

#1

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 447 (2010)

Amendment No.

COUNCIL/COMMITTEE ACTION

ADOPTED ___ (Y/N)
ADOPTED AS AMENDED ___ (Y/N)
ADOPTED W/O OBJECTION ___ (Y/N)
FAILED TO ADOPT ___ (Y/N)
WITHDRAWN ___ (Y/N)
OTHER _____

Council/Committee hearing bill: General Government Policy
Council

Representative Proctor offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. Paragraph (b) of subsection (6) of section
215.555, Florida Statutes, is amended to read:

215.555 Florida Hurricane Catastrophe Fund.—

(6) REVENUE BONDS.—

(b) Emergency assessments.—

1. If the board determines that the amount of revenue
produced under subsection (5) is insufficient to fund the
obligations, costs, and expenses of the fund and the
corporation, including repayment of revenue bonds and that
portion of the debt service coverage not met by reimbursement
premiums, the board shall direct the Office of Insurance
Regulation to levy, by order, an emergency assessment on direct
premiums for all property and casualty lines of business in this

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 447 (2010)

Amendment No.

20 state, including property and casualty business of surplus lines
21 insurers regulated under part VIII of chapter 626, but not
22 including any workers' compensation premiums or medical
23 malpractice premiums. As used in this subsection, the term
24 "property and casualty business" includes all lines of business
25 identified on Form 2, Exhibit of Premiums and Losses, in the
26 annual statement required of authorized insurers by s. 624.424
27 and any rule adopted under this section, except for those lines
28 identified as accident and health insurance and except for
29 policies written under the National Flood Insurance Program. The
30 assessment shall be specified as a percentage of direct written
31 premium and is subject to annual adjustments by the board in
32 order to meet debt obligations. The same percentage shall apply
33 to all policies in lines of business subject to the assessment
34 issued or renewed during the 12-month period beginning on the
35 effective date of the assessment.

36 2. A premium is not subject to an annual assessment under
37 this paragraph in excess of 6 percent of premium with respect to
38 obligations arising out of losses attributable to any one
39 contract year, and a premium is not subject to an aggregate
40 annual assessment under this paragraph in excess of 10 percent
41 of premium. An annual assessment under this paragraph shall
42 continue as long as the revenue bonds issued with respect to
43 which the assessment was imposed are outstanding, including any
44 bonds the proceeds of which were used to refund the revenue
45 bonds, unless adequate provision has been made for the payment
46 of the bonds under the documents authorizing issuance of the
47 bonds.

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 447 (2010)

Amendment No.

48 3. Emergency assessments shall be collected from
49 policyholders. Emergency assessments shall be remitted by
50 insurers as a percentage of direct written premium for the
51 preceding calendar quarter as specified in the order from the
52 Office of Insurance Regulation. The office shall verify the
53 accurate and timely collection and remittance of emergency
54 assessments and shall report the information to the board in a
55 form and at a time specified by the board. Each insurer
56 collecting assessments shall provide the information with
57 respect to premiums and collections as may be required by the
58 office to enable the office to monitor and verify compliance
59 with this paragraph.

60 4. With respect to assessments of surplus lines premiums,
61 each surplus lines agent shall collect the assessment at the
62 same time as the agent collects the surplus lines tax required
63 by s. 626.932, and the surplus lines agent shall remit the
64 assessment to the Florida Surplus Lines Service Office created
65 by s. 626.921 at the same time as the agent remits the surplus
66 lines tax to the Florida Surplus Lines Service Office. The
67 emergency assessment on each insured procuring coverage and
68 filing under s. 626.938 shall be remitted by the insured to the
69 Florida Surplus Lines Service Office at the time the insured
70 pays the surplus lines tax to the Florida Surplus Lines Service
71 Office. The Florida Surplus Lines Service Office shall remit the
72 collected assessments to the fund or corporation as provided in
73 the order levied by the Office of Insurance Regulation. The
74 Florida Surplus Lines Service Office shall verify the proper
75 application of such emergency assessments and shall assist the

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 447 (2010)

Amendment No.

76 board in ensuring the accurate and timely collection and
77 remittance of assessments as required by the board. The Florida
78 Surplus Lines Service Office shall annually calculate the
79 aggregate written premium on property and casualty business,
80 other than workers' compensation and medical malpractice,
81 procured through surplus lines agents and insureds procuring
82 coverage and filing under s. 626.938 and shall report the
83 information to the board in a form and at a time specified by
84 the board.

85 5. Any assessment authority not used for a particular
86 contract year may be used for a subsequent contract year. If,
87 for a subsequent contract year, the board determines that the
88 amount of revenue produced under subsection (5) is insufficient
89 to fund the obligations, costs, and expenses of the fund and the
90 corporation, including repayment of revenue bonds and that
91 portion of the debt service coverage not met by reimbursement
92 premiums, the board shall direct the Office of Insurance
93 Regulation to levy an emergency assessment up to an amount not
94 exceeding the amount of unused assessment authority from a
95 previous contract year or years, plus an additional 4 percent
96 provided that the assessments in the aggregate do not exceed the
97 limits specified in subparagraph 2.

98 6. The assessments otherwise payable to the corporation
99 under this paragraph shall be paid to the fund unless and until
100 the Office of Insurance Regulation and the Florida Surplus Lines
101 Service Office have received from the corporation and the fund a
102 notice, which shall be conclusive and upon which they may rely
103 without further inquiry, that the corporation has issued bonds

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 447 (2010)

Amendment No.

104 and the fund has no agreements in effect with local governments
105 under paragraph (c). On or after the date of the notice and
106 until the date the corporation has no bonds outstanding, the
107 fund shall have no right, title, or interest in or to the
108 assessments, except as provided in the fund's agreement with the
109 corporation.

110 7. Emergency assessments are not premium and are not
111 subject to the premium tax, to the surplus lines tax, to any
112 fees, or to any commissions. An insurer is liable for all
113 assessments that it collects and must treat the failure of an
114 insured to pay an assessment as a failure to pay the premium. An
115 insurer is not liable for uncollectible assessments.

116 8. When an insurer is required to return an unearned
117 premium, it shall also return any collected assessment
118 attributable to the unearned premium. A credit adjustment to the
119 collected assessment may be made by the insurer with regard to
120 future remittances that are payable to the fund or corporation,
121 but the insurer is not entitled to a refund.

122 9. When a surplus lines insured or an insured who has
123 procured coverage and filed under s. 626.938 is entitled to the
124 return of an unearned premium, the Florida Surplus Lines Service
125 Office shall provide a credit or refund to the agent or such
126 insured for the collected assessment attributable to the
127 unearned premium prior to remitting the emergency assessment
128 collected to the fund or corporation.

129 10. The exemption of medical malpractice insurance
130 premiums from emergency assessments under this paragraph is
131 repealed May 31, 2013 ~~2010~~, and medical malpractice insurance

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 447 (2010)

Amendment No.

premiums shall be subject to emergency assessments attributable to loss events occurring in the contract years commencing on June 1, 2013 ~~2010~~.

Section 2. Subsection (1) of section 624.407, Florida Statutes, is amended to read:

624.407 Capital funds required; new insurers.—

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

(a) Except as otherwise provided in this subsection, \$5 ~~five million dollars~~ for a property and casualty insurer, or \$2.5 million for any other insurer;

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

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

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

(e) For a domestic insurer initially licensed on or after July 1, 2010, that transacts residential property insurance and is not a wholly owned subsidiary of an insurer domiciled in any other state, \$15 million; however, this paragraph does not apply

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 447 (2010)

Amendment No.

159 to a domestic insurer that is a subsidiary or affiliate of a
160 domestic property insurer that was licensed before July 1, 2010;
161

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

168 Section 3. Subsection (1) of section 624.408, Florida
169 Statutes, is amended to read:

170 624.408 Surplus as to policyholders required; new and
171 existing insurers.—

172 (1)~~(a)~~ To maintain a certificate of authority to transact
173 any one kind or combinations of kinds of insurance, as defined
174 in part V of this chapter, an insurer in this state shall at all
175 times maintain surplus as to policyholders not less than the
176 greater of:

177 (a)1. Except as provided in paragraphs (e) and (f)
178 ~~subparagraph 5. and paragraph (b)~~, \$1.5 million;

179 (b)2. For life insurers, 4 percent of the insurer's total
180 liabilities;

181 (c)3. For life and health insurers, 4 percent of the
182 insurer's total liabilities plus 6 percent of the insurer's
183 liabilities relative to health insurance; ~~or~~

184 (d)4. For all insurers other than mortgage guaranty
185 insurers, life insurers, and life and health insurers, 10
186 percent of the insurer's total liabilities;~~—~~

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 447 (2010)

Amendment No.

187 (e)5. Except as provided in paragraph (f), for property
188 and casualty insurers, \$4 million; or-

189 (f) For a domestic insurer initially licensed on or after
190 July 1, 2010, that transacts residential property insurance and
191 is not a wholly owned subsidiary of an insurer domiciled in any
192 other state, \$12 million; however, this paragraph does not apply
193 to a domestic insurer that is a subsidiary or affiliate of a
194 domestic property insurer that was licensed before July 1, 2010.

195 ~~(b) For any property and casualty insurer holding a~~
196 ~~certificate of authority on December 1, 1993, the following~~
197 ~~amounts apply instead of the \$4 million required by subparagraph~~
198 ~~(a)5.:~~

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

201 ~~2. On December 31, 2002, and until December 30, 2003,~~
202 ~~\$3.25 million.~~

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

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

206 Section 4. Section 626.7452, Florida Statutes, is amended
207 to read:

208 626.7452 Managing general agents; examination authority.-

209 The acts of the managing general agent are considered to be the

210 acts of the insurer on whose behalf it is acting. A managing

211 general agent may be examined as if it were the insurer ~~except~~

212 ~~in the case where the managing general agent solely represents a~~

213 ~~single domestic insurer.~~

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 447 (2010)

Amendment No.

Section 5. Subsection (4) of section 627.0613, Florida Statutes, is amended to read:

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

(4)(a) By June 1, 2012, and each June 1 thereafter, prepare an annual report card for each authorized personal residential property insurer, on a form and using a letter-grade scale developed by the commission by rule, which objectively grades each insurer based on the following factors:

1.(a) The number and nature of valid consumer complaints, as a market share ratio, received by the department against the insurer.

2.(b) The disposition of all valid consumer complaints received by the department.

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

4.(d) Any other measurable and objective factors the commission identifies as capable of assisting policyholders in making informed choices about homeowner's insurance.

(b) For purposes of this subsection, the term "valid consumer complaint" means a written communication from a

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 447 (2010)

Amendment No.

242 consumer that expresses dissatisfaction with a specific personal
243 residential property insurer whose conduct as described in the
244 communication is found to constitute a violation of the
245 insurance laws of this state by the Division of Consumer
246 Services of the Department of Financial Services.

247 Section 6. Paragraphs (a), (i), and (k) of subsection (2)
248 of section 627.062, Florida Statutes, are amended, paragraph (l)
249 is added to subsection (2), and paragraph (d) of subsection (9)
250 of that section is redesignated as paragraph (g) and new
251 paragraphs (d), (e), and (f) are added to that subsection, to
252 read:

253 627.062 Rate standards.—

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

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

263 1. If the filing is made at least 90 days before the
264 proposed effective date and the filing is not implemented during
265 the office's review of the filing and any proceeding and
266 judicial review, then such filing shall be considered a "file
267 and use" filing. In such case, the office shall finalize its
268 review by issuance of an approval ~~a notice of intent to approve~~
269 or a notice of intent to disapprove within 90 days after receipt

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 447 (2010)

Amendment No.

of the filing. The approval ~~notice of intent to approve~~ and the notice of intent to disapprove constitute agency action for purposes of the Administrative Procedure Act. Requests for supporting information, requests for mathematical or mechanical corrections, or notification to the insurer by the office of its preliminary findings shall not toll the 90-day period during any such proceedings and subsequent judicial review. The rate shall be deemed approved if the office does not issue an approval a ~~notice of intent to approve~~ or a notice of intent to disapprove within 90 days after receipt of the filing.

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

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

(i) 1. Except as otherwise specifically provided in this chapter, the office may shall not, directly or indirectly, prohibit any insurer, including any residual market plan or joint underwriting association, from paying acquisition costs

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 447 (2010)

Amendment No.

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

2. The office may not, directly or indirectly, impede, abridge, or otherwise compromise an insurer's right to acquire policyholders or advertise, or appoint agents, including, but not limited to, the calculation, manner, or amount of such agents' commissions, if any.

(k)1.a. An insurer may make a separate filing limited solely to an adjustment of its rates for reinsurance, financing products to replace insurance, or financing costs incurred in the purchase of reinsurance and may include an adjustment of its rates based upon an inflation trend factor as set forth in subparagraph 4. If an insurer chooses to make a separate filing under this paragraph, the insurer shall implement the rate in such a manner that all previously approved rate increases implemented as a result of a separate filing, together with the rate increase under a filing made under this paragraph or ~~financing products to replace or finance the payment of the amount covered by the Temporary Increase in Coverage Limits (TICL) portion of the Florida Hurricane Catastrophe Fund including replacement reinsurance for the TICL reductions made pursuant to s. 215.555(17)(c); the actual cost paid due to the application of the TICL premium factor pursuant to s. 215.555(17)(f); and the actual cost paid due to the application of the cash build-up factor pursuant to s. 215.555(5)(b) if the insurer:~~

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 447 (2010)

Amendment No.

