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1 A bill to be entitled  
 2 An act relating to hurricane preparedness and insurance;  
 3 amending s. 215.555, F.S.; relating to the Florida  
 4 Hurricane Catastrophe Fund; revising certain provisions of  
 5 the temporary emergency options for additional coverage;  
 6 amending s. 215.5595, F.S.; providing the amount of a  
 7 surplus note for manufactured housing insurers; amending  
 8 s. 624.408, F.S.; specifying certain minimum surplus  
 9 amounts; amending s. 627.0613, F.S.; specifying  
 10 applicability of the insurer annual report card; amending  
 11 s. 627.062, F.S.; specifying applicability of the  
 12 requirement that an insurer make a "file and use" filing  
 13 under certain circumstances; amending s. 627.0629, F.S.;  
 14 requiring insurers to reevaluate certain discounts,  
 15 credits, rate differentials, or reductions in deductibles  
 16 for a specified reason; amending s. 627.351, F.S.;  
 17 relating to the Citizens Property Insurance Corporation;  
 18 providing authority for the corporation to offer a certain  
 19 payment plan option to policyholders; providing criteria  
 20 for comparable coverage; removing a waiting period for an  
 21 application for coverage; removing an exception to a  
 22 waiting period for an application for coverage; amending  
 23 s. 627.3515, F.S.; providing for the submission of  
 24 information to a business plan; requiring coverage by  
 25 insurers under specified circumstances; amending s.  
 26 627.3517, F.S.; removing an exception to a waiting period  
 27 for coverage; amending s. 627.4035, F.S.; providing  
 28 authority for insurers to offer a certain payment plan  
 29 option to policyholders; amending s. 627.4133, F.S.;

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30 requiring certain information to be included in notices of  
 31 renewal premium; providing for rules; amending s. 627.701,  
 32 F.S.; revising deductible language; providing the term  
 33 during which a deductible applies; limiting changes to the  
 34 deductible; providing retention methods for a deductible  
 35 choice; amending s. 627.70131, F.S.; providing when  
 36 insurers must pay or deny certain claims within a time  
 37 certain; providing a penalty; amending s. 627.712, F.S.;  
 38 specifying applicability of authorization of a  
 39 policyholder to make a written rejection of hurricane or  
 40 windstorm damage; providing retention methods for an  
 41 exclusion of hurricane or windstorm or contents coverage;  
 42 providing the term during which a hurricane or windstorm  
 43 or contents coverage exclusion applies; amending s.  
 44 627.713, F.S.; specifying a time for the office to require  
 45 property insurers to report data regarding hurricane  
 46 claims and underwriting costs; amending s. 627.7277, F.S.;  
 47 specifying what insurers the office is able to levy  
 48 emergency assessments on for the Florida Insurance  
 49 Guaranty Association; amending s. 631.57, F.S.; providing  
 50 that the internal design option of the Florida Building  
 51 Code remains in effect until a specified date for a  
 52 building permit application made before that date,  
 53 notwithstanding provisions of ch. 2007-1, Laws of Florida;  
 54 providing an effective date and for retroactive  
 55 application; applying the act to any actions taken with  
 56 respect to a building permit affected by such prior act;  
 57 providing exceptions to a specified rate filing; providing  
 58 an effective date.

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

Section 1. Subsection (16) of section 215.555, Florida Statutes, as amended by Chapter 2007-1, Laws of Florida, is amended to read:

215.555 Florida Hurricane Catastrophe Fund.--

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

(a) Findings and intent.--

1. The Legislature finds that:

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

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

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

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

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

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

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

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

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

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

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

112 a. The board shall calculate and report to each TEACO  
 113 insurer the TEACO retention multiples. There shall be three TEACO  
 114 retention multiples for defining coverage. Each multiple shall be  
 115 calculated by dividing \$3 billion, \$4 billion, or \$5 billion by  
 116 the total estimated mandatory FHCF ~~TEACO~~ reimbursement premium

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117 | ~~assuming all insurers selected that option. Total estimated TEACO~~  
 118 | ~~reimbursement premium for purposes of the calculation under this~~  
 119 | ~~sub-subparagraph shall be calculated using the assumption that~~  
 120 | ~~all insurers have selected a specific TEACO retention multiple~~  
 121 | ~~option and have selected the 90-percent coverage level.~~

122 |       b. The TEACO retention multiples as determined under sub-  
 123 | subparagraph a. shall be adjusted to reflect the coverage level  
 124 | elected by the insurer. For insurers electing the 90-percent  
 125 | coverage level, the adjusted retention multiple is 100 percent of  
 126 | the amount determined under sub-subparagraph a. For insurers  
 127 | electing the 75-percent coverage level, the retention multiple is  
 128 | 120 percent of the amount determined under sub-subparagraph a.  
 129 | For insurers electing the 45-percent coverage level, the adjusted  
 130 | retention multiple is 200 percent of the amount determined under  
 131 | sub-subparagraph a.

132 |       c. An insurer shall determine its provisional TEACO  
 133 | retention by multiplying its estimated mandatory FHCF ~~provisional~~  
 134 | ~~TEACO~~ reimbursement premium by the applicable adjusted TEACO  
 135 | retention multiple and shall determine its actual TEACO retention  
 136 | by multiplying its actual mandatory FHCF ~~TEACO~~ reimbursement  
 137 | premium by the applicable adjusted TEACO retention multiple.

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

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

148           (e) TEACO addendum.--

149           1. The TEACO addendum shall provide for reimbursement of  
 150 TEACO insurers for covered events occurring during the contract  
 151 year, in exchange for the TEACO reimbursement premium paid into  
 152 the fund under paragraph (f). Any insurer writing covered  
 153 policies has the option of choosing to accept the TEACO addendum  
 154 for any of the 3 contract years that the coverage is offered.

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

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

165           4. The TEACO addendum shall also provide that the  
 166 obligation of the board with respect to all TEACO addenda shall  
 167 not exceed an amount equal to two times the difference between  
 168 the industry retention level calculated under paragraph (2) (e)  
 169 and the \$3 billion, \$4 billion, or \$5 billion industry TEACO  
 170 retention level options actually selected, but in no event may  
 171 the board's obligation exceed the actual claims-paying capacity  
 172 of the fund plus the additional capacity created in paragraph  
 173 (g). If the actual claims-paying capacity and the additional

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174 capacity created under paragraph (g) fall short of the board's  
 175 obligations under the reimbursement contract, each insurer's  
 176 share of the fund's capacity shall be prorated based on the  
 177 premium an insurer pays for its mandatory ~~normal~~ reimbursement  
 178 coverage and the premium paid for its optional TEACO coverage as  
 179 each such premium bears to the total premiums paid to the fund  
 180 times the available capacity.

