 agreement for a take-out plan, the producing agent of record of
 1297 the corporation policy is entitled to retain any unearned
 1298 commission on the policy, and the insurer shall:

PCB IN 06-01I

ORIGINAL

YEAR

1299 (A) Pay to the producing agent of record of the corporation
 1300 policy, for the first year, an amount that is the greater of the
 1301 insurer's usual and customary commission for the type of policy
 1302 written or a fee equal to the usual and customary commission of
 1303 the corporation; or

1304 (B) Offer to allow the producing agent of record of the
 1305 corporation policy to continue servicing the policy for a period
 1306 of not less than 1 year and offer to pay the agent the greater of
 1307 the insurer's or the corporation's usual and customary commission
 1308 for the type of policy written.

1309
 1310 If the producing agent is unwilling or unable to accept
 1311 appointment, the new insurer shall pay the agent in accordance
 1312 with sub-sub-sub-subparagraph (A).

1313 c. With respect to personal lines residential risks, if the
 1314 risk is a dwelling with an insured value of one million dollars
 1315 or greater, the risk is not eligible for any policy issued by the
 1316 corporation. Rates for a policy issued by an authorized insurer
 1317 covering a personal residential property not eligible for
 1318 coverage by the corporation and eligible for export under s.
 1319 626.916 are not subject to s. 627.062.

1320 6. Must include rules for classifications of risks and
 1321 rates therefor.

1322 7. Must provide that if premium and investment income for
 1323 an account attributable to a particular calendar year are in
 1324 excess of projected losses and expenses for the account
 1325 attributable to that year, such excess shall be held in surplus
 1326 in the account. Such surplus shall be available to defray
 1327 deficits in that account as to future years and shall be used for

PCB IN 06-01I

ORIGINAL

YEAR

1328 that purpose prior to assessing assessable insurers and
 1329 assessable insureds as to any calendar year.

1330 8. Must provide objective criteria and procedures to be
 1331 uniformly applied for all applicants in determining whether an
 1332 individual risk is so hazardous as to be uninsurable. In making
 1333 this determination and in establishing the criteria and
 1334 procedures, the following shall be considered:

1335 a. Whether the likelihood of a loss for the individual risk
 1336 is substantially higher than for other risks of the same class;
 1337 and

1338 b. Whether the uncertainty associated with the individual
 1339 risk is such that an appropriate premium cannot be determined.

1340
 1341 The acceptance or rejection of a risk by the corporation shall be
 1342 construed as the private placement of insurance, and the
 1343 provisions of chapter 120 shall not apply.

1344 9. Must provide that the corporation shall make its best
 1345 efforts to procure catastrophe reinsurance at reasonable rates,
 1346 to cover its projected 100-year probable maximum loss as
 1347 determined by the board of governors.

1348 10. Must provide that in the event of regular deficit
 1349 assessments under sub-subparagraph (b)3.a. or sub-subparagraph
 1350 (b)3.b., in the personal lines homestead account, the commercial
 1351 lines residential homestead account, or the high-risk homestead
 1352 account, the corporation shall levy upon corporation homestead
 1353 account policyholders in its next rate filing, or by a separate
 1354 rate filing solely for this purpose, a market equalization
 1355 surcharge arising from a regular assessment in such account in a
 1356 percentage equal to the total amount of such regular assessments

PCB IN 06-01I

ORIGINAL

YEAR

1357 | divided by the aggregate statewide direct written premium for
 1358 | subject lines of business for the prior calendar year. Market
 1359 | equalization surcharges under this subparagraph are not
 1360 | considered premium and are not subject to commissions, fees, or
 1361 | premium taxes; however, failure to pay a market equalization
 1362 | surcharge shall be treated as failure to pay premium.

1363 | 11. The policies issued by the corporation must provide
 1364 | that, if the corporation or the market assistance plan obtains an
 1365 | offer from an authorized insurer to cover the risk at its
 1366 | approved rates, the risk is no longer eligible for renewal
 1367 | through the corporation.

1368 | 12. Corporation policies and applications must include a
 1369 | notice that the corporation policy could, under this section, be
 1370 | replaced with a policy issued by an authorized insurer that does
 1371 | not provide coverage identical to the coverage provided by the
 1372 | corporation. The notice shall also specify that acceptance of
 1373 | corporation coverage creates a conclusive presumption that the
 1374 | applicant or policyholder is aware of this potential.

1375 | 13. May establish, subject to approval by the office,
 1376 | different eligibility requirements and operational procedures for
 1377 | any line or type of coverage for any specified county or area if
 1378 | the board determines that such changes to the eligibility
 1379 | requirements and operational procedures are justified due to the
 1380 | voluntary market being sufficiently stable and competitive in
 1381 | such area or for such line or type of coverage and that consumers
 1382 | who, in good faith, are unable to obtain insurance through the
 1383 | voluntary market through ordinary methods would continue to have
 1384 | access to coverage from the corporation. When coverage is sought
 1385 | in connection with a real property transfer, such requirements

PCB IN 06-01I

ORIGINAL

YEAR

1386 and procedures shall not provide for an effective date of
 1387 coverage later than the date of the closing of the transfer as
 1388 established by the transferor, the transferee, and, if
 1389 applicable, the lender.

1390 14. Must provide that, with respect to the high-risk
 1391 homestead account, any assessable insurer with a surplus as to
 1392 policyholders of \$25 million or less writing 25 percent or more
 1393 of its total countrywide property insurance premiums in this
 1394 state may petition the office, within the first 90 days of each
 1395 calendar year, to qualify as a limited apportionment company. In
 1396 no event shall a limited apportionment company be required to
 1397 participate in the portion of any assessment, within the high-
 1398 risk account, pursuant to sub-subparagraph (b)3.a. or sub-
 1399 subparagraph (b)3.b. in the aggregate which exceeds \$50 million
 1400 after payment of available high-risk account funds in any
 1401 calendar year. However, a limited apportionment company shall
 1402 collect from its policyholders any emergency assessment imposed
 1403 under sub-subparagraph (b)3.d. The plan shall provide that, if
 1404 the office determines that any regular assessment will result in
 1405 an impairment of the surplus of a limited apportionment company,
 1406 the office may direct that all or part of such assessment be
 1407 deferred as provided in subparagraph (g)4. However, there shall
 1408 be no limitation or deferment of an emergency assessment to be
 1409 collected from policyholders under sub-subparagraph (b)3.d.

1410 15. Must provide that the corporation appoint as its
 1411 licensed agents only those agents who also hold an appointment as
 1412 defined in s. 626.015(3) with an insurer who at the time of the
 1413 agent's initial appointment by the corporation is authorized to
 1414 write and is actually writing personal lines residential property

PCB IN 06-01I

ORIGINAL

YEAR

1415 coverage, commercial residential property coverage, or commercial
 1416 nonresidential property coverage within the state.

1417 16. Must provide that the hurricane deductible for any
 1418 property in the nonhomestead account with an insured value of
 1419 \$250,000 or more must be at least 5 percent of the insured value.

1420 17. Must provide that the application for coverage under
 1421 the nonhomestead account and the declaration page of each
 1422 nonhomestead account policy include a statement in boldface 12-
 1423 point type specifying that public subsidies do not support the
 1424 corporation's coverage of nonhomestead property; that if the
 1425 nonhomestead account of the corporation sustains a deficit or is
 1426 unable to pay claims, the nonhomestead policyholder may be
 1427 subject to an immediate assessment in an amount up to 100 percent
 1428 of the premium and a further assessment upon renewal of the
 1429 policy; and that the applicant or policyholder may wish to seek
 1430 alternative coverage from a nonadmitted insurer in the surplus
 1431 lines market that will not be subject to such potential
 1432 assessments.

1433 18. Must provide that the application for coverage under
 1434 any of the homestead accounts and the declaration page of each
 1435 homestead account policy include a statement in boldface 12-point
 1436 type specifying that a false declaration of homestead status for
 1437 purposes of obtaining coverage in any of the homestead accounts
 1438 may constitute the offense of insurance fraud, as prohibited and
 1439 punishable as a felony under s. 817.234.

1440 (d)1.a. It is the intent of the Legislature that the rates
 1441 for coverage provided by the corporation be actuarially sound and
 1442 not competitive with approved rates charged in the admitted
 1443 voluntary market, so that the corporation functions as a residual

PCB IN 06-01I

ORIGINAL

YEAR

1444 market mechanism to provide insurance only when the insurance
 1445 cannot be procured in the voluntary market. Rates shall include
 1446 an appropriate catastrophe loading factor that reflects the
 1447 actual catastrophic exposure of the corporation. Any authorized
 1448 insurer eligible to write wind in the high risk account areas of
 1449 the corporation may require arbitration under s. 627.062(6) of
 1450 any filing of the high risk account.

1451 b. It is the intent of the Legislature to reaffirm the
 1452 requirement of rate adequacy in the residual market. Recognizing
 1453 that rates may comply with the intent expressed in sub-
 1454 subparagraph a. and yet be inadequate and recognizing the public
 1455 need to limit subsidies within the residual market, it is the
 1456 further intent of the Legislature to establish statutory
 1457 standards for rate adequacy. Such standards are intended to
 1458 supplement the standard specified in s. 627.062(2)(e)3.,
 1459 providing that rates are inadequate if they are clearly
 1460 insufficient to sustain projected losses and expenses in the
 1461 class of business to which they apply.

