

1 A bill to be entitled
2 An act relating to property insurance; amending s.
3 215.555, F.S.; extending a repeal date for an exemption of
4 medical malpractice insurance premiums from emergency
5 assessments; amending s. 624.407, F.S.; specifying an
6 additional surplus requirement for certain domestic
7 insurers; amending s. 624.408, F.S.; specifying an
8 additional surplus requirement for certain domestic
9 insurers; deleting obsolete surplus requirement
10 provisions; amending s. 627.0613, F.S.; revising annual
11 reporting requirements for the consumer advocate;
12 providing a definition; amending s. 627.062, F.S.;
13 prohibiting the Office of Insurance Regulation from
14 interfering with certain insurer rights; revising
15 provisions relating to separate filings limited to
16 adjustments of rates for reinsurance or financing costs;
17 authorizing certain insurers to use a rate different from
18 otherwise applicable filed rates; prohibiting the
19 consideration of certain policies when making a specified
20 calculation; preserving the authority of the Office of
21 Insurance Regulation to disapprove rates as inadequate or
22 disapprove a rate filing for using certain rating factors;
23 authorizing the office to direct an insurer to make a
24 specified type of rate filing under certain circumstances;
25 providing construction relating to certifications;
26 amending s. 627.0621, F.S.; revising provisions relating
27 to transparency in rate regulation; amending s. 627.0629,
28 F.S.; revising legislative intent relating to residential

29 | property insurance rate filings; deleting a requirement
30 | that the office develop and make available a method for
31 | insurers to establish discounts, credits, or rate
32 | differentials for certain hurricane mitigation measures;
33 | revising restrictions relating to including the cost of
34 | reinsurance for certain purposes; requiring the office to
35 | contract with a private entity to develop a comprehensive
36 | consumer information program; specifying program criteria;
37 | requiring the office to conduct a cost benefit analysis on
38 | a program implementation plan; requiring review and
39 | approval by the Financial Services Commission; amending s.
40 | 627.351, F.S.; providing requirements for attachment and
41 | payment of the Citizens policyholder surcharge;
42 | prohibiting the corporation from levying certain regular
43 | assessments until after levying the full amount of a
44 | Citizens policyholder surcharge; requiring the
45 | corporation's plan of operation to require agents to
46 | obtain an acknowledgement of potential surcharge and
47 | assessment liability from applicants and policyholders;
48 | requiring the corporation to permanently retain a copy of
49 | such acknowledgments; specifying that the acknowledgement
50 | creates a conclusive presumption of understanding and
51 | acceptance by the policyholder; deleting an obsolete
52 | legislative intent provision; amending s. 627.4133, F.S.;
53 | authorizing an insurer to cancel or nonrenew property
54 | insurance policies under certain circumstances; specifying
55 | duties of the office; creating s. 627.41341, F.S.;

56 | specifying requirements for a notice of change in policy

57 terms; providing definitions; authorizing policy renewals
58 to contain a change in policy terms; specifying notice
59 requirements; providing procedural requirements; providing
60 intent; amending s. 627.7011, F.S.; specifying criteria
61 for payment of dwelling and personal property replacement
62 costs; creating s. 627.7031, F.S.; authorizing certain
63 insurers to offer or renew policies at rates established
64 under certain circumstances; prohibiting certain insurers
65 from purchasing TICL option coverage from the Florida
66 Hurricane Catastrophe Fund under certain circumstances;
67 requiring that certain policies contain a specified rate
68 notice; requiring insurers to offer applicants or insureds
69 an estimate of the premium for a policy from Citizens
70 Property Insurance Corporation reflecting similar
71 coverage, limits, and deductibles; requiring applicants or
72 insureds to provide a signed premium comparison
73 acknowledgement; specifying criteria for insurer
74 compliance with certain requirements; specifying
75 acknowledgement contents; requiring insurers and agents to
76 retain a copy of the acknowledgement for a specified time;
77 specifying a presumption created by a signed
78 acknowledgement; specifying types of residential property
79 insurance policies that are not eligible for certain rates
80 or subject to other requirements; requiring written notice
81 of certain nonrenewals; preserving insurer authority to
82 cancel policies; specifying a criterion for what
83 constitutes an offer to renew a policy; amending s.
84 627.707, F.S.; revising standards for investigation of

85 sinkhole claims by insurers; specifying requirements for
 86 contracts for repairs to prevent additional damage to
 87 buildings or structures; amending s. 627.7073, F.S.;
 88 revising requirements for sinkhole reports; amending s.
 89 627.7074, F.S.; revising requirements and procedures for
 90 an alternative procedure for resolution of disputed
 91 sinkhole insurance claims; providing a definition;
 92 providing criteria and procedures for disqualification of
 93 neutral evaluators; providing requirements and procedures
 94 for neutral evaluators to enlist assistance from other
 95 professionals under certain circumstances; amending s.
 96 631.021, F.S.; specifying additional venue criteria for
 97 the Circuit Court of Leon County; specifying a required
 98 notice for insurance policies issued or renewed in this
 99 state; providing notice requirements; repealing s.
 100 627.7065, F.S., relating to database of information
 101 relating to sinkholes, the Department of Financial
 102 Services, and the Department of Environmental Protection;
 103 providing effective dates.

104
 105 Be It Enacted by the Legislature of the State of Florida:
 106

107 Section 1. Paragraph (b) of subsection (6) of section
 108 215.555, Florida Statutes, is amended to read:

- 109 215.555 Florida Hurricane Catastrophe Fund.—
 110 (6) REVENUE BONDS.—
 111 (b) Emergency assessments.—
 112 1. If the board determines that the amount of revenue

113 produced under subsection (5) is insufficient to fund the
114 obligations, costs, and expenses of the fund and the
115 corporation, including repayment of revenue bonds and that
116 portion of the debt service coverage not met by reimbursement
117 premiums, the board shall direct the Office of Insurance
118 Regulation to levy, by order, an emergency assessment on direct
119 premiums for all property and casualty lines of business in this
120 state, including property and casualty business of surplus lines
121 insurers regulated under part VIII of chapter 626, but not
122 including any workers' compensation premiums or medical
123 malpractice premiums. As used in this subsection, the term
124 "property and casualty business" includes all lines of business
125 identified on Form 2, Exhibit of Premiums and Losses, in the
126 annual statement required of authorized insurers by s. 624.424
127 and any rule adopted under this section, except for those lines
128 identified as accident and health insurance and except for
129 policies written under the National Flood Insurance Program. The
130 assessment shall be specified as a percentage of direct written
131 premium and is subject to annual adjustments by the board in
132 order to meet debt obligations. The same percentage shall apply
133 to all policies in lines of business subject to the assessment
134 issued or renewed during the 12-month period beginning on the
135 effective date of the assessment.