326 | ~~a. Elects to purchase financing products such as a~~
327 | ~~liquidity instrument or line of credit, in which case the cost~~
328 | ~~included in the filing for the liquidity instrument or line of~~
329 | ~~credit may not result in a premium increase exceeding 3 percent~~
330 | ~~for any individual policyholder. All costs contained in the~~
331 | ~~filing may not result in an overall rate ~~premium~~ increase of~~
332 | ~~more than 10 percent for any individual policyholder, excluding~~
333 | ~~coverage changes and surcharges.~~

334 | ~~b. An insurer shall include ~~includes~~ in the filing a copy~~
335 | ~~of all of its reinsurance, liquidity instrument, or line of~~
336 | ~~credit contracts; proof of the billing or payment for the~~
337 | ~~contracts; and the calculation upon which the proposed rate~~
338 | ~~change is based demonstrating ~~demonstrates~~ that the costs meet~~
339 | ~~the criteria of this section and are not loaded for expenses or~~
340 | ~~profit for the insurer making the filing.~~

341 | ~~c. Any such filing may not include ~~includes no~~ other~~
342 | ~~changes to the insurer's ~~its~~ rates in the filing.~~

343 | ~~d. Has not implemented a rate increase within the 6 months~~
344 | ~~immediately preceding the filing.~~

345 | ~~e. Does not file for a rate increase under any other~~
346 | ~~paragraph within 6 months after making a filing under this~~
347 | ~~paragraph.~~

348 | ~~d.f. An insurer that purchases reinsurance or financing~~
349 | ~~products from an affiliate may make a filing under affiliated~~
350 | ~~company in compliance with this paragraph does so only if the~~
351 | ~~costs for such reinsurance or financing products are charged at~~
352 | ~~or below charges made for comparable coverage by nonaffiliated~~

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 447 (2010)

Amendment No.

reinsurers or financial entities making such coverage or
financing products available in this state.

2. An insurer may only make one filing in any 12-month
period under this paragraph.

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

4. Beginning January 1, 2011, the office shall publish an
annual informational memorandum to establish one or more inflation
trend factors which may be stated separately for personal and
residential property and for building coverage, contents
coverage, additional living expense coverage, and liability
coverage, if applicable. Such factors shall represent an estimate
of cost increases or decreases based on publicly available relevant
data and economic indices that are identified in the memorandum
including, but not limited to, overall claim cost data. Such
factors are exempt from the rulemaking requirements of chapter 120
and insurers may not be required to adopt the factors. The office
may publish factors for any line, but is required to annually
publish a factor only for residential property insurance by March 1
of each year.

(1)1. On or after January 1, 2011, an insurer complying
with the requirements of s. 627.7031 may use a rate for
residential property insurance, as defined in s. 627.4025,

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 447 (2010)

Amendment No.

different from the otherwise applicable filed rate as provided
in this paragraph.

2. Policies subject to this paragraph may not be counted
in the calculation under s. 627.171(2).

3. Such rates shall be filed with the office as a separate
filing. The filing must be accompanied by an actuary's
certification stating that the filing was prepared in accordance
with current actuarial standards of practice adopted by the
Actuarial Standards Board and that the statewide average rate
change is within a range consistent with applicable actuarial
principles or, if the percentage limitations of this paragraph
do not allow for a rate within a range consistent with
applicable actuarial principles, is below such range. The
initial rates used by an insurer under this paragraph may not
provide for rates that represent more than a 10-percent
statewide average rate increase over the most recently filed and
approved rate. A rate filing under this paragraph submitted in
any year following the implementation of such initial rates may
not provide for rates that represent more than a 10-percent
statewide average rate increase in any single year over the
rates in effect under this paragraph at the time of the filing.
A rate filing under this paragraph may not provide for a
percentage rate increase as to any single policyholder that
exceeds two times the statewide average rate increase provided
in the filing.

4. This paragraph does not affect the authority of the
office to disapprove a rate as inadequate or to disapprove a
rate filing for charging any insured or applicant a higher

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 447 (2010)

Amendment No.

409 premium solely because of the insured's or applicant's race,
410 color, creed, marital status, sex, or national origin. Upon
411 finding that an insurer has used any such factor in charging an
412 insured or applicant a higher premium, the office may direct the
413 insurer to make a new filing for a new rate that does not use
414 such factor.

415
416 The provisions of this subsection shall not apply to workers'
417 compensation and employer's liability insurance and to motor
418 vehicle insurance.

419 (9)

420 (d) A certification under this subsection is not rendered
421 false when, after making the subject rate filing, the insurer
422 provides the office with additional or supplementary information
423 or clarification pursuant to a formal or informal request from
424 the office or for any other reason.

425 (e) If an insurer adds additional information to a pending
426 filing that has not yet been disapproved by the office, the
427 additional information may not be required to include a new
428 certification under this subsection.

429 (f) This subsection does not apply to a filing made
430 pursuant to paragraph (2)(k).

431 Section 7. Section 627.0621, Florida Statutes, is amended
432 to read:

433 627.0621 Transparency in rate regulation.—

434 ~~(1) DEFINITIONS. As used in this section, the term:~~

435 ~~(a) "Rate filing" means any original or amended rate~~
436 ~~residential property insurance filing.~~

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 447 (2010)

Amendment No.

~~(b) "Recommendation" means any proposed, preliminary, or final recommendation from an office actuary reviewing a rate filing with respect to the issue of approval or disapproval of the rate filing or with respect to rate indications that the office would consider acceptable.~~

~~(2) WEBSITE FOR PUBLIC ACCESS TO RATE FILING INFORMATION.~~

(1)(a) With respect to any residential property rate filing, the office shall provide the following information on a publicly accessible Internet website:

(a)1. The overall rate change requested by the insurer.

(b)2. The rate change approved by the office along with all of the actuary's assumptions and recommendations forming the basis of the office's decision.

~~3. Certification by the office's actuary that, based on the actuary's knowledge, his or her recommendations are consistent with accepted actuarial principles.~~

(2)(b) For any rate filing, whether or not the filing is subject to a public hearing, the office shall provide on its website a means for any policyholder who may be affected by a proposed rate change to send an e-mail regarding the proposed rate change. Such e-mail must be accessible to the actuary assigned to review the rate filing.

Section 8. Subsections (1) and (5) of section 627.0629, Florida Statutes, are amended, and subsection (10) is added to that section, to read:

627.0629 Residential property insurance; rate filings.—

(1)(a) It is the intent of the Legislature that insurers ~~must~~ provide the most accurate pricing signals available savings

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 447 (2010)

Amendment No.

465 to encourage consumers who install or implement windstorm damage
466 mitigation techniques, alterations, or solutions to their
467 properties to prevent windstorm losses. It is also the intent of
468 the Legislature that implementation of mitigation discounts not
469 result in a loss of income to the insurers granting the
470 discounts, so that the aggregate of mitigation discounts should
471 not exceed the aggregate of the expected reduction in loss that
472 is attributable to the mitigation efforts for which discounts
473 are granted. A rate filing for residential property insurance
474 must include actuarially reasonable discounts, credits, debits,
475 or other rate differentials, or appropriate reductions in
476 deductibles, that provide the proper pricing for all properties.
477 The rate filing must take into account the presence or absence
478 of ~~on which~~ fixtures or construction techniques demonstrated to
479 reduce the amount of loss in a windstorm have been installed or
480 implemented. The fixtures or construction techniques shall
481 include, but not be limited to, fixtures or construction
482 techniques that ~~which~~ enhance roof strength, roof covering
483 performance, roof-to-wall strength, wall-to-floor-to-foundation
484 strength, opening protection, and window, door, and skylight
485 strength. Credits, debits, discounts, or other rate
486 differentials, or appropriate reductions or increases in
487 deductibles, that recognize the presence or absence of ~~for~~
488 fixtures and construction techniques that ~~which~~ meet the minimum
489 requirements of the Florida Building Code must be included in
490 the rate filing. If an insurer demonstrates that the aggregate
491 of its mitigation discounts results in a reduction to revenue
492 that exceeds the reduction of the aggregate loss that is

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 447 (2010)

Amendment No.

493 expected to result from the mitigation, the insurer may recover
494 the lost revenue through an increase in its base rates. All
495 ~~insurance companies must make a rate filing which includes the~~
496 ~~credits, discounts, or other rate differentials or reductions in~~
497 ~~deductibles by February 28, 2003.~~ By July 1, 2007, the office
498 shall reevaluate the discounts, credits, other rate
499 differentials, and appropriate reductions in deductibles for
500 fixtures and construction techniques that meet the minimum
501 requirements of the Florida Building Code, based upon actual
502 experience or any other loss relativity studies available to the
503 office. The office shall determine the discounts, credits,
504 debits, other rate differentials, and appropriate reductions or
505 increases in deductibles that reflect the full actuarial value
506 of such revaluation, which may be used by insurers in rate
507 filings.

508 ~~(b) By February 1, 2011, the Office of Insurance~~
509 ~~Regulation, in consultation with the Department of Financial~~
510 ~~Services and the Department of Community Affairs, shall develop~~
511 ~~and make publicly available a proposed method for insurers to~~
512 ~~establish discounts, credits, or other rate differentials for~~
513 ~~hurricane mitigation measures which directly correlate to the~~
514 ~~numerical rating assigned to a structure pursuant to the uniform~~
515 ~~home grading scale adopted by the Financial Services Commission~~
516 ~~pursuant to s. 215.55865, including any proposed changes to the~~
517 ~~uniform home grading scale. By October 1, 2011, the commission~~
518 ~~shall adopt rules requiring insurers to make rate filings for~~
519 ~~residential property insurance which revise insurers' discounts,~~
520 ~~credits, or other rate differentials for hurricane mitigation~~

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 447 (2010)

Amendment No.

~~measures so that such rate differentials correlate directly to the uniform home grading scale. The rules may include such changes to the uniform home grading scale as the commission determines are necessary, and may specify the minimum required discounts, credits, or other rate differentials. Such rate differentials must be consistent with generally accepted actuarial principles and wind loss mitigation studies. The rules shall allow a period of at least 2 years after the effective date of the revised mitigation discounts, credits, or other rate differentials for a property owner to obtain an inspection or otherwise qualify for the revised credit, during which time the insurer shall continue to apply the mitigation credit that was applied immediately prior to the effective date of the revised credit. Discounts, credits, and other rate differentials established for rate filings under this paragraph shall supersede, after adoption, the discounts, credits, and other rate differentials included in rate filings under paragraph (a).~~

(5) In order to provide an appropriate transition period, an insurer may, in its sole discretion, implement an approved rate filing for residential property insurance over a period of years. An insurer electing to phase in its rate filing must provide an informational notice to the office setting out its schedule for implementation of the phased-in rate filing. An insurer may include in its rate the actual cost of private market reinsurance that corresponds to available coverage of the Temporary Increase in Coverage Limits, TICL, from the Florida Hurricane Catastrophe Fund. The insurer may also include the cost of reinsurance to replace the TICL reduction implemented

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 447 (2010)

Amendment No.

pursuant to s. 215.555(17)(d)9. However, this cost for reinsurance may not ~~include any expense or profit load or~~ result in a total annual base rate increase in excess of 10 percent.

(10)(a) Contingent upon specific appropriations made to implement this subsection, in order to enhance the ability of consumers to compare premiums and to increase the accuracy and usefulness of rate and product comparison information for homeowners' insurance, the office shall develop or contract with a private entity to develop a comprehensive program for providing the consumer with all available information necessary to make an informed purchase of the insurance product that best serves the needs of the individual.

(b) In developing the comprehensive program, the office shall rely as much as is practical on information that is currently available and shall consider:

1. The most efficient means for developing, hosting, and operating a separate website that consolidates all consumer information for price comparisons, filed complaints, financial strength, underwriting, and receivership information and other data useful to consumers.

2. Whether all admitted insurers should be required to submit additional information to populate the composite website and how often such submissions must be made.

3. Whether all admitted insurers should be required to provide links from the website into each individual insurer's website in order to enable consumers to access product rate information and apply for quotations.

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 447 (2010)

Amendment No.

576 4. Developing a plan to publicize the existence,
577 availability, and value of the website.

578 5. Any other provision that would make relevant
579 homeowners' insurance information more readily available so that
580 consumers can make informed product comparisons and purchasing
581 decisions.

582 (c) Before establishing the program or website, the office
583 shall conduct a cost-benefit analysis to determine the most
584 effective approach for establishing and operating the program
585 and website. Based on the results of the analysis, the office
586 shall submit a proposed implementation plan for review and
587 approval by the Financial Services Commission. The
588 implementation plan shall include an estimated timeline for
589 establishing the program and website; a description of the data
590 and functionality to be provided by the site; a strategy for
591 publicizing the website to consumers; a recommended approach for
592 developing, hosting, and operating the website; and an estimate
593 of all major nonrecurring and recurring costs required to
594 establish and operate the website. Upon approval of the plan,
595 the office may initiate the establishment of the program.

596 Section 9. Paragraphs (b), (c), (y), (z), (aa), (bb),
597 (cc), (dd), (ee), and (ff) of subsection (6) of section 627.351,
598 Florida Statutes, are amended to read:

599 627.351 Insurance risk apportionment plans.—

600 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

601 (b)1. All insurers authorized to write one or more subject
602 lines of business in this state are subject to assessment by the
603 corporation and, for the purposes of this subsection, are

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 447 (2010)

Amendment No.