1462 2. For each county, the average rates of the corporation
 1463 for each line of business for personal lines residential policies
 1464 excluding rates for wind-only policies shall be no lower than the
 1465 average rates charged by the insurer that had the highest average
 1466 rate in that county among the 20 insurers with the greatest total
 1467 direct written premium in the state for that line of business in
 1468 the preceding year, except that with respect to mobile home
 1469 coverages, the average rates of the corporation shall be no lower
 1470 than the average rates charged by the insurer that had the
 1471 highest average rate in that county among the 5 insurers with the

PCB IN 06-01I

ORIGINAL

YEAR

1472 greatest total written premium for mobile home owner's policies
 1473 in the state in the preceding year.

1474 3. Rates for personal lines residential wind-only policies
 1475 must be actuarially sound and not competitive with approved rates
 1476 charged by authorized insurers. Corporation rate manuals shall
 1477 include a rate surcharge for seasonal occupancy. To ensure that
 1478 personal lines residential wind-only rates are not competitive
 1479 with approved rates charged by authorized insurers, the
 1480 corporation, in conjunction with the office, shall develop a
 1481 wind-only ratemaking methodology, which methodology shall be
 1482 contained in each rate filing made by the corporation with the
 1483 office. If the office determines that the wind-only rates or
 1484 rating factors filed by the corporation fail to comply with the
 1485 wind-only ratemaking methodology provided for in this subsection,
 1486 it shall so notify the corporation and require the corporation to
 1487 amend its rates or rating factors to come into compliance within
 1488 90 days of notice from the office.

1489 4. For the purposes of establishing a pilot program to
 1490 evaluate issues relating to the availability and affordability of
 1491 insurance in an area where historically there has been little
 1492 market competition, the provisions of subparagraph 2. do not
 1493 apply to coverage provided by the corporation in Monroe County if
 1494 the office determines that a reasonable degree of competition
 1495 does not exist for personal lines residential policies. The
 1496 provisions of subparagraph 3. do not apply to coverage provided
 1497 by the corporation in Monroe County if the office determines that
 1498 a reasonable degree of competition does not exist for personal
 1499 lines residential policies in the area of that county which is
 1500 eligible for wind-only coverage. In this county, the rates for

PCB IN 06-01I

ORIGINAL

YEAR

1501 personal lines residential coverage shall be actuarially sound
 1502 and not excessive, inadequate, or unfairly discriminatory and are
 1503 subject to the other provisions of the paragraph and s. 627.062.
 1504 The commission shall adopt rules establishing the criteria for
 1505 determining whether a reasonable degree of competition exists for
 1506 personal lines residential policies in Monroe County. By March 1,
 1507 2006, the office shall submit a report to the Legislature
 1508 providing an evaluation of the implementation of the pilot
 1509 program affecting Monroe County.

1510 5. Rates for commercial lines coverage shall not be subject
 1511 to the requirements of subparagraph 2., but shall be subject to
 1512 all other requirements of this paragraph and s. 627.062.

1513 6.a. Nothing in this paragraph shall require or allow the
 1514 corporation to adopt a rate that is inadequate under s. 627.062
 1515 or under sub-subparagraph b. or sub-subparagraph c.

1516 b. With respect to rates for coverage in any homestead
 1517 account, a rate is deemed inadequate if the rate is not
 1518 sufficient to generate, by means of cash flow, procurement of
 1519 coverage under the Florida Hurricane Catastrophe Fund;
 1520 procurement of reinsurance; and investment income, moneys
 1521 sufficient to pay all claims and expenses reasonably expected to
 1522 result from a 50-year probable maximum loss event without resort
 1523 to any regular or emergency assessments, long-term debt, state
 1524 revenues, or other funding sources that reflect any subsidy from
 1525 persons or entities other than corporation homestead accounts
 1526 policyholders.

1527 c. With respect to rates for coverage in the nonhomestead
 1528 account, a rate is deemed inadequate if the rate is not
 1529 sufficient to generate, by means of cash flow, procurement of

PCB IN 06-01I

ORIGINAL

YEAR

1530 coverage under the Florida Hurricane Catastrophe Fund;
 1531 procurement of reinsurance; and investment income, moneys
 1532 sufficient to pay all claims and expenses reasonably expected to
 1533 result from a 250-year probable maximum loss event without resort
 1534 to any assessments, debt, state revenues, or other funding
 1535 sources that reflect any subsidy from persons or entities other
 1536 than corporation nonhomestead account policyholders.

1537 7. The corporation shall certify to the office at least
 1538 twice annually that its personal lines rates comply with the
 1539 requirements of subparagraphs 1., ~~and 2.~~, and 6. If any
 1540 adjustment in the rates or rating factors of the corporation is
 1541 necessary to ensure such compliance, the corporation shall make
 1542 and implement such adjustments and file its revised rates and
 1543 rating factors with the office. If the office thereafter
 1544 determines that the revised rates and rating factors fail to
 1545 comply with the provisions of subparagraphs 1. and 2., it shall
 1546 notify the corporation and require the corporation to amend its
 1547 rates or rating factors in conjunction with its next rate filing.
 1548 The office must notify the corporation by electronic means of any
 1549 rate filing it approves for any insurer among the insurers
 1550 referred to in subparagraph 2. Any authorized insurer eligible
 1551 to write wind in the high risk account areas of the corporation
 1552 may require arbitration under s. 627.062(6) of any filing of the
 1553 high risk account.

1554 8. In addition to the rates otherwise determined pursuant
 1555 to this paragraph, the corporation shall impose and collect an
 1556 amount equal to the premium tax provided for in s. 624.509 to
 1557 augment the financial resources of the corporation.

PCB IN 06-01I

ORIGINAL

YEAR

1558 9.a. To assist the corporation in developing additional
 1559 ratemaking methods to assure compliance with subparagraphs 1. and
 1560 4., the corporation shall appoint a rate methodology panel
 1561 consisting of one person recommended by the Florida Association
 1562 of Insurance Agents, one person recommended by the Professional
 1563 Insurance Agents of Florida, one person recommended by the
 1564 Florida Association of Insurance and Financial Advisors, one
 1565 person recommended by the insurer with the highest voluntary
 1566 market share of residential property insurance business in the
 1567 state, one person recommended by the insurer with the second-
 1568 highest voluntary market share of residential property insurance
 1569 business in the state, one person recommended by an insurer
 1570 writing commercial residential property insurance in this state,
 1571 one person recommended by the Office of Insurance Regulation, and
 1572 one board member designated by the board chairman, who shall
 1573 serve as chairman of the panel.

1574 b. By January 1, 2004, the rate methodology panel shall
 1575 provide a report to the corporation of its findings and
 1576 recommendations for the use of additional ratemaking methods and
 1577 procedures, including the use of a rate equalization surcharge in
 1578 an amount sufficient to assure that the total cost of coverage
 1579 for policyholders or applicants to the corporation is sufficient
 1580 to comply with subparagraph 1.

1581 c. Within 30 days after such report, the corporation shall
 1582 present to the President of the Senate, the Speaker of the House
 1583 of Representatives, the minority party leaders of each house of
 1584 the Legislature, and the chairs of the standing committees of
 1585 each house of the Legislature having jurisdiction of insurance
 1586 issues, a plan for implementing the additional ratemaking methods

PCB IN 06-01I

ORIGINAL

YEAR

1587 | and an outline of any legislation needed to facilitate use of the
 1588 | new methods.

1589 | d. The plan must include a provision that producer
 1590 | commissions paid by the corporation shall not be calculated in
 1591 | such a manner as to include any rate equalization surcharge.
 1592 | However, without regard to the plan to be developed or its
 1593 | implementation, producer commissions paid by the corporation for
 1594 | each account, other than the quota share primary program, shall
 1595 | remain fixed as to percentage, effective rate, calculation, and
 1596 | payment method until January 1, 2004.

1597 | 10. By January 1, 2004, the corporation shall develop a
 1598 | notice to policyholders or applicants that the rates of Citizens
 1599 | Property Insurance Corporation are intended to be higher than the
 1600 | rates of any admitted carrier and providing other information the
 1601 | corporation deems necessary to assist consumers in finding other
 1602 | voluntary admitted insurers willing to insure their property.

1603 | (e) If coverage in an account is deactivated pursuant to
 1604 | paragraph (f), coverage through the corporation shall be
 1605 | reactivated by order of the office only under one of the
 1606 | following circumstances:

1607 | 1. If the market assistance plan receives a minimum of 100
 1608 | applications for coverage within a 3-month period, or 200
 1609 | applications for coverage within a 1-year period or less for
 1610 | residential coverage, unless the market assistance plan provides
 1611 | a quotation from admitted carriers at their filed rates for at
 1612 | least 90 percent of such applicants. Any market assistance plan
 1613 | application that is rejected because an individual risk is so
 1614 | hazardous as to be uninsurable using the criteria specified in
 1615 | subparagraph (c)8. shall not be included in the minimum

PCB IN 06-01I

ORIGINAL

YEAR

1616 percentage calculation provided herein. In the event that there
 1617 is a legal or administrative challenge to a determination by the
 1618 office that the conditions of this subparagraph have been met for
 1619 eligibility for coverage in the corporation, any eligible risk
 1620 may obtain coverage during the pendency of such challenge.

1621 2. In response to a state of emergency declared by the
 1622 Governor under s. 252.36, the office may activate coverage by
 1623 order for the period of the emergency upon a finding by the
 1624 office that the emergency significantly affects the availability
 1625 of residential property insurance.

1626 (f)1. The corporation shall file with the office quarterly
 1627 statements of financial condition, an annual statement of
 1628 financial condition, and audited financial statements in the
 1629 manner prescribed by law. In addition, the corporation shall
 1630 report to the office monthly on the types, premium, exposure, and
 1631 distribution by county of its policies in force, and shall submit
 1632 other reports as the office requires to carry out its oversight
 1633 of the corporation.

