

1 A bill to be entitled
2 An act relating to residential property insurance;
3 amending s. 627.062, F.S.; authorizing certain insurers to
4 use a rate different from otherwise applicable filed
5 rates; prohibiting the consideration of certain policies
6 when making a specified calculation; preserving the
7 authority of the Office of Insurance Regulation to
8 disapprove rates as inadequate or disapprove a rate filing
9 for using certain rating factors; authorizing the office
10 to direct an insurer to make a specified type of rate
11 filing under certain circumstances; amending s. 627.351,
12 F.S.; providing requirements for attachment and payment of
13 the Citizens policyholder surcharge; prohibiting the
14 corporation from levying certain regular assessments until
15 after levying the full amount of a Citizens policyholder
16 surcharge; requiring the corporation's plan of operation
17 to require agents to obtain an acknowledgement of
18 potential surcharge and assessment liability from
19 applicants and policyholders; requiring the corporation to
20 permanently retain a copy of such acknowledgments;
21 specifying that the acknowledgement creates a conclusive
22 presumption of understanding and acceptance by the
23 policyholder; creating s. 627.7031, F.S.; authorizing
24 certain insurers to offer or renew policies at rates
25 established under certain circumstances; prohibiting
26 certain insurers from purchasing TICL option coverage from
27 the Florida Hurricane Catastrophe Fund under certain
28 circumstances; requiring that certain policies contain a

29 | specified rate notice; requiring insurers to offer
 30 | applicants or insureds an estimate of the premium for a
 31 | policy from Citizens Property Insurance Corporation
 32 | reflecting similar coverage, limits, and deductibles;
 33 | requiring applicants or insureds to provide a signed
 34 | premium comparison acknowledgement; specifying criteria
 35 | for insurer compliance with certain requirements;
 36 | specifying acknowledgement contents; requiring insurers
 37 | and agents to retain a copy of the acknowledgement for a
 38 | specified time; specifying a presumption created by a
 39 | signed acknowledgement; specifying types of residential
 40 | property insurance policies that are not eligible for
 41 | certain rates or subject to other requirements; requiring
 42 | written notice of certain nonrenewals; preserving insurer
 43 | authority to cancel policies; specifying a criterion for
 44 | what constitutes an offer to renew a policy; providing an
 45 | effective date.

46 |
 47 | Be It Enacted by the Legislature of the State of Florida:
 48 |

49 | Section 1. Paragraph (1) is added to subsection (2) of
 50 | section 627.062, Florida Statutes, to read:

51 | 627.062 Rate standards.—

52 | (2) As to all such classes of insurance:

53 | (1)1. An insurer complying with the requirements of s.
 54 | 627.7031 may use a rate for residential property insurance, as
 55 | defined in s. 627.4025, different from the otherwise applicable
 56 | filed rate as provided in this paragraph.

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

59 3. Such rates shall be filed with the office as a separate
 60 filing.

61 4. This paragraph does not affect the authority of the
 62 office to disapprove a rate as inadequate or to disapprove a
 63 rate filing for charging any insured or applicant a higher
 64 premium solely because of the insured's or applicant's race,
 65 color, creed, marital status, sex, or national origin. Upon
 66 finding that an insurer has used any such factor in charging an
 67 insured or applicant a higher premium, the office may direct the
 68 insurer to make a new filing for a new rate that does not use
 69 such factor.

70
 71 The provisions of this subsection shall not apply to workers'
 72 compensation and employer's liability insurance and to motor
 73 vehicle insurance.

74 Section 2. Paragraphs (g) through (ff) of subsection (6)
 75 of section 627.351, Florida Statutes, are redesignated as
 76 paragraphs (f) through (ee), respectively, present paragraph (f)
 77 of that subsection is redesignated as paragraph (ff), and
 78 paragraphs (b) and (c) of subsection (6) of section 627.351,
 79 Florida Statutes, are amended to read:

80 627.351 Insurance risk apportionment plans.—

81 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

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

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

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

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

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

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113 or issued by the Residential Property and Casualty Joint
114 Underwriting Association and renewed by the corporation that
115 provide coverage for basic property perils on risks that are not
116 located in areas eligible for coverage in the Florida Windstorm
117 Underwriting Association as those areas were defined on January
118 1, 2002, and for such policies that do not provide coverage for
119 the peril of wind on risks that are located in such areas; and
120 (III) A high-risk account for personal residential
121 policies and commercial residential and commercial
122 nonresidential property policies issued by the corporation or
123 transferred to the corporation that provide coverage for the
124 peril of wind on risks that are located in areas eligible for
125 coverage in the Florida Windstorm Underwriting Association as
126 those areas were defined on January 1, 2002. The corporation may
127 offer policies that provide multiperil coverage and the
128 corporation shall continue to offer policies that provide
129 coverage only for the peril of wind for risks located in areas
130 eligible for coverage in the high-risk account. In issuing
131 multiperil coverage, the corporation may use its approved policy
132 forms and rates for the personal lines account. An applicant or
133 insured who is eligible to purchase a multiperil policy from the
134 corporation may purchase a multiperil policy from an authorized
135 insurer without prejudice to the applicant's or insured's
136 eligibility to prospectively purchase a policy that provides
137 coverage only for the peril of wind from the corporation. An
138 applicant or insured who is eligible for a corporation policy
139 that provides coverage only for the peril of wind may elect to
140 purchase or retain such policy and also purchase or retain

141 coverage excluding wind from an authorized insurer without
142 prejudice to the applicant's or insured's eligibility to
143 prospectively purchase a policy that provides multiperil
144 coverage from the corporation. It is the goal of the Legislature
145 that there would be an overall average savings of 10 percent or
146 more for a policyholder who currently has a wind-only policy
147 with the corporation, and an ex-wind policy with a voluntary
148 insurer or the corporation, and who then obtains a multiperil
149 policy from the corporation. It is the intent of the Legislature
150 that the offer of multiperil coverage in the high-risk account
151 be made and implemented in a manner that does not adversely
152 affect the tax-exempt status of the corporation or
153 creditworthiness of or security for currently outstanding
154 financing obligations or credit facilities of the high-risk
155 account, the personal lines account, or the commercial lines
156 account. The high-risk account must also include quota share
157 primary insurance under subparagraph (c)2. The area eligible for
158 coverage under the high-risk account also includes the area
159 within Port Canaveral, which is bordered on the south by the
160 City of Cape Canaveral, bordered on the west by the Banana
161 River, and bordered on the north by Federal Government property.

162 b. The three separate accounts must be maintained as long
163 as financing obligations entered into by the Florida Windstorm
164 Underwriting Association or Residential Property and Casualty
165 Joint Underwriting Association are outstanding, in accordance
166 with the terms of the corresponding financing documents. When
167 the financing obligations are no longer outstanding, in
168 accordance with the terms of the corresponding financing

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

184 c. Creditors of the Residential Property and Casualty
185 Joint Underwriting Association and of the accounts specified in
186 sub-sub-subparagraphs a.(I) and (II) may have a claim against,
187 and recourse to, the accounts referred to in sub-sub-
188 subparagraphs a.(I) and (II) and shall have no claim against, or
189 recourse to, the account referred to in sub-sub-subparagraph
190 a.(III). Creditors of the Florida Windstorm Underwriting
191 Association shall have a claim against, and recourse to, the
192 account referred to in sub-sub-subparagraph a.(III) and shall
193 have no claim against, or recourse to, the accounts referred to
194 in sub-sub-subparagraphs a.(I) and (II).

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

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

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

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

205 a. After accounting for the Citizens policyholder
 206 surcharge imposed under sub-subparagraph i., when the remaining
 207 projected deficit incurred in a particular calendar year is not
 208 greater than 6 percent of the aggregate statewide direct written
 209 premium for the subject lines of business for the prior calendar
 210 year, the entire deficit shall be recovered through regular
 211 assessments of assessable insurers under paragraph (p) and
 212 assessable insureds.

213 b. After accounting for the Citizens policyholder
 214 surcharge imposed under sub-subparagraph i., when the remaining
 215 projected deficit incurred in a particular calendar year exceeds
 216 6 percent of the aggregate statewide direct written premium for
 217 the subject lines of business for the prior calendar year, the
 218 corporation shall levy regular assessments on assessable
 219 insurers under paragraph (p) and on assessable insureds in an
 220 amount equal to the greater of 6 percent of the deficit or 6
 221 percent of the aggregate statewide direct written premium for
 222 the subject lines of business for the prior calendar year. Any

223 remaining deficit shall be recovered through emergency
224 assessments under sub-subparagraph d.

225 c. Each assessable insurer's share of the amount being
226 assessed under sub-subparagraph a. or sub-subparagraph b. shall
227 be in the proportion that the assessable insurer's direct
228 written premium for the subject lines of business for the year
229 preceding the assessment bears to the aggregate statewide direct
230 written premium for the subject lines of business for that year.
231 The assessment percentage applicable to each assessable insured
232 is the ratio of the amount being assessed under sub-subparagraph
233 a. or sub-subparagraph b. to the aggregate statewide direct
234 written premium for the subject lines of business for the prior
235 year. Assessments levied by the corporation on assessable
236 insurers under sub-subparagraphs a. and b. shall be paid as
237 required by the corporation's plan of operation and paragraph
238 (p). Assessments levied by the corporation on assessable
239 insureds under sub-subparagraphs a. and b. shall be collected by
240 the surplus lines agent at the time the surplus lines agent
241 collects the surplus lines tax required by s. 626.932 and shall
242 be paid to the Florida Surplus Lines Service Office at the time
243 the surplus lines agent pays the surplus lines tax to the
244 Florida Surplus Lines Service Office. Upon receipt of regular
245 assessments from surplus lines agents, the Florida Surplus Lines
246 Service Office shall transfer the assessments directly to the
247 corporation as determined by the corporation.