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

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

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

(II) A commercial lines account for commercial residential and commercial nonresidential policies issued by the corporation

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 447 (2010)

Amendment No.

632 or issued by the Residential Property and Casualty Joint
633 Underwriting Association and renewed by the corporation that
634 provide coverage for basic property perils on risks that are not
635 located in areas eligible for coverage in the Florida Windstorm
636 Underwriting Association as those areas were defined on January
637 1, 2002, and for such policies that do not provide coverage for
638 the peril of wind on risks that are located in such areas; and

639 (III) A high-risk account for personal residential
640 policies and commercial residential and commercial
641 nonresidential property policies issued by the corporation or
642 transferred to the corporation that provide coverage for the
643 peril of wind on risks that are located in areas eligible for
644 coverage in the Florida Windstorm Underwriting Association as
645 those areas were defined on January 1, 2002. The corporation may
646 offer policies that provide multiperil coverage and the
647 corporation shall continue to offer policies that provide
648 coverage only for the peril of wind for risks located in areas
649 eligible for coverage in the high-risk account. In issuing
650 multiperil coverage, the corporation may use its approved policy
651 forms and rates for the personal lines account. An applicant or
652 insured who is eligible to purchase a multiperil policy from the
653 corporation may purchase a multiperil policy from an authorized
654 insurer without prejudice to the applicant's or insured's
655 eligibility to prospectively purchase a policy that provides
656 coverage only for the peril of wind from the corporation. An
657 applicant or insured who is eligible for a corporation policy
658 that provides coverage only for the peril of wind may elect to
659 purchase or retain such policy and also purchase or retain

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 447 (2010)

Amendment No.

660 coverage excluding wind from an authorized insurer without
661 prejudice to the applicant's or insured's eligibility to
662 prospectively purchase a policy that provides multiperil
663 coverage from the corporation. It is the goal of the Legislature
664 that there would be an overall average savings of 10 percent or
665 more for a policyholder who currently has a wind-only policy
666 with the corporation, and an ex-wind policy with a voluntary
667 insurer or the corporation, and who then obtains a multiperil
668 policy from the corporation. It is the intent of the Legislature
669 that the offer of multiperil coverage in the high-risk account
670 be made and implemented in a manner that does not adversely
671 affect the tax-exempt status of the corporation or
672 creditworthiness of or security for currently outstanding
673 financing obligations or credit facilities of the high-risk
674 account, the personal lines account, or the commercial lines
675 account. The high-risk account must also include quota share
676 primary insurance under subparagraph (c)2. The area eligible for
677 coverage under the high-risk account also includes the area
678 within Port Canaveral, which is bordered on the south by the
679 City of Cape Canaveral, bordered on the west by the Banana
680 River, and bordered on the north by Federal Government property.

681 b. The three separate accounts must be maintained as long
682 as financing obligations entered into by the Florida Windstorm
683 Underwriting Association or Residential Property and Casualty
684 Joint Underwriting Association are outstanding, in accordance
685 with the terms of the corresponding financing documents. When
686 the financing obligations are no longer outstanding, in
687 accordance with the terms of the corresponding financing

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 447 (2010)

Amendment No.

documents, the corporation may use a single account for all revenues, assets, liabilities, losses, and expenses of the corporation. Consistent with the requirement of this subparagraph and prudent investment policies that minimize the cost of carrying debt, the board shall exercise its best efforts to retire existing debt or to obtain approval of necessary parties to amend the terms of existing debt, so as to structure the most efficient plan to consolidate the three separate accounts into a single account. By February 1, 2007, the board shall submit a report to the Financial Services Commission, the President of the Senate, and the Speaker of the House of Representatives which includes an analysis of consolidating the accounts, the actions the board has taken to minimize the cost of carrying debt, and its recommendations for executing the most efficient plan.

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

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 447 (2010)

Amendment No.

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

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

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

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

724 a. After accounting for the Citizens policyholder
725 surcharge imposed under sub-subparagraph i., when the remaining
726 projected deficit incurred in a particular calendar year is not
727 greater than 6 percent of the aggregate statewide direct written
728 premium for the subject lines of business for the prior calendar
729 year, the entire deficit shall be recovered through regular
730 assessments of assessable insurers under paragraph (p) and
731 assessable insureds.

732 b. After accounting for the Citizens policyholder
733 surcharge imposed under sub-subparagraph i., when the remaining
734 projected deficit incurred in a particular calendar year exceeds
735 6 percent of the aggregate statewide direct written premium for
736 the subject lines of business for the prior calendar year, the
737 corporation shall levy regular assessments on assessable
738 insurers under paragraph (p) and on assessable insureds in an
739 amount equal to the greater of 6 percent of the deficit or 6
740 percent of the aggregate statewide direct written premium for
741 the subject lines of business for the prior calendar year. Any

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 447 (2010)

Amendment No.

742 remaining deficit shall be recovered through emergency
743 assessments under sub-subparagraph d.

744 c. Each assessable insurer's share of the amount being
745 assessed under sub-subparagraph a. or sub-subparagraph b. shall
746 be in the proportion that the assessable insurer's direct
747 written premium for the subject lines of business for the year
748 preceding the assessment bears to the aggregate statewide direct
749 written premium for the subject lines of business for that year.
750 The assessment percentage applicable to each assessable insured
751 is the ratio of the amount being assessed under sub-subparagraph
752 a. or sub-subparagraph b. to the aggregate statewide direct
753 written premium for the subject lines of business for the prior
754 year. Assessments levied by the corporation on assessable
755 insurers under sub-subparagraphs a. and b. shall be paid as
756 required by the corporation's plan of operation and paragraph
757 (p). Assessments levied by the corporation on assessable
758 insureds under sub-subparagraphs a. and b. shall be collected by
759 the surplus lines agent at the time the surplus lines agent
760 collects the surplus lines tax required by s. 626.932 and shall
761 be paid to the Florida Surplus Lines Service Office at the time
762 the surplus lines agent pays the surplus lines tax to the
763 Florida Surplus Lines Service Office. Upon receipt of regular
764 assessments from surplus lines agents, the Florida Surplus Lines
765 Service Office shall transfer the assessments directly to the
766 corporation as determined by the corporation.

767 d. Upon a determination by the board of governors that a
768 deficit in an account exceeds the amount that will be recovered
769 through regular assessments under sub-subparagraph a. or sub-

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 447 (2010)

Amendment No.

770 subparagraph b., plus the amount that is expected to be
771 recovered through surcharges under sub-subparagraph i., as to
772 the remaining projected deficit the board shall levy, after
773 verification by the office, emergency assessments, for as many
774 years as necessary to cover the deficits, to be collected by
775 assessable insurers and the corporation and collected from
776 assessable insureds upon issuance or renewal of policies for
777 subject lines of business, excluding National Flood Insurance
778 policies. The amount of the emergency assessment collected in a
779 particular year shall be a uniform percentage of that year's
780 direct written premium for subject lines of business and all
781 accounts of the corporation, excluding National Flood Insurance
782 Program policy premiums, as annually determined by the board and
783 verified by the office. The office shall verify the arithmetic
784 calculations involved in the board's determination within 30
785 days after receipt of the information on which the determination
786 was based. Notwithstanding any other provision of law, the
787 corporation and each assessable insurer that writes subject
788 lines of business shall collect emergency assessments from its
789 policyholders without such obligation being affected by any
790 credit, limitation, exemption, or deferment. Emergency
791 assessments levied by the corporation on assessable insureds
792 shall be collected by the surplus lines agent at the time the
793 surplus lines agent collects the surplus lines tax required by
794 s. 626.932 and shall be paid to the Florida Surplus Lines
795 Service Office at the time the surplus lines agent pays the
796 surplus lines tax to the Florida Surplus Lines Service Office.
797 The emergency assessments so collected shall be transferred

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 447 (2010)

Amendment No.

798 directly to the corporation on a periodic basis as determined by
799 the corporation and shall be held by the corporation solely in
800 the applicable account. The aggregate amount of emergency
801 assessments levied for an account under this sub-subparagraph in
802 any calendar year may, at the discretion of the board of
803 governors, be less than but may not exceed the greater of 10
804 percent of the amount needed to cover the deficit, plus
805 interest, fees, commissions, required reserves, and other costs
806 associated with financing of the original deficit, or 10 percent
807 of the aggregate statewide direct written premium for subject
808 lines of business and for all accounts of the corporation for
809 the prior year, plus interest, fees, commissions, required
810 reserves, and other costs associated with financing the deficit.

811 e. The corporation may pledge the proceeds of assessments,
812 projected recoveries from the Florida Hurricane Catastrophe
813 Fund, other insurance and reinsurance recoverables, policyholder
814 surcharges and other surcharges, and other funds available to
815 the corporation as the source of revenue for and to secure bonds
816 issued under paragraph (p), bonds or other indebtedness issued
817 under subparagraph (c)3., or lines of credit or other financing
818 mechanisms issued or created under this subsection, or to retire
819 any other debt incurred as a result of deficits or events giving
820 rise to deficits, or in any other way that the board determines
821 will efficiently recover such deficits. The purpose of the lines
822 of credit or other financing mechanisms is to provide additional
823 resources to assist the corporation in covering claims and
824 expenses attributable to a catastrophe. As used in this
825 subsection, the term "assessments" includes regular assessments

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 447 (2010)

Amendment No.

826 under sub-subparagraph a., sub-subparagraph b., or subparagraph
827 (p)1. and emergency assessments under sub-subparagraph d.
828 Emergency assessments collected under sub-subparagraph d. are
829 not part of an insurer's rates, are not premium, and are not
830 subject to premium tax, fees, or commissions; however, failure
831 to pay the emergency assessment shall be treated as failure to
832 pay premium. The emergency assessments under sub-subparagraph d.
833 shall continue as long as any bonds issued or other indebtedness
834 incurred with respect to a deficit for which the assessment was
835 imposed remain outstanding, unless adequate provision has been
836 made for the payment of such bonds or other indebtedness
837 pursuant to the documents governing such bonds or other
838 indebtedness.

839 f. As used in this subsection for purposes of any deficit
840 incurred on or after January 25, 2007, the term "subject lines
841 of business" means insurance written by assessable insurers or
842 procured by assessable insureds for all property and casualty
843 lines of business in this state, but not including workers'
844 compensation or medical malpractice. As used in the sub-
845 subparagraph, the term "property and casualty lines of business"
846 includes all lines of business identified on Form 2, Exhibit of
847 Premiums and Losses, in the annual statement required of
848 authorized insurers by s. 624.424 and any rule adopted under
849 this section, except for those lines identified as accident and
850 health insurance and except for policies written under the
851 National Flood Insurance Program or the Federal Crop Insurance
852 Program. For purposes of this sub-subparagraph, the term

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 447 (2010)

Amendment No.

"workers' compensation" includes both workers' compensation insurance and excess workers' compensation insurance.

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

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

i. (I) If a deficit is incurred in any account in 2008 or thereafter, the board of governors shall levy a Citizens policyholder surcharge against all policyholders of the corporation.

(II) The policyholder's liability for the Citizens policyholder surcharge attaches on the date of the event giving rise to an order levying the surcharge or the date of the order, whichever is earlier. The Citizens policyholder surcharge is payable upon cancellation or termination of the policy, upon renewal of the policy, or upon issuance of a new policy by Citizens within the first 12 months after the date of the levy

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 447 (2010)

Amendment No.

880 or the period of time necessary to fully collect the Citizens
881 policyholder surcharge amount.

882 (III) The Citizens policyholder surcharge for a 12-month
883 period, which shall be levied collected at the time of issuance
884 or renewal of a policy, as a uniform percentage of the premium
885 for the policy of up to 15 percent of such premium, which funds
886 shall be used to offset the deficit.

887 (IV) The corporation may not levy any regular assessments
888 under sub-subparagraph a. or sub-subparagraph b. with respect to
889 a particular year's deficit until the corporation has first
890 levied a Citizens policyholder surcharge under this sub-
891 paragraph in the full amount authorized by this sub-
892 paragraph.

893 (V) Citizens policyholder surcharges under this sub-
894 paragraph are not considered premium and are not subject to
895 commissions, fees, or premium taxes. However, failure to pay
896 such surcharges shall be treated as failure to pay premium.

897 j. If the amount of any assessments or surcharges
898 collected from corporation policyholders, assessable insurers or
899 their policyholders, or assessable insureds exceeds the amount
900 of the deficits, such excess amounts shall be remitted to and
901 retained by the corporation in a reserve to be used by the
902 corporation, as determined by the board of governors and
903 approved by the office, to pay claims or reduce any past,
904 present, or future plan-year deficits or to reduce outstanding
905 debt.

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

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 447 (2010)

Amendment No.

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

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

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

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

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

e. Commercial lines nonresidential property insurance forms that cover the peril of wind only. The forms are applicable only to nonresidential properties located in areas

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 447 (2010)

Amendment No.

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

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

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

945 (I) "Quota share primary insurance" means an arrangement
946 in which the primary hurricane coverage of an eligible risk is
947 provided in specified percentages by the corporation and an
948 authorized insurer. The corporation and authorized insurer are
949 each solely responsible for a specified percentage of hurricane
950 coverage of an eligible risk as set forth in a quota share
951 primary insurance agreement between the corporation and an
952 authorized insurer and the insurance contract. The
953 responsibility of the corporation or authorized insurer to pay
954 its specified percentage of hurricane losses of an eligible
955 risk, as set forth in the quota share primary insurance
956 agreement, may not be altered by the inability of the other
957 party to the agreement to pay its specified percentage of
958 hurricane losses. Eligible risks that are provided hurricane
959 coverage through a quota share primary insurance arrangement
960 must be provided policy forms that set forth the obligations of
961 the corporation and authorized insurer under the arrangement,

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 447 (2010)

Amendment No.