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

184 6. A TEACO insurer's maximum reimbursement for a single  
 185 event is equal to its mandatory FHCF premium times the difference  
 186 between its FHCF retention multiple and its TEACO retention  
 187 multiple under the TEACO option selected plus five percent for  
 188 loss adjustment expenses. A TEACO insurer's maximum reimbursement  
 189 under the TEACO option selected for a TEACO insurer's two largest  
 190 events addendum shall be twice its maximum reimbursement for a  
 191 single event calculated by multiplying the insurer's share of the  
 192 estimated total TEACO reimbursement premium as calculated under  
 193 sub-subparagraph (d)4.a. by an amount equal to two times the  
 194 difference between the industry retention level calculated under  
 195 paragraph (2)(e) and the \$3 billion, \$4 billion, or \$5 billion  
 196 industry TEACO retention level specified in sub-subparagraph  
 197 (d)4.a. as selected by the TEACO insurer.

198 (f) TEACO reimbursement premiums.--

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

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203           2.—~~The TEACO reimbursement premiums shall be calculated~~  
 204 ~~based on the assumption that, if all insurers entering into~~  
 205 ~~reimbursement contracts under subsection (4) also accepted the~~  
 206 ~~TEACO option.~~  
 207           — a. The insurer's industry TEACO reimbursement premium  
 208 associated with the \$3 billion retention option would be equal to  
 209 85 percent of a TEACO insurer's maximum reimbursement for a  
 210 single event as calculated under subparagraph (16) (e) 6.~~the~~  
 211 ~~difference between the industry retention level calculated under~~  
 212 ~~paragraph (2) (e) and the \$3 billion industry TEACO retention~~  
 213 ~~level.~~  
 214           — b. The TEACO reimbursement premium associated with the \$4  
 215 billion retention option would be equal to 80 percent of a TEACO  
 216 insurer's maximum reimbursement for a single event as calculated  
 217 under subparagraph (16) (e) 6.~~the difference between the industry~~  
 218 ~~retention level calculated under paragraph (2) (e) and the \$4~~  
 219 ~~billion industry TEACO retention level.~~  
 220           — c. The TEACO premium associated with the \$5 billion  
 221 retention option would be equal to 75 percent of a TEACO  
 222 insurer's maximum reimbursement for a single event as calculated  
 223 under subparagraph (16) (e) 6.~~the difference between the industry~~  
 224 ~~retention level calculated under paragraph (2) (e) and the \$5~~  
 225 ~~billion industry TEACO retention level.~~  
 226           — 3. ~~Each insurer's TEACO premium shall be calculated based~~  
 227 ~~on its share of the total TEACO reimbursement premiums based on~~  
 228 ~~its coverage selection under the TEACO addendum.~~  
 229           (g) Effect on claims-paying capacity of the fund.--For the  
 230 contract term commencing June 1, 2007, the contract year  
 231 commencing June 1, 2008, and the contract term beginning June 1,



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232 2009, the program created by this subsection shall increase the  
 233 claims-paying capacity of the fund as provided in subparagraph  
 234 (4)(c)1. by an amount equal to two times the difference between  
 235 the industry retention level calculated under paragraph (2)(e)  
 236 and the \$3 billion industry TEACO retention level specified in  
 237 sub-subparagraph (d)4.a. The additional capacity shall apply only  
 238 to the additional coverage provided by the TEACO option and shall  
 239 not otherwise affect any insurer's reimbursement from the fund.

240 Section 2. Paragraph (b) of subsection (2) of section  
 241 **215.5595**, Florida Statutes, is amended to read:

242 215.5595 Insurance Capital Build-Up Incentive Program.--

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

248 (b) The insurer must contribute an amount of new capital to  
 249 its surplus which is at least equal to the amount of the surplus  
 250 note and must apply to the board by July 1, 2006. If an insurer  
 251 applies after July 1, 2006, but before June 1, 2007, the amount  
 252 of the surplus note is limited to one-half of the new capital  
 253 that the insurer contributes to its surplus. For purposes of this  
 254 section, new capital must be in the form of cash or cash  
 255 equivalents as specified in s. 625.012(1). An insurer writing  
 256 only manufactured housing policies that applies for funds under  
 257 this section after July 1, 2006, but before June 1, 2007 is  
 258 eligible to receive a surplus note in the amount of \$7 million.  
 259 The insurer's surplus, new capital, and the surplus note must  
 260 total at least \$14 million.

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261 Section 3. Paragraph (a) of subsection (1) of section  
 262 **624.408**, Florida Statutes, is amended to read:

263 624.408 Surplus as to policyholders required; new and  
 264 existing insurers.--

265 (a) To maintain a certificate of authority to transact any  
 266 one kind or combinations of kinds of insurance, as defined in  
 267 part V of this chapter, an insurer in this state shall at all  
 268 times maintain surplus as to policyholders not less than the  
 269 greater of:

270 1. Except as provided in subparagraph 5. and paragraph (b),  
 271 \$1.5 million;

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

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

277 4. For all insurers other than mortgage guaranty insurers,  
 278 life insurers, and life and health insurers, 10 percent of the  
 279 insurer's total liabilities.

280 5. For property and casualty insurers, ~~\$4 million~~;  
 281 however, a domestic insurer that transacts residential property  
 282 insurance and is a wholly owned subsidiary of an insurer  
 283 authorized to do business in any state shall possess surplus as  
 284 to policyholders of at least \$50 million.

285 Section 4. Subsection (4) of section **627.0613**, Florida  
 286 Statutes, as amended by Chapter 2007-1, Laws of Florida, is  
 287 amended to read:

288 627.0613 Consumer advocate.--The Chief Financial Officer  
 289 must appoint a consumer advocate who must represent the general

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290 public of the state before the department and the office. The  
 291 consumer advocate must report directly to the Chief Financial  
 292 Officer, but is not otherwise under the authority of the  
 293 department or of any employee of the department. The consumer  
 294 advocate has such powers as are necessary to carry out the duties  
 295 of the office of consumer advocate, including, but not limited  
 296 to, the powers to:

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

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

303 (b) The disposition of all complaints received by the  
 304 department.

305 (c) The average length of time for payment of claims by the  
 306 insurer.

307 (d) Any other factors the commission identifies as  
 308 assisting policyholders in making informed choices about  
 309 homeowner's insurance.