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

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251 | subparagraph b., plus the amount that is expected to be
252 | recovered through surcharges under sub-subparagraph i., as to
253 | the remaining projected deficit the board shall levy, after
254 | verification by the office, emergency assessments, for as many
255 | years as necessary to cover the deficits, to be collected by
256 | assessable insurers and the corporation and collected from
257 | assessable insureds upon issuance or renewal of policies for
258 | subject lines of business, excluding National Flood Insurance
259 | policies. The amount of the emergency assessment collected in a
260 | particular year shall be a uniform percentage of that year's
261 | direct written premium for subject lines of business and all
262 | accounts of the corporation, excluding National Flood Insurance
263 | Program policy premiums, as annually determined by the board and
264 | verified by the office. The office shall verify the arithmetic
265 | calculations involved in the board's determination within 30
266 | days after receipt of the information on which the determination
267 | was based. Notwithstanding any other provision of law, the
268 | corporation and each assessable insurer that writes subject
269 | lines of business shall collect emergency assessments from its
270 | policyholders without such obligation being affected by any
271 | credit, limitation, exemption, or deferment. Emergency
272 | assessments levied by the corporation on assessable insureds
273 | shall be collected by the surplus lines agent at the time the
274 | surplus lines agent collects the surplus lines tax required by
275 | s. 626.932 and shall be paid to the Florida Surplus Lines
276 | Service Office at the time the surplus lines agent pays the
277 | surplus lines tax to the Florida Surplus Lines Service Office.
278 | The emergency assessments so collected shall be transferred

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279 directly to the corporation on a periodic basis as determined by
280 the corporation and shall be held by the corporation solely in
281 the applicable account. The aggregate amount of emergency
282 assessments levied for an account under this sub-subparagraph in
283 any calendar year may, at the discretion of the board of
284 governors, be less than but may not exceed the greater of 10
285 percent of the amount needed to cover the deficit, plus
286 interest, fees, commissions, required reserves, and other costs
287 associated with financing of the original deficit, or 10 percent
288 of the aggregate statewide direct written premium for subject
289 lines of business and for all accounts of the corporation for
290 the prior year, plus interest, fees, commissions, required
291 reserves, and other costs associated with financing the deficit.

292 e. The corporation may pledge the proceeds of assessments,
293 projected recoveries from the Florida Hurricane Catastrophe
294 Fund, other insurance and reinsurance recoverables, policyholder
295 surcharges and other surcharges, and other funds available to
296 the corporation as the source of revenue for and to secure bonds
297 issued under paragraph (p), bonds or other indebtedness issued
298 under subparagraph (c)3., or lines of credit or other financing
299 mechanisms issued or created under this subsection, or to retire
300 any other debt incurred as a result of deficits or events giving
301 rise to deficits, or in any other way that the board determines
302 will efficiently recover such deficits. The purpose of the lines
303 of credit or other financing mechanisms is to provide additional
304 resources to assist the corporation in covering claims and
305 expenses attributable to a catastrophe. As used in this
306 subsection, the term "assessments" includes regular assessments

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307 | under sub-subparagraph a., sub-subparagraph b., or subparagraph
308 | (p)1. and emergency assessments under sub-subparagraph d.
309 | Emergency assessments collected under sub-subparagraph d. are
310 | not part of an insurer's rates, are not premium, and are not
311 | subject to premium tax, fees, or commissions; however, failure
312 | to pay the emergency assessment shall be treated as failure to
313 | pay premium. The emergency assessments under sub-subparagraph d.
314 | shall continue as long as any bonds issued or other indebtedness
315 | incurred with respect to a deficit for which the assessment was
316 | imposed remain outstanding, unless adequate provision has been
317 | made for the payment of such bonds or other indebtedness
318 | pursuant to the documents governing such bonds or other
319 | indebtedness.