962 clearly specify the percentages of quota share primary insurance
963 provided by the corporation and authorized insurer, and
964 conspicuously and clearly state that neither the authorized
965 insurer nor the corporation may be held responsible beyond its
966 specified percentage of coverage of hurricane losses.

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

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

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

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

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

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 447 (2010)

Amendment No.

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

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

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

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

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 447 (2010)

Amendment No.

1018 eligible risks, the payment of premium to the corporation, and
1019 arrangements for the adjustment and payment of hurricane claims
1020 incurred on eligible risks by the claims adjuster and personnel
1021 of the authorized insurer. Entering into a quota sharing
1022 insurance agreement between the corporation and an authorized
1023 insurer shall be voluntary and at the discretion of the
1024 authorized insurer.

1025 3. May provide that the corporation may employ or
1026 otherwise contract with individuals or other entities to provide
1027 administrative or professional services that may be appropriate
1028 to effectuate the plan. The corporation shall have the power to
1029 borrow funds, by issuing bonds or by incurring other
1030 indebtedness, and shall have other powers reasonably necessary
1031 to effectuate the requirements of this subsection, including,
1032 without limitation, the power to issue bonds and incur other
1033 indebtedness in order to refinance outstanding bonds or other
1034 indebtedness. The corporation may, but is not required to, seek
1035 judicial validation of its bonds or other indebtedness under
1036 chapter 75. The corporation may issue bonds or incur other
1037 indebtedness, or have bonds issued on its behalf by a unit of
1038 local government pursuant to subparagraph (p)2., in the absence
1039 of a hurricane or other weather-related event, upon a
1040 determination by the corporation, subject to approval by the
1041 office, that such action would enable it to efficiently meet the
1042 financial obligations of the corporation and that such
1043 financings are reasonably necessary to effectuate the
1044 requirements of this subsection. The corporation is authorized
1045 to take all actions needed to facilitate tax-free status for any

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 447 (2010)

Amendment No.

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

4.a. Must require that the corporation operate subject to the supervision and approval of a board of governors consisting of eight individuals who are residents of this state, from different geographical areas of this state. The Governor, the Chief Financial Officer, the President of the Senate, and the Speaker of the House of Representatives shall each appoint two members of the board. At least one of the two members appointed by each appointing officer must have demonstrated expertise in insurance. The Chief Financial Officer shall designate one of the appointees as chair. All board members serve at the pleasure of the appointing officer. All members of the board of governors are subject to removal at will by the officers who appointed them. All board members, including the chair, must be appointed to serve for 3-year terms beginning annually on a date designated by the plan. However, for the first term beginning on or after July 1, 2009, each appointing officer shall appoint one

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 447 (2010)

Amendment No.

1074 member of the board for a 2-year term and one member for a 3-
1075 year term. Any board vacancy shall be filled for the unexpired
1076 term by the appointing officer. The Chief Financial Officer
1077 shall appoint a technical advisory group to provide information
1078 and advice to the board of governors in connection with the
1079 board's duties under this subsection. The executive director and
1080 senior managers of the corporation shall be engaged by the board
1081 and serve at the pleasure of the board. Any executive director
1082 appointed on or after July 1, 2006, is subject to confirmation
1083 by the Senate. The executive director is responsible for
1084 employing other staff as the corporation may require, subject to
1085 review and concurrence by the board.

1086 b. The board shall create a Market Accountability Advisory
1087 Committee to assist the corporation in developing awareness of
1088 its rates and its customer and agent service levels in
1089 relationship to the voluntary market insurers writing similar
1090 coverage. The members of the advisory committee shall consist of
1091 the following 11 persons, one of whom must be elected chair by
1092 the members of the committee: four representatives, one
1093 appointed by the Florida Association of Insurance Agents, one by
1094 the Florida Association of Insurance and Financial Advisors, one
1095 by the Professional Insurance Agents of Florida, and one by the
1096 Latin American Association of Insurance Agencies; three
1097 representatives appointed by the insurers with the three highest
1098 voluntary market share of residential property insurance
1099 business in the state; one representative from the Office of
1100 Insurance Regulation; one consumer appointed by the board who is
1101 insured by the corporation at the time of appointment to the

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 447 (2010)

Amendment No.

1102 committee; one representative appointed by the Florida
1103 Association of Realtors; and one representative appointed by the
1104 Florida Bankers Association. All members must serve for 3-year
1105 terms and may serve for consecutive terms. The committee shall
1106 report to the corporation at each board meeting on insurance
1107 market issues which may include rates and rate competition with
1108 the voluntary market; service, including policy issuance, claims
1109 processing, and general responsiveness to policyholders,
1110 applicants, and agents; and matters relating to depopulation.

1111 5. Must provide a procedure for determining the
1112 eligibility of a risk for coverage, as follows:

1113 a. Subject to the provisions of s. 627.3517, with respect
1114 to personal lines residential risks, if the risk is offered
1115 coverage from an authorized insurer at the insurer's approved
1116 rate under either a standard policy including wind coverage or,
1117 if consistent with the insurer's underwriting rules as filed
1118 with the office, a basic policy including wind coverage, for a
1119 new application to the corporation for coverage, the risk is not
1120 eligible for any policy issued by the corporation unless the
1121 premium for coverage from the authorized insurer is more than 15
1122 percent greater than the premium for comparable coverage from
1123 the corporation. If the risk is not able to obtain any such
1124 offer, the risk is eligible for either a standard policy
1125 including wind coverage or a basic policy including wind
1126 coverage issued by the corporation; however, if the risk could
1127 not be insured under a standard policy including wind coverage
1128 regardless of market conditions, the risk shall be eligible for
1129 a basic policy including wind coverage unless rejected under

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 447 (2010)

Amendment No.

subparagraph 8. However, with regard to a policyholder of the corporation or a policyholder removed from the corporation through an assumption agreement until the end of the assumption period, the policyholder remains eligible for coverage from the corporation regardless of any offer of coverage from an authorized insurer or surplus lines insurer. The corporation shall determine the type of policy to be provided on the basis of objective standards specified in the underwriting manual and based on generally accepted underwriting practices.

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

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

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

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 447 (2010)

Amendment No.

1157 If the producing agent is unwilling or unable to accept
1158 appointment, the new insurer shall pay the agent in accordance
1159 with sub-sub-sub-subparagraph (A).

1160 (II) When the corporation enters into a contractual
1161 agreement for a take-out plan, the producing agent of record of
1162 the corporation policy is entitled to retain any unearned
1163 commission on the policy, and the insurer shall:

1164 (A) Pay to the producing agent of record of the
1165 corporation policy, for the first year, an amount that is the
1166 greater of the insurer's usual and customary commission for the
1167 type of policy written or a fee equal to the usual and customary
1168 commission of the corporation; or

1169 (B) Offer to allow the producing agent of record of the
1170 corporation policy to continue servicing the policy for a period
1171 of not less than 1 year and offer to pay the agent the greater
1172 of the insurer's or the corporation's usual and customary
1173 commission for the type of policy written.

1174
1175 If the producing agent is unwilling or unable to accept
1176 appointment, the new insurer shall pay the agent in accordance
1177 with sub-sub-sub-subparagraph (A).

1178 b. With respect to commercial lines residential risks, for
1179 a new application to the corporation for coverage, if the risk
1180 is offered coverage under a policy including wind coverage from
1181 an authorized insurer at its approved rate, the risk is not
1182 eligible for any policy issued by the corporation unless the
1183 premium for coverage from the authorized insurer is more than 15
1184 percent greater than the premium for comparable coverage from

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 447 (2010)

Amendment No.

the corporation. If the risk is not able to obtain any such offer, the risk is eligible for a policy including wind coverage issued by the corporation. However, with regard to a policyholder of the corporation or a policyholder removed from the corporation through an assumption agreement until the end of the assumption period, the policyholder remains eligible for coverage from the corporation regardless of any offer of coverage from an authorized insurer or surplus lines insurer.

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

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

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

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 447 (2010)

Amendment No.

1211 If the producing agent is unwilling or unable to accept
1212 appointment, the new insurer shall pay the agent in accordance
1213 with sub-sub-sub-subparagraph (A).

1214 (II) When the corporation enters into a contractual
1215 agreement for a take-out plan, the producing agent of record of
1216 the corporation policy is entitled to retain any unearned
1217 commission on the policy, and the insurer shall:

1218 (A) Pay to the producing agent of record of the
1219 corporation policy, for the first year, an amount that is the
1220 greater of the insurer's usual and customary commission for the
1221 type of policy written or a fee equal to the usual and customary
1222 commission of the corporation; or

1223 (B) Offer to allow the producing agent of record of the
1224 corporation policy to continue servicing the policy for a period
1225 of not less than 1 year and offer to pay the agent the greater
1226 of the insurer's or the corporation's usual and customary
1227 commission for the type of policy written.

1228
1229 If the producing agent is unwilling or unable to accept
1230 appointment, the new insurer shall pay the agent in accordance
1231 with sub-sub-sub-subparagraph (A).

1232 c. For purposes of determining comparable coverage under
1233 sub-subparagraphs a. and b., the comparison shall be based on
1234 those forms and coverages that are reasonably comparable. The
1235 corporation may rely on a determination of comparable coverage
1236 and premium made by the producing agent who submits the
1237 application to the corporation, made in the agent's capacity as
1238 the corporation's agent. A comparison may be made solely of the

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 447 (2010)

Amendment No.

1239 premium with respect to the main building or structure only on
1240 the following basis: the same coverage A or other building
1241 limits; the same percentage hurricane deductible that applies on
1242 an annual basis or that applies to each hurricane for commercial
1243 residential property; the same percentage of ordinance and law
1244 coverage, if the same limit is offered by both the corporation
1245 and the authorized insurer; the same mitigation credits, to the
1246 extent the same types of credits are offered both by the
1247 corporation and the authorized insurer; the same method for loss
1248 payment, such as replacement cost or actual cash value, if the
1249 same method is offered both by the corporation and the
1250 authorized insurer in accordance with underwriting rules; and
1251 any other form or coverage that is reasonably comparable as
1252 determined by the board. If an application is submitted to the
1253 corporation for wind-only coverage in the high-risk account, the
1254 premium for the corporation's wind-only policy plus the premium
1255 for the ex-wind policy that is offered by an authorized insurer
1256 to the applicant shall be compared to the premium for multiperil
1257 coverage offered by an authorized insurer, subject to the
1258 standards for comparison specified in this subparagraph. If the
1259 corporation or the applicant requests from the authorized
1260 insurer a breakdown of the premium of the offer by types of
1261 coverage so that a comparison may be made by the corporation or
1262 its agent and the authorized insurer refuses or is unable to
1263 provide such information, the corporation may treat the offer as
1264 not being an offer of coverage from an authorized insurer at the
1265 insurer's approved rate.

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 447 (2010)

Amendment No.

1266 6. Must include rules for classifications of risks and
1267 rates therefor.

1268 7. Must provide that if premium and investment income for
1269 an account attributable to a particular calendar year are in
1270 excess of projected losses and expenses for the account
1271 attributable to that year, such excess shall be held in surplus
1272 in the account. Such surplus shall be available to defray
1273 deficits in that account as to future years and shall be used
1274 for that purpose prior to assessing assessable insurers and
1275 assessable insureds as to any calendar year.

1276 8. Must provide objective criteria and procedures to be
1277 uniformly applied for all applicants in determining whether an
1278 individual risk is so hazardous as to be uninsurable. In making
1279 this determination and in establishing the criteria and
1280 procedures, the following shall be considered:

1281 a. Whether the likelihood of a loss for the individual
1282 risk is substantially higher than for other risks of the same
1283 class; and

1284 b. Whether the uncertainty associated with the individual
1285 risk is such that an appropriate premium cannot be determined.

1286
1287 The acceptance or rejection of a risk by the corporation shall
1288 be construed as the private placement of insurance, and the
1289 provisions of chapter 120 shall not apply.

1290 9. Must provide that the corporation shall make its best
1291 efforts to procure catastrophe reinsurance at reasonable rates,
1292 to cover its projected 100-year probable maximum loss as
1293 determined by the board of governors.

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 447 (2010)

Amendment No.

1294 10. The policies issued by the corporation must provide
1295 that, if the corporation or the market assistance plan obtains
1296 an offer from an authorized insurer to cover the risk at its
1297 approved rates, the risk is no longer eligible for renewal
1298 through the corporation, except as otherwise provided in this
1299 subsection.

1300 11. Corporation policies and applications must include a
1301 notice that the corporation policy could, under this section, be
1302 replaced with a policy issued by an authorized insurer that does
1303 not provide coverage identical to the coverage provided by the
1304 corporation. The notice shall also specify that acceptance of
1305 corporation coverage creates a conclusive presumption that the
1306 applicant or policyholder is aware of this potential.

1307 12. May establish, subject to approval by the office,
1308 different eligibility requirements and operational procedures
1309 for any line or type of coverage for any specified county or
1310 area if the board determines that such changes to the
1311 eligibility requirements and operational procedures are
1312 justified due to the voluntary market being sufficiently stable
1313 and competitive in such area or for such line or type of
1314 coverage and that consumers who, in good faith, are unable to
1315 obtain insurance through the voluntary market through ordinary
1316 methods would continue to have access to coverage from the
1317 corporation. When coverage is sought in connection with a real
1318 property transfer, such requirements and procedures shall not
1319 provide for an effective date of coverage later than the date of
1320 the closing of the transfer as established by the transferor,
1321 the transferee, and, if applicable, the lender.