136 2. A premium is not subject to an annual assessment under
137 this paragraph in excess of 6 percent of premium with respect to
138 obligations arising out of losses attributable to any one
139 contract year, and a premium is not subject to an aggregate
140 annual assessment under this paragraph in excess of 10 percent

141 of premium. An annual assessment under this paragraph shall
142 continue as long as the revenue bonds issued with respect to
143 which the assessment was imposed are outstanding, including any
144 bonds the proceeds of which were used to refund the revenue
145 bonds, unless adequate provision has been made for the payment
146 of the bonds under the documents authorizing issuance of the
147 bonds.

148 3. Emergency assessments shall be collected from
149 policyholders. Emergency assessments shall be remitted by
150 insurers as a percentage of direct written premium for the
151 preceding calendar quarter as specified in the order from the
152 Office of Insurance Regulation. The office shall verify the
153 accurate and timely collection and remittance of emergency
154 assessments and shall report the information to the board in a
155 form and at a time specified by the board. Each insurer
156 collecting assessments shall provide the information with
157 respect to premiums and collections as may be required by the
158 office to enable the office to monitor and verify compliance
159 with this paragraph.

160 4. With respect to assessments of surplus lines premiums,
161 each surplus lines agent shall collect the assessment at the
162 same time as the agent collects the surplus lines tax required
163 by s. 626.932, and the surplus lines agent shall remit the
164 assessment to the Florida Surplus Lines Service Office created
165 by s. 626.921 at the same time as the agent remits the surplus
166 lines tax to the Florida Surplus Lines Service Office. The
167 emergency assessment on each insured procuring coverage and
168 filing under s. 626.938 shall be remitted by the insured to the

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169 Florida Surplus Lines Service Office at the time the insured
170 pays the surplus lines tax to the Florida Surplus Lines Service
171 Office. The Florida Surplus Lines Service Office shall remit the
172 collected assessments to the fund or corporation as provided in
173 the order levied by the Office of Insurance Regulation. The
174 Florida Surplus Lines Service Office shall verify the proper
175 application of such emergency assessments and shall assist the
176 board in ensuring the accurate and timely collection and
177 remittance of assessments as required by the board. The Florida
178 Surplus Lines Service Office shall annually calculate the
179 aggregate written premium on property and casualty business,
180 other than workers' compensation and medical malpractice,
181 procured through surplus lines agents and insureds procuring
182 coverage and filing under s. 626.938 and shall report the
183 information to the board in a form and at a time specified by
184 the board.

185 5. Any assessment authority not used for a particular
186 contract year may be used for a subsequent contract year. If,
187 for a subsequent contract year, the board determines that the
188 amount of revenue produced under subsection (5) is insufficient
189 to fund the obligations, costs, and expenses of the fund and the
190 corporation, including repayment of revenue bonds and that
191 portion of the debt service coverage not met by reimbursement
192 premiums, the board shall direct the Office of Insurance
193 Regulation to levy an emergency assessment up to an amount not
194 exceeding the amount of unused assessment authority from a
195 previous contract year or years, plus an additional 4 percent
196 provided that the assessments in the aggregate do not exceed the

197 | limits specified in subparagraph 2.

198 | 6. The assessments otherwise payable to the corporation
 199 | under this paragraph shall be paid to the fund unless and until
 200 | the Office of Insurance Regulation and the Florida Surplus Lines
 201 | Service Office have received from the corporation and the fund a
 202 | notice, which shall be conclusive and upon which they may rely
 203 | without further inquiry, that the corporation has issued bonds
 204 | and the fund has no agreements in effect with local governments
 205 | under paragraph (c). On or after the date of the notice and
 206 | until the date the corporation has no bonds outstanding, the
 207 | fund shall have no right, title, or interest in or to the
 208 | assessments, except as provided in the fund's agreement with the
 209 | corporation.

210 | 7. Emergency assessments are not premium and are not
 211 | subject to the premium tax, to the surplus lines tax, to any
 212 | fees, or to any commissions. An insurer is liable for all
 213 | assessments that it collects and must treat the failure of an
 214 | insured to pay an assessment as a failure to pay the premium. An
 215 | insurer is not liable for uncollectible assessments.

216 | 8. When an insurer is required to return an unearned
 217 | premium, it shall also return any collected assessment
 218 | attributable to the unearned premium. A credit adjustment to the
 219 | collected assessment may be made by the insurer with regard to
 220 | future remittances that are payable to the fund or corporation,
 221 | but the insurer is not entitled to a refund.

222 | 9. When a surplus lines insured or an insured who has
 223 | procured coverage and filed under s. 626.938 is entitled to the
 224 | return of an unearned premium, the Florida Surplus Lines Service

225 Office shall provide a credit or refund to the agent or such
 226 insured for the collected assessment attributable to the
 227 unearned premium prior to remitting the emergency assessment
 228 collected to the fund or corporation.

229 10. The exemption of medical malpractice insurance
 230 premiums from emergency assessments under this paragraph is
 231 repealed May 31, 2013 ~~2010~~, and medical malpractice insurance
 232 premiums shall be subject to emergency assessments attributable
 233 to loss events occurring in the contract years commencing on
 234 June 1, 2013 ~~2010~~.

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

237 624.407 Capital funds required; new insurers.—

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

244 (a) Except as otherwise provided in this subsection, \$5
 245 ~~five million dollars~~ for a property and casualty insurer, or
 246 \$2.5 million for any other insurer;

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

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

252 (d) For all insurers other than life insurers and life and

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253 health insurers, 10 percent of the insurer's total liabilities;
 254 or

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

261
 262 however, a domestic insurer that transacts residential property
 263 insurance and is a wholly owned subsidiary of an insurer
 264 domiciled in any other state shall possess surplus as to
 265 policyholders of at least \$50 million, but no insurer shall be
 266 required under this subsection to have surplus as to
 267 policyholders greater than \$100 million.