310 Section 5. Paragraph (a) of subsection (2) of section  
 311 **627.062**, Florida Statutes, as amended by Chapter 2007-1, Laws of  
 312 Florida, is amended to read:

313 627.062 Rate standards.--

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

315 (a) Insurers or rating organizations shall establish and  
 316 use rates, rating schedules, or rating manuals to allow the  
 317 insurer a reasonable rate of return on such classes of insurance  
 318 written in this state. A copy of rates, rating schedules, rating

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319 manuals, premium credits or discount schedules, and surcharge  
 320 schedules, and changes thereto, shall be filed with the office  
 321 under one of the following procedures except as provided in  
 322 subparagraph 3.:

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

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

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347           3. For all filings made or submitted after January 25, 2007  
 348 but ~~on or~~ before December 31, 2008, an insurer seeking a rate  
 349 that is greater than the rate most recently approved by the  
 350 office shall make a "file and use" filing. This subparagraph  
 351 applies to residential property insurance only.

352           Section 6. Subsection (1) of section **627.0629**, Florida  
 353 Statutes, is amended to read:

354           627.0629 Residential property insurance; rate filings.--

355           (1) It is the intent of the Legislature that insurers must  
 356 provide savings to consumers who install or implement windstorm  
 357 damage mitigation techniques, alterations, or solutions to their  
 358 properties to prevent windstorm losses. A rate filing for  
 359 residential property insurance must include actuarially  
 360 reasonable discounts, credits, or other rate differentials, or  
 361 appropriate reductions in deductibles, for properties on which  
 362 fixtures or construction techniques demonstrated to reduce the  
 363 amount of loss in a windstorm have been installed or implemented.  
 364 The fixtures or construction techniques shall include, but not be  
 365 limited to, fixtures or construction techniques which enhance  
 366 roof strength, roof covering performance, roof-to-wall strength,  
 367 wall-to-floor-to-foundation strength, opening protection, and  
 368 window, door, and skylight strength. Credits, discounts, or other  
 369 rate differentials, or appropriate reductions in deductibles, for  
 370 fixtures and construction techniques which meet the minimum  
 371 requirements of the Florida Building Code must be included in the  
 372 rate filing. All insurance companies must make a rate filing  
 373 which includes the credits, discounts, or other rate  
 374 differentials or reductions in deductibles by February 28, 2003.  
 375 By July 1, 2007, the office shall reevaluate the discounts,

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376 credits, other rate differentials, and appropriate reductions in  
 377 deductibles for fixtures and construction techniques that meet  
 378 the minimum requirements of the Florida Building Code, based upon  
 379 actual experience or any other loss relativity studies available  
 380 to the office. The office shall determine the discounts, credits,  
 381 other rate differentials, and appropriate reductions in  
 382 deductibles that reflect the full actuarial value of such  
 383 revaluation, which may be used by insurers in rate filings. A  
 384 property insurer must reevaluate the discounts, credits, or other  
 385 rate differentials, or appropriate reductions in deductibles  
 386 provided pursuant to this subsection at least every 5 years and  
 387 must reduce the discount, credit, rate differential, or increase  
 388 the applicable deductible to account for the effectiveness of the  
 389 mitigation measure installed or implemented.

390 Section 7. Paragraph (c) of subsection (6) of section  
 391 **627.351**, Florida Statutes, as amended by Chapter 2007-1, Laws of  
 392 Florida, is amended to read:

393 627.351 Insurance risk apportionment plans.--

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

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

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

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

409 c. Commercial lines residential and nonresidential policy  
 410 forms that are generally similar to the basic perils of full  
 411 coverage obtainable for commercial residential structures and  
 412 commercial nonresidential structures in the admitted voluntary  
 413 market.

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

419 e. Commercial lines nonresidential property insurance forms  
 420 that cover the peril of wind only. The forms are applicable only  
 421 to nonresidential properties located in areas eligible for  
 422 coverage under the high-risk account referred to in sub-  
 423 subparagraph (b)2.a.

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

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

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433 (I) "Quota share primary insurance" means an arrangement in  
 434 which the primary hurricane coverage of an eligible risk is  
 435 provided in specified percentages by the corporation and an  
 436 authorized insurer. The corporation and authorized insurer are  
 437 each solely responsible for a specified percentage of hurricane  
 438 coverage of an eligible risk as set forth in a quota share  
 439 primary insurance agreement between the corporation and an  
 440 authorized insurer and the insurance contract. The responsibility  
 441 of the corporation or authorized insurer to pay its specified  
 442 percentage of hurricane losses of an eligible risk, as set forth  
 443 in the quota share primary insurance agreement, may not be  
 444 altered by the inability of the other party to the agreement to  
 445 pay its specified percentage of hurricane losses. Eligible risks  
 446 that are provided hurricane coverage through a quota share  
 447 primary insurance arrangement must be provided policy forms that  
 448 set forth the obligations of the corporation and authorized  
 449 insurer under the arrangement, clearly specify the percentages of  
 450 quota share primary insurance provided by the corporation and  
 451 authorized insurer, and conspicuously and clearly state that  
 452 neither the authorized insurer nor the corporation may be held  
 453 responsible beyond its specified percentage of coverage of  
 454 hurricane losses.

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



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

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

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

475           e. Any quota share primary insurance agreement entered into  
 476 between an authorized insurer and the corporation is subject to  
 477 review and approval by the office. However, such agreement shall  
 478 be authorized only as to insurance contracts entered into between  
 479 an authorized insurer and an insured who is already insured by  
 480 the corporation for wind coverage.

481           f. For all eligible risks covered under quota share primary  
 482 insurance agreements, the exposure and coverage levels for both  
 483 the corporation and authorized insurers shall be reported by the  
 484 corporation to the Florida Hurricane Catastrophe Fund. For all  
 485 policies of eligible risks covered under quota share primary  
 486 insurance agreements, the corporation and the authorized insurer  
 487 shall maintain complete and accurate records for the purpose of  
 488 exposure and loss reimbursement audits as required by Florida

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489 Hurricane Catastrophe Fund rules. The corporation and the  
 490 authorized insurer shall each maintain duplicate copies of policy  
 491 declaration pages and supporting claims documents.