320 | f. As used in this subsection for purposes of any deficit
321 | incurred on or after January 25, 2007, the term "subject lines
322 | of business" means insurance written by assessable insurers or
323 | procured by assessable insureds for all property and casualty
324 | lines of business in this state, but not including workers'
325 | compensation or medical malpractice. As used in the sub-
326 | subparagraph, the term "property and casualty lines of business"
327 | includes all lines of business identified on Form 2, Exhibit of
328 | Premiums and Losses, in the annual statement required of
329 | authorized insurers by s. 624.424 and any rule adopted under
330 | this section, except for those lines identified as accident and
331 | health insurance and except for policies written under the
332 | National Flood Insurance Program or the Federal Crop Insurance
333 | Program. For purposes of this sub-subparagraph, the term

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

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

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

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

354 (II) The policyholder's liability for the Citizens
 355 policyholder surcharge attaches on the date of the order levying
 356 the surcharge or upon the initial issuance of a policy within
 357 the first 12 months after the date of the order. The Citizens
 358 policyholder surcharge is payable upon cancellation or
 359 termination of the policy, upon renewal of the policy, or upon
 360 issuance of a new policy within the first 12 months after the
 361 date of the levy.

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362 (III) The Citizens policyholder surcharge ~~for a 12-month~~
363 ~~period, which shall be levied collected at the time of issuance~~
364 ~~or renewal of a policy,~~ as a uniform percentage of the premium
365 for the policy of up to 15 percent of such premium, which funds
366 shall be used to offset the deficit.

367 (IV) The corporation may not levy any regular assessments
368 under paragraph (q) pursuant to sub-subparagraph a. or sub-
369 subparagraph b. with respect to a particular year's deficit
370 until the corporation has first levied a Citizens policyholder
371 surcharge under this sub-subparagraph in the full amount
372 authorized by this sub-subparagraph.

373 (V) Citizens policyholder surcharges under this sub-
374 subparagraph are not considered premium and are not subject to
375 commissions, fees, or premium taxes. However, failure to pay
376 such surcharges shall be treated as failure to pay premium.

377 j. If the amount of any assessments or surcharges
378 collected from corporation policyholders, assessable insurers or
379 their policyholders, or assessable insureds exceeds the amount
380 of the deficits, such excess amounts shall be remitted to and
381 retained by the corporation in a reserve to be used by the
382 corporation, as determined by the board of governors and
383 approved by the office, to pay claims or reduce any past,
384 present, or future plan-year deficits or to reduce outstanding
385 debt.

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

387 1. Must provide for adoption of residential property and
388 casualty insurance policy forms and commercial residential and
389 nonresidential property insurance forms, which forms must be

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390 approved by the office prior to use. The corporation shall adopt
391 the following policy forms:

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

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

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

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

411 e. Commercial lines nonresidential property insurance
412 forms that cover the peril of wind only. The forms are
413 applicable only to nonresidential properties located in areas
414 eligible for coverage under the high-risk account referred to in
415 sub-subparagraph (b)2.a.

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

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

425 (I) "Quota share primary insurance" means an arrangement
426 in which the primary hurricane coverage of an eligible risk is
427 provided in specified percentages by the corporation and an
428 authorized insurer. The corporation and authorized insurer are
429 each solely responsible for a specified percentage of hurricane
430 coverage of an eligible risk as set forth in a quota share
431 primary insurance agreement between the corporation and an
432 authorized insurer and the insurance contract. The
433 responsibility of the corporation or authorized insurer to pay
434 its specified percentage of hurricane losses of an eligible
435 risk, as set forth in the quota share primary insurance
436 agreement, may not be altered by the inability of the other
437 party to the agreement to pay its specified percentage of
438 hurricane losses. Eligible risks that are provided hurricane
439 coverage through a quota share primary insurance arrangement
440 must be provided policy forms that set forth the obligations of
441 the corporation and authorized insurer under the arrangement,
442 clearly specify the percentages of quota share primary insurance
443 provided by the corporation and authorized insurer, and

444 conspicuously and clearly state that neither the authorized
445 insurer nor the corporation may be held responsible beyond its
446 specified percentage of coverage of hurricane losses.

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

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

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

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

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

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

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

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

492 h. The quota share primary insurance agreement between the
493 corporation and an authorized insurer must set forth the
494 specific terms under which coverage is provided, including, but
495 not limited to, the sale and servicing of policies issued under
496 the agreement by the insurance agent of the authorized insurer
497 producing the business, the reporting of information concerning
498 eligible risks, the payment of premium to the corporation, and
499 arrangements for the adjustment and payment of hurricane claims

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500 incurred on eligible risks by the claims adjuster and personnel
501 of the authorized insurer. Entering into a quota sharing
502 insurance agreement between the corporation and an authorized
503 insurer shall be voluntary and at the discretion of the
504 authorized insurer.