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 447 (2010)

Amendment No.

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

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

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 447 (2010)

Amendment No.

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

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

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

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

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

19.a. Shall require the agent to obtain from any applicant for coverage the following acknowledgement, signed by the applicant, and shall require the agent of record to obtain the following acknowledgment from each corporation policyholder prior to the policy's first renewal after the effective date of this act:

ACKNOWLEDGEMENT OF POTENTIAL SURCHARGE AND ASSESSMENT

LIABILITY:

1. I UNDERSTAND, AS A CITIZENS PROPERTY INSURANCE CORPORATION POLICYHOLDER, THAT IF THE CORPORATION SUSTAINS A DEFICIT AS A RESULT OF HURRICANE LOSSES OR FOR ANY OTHER REASON, MY POLICY COULD BE SUBJECT TO CITIZENS POLICYHOLDER SURCHARGES,

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 447 (2010)

Amendment No.

1377 WHICH WOULD BE DUE AND PAYABLE UPON ISSUANCE, RENEWAL,
1378 CANCELLATION, OR TERMINATION OF THE POLICY, AND THAT
1379 THE SURCHARGES COULD BE AS HIGH AS 15 PERCENT OF MY
1380 PREMIUM FOR DEFICITS IN EACH OF THREE CITIZENS
1381 ACCOUNTS, OR A DIFFERENT AMOUNT AS ESTABLISHED BY THE
1382 FLORIDA LEGISLATURE.

1383 2. I ALSO UNDERSTAND THAT I MAY BE SUBJECT TO
1384 EMERGENCY ASSESSMENTS TO THE SAME EXTENT AS
1385 POLICYHOLDERS OF OTHER INSURANCE COMPANIES.
1386

1387 b. The corporation shall permanently maintain a signed
1388 copy of the signed acknowledgement required by this
1389 subparagraph, and the agent may also retain a copy.

1390 c. The signed acknowledgement form creates a conclusive
1391 presumption that the policyholder understood and accepted his or
1392 her potential surcharge and assessment liability as a Citizens
1393 policyholder.

1394 ~~(y) It is the intent of the Legislature that the~~
1395 ~~amendments to this subsection enacted in 2002 should, over time,~~
1396 ~~reduce the probable maximum windstorm losses in the residual~~
1397 ~~markets and should reduce the potential assessments to be levied~~
1398 ~~on property insurers and policyholders statewide. In furtherance~~
1399 ~~of this intent:~~

1400 ~~1. The board shall, on or before February 1 of each year,~~
1401 ~~provide a report to the President of the Senate and the Speaker~~
1402 ~~of the House of Representatives showing the reduction or~~
1403 ~~increase in the 100-year probable maximum loss attributable to~~
1404 ~~wind-only coverages and the quota share program under this~~

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 447 (2010)

Amendment No.

1405 ~~subsection combined, as compared to the benchmark 100-year~~
1406 ~~probable maximum loss of the Florida Windstorm Underwriting~~
1407 ~~Association. For purposes of this paragraph, the benchmark 100-~~
1408 ~~year probable maximum loss of the Florida Windstorm Underwriting~~
1409 ~~Association shall be the calculation dated February 2001 and~~
1410 ~~based on November 30, 2000, exposures. In order to ensure~~
1411 ~~comparability of data, the board shall use the same methods for~~
1412 ~~calculating its probable maximum loss as were used to calculate~~
1413 ~~the benchmark probable maximum loss.~~

1414 ~~2. Beginning December 1, 2010, if the report under~~
1415 ~~subparagraph 1. for any year indicates that the 100-year~~
1416 ~~probable maximum loss attributable to wind-only coverages and~~
1417 ~~the quota share program combined does not reflect a reduction of~~
1418 ~~at least 25 percent from the benchmark, the board shall reduce~~
1419 ~~the boundaries of the high-risk area eligible for wind-only~~
1420 ~~coverages under this subsection in a manner calculated to reduce~~
1421 ~~such probable maximum loss to an amount at least 25 percent~~
1422 ~~below the benchmark.~~

1423 ~~3. Beginning February 1, 2015, if the report under~~
1424 ~~subparagraph 1. for any year indicates that the 100-year~~
1425 ~~probable maximum loss attributable to wind-only coverages and~~
1426 ~~the quota share program combined does not reflect a reduction of~~
1427 ~~at least 50 percent from the benchmark, the boundaries of the~~
1428 ~~high-risk area eligible for wind-only coverages under this~~
1429 ~~subsection shall be reduced by the elimination of any area that~~
1430 ~~is not seaward of a line 1,000 feet inland from the Intracoastal~~
1431 ~~Waterway.~~

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 447 (2010)

Amendment No.

1432 (y)~~(z)~~ In enacting the provisions of this section, the
1433 Legislature recognizes that both the Florida Windstorm
1434 Underwriting Association and the Residential Property and
1435 Casualty Joint Underwriting Association have entered into
1436 financing arrangements that obligate each entity to service its
1437 debts and maintain the capacity to repay funds secured under
1438 these financing arrangements. It is the intent of the
1439 Legislature that nothing in this section be construed to
1440 compromise, diminish, or interfere with the rights of creditors
1441 under such financing arrangements. It is further the intent of
1442 the Legislature to preserve the obligations of the Florida
1443 Windstorm Underwriting Association and Residential Property and
1444 Casualty Joint Underwriting Association with regard to
1445 outstanding financing arrangements, with such obligations
1446 passing entirely and unchanged to the corporation and,
1447 specifically, to the applicable account of the corporation. So
1448 long as any bonds, notes, indebtedness, or other financing
1449 obligations of the Florida Windstorm Underwriting Association or
1450 the Residential Property and Casualty Joint Underwriting
1451 Association are outstanding, under the terms of the financing
1452 documents pertaining to them, the governing board of the
1453 corporation shall have and shall exercise the authority to levy,
1454 charge, collect, and receive all premiums, assessments,
1455 surcharges, charges, revenues, and receipts that the
1456 associations had authority to levy, charge, collect, or receive
1457 under the provisions of subsection (2) and this subsection,
1458 respectively, as they existed on January 1, 2002, to provide
1459 moneys, without exercise of the authority provided by this

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 447 (2010)

Amendment No.

subsection, in at least the amounts, and by the times, as would be provided under those former provisions of subsection (2) or this subsection, respectively, so that the value, amount, and collectability of any assets, revenues, or revenue source pledged or committed to, or any lien thereon securing such outstanding bonds, notes, indebtedness, or other financing obligations will not be diminished, impaired, or adversely affected by the amendments made by this act and to permit compliance with all provisions of financing documents pertaining to such bonds, notes, indebtedness, or other financing obligations, or the security or credit enhancement for them, and any reference in this subsection to bonds, notes, indebtedness, financing obligations, or similar obligations, of the corporation shall include like instruments or contracts of the Florida Windstorm Underwriting Association and the Residential Property and Casualty Joint Underwriting Association to the extent not inconsistent with the provisions of the financing documents pertaining to them.

(z)~~(aa)~~ The corporation shall not require the securing of flood insurance as a condition of coverage if the insured or applicant executes a form approved by the office affirming that flood insurance is not provided by the corporation and that if flood insurance is not secured by the applicant or insured in addition to coverage by the corporation, the risk will not be covered for flood damage. A corporation policyholder electing not to secure flood insurance and executing a form as provided herein making a claim for water damage against the corporation shall have the burden of proving the damage was not caused by

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 447 (2010)

Amendment No.

1488 flooding. Notwithstanding other provisions of this subsection,
1489 the corporation may deny coverage to an applicant or insured who
1490 refuses to execute the form described herein.

1491 (aa)~~(bb)~~ A salaried employee of the corporation who
1492 performs policy administration services subsequent to the
1493 effectuation of a corporation policy is not required to be
1494 licensed as an agent under the provisions of s. 626.112.

1495 (bb)~~(ee)~~ By February 1, 2007, the corporation shall submit
1496 a report to the President of the Senate, the Speaker of the
1497 House of Representatives, the minority party leaders of the
1498 Senate and the House of Representatives, and the chairs of the
1499 standing committees of the Senate and the House of
1500 Representatives having jurisdiction over matters relating to
1501 property and casualty insurance. In preparing the report, the
1502 corporation shall consult with the Office of Insurance
1503 Regulation, the Department of Financial Services, and any other
1504 party the corporation determines appropriate. The report must
1505 include all findings and recommendations on the feasibility of
1506 requiring authorized insurers that issue and service personal
1507 and commercial residential policies and commercial
1508 nonresidential policies that provide coverage for basic property
1509 perils except for the peril of wind to issue and service for a
1510 fee personal and commercial residential policies and commercial
1511 nonresidential policies providing coverage for the peril of wind
1512 issued by the corporation. The report must include:

1513 1. The expense savings to the corporation of issuing and
1514 servicing such policies as determined by a cost-benefit
1515 analysis.

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 447 (2010)

Amendment No.

2. The expenses and liability to authorized insurers associated with issuing and servicing such policies.

3. The effect on service to policyholders of the corporation relating to issuing and servicing such policies.

4. The effect on the producing agent of the corporation of issuing and servicing such policies.

5. Recommendations as to the amount of the fee which should be paid to authorized insurers for issuing and servicing such policies.

6. The effect that issuing and servicing such policies will have on the corporation's number of policies, total insured value, and probable maximum loss.

(cc)~~(dd)~~ There shall be no liability on the part of, and no cause of action of any nature shall arise against, producing agents of record of the corporation or employees of such agents for insolvency of any take-out insurer.

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

(ee)~~(ff)~~ The office may establish a pilot program to offer optional sinkhole coverage in one or more counties or other territories of the corporation for the purpose of implementing s. 627.706, as amended by s. 30, chapter 2007-1, Laws of Florida. Under the pilot program, the corporation is not required to issue a notice of nonrenewal to exclude sinkhole coverage upon the renewal of existing policies, but may exclude such coverage using a notice of coverage change.

Section 10. Paragraph (b) of subsection (2) of section 627.4133, Florida Statutes, is amended to read:

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 447 (2010)

Amendment No.

1544 627.4133 Notice of cancellation, nonrenewal, or renewal
1545 premium.—

1546 (2) With respect to any personal lines or commercial
1547 residential property insurance policy, including, but not
1548 limited to, any homeowner's, mobile home owner's, farmowner's,
1549 condominium association, condominium unit owner's, apartment
1550 building, or other policy covering a residential structure or
1551 its contents:

1552 (b) The insurer shall give the named insured written
1553 notice of nonrenewal, cancellation, or termination at least 100
1554 days prior to the effective date of the nonrenewal,
1555 cancellation, or termination. However, the insurer shall give at
1556 least 100 days' written notice, or written notice by June 1,
1557 whichever is earlier, for any nonrenewal, cancellation, or
1558 termination that would be effective between June 1 and November
1559 30. The notice must include the reason or reasons for the
1560 nonrenewal, cancellation, or termination, except that:

1561 1. The insurer shall give the named insured written notice
1562 of nonrenewal, cancellation, or termination at least 180 days
1563 prior to the effective date of the nonrenewal, cancellation, or
1564 termination for a named insured whose residential structure has
1565 been insured by that insurer or an affiliated insurer for at
1566 least a 5-year period immediately prior to the date of the
1567 written notice.

1568 2. When cancellation is for nonpayment of premium, at
1569 least 10 days' written notice of cancellation accompanied by the
1570 reason therefor shall be given. As used in this subparagraph,
1571 the term "nonpayment of premium" means failure of the named

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 447 (2010)

Amendment No.

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

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

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 447 (2010)

Amendment No.

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

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

b. A policy that is nonrenewed by Citizens Property Insurance Corporation, pursuant to s. 627.351(6), for a policy that has been assumed by an authorized insurer offering replacement or renewal coverage to the policyholder.

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

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 447 (2010)

Amendment No.

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

Section 11. Section 627.41341, Florida Statutes, is created to read:

627.41341 Notice of change in policy terms.-

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

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

(b) "Policy" means a written contract of personal lines insurance or a written agreement for or effecting insurance, or the certificate of such insurance, by whatever name called, and includes all clauses, riders, endorsements, and papers which are a part of such policy. The term "policy" does not include a binder as defined in s. 627.420 unless the duration of the binder period exceeds 60 days.

(c) "Renewal" means the issuance and delivery by an insurer of a policy superseding at the end of the policy period a policy previously issued and delivered by the same insurer or

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 447 (2010)

Amendment No.

the issuance and delivery of a certificate or notice extending
the term of a policy beyond its policy period or term. Any
policy with a policy period or term of less than 6 months or any
policy with no fixed expiration date shall for the purpose of
this section be considered as if written for successive policy
periods or terms of 6 months.

(2) A renewal policy may contain a change in policy terms.
If a renewal policy contains a change in policy terms, the
insurer shall give the named insured a written notice of change
in policy terms that shall be enclosed with the written notice
of renewal premium required by ss. 627.4133 and 627.728. The
notice shall be entitled "Notice of Change in Policy Terms."

(3) Although not required, United States Postal Service
proof of mailing or registered mailing of the notice of change
in policy terms to the named insured at the address shown in the
policy shall be sufficient proof of notice.