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

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

511 3. May provide that the corporation may employ or otherwise  
 512 contract with individuals or other entities to provide  
 513 administrative or professional services that may be appropriate  
 514 to effectuate the plan. The corporation shall have the power to  
 515 borrow funds, by issuing bonds or by incurring other  
 516 indebtedness, and shall have other powers reasonably necessary to  
 517 effectuate the requirements of this subsection, including,

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518 | without limitation, the power to issue bonds and incur other  
 519 | indebtedness in order to refinance outstanding bonds or other  
 520 | indebtedness. The corporation may, but is not required to, seek  
 521 | judicial validation of its bonds or other indebtedness under  
 522 | chapter 75. The corporation may issue bonds or incur other  
 523 | indebtedness, or have bonds issued on its behalf by a unit of  
 524 | local government pursuant to subparagraph (g)2., in the absence  
 525 | of a hurricane or other weather-related event, upon a  
 526 | determination by the corporation, subject to approval by the  
 527 | office, that such action would enable it to efficiently meet the  
 528 | financial obligations of the corporation and that such financings  
 529 | are reasonably necessary to effectuate the requirements of this  
 530 | subsection. The corporation is authorized to take all actions  
 531 | needed to facilitate tax-free status for any such bonds or  
 532 | indebtedness, including formation of trusts or other affiliated  
 533 | entities. The corporation shall have the authority to pledge  
 534 | assessments, projected recoveries from the Florida Hurricane  
 535 | Catastrophe Fund, other reinsurance recoverables, market  
 536 | equalization and other surcharges, and other funds available to  
 537 | the corporation as security for bonds or other indebtedness. In  
 538 | recognition of s. 10, Art. I of the State Constitution,  
 539 | prohibiting the impairment of obligations of contracts, it is the  
 540 | intent of the Legislature that no action be taken whose purpose  
 541 | is to impair any bond indenture or financing agreement or any  
 542 | revenue source committed by contract to such bond or other  
 543 | indebtedness.

544 |       4.a. Must require that the corporation operate subject to  
 545 | the supervision and approval of a board of governors consisting  
 546 | of eight individuals who are residents of this state, from

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547 different geographical areas of this state. The Governor, the  
 548 Chief Financial Officer, the President of the Senate, and the  
 549 Speaker of the House of Representatives shall each appoint two  
 550 members of the board. At least one of the two members appointed  
 551 by each appointing officer must have demonstrated expertise in  
 552 insurance. The Chief Financial Officer shall designate one of the  
 553 appointees as chair. All board members serve at the pleasure of  
 554 the appointing officer. All members of the board of governors are  
 555 subject to removal at will by the officers who appointed them.  
 556 All board members, including the chair, must be appointed to  
 557 serve for 3-year terms beginning annually on a date designated by  
 558 the plan. Any board vacancy shall be filled for the unexpired  
 559 term by the appointing officer. The Chief Financial Officer shall  
 560 appoint a technical advisory group to provide information and  
 561 advice to the board of governors in connection with the board's  
 562 duties under this subsection. The executive director and senior  
 563 managers of the corporation shall be engaged by the board and  
 564 serve at the pleasure of the board. Any executive director  
 565 appointed on or after July 1, 2006, is subject to confirmation by  
 566 the Senate. The executive director is responsible for employing  
 567 other staff as the corporation may require, subject to review and  
 568 concurrence by the board.

569       b. The board shall create a Market Accountability Advisory  
 570 Committee to assist the corporation in developing awareness of  
 571 its rates and its customer and agent service levels in  
 572 relationship to the voluntary market insurers writing similar  
 573 coverage. The members of the advisory committee shall consist of  
 574 the following 11 persons, one of whom must be elected chair by  
 575 the members of the committee: four representatives, one appointed

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576 | by the Florida Association of Insurance Agents, one by the  
 577 | Florida Association of Insurance and Financial Advisors, one by  
 578 | the Professional Insurance Agents of Florida, and one by the  
 579 | Latin American Association of Insurance Agencies; three  
 580 | representatives appointed by the insurers with the three highest  
 581 | voluntary market share of residential property insurance business  
 582 | in the state; one representative from the Office of Insurance  
 583 | Regulation; one consumer appointed by the board who is insured by  
 584 | the corporation at the time of appointment to the committee; one  
 585 | representative appointed by the Florida Association of Realtors;  
 586 | and one representative appointed by the Florida Bankers  
 587 | Association. All members must serve for 3-year terms and may  
 588 | serve for consecutive terms. The committee shall report to the  
 589 | corporation at each board meeting on insurance market issues  
 590 | which may include rates and rate competition with the voluntary  
 591 | market; service, including policy issuance, claims processing,  
 592 | and general responsiveness to policyholders, applicants, and  
 593 | agents; and matters relating to depopulation.

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

596 |             a. Subject to the provisions of s. 627.3517, with respect  
 597 | to personal lines residential risks, if the risk is offered  
 598 | coverage from an authorized insurer at the insurer's approved  
 599 | rate under either a standard policy including wind coverage or,  
 600 | if consistent with the insurer's underwriting rules as filed with  
 601 | the office, a basic policy including wind coverage, for a new  
 602 | application to the corporation for coverage, the risk is not  
 603 | eligible for any policy issued by the corporation unless the  
 604 | premium for coverage from the authorized insurer is more than 25

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605 | percent greater than the premium for comparable coverage from the  
 606 | corporation. Coverage is deemed comparable when, with respect to  
 607 | the main building or structure only, the corporation's coverage  
 608 | would be provided using the same contract form and on the same  
 609 | basis, either all risk or named perils; loss payment is  
 610 | calculated using the same method, either replacement cost or  
 611 | actual cash value; and the percentage deductible applicable to  
 612 | hurricane losses is identical to the authorized insurer's offer.

613 | If the risk is not able to obtain any such offer, the risk is  
 614 | eligible for either a standard policy including wind coverage or  
 615 | a basic policy including wind coverage issued by the corporation;  
 616 | however, if the risk could not be insured under a standard policy  
 617 | including wind coverage regardless of market conditions, the risk  
 618 | shall be eligible for a basic policy including wind coverage  
 619 | unless rejected under subparagraph 8. However, with regard to a  
 620 | policyholder of the corporation, the policyholder remains  
 621 | eligible for coverage from the corporation regardless of any  
 622 | offer of coverage from an authorized insurer or surplus lines  
 623 | insurer. The corporation shall determine the type of policy to be  
 624 | provided on the basis of objective standards specified in the  
 625 | underwriting manual and based on generally accepted underwriting  
 626 | practices.

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

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

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

644  
 645 If the producing agent is unwilling or unable to accept  
 646 appointment, the new insurer shall pay the agent in accordance  
 647 with sub-sub-sub-subparagraph (A).

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

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

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

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

666 b. With respect to commercial lines residential risks, for  
 667 a new application to the corporation for coverage, if the risk is  
 668 offered coverage under a policy including wind coverage from an  
 669 authorized insurer at its approved rate, the risk is not eligible  
 670 for any policy issued by the corporation unless the premium for  
 671 coverage from the authorized insurer is more than 25 percent  
 672 greater than the premium for comparable coverage from the  
 673 corporation. Coverage is deemed comparable when, with respect to  
 674 the main building or structure only, the corporation's coverage  
 675 would be provided using the same contract form and on the same  
 676 basis, either all risk or named perils; loss payment is  
 677 calculated using the same method, either replacement cost or  
 678 actual cash value; and the percentage deductible applicable to  
 679 hurricane losses is identical to the authorized insurer's offer.