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

270 624.408 Surplus as to policyholders required; new and
 271 existing insurers.-

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

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

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

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

284 (d)4. For all insurers other than mortgage guaranty
 285 insurers, life insurers, and life and health insurers, 10
 286 percent of the insurer's total liabilities;~~or~~

287 (e)5. Except as provided in paragraph (f), for property
 288 and casualty insurers, \$4 million; ~~or~~

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

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

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

301 ~~2. On December 31, 2002, and until December 30, 2003,~~
 302 ~~\$3.25 million.~~

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

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

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

308 627.0613 Consumer advocate.—The Chief Financial Officer

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

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

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

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

327 3.(e) The average length of time for payment of claims by
 328 the insurer.

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

332 (b) For purposes of this subsection, the term "valid
 333 consumer complaint" means a written communication from a
 334 consumer which expresses dissatisfaction with a specific
 335 personal residential property insurer whose conduct as described
 336 in the communication is found to constitute a violation of the

337 insurance laws of this state by the Division of Consumer
 338 Services of the Department of Financial Services.

339 Section 5. Paragraphs (i) and (k) of subsection (2) of
 340 section 627.062, Florida Statutes, are amended, paragraph (l) is
 341 added to subsection (2), and paragraph (e) is added to
 342 subsection (9) of that section, to read:

343 627.062 Rate standards.—

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

345 (i)1. Except as otherwise specifically provided in this
 346 chapter, the office may ~~shall~~ not, directly or indirectly,
 347 prohibit any insurer, including any residual market plan or
 348 joint underwriting association, from paying acquisition costs
 349 based on the full amount of premium, as defined in s. 627.403,
 350 applicable to any policy, or prohibit, directly or indirectly,
 351 any such insurer from including the full amount of acquisition
 352 costs in a rate filing.

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

358 (k)1. An insurer may make a separate filing limited solely
 359 to an adjustment of its rates for reinsurance or financing costs
 360 incurred in the purchase of reinsurance or financing products to
 361 replace or finance the payment of the amount covered by the
 362 Temporary Increase in Coverage Limits (TICL) portion of the
 363 Florida Hurricane Catastrophe Fund including replacement
 364 reinsurance for the TICL reductions made pursuant to s.

365 215.555(17)(e); the actual cost paid due to the application of
 366 the TICL premium factor pursuant to s. 215.555(17)(f); and the
 367 actual cost paid due to the application of the cash build-up
 368 factor pursuant to s. 215.555(5)(b) if the insurer:

369 a. Elects to purchase financing products such as a
 370 liquidity instrument or line of credit, in which case the cost
 371 included in the filing for the liquidity instrument or line of
 372 credit may not result in a premium increase exceeding 3 percent
 373 for any individual policyholder. All costs contained in the
 374 filing may not result in an overall premium increase of more
 375 than 10 percent for any individual policyholder.

376 b. Includes in the filing a copy of all of its
 377 reinsurance, liquidity instrument, or line of credit contracts;
 378 proof of the billing or payment for the contracts; and the
 379 calculation upon which the proposed rate change is based
 380 demonstrates that the costs meet the criteria of this section
 381 ~~and are not loaded for expenses or profit for the insurer making~~
 382 ~~the filing.~~

383 c. Includes no other changes to its rates in the filing.

384 d. Has not implemented a rate increase within the 6 months
 385 immediately preceding the filing.

386 e. Does not file for a rate increase under any other
 387 paragraph within 6 months after making a filing under this
 388 paragraph.

389 f. That purchases reinsurance or financing products from
 390 an affiliated company in compliance with this paragraph does so
 391 only if the costs for such reinsurance or financing products are
 392 charged at or below charges made for comparable coverage by

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

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

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

404 (1)1. On or after January 1, 2011, an insurer complying
405 with the requirements of s. 627.7031 may use a rate for
406 residential property insurance, as defined in s. 627.4025,
407 different from the otherwise applicable filed rate as provided
408 in this paragraph.

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

411 3. Such rates shall be filed with the office as a separate
412 filing. The initial rates used by an insurer under this
413 paragraph may not provide for rates that represent more than a
414 5-percent statewide average rate increase over the most recently
415 filed and approved rate. A rate filing under this paragraph
416 submitted in the first year following the year of implementation
417 of such initial rates may not provide for rates that represent
418 more than a 10-percent statewide average rate increase in a year
419 over the rates in effect under this paragraph at the time of the
420 filing. A rate filing under this paragraph submitted in the

421 second year following the year of implementation of such initial
 422 rates or in a subsequent year may not provide for rates that
 423 represent more than a 15-percent statewide average rate increase
 424 in a year over the rates in effect under this paragraph at the
 425 time of the filing.

426 4. This paragraph does not affect the authority of the
 427 office to disapprove a rate as inadequate or to disapprove a
 428 rate filing for charging any insured or applicant a higher
 429 premium solely because of the insured's or applicant's race,
 430 color, creed, marital status, sex, or national origin. Upon
 431 finding that an insurer has used any such factor in charging an
 432 insured or applicant a higher premium, the office may direct the
 433 insurer to make a new filing for a new rate that does not use
 434 such factor.

435
 436 The provisions of this subsection shall not apply to workers'
 437 compensation and employer's liability insurance and to motor
 438 vehicle insurance.

439 (9)

440 (e) A certification under this subsection is not rendered
 441 false when, after making the subject rate filing, the insurer
 442 provides the office with additional or supplementary information
 443 or clarification pursuant to a formal or informal request from
 444 the office or for any other reason.