505 3. May provide that the corporation may employ or
506 otherwise contract with individuals or other entities to provide
507 administrative or professional services that may be appropriate
508 to effectuate the plan. The corporation shall have the power to
509 borrow funds, by issuing bonds or by incurring other
510 indebtedness, and shall have other powers reasonably necessary
511 to effectuate the requirements of this subsection, including,
512 without limitation, the power to issue bonds and incur other
513 indebtedness in order to refinance outstanding bonds or other
514 indebtedness. The corporation may, but is not required to, seek
515 judicial validation of its bonds or other indebtedness under
516 chapter 75. The corporation may issue bonds or incur other
517 indebtedness, or have bonds issued on its behalf by a unit of
518 local government pursuant to subparagraph (p)2., in the absence
519 of a hurricane or other weather-related event, upon a
520 determination by the corporation, subject to approval by the
521 office, that such action would enable it to efficiently meet the
522 financial obligations of the corporation and that such
523 financings are reasonably necessary to effectuate the
524 requirements of this subsection. The corporation is authorized
525 to take all actions needed to facilitate tax-free status for any
526 such bonds or indebtedness, including formation of trusts or
527 other affiliated entities. The corporation shall have the

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528 authority to pledge assessments, projected recoveries from the
529 Florida Hurricane Catastrophe Fund, other reinsurance
530 recoverables, market equalization and other surcharges, and
531 other funds available to the corporation as security for bonds
532 or other indebtedness. In recognition of s. 10, Art. I of the
533 State Constitution, prohibiting the impairment of obligations of
534 contracts, it is the intent of the Legislature that no action be
535 taken whose purpose is to impair any bond indenture or financing
536 agreement or any revenue source committed by contract to such
537 bond or other indebtedness.

538 4.a. Must require that the corporation operate subject to
539 the supervision and approval of a board of governors consisting
540 of eight individuals who are residents of this state, from
541 different geographical areas of this state. The Governor, the
542 Chief Financial Officer, the President of the Senate, and the
543 Speaker of the House of Representatives shall each appoint two
544 members of the board. At least one of the two members appointed
545 by each appointing officer must have demonstrated expertise in
546 insurance. The Chief Financial Officer shall designate one of
547 the appointees as chair. All board members serve at the pleasure
548 of the appointing officer. All members of the board of governors
549 are subject to removal at will by the officers who appointed
550 them. All board members, including the chair, must be appointed
551 to serve for 3-year terms beginning annually on a date
552 designated by the plan. However, for the first term beginning on
553 or after July 1, 2009, each appointing officer shall appoint one
554 member of the board for a 2-year term and one member for a 3-
555 year term. Any board vacancy shall be filled for the unexpired

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556 term by the appointing officer. The Chief Financial Officer
557 shall appoint a technical advisory group to provide information
558 and advice to the board of governors in connection with the
559 board's duties under this subsection. The executive director and
560 senior managers of the corporation shall be engaged by the board
561 and serve at the pleasure of the board. Any executive director
562 appointed on or after July 1, 2006, is subject to confirmation
563 by the Senate. The executive director is responsible for
564 employing other staff as the corporation may require, subject to
565 review and concurrence by the board.

566 b. The board shall create a Market Accountability Advisory
567 Committee to assist the corporation in developing awareness of
568 its rates and its customer and agent service levels in
569 relationship to the voluntary market insurers writing similar
570 coverage. The members of the advisory committee shall consist of
571 the following 11 persons, one of whom must be elected chair by
572 the members of the committee: four representatives, one
573 appointed by the Florida Association of Insurance Agents, one by
574 the Florida Association of Insurance and Financial Advisors, one
575 by the Professional Insurance Agents of Florida, and one by the
576 Latin American Association of Insurance Agencies; three
577 representatives appointed by the insurers with the three highest
578 voluntary market share of residential property insurance
579 business in the state; one representative from the Office of
580 Insurance Regulation; one consumer appointed by the board who is
581 insured by the corporation at the time of appointment to the
582 committee; one representative appointed by the Florida
583 Association of Realtors; and one representative appointed by the

584 Florida Bankers Association. All members must serve for 3-year
585 terms and may serve for consecutive terms. The committee shall
586 report to the corporation at each board meeting on insurance
587 market issues which may include rates and rate competition with
588 the voluntary market; service, including policy issuance, claims
589 processing, and general responsiveness to policyholders,
590 applicants, and agents; and matters relating to depopulation.