680 If the risk is not able to obtain any such offer, the risk is  
 681 eligible for a policy including wind coverage issued by the  
 682 corporation. However, with regard to a policyholder of the  
 683 corporation, the policyholder remains eligible for coverage from  
 684 the corporation regardless of any offer of coverage from an  
 685 authorized insurer or surplus lines insurer.

686 (I) If the risk accepts an offer of coverage through the  
 687 market assistance plan or an offer of coverage through a  
 688 mechanism established by the corporation before a policy is  
 689 issued to the risk by the corporation or during the first 30 days  
 690 of coverage by the corporation, and the producing agent who



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691 submitted the application to the plan or the corporation is not  
 692 currently appointed by the insurer, the insurer shall:

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

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

703

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

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

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

716 (B) Offer to allow the producing agent of record of the  
 717 corporation policy to continue servicing the policy for a period  
 718 of not less than 1 year and offer to pay the agent the greater of

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719 the insurer's or the corporation's usual and customary commission  
 720 for the type of policy written.

721  
 722 If the producing agent is unwilling or unable to accept  
 723 appointment, the new insurer shall pay the agent in accordance  
 724 with sub-sub-sub-subparagraph (A).

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

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

737 8. Must provide that if premium and investment income for  
 738 an account attributable to a particular calendar year are in  
 739 excess of projected losses and expenses for the account  
 740 attributable to that year, such excess shall be held in surplus  
 741 in the account. Such surplus shall be available to defray  
 742 deficits in that account as to future years and shall be used for  
 743 that purpose prior to assessing assessable insurers and  
 744 assessable insureds as to any calendar year.

745 9. Must provide objective criteria and procedures to be  
 746 uniformly applied for all applicants in determining whether an  
 747 individual risk is so hazardous as to be uninsurable. In making

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748 | this determination and in establishing the criteria and  
 749 | procedures, the following shall be considered:  
 750 |       a. Whether the likelihood of a loss for the individual risk  
 751 | is substantially higher than for other risks of the same class;  
 752 | and  
 753 |       b. Whether the uncertainty associated with the individual  
 754 | risk is such that an appropriate premium cannot be determined.  
 755 |  
 756 | The acceptance or rejection of a risk by the corporation shall be  
 757 | construed as the private placement of insurance, and the  
 758 | provisions of chapter 120 shall not apply.  
 759 |       10. Must provide that the corporation shall make its best  
 760 | efforts to procure catastrophe reinsurance at reasonable rates,  
 761 | to cover its projected 100-year probable maximum loss as  
 762 | determined by the board of governors.  
 763 |       11. Must provide that in the event of regular deficit  
 764 | assessments under sub-subparagraph (b)3.a. or sub-subparagraph  
 765 | (b)3.b., in the personal lines account, the commercial lines  
 766 | residential account, or the high-risk account, the corporation  
 767 | shall levy upon corporation policyholders in its next rate  
 768 | filing, or by a separate rate filing solely for this purpose, a  
 769 | Citizens policyholder surcharge arising from a regular assessment  
 770 | in such account in a percentage equal to the total amount of such  
 771 | regular assessments divided by the aggregate statewide direct  
 772 | written premium for subject lines of business for the prior  
 773 | calendar year. For purposes of calculating the Citizens  
 774 | policyholder surcharge to be levied under this subparagraph, the  
 775 | total amount of the regular assessment to which this surcharge is  
 776 | related shall be determined as set forth in subparagraph (b)3.,

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777 without deducting the estimated Citizens policyholder surcharge.  
 778 Citizens policyholder surcharges under this subparagraph are not  
 779 considered premium and are not subject to commissions, fees, or  
 780 premium taxes; however, failure to pay a market equalization  
 781 surcharge shall be treated as failure to pay premium.

782 12. The policies issued by the corporation must provide  
 783 that, if the corporation or the market assistance plan obtains an  
 784 offer from an authorized insurer to cover the risk at its  
 785 approved rates, the risk is no longer eligible for renewal  
 786 through the corporation, except as otherwise provided in this  
 787 subsection.

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

795 14. May establish, subject to approval by the office,  
 796 different eligibility requirements and operational procedures for  
 797 any line or type of coverage for any specified county or area if  
 798 the board determines that such changes to the eligibility  
 799 requirements and operational procedures are justified due to the  
 800 voluntary market being sufficiently stable and competitive in  
 801 such area or for such line or type of coverage and that consumers  
 802 who, in good faith, are unable to obtain insurance through the  
 803 voluntary market through ordinary methods would continue to have  
 804 access to coverage from the corporation. When coverage is sought  
 805 in connection with a real property transfer, such requirements

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806 and procedures shall not provide for an effective date of  
 807 coverage later than the date of the closing of the transfer as  
 808 established by the transferor, the transferee, and, if  
 809 applicable, the lender.

810 15. Must provide that, with respect to the high-risk  
 811 account, any assessable insurer with a surplus as to  
 812 policyholders of \$25 million or less writing 25 percent or more  
 813 of its total countrywide property insurance premiums in this  
 814 state may petition the office, within the first 90 days of each  
 815 calendar year, to qualify as a limited apportionment company. A  
 816 regular assessment levied by the corporation on a limited  
 817 apportionment company for a deficit incurred by the corporation  
 818 for the high-risk account in 2006 or thereafter may be paid to  
 819 the corporation on a monthly basis as the assessments are  
 820 collected by the limited apportionment company from its insureds  
 821 pursuant to s. 627.3512, but the regular assessment must be paid  
 822 in full within 12 months after being levied by the corporation. A  
 823 limited apportionment company shall collect from its  
 824 policyholders any emergency assessment imposed under sub-  
 825 subparagraph (b)3.d. The plan shall provide that, if the office  
 826 determines that any regular assessment will result in an  
 827 impairment of the surplus of a limited apportionment company, the  
 828 office may direct that all or part of such assessment be deferred  
 829 as provided in subparagraph (g)4. However, there shall be no  
 830 limitation or deferment of an emergency assessment to be  
 831 collected from policyholders under sub-subparagraph (b)3.d.

832 16. Must provide that the corporation appoint as its  
 833 licensed agents only those agents who also hold an appointment as  
 834 defined in s. 626.015(3) with an insurer who at the time of the

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835 agent's initial appointment by the corporation is authorized to  
 836 write and is actually writing personal lines residential property  
 837 coverage, commercial residential property coverage, or commercial  
 838 nonresidential property coverage within the state.