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

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

(6) The intent of this section is to:

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 447 (2010)

Amendment No.

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

(b) Alleviate the concern and confusion to the policyholders caused by the required policy nonrenewal for the limited issue when an insurer intends to renew the insurance policy but the new policy contains a change in policy terms.

(c) Encourage policyholders to discuss their coverages with their insurance agent.

Section 12. Subsections (1), (3), (4), and (5) of section 627.7011, Florida Statutes, are amended to read:

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

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

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

(b) A policy or endorsement providing that, subject to other policy provisions, any loss which is repaired or replaced at any location will be adjusted on the basis of replacement

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 447 (2010)

Amendment No.

costs not exceeding policy limits as to the dwelling, rather than actual cash value, and also including costs necessary to meet applicable laws and ordinances regulating the construction, use, or repair of any property or requiring the tearing down of any property, including the costs of removing debris; however, such additional costs necessary to meet applicable laws and ordinances may be limited to either 25 percent or 50 percent of the dwelling limit, as selected by the policyholder, and such coverage shall apply only to repairs of the damaged portion of the structure unless the total damage to the structure exceeds 50 percent of the replacement cost of the structure.

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

(3) (a) ~~If In the event of a loss occurs~~ for which a dwelling ~~or personal property~~ is insured on the basis of replacement costs, the insurer shall initially pay at least the actual cash value of the loss and shall pay the actual cash value of the insured loss, less any applicable deductible. In order to receive payment from an insurer under this paragraph, a policyholder must enter into a contract for the performance of building and structural repairs. The insurer shall pay any

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 447 (2010)

Amendment No.

1737 remaining amounts necessary to perform such repairs as work is
1738 performed and expenses are incurred. Other than incidental
1739 expenses to mitigate further damage, the insurer or any
1740 contractor or subcontractor may not require the policyholder to
1741 advance payment for such repairs or expenses. The insurer may
1742 waive the requirement for a contract under this paragraph
1743 ~~replacement cost without reservation or holdback of any~~
1744 ~~depreciation in value, whether or not the insured replaces or~~
1745 ~~repairs the dwelling or property.~~

1746 (b) If a loss occurs for which personal property is
1747 insured on the basis of replacement costs, the insurer may limit
1748 an initial payment to 50 percent of the replacement cost value
1749 of the personal property to be replaced, less any applicable
1750 deductible. An insurer may require an insured to provide the
1751 receipts for purchases of property financed by the initial 50-
1752 percent payment required by this paragraph, and the insurer
1753 shall use such receipts to make any remaining payments requested
1754 by the insured for the replacement of remaining insured personal
1755 property. If a total loss occurs, the insurer shall pay the
1756 replacement cost for content coverage without reservation or
1757 holdback of any depreciation in value. The insurer may not
1758 require the policyholder to advance payment for the replaced
1759 property.

1760 (4) A ~~Any~~ homeowner's insurance policy ~~issued or renewed~~
1761 ~~on or after October 1, 2005,~~ must include in bold type no
1762 smaller than 18 points the following statement:
1763

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 447 (2010)

Amendment No.

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

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

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

Section 13. Paragraph (a) of subsection (5) of section 627.70131, Florida Statutes, is amended to read:

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

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 447 (2010)

Amendment No.

(5)(a) Within 90 days after an insurer receives notice of an initial or supplemental a property insurance claim from a policyholder, the insurer shall pay or deny such claim or a portion of the claim unless the failure to pay such claim or a portion of the claim is caused by factors beyond the control of the insurer which reasonably prevent such payment. Any payment of an initial or supplemental a claim or portion of such a claim made paid 90 days after the insurer receives notice of the claim, or made paid more than 15 days after there are no longer factors beyond the control of the insurer which reasonably prevented such payment, whichever is later, shall bear interest at the rate set forth in s. 55.03. Interest begins to accrue from the date the insurer receives notice of the claim. The provisions of this subsection may not be waived, voided, or nullified by the terms of the insurance policy. If there is a right to prejudgment interest, the insured shall select whether to receive prejudgment interest or interest under this subsection. Interest is payable when the claim or portion of the claim is paid. Failure to comply with this subsection constitutes a violation of this code. However, failure to comply with this subsection shall not form the sole basis for a private cause of action.

Section 14. Effective January 1, 2011, section 627.7031, Florida Statutes, is created to read:

627.7031 Residential property insurance option.-

(1) An insurer holding a certificate of authority to write property insurance in this state may offer or renew policies at

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 447 (2010)

Amendment No.

1819 rates established in accordance with s. 627.062(2)(1), subject
1820 to all of the requirements and prohibitions of this section.

1821 (2) An insurer offering or renewing policies at rates
1822 established in accordance with s. 627.062(2)(1) may not purchase
1823 coverage from the Florida Hurricane Catastrophe Fund under the
1824 temporary increase in coverage limit option under s.
1825 215.555(17).

1826 (3)(a) Before the effective date of a newly issued policy
1827 at rates established in accordance with s. 627.062(2)(1) or
1828 before the effective date of a renewal policy at rates
1829 established in accordance with s. 627.062(2)(1), the applicant
1830 or insured must be given the following notice, printed in at
1831 least 12-point boldfaced type:

1832
1833 THE RATE FOR THIS POLICY IS NOT SUBJECT TO FULL RATE
1834 REGULATION BY THE FLORIDA OFFICE OF INSURANCE REGULATION AND MAY
1835 BE HIGHER THAN RATES APPROVED BY THAT OFFICE. A RESIDENTIAL
1836 PROPERTY POLICY SUBJECT TO FULL RATE REGULATION REQUIREMENTS MAY
1837 BE AVAILABLE FROM THIS INSURER, ANOTHER INSURER, OR CITIZENS
1838 PROPERTY INSURANCE CORPORATION. PLEASE DISCUSS YOUR POLICY
1839 OPTIONS WITH AN INSURANCE AGENT WHO CAN PROVIDE A CITIZENS
1840 QUOTE. YOU MAY WISH TO VIEW THE OFFICE OF INSURANCE REGULATION'S
1841 WEBSITE AT WWW.SHOPANDCOMPARERATES.COM FOR MORE INFORMATION
1842 ABOUT CHOICES AVAILABLE TO YOU.

1843
1844 (b) For policies renewed at a rate established in
1845 accordance with s. 627.062(2)(1), the notice described in
1846 paragraph (a) must be provided in writing at the same time as

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 447 (2010)

Amendment No.

the renewal notice on a document separate from the renewal notice, but may be contained within the same mailing as the renewal notice.

(4) Before the effective date of a newly issued policy at rates established in accordance with s. 627.062(2)(1), or before the effective date of the first renewal at rates established in accordance with s. 627.062(2)(1) of a policy originally issued before the effective date of this section, the applicant or insured must:

(a) Be provided or offered, for comparison purposes, an estimate of the premium for a policy from Citizens Property Insurance Corporation reflecting substantially similar coverages, limits, and deductibles to the extent available.

(b) Provide the insurer or agent with a signed copy of the following acknowledgement form, which must be retained by the insurer or agent for at least 3 years. If the acknowledgement form is signed by the insured or if the insured remits payment in the amount of the rate established in accordance with s. 627.062(2)(1) after being mailed, otherwise provided, or offered the comparison specified in paragraph (a), an insurer renewing a policy at such rate shall be deemed to comply with this section, and it is presumed that the insured has been informed and understands the information contained in the comparison and acknowledgement forms:

ACKNOWLEDGEMENT

1. I HAVE REVIEWED THE REQUIRED DISCLOSURES AND THE REQUIRED PREMIUM COMPARISON.

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 447 (2010)

Amendment No.

1875 2. I UNDERSTAND THAT THE RATE FOR THIS RESIDENTIAL
1876 PROPERTY INSURANCE POLICY IS NOT SUBJECT TO FULL RATE REGULATION
1877 BY THE FLORIDA OFFICE OF INSURANCE REGULATION AND MAY BE HIGHER
1878 THAN RATES APPROVED BY THAT OFFICE.

1879 3. I UNDERSTAND THAT A RESIDENTIAL PROPERTY INSURANCE
1880 POLICY SUBJECT TO FULL RATE REGULATION REQUIREMENTS MAY BE
1881 AVAILABLE FROM CITIZENS PROPERTY INSURANCE CORPORATION.

1882 4. I UNDERSTAND THAT THE FLORIDA OFFICE OF INSURANCE
1883 REGULATION'S WEBSITE WWW.SHOPANDCOMPARERATES.COM CONTAINS
1884 RESIDENTIAL PROPERTY INSURANCE RATE COMPARISON INFORMATION.

1885 5. I UNDERSTAND THAT IF CITIZENS PROPERTY INSURANCE
1886 CORPORATION INCURS A DEFICIT BECAUSE OF HURRICANE LOSSES OR
1887 OTHER LOSSES, I MAY BE REQUIRED TO PAY AN ASSESSMENT BASED UPON
1888 THE PREMIUM FOR THIS POLICY AND THAT A POLICYHOLDER OF CITIZENS
1889 PROPERTY INSURANCE CORPORATION MAY BE REQUIRED TO PAY A
1890 DIFFERENT ASSESSMENT.

1891
1892 (5) The following types of residential property insurance
1893 policies are not eligible for rates established in accordance
1894 with s. 627.062(2)(1) and are not subject to the other
1895 provisions of this section:

1896 (a) Residential property insurance policies that exclude
1897 coverage for the perils of windstorm or hurricane.

1898 (b) Residential property insurance policies that are
1899 subject to a consent decree, agreement, understanding, or other
1900 arrangement between the insurer and the office relating to rates
1901 or premiums for policies removed from Citizens Property
1902 Insurance Corporation.

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 447 (2010)

Amendment No.

1903 (6) Notwithstanding s. 627.4133, an insurer that has
1904 issued a policy under this section shall provide the named
1905 insured written notice of nonrenewal at least 180 days before
1906 the effective date of the nonrenewal as to subsequent
1907 nonrenewals. However, this subsection does not prohibit an
1908 insurer from canceling a policy as permitted under s. 627.4133.
1909 The offer of a policy at rates authorized by this section
1910 constitutes an offer to renew the policy at the rates specified
1911 in the offer and does not constitute a nonrenewal.

1912 Section 15. Effective June 1, 2010, and applying only to
1913 insurance claims made on or after that date, subsection (1),
1914 paragraph (b) of subsection (2), and subsections (5), (7), and
1915 (8) of section 627.707, Florida Statutes, are amended to read:

1916 627.707 Standards for investigation of sinkhole claims by
1917 insurers; nonrenewals.—Upon receipt of a claim for a sinkhole
1918 loss, an insurer must meet the following standards in
1919 investigating a claim:

1920 (1) The insurer must make an inspection of the insured's
1921 premises to determine if there has been physical damage to the
1922 structure which is consistent with ~~may be the result of~~ sinkhole
1923 loss activity.

1924 (2) Following the insurer's initial inspection, the
1925 insurer shall engage a professional engineer or a professional
1926 geologist to conduct testing as provided in s. 627.7072 to
1927 determine the cause of the loss within a reasonable professional
1928 probability and issue a report as provided in s. 627.7073, if:

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 447 (2010)

Amendment No.

(b) The policyholder demands testing in accordance with this section or s. 627.7072 and coverage under the policy is available if sinkhole loss is verified.

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

(b)1. ~~After a The insurer may limit its payment to the actual cash value of the sinkhole loss, not including underpinning or grouting or any other repair technique performed below the existing foundation of the building, until the~~ policyholder enters into a contract for the performance of building stabilization or foundation repairs, the claim shall be paid up to the full cost of the stabilization or foundation repairs and up to full replacement cost for above-ground repairs as set forth in this paragraph, less the insured's deductible. After the policyholder enters into a contract for the performance of building stabilization or foundation repairs in accordance with the recommendations set forth in s. 627.7073, the insurer may:

a. Limit its initial payment to 10 percent of the estimated costs to implement the building stabilization and foundation repairs.

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 447 (2010)

Amendment No.

b. Limit its initial payment to the actual cash value of the sinkhole loss for above-ground repairs to the structure.

2. However, after the policyholder enters into the contract for the performance of building stabilization or foundation repairs, the insurer shall pay the amounts necessary to ~~begin and~~ perform such stabilization and repairs as the work is performed and the expenses are incurred. Final payments for the structural or building stabilization and foundation repair work shall be remitted after such work is complete and finished in accordance with the terms of the policy and the report's recommendations and after final bills or receipts have been submitted to the insurer. The insurer may not require the policyholder to advance payment for such repairs. If repair covered by a personal lines residential property insurance policy has begun and the professional engineer selected or approved by the insurer determines that the repair cannot be completed within the policy limits, the insurer must either complete the professional engineer's recommended repair or tender the policy limits to the policyholder without a reduction for the repair expenses incurred.

(c) The policyholder shall enter into such contract for repairs within 90 days after the insurance company approves coverage for a sinkhole loss to prevent additional damage to the building or structure. The 90-day time period may be extended for an additional reasonable time period if the policyholder is unable to find a qualified person or entity to contract for such repairs within the 90-day time period based upon factors beyond the policyholder's control or the policyholder is actively

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 447 (2010)

Amendment No.

1984 seeking to retain a professional engineer or geologist as
1985 provided in s. 627.7073(1)(c). This time period is tolled if
1986 either party invokes neutral evaluation.