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

593 a. Subject to the provisions of s. 627.3517, with respect
594 to personal lines residential risks, if the risk is offered
595 coverage from an authorized insurer at the insurer's approved
596 rate under either a standard policy including wind coverage or,
597 if consistent with the insurer's underwriting rules as filed
598 with the office, a basic policy including wind coverage, for a
599 new application to the corporation for coverage, the risk is not
600 eligible for any policy issued by the corporation unless the
601 premium for coverage from the authorized insurer is more than 15
602 percent greater than the premium for comparable coverage from
603 the corporation. If the risk is not able to obtain any such
604 offer, the risk is eligible for either a standard policy
605 including wind coverage or a basic policy including wind
606 coverage issued by the corporation; however, if the risk could
607 not be insured under a standard policy including wind coverage
608 regardless of market conditions, the risk shall be eligible for
609 a basic policy including wind coverage unless rejected under
610 subparagraph 8. However, with regard to a policyholder of the
611 corporation or a policyholder removed from the corporation

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612 through an assumption agreement until the end of the assumption
613 period, the policyholder remains eligible for coverage from the
614 corporation regardless of any offer of coverage from an
615 authorized insurer or surplus lines insurer. The corporation
616 shall determine the type of policy to be provided on the basis
617 of objective standards specified in the underwriting manual and
618 based on generally accepted underwriting practices.

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

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

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

636
637 If the producing agent is unwilling or unable to accept
638 appointment, the new insurer shall pay the agent in accordance
639 with sub-sub-sub-subparagraph (A).

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

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

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

654
655 If the producing agent is unwilling or unable to accept
656 appointment, the new insurer shall pay the agent in accordance
657 with sub-sub-sub-subparagraph (A).

658 b. With respect to commercial lines residential risks, for
659 a new application to the corporation for coverage, if the risk
660 is offered coverage under a policy including wind coverage from
661 an authorized insurer at its approved rate, the risk is not
662 eligible for any policy issued by the corporation unless the
663 premium for coverage from the authorized insurer is more than 15
664 percent greater than the premium for comparable coverage from
665 the corporation. If the risk is not able to obtain any such
666 offer, the risk is eligible for a policy including wind coverage
667 issued by the corporation. However, with regard to a

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668 policyholder of the corporation or a policyholder removed from
669 the corporation through an assumption agreement until the end of
670 the assumption period, the policyholder remains eligible for
671 coverage from the corporation regardless of any offer of
672 coverage from an authorized insurer or surplus lines insurer.

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

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

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

690

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

694 (II) When the corporation enters into a contractual
695 agreement for a take-out plan, the producing agent of record of

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696 the corporation policy is entitled to retain any unearned
697 commission on the policy, and the insurer shall:

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

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

708

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

712 c. For purposes of determining comparable coverage under
713 sub-subparagraphs a. and b., the comparison shall be based on
714 those forms and coverages that are reasonably comparable. The
715 corporation may rely on a determination of comparable coverage
716 and premium made by the producing agent who submits the
717 application to the corporation, made in the agent's capacity as
718 the corporation's agent. A comparison may be made solely of the
719 premium with respect to the main building or structure only on
720 the following basis: the same coverage A or other building
721 limits; the same percentage hurricane deductible that applies on
722 an annual basis or that applies to each hurricane for commercial
723 residential property; the same percentage of ordinance and law

724 coverage, if the same limit is offered by both the corporation
725 and the authorized insurer; the same mitigation credits, to the
726 extent the same types of credits are offered both by the
727 corporation and the authorized insurer; the same method for loss
728 payment, such as replacement cost or actual cash value, if the
729 same method is offered both by the corporation and the
730 authorized insurer in accordance with underwriting rules; and
731 any other form or coverage that is reasonably comparable as
732 determined by the board. If an application is submitted to the
733 corporation for wind-only coverage in the high-risk account, the
734 premium for the corporation's wind-only policy plus the premium
735 for the ex-wind policy that is offered by an authorized insurer
736 to the applicant shall be compared to the premium for multiperil
737 coverage offered by an authorized insurer, subject to the
738 standards for comparison specified in this subparagraph. If the
739 corporation or the applicant requests from the authorized
740 insurer a breakdown of the premium of the offer by types of
741 coverage so that a comparison may be made by the corporation or
742 its agent and the authorized insurer refuses or is unable to
743 provide such information, the corporation may treat the offer as
744 not being an offer of coverage from an authorized insurer at the
745 insurer's approved rate.

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

748 7. Must provide that if premium and investment income for
749 an account attributable to a particular calendar year are in
750 excess of projected losses and expenses for the account
751 attributable to that year, such excess shall be held in surplus

752 in the account. Such surplus shall be available to defray
 753 deficits in that account as to future years and shall be used
 754 for that purpose prior to assessing assessable insurers and
 755 assessable insureds as to any calendar year.

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

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

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

766
 767 The acceptance or rejection of a risk by the corporation shall
 768 be construed as the private placement of insurance, and the
 769 provisions of chapter 120 shall not apply.