839 17. Must provide, by July 1, 2007, a premium payment plan  
 840 option to its policyholders which allows at a minimum for  
 841 quarterly and semiannual payment of premiums. A monthly payment  
 842 plan may, but is not required, to be offered.

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

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

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

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

871 Section 8. Paragraph (a) of subsection (3) of section  
 872 627.3515, Florida Statutes, is amended to read:

873 627.3515 Market assistance plan; property and casualty  
 874 risks.--

875 (3)(a) The plan and the corporation shall develop a  
 876 business plan and present it to the Financial Services Commission  
 877 for approval by September 1, 2007, to provide for the  
 878 implementation of an electronic database for the purpose of  
 879 confirming eligibility pursuant to s. 627.351(6). The business  
 880 plan may provide that either authorized insurers or agents of  
 881 authorized insurers may submit to the plan or the corporation in  
 882 electronic form, as determined by the plan or the corporation,  
 883 information determined necessary by the plan or the corporation  
 884 to deny coverage to risks ineligible for coverage from the  
 885 corporation. Any authorized insurer submitting such information  
 886 which results in a risk being denied coverage by the corporation,  
 887 is required to provide coverage to the risk at its approved  
 888 rates, for the coverage and premium quoted, for at least one  
 889 year.

890 Section 9. Section 627.3517, Florida Statutes, is amended  
 891 to read:

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892           627.3517 Consumer choice.--  
 893           (1) ~~Except as provided in subsection (2), n~~ No provision of  
 894 s. 627.351, s. 627.3511, or s. 627.3515 shall be construed to  
 895 impair the right of any insurance risk apportionment plan  
 896 policyholder, upon receipt of any keepout or take-out offer, to  
 897 retain his or her current agent, so long as that agent is duly  
 898 licensed and appointed by the insurance risk apportionment plan  
 899 or otherwise authorized to place business with the insurance risk  
 900 apportionment plan. This right shall not be canceled, suspended,  
 901 impeded, abridged, or otherwise compromised by any rule, plan of  
 902 operation, or depopulation plan, whether through keepout, take-  
 903 out, midterm assumption, or any other means, of any insurance  
 904 risk apportionment plan or depopulation plan, including, but not  
 905 limited to, those described in s. 627.351, s. 627.3511, or s.  
 906 627.3515. The commission shall adopt any rules necessary to cause  
 907 any insurance risk apportionment plan or market assistance plan  
 908 under such sections to demonstrate that the operations of the  
 909 plan do not interfere with, promote, or allow interference with  
 910 the rights created under this section. If the policyholder's  
 911 current agent is unable or unwilling to be appointed with the  
 912 insurer making the take-out or keepout offer, the policyholder  
 913 shall not be disqualified from participation in the appropriate  
 914 insurance risk apportionment plan because of an offer of coverage  
 915 in the voluntary market. An offer of full property insurance  
 916 coverage by the insurer currently insuring either the ex-wind or  
 917 wind-only coverage on the policy to which the offer applies shall  
 918 not be considered a take-out or keepout offer. Any rule, plan of  
 919 operation, or plan of depopulation, through keepout, take-out,  
 920 midterm assumption, or any other means, of any property insurance



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921 risk apportionment plan under s. 627.351(2) or (6) is subject to  
 922 ss. 627.351(2)(b) and (6)(c) and 627.3511(4).

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

927 Section 10. Subsection (1) of section 627.4035, Florida  
 928 Statutes, as amended by Chapter 2007-1, Laws of Florida, is  
 929 amended to read:

930 627.4035 Cash payment of premiums; claims.--

931 (1) The premiums for insurance contracts issued in this  
 932 state or covering risk located in this state shall be paid in  
 933 cash consisting of coins, currency, checks, or money orders or by  
 934 using a debit card, credit card, automatic electronic funds  
 935 transfer, or payroll deduction plan. By July 1, 2007, insurers  
 936 issuing personal lines residential and commercial property  
 937 policies shall provide a premium payment plan option to their  
 938 policyholders which allows for a minimum of quarterly and  
 939 semiannual payment of premiums. Insurers may, but are not  
 940 required to, offer monthly payment plans. Insurers issuing such  
 941 policies must submit their premium payment plan option to the  
 942 office for approval before use.

943 Section 11. Subsection (7) of section 627.4133, Florida  
 944 Statutes, is created to read:

945 627.4133 Notice of cancellation, nonrenewal, or renewal  
 946 premium.--

947 (7) With respect to any property insurance policy, every  
 948 notice of renewal premium must specify:

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

954 | (b) The dollar amount of any premium increase that is due  
 955 | to an approved rate increase and the dollar amounts that are due  
 956 | to coverage changes.

957 | (c) The Financial Services Commission may adopt rules  
 958 | pursuant to ss. 120.536(1) and 120.54 to implement this  
 959 | subsection.

960 | Section 12. Paragraphs (a) and (c) of subsection (3) and  
 961 | paragraph (d) of subsection (4) of section 627.701, Florida  
 962 | Statutes, as amended by Chapter 2007-1, Laws of Florida, is  
 963 | amended to read:

964 | 627.701 Liability of insureds; coinsurance; deductibles.--

965 | (3)

966 | (a) Except as otherwise provided in this subsection, prior  
 967 | to issuing a personal lines residential property insurance  
 968 | policy, the insurer must offer alternative deductible amounts  
 969 | applicable to hurricane losses equal to \$500, 2 percent, 5  
 970 | percent, and 10 percent of the policy dwelling limits, unless the  
 971 | specific percentage deductible is less than \$500. The written  
 972 | notice of the offer shall specify the hurricane ~~or wind~~  
 973 | deductible to be applied in the event that the applicant or  
 974 | policyholder fails to affirmatively choose a hurricane  
 975 | deductible. The insurer must provide such policyholder with  
 976 | notice of the availability of the deductible amounts specified in  
 977 | this paragraph in a form approved by the office in conjunction

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978 with each renewal of the policy. The failure to provide such  
 979 notice constitutes a violation of this code but does not affect  
 980 the coverage provided under the policy.

981 (c) With respect to a policy covering a risk with dwelling  
 982 limits of at least \$100,000, but less than \$250,000, the insurer  
 983 may, in lieu of offering a policy with a \$500 hurricane ~~or wind~~  
 984 deductible as required by paragraph (a), offer a policy that the  
 985 insurer guarantees it will not nonrenew for reasons of reducing  
 986 hurricane loss for one renewal period and that contains up to a 2  
 987 percent hurricane ~~or wind~~ deductible as required by paragraph  
 988 (a).

989 (4)

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

994 a. The policyholder must personally write and provide to  
 995 the insurer the following statement in his or her own handwriting  
 996 and sign his or her name, which must also be signed by every  
 997 other named insured on the policy, and dated: "I do not want the  
 998 insurance on my home to pay for the first (specify dollar value)  
 999 of damage from hurricanes. I will pay those costs. My insurance  
 1000 will not."