1987 (d) The stabilization and all other repairs to the
1988 structure and contents must be completed within 12 months after
1989 entering into the contract for repairs as described in paragraph
1990 (c) unless:

1991 1. There is a mutual agreement between the insurer and the
1992 insured;

1993 2. The stabilization and all other repairs cannot be
1994 completed due to factors beyond the control of the insured which
1995 reasonably prevent completion;

1996 3. The claim is involved with the neutral evaluation
1997 process under s. 627.7074;

1998 4. The claim is in litigation; or

1999 5. The claim is under appraisal.

2000 (e)-(e) Upon the insurer's obtaining the written approval
2001 of the policyholder and any lienholder, the insurer may make
2002 payment directly to the persons selected by the policyholder to
2003 perform the land and building stabilization and foundation
2004 repairs. The decision by the insurer to make payment to such
2005 persons does not hold the insurer liable for the work performed.

2006 (7) If the insurer obtains, pursuant to s. 627.7073,
2007 written certification that there is no sinkhole loss ~~or that the~~
2008 ~~cause of the damage was not sinkhole activity~~, and if the
2009 policyholder has submitted the sinkhole claim without good faith
2010 grounds for submitting such claim, the policyholder shall
2011 reimburse the insurer for 50 percent of the actual costs of the

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 447 (2010)

Amendment No.

analyses and services provided under ss. 627.7072 and 627.7073; however, a policyholder is not required to reimburse an insurer more than \$2,500 with respect to any claim. A policyholder is required to pay reimbursement under this subsection only if the insurer, prior to ordering the analysis under s. 627.7072, informs the policyholder in writing of the policyholder's potential liability for reimbursement and gives the policyholder the opportunity to withdraw the claim.

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

Section 16. Effective June 1, 2010, and applying only to insurance claims made on or after that date, section 627.7072, Florida Statutes, is amended to read:

627.7072 Testing standards for sinkholes.—

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

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 447 (2010)

Amendment No.

(2) The professional engineer and professional geologist shall perform tests under this section in accordance with Florida Geological Survey Special Publication 57 to determine the presence or absence of sinkhole loss or other cause of damage within a reasonable professional probability.

Section 17. Effective June 1, 2010, and applying only to insurance claims made on or after that date, section 627.7073, Florida Statutes, is amended to read:

627.7073 Sinkhole reports.—

(1) Upon completion of testing as provided in s. 627.7072, the professional engineer or professional geologist shall issue a report and certification to the insurer, with an additional copy and certification for the insurer to forward to ~~and~~ the policyholder as provided in this section.

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

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

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

3. A description of the tests performed.

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

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 447 (2010)

Amendment No.

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

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

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

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

4. A description of the tests performed.

(c) If the policyholder disagrees with the findings, opinions, or recommendations of the professional engineer or professional geologist engaged by the insurer, the policyholder may engage a professional engineer or professional geologist, at the policyholder's expense, to conduct testing under s. 627.7072 and to render findings, opinions, and recommendations as to the cause of distress to the property and the appropriate method of land and building stabilization and foundation repair and certify such findings, opinions, and recommendations in a report that meets the requirements of this section and forward a copy of the report to the insurer. Unless the policyholder engages a professional engineer or professional geologist as described in this paragraph who disputes the findings of the insurer's engineer or geologist, the respective findings, opinions, and recommendations of the professional engineer or professional geologist as to the cause of distress to the property and the

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 447 (2010)

Amendment No.

findings, opinions, and recommendations of the insurer's
professional engineer as to land and building stabilization and
foundation repair as required by s. 627.707(2), shall be
presumed correct, which presumption shall shift the burden of
proof under s. 90.304.

(2)(a) Any insurer that has paid a claim for a sinkhole
loss shall file a copy of the report and certification, prepared
pursuant to subsection (1), including the legal description of
the real property, and the name of the property owner, and the
amount paid by the insurer, with the county clerk of court, who
shall record the report and certification. The insurer shall
also file a copy of any report prepared on behalf of the insured
or the insured's representative that has been provided to the
insurer that indicates that sinkhole loss caused the damage
claimed. The insurer shall bear the cost of filing and recording
of one or more reports ~~the report~~ and certifications
~~certification.~~ There shall be no cause of action or liability
against an insurer for compliance with this section. The
recording of the report and certification does not:

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

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

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

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 447 (2010)

Amendment No.

(b) The seller of real property upon which a sinkhole claim has been made by the seller and paid by the insurer shall disclose to the buyer of such property that a claim has been paid, the amount of the payment, and whether or not the full amount of the proceeds were used to repair the sinkhole damage. The seller shall also provide to the buyer a copy of the report prepared pursuant to subsection (1) and any report prepared on behalf of the insured.

Section 18. Effective June 1, 2010, and applying only to insurance claims made on or after that date, section 627.7074, Florida Statutes, is amended to read:

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

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

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

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

(2)(a) The department shall certify and maintain a list of persons who are neutral evaluators.

(b) The department shall prepare a consumer information pamphlet for distribution by insurers to policyholders which clearly describes the neutral evaluation process and includes information and forms necessary for the policyholder to request a neutral evaluation.

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 447 (2010)

Amendment No.

(3) Neutral evaluation is available to either party if a sinkhole report has been issued pursuant to s. 627.7073.

Following the receipt of the report provided under s. 627.7073 or the denial of a claim for a sinkhole loss, the insurer shall notify the policyholder of his or her right to participate in the neutral evaluation program under this section. Neutral evaluation supersedes the alternative dispute resolution process under s. 627.7015 but does not supersede the appraisal clause if an appraisal clause is provided by the insurance policy. The insurer shall provide to the policyholder the consumer information pamphlet prepared by the department pursuant to paragraph (2)(b).

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

(5) Neutral evaluation shall be conducted as an informal process in which formal rules of evidence and procedure need not be observed. A party to neutral evaluation is not required to attend neutral evaluation if a representative of the party attends and has the authority to make a binding decision on

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 447 (2010)

Amendment No.

2177 behalf of the party. All parties shall participate in the
2178 evaluation in good faith.

2179 (6) The insurer shall pay the costs associated with the
2180 neutral evaluation.

2181 (7)(a) Upon receipt of a request for neutral evaluation,
2182 the department shall ~~provide the parties a list of certified~~
2183 ~~neutral evaluators. The parties shall mutually select a neutral~~
2184 ~~evaluator from the list and promptly inform the department. If~~
2185 ~~the parties cannot agree to a neutral evaluator within 10~~
2186 ~~business days, the department~~ allow the parties to submit
2187 requests to disqualify neutral evaluators on the list for cause.
2188 For purposes of this subsection, a ground for cause is required
2189 to be found by the department only if:

2190 1. A familial relationship exists between the neutral
2191 evaluator and either party or a representative of either party
2192 within the third degree;

2193 2. The proposed neutral evaluator has, in a professional
2194 capacity, previously represented either party or a
2195 representative of either party in the same or a substantially
2196 related matter;

2197 3. The proposed neutral evaluator has, in a professional
2198 capacity, represented another person in the same or a
2199 substantially related matter and that person's interests are
2200 materially adverse to the interests of the parties;

2201 4. The proposed neutral evaluator works in the same firm
2202 or corporation as a person who has, in a professional capacity,
2203 previously represented either party or a representative of
2204 either party in the same or a substantially related matter; or

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 447 (2010)

Amendment No.

2205 5. The proposed neutral evaluator has, within the
2206 preceding 5 years, worked as an employee of any party to the
2207 case.

2208 (b) The parties shall mutually appoint a neutral evaluator
2209 from the ~~department~~ list and promptly inform the department. If
2210 the parties cannot agree to a neutral evaluator within 10
2211 business days, the department shall appoint a neutral evaluator
2212 from the department's list of certified neutral evaluators. The
2213 department shall allow each party to disqualify one neutral
2214 evaluator without cause. Upon selection or appointment, the
2215 department shall promptly refer the request to the neutral
2216 evaluator.

2217 (c) Within 5 business days after the referral, the neutral
2218 evaluator shall notify the policyholder and the insurer of the
2219 date, time, and place of the neutral evaluation conference. The
2220 conference may be held by telephone, if feasible and desirable.
2221 The neutral evaluation conference shall be held within 90 45
2222 days after the receipt of the request by the department. If the
2223 neutral evaluator fails to hold a neutral evaluation conference
2224 in accordance with this paragraph, the neutral evaluator's fee
2225 shall be reduced by 10 percent unless the failure was due to
2226 factors beyond the control of the neutral evaluator.

2227 (d) As used in this subsection, the term "substantially
2228 related matter" means participation by the neutral evaluator on
2229 the same claim, property, or any adjacent property.

2230 (8) The department shall adopt rules of procedure for the
2231 neutral evaluation process.

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 447 (2010)

Amendment No.

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

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

(11) Regardless of when invoked, any court proceeding related to the subject matter of the neutral evaluation shall be stayed pending completion of the neutral evaluation and for 5 days after the filing of the neutral evaluator's report with the court.

(12) If the neutral evaluator, based upon his or her professional training and credentials, is qualified only to determine the causation issue or the method of repair issue, the department shall allow the neutral evaluator to enlist the assistance of another professional from the qualified neutral evaluators list, not previously struck by parties with respect to the subject evaluation, who, based upon his or her professional training and credentials, is able to provide an opinion as to the other disputed issue. Any professional who, if appointed as the neutral evaluator, would be disqualified for any reason listed in subsection (7) must be disqualified. In addition, the neutral evaluator may use the service of other

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 447 (2010)

Amendment No.

2260 experts or professionals as necessary to ensure that all items
2261 in dispute are addressed in order to complete the neutral
2262 evaluation. The neutral evaluator may request that the entity
2263 that performed testing pursuant to s. 627.7072 perform such
2264 additional reasonable testing deemed necessary in the
2265 professional opinion of the neutral evaluator to complete the
2266 neutral evaluation.

2267 ~~(13)-(12)~~ For all matters that are not resolved by the
2268 parties at the conclusion of the neutral evaluation, the neutral
2269 evaluator shall prepare a report stating that in his or her
2270 opinion the sinkhole loss has been verified or eliminated within
2271 a reasonable degree of professional probability and, if
2272 verified, whether the sinkhole loss has caused structural or
2273 cosmetic damage to the building and, if so, the need for and
2274 estimated costs of stabilizing the land and any covered
2275 structures or buildings and other appropriate remediation or
2276 structural repairs that are necessary due to the sinkhole loss.
2277 The evaluator's report shall be sent to all parties in
2278 attendance at the neutral evaluation and to the department.

2279 ~~(14)-(13)~~ The recommendation of the neutral evaluator is
2280 not binding on any party, and the parties retain access to
2281 court. The neutral evaluator's written recommendation is
2282 admissible in any ~~subsequent~~ action or proceeding relating to
2283 the claim or to the cause of action giving rise to the claim.

2284 ~~(15)-(14)~~ If the neutral evaluator first verifies the
2285 existence of a sinkhole and, second, recommends the need for and
2286 estimates costs of stabilizing the land and any covered
2287 structures or buildings and other appropriate remediation or

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 447 (2010)

Amendment No.

2288 structural repairs, which costs exceed the amount that the
2289 insurer has offered to pay the policyholder, the insurer is
2290 liable to the policyholder for up to \$2,500 in attorney's fees
2291 for the attorney's participation in the neutral evaluation
2292 process. For purposes of this subsection, the term "offer to
2293 pay" means a written offer signed by the insurer or its legal
2294 representative and delivered to the policyholder within 10 days
2295 after the insurer receives notice that a request for neutral
2296 evaluation has been made under this section.

2297 ~~(16)~~(15) If the insurer timely agrees in writing to comply
2298 and timely complies with the recommendation of the neutral
2299 evaluator, but the policyholder declines to resolve the matter
2300 in accordance with the recommendation of the neutral evaluator
2301 pursuant to this section:

2302 (a) The insurer is not liable for extracontractual damages
2303 related to a claim for a sinkhole loss but only as related to
2304 the issues determined by the neutral evaluation process. This
2305 section does not affect or impair claims for extracontractual
2306 damages unrelated to the issues determined by the neutral
2307 evaluation process contained in this section; and

2308 (b) The actions of the insurer are not a confession of
2309 judgment or an admission of liability, and the insurer may is
2310 not be liable for attorney's fees under s. 627.428 or other
2311 provisions of the insurance code unless the policyholder obtains
2312 a judgment that is more favorable than the recommendation of the
2313 neutral evaluator.

2314 (17) If the insurer agrees to comply with the neutral
2315 evaluator's report, payment for stabilizing the land and

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 447 (2010)

Amendment No.

2316 building and repairing the foundation shall be made in
2317 accordance with the terms and conditions of the applicable
2318 insurance policy.

2319 Section 19. Section 627.711, Florida Statutes, is amended
2320 to read:

2321 627.711 Notice of premium discounts for hurricane loss
2322 mitigation; uniform mitigation verification inspection form.—

2323 (1) Using a form prescribed by the Office of Insurance
2324 Regulation, the insurer shall clearly notify the applicant or
2325 policyholder of any personal lines residential property
2326 insurance policy, at the time of the issuance of the policy and
2327 at each renewal, of the availability and the range of each
2328 premium discount, credit, other rate differential, or reduction
2329 in deductibles, and combinations of discounts, credits, rate
2330 differentials, or reductions in deductibles, for properties on
2331 which fixtures or construction techniques demonstrated to reduce
2332 the amount of loss in a windstorm can be or have been installed
2333 or implemented. The prescribed form shall describe generally
2334 what actions the policyholders may be able to take to reduce
2335 their windstorm premium. The prescribed form and a list of such
2336 ranges approved by the office for each insurer licensed in the
2337 state and providing such discounts, credits, other rate
2338 differentials, or reductions in deductibles for properties
2339 described in this subsection shall be available for electronic
2340 viewing and download from the Department of Financial Services'
2341 or the Office of Insurance Regulation's Internet website. The
2342 Financial Services Commission may adopt rules to implement this
2343 subsection.