445 Section 6. Section 627.0621, Florida Statutes, is amended
 446 to read:

447 627.0621 Transparency in rate regulation.—

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

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

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

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

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

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

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

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

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

473 Section 7. Subsections (1) and (5) of section 627.0629,
 474 Florida Statutes, are amended, and subsection (10) is added to
 475 that section, to read:

476 627.0629 Residential property insurance; rate filings.—

477 (1) ~~(a)~~ It is the intent of the Legislature that insurers
478 ~~must~~ provide the most accurate pricing signals available ~~savings~~
479 to encourage consumers who install or implement windstorm damage
480 mitigation techniques, alterations, or solutions to their
481 properties to prevent windstorm losses. It is also the intent of
482 the Legislature that implementation of mitigation discounts not
483 result in a loss of income to the insurers granting the
484 discounts, so that the aggregate of mitigation discounts should
485 not exceed the aggregate of the expected reduction in loss that
486 is attributable to the mitigation efforts for which discounts
487 are granted. A rate filing for residential property insurance
488 must include actuarially reasonable discounts, credits, debits,
489 or other rate differentials, or appropriate reductions in
490 deductibles, that provide the proper pricing for all properties.
491 The rate filing must take into account the presence or absence
492 of ~~on which~~ fixtures or construction techniques demonstrated to
493 reduce the amount of loss in a windstorm have been installed or
494 implemented. The fixtures or construction techniques shall
495 include, but not be limited to, fixtures or construction
496 techniques that ~~which~~ enhance roof strength, roof covering
497 performance, roof-to-wall strength, wall-to-floor-to-foundation
498 strength, opening protection, and window, door, and skylight
499 strength. Credits, debits, discounts, or other rate
500 differentials, or appropriate reductions or increases in
501 deductibles, that recognize the presence or absence of ~~for~~
502 fixtures and construction techniques that ~~which~~ meet the minimum
503 requirements of the Florida Building Code must be included in
504 the rate filing. If an insurer demonstrates that the aggregate

505 of its mitigation discounts results in a reduction to revenue
 506 that exceeds the reduction of the aggregate loss that is
 507 expected to result from the mitigation, the insurer may recover
 508 the lost revenue through an increase in its base rates. ~~All~~
 509 ~~insurance companies must make a rate filing which includes the~~
 510 ~~credits, discounts, or other rate differentials or reductions in~~
 511 ~~deductibles by February 28, 2003.~~ By July 1, 2007, the office
 512 shall reevaluate the discounts, credits, other rate
 513 differentials, and appropriate reductions in deductibles for
 514 fixtures and construction techniques that meet the minimum
 515 requirements of the Florida Building Code, based upon actual
 516 experience or any other loss relativity studies available to the
 517 office. The office shall determine the discounts, credits,
 518 debits, other rate differentials, and appropriate reductions or
 519 increases in deductibles that reflect the full actuarial value
 520 of such revaluation, which may be used by insurers in rate
 521 filings.

522 ~~(b) By February 1, 2011, the Office of Insurance~~
 523 ~~Regulation, in consultation with the Department of Financial~~
 524 ~~Services and the Department of Community Affairs, shall develop~~
 525 ~~and make publicly available a proposed method for insurers to~~
 526 ~~establish discounts, credits, or other rate differentials for~~
 527 ~~hurricane mitigation measures which directly correlate to the~~
 528 ~~numerical rating assigned to a structure pursuant to the uniform~~
 529 ~~home grading scale adopted by the Financial Services Commission~~
 530 ~~pursuant to s. 215.55865, including any proposed changes to the~~
 531 ~~uniform home grading scale. By October 1, 2011, the commission~~
 532 ~~shall adopt rules requiring insurers to make rate filings for~~

533 ~~residential property insurance which revise insurers' discounts,~~
534 ~~credits, or other rate differentials for hurricane mitigation~~
535 ~~measures so that such rate differentials correlate directly to~~
536 ~~the uniform home grading scale. The rules may include such~~
537 ~~changes to the uniform home grading scale as the commission~~
538 ~~determines are necessary, and may specify the minimum required~~
539 ~~discounts, credits, or other rate differentials. Such rate~~
540 ~~differentials must be consistent with generally accepted~~
541 ~~actuarial principles and wind-loss mitigation studies. The rules~~
542 ~~shall allow a period of at least 2 years after the effective~~
543 ~~date of the revised mitigation discounts, credits, or other rate~~
544 ~~differentials for a property owner to obtain an inspection or~~
545 ~~otherwise qualify for the revised credit, during which time the~~
546 ~~insurer shall continue to apply the mitigation credit that was~~
547 ~~applied immediately prior to the effective date of the revised~~
548 ~~credit. Discounts, credits, and other rate differentials~~
549 ~~established for rate filings under this paragraph shall~~
550 ~~supersede, after adoption, the discounts, credits, and other~~
551 ~~rate differentials included in rate filings under paragraph (a).~~

552 (5) In order to provide an appropriate transition period,
553 an insurer may, in its sole discretion, implement an approved
554 rate filing for residential property insurance over a period of
555 years. An insurer electing to phase in its rate filing must
556 provide an informational notice to the office setting out its
557 schedule for implementation of the phased-in rate filing. An
558 insurer may include in its rate the actual cost of private
559 market reinsurance that corresponds to available coverage of the
560 Temporary Increase in Coverage Limits, TICL, from the Florida

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561 Hurricane Catastrophe Fund. The insurer may also include the
562 cost of reinsurance to replace the TICL reduction implemented
563 pursuant to s. 215.555(17)(d)9. However, this cost for
564 reinsurance may not ~~include any expense or profit load or~~ result
565 in a total annual base rate increase in excess of 10 percent.

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

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

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

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

586 3. Whether all admitted insurers should be required to
587 provide links from the website into each individual insurer's
588 website in order to enable consumers to access product rate

589 information and apply for quotations.

590 4. Developing a plan to publicize the existence,
 591 availability, and value of the website.

592 5. Any other provision that would make relevant
 593 homeowners' insurance information more readily available so that
 594 consumers can make informed product comparisons and purchasing
 595 decisions.

596 (c) Before establishing the program or website, the office
 597 shall conduct a cost-benefit analysis to determine the most
 598 effective approach for establishing and operating the program
 599 and website. Based on the results of the analysis, the office
 600 shall submit a proposed implementation plan for review and
 601 approval by the Financial Services Commission. The
 602 implementation plan shall include an estimated timeline for
 603 establishing the program and website; a description of the data
 604 and functionality to be provided by the site; a strategy for
 605 publicizing the website to consumers; a recommended approach for
 606 developing, hosting, and operating the website; and an estimate
 607 of all major nonrecurring and recurring costs required to
 608 establish and operate the website. Upon approval of the plan,
 609 the office may initiate the establishment of the program.