1634 2. The activities of the corporation shall be reviewed at
 1635 least annually by the office to determine whether coverage shall
 1636 be deactivated in an account on the basis that the conditions
 1637 giving rise to its activation no longer exist.

1638 (g)1. The corporation shall certify to the office its needs
 1639 for annual assessments as to a particular calendar year, and for
 1640 any interim assessments that it deems to be necessary to sustain
 1641 operations as to a particular year pending the receipt of annual
 1642 assessments. Upon verification, the office shall approve such
 1643 certification, and the corporation shall levy such annual or
 1644 interim assessments. Such assessments shall be prorated as

PCB IN 06-01I

ORIGINAL

YEAR

1645 provided in paragraph (b). The corporation shall take all
 1646 reasonable and prudent steps necessary to collect the amount of
 1647 assessment due from each assessable insurer, including, if
 1648 prudent, filing suit to collect such assessment. If the
 1649 corporation is unable to collect an assessment from any
 1650 assessable insurer, the uncollected assessments shall be levied
 1651 as an additional assessment against the assessable insurers and
 1652 any assessable insurer required to pay an additional assessment
 1653 as a result of such failure to pay shall have a cause of action
 1654 against such nonpaying assessable insurer. Assessments shall be
 1655 included as an appropriate factor in the making of rates. The
 1656 failure of a surplus lines agent to collect and remit any regular
 1657 or emergency assessment levied by the corporation is considered
 1658 to be a violation of s. 626.936 and subjects the surplus lines
 1659 agent to the penalties provided in that section.

1660 2. The governing body of any unit of local government, any
 1661 residents of which are insured by the corporation, may issue
 1662 bonds as defined in s. 125.013 or s. 166.101 from time to time to
 1663 fund an assistance program, in conjunction with the corporation,
 1664 for the purpose of defraying deficits of the corporation. In
 1665 order to avoid needless and indiscriminate proliferation,
 1666 duplication, and fragmentation of such assistance programs, any
 1667 unit of local government, any residents of which are insured by
 1668 the corporation, may provide for the payment of losses,
 1669 regardless of whether or not the losses occurred within or
 1670 outside of the territorial jurisdiction of the local government.
 1671 Revenue bonds under this subparagraph may not be issued until
 1672 validated pursuant to chapter 75, unless a state of emergency is
 1673 declared by executive order or proclamation of the Governor

PCB IN 06-01I

ORIGINAL

YEAR

1674 pursuant to s. 252.36 making such findings as are necessary to
 1675 determine that it is in the best interests of, and necessary for,
 1676 the protection of the public health, safety, and general welfare
 1677 of residents of this state and declaring it an essential public
 1678 purpose to permit certain municipalities or counties to issue
 1679 such bonds as will permit relief to claimants and policyholders
 1680 of the corporation. Any such unit of local government may enter
 1681 into such contracts with the corporation and with any other
 1682 entity created pursuant to this subsection as are necessary to
 1683 carry out this paragraph. Any bonds issued under this
 1684 subparagraph shall be payable from and secured by moneys received
 1685 by the corporation from emergency assessments under sub-
 1686 subparagraph (b)3.d., and assigned and pledged to or on behalf of
 1687 the unit of local government for the benefit of the holders of
 1688 such bonds. The funds, credit, property, and taxing power of the
 1689 state or of the unit of local government shall not be pledged for
 1690 the payment of such bonds. If any of the bonds remain unsold 60
 1691 days after issuance, the office shall require all insurers
 1692 subject to assessment to purchase the bonds, which shall be
 1693 treated as admitted assets; each insurer shall be required to
 1694 purchase that percentage of the unsold portion of the bond issue
 1695 that equals the insurer's relative share of assessment liability
 1696 under this subsection. An insurer shall not be required to
 1697 purchase the bonds to the extent that the office determines that
 1698 the purchase would endanger or impair the solvency of the
 1699 insurer.

1700 3.a. The corporation shall adopt one or more programs
 1701 subject to approval by the office for the reduction of both new
 1702 and renewal writings in the corporation. The corporation may

PCB IN 06-01I

ORIGINAL

YEAR

1703 consider any prudent and not unfairly discriminatory approach to
 1704 reducing corporation writings, and may adopt a credit against
 1705 assessment liability or other liability that provides an
 1706 incentive for insurers to take risks out of the corporation and
 1707 to keep risks out of the corporation by maintaining or increasing
 1708 voluntary writings in counties or areas in which corporation
 1709 risks are highly concentrated and a program to provide a formula
 1710 under which an insurer voluntarily taking risks out of the
 1711 corporation by maintaining or increasing voluntary writings will
 1712 be relieved wholly or partially from assessments under sub-
 1713 subparagraphs (b)3.a. and b. When the corporation enters into a
 1714 contractual agreement for a take-out plan, the producing agent of
 1715 record of the corporation policy is entitled to retain any
 1716 unearned commission on such policy, and the insurer shall either:
 1717 (I) Pay to the producing agent of record of the policy, for
 1718 the first year, an amount which is the greater of the insurer's
 1719 usual and customary commission for the type of policy written or
 1720 a policy fee equal to the usual and customary commission of the
 1721 corporation; or
 1722 (II) Offer to allow the producing agent of record of the
 1723 policy to continue servicing the policy for a period of not less
 1724 than 1 year and offer to pay the agent the insurer's usual and
 1725 customary commission for the type of policy written. If the
 1726 producing agent is unwilling or unable to accept appointment by
 1727 the new insurer, the new insurer shall pay the agent in
 1728 accordance with sub-sub-subparagraph (I).
 1729 b. Any credit or exemption from regular assessments adopted
 1730 under this subparagraph shall last no longer than the 3 years
 1731 following the cancellation or expiration of the policy by the

PCB IN 06-01I

ORIGINAL

YEAR

1732 corporation. With the approval of the office, the board may
 1733 extend such credits for an additional year if the insurer
 1734 guarantees an additional year of renewability for all policies
 1735 removed from the corporation, or for 2 additional years if the
 1736 insurer guarantees 2 additional years of renewability for all
 1737 policies so removed.

1738 c. There shall be no credit, limitation, exemption, or
 1739 deferment from emergency assessments to be collected from
 1740 policyholders pursuant to sub-subparagraph (b)3.d.

1741 4. The plan shall provide for the deferment, in whole or in
 1742 part, of the assessment of an assessable insurer, other than an
 1743 emergency assessment collected from policyholders pursuant to
 1744 sub-subparagraph (b)3.d., if the office finds that payment of the
 1745 assessment would endanger or impair the solvency of the insurer.
 1746 In the event an assessment against an assessable insurer is
 1747 deferred in whole or in part, the amount by which such assessment
 1748 is deferred may be assessed against the other assessable insurers
 1749 in a manner consistent with the basis for assessments set forth
 1750 in paragraph (b).

1751 (h) Nothing in this subsection shall be construed to
 1752 preclude the issuance of residential property insurance coverage
 1753 pursuant to part VIII of chapter 626.

1754 (i) There shall be no liability on the part of, and no
 1755 cause of action of any nature shall arise against, any assessable
 1756 insurer or its agents or employees, the corporation or its agents
 1757 or employees, members of the board of governors or their
 1758 respective designees at a board meeting, corporation committee
 1759 members, or the office or its representatives, for any action
 1760 taken by them in the performance of their duties or

PCB IN 06-01I

ORIGINAL

YEAR

1761 | responsibilities under this subsection. Such immunity does not
 1762 | apply to:
 1763 | 1. Any of the foregoing persons or entities for any willful
 1764 | tort;
 1765 | 2. The corporation or its producing agents for breach of
 1766 | any contract or agreement pertaining to insurance coverage;
 1767 | 3. The corporation with respect to issuance or payment of
 1768 | debt; or
 1769 | 4. Any assessable insurer with respect to any action to
 1770 | enforce an assessable insurer's obligations to the corporation
 1771 | under this subsection.
 1772 | (j) For the purposes of s. 199.183(1), the corporation
 1773 | shall be considered a political subdivision of the state and
 1774 | shall be exempt from the corporate income tax. The premiums,
 1775 | assessments, investment income, and other revenue of the
 1776 | corporation are funds received for providing property insurance
 1777 | coverage as required by this subsection, paying claims for
 1778 | Florida citizens insured by the corporation, securing and
 1779 | repaying debt obligations issued by the corporation, and
 1780 | conducting all other activities of the corporation, and shall not
 1781 | be considered taxes, fees, licenses, or charges for services
 1782 | imposed by the Legislature on individuals, businesses, or
 1783 | agencies outside state government. Bonds and other debt
 1784 | obligations issued by or on behalf of the corporation are not to
 1785 | be considered "state bonds" within the meaning of s. 215.58(8).
 1786 | The corporation is not subject to the procurement provisions of
 1787 | chapter 287, and policies and decisions of the corporation
 1788 | relating to incurring debt, levying of assessments and the sale,
 1789 | issuance, continuation, terms and claims under corporation

PCB IN 06-01I

ORIGINAL

YEAR

1790 policies, and all services relating thereto, are not subject to
 1791 the provisions of chapter 120. The corporation is not required to
 1792 obtain or to hold a certificate of authority issued by the
 1793 office, nor is it required to participate as a member insurer of
 1794 the Florida Insurance Guaranty Association. However, the
 1795 corporation is required to pay, in the same manner as an
 1796 authorized insurer, assessments pledged by the Florida Insurance
 1797 Guaranty Association to secure bonds issued or other indebtedness
 1798 incurred to pay covered claims arising from insurer insolvencies
 1799 caused by, or proximately related to, hurricane losses. It is the
 1800 intent of the Legislature that the tax exemptions provided in
 1801 this paragraph will augment the financial resources of the
 1802 corporation to better enable the corporation to fulfill its
 1803 public purposes. Any bonds issued by the corporation, their
 1804 transfer, and the income therefrom, including any profit made on
 1805 the sale thereof, shall at all times be free from taxation of
 1806 every kind by the state and any political subdivision or local
 1807 unit or other instrumentality thereof; however, this exemption
 1808 does not apply to any tax imposed by chapter 220 on interest,
 1809 income, or profits on debt obligations owned by corporations
 1810 other than the corporation.