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 447 (2010)

Amendment No.

2344 (2) (a) ~~By July 1, 2007,~~ The Financial Services Commission
2345 shall develop by rule a uniform mitigation verification
2346 inspection form that shall be used by all insurers when
2347 submitted by policyholders for the purpose of factoring
2348 discounts for wind insurance. In developing the form, the
2349 commission shall seek input from insurance, construction, and
2350 building code representatives. Further, the commission shall
2351 provide guidance as to the length of time the inspection results
2352 are valid. An insurer shall accept as valid a uniform mitigation
2353 verification form ~~certified by the Department of Financial~~
2354 ~~Services or~~ signed by:

2355 ~~(a) A hurricane mitigation inspector certified by the My~~
2356 ~~Safe Florida Home program;~~

2357 1. ~~(b)~~ A building code inspector certified under s.
2358 468.607;

2359 2. ~~(e)~~ A general, building, or residential contractor
2360 licensed under s. 489.111;

2361 3. ~~(d)~~ A professional engineer licensed under s. 471.015
2362 who has passed the appropriate equivalency test of the building
2363 code training program as required by s. 553.841; or

2364 4. ~~(e)~~ A professional architect licensed under s. 481.213;
2365 ~~or~~

2366 ~~(f) Any other individual or entity recognized by the~~
2367 ~~insurer as possessing the necessary qualifications to properly~~
2368 ~~complete a uniform mitigation verification form.~~

2369 (b) An insurer may, but is not required to, accept a
2370 mitigation verification form from any other person possessing
2371 qualifications and experience acceptable to the insurer.

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 447 (2010)

Amendment No.

2372 (3) A person who is authorized to sign a mitigation
2373 verification form must inspect the structures referenced by the
2374 form personally, not through employees or other persons, and
2375 must certify or attest to that person's personal inspection of
2376 the structures referenced by the form.

2377 (4) An individual or entity that signs a uniform
2378 mitigation form may not commit misconduct in performing
2379 hurricane mitigation inspections or in completing a uniform
2380 mitigation form that causes financial harm to a customer or the
2381 customer's insurer or that jeopardizes a customer's health and
2382 safety. Misconduct occurs when an authorized mitigation
2383 inspector signs a uniform mitigation verification form that:

2384 (a) Falsely indicates that he or she personally inspected
2385 the structures referenced by the form;

2386 (b) Falsely indicates the existence of a feature which
2387 entitles an insured to a mitigation discount that the inspector
2388 knows does not exist or did not personally inspect;

2389 (c) Contains erroneous information due to the gross
2390 negligence of the inspector; or

2391 (d) Contains demonstrably false information relating to
2392 the existence of mitigation features that may give an insured a
2393 false evaluation of the ability of the structure to withstand
2394 major damage from a hurricane endangering the safety of the
2395 insured's life and property.

2396 (5) The licensing board of an authorized mitigation
2397 inspector who violates subsection (4) may commence disciplinary
2398 proceedings and impose administrative fines and other sanctions
2399 authorized under the inspector's licensing act.

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 447 (2010)

Amendment No.

2400 (6) An insurer, person, or other entity that obtains
2401 evidence of fraud or evidence that an inspector has made false
2402 statements in the completion of a mitigation inspection form
2403 shall file a report with the Division of Insurance Fraud,
2404 together with all of the evidence in its possession that
2405 supports the allegation of fraud or falsity. An insurer, person,
2406 or other entity making the report is immune from liability in
2407 accordance with s. 626.989(4) for any statements made in the
2408 report, during the investigation, or in connection with the
2409 report. The Division of Insurance Fraud shall issue an
2410 investigative report if the division finds that probable cause
2411 exists to believe that the inspector made intentionally false or
2412 fraudulent statements in the inspection form. Upon conclusion of
2413 the investigation and a finding of probable cause that a
2414 violation has occurred, the Division of Insurance Fraud shall
2415 send a copy of the investigative report to the office and a copy
2416 to the agency responsible for the professional licensure of the
2417 inspector, whether or not a prosecutor takes action based upon
2418 the report.

2419 (7) The insurer may require the mitigation inspector or
2420 inspection company to provide evidence of the inspector's or
2421 inspection company's quality assurance program. At the insurer's
2422 expense, the insurer may require that any uniform mitigation
2423 verification form provided by a mitigation inspector or
2424 inspection company that does not possess or has not provided
2425 evidence to the insurer of a quality assurance program be
2426 independently verified by an inspector, inspection company, or
2427 independent third-party quality assurance provider that

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 447 (2010)

Amendment No.

possesses a quality assurance program prior to accepting it as valid.

~~(8)(3)~~ An individual or entity who knowingly provides or utters a false or fraudulent mitigation verification form with the intent to obtain or receive a discount on an insurance premium to which the individual or entity is not entitled commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 20. In the interest of full disclosure and transparency to insurance policy owners, and because most insurance policies sold in this state are subject to assessments to make up for the funding deficiencies of the Citizens Property Insurance Corporation or the Florida Hurricane Catastrophe Fund, the following warning shall be printed in bold type of not less than 16 points and shall be displayed on the declarations page or on the renewal notice of every insurance policy sold or issued in this state that is or may be subject to assessment by the Citizens Property Insurance Corporation or the Florida Hurricane Catastrophe Fund:

WARNING

The premium you are about to pay may NOT be the full cost of this insurance policy. If a hurricane strikes Florida, you may be forced to pay additional moneys to offset the inability of the state-owned Citizens Property Insurance Corporation or the Florida Hurricane Catastrophe Fund to pay claims resulting from the losses due to the hurricane.

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 447 (2010)

Amendment No.

Section 21. Section 627.7065, Florida Statutes, is
repealed.

Section 22. Except as otherwise expressly provided in this
act, this act shall take effect July 1, 2010.

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

Remove the entire title and insert:

A bill to be entitled

An act relating to property insurance; amending s. 215.555,
F.S.; extending a repeal date for an exemption of medical
malpractice insurance premiums from emergency assessments;
amending s. 624.407, F.S.; specifying an additional surplus
requirement for certain domestic insurers; amending s. 624.408,
F.S.; specifying an additional surplus requirement for certain
domestic insurers; deleting obsolete surplus requirement
provisions; amending s. 626.7452, F.S.; deleting an exception to
a provision allowing examination of a managing general agent;
amending s. 627.0613, F.S.; revising annual reporting
requirements for the consumer advocate; providing a definition;
amending s. 627.062, F.S.; requiring that the Office of
Insurance Regulation issue an approval rather than a notice of
intent to approve following its approval of a file and use
filing; prohibiting the office from, directly or indirectly,
prohibiting an insurer from paying acquisition costs based on
the full amount of the premium; prohibiting the office from,
directly or indirectly, impeding or compromising the right of an

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 447 (2010)

Amendment No.

2484 insurer to acquire policyholders, advertise or appoint agents,
2485 or regulate agent commissions; requiring the office to publish
2486 an annual information memorandum establishing certain inflation
2487 trend factors for certain purposes; specifying factor criteria;
2488 authorizing an insurer to make a rate filing limited to changes
2489 in the cost of reinsurance, the costs of financing products used
2490 as a replacement for reinsurance, or changes in an inflation
2491 trend factor published annually by the office; authorizing
2492 certain insurers to use a rate different from otherwise
2493 applicable filed rates; requiring such rates to be filed with
2494 the office as a separate filing; providing requirements and
2495 limitations for such separate filings; prohibiting the
2496 consideration of certain policies when making a specified
2497 calculation; preserving the authority of the office to
2498 disapprove rates as inadequate or disapprove a rate filing for
2499 using certain rating factors; authorizing the office to direct
2500 an insurer to make a specified type of rate filing under certain
2501 circumstances; providing construction relating to
2502 certifications; prohibiting the requirement of a new
2503 certification upon an insurer providing certain additional
2504 information; specifying nonapplication to certain filings;
2505 amending s. 627.0621, F.S.; revising provisions relating to
2506 transparency in rate regulation; amending s. 627.0629, F.S.;
2507 revising legislative intent relating to residential property
2508 insurance rate filings; deleting a requirement that the office
2509 develop and make available a method for insurers to establish
2510 discounts, credits, or rate differentials for certain hurricane
2511 mitigation measures; revising restrictions relating to including

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 447 (2010)

Amendment No.

2512 the cost of reinsurance for certain purposes; requiring the
2513 office to contract with a private entity to develop a
2514 comprehensive consumer information program; specifying program
2515 criteria; requiring the office to conduct a cost benefit
2516 analysis on a program implementation plan; requiring review and
2517 approval by the Financial Services Commission; amending s.
2518 627.351, F.S.; providing requirements for attachment and payment
2519 of the Citizens policyholder surcharge; prohibiting the
2520 corporation from levying certain regular assessments until after
2521 levying the full amount of a Citizens policyholder surcharge;
2522 requiring the corporation's plan of operation to require agents
2523 to obtain an acknowledgement of potential surcharge and
2524 assessment liability from applicants and policyholders;
2525 requiring the corporation to permanently retain a copy of such
2526 acknowledgments; specifying that the acknowledgement creates a
2527 conclusive presumption of understanding and acceptance by the
2528 policyholder; deleting an obsolete legislative intent provision;
2529 amending s. 627.4133, F.S.; authorizing an insurer to cancel or
2530 nonrenew property insurance policies under certain
2531 circumstances; specifying duties of the office; creating s.
2532 627.41341, F.S.; specifying requirements for a notice of change
2533 in policy terms; providing definitions; authorizing policy
2534 renewals to contain a change in policy terms; specifying notice
2535 requirements; providing procedural requirements; providing
2536 intent; amending s. 627.7011, F.S.; revising requirements and
2537 procedures under homeowners' insurance policies for replacement
2538 cost coverage of a dwelling and personal property; providing
2539 criteria for initial and subsequent replacement cost payments by

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 447 (2010)

Amendment No.

2540 an insurer; deleting obsolete time references; amending s.
2541 627.70131, F.S.; specifying application of certain time periods
2542 to initial or supplemental property insurance claim notices and
2543 payments; creating s. 627.7031, F.S.; authorizing certain
2544 insurers to offer or renew policies at rates established under
2545 certain circumstances; prohibiting certain insurers from
2546 purchasing TICL option coverage from the Florida Hurricane
2547 Catastrophe Fund under certain circumstances; requiring that
2548 certain policies contain a specified rate notice; requiring
2549 insurers to offer applicants or insureds an estimate of the
2550 premium for a policy from Citizens Property Insurance
2551 Corporation reflecting similar coverage, limits, and
2552 deductibles; requiring applicants or insureds to provide a
2553 signed premium comparison acknowledgement; specifying criteria
2554 for insurer compliance with certain requirements; specifying
2555 acknowledgement contents; requiring insurers and agents to
2556 retain a copy of the acknowledgement for a specified time;
2557 specifying a presumption created by a signed acknowledgement;
2558 specifying types of residential property insurance policies that
2559 are not eligible for certain rates or subject to other
2560 requirements; requiring written notice of certain nonrenewals;
2561 preserving insurer authority to cancel policies; specifying a
2562 criterion for what constitutes an offer to renew a policy;
2563 amending s. 627.707, F.S.; revising standards for investigation
2564 of sinkhole claims by insurers; specifying requirements for
2565 contracts for repairs to prevent additional damage to buildings
2566 or structures; providing application; amending s. 627.7072,
2567 F.S.; specifying requirements for tests performed by

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 447 (2010)

Amendment No.

2568 professional engineers and professional geologists for certain
2569 purposes; providing application; amending s. 627.7073, F.S.;
2570 revising requirements for sinkhole reports; providing
2571 application; amending s. 627.7074, F.S.; revising requirements
2572 and procedures for an alternative procedure for resolution of
2573 disputed sinkhole insurance claims; providing a definition;
2574 providing criteria and procedures for disqualification of
2575 neutral evaluators; providing requirements and procedures for
2576 neutral evaluators to enlist assistance from other professionals
2577 under certain circumstances; providing application; amending s.
2578 627.711, F.S.; deleting a provision for a uniform mitigation
2579 verification form to be certified by the Department of Financial
2580 Services; revising persons authorized to sign a uniform
2581 mitigation verification form; authorizing an insurer to accept a
2582 mitigation verification form from certain other persons;
2583 providing personal inspection requirements; prohibiting
2584 misconduct in performing hurricane mitigation inspections or
2585 completing mitigation verification forms; specifying criteria
2586 for misconduct; authorizing certain licensing boards to commence
2587 disciplinary proceedings and impose administrative fines and
2588 sanctions for certain violations; requiring insurers, persons,
2589 or other entities obtaining evidence of fraud or making false
2590 statements to report to the Division of Insurance Fraud;
2591 specifying immunity from liability for making such a report;
2592 providing duties and responsibilities of the division;
2593 specifying a required notice for insurance policies issued or
2594 renewed in this state; providing notice requirements; repealing
2595 s. 627.7065, F.S., relating to database of information relating

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 447 (2010)

Amendment No.

2596 to sinkholes, the Department of Financial Services, and the
2597 Department of Environmental Protection; providing effective
2598 dates.