610 Section 8. Paragraphs (b), (c), (y), (z), (aa), (bb),
 611 (cc), (dd), (ee), and (ff) of subsection (6) of section 627.351,
 612 Florida Statutes, are amended to read:

613 627.351 Insurance risk apportionment plans.—

614 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

615 (b)1. All insurers authorized to write one or more subject
 616 lines of business in this state are subject to assessment by the

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

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

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

644 (II) A commercial lines account for commercial residential

645 and commercial nonresidential policies issued by the corporation
646 or issued by the Residential Property and Casualty Joint
647 Underwriting Association and renewed by the corporation that
648 provide coverage for basic property perils on risks that are not
649 located in areas eligible for coverage in the Florida Windstorm
650 Underwriting Association as those areas were defined on January
651 1, 2002, and for such policies that do not provide coverage for
652 the peril of wind on risks that are located in such areas; and
653 (III) A high-risk account for personal residential
654 policies and commercial residential and commercial
655 nonresidential property policies issued by the corporation or
656 transferred to the corporation that provide coverage for the
657 peril of wind on risks that are located in areas eligible for
658 coverage in the Florida Windstorm Underwriting Association as
659 those areas were defined on January 1, 2002. The corporation may
660 offer policies that provide multiperil coverage and the
661 corporation shall continue to offer policies that provide
662 coverage only for the peril of wind for risks located in areas
663 eligible for coverage in the high-risk account. In issuing
664 multiperil coverage, the corporation may use its approved policy
665 forms and rates for the personal lines account. An applicant or
666 insured who is eligible to purchase a multiperil policy from the
667 corporation may purchase a multiperil policy from an authorized
668 insurer without prejudice to the applicant's or insured's
669 eligibility to prospectively purchase a policy that provides
670 coverage only for the peril of wind from the corporation. An
671 applicant or insured who is eligible for a corporation policy
672 that provides coverage only for the peril of wind may elect to

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

695 b. The three separate accounts must be maintained as long
696 as financing obligations entered into by the Florida Windstorm
697 Underwriting Association or Residential Property and Casualty
698 Joint Underwriting Association are outstanding, in accordance
699 with the terms of the corresponding financing documents. When
700 the financing obligations are no longer outstanding, in

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

717 c. Creditors of the Residential Property and Casualty
718 Joint Underwriting Association and of the accounts specified in
719 sub-sub-subparagraphs a.(I) and (II) may have a claim against,
720 and recourse to, the accounts referred to in sub-sub-
721 subparagraphs a.(I) and (II) and shall have no claim against, or
722 recourse to, the account referred to in sub-sub-subparagraph
723 a.(III). Creditors of the Florida Windstorm Underwriting
724 Association shall have a claim against, and recourse to, the
725 account referred to in sub-sub-subparagraph a.(III) and shall
726 have no claim against, or recourse to, the accounts referred to
727 in sub-sub-subparagraphs a.(I) and (II).

728 d. Revenues, assets, liabilities, losses, and expenses not

729 | attributable to particular accounts shall be prorated among the
730 | accounts.

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

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

737 | 3. With respect to a deficit in an account:

738 | a. After accounting for the Citizens policyholder
739 | surcharge imposed under sub-subparagraph i., when the remaining
740 | projected deficit incurred in a particular calendar year is not
741 | greater than 6 percent of the aggregate statewide direct written
742 | premium for the subject lines of business for the prior calendar
743 | year, the entire deficit shall be recovered through regular
744 | assessments of assessable insurers under paragraph (p) and
745 | assessable insureds.

746 | b. After accounting for the Citizens policyholder
747 | surcharge imposed under sub-subparagraph i., when the remaining
748 | projected deficit incurred in a particular calendar year exceeds
749 | 6 percent of the aggregate statewide direct written premium for
750 | the subject lines of business for the prior calendar year, the
751 | corporation shall levy regular assessments on assessable
752 | insurers under paragraph (p) and on assessable insureds in an
753 | amount equal to the greater of 6 percent of the deficit or 6
754 | percent of the aggregate statewide direct written premium for
755 | the subject lines of business for the prior calendar year. Any
756 | remaining deficit shall be recovered through emergency

757 assessments under sub-subparagraph d.

758 c. Each assessable insurer's share of the amount being
 759 assessed under sub-subparagraph a. or sub-subparagraph b. shall
 760 be in the proportion that the assessable insurer's direct
 761 written premium for the subject lines of business for the year
 762 preceding the assessment bears to the aggregate statewide direct
 763 written premium for the subject lines of business for that year.
 764 The assessment percentage applicable to each assessable insured
 765 is the ratio of the amount being assessed under sub-subparagraph
 766 a. or sub-subparagraph b. to the aggregate statewide direct
 767 written premium for the subject lines of business for the prior
 768 year. Assessments levied by the corporation on assessable
 769 insurers under sub-subparagraphs a. and b. shall be paid as
 770 required by the corporation's plan of operation and paragraph
 771 (p). Assessments levied by the corporation on assessable
 772 insureds under sub-subparagraphs a. and b. shall be collected by
 773 the surplus lines agent at the time the surplus lines agent
 774 collects the surplus lines tax required by s. 626.932 and shall
 775 be paid to the Florida Surplus Lines Service Office at the time
 776 the surplus lines agent pays the surplus lines tax to the
 777 Florida Surplus Lines Service Office. Upon receipt of regular
 778 assessments from surplus lines agents, the Florida Surplus Lines
 779 Service Office shall transfer the assessments directly to the
 780 corporation as determined by the corporation.

781 d. Upon a determination by the board of governors that a
 782 deficit in an account exceeds the amount that will be recovered
 783 through regular assessments under sub-subparagraph a. or sub-
 784 subparagraph b., plus the amount that is expected to be

785 recovered through surcharges under sub-subparagraph i., as to
786 the remaining projected deficit the board shall levy, after
787 verification by the office, emergency assessments, for as many
788 years as necessary to cover the deficits, to be collected by
789 assessable insurers and the corporation and collected from
790 assessable insureds upon issuance or renewal of policies for
791 subject lines of business, excluding National Flood Insurance
792 policies. The amount of the emergency assessment collected in a
793 particular year shall be a uniform percentage of that year's
794 direct written premium for subject lines of business and all
795 accounts of the corporation, excluding National Flood Insurance
796 Program policy premiums, as annually determined by the board and
797 verified by the office. The office shall verify the arithmetic
798 calculations involved in the board's determination within 30
799 days after receipt of the information on which the determination
800 was based. Notwithstanding any other provision of law, the
801 corporation and each assessable insurer that writes subject
802 lines of business shall collect emergency assessments from its
803 policyholders without such obligation being affected by any
804 credit, limitation, exemption, or deferment. Emergency
805 assessments levied by the corporation on assessable insureds
806 shall be collected by the surplus lines agent at the time the
807 surplus lines agent collects the surplus lines tax required by
808 s. 626.932 and shall be paid to the Florida Surplus Lines
809 Service Office at the time the surplus lines agent pays the
810 surplus lines tax to the Florida Surplus Lines Service Office.
811 The emergency assessments so collected shall be transferred
812 directly to the corporation on a periodic basis as determined by