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

774 10. The policies issued by the corporation must provide
 775 that, if the corporation or the market assistance plan obtains
 776 an offer from an authorized insurer to cover the risk at its
 777 approved rates, the risk is no longer eligible for renewal
 778 through the corporation, except as otherwise provided in this
 779 subsection.

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

787 12. May establish, subject to approval by the office,
788 different eligibility requirements and operational procedures
789 for any line or type of coverage for any specified county or
790 area if the board determines that such changes to the
791 eligibility requirements and operational procedures are
792 justified due to the voluntary market being sufficiently stable
793 and competitive in such area or for such line or type of
794 coverage and that consumers who, in good faith, are unable to
795 obtain insurance through the voluntary market through ordinary
796 methods would continue to have access to coverage from the
797 corporation. When coverage is sought in connection with a real
798 property transfer, such requirements and procedures shall not
799 provide for an effective date of coverage later than the date of
800 the closing of the transfer as established by the transferor,
801 the transferee, and, if applicable, the lender.

802 13. Must provide that, with respect to the high-risk
803 account, any assessable insurer with a surplus as to
804 policyholders of \$25 million or less writing 25 percent or more
805 of its total countrywide property insurance premiums in this
806 state may petition the office, within the first 90 days of each
807 calendar year, to qualify as a limited apportionment company. A

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808 regular assessment levied by the corporation on a limited
809 apportionment company for a deficit incurred by the corporation
810 for the high-risk account in 2006 or thereafter may be paid to
811 the corporation on a monthly basis as the assessments are
812 collected by the limited apportionment company from its insureds
813 pursuant to s. 627.3512, but the regular assessment must be paid
814 in full within 12 months after being levied by the corporation.
815 A limited apportionment company shall collect from its
816 policyholders any emergency assessment imposed under sub-
817 subparagraph (b)3.d. The plan shall provide that, if the office
818 determines that any regular assessment will result in an
819 impairment of the surplus of a limited apportionment company,
820 the office may direct that all or part of such assessment be
821 deferred as provided in subparagraph (p)4. However, there shall
822 be no limitation or deferment of an emergency assessment to be
823 collected from policyholders under sub-subparagraph (b)3.d.

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

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

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

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

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

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

849
 850 ACKNOWLEDGEMENT OF POTENTIAL SURCHARGE AND ASSESSMENT

851 LIABILITY:

852 1. I UNDERSTAND, AS A CITIZENS PROPERTY
 853 INSURANCE CORPORATION POLICYHOLDER, THAT IF THE
 854 CORPORATION SUSTAINS A DEFICIT AS A RESULT OF
 855 HURRICANE LOSSES OR FOR ANY OTHER REASON, MY POLICY
 856 COULD BE SUBJECT TO CITIZENS POLICYHOLDER SURCHARGES,
 857 WHICH WOULD BE DUE AND PAYABLE UPON RENEWAL,
 858 CANCELLATION, OR TERMINATION OF THE POLICY, AND THAT
 859 THE SURCHARGES COULD BE AS HIGH AS 15 PERCENT OF MY
 860 PREMIUM FOR DEFICITS IN EACH OF THREE CITIZENS
 861 ACCOUNTS, OR A DIFFERENT AMOUNT AS ESTABLISHED BY THE
 862 FLORIDA LEGISLATURE.

863 2. I ALSO UNDERSTAND THAT I MAY BE SUBJECT TO
 864 EMERGENCY ASSESSMENTS TO THE SAME EXTENT AS
 865 POLICYHOLDERS OF OTHER INSURANCE COMPANIES.

866
 867 b. The corporation shall permanently maintain a signed
 868 copy of the signed acknowledgement required by this
 869 subparagraph, and the agent may also retain a copy.

870 c. The signed acknowledgement form creates a conclusive
 871 presumption that the policyholder understood and accepted his or
 872 her potential surcharge and assessment liability as a Citizens
 873 policyholder.

874 Section 3. Section 627.7031, Florida Statutes, is created
 875 to read:

876 627.7031 Residential property insurance option.—

877 (1) An insurer holding a certificate of authority to write
 878 property insurance in this state may offer or renew policies at
 879 rates established in accordance with s. 627.062(2)(1), subject
 880 to all of the requirements and prohibitions of this section.

881 (2) An insurer offering or renewing policies at rates
 882 established in accordance with s. 627.062(2)(1) may not purchase
 883 coverage from the Florida Hurricane Catastrophe Fund under the
 884 temporary increase in coverage limit option under s.
 885 215.555(17).