1811 (k) Upon a determination by the office that the conditions
 1812 giving rise to the establishment and activation of the
 1813 corporation no longer exist, the corporation is dissolved. Upon
 1814 dissolution, the assets of the corporation shall be applied first
 1815 to pay all debts, liabilities, and obligations of the
 1816 corporation, including the establishment of reasonable reserves
 1817 for any contingent liabilities or obligations, and all remaining
 1818 assets of the corporation shall become property of the state and

PCB IN 06-01I

ORIGINAL

YEAR

1819 shall be deposited in the Florida Hurricane Catastrophe Fund.
 1820 However, no dissolution shall take effect as long as the
 1821 corporation has bonds or other financial obligations outstanding
 1822 unless adequate provision has been made for the payment of the
 1823 bonds or other financial obligations pursuant to the documents
 1824 authorizing the issuance of the bonds or other financial
 1825 obligations.

1826 (1)1. Effective July 1, 2002, policies of the Residential
 1827 Property and Casualty Joint Underwriting Association shall become
 1828 policies of the corporation. All obligations, rights, assets and
 1829 liabilities of the Residential Property and Casualty Joint
 1830 Underwriting Association, including bonds, note and debt
 1831 obligations, and the financing documents pertaining to them
 1832 become those of the corporation as of July 1, 2002. The
 1833 corporation is not required to issue endorsements or certificates
 1834 of assumption to insureds during the remaining term of in-force
 1835 transferred policies.

1836 2. Effective July 1, 2002, policies of the Florida
 1837 Windstorm Underwriting Association are transferred to the
 1838 corporation and shall become policies of the corporation. All
 1839 obligations, rights, assets, and liabilities of the Florida
 1840 Windstorm Underwriting Association, including bonds, note and
 1841 debt obligations, and the financing documents pertaining to them
 1842 are transferred to and assumed by the corporation on July 1,
 1843 2002. The corporation is not required to issue endorsement or
 1844 certificates of assumption to insureds during the remaining term
 1845 of in-force transferred policies.

1846 3. The Florida Windstorm Underwriting Association and the
 1847 Residential Property and Casualty Joint Underwriting Association

PCB IN 06-01I

ORIGINAL

YEAR

1848 shall take all actions as may be proper to further evidence the
 1849 transfers and shall provide the documents and instruments of
 1850 further assurance as may reasonably be requested by the
 1851 corporation for that purpose. The corporation shall execute
 1852 assumptions and instruments as the trustees or other parties to
 1853 the financing documents of the Florida Windstorm Underwriting
 1854 Association or the Residential Property and Casualty Joint
 1855 Underwriting Association may reasonably request to further
 1856 evidence the transfers and assumptions, which transfers and
 1857 assumptions, however, are effective on the date provided under
 1858 this paragraph whether or not, and regardless of the date on
 1859 which, the assumptions or instruments are executed by the
 1860 corporation. Subject to the relevant financing documents
 1861 pertaining to their outstanding bonds, notes, indebtedness, or
 1862 other financing obligations, the moneys, investments,
 1863 receivables, choses in action, and other intangibles of the
 1864 Florida Windstorm Underwriting Association shall be credited to
 1865 the high-risk account of the corporation, and those of the
 1866 personal lines residential coverage account and the commercial
 1867 lines residential coverage account of the Residential Property
 1868 and Casualty Joint Underwriting Association shall be credited to
 1869 the personal lines account and the commercial lines account,
 1870 respectively, of the corporation.

1871 4. Effective July 1, 2002, a new applicant for property
 1872 insurance coverage who would otherwise have been eligible for
 1873 coverage in the Florida Windstorm Underwriting Association is
 1874 eligible for coverage from the corporation as provided in this
 1875 subsection.

PCB IN 06-01I

ORIGINAL

YEAR

1876 5. The transfer of all policies, obligations, rights,
 1877 assets, and liabilities from the Florida Windstorm Underwriting
 1878 Association to the corporation and the renaming of the
 1879 Residential Property and Casualty Joint Underwriting Association
 1880 as the corporation shall in no way affect the coverage with
 1881 respect to covered policies as defined in s. 215.555(2)(c)
 1882 provided to these entities by the Florida Hurricane Catastrophe
 1883 Fund. The coverage provided by the Florida Hurricane Catastrophe
 1884 Fund to the Florida Windstorm Underwriting Association based on
 1885 its exposures as of June 30, 2002, and each June 30 thereafter
 1886 shall be redesignated as coverage for the high-risk account of
 1887 the corporation. Notwithstanding any other provision of law, the
 1888 coverage provided by the Florida Hurricane Catastrophe Fund to
 1889 the Residential Property and Casualty Joint Underwriting
 1890 Association based on its exposures as of June 30, 2002, and each
 1891 June 30 thereafter shall be transferred to the personal lines
 1892 account and the commercial lines account of the corporation.
 1893 Notwithstanding any other provision of law, the high-risk account
 1894 shall be treated, for all Florida Hurricane Catastrophe Fund
 1895 purposes, as if it were a separate participating insurer with its
 1896 own exposures, reimbursement premium, and loss reimbursement.
 1897 Likewise, the personal lines and commercial lines accounts shall
 1898 be viewed together, for all Florida Hurricane Catastrophe Fund
 1899 purposes, as if the two accounts were one and represent a single,
 1900 separate participating insurer with its own exposures,
 1901 reimbursement premium, and loss reimbursement. The coverage
 1902 provided by the Florida Hurricane Catastrophe Fund to the
 1903 corporation shall constitute and operate as a full transfer of
 1904 coverage from the Florida Windstorm Underwriting Association and

PCB IN 06-01I

ORIGINAL

YEAR

1905 Residential Property and Casualty Joint Underwriting to the
 1906 corporation.
 1907 (m) Notwithstanding any other provision of law:
 1908 1. The pledge or sale of, the lien upon, and the security
 1909 interest in any rights, revenues, or other assets of the
 1910 corporation created or purported to be created pursuant to any
 1911 financing documents to secure any bonds or other indebtedness of
 1912 the corporation shall be and remain valid and enforceable,
 1913 notwithstanding the commencement of and during the continuation
 1914 of, and after, any rehabilitation, insolvency, liquidation,
 1915 bankruptcy, receivership, conservatorship, reorganization, or
 1916 similar proceeding against the corporation under the laws of this
 1917 state.
 1918 2. No such proceeding shall relieve the corporation of its
 1919 obligation, or otherwise affect its ability to perform its
 1920 obligation, to continue to collect, or levy and collect,
 1921 assessments, market equalization or other surcharges under
 1922 subparagraph (c)10., or any other rights, revenues, or other
 1923 assets of the corporation pledged pursuant to any financing
 1924 documents.
 1925 3. Each such pledge or sale of, lien upon, and security
 1926 interest in, including the priority of such pledge, lien, or
 1927 security interest, any such assessments, market equalization or
 1928 other surcharges, or other rights, revenues, or other assets
 1929 which are collected, or levied and collected, after the
 1930 commencement of and during the pendency of, or after, any such
 1931 proceeding shall continue unaffected by such proceeding. As used
 1932 in this subsection, the term "financing documents" means any
 1933 agreement or agreements, instrument or instruments, or other

PCB IN 06-01I

ORIGINAL

YEAR

1934 document or documents now existing or hereafter created
 1935 evidencing any bonds or other indebtedness of the corporation or
 1936 pursuant to which any such bonds or other indebtedness has been
 1937 or may be issued and pursuant to which any rights, revenues, or
 1938 other assets of the corporation are pledged or sold to secure the
 1939 repayment of such bonds or indebtedness, together with the
 1940 payment of interest on such bonds or such indebtedness, or the
 1941 payment of any other obligation or financial product, as defined
 1942 in the plan of operation of the corporation related to such bonds
 1943 or indebtedness.

1944 4. Any such pledge or sale of assessments, revenues,
 1945 contract rights, or other rights or assets of the corporation
 1946 shall constitute a lien and security interest, or sale, as the
 1947 case may be, that is immediately effective and attaches to such
 1948 assessments, revenues, or contract rights or other rights or
 1949 assets, whether or not imposed or collected at the time the
 1950 pledge or sale is made. Any such pledge or sale is effective,
 1951 valid, binding, and enforceable against the corporation or other
 1952 entity making such pledge or sale, and valid and binding against
 1953 and superior to any competing claims or obligations owed to any
 1954 other person or entity, including policyholders in this state,
 1955 asserting rights in any such assessments, revenues, or contract
 1956 rights or other rights or assets to the extent set forth in and
 1957 in accordance with the terms of the pledge or sale contained in
 1958 the applicable financing documents, whether or not any such
 1959 person or entity has notice of such pledge or sale and without
 1960 the need for any physical delivery, recordation, filing, or other
 1961 action.