813 | the corporation and shall be held by the corporation solely in
 814 | the applicable account. The aggregate amount of emergency
 815 | assessments levied for an account under this sub-subparagraph in
 816 | any calendar year may, at the discretion of the board of
 817 | governors, be less than but may not exceed the greater of 10
 818 | percent of the amount needed to cover the deficit, plus
 819 | interest, fees, commissions, required reserves, and other costs
 820 | associated with financing of the original deficit, or 10 percent
 821 | of the aggregate statewide direct written premium for subject
 822 | lines of business and for all accounts of the corporation for
 823 | the prior year, plus interest, fees, commissions, required
 824 | reserves, and other costs associated with financing the deficit.

825 | e. The corporation may pledge the proceeds of assessments,
 826 | projected recoveries from the Florida Hurricane Catastrophe
 827 | Fund, other insurance and reinsurance recoverables, policyholder
 828 | surcharges and other surcharges, and other funds available to
 829 | the corporation as the source of revenue for and to secure bonds
 830 | issued under paragraph (p), bonds or other indebtedness issued
 831 | under subparagraph (c)3., or lines of credit or other financing
 832 | mechanisms issued or created under this subsection, or to retire
 833 | any other debt incurred as a result of deficits or events giving
 834 | rise to deficits, or in any other way that the board determines
 835 | will efficiently recover such deficits. The purpose of the lines
 836 | of credit or other financing mechanisms is to provide additional
 837 | resources to assist the corporation in covering claims and
 838 | expenses attributable to a catastrophe. As used in this
 839 | subsection, the term "assessments" includes regular assessments
 840 | under sub-subparagraph a., sub-subparagraph b., or subparagraph

841 (p)1. and emergency assessments under sub-subparagraph d.
842 Emergency assessments collected under sub-subparagraph d. are
843 not part of an insurer's rates, are not premium, and are not
844 subject to premium tax, fees, or commissions; however, failure
845 to pay the emergency assessment shall be treated as failure to
846 pay premium. The emergency assessments under sub-subparagraph d.
847 shall continue as long as any bonds issued or other indebtedness
848 incurred with respect to a deficit for which the assessment was
849 imposed remain outstanding, unless adequate provision has been
850 made for the payment of such bonds or other indebtedness
851 pursuant to the documents governing such bonds or other
852 indebtedness.

853 f. As used in this subsection for purposes of any deficit
854 incurred on or after January 25, 2007, the term "subject lines
855 of business" means insurance written by assessable insurers or
856 procured by assessable insureds for all property and casualty
857 lines of business in this state, but not including workers'
858 compensation or medical malpractice. As used in the sub-
859 subparagraph, the term "property and casualty lines of business"
860 includes all lines of business identified on Form 2, Exhibit of
861 Premiums and Losses, in the annual statement required of
862 authorized insurers by s. 624.424 and any rule adopted under
863 this section, except for those lines identified as accident and
864 health insurance and except for policies written under the
865 National Flood Insurance Program or the Federal Crop Insurance
866 Program. For purposes of this sub-subparagraph, the term
867 "workers' compensation" includes both workers' compensation
868 insurance and excess workers' compensation insurance.

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

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

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

887 (II) The policyholder's liability for the Citizens
888 policyholder surcharge attaches on the date of the order levying
889 the surcharge. The Citizens policyholder surcharge is payable
890 upon cancellation or termination of the policy, upon renewal of
891 the policy, or upon issuance of a new policy by Citizens within
892 the first 12 months after the date of the levy or the period of
893 time necessary to fully collect the Citizens policyholder
894 surcharge amount.

895 (III) The Citizens policyholder surcharge for a 12-month
896 period, which shall be levied collected at the time of issuance

897 ~~or renewal of a policy,~~ as a uniform percentage of the premium
 898 for the policy of up to 15 percent of such premium, which funds
 899 shall be used to offset the deficit.

900 (IV) The corporation may not levy any regular assessments
 901 under sub-subparagraph a. or sub-subparagraph b. with respect to
 902 a particular year's deficit until the corporation has first
 903 levied a Citizens policyholder surcharge under this sub-
 904 subparagraph in the full amount authorized by this sub-
 905 subparagraph.

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

910 j. If the amount of any assessments or surcharges
 911 collected from corporation policyholders, assessable insurers or
 912 their policyholders, or assessable insureds exceeds the amount
 913 of the deficits, such excess amounts shall be remitted to and
 914 retained by the corporation in a reserve to be used by the
 915 corporation, as determined by the board of governors and
 916 approved by the office, to pay claims or reduce any past,
 917 present, or future plan-year deficits or to reduce outstanding
 918 debt.

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

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

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

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

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

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

944 e. Commercial lines nonresidential property insurance
945 forms that cover the peril of wind only. The forms are
946 applicable only to nonresidential properties located in areas
947 eligible for coverage under the high-risk account referred to in
948 sub-subparagraph (b)2.a.