1001 b. If the structure insured by the policy is subject to a  
 1002 mortgage or lien, the policyholder must provide the insurer with  
 1003 a written statement from the mortgageholder or lienholder  
 1004 indicating that the mortgageholder or lienholder approves the  
 1005 policyholder electing to have the specified deductible.

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1006           2. A deductible subject to the requirements of this  
 1007 paragraph applies for the term of the policy and for each renewal  
 1008 thereafter unless the policyholder elects otherwise. Changes to  
 1009 the deductible percentage may be implemented only as of the date  
 1010 of renewal.

1011           3. An insurer shall keep the original copy of the signed  
 1012 statement required by this paragraph, electronically or  
 1013 otherwise, and provide a copy to the policyholder providing the  
 1014 signed statement. A signed statement meeting the requirements of  
 1015 this paragraph creates a presumption that there was an informed,  
 1016 knowing election of coverage.

1017           4. The commission shall adopt rules providing appropriate  
 1018 alternative methods for providing the statements required by this  
 1019 section for policyholders who have a handicapping or disabling  
 1020 condition that prevents them from providing a handwritten  
 1021 statement.

1022           Section 13. Subsection (5) of section **627.70131**, Florida  
 1023 Statutes, as amended by Chapter 2007-1, Laws of Florida, is  
 1024 amended to read:

1025           627.70131 Insurer's duty to acknowledge communications  
 1026 regarding claims; investigation.--

1027           (5) Within 90 days after an insurer receives proof of loss  
 1028 ~~notice~~ of a residential property insurance claim from a  
 1029 policyholder, the insurer shall pay or deny such claim unless the  
 1030 failure to pay such claim is caused by factors beyond the control  
 1031 of the insurer which reasonably prevent such payment. The  
 1032 exclusive remedy for a violation of this subsection is a  
 1033 regulatory action under this code. ~~Failure to comply with this~~  
 1034 ~~subsection constitutes a violation of this code.~~

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1035 Section 14. Subsections (1), (2), (4), and (5) of section  
 1036 **627.712**, Florida Statutes, as created by Chapter 2007-1, Laws of  
 1037 Florida, are amended to read:

1038 627.712 Residential hurricane coverage required;  
 1039 availability of exclusions for windstorm or contents.--

1040 (1) An insurer issuing a personal lines residential  
 1041 property insurance policy must provide hurricane or windstorm  
 1042 coverage as defined in s. 627.4025. This subsection does not  
 1043 apply with respect to risks that are eligible for wind-only  
 1044 coverage from Citizens Property Insurance Corporation under s.  
 1045 627.351(6).

1046 (2) An insurer that is subject to subsection (1) must make  
 1047 available, at the option of the policyholder, an exclusion of  
 1048 hurricane coverage or windstorm coverage as provided within the  
 1049 applicable policy. The coverage may be excluded only if:

1050 (a) The policyholder personally writes and provides to the  
 1051 insurer the following statement in his or her own handwriting and  
 1052 signs his or her name, which must also be signed by every other  
 1053 named insured on the policy, and dated: "I do not want the  
 1054 insurance on my (home/mobile home/condominium unit) to pay for  
 1055 damage from windstorms or hurricanes. I will pay those costs. My  
 1056 insurance will not."

1057 (b) If the structure insured by the policy is subject to a  
 1058 mortgage or lien, the policyholder must provide the insurer with  
 1059 a written statement from the mortgageholder or lienholder  
 1060 indicating that the mortgageholder or lienholder approves the  
 1061 policyholder electing to exclude windstorm coverage or hurricane  
 1062 coverage from his or her residential property insurance policy.

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1063 (4) An insurer shall keep the original copy of a signed  
 1064 statement required by this section, electronically or otherwise,  
 1065 and provide a copy to the policyholder providing the signed  
 1066 statement. A signed statement meeting the requirements of this  
 1067 section creates a presumption that there was an informed, knowing  
 1068 rejection of coverage.

1069 (5) The exclusions authorized by this section apply for the  
 1070 term of the policy and for each renewal thereafter. Changes to  
 1071 the exclusions authorized by this section may be implemented only  
 1072 as of the date of renewal. ~~The exclusions authorized by this~~  
 1073 ~~section are valid for the term of the contract and for each~~  
 1074 ~~renewal unless the policyholder elects otherwise.~~

1075 Section 15. Section **627.713**, Florida Statutes, as created by  
 1076 Chapter 2007-1, Laws of Florida, is amended to read:

1077 627.713 Report of hurricane loss data.--After the  
 1078 conclusion of the Atlantic hurricane season, the office may  
 1079 require property insurers to report data regarding hurricane  
 1080 claims and underwriting costs, including, but not limited to:

- 1081 (1) Number of claims.
- 1082 (2) Amount of claim payments made.
- 1083 (3) Number and amount of total-loss claims.
- 1084 (4) Amount and percentage of losses covered by reinsurance  
 1085 or other loss-transfer agreements.
- 1086 (5) Amount of losses covered under specified deductibles.
- 1087 (6) Claims and payments for specified insured values.
- 1088 (7) Claims and payments for specified dollar values.
- 1089 (8) Claims and payments for specified types of construction  
 1090 or mitigation features.

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1091 (9) Claims and payments for policies under specified  
 1092 underwriting criteria.

1093 (10) Claims and payments for contents, additional living  
 1094 expense, and other specified coverages.

1095 (11) Claims and payments by county for the information  
 1096 specified in this section.

1097 (12) Any other data that the office requires.

1098 Section 16. Subsections (4) and (5) of section **627.7277**,  
 1099 Florida Statutes, as amended by Chapter 2007-1, Laws of Florida,  
 1100 are deleted.