PCB IN 06-01I

ORIGINAL

YEAR

1962 (n)1. The following records of the corporation are
 1963 confidential and exempt from the provisions of s. 119.07(1) and
 1964 s. 24(a), Art. I of the State Constitution:
 1965 a. Underwriting files, except that a policyholder or an
 1966 applicant shall have access to his or her own underwriting files.
 1967 b. Claims files, until termination of all litigation and
 1968 settlement of all claims arising out of the same incident,
 1969 although portions of the claims files may remain exempt, as
 1970 otherwise provided by law. Confidential and exempt claims file
 1971 records may be released to other governmental agencies upon
 1972 written request and demonstration of need; such records held by
 1973 the receiving agency remain confidential and exempt as provided
 1974 for herein.
 1975 c. Records obtained or generated by an internal auditor
 1976 pursuant to a routine audit, until the audit is completed, or if
 1977 the audit is conducted as part of an investigation, until the
 1978 investigation is closed or ceases to be active. An investigation
 1979 is considered "active" while the investigation is being conducted
 1980 with a reasonable, good faith belief that it could lead to the
 1981 filing of administrative, civil, or criminal proceedings.
 1982 d. Matters reasonably encompassed in privileged attorney-
 1983 client communications.
 1984 e. Proprietary information licensed to the corporation
 1985 under contract and the contract provides for the confidentiality
 1986 of such proprietary information.
 1987 f. All information relating to the medical condition or
 1988 medical status of a corporation employee which is not relevant to
 1989 the employee's capacity to perform his or her duties, except as
 1990 otherwise provided in this paragraph. Information which is exempt

PCB IN 06-01I

ORIGINAL

YEAR

1991 shall include, but is not limited to, information relating to
 1992 workers' compensation, insurance benefits, and retirement or
 1993 disability benefits.

1994 g. Upon an employee's entrance into the employee assistance
 1995 program, a program to assist any employee who has a behavioral or
 1996 medical disorder, substance abuse problem, or emotional
 1997 difficulty which affects the employee's job performance, all
 1998 records relative to that participation shall be confidential and
 1999 exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I
 2000 of the State Constitution, except as otherwise provided in s.
 2001 112.0455(11).

2002 h. Information relating to negotiations for financing,
 2003 reinsurance, depopulation, or contractual services, until the
 2004 conclusion of the negotiations.

2005 i. Minutes of closed meetings regarding underwriting files,
 2006 and minutes of closed meetings regarding an open claims file
 2007 until termination of all litigation and settlement of all claims
 2008 with regard to that claim, except that information otherwise
 2009 confidential or exempt by law will be redacted.

2010
 2011 When an authorized insurer is considering underwriting a risk
 2012 insured by the corporation, relevant underwriting files and
 2013 confidential claims files may be released to the insurer provided
 2014 the insurer agrees in writing, notarized and under oath, to
 2015 maintain the confidentiality of such files. When a file is
 2016 transferred to an insurer that file is no longer a public record
 2017 because it is not held by an agency subject to the provisions of
 2018 the public records law. Underwriting files and confidential
 2019 claims files may also be released to staff of and the board of

PCB IN 06-01I

ORIGINAL

YEAR

2020 | governors of the market assistance plan established pursuant to
 2021 | s. 627.3515, who must retain the confidentiality of such files,
 2022 | except such files may be released to authorized insurers that are
 2023 | considering assuming the risks to which the files apply, provided
 2024 | the insurer agrees in writing, notarized and under oath, to
 2025 | maintain the confidentiality of such files. Finally, the
 2026 | corporation or the board or staff of the market assistance plan
 2027 | may make the following information obtained from underwriting
 2028 | files and confidential claims files available to licensed general
 2029 | lines insurance agents: name, address, and telephone number of
 2030 | the residential property owner or insured; location of the risk;
 2031 | rating information; loss history; and policy type. The receiving
 2032 | licensed general lines insurance agent must retain the
 2033 | confidentiality of the information received.

2034 | 2. Portions of meetings of the corporation are exempt from
 2035 | the provisions of s. 286.011 and s. 24(b), Art. I of the State
 2036 | Constitution wherein confidential underwriting files or
 2037 | confidential open claims files are discussed. All portions of
 2038 | corporation meetings which are closed to the public shall be
 2039 | recorded by a court reporter. The court reporter shall record the
 2040 | times of commencement and termination of the meeting, all
 2041 | discussion and proceedings, the names of all persons present at
 2042 | any time, and the names of all persons speaking. No portion of
 2043 | any closed meeting shall be off the record. Subject to the
 2044 | provisions hereof and s. 119.07(1)(b)-(d), the court reporter's
 2045 | notes of any closed meeting shall be retained by the corporation
 2046 | for a minimum of 5 years. A copy of the transcript, less any
 2047 | exempt matters, of any closed meeting wherein claims are

PCB IN 06-01I

ORIGINAL

YEAR

2048 | discussed shall become public as to individual claims after
 2049 | settlement of the claim.

2050 | (o) It is the intent of the Legislature that the amendments
 2051 | to this subsection enacted in 2002 should, over time, reduce the
 2052 | probable maximum windstorm losses in the residual markets and
 2053 | should reduce the potential assessments to be levied on property
 2054 | insurers and policyholders statewide. In furtherance of this
 2055 | intent:

2056 | 1. The board shall, on or before February 1 of each year,
 2057 | provide a report to the President of the Senate and the Speaker
 2058 | of the House of Representatives showing the reduction or increase
 2059 | in the 100-year probable maximum loss attributable to wind-only
 2060 | coverages and the quota share program under this subsection
 2061 | combined, as compared to the benchmark 100-year probable maximum
 2062 | loss of the Florida Windstorm Underwriting Association. For
 2063 | purposes of this paragraph, the benchmark 100-year probable
 2064 | maximum loss of the Florida Windstorm Underwriting Association
 2065 | shall be the calculation dated February 2001 and based on
 2066 | November 30, 2000, exposures. In order to ensure comparability of
 2067 | data, the board shall use the same methods for calculating its
 2068 | probable maximum loss as were used to calculate the benchmark
 2069 | probable maximum loss. The reduction or increase in probable
 2070 | maximum loss shall be calculated without taking into account the
 2071 | probable maximum loss attributable to the nonhomestead account.

2072 | 2. Beginning February 1, 2010 ~~2007~~, if the report under
 2073 | subparagraph 1. for any year indicates that the 100-year probable
 2074 | maximum loss attributable to wind-only coverages and the quota
 2075 | share program combined does not reflect a reduction of at least
 2076 | 25 percent from the benchmark, the board shall reduce the

PCB IN 06-01I

ORIGINAL

YEAR

2077 boundaries of the high-risk area eligible for wind-only coverages
 2078 under this subsection in a manner calculated to reduce such
 2079 probable maximum loss to an amount at least 25 percent below the
 2080 benchmark.

2081 3. Beginning February 1, 2015 ~~2012~~, if the report under
 2082 subparagraph 1. for any year indicates that the 100-year probable
 2083 maximum loss attributable to wind-only coverages and the quota
 2084 share program combined does not reflect a reduction of at least
 2085 50 percent from the benchmark, the boundaries of the high-risk
 2086 area eligible for wind-only coverages under this subsection shall
 2087 be reduced by the elimination of any area that is not seaward of
 2088 a line 1,000 feet inland from the Intracoastal Waterway.

2089 (p) In enacting the provisions of this section, the
 2090 Legislature recognizes that both the Florida Windstorm
 2091 Underwriting Association and the Residential Property and
 2092 Casualty Joint Underwriting Association have entered into
 2093 financing arrangements that obligate each entity to service its
 2094 debts and maintain the capacity to repay funds secured under
 2095 these financing arrangements. It is the intent of the Legislature
 2096 that nothing in this section be construed to compromise,
 2097 diminish, or interfere with the rights of creditors under such
 2098 financing arrangements. It is further the intent of the
 2099 Legislature to preserve the obligations of the Florida Windstorm
 2100 Underwriting Association and Residential Property and Casualty
 2101 Joint Underwriting Association with regard to outstanding
 2102 financing arrangements, with such obligations passing entirely
 2103 and unchanged to the corporation and, specifically, to the
 2104 applicable account of the corporation. So long as any bonds,
 2105 notes, indebtedness, or other financing obligations of the

PCB IN 06-01I

ORIGINAL

YEAR

2106 Florida Windstorm Underwriting Association or the Residential
 2107 Property and Casualty Joint Underwriting Association are
 2108 outstanding, under the terms of the financing documents
 2109 pertaining to them, the governing board of the corporation shall
 2110 have and shall exercise the authority to levy, charge, collect,
 2111 and receive all premiums, assessments, surcharges, charges,
 2112 revenues, and receipts that the associations had authority to
 2113 levy, charge, collect, or receive under the provisions of
 2114 subsection (2) and this subsection, respectively, as they existed
 2115 on January 1, 2002, to provide moneys, without exercise of the
 2116 authority provided by this subsection, in at least the amounts,
 2117 and by the times, as would be provided under those former
 2118 provisions of subsection (2) or this subsection, respectively, so
 2119 that the value, amount, and collectability of any assets,
 2120 revenues, or revenue source pledged or committed to, or any lien
 2121 thereon securing such outstanding bonds, notes, indebtedness, or
 2122 other financing obligations will not be diminished, impaired, or
 2123 adversely affected by the amendments made by this act and to
 2124 permit compliance with all provisions of financing documents
 2125 pertaining to such bonds, notes, indebtedness, or other financing
 2126 obligations, or the security or credit enhancement for them, and
 2127 any reference in this subsection to bonds, notes, indebtedness,
 2128 financing obligations, or similar obligations, of the corporation
 2129 shall include like instruments or contracts of the Florida
 2130 Windstorm Underwriting Association and the Residential Property
 2131 and Casualty Joint Underwriting Association to the extent not
 2132 inconsistent with the provisions of the financing documents
 2133 pertaining to them.