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

952 2.a. Must provide that the corporation adopt a program in

953 | which the corporation and authorized insurers enter into quota
954 | share primary insurance agreements for hurricane coverage, as
955 | defined in s. 627.4025(2)(a), for eligible risks, and adopt
956 | property insurance forms for eligible risks which cover the
957 | peril of wind only. As used in this subsection, the term:

958 | (I) "Quota share primary insurance" means an arrangement
959 | in which the primary hurricane coverage of an eligible risk is
960 | provided in specified percentages by the corporation and an
961 | authorized insurer. The corporation and authorized insurer are
962 | each solely responsible for a specified percentage of hurricane
963 | coverage of an eligible risk as set forth in a quota share
964 | primary insurance agreement between the corporation and an
965 | authorized insurer and the insurance contract. The
966 | responsibility of the corporation or authorized insurer to pay
967 | its specified percentage of hurricane losses of an eligible
968 | risk, as set forth in the quota share primary insurance
969 | agreement, may not be altered by the inability of the other
970 | party to the agreement to pay its specified percentage of
971 | hurricane losses. Eligible risks that are provided hurricane
972 | coverage through a quota share primary insurance arrangement
973 | must be provided policy forms that set forth the obligations of
974 | the corporation and authorized insurer under the arrangement,
975 | clearly specify the percentages of quota share primary insurance
976 | provided by the corporation and authorized insurer, and
977 | conspicuously and clearly state that neither the authorized
978 | insurer nor the corporation may be held responsible beyond its
979 | specified percentage of coverage of hurricane losses.

980 | (II) "Eligible risks" means personal lines residential and

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981 commercial lines residential risks that meet the underwriting
982 criteria of the corporation and are located in areas that were
983 eligible for coverage by the Florida Windstorm Underwriting
984 Association on January 1, 2002.

985 b. The corporation may enter into quota share primary
986 insurance agreements with authorized insurers at corporation
987 coverage levels of 90 percent and 50 percent.

988 c. If the corporation determines that additional coverage
989 levels are necessary to maximize participation in quota share
990 primary insurance agreements by authorized insurers, the
991 corporation may establish additional coverage levels. However,
992 the corporation's quota share primary insurance coverage level
993 may not exceed 90 percent.

994 d. Any quota share primary insurance agreement entered
995 into between an authorized insurer and the corporation must
996 provide for a uniform specified percentage of coverage of
997 hurricane losses, by county or territory as set forth by the
998 corporation board, for all eligible risks of the authorized
999 insurer covered under the quota share primary insurance
1000 agreement.

1001 e. Any quota share primary insurance agreement entered
1002 into between an authorized insurer and the corporation is
1003 subject to review and approval by the office. However, such
1004 agreement shall be authorized only as to insurance contracts
1005 entered into between an authorized insurer and an insured who is
1006 already insured by the corporation for wind coverage.

1007 f. For all eligible risks covered under quota share
1008 primary insurance agreements, the exposure and coverage levels

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1009 | for both the corporation and authorized insurers shall be
1010 | reported by the corporation to the Florida Hurricane Catastrophe
1011 | Fund. For all policies of eligible risks covered under quota
1012 | share primary insurance agreements, the corporation and the
1013 | authorized insurer shall maintain complete and accurate records
1014 | for the purpose of exposure and loss reimbursement audits as
1015 | required by Florida Hurricane Catastrophe Fund rules. The
1016 | corporation and the authorized insurer shall each maintain
1017 | duplicate copies of policy declaration pages and supporting
1018 | claims documents.

1019 | g. The corporation board shall establish in its plan of
1020 | operation standards for quota share agreements which ensure that
1021 | there is no discriminatory application among insurers as to the
1022 | terms of quota share agreements, pricing of quota share
1023 | agreements, incentive provisions if any, and consideration paid
1024 | for servicing policies or adjusting claims.

1025 | h. The quota share primary insurance agreement between the
1026 | corporation and an authorized insurer must set forth the
1027 | specific terms under which coverage is provided, including, but
1028 | not limited to, the sale and servicing of policies issued under
1029 | the agreement by the insurance agent of the authorized insurer
1030 | producing the business, the reporting of information concerning
1031 | eligible risks, the payment of premium to the corporation, and
1032 | arrangements for the adjustment and payment of hurricane claims
1033 | incurred on eligible risks by the claims adjuster and personnel
1034 | of the authorized insurer. Entering into a quota sharing
1035 | insurance agreement between the corporation and an authorized
1036 | insurer shall be voluntary and at the discretion of the

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1037 authorized insurer.

1038 3. May provide that the corporation may employ or
1039 otherwise contract with individuals or other entities to provide
1040 administrative or professional services that may be appropriate
1041 to effectuate the plan. The corporation shall have the power to
1042 borrow funds, by issuing bonds or by incurring other
1043 indebtedness, and shall have other powers reasonably necessary
1044 to effectuate the requirements of this subsection, including,
1045 without limitation, the power to issue bonds and incur other
1046 indebtedness in order to refinance outstanding bonds or other
1047 indebtedness. The corporation may, but is not required to, seek
1048 judicial validation of its bonds or other indebtedness under
1049 chapter 75. The corporation may issue bonds or incur other
1050 indebtedness, or have bonds issued on its behalf by a unit of
1051 local government pursuant to subparagraph (p)2., in the absence
1052 of a hurricane or other weather-related event, upon a
1053 determination by the corporation, subject to approval by the
1054 office, that such action would enable it to efficiently meet the
1055 financial obligations of the corporation and that such
1056 financings are reasonably necessary to effectuate the
1057 requirements of this subsection. The corporation is authorized
1058 to take all actions needed to facilitate tax-free status for any
1059 such bonds or indebtedness, including formation of trusts or
1060 other affiliated entities. The corporation shall have the
1061 authority to pledge assessments, projected recoveries from the
1062 Florida Hurricane Catastrophe Fund, other reinsurance
1063 recoverables, market equalization and other surcharges, and
1064 other funds available to the corporation as security for bonds

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1065 or other indebtedness. In recognition of s. 10, Art. I of the
1066 State Constitution, prohibiting the impairment of obligations of
1067 contracts, it is the intent of the Legislature that no action be
1068 taken whose purpose is to impair any bond indenture or financing
1069 agreement or any revenue source committed by contract to such
1070 bond or other indebtedness.