886 (3) (a) Before the effective date of a newly issued or
 887 renewal policy at rates established in accordance with s.
 888 627.062(2)(1), the applicant or insured must be given the
 889 following notice, printed in at least 12-point boldfaced type:

890

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891 THE RATE FOR THIS POLICY IS NOT SUBJECT TO FULL RATE
892 REGULATION BY THE FLORIDA OFFICE OF INSURANCE REGULATION AND MAY
893 BE HIGHER THAN RATES APPROVED BY THAT OFFICE. A RESIDENTIAL
894 PROPERTY POLICY SUBJECT TO FULL RATE REGULATION REQUIREMENTS MAY
895 BE AVAILABLE FROM THIS INSURER, ANOTHER INSURER, OR CITIZENS
896 PROPERTY INSURANCE CORPORATION. PLEASE DISCUSS YOUR POLICY
897 OPTIONS WITH AN INSURANCE AGENT WHO CAN PROVIDE A CITIZENS
898 QUOTE. YOU MAY WISH TO VIEW THE OFFICE OF INSURANCE REGULATION'S
899 WEBSITE AT WWW.SHOPANDCOMPARERATES.COM FOR MORE INFORMATION
900 ABOUT CHOICES AVAILABLE TO YOU.

901
902 (b) For policies renewed at a rate established in
903 accordance with s. 627.062(2)(1), the notice described in
904 paragraph (a) must be provided in writing at the same time as
905 the renewal notice on a document separate from the renewal
906 notice, but may be contained within the same mailing as the
907 renewal notice.

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

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

918 (b) Provide the insurer or agent with a signed copy of the

919 following acknowledgement form, which must be retained by the
 920 insurer or agent for at least 3 years. If the acknowledgement
 921 form is signed by the insured or if the insured remits payment
 922 in the amount of the rate established in accordance with s.
 923 627.062(2)(1) after being mailed or otherwise provided the
 924 acknowledgement form specified in this paragraph, and after
 925 being mailed, otherwise provided, or offered the comparison
 926 specified in paragraph (a), an insurer renewing a policy at such
 927 rate shall be deemed to comply with this section, and it is
 928 presumed that the insured has been informed and understands the
 929 information contained in the comparison and acknowledgement
 930 forms:

931
 932 ACKNOWLEDGEMENT

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

935 2. I UNDERSTAND THAT THE RATE FOR THIS RESIDENTIAL
 936 PROPERTY INSURANCE POLICY IS NOT SUBJECT TO FULL RATE REGULATION
 937 BY THE FLORIDA OFFICE OF INSURANCE REGULATION AND MAY BE HIGHER
 938 THAN RATES APPROVED BY THAT OFFICE.

939 3. I UNDERSTAND THAT A RESIDENTIAL PROPERTY INSURANCE
 940 POLICY SUBJECT TO FULL RATE REGULATION REQUIREMENTS MAY BE
 941 AVAILABLE FROM CITIZENS PROPERTY INSURANCE CORPORATION.

942 4. I UNDERSTAND THAT THE FLORIDA OFFICE OF INSURANCE
 943 REGULATION'S WEBSITE WWW.SHOPANDCOMPARERATES.COM CONTAINS
 944 RESIDENTIAL PROPERTY INSURANCE RATE COMPARISON INFORMATION.

945 5. I UNDERSTAND THAT IF CITIZENS PROPERTY INSURANCE
 946 CORPORATION INCURS A DEFICIT BECAUSE OF HURRICANE LOSSES OR

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947 OTHER LOSSES, I MAY BE REQUIRED TO PAY AN ASSESSMENT BASED UPON
 948 THE PREMIUM FOR THIS POLICY AND THAT A POLICYHOLDER OF CITIZENS
 949 PROPERTY INSURANCE CORPORATION MAY BE REQUIRED TO PAY A
 950 DIFFERENT ASSESSMENT.

951
 952 (5) The following types of residential property insurance
 953 policies are not eligible for rates established in accordance
 954 with s. 627.062(2)(1) and are not subject to the other
 955 provisions of this section:

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

958 (b) Residential property insurance policies that are
 959 subject to a consent decree, agreement, understanding, or other
 960 arrangement between the insurer and the office relating to rates
 961 or premiums for policies removed from Citizens Property
 962 Insurance Corporation.

963 (6) Notwithstanding s. 627.4133, an insurer that has
 964 issued a policy under this section shall provide the named
 965 insured written notice of nonrenewal at least 180 days before
 966 the effective date of the nonrenewal as to subsequent
 967 nonrenewals. However, this subsection does not prohibit an
 968 insurer from cancelling a policy as permitted under s. 627.4133.
 969 The offer of a policy at rates authorized by this section
 970 constitutes an offer to renew the policy at the rates specified
 971 in the offer and does not constitute a nonrenewal.

972 Section 4. This act shall take effect January 1, 2011.