PCB IN 06-01I

ORIGINAL

YEAR

2134 (q) The corporation shall not require the securing of flood
 2135 insurance as a condition of coverage if the insured or applicant
 2136 executes a form approved by the office affirming that flood
 2137 insurance is not provided by the corporation and that if flood
 2138 insurance is not secured by the applicant or insured in addition
 2139 to coverage by the corporation, the risk will not be covered for
 2140 flood damage. A corporation policyholder electing not to secure
 2141 flood insurance and executing a form as provided herein making a
 2142 claim for water damage against the corporation shall have the
 2143 burden of proving the damage was not caused by flooding.
 2144 Notwithstanding other provisions of this subsection, the
 2145 corporation may deny coverage to an applicant or insured who
 2146 refuses to execute the form described herein.

2147 (r) A salaried employee of the corporation who performs
 2148 policy administration services subsequent to the effectuation of
 2149 a corporation policy is not required to be licensed as an agent
 2150 under the provisions of s. 626.112.

2151 (s) The transition to homestead and nonhomestead accounts
 2152 shall begin on October 1, 2006. A policy issued on or after that
 2153 date shall be issued in the applicable homestead account or the
 2154 nonhomestead account, based upon whether the property constitutes
 2155 homestead property as provided in subparagraph (b)2. A policy in
 2156 effect on October 1, 2006, shall be placed in the applicable
 2157 homestead account or the nonhomestead account, based upon whether
 2158 the property constitutes homestead property as provided in
 2159 subparagraph (b)2., upon the first renewal of such policy after
 2160 October 1, 2006.

2161 (t) Any employee of the corporation whose positions are
 2162 managerial, policy making, or professional in nature and all

PCB IN 06-01I

ORIGINAL

YEAR

2163 members of the corporation's board of governors shall comply with
 2164 the Code of Ethics for public officers and employers found in ss.
 2165 112.311-112.326.

2166 Section 9. Subsection (3) of section 627.4035, Florida
 2167 Statutes, is amended to read:

2168 627.4035 Cash payment of premiums; claims.--

2169 (3) All payments of claims made in this state under any
 2170 contract of insurance shall be paid:

2171 (a) In cash consisting of coins, currency, checks, drafts,
 2172 or money orders and, if by check or draft, shall be in such form
 2173 as will comply with the standards for cash items adopted by the
 2174 Federal Reserve System to facilitate the sorting, routing, and
 2175 mechanized processing of such items; or

2176 (b) If authorized in writing by the recipient or the
 2177 recipient's representative, by debit card or any other form of
 2178 electronic transfer. Any fees or costs to be charged against the
 2179 recipient must be disclosed in writing to the recipient or the
 2180 recipient's representative at the time of written authorization.

2181 However, the written authorization requirement may be waived by
 2182 the recipient or the recipient's representative if the insurer
 2183 verifies the identity of the insured or the insured's recipient,
 2184 does not charge a fee for the transaction, and in the event the
 2185 funds are misdirected, the insurer would remain liable for the
 2186 payment of the claim.

2187 Section 10. Subsection (2), subsection (3) of section
 2188 627.7011, Florida Statutes, are amended to read:

2189 627.7011 Homeowners' policies; offer of replacement cost
 2190 coverage and law and ordinance coverage.--

PCB IN 06-01I

ORIGINAL

YEAR

2191 (2) Unless the insurer obtains the policyholder's written
 2192 refusal of the policies or endorsements specified in subsection
 2193 (1), any policy covering the dwelling is deemed to include the
 2194 law and ordinance coverage limited to 25 percent of the dwelling
 2195 limit ~~coverage specified in paragraph (1)(b)~~. The rejection or
 2196 selection of alternative coverage shall be made on a form
 2197 approved by the office. The form shall fully advise the applicant
 2198 of the nature of the coverage being rejected. If this form is
 2199 signed by a named insured, it will be conclusively presumed that
 2200 there was an informed, knowing rejection of the coverage or
 2201 election of the alternative coverage on behalf of all insureds.
 2202 Unless the policyholder requests in writing the coverage
 2203 specified in this section, it need not be provided in or
 2204 supplemental to any other policy that renews, insures, extends,
 2205 changes, supersedes, or replaces an existing policy when the
 2206 policyholder has rejected the coverage specified in this section
 2207 or has selected alternative coverage. The insurer must provide
 2208 such policyholder with notice of the availability of such
 2209 coverage in a form approved by the office at least once every 3
 2210 years. The failure to provide such notice constitutes a violation
 2211 of this code, but does not affect the coverage provided under the
 2212 policy.

2213 (3) In the event of a loss for which a dwelling ~~or personal~~
 2214 ~~property~~ is insured on the basis of replacement costs, the
 2215 insurer shall pay the replacement cost without reservation or
 2216 holdback of any depreciation in value, whether or not the insured
 2217 replaces or repairs the dwelling ~~or property~~.

2218 Section 11. Section 627.7019, Florida Statutes, is created
 2219 to read:

PCB IN 06-01I

ORIGINAL

YEAR

2220 627.7019 Standardization of requirements applicable to
 2221 insurers after natural disasters.--

2222 (1) The commission shall adopt, pursuant to s. 120.54(1)-
 2223 (3), standardized requirements that may be applied to insurers as
 2224 a consequence of a hurricane or other natural disaster. The rules
 2225 shall address the following areas:

2226 (a) Claims reporting requirements.

2227 (b) Grace periods for payment of premiums and performance of
 2228 other duties by insureds.

2229 (c) Temporary postponement of cancellations and nonrenewals.

2230 (2) The rules adopted pursuant to this section shall require
 2231 the office to issue an order within 72 hours after the occurrence
 2232 of a hurricane or other natural disaster specifying, by line of
 2233 insurance, which of the standardized requirements apply, the
 2234 geographic areas in which they apply, the time at which
 2235 applicability commences, and the time at which applicability
 2236 terminates.

2237 (3) Neither the commission nor the office has the power to
 2238 adopt an emergency rule under s. 120.54(4) in conflict with any
 2239 provision of the rules adopted under this section.

2240 (4) The commission shall initiate rulemaking under this
 2241 section no later than June 1, 2006.

2242 Section 12. Paragraph (a) of subsection (1), paragraph (d)
 2243 of subsection (2), and subsection (3) of section 631.57, Florida
 2244 Statutes, are amended to read:

2245 631.57 Powers and duties of the association.--

2246 (1) The association shall:

2247 (a)1. Be obligated to the extent of the covered claims
 2248 existing:

PCB IN 06-01I

ORIGINAL

YEAR

2249 a. Prior to adjudication of insolvency and arising within
 2250 30 days after the determination of insolvency;
 2251 b. Before the policy expiration date if less than 30 days
 2252 after the determination; or
 2253 c. Before the insured replaces the policy or causes its
 2254 cancellation, if she or he does so within 30 days of the
 2255 determination.
 2256 2.a. The obligation under subparagraph 1. shall include
 2257 only that amount of each covered claim which is in excess of \$100
 2258 and is less than \$300,000, except with respect to policies
 2259 covering condominium associations or homeowners' associations,
 2260 which associations have a responsibility to provide insurance
 2261 coverage on residential units within the association, the
 2262 obligation shall include that amount of each covered property
 2263 insurance claim which is less than \$100,000 multiplied by the
 2264 number of condominium units or other residential units; however,
 2265 as to homeowners' associations, this sub-subparagraph
 2266 ~~subparagraph~~ applies only to claims for damage or loss to
 2267 residential units and structures attached to residential units.
 2268 b. Notwithstanding sub-subparagraph a., the association has
 2269 no obligation to pay covered claims that are to be paid from the
 2270 proceeds of bonds issued under s. 631.695. However, the
 2271 association shall assign and pledge the first available moneys
 2272 from all or part of the assessments to be made under paragraph
 2273 (3) (a) to or on behalf of the issuer of such bonds for the
 2274 benefit of the holders of such bonds. The association shall
 2275 administer any such covered claims and present valid covered
 2276 claims for payment in accordance with the provisions of the
 2277 assistance program in connection with which such bonds have been

PCB IN 06-01I

ORIGINAL

YEAR

2278 | issued.
 2279 | 3. In no event shall the association be obligated to a
 2280 | policyholder or claimant in an amount in excess of the obligation
 2281 | of the insolvent insurer under the policy from which the claim
 2282 | arises.
 2283 | (2) The association may:
 2284 | (d) Negotiate and become a party to such contracts as are
 2285 | necessary to carry out the purpose of this part. Additionally,
 2286 | the association may enter into such contracts with a municipality
 2287 | or county or such legal entity created pursuant to s.
 2288 | 163.01(7)(g) as are necessary in order for the municipality or
 2289 | county or such legal entity to issue bonds under s. 631.695. In
 2290 | connection with the issuance of any such bonds and the entering
 2291 | into of any such necessary contracts, the association may agree
 2292 | to such terms and conditions as the association deems necessary
 2293 | and proper.
 2294 | (3) (a) To the extent necessary to secure the funds for the
 2295 | respective accounts for the payment of covered claims, ~~and also~~
 2296 | to pay the reasonable costs to administer the same, and to the
 2297 | extent necessary to secure the funds for the account specified in
 2298 | s. 631.55(2)(c), or to retire indebtedness, including, without
 2299 | limitation, the principal, redemption premium, if any, and
 2300 | interest on, and related costs of issuance of, bonds issued under
 2301 | s. 631.695, and the funding of any reserves and other payments
 2302 | required under the bond resolution or trust indenture pursuant to
 2303 | which such bonds have been issued, the office, upon certification
 2304 | of the board of directors, shall levy assessments in the
 2305 | proportion that each insurer's net direct written premiums in
 2306 | this state in the classes protected by the account bears to the

PCB IN 06-01I

ORIGINAL

YEAR

2307 total of said net direct written premiums received in this state
 2308 by all such insurers for the preceding calendar year for the
 2309 kinds of insurance included within such account. Assessments
 2310 shall be remitted to and administered by the board of directors
 2311 in the manner specified by the approved plan. Each insurer so
 2312 assessed shall have at least 30 days' written notice as to the
 2313 date the assessment is due and payable. Every assessment shall be
 2314 made as a uniform percentage applicable to the net direct written
 2315 premiums of each insurer in the kinds of insurance included
 2316 within the account in which the assessment is made. The
 2317 assessments levied against any insurer shall not exceed in any
 2318 one year more than 2 percent of that insurer's net direct written
 2319 premiums in this state for the kinds of insurance included within
 2320 such account during the calendar year next preceding the date of
 2321 such assessments.