1101 Section 17. Paragraph (e) of subsection (3) of section  
 1102 **631.57**, Florida Statutes, as amended by Chapter 2007-1, Laws of  
 1103 Florida, is amended to read:

1104 631.57 Powers and duties of the association.--

1105 (e)1.a. In addition to assessments otherwise authorized in  
 1106 paragraph (a) and to the extent necessary to secure the funds for  
 1107 the account specified in s. 631.55(2)(c) for the direct payment  
 1108 of covered claims of insurers rendered insolvent homeowners  
 1109 ~~insurers~~ by the effects of a hurricane and to pay the reasonable  
 1110 costs to administer such claims, or to retire indebtedness,  
 1111 including, without limitation, the principal, redemption premium,  
 1112 if any, and interest on, and related costs of issuance of, bonds  
 1113 issued under s. 631.695 and the funding of any reserves and other  
 1114 payments required under the bond resolution or trust indenture  
 1115 pursuant to which such bonds have been issued, the office, upon  
 1116 certification of the board of directors, shall levy emergency  
 1117 assessments upon insurers holding a certificate of authority. The  
 1118 emergency assessments payable under this paragraph by any insurer  
 1119 shall not exceed in any single year more than 2 percent of that

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1120 insurer's direct written premiums, net of refunds, in this state  
 1121 during the preceding calendar year for the kinds of insurance  
 1122 within the account specified in s. 631.55(2)(c).  
 1123       b. Any emergency assessments authorized under this  
 1124 paragraph shall be levied by the office upon insurers referred to  
 1125 in sub-subparagraph a., upon certification as to the need for  
 1126 such assessments by the board of directors. In the event the  
 1127 board of directors participates in the issuance of bonds in  
 1128 accordance with s. 631.695, emergency assessments shall be levied  
 1129 in each year that bonds issued under s. 631.695 and secured by  
 1130 such emergency assessments are outstanding, in such amounts up to  
 1131 such 2-percent limit as required in order to provide for the full  
 1132 and timely payment of the principal of, redemption premium, if  
 1133 any, and interest on, and related costs of issuance of, such  
 1134 bonds. The emergency assessments provided for in this paragraph  
 1135 are assigned and pledged to the municipality, county, or legal  
 1136 entity issuing bonds under s. 631.695 for the benefit of the  
 1137 holders of such bonds, in order to enable such municipality,  
 1138 county, or legal entity to provide for the payment of the  
 1139 principal of, redemption premium, if any, and interest on such  
 1140 bonds, the cost of issuance of such bonds, and the funding of any  
 1141 reserves and other payments required under the bond resolution or  
 1142 trust indenture pursuant to which such bonds have been issued,  
 1143 without the necessity of any further action by the association,  
 1144 the office, or any other party. To the extent bonds are issued  
 1145 under s. 631.695 and the association determines to secure such  
 1146 bonds by a pledge of revenues received from the emergency  
 1147 assessments, such bonds, upon such pledge of revenues, shall be  
 1148 secured by and payable from the proceeds of such emergency



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1149 assessments, and the proceeds of emergency assessments levied  
 1150 under this paragraph shall be remitted directly to and  
 1151 administered by the trustee or custodian appointed for such  
 1152 bonds.

1153 c. Emergency assessments under this paragraph may be  
 1154 payable in a single payment or, at the option of the association,  
 1155 may be payable in 12 monthly installments with the first  
 1156 installment being due and payable at the end of the month after  
 1157 an emergency assessment is levied and subsequent installments  
 1158 being due not later than the end of each succeeding month.

1159 d. If emergency assessments are imposed, the report  
 1160 required by s. 631.695(7) shall include an analysis of the  
 1161 revenues generated from the emergency assessments imposed under  
 1162 this paragraph.

1163 e. If emergency assessments are imposed, the references in  
 1164 sub-subparagraph (1)(a)3.b. and s. 631.695(2) and (7) to  
 1165 assessments levied under paragraph (a) shall include emergency  
 1166 assessments imposed under this paragraph.

1167 2. In order to ensure that insurers paying emergency  
 1168 assessments levied under this paragraph continue to charge rates  
 1169 that are neither inadequate nor excessive, within 90 days after  
 1170 being notified of such assessments, each insurer that is to be  
 1171 assessed pursuant to this paragraph shall submit a rate filing  
 1172 for coverage included within the account specified in s.  
 1173 631.55(2)(c) and for which rates are required to be filed under  
 1174 s. 627.062. If the filing reflects a rate change that, as a  
 1175 percentage, is equal to the difference between the rate of such  
 1176 assessment and the rate of the previous year's assessment under  
 1177 this paragraph, the filing shall consist of a certification so

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1178 stating and shall be deemed approved when made. Any rate change  
 1179 of a different percentage shall be subject to the standards and  
 1180 procedures of s. 627.062.

1181 3. In the event the board of directors participates in the  
 1182 issuance of bonds in accordance with s. 631.695, an annual  
 1183 assessment under this paragraph shall continue while the bonds  
 1184 issued with respect to which the assessment was imposed are  
 1185 outstanding, including any bonds the proceeds of which were used  
 1186 to refund bonds issued pursuant to s. 631.695, unless adequate  
 1187 provision has been made for the payment of the bonds in the  
 1188 documents authorizing the issuance of such bonds.

1189 4. Emergency assessments under this paragraph are not  
 1190 premium and are not subject to the premium tax, to any fees, or  
 1191 to any commissions. An insurer is liable for all emergency  
 1192 assessments that the insurer collects and shall treat the failure  
 1193 of an insured to pay an emergency assessment as a failure to pay  
 1194 the premium. An insurer is not liable for uncollectible emergency  
 1195 assessments.

1196 Section 18. (1) Notwithstanding Section 9 of Chapter 2007-1,  
 1197 Laws of Florida, the internal design option provided in section  
 1198 1609.1.4.1, in the Florida Building Code shall remain in effect  
 1199 until June 1, 2007, for a building permit application made prior  
 1200 to that date.

1201 (2) This section shall take effect upon becoming law and  
 1202 shall apply retroactively to January 25, 2007, the effective date  
 1203 of chapter 2007-1, Laws of Florida. This section shall apply to  
 1204 any actions taken on any building permit affected by Section 9 of  
 1205 Chapter 2007-1, Laws of Florida, including any actions, legal or  
 1206 ministerial, pertaining to the issuance, revocation or

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1207 modifications of any building permit initiated or issued prior  
 1208 to, on, after, or pending as of January 25, 2007. If the  
 1209 retroactivity of any provision of this section or its retroactive  
 1210 application to any person or circumstance is held invalid, the  
 1211 invalidity does not affect the retroactivity or retroactive  
 1212 application of other provisions of this act.

1213       Section 19. The rate filing requirement in section 3 of  
 1214 Chapter 2007-1, Laws of Florida, regarding savings to be  
 1215 reflected due the presumed factor set by the Office of Insurance  
 1216 Regulation on March 15, 2007, shall only apply to catastrophe  
 1217 reinsurance contracts covering the 2007 hurricane season entered  
 1218 into after the effective date of Chapter 2007-1. Where an insurer  
 1219 had catastrophe reinsurance contracts covering the 2007 hurricane  
 1220 season in place prior to the effective date of Chapter 2007-1,  
 1221 such insurer shall not be required to reflect a savings in their  
 1222 presumed factor rate filing.

1223       Section 20. Except as otherwise provided in this act, this  
 1224 act shall take effect July 1, 2007.