2322 (b) If sufficient funds from such assessments, together
 2323 with funds previously raised, are not available in any one year
 2324 in the respective account to make all the payments or
 2325 reimbursements then owing to insurers, the funds available shall
 2326 be prorated and the unpaid portion shall be paid as soon
 2327 thereafter as funds become available.

2328 (c) Assessments shall be included as an appropriate factor
 2329 in the making of rates.

2330 (d) No state funds of any kind shall be allocated or paid
 2331 to said association or any of its accounts.

2332 (e)1.a. In addition to assessments otherwise authorized in
 2333 paragraph (a) and to the extent necessary to secure the funds for
 2334 the account specified in s. 631.55(2)(c), or to retire
 2335 indebtedness, including, without limitation, the principal,

PCB IN 06-01I

ORIGINAL

YEAR

2336 redemption premium, if any, and interest on, and related costs of
 2337 issuance of, bonds issued under s. 631.695, and the funding of
 2338 any reserves and other payments required under the bond
 2339 resolution or trust indenture pursuant to which such bonds have
 2340 been issued, the department, upon certification of the board of
 2341 directors, shall levy emergency assessments upon insurers holding
 2342 a certificate of authority as set forth in this paragraph. The
 2343 emergency assessments payable under this paragraph by any insurer
 2344 shall not exceed in any 1 year more than 2 percent of that
 2345 insurer's direct written premiums, net of refunds, in this state
 2346 during the preceding calendar year for the kinds of insurance
 2347 within the account specified in s. 631.55(2)(c).

2348 b. Any emergency assessments authorized under this
 2349 paragraph shall be levied by the department upon insurers
 2350 referred to in sub-subparagraph a., upon certification as to the
 2351 need therefor by the board of directors, in each year that bonds
 2352 issued under s. 631.695 and secured by such emergency assessments
 2353 are outstanding, in such amounts up to such 2 percent limit as
 2354 required in order to provide for the full and timely payment of
 2355 the principal of, redemption premium, if any, and interest on,
 2356 and related costs of issuance of such bonds. The emergency
 2357 assessments provided for in this paragraph are hereby assigned
 2358 and pledged to the municipality or county or legal entity issuing
 2359 bonds under s. 631.695, for the benefit of the holders of such
 2360 bonds, in order to enable such municipality or county or legal
 2361 entity to provide for the payment of the principal of, redemption
 2362 premium, if any, and interest on such bonds, the cost of issuance
 2363 of such bonds, and the funding of any reserves and other payments
 2364 required under the bond resolution or trust indenture pursuant to

PCB IN 06-01I

ORIGINAL

YEAR

2365 which such bonds have been issued, without the necessity of any
 2366 further action by the association, the department, or any other
 2367 party. To the extent that bonds are issued under s. 631.695 and
 2368 the association determines to secure such bonds by a pledge of
 2369 revenues received from the emergency assessments, such bonds
 2370 shall thereupon be secured by and payable from the proceeds of
 2371 such emergency assessments, and the proceeds of emergency
 2372 assessments levied under this paragraph shall be remitted
 2373 directly to and administered by the trustee or custodian
 2374 appointed for such bonds.

2375 c. Emergency assessments under this paragraph may be
 2376 payable in a single payment or, at the option of the association,
 2377 may be payable in 12 monthly installments with the first
 2378 installment being due and payable at the end of the month after
 2379 an emergency assessment is levied, and subsequent installments
 2380 being due not later than the end of each succeeding month.

2381 d. In the event emergency assessments are imposed, the
 2382 report required by s. 631.695(3) shall include an analysis of the
 2383 revenues generated from the emergency assessments imposed under
 2384 this subsection.

2385 2. In order to assure that insurers paying emergency
 2386 assessments levied under this paragraph continue to charge rates
 2387 that are neither inadequate nor excessive, within 90 days after
 2388 being notified of such assessments, each insurer that is to be
 2389 assessed pursuant to this paragraph shall make a rate filing for
 2390 coverage included within the account specified in s. 631.55(2)(c)
 2391 and for which rates are required to be filed under s. 627.062. If
 2392 the filing reflects a rate change that, as a percentage, is equal
 2393 to the difference between the rate of such assessment and the

PCB IN 06-01I

ORIGINAL

YEAR

2394 rate of the previous year's assessment under this paragraph, the
 2395 filing shall consist of a certification so stating and shall be
 2396 deemed approved when made. Any rate change of a different
 2397 percentage shall be subject to the standards and procedures of s.
 2398 627.062.

2399 3. An annual assessment under this paragraph shall continue
 2400 until the bonds issued with respect to which the assessment was
 2401 imposed are outstanding, including any bonds, the proceeds of
 2402 which were used to refund bonds issued pursuant to s.631.695,
 2403 unless adequate provision has been made for the payment of the
 2404 bonds under the documents authorizing the issuance of such bonds.

2405 4. Emergency assessments under this paragraph are not
 2406 premium and are not subject to the premium tax, to any fees, or
 2407 to any commissions. An insurer is liable for all emergency
 2408 assessments that it collects and must treat the failure of an
 2409 insured to pay an emergency assessment as a failure to pay the
 2410 premium. An insurer is not liable for uncollectible emergency
 2411 assessments.

2412 Section 13. Section 631.695, Florida Statutes, is created
 2413 to read:

2414 631.695 Revenue bond issuance through counties or
 2415 municipalities.--

2416 (1) The Legislature finds:

2417 (a) The potential for widespread and massive damage to
 2418 persons and property caused by hurricanes making landfall in this
 2419 state can generate insurance claims of such a number as to render
 2420 numerous insurers operating within this state insolvent and
 2421 therefore unable to satisfy covered claims.

2422 (b) The inability of insureds within this state to receive

PCB IN 06-01I

ORIGINAL

YEAR

2423 payment of covered claims or to timely receive such payment
 2424 creates financial and other hardships for such insureds and
 2425 places undue burdens on the state, the affected units of local
 2426 government, and the community at large.

2427 (c) In addition, the failure of insurers to pay covered
 2428 claims or to timely pay such claims due to the insolvency of such
 2429 insurers can undermine the public's confidence in insurers
 2430 operating within this state, thereby adversely affecting the
 2431 stability of the insurance industry in this state.

2432 (d) The state has previously taken action to address these
 2433 problems by adopting the Florida Insurance Guaranty Association
 2434 Act, which, among other things, provides a mechanism for the
 2435 payment of covered claims under certain insurance policies to
 2436 avoid excessive delay in payment and to avoid financial loss to
 2437 claimants or policyholders because of the insolvency of an
 2438 insurer.

2439 (e) In the wake of the unprecedented destruction caused by
 2440 various hurricanes that have made landfall in this state, the
 2441 resultant covered claims, and the number of insurers rendered
 2442 insolvent thereby, it is evident that alternative programs must
 2443 be developed to allow the Florida Insurance Guaranty Association,
 2444 Inc., to more expeditiously and effectively provide for the
 2445 payment of covered claims.

2446 (f) It is therefore determined to be in the best interests
 2447 of, and necessary for, the protection of the public health,
 2448 safety, and general welfare of the residents of this state, and
 2449 for the protection and preservation of the economic stability of
 2450 insurers operating in this state, and it is declared to be an
 2451 essential public purpose, to permit certain municipalities and

PCB IN 06-01I

ORIGINAL

YEAR

2452 counties to take such actions as will provide relief to claimants
 2453 and policyholders having covered claims against insolvent
 2454 insurers operating in this state by expediting the handling and
 2455 payment of covered claims.

2456 (g) To achieve the foregoing purposes, it is proper to
 2457 authorize municipalities and counties of this state substantially
 2458 affected by the landfall of a category 1 or greater hurricane to
 2459 issue bonds to assist the Florida Insurance Guaranty Association,
 2460 Inc., in expediting the handling and payment of covered claims of
 2461 insolvent insurers.

2462 (h) In order to avoid the needless and indiscriminate
 2463 proliferation, duplication, and fragmentation of such assistance
 2464 programs, it is in the best interests of the residents of this
 2465 state to authorize municipalities and counties severely affected
 2466 by a category 1 or greater hurricane to provide for the payment
 2467 of covered claims beyond their territorial limits in the
 2468 implementation of such programs.

2469 (i) It is a paramount public purpose for municipalities and
 2470 counties substantially affected by the landfall of a category 1
 2471 or greater hurricane to be able to issue bonds for the purposes
 2472 described in this section. Such issuance shall provide assistance
 2473 to residents of those municipalities and counties as well as to
 2474 other residents of this state.

2475 (2) The governing body of any municipality or county the
 2476 residents of which have been substantially affected by a category
 2477 1 or greater hurricane may issue bonds to fund an assistance
 2478 program in conjunction with, and with the consent of, the Florida
 2479 Insurance Guaranty Association, Inc., for the purpose of paying
 2480 claimants' or policyholders' covered claims as defined in s.

PCB IN 06-01I

ORIGINAL

YEAR

2481 631.54 arising through the insolvency of an insurer, which
 2482 insolvency is determined by the Florida Insurance Guaranty
 2483 Association, Inc., to have been a result of a category 1 or
 2484 greater hurricane, regardless of whether such claimants or
 2485 policyholders are residents of such municipality or county or the
 2486 property to which such claim relates is located within or outside
 2487 the territorial jurisdiction of such municipality or county. The
 2488 power of a municipality or county to issue bonds as described in
 2489 this section is in addition to any powers granted by law and may
 2490 not be abrogated or restricted by any provisions in such
 2491 municipality's or county's charter. A municipality or county
 2492 issuing bonds for this purpose shall enter into such contracts
 2493 with the Florida Insurance Guaranty Association, Inc., or any
 2494 entity acting on behalf of the Florida Insurance Guaranty
 2495 Association, Inc., as are necessary to implement the assistance
 2496 program. Any bonds issued by a municipality or county or
 2497 combination thereof under this subsection shall be payable from
 2498 and secured by moneys received by or on behalf of the
 2499 municipality or county from assessments levied under s.
 2500 631.57(3)(a) and assigned and pledged to or on behalf of the
 2501 municipality or county for the benefit of the holders of such
 2502 bonds in connection with such assistance program. The funds,
 2503 credit, property, and taxing power of the state or any
 2504 municipality or county shall not be pledged for the payment of
 2505 such bonds.

2506 (3) Bonds may be validated by such municipality or county
 2507 pursuant to chapter 75. The proceeds of such bonds may be used to
 2508 pay covered claims of insolvent insurers; to refinance or replace
 2509 previously existing borrowings or financial arrangements; to pay

PCB IN 06-01I

ORIGINAL

YEAR

2510 interest on bonds; to fund reserves for the bonds; to pay
 2511 expenses incident to the issuance or sale of any bond issued
 2512 under this section, including costs of validating, printing, and
 2513 delivering the bonds, costs of printing the official statement,
 2514 costs of publishing notices of sale of the bonds, costs of
 2515 obtaining credit enhancement or liquidity support, and related
 2516 administrative expenses; or for such other purposes related to
 2517 the financial obligations of the fund as the association may
 2518 determine. The term of the bonds may not exceed 30 years.

2519 (4) The state covenants with holders of bonds of the
 2520 assistance program that the state will not take any action which
 2521 will have a material adverse affect on such holders and will not
 2522 repeal or abrogate the power of the board of directors of the
 2523 association to direct the Office of Insurance Regulation to levy
 2524 the assessments and to collect the proceeds of the revenues
 2525 pledged to the payment of such bonds as long as any such bonds
 2526 remain outstanding unless adequate provision has been made for
 2527 the payment of such bonds pursuant to the documents authorizing
 2528 the issuance of such bonds.

2529 (5) The accomplishment of the authorized purposes of such
 2530 municipality or county under this section is in all respects for
 2531 the benefit of the people of the state, for the increase of their
 2532 commerce and prosperity, and for the improvement of their health
 2533 and living conditions. Such municipality or county, in performing
 2534 essential governmental functions in accomplishing its purposes,
 2535 is not required to pay any taxes or assessments of any kind
 2536 whatsoever upon any property acquired or used by the county or
 2537 municipality for such purposes or upon any revenues at any time
 2538 received by the county or municipality. The bonds, notes, and

PCB IN 06-01I

ORIGINAL

YEAR

2539 other obligations of such municipality or county, and the
 2540 transfer of and income from such bonds, notes, and other
 2541 obligations, including any profits made on the sale of such
 2542 bonds, notes, and other obligations, are exempt from taxation of
 2543 any kind by the state or by any political subdivision or other
 2544 agency or instrumentality of the state. The exemption granted in
 2545 this subsection is not applicable to any tax imposed by chapter
 2546 220 on interest, income, or profits on debt obligations owned by
 2547 corporations.

2548 (6) Two or more municipalities or counties the residents of
 2549 which have been substantially affected by a category 1 or greater
 2550 hurricane may create a legal entity pursuant to s. 163.01(7)(g)
 2551 to exercise the powers described in this section as well as those
 2552 powers granted in s. 163.01(7)(g). Reference in this section to a
 2553 municipality or county includes such legal entity.

2554 (7) The association shall issue an annual report on the
 2555 status of the use of bond proceeds as related to insolvencies
 2556 caused by hurricanes. The report must contain the number and
 2557 amount of claims paid. The association shall also include an
 2558 analysis of the revenue generated from the assessment levied
 2559 under s. 631.57(3)(a) to pay such bonds. The association shall
 2560 submit a copy of the report to the President of the Senate, the
 2561 Speaker of the House of Representatives, and the Chief Financial
 2562 Officer within 90 days after the end of each calendar year in
 2563 which bonds were outstanding.

2564 Section 14. No provision of s. 631.57 or s. 631.695,
 2565 Florida Statutes, shall be repealed until such time as the
 2566 principal, redemption premium, if any, and interest on all bonds
 2567 issued under s. 631.695, Florida Statutes, payable and secured

PCB IN 06-01I

ORIGINAL

YEAR

2568 from assessments levied under s. 631.57(3)(a), Florida Statutes,
 2569 have been paid in full or adequate provision for such payment has
 2570 been made in accordance with the bond resolution or trust
 2571 indenture pursuant to which such bonds were issued.

2572 Section 15. Paragraph (a) of subsection (1) of section
 2573 817.234, Florida Statutes, is amended to read:

2574 817.234 False and fraudulent insurance claims.--

2575 (1)(a) A person commits insurance fraud punishable as
 2576 provided in subsection (11) if that person, with the intent to
 2577 injure, defraud, or deceive any insurer:

2578 1. Presents or causes to be presented any written or oral
 2579 statement as part of, or in support of, a claim for payment or
 2580 other benefit pursuant to an insurance policy or a health
 2581 maintenance organization subscriber or provider contract, knowing
 2582 that such statement contains any false, incomplete, or misleading
 2583 information concerning any fact or thing material to such claim;

2584 2. Prepares or makes any written or oral statement that is
 2585 intended to be presented to any insurer in connection with, or in
 2586 support of, any claim for payment or other benefit pursuant to an
 2587 insurance policy or a health maintenance organization subscriber
 2588 or provider contract, knowing that such statement contains any
 2589 false, incomplete, or misleading information concerning any fact
 2590 or thing material to such claim; or

2591 3.a. Knowingly presents, causes to be presented, or
 2592 prepares or makes with knowledge or belief that it will be
 2593 presented to any insurer, purported insurer, servicing
 2594 corporation, insurance broker, or insurance agent, or any
 2595 employee or agent thereof, any false, incomplete, or misleading
 2596 information or written or oral statement as part of, or in

PCB IN 06-01I

ORIGINAL

YEAR

2597 | support of, an application for the issuance of, or the rating of,
 2598 | any insurance policy, or a health maintenance organization
 2599 | subscriber or provider contract, including any false declaration
 2600 | of homestead status for the purpose of obtaining coverage in a
 2601 | homestead account under s. 627.351(6); or

2602 | b. Who knowingly conceals information concerning any fact
 2603 | material to such application.

2604 | Section 16. Subsection (3) of section 109 of chapter 2000-
 2605 | 141, Laws of Florida, is amended to read:

2606 | Section 109. The Legislature has reviewed the Florida
 2607 | Building Code that was adopted by action of the Florida Building
 2608 | Commission on February 15, 2000, and that was noticed for rule
 2609 | adoption by reference in Rule 9B-3.047, F.A.C., on February 18,
 2610 | 2000, in the Florida Administrative Weekly on page 731. The
 2611 | Florida Building Commission is directed to continue the process
 2612 | to adopt the code, pursuant to section 120.54(3), Florida
 2613 | Statutes, and to incorporate the following provisions or
 2614 | standards for the State of Florida:

2615 | (3) For areas of the state not within the high velocity
 2616 | hurricane zone, the commission shall adopt, pursuant to s.
 2617 | 553.73, Florida Statutes, the wind protection requirements of the
 2618 | American Society of Civil Engineers, Standard 7, 1998 edition as
 2619 | implemented by the International Building Code, 2000 edition, and
 2620 | as modified by the commission in its February 15, 2000, adoption
 2621 | of the Florida Building Code for rule adoption by reference in
 2622 | Rule 9B-3.047, Florida Administrative Code. ~~However, from the~~
 2623 | ~~eastern border of Franklin County to the Florida-Alabama line,~~
 2624 | ~~only land within 1 mile of the coast shall be subject to the~~
 2625 | ~~windborne debris requirements adopted by the commission. The~~

PCB IN 06-01I

ORIGINAL

YEAR

2626 exact location of wind speed lines shall be established by local
 2627 ordinance, using recognized physical landmarks such as major
 2628 roads, canals, rivers, and lake shores, wherever possible.
 2629 Buildings constructed in the windborne debris region must be
 2630 either designed for internal pressures that may result inside a
 2631 building when a window or door is broken or a hole is created in
 2632 its walls or roof by large debris, or be designed with protected
 2633 openings. Except in the high velocity hurricane zone, local
 2634 governments may not prohibit the option of designing buildings to
 2635 resist internal pressures.

2636 Section 17. This act shall take effect upon becoming a law.