1071 4.a. Must require that the corporation operate subject to
1072 the supervision and approval of a board of governors consisting
1073 of eight individuals who are residents of this state, from
1074 different geographical areas of this state. The Governor, the
1075 Chief Financial Officer, the President of the Senate, and the
1076 Speaker of the House of Representatives shall each appoint two
1077 members of the board. At least one of the two members appointed
1078 by each appointing officer must have demonstrated expertise in
1079 insurance. The Chief Financial Officer shall designate one of
1080 the appointees as chair. All board members serve at the pleasure
1081 of the appointing officer. All members of the board of governors
1082 are subject to removal at will by the officers who appointed
1083 them. All board members, including the chair, must be appointed
1084 to serve for 3-year terms beginning annually on a date
1085 designated by the plan. However, for the first term beginning on
1086 or after July 1, 2009, each appointing officer shall appoint one
1087 member of the board for a 2-year term and one member for a 3-
1088 year term. Any board vacancy shall be filled for the unexpired
1089 term by the appointing officer. The Chief Financial Officer
1090 shall appoint a technical advisory group to provide information
1091 and advice to the board of governors in connection with the
1092 board's duties under this subsection. The executive director and

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1093 senior managers of the corporation shall be engaged by the board
1094 and serve at the pleasure of the board. Any executive director
1095 appointed on or after July 1, 2006, is subject to confirmation
1096 by the Senate. The executive director is responsible for
1097 employing other staff as the corporation may require, subject to
1098 review and concurrence by the board.

1099 b. The board shall create a Market Accountability Advisory
1100 Committee to assist the corporation in developing awareness of
1101 its rates and its customer and agent service levels in
1102 relationship to the voluntary market insurers writing similar
1103 coverage. The members of the advisory committee shall consist of
1104 the following 11 persons, one of whom must be elected chair by
1105 the members of the committee: four representatives, one
1106 appointed by the Florida Association of Insurance Agents, one by
1107 the Florida Association of Insurance and Financial Advisors, one
1108 by the Professional Insurance Agents of Florida, and one by the
1109 Latin American Association of Insurance Agencies; three
1110 representatives appointed by the insurers with the three highest
1111 voluntary market share of residential property insurance
1112 business in the state; one representative from the Office of
1113 Insurance Regulation; one consumer appointed by the board who is
1114 insured by the corporation at the time of appointment to the
1115 committee; one representative appointed by the Florida
1116 Association of Realtors; and one representative appointed by the
1117 Florida Bankers Association. All members must serve for 3-year
1118 terms and may serve for consecutive terms. The committee shall
1119 report to the corporation at each board meeting on insurance
1120 market issues which may include rates and rate competition with

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1121 the voluntary market; service, including policy issuance, claims
1122 processing, and general responsiveness to policyholders,
1123 applicants, and agents; and matters relating to depopulation.

1124 5. Must provide a procedure for determining the
1125 eligibility of a risk for coverage, as follows:

1126 a. Subject to the provisions of s. 627.3517, with respect
1127 to personal lines residential risks, if the risk is offered
1128 coverage from an authorized insurer at the insurer's approved
1129 rate under either a standard policy including wind coverage or,
1130 if consistent with the insurer's underwriting rules as filed
1131 with the office, a basic policy including wind coverage, for a
1132 new application to the corporation for coverage, the risk is not
1133 eligible for any policy issued by the corporation unless the
1134 premium for coverage from the authorized insurer is more than 15
1135 percent greater than the premium for comparable coverage from
1136 the corporation. If the risk is not able to obtain any such
1137 offer, the risk is eligible for either a standard policy
1138 including wind coverage or a basic policy including wind
1139 coverage issued by the corporation; however, if the risk could
1140 not be insured under a standard policy including wind coverage
1141 regardless of market conditions, the risk shall be eligible for
1142 a basic policy including wind coverage unless rejected under
1143 subparagraph 8. However, with regard to a policyholder of the
1144 corporation or a policyholder removed from the corporation
1145 through an assumption agreement until the end of the assumption
1146 period, the policyholder remains eligible for coverage from the
1147 corporation regardless of any offer of coverage from an
1148 authorized insurer or surplus lines insurer. The corporation

1149 shall determine the type of policy to be provided on the basis
 1150 of objective standards specified in the underwriting manual and
 1151 based on generally accepted underwriting practices.

1152 (I) If the risk accepts an offer of coverage through the
 1153 market assistance plan or an offer of coverage through a
 1154 mechanism established by the corporation before a policy is
 1155 issued to the risk by the corporation or during the first 30
 1156 days of coverage by the corporation, and the producing agent who
 1157 submitted the application to the plan or to the corporation is
 1158 not currently appointed by the insurer, the insurer shall:

1159 (A) Pay to the producing agent of record of the policy,
 1160 for the first year, an amount that is the greater of the
 1161 insurer's usual and customary commission for the type of policy
 1162 written or a fee equal to the usual and customary commission of
 1163 the corporation; or

1164 (B) Offer to allow the producing agent of record of the
 1165 policy to continue servicing the policy for a period of not less
 1166 than 1 year and offer to pay the agent the greater of the
 1167 insurer's or the corporation's usual and customary commission
 1168 for the type of policy written.

1169
 1170 If the producing agent is unwilling or unable to accept
 1171 appointment, the new insurer shall pay the agent in accordance
 1172 with sub-sub-sub-subparagraph (A).

1173 (II) When the corporation enters into a contractual
 1174 agreement for a take-out plan, the producing agent of record of
 1175 the corporation policy is entitled to retain any unearned
 1176 commission on the policy, and the insurer shall:

1177 (A) Pay to the producing agent of record of the
 1178 corporation policy, for the first year, an amount that is the
 1179 greater of the insurer's usual and customary commission for the
 1180 type of policy written or a fee equal to the usual and customary
 1181 commission of the corporation; or

1182 (B) Offer to allow the producing agent of record of the
 1183 corporation policy to continue servicing the policy for a period
 1184 of not less than 1 year and offer to pay the agent the greater
 1185 of the insurer's or the corporation's usual and customary
 1186 commission for the type of policy written.

1187
 1188 If the producing agent is unwilling or unable to accept
 1189 appointment, the new insurer shall pay the agent in accordance
 1190 with sub-sub-sub-subparagraph (A).

1191 b. With respect to commercial lines residential risks, for
 1192 a new application to the corporation for coverage, if the risk
 1193 is offered coverage under a policy including wind coverage from
 1194 an authorized insurer at its approved rate, the risk is not
 1195 eligible for any policy issued by the corporation unless the
 1196 premium for coverage from the authorized insurer is more than 15
 1197 percent greater than the premium for comparable coverage from
 1198 the corporation. If the risk is not able to obtain any such
 1199 offer, the risk is eligible for a policy including wind coverage
 1200 issued by the corporation. However, with regard to a
 1201 policyholder of the corporation or a policyholder removed from
 1202 the corporation through an assumption agreement until the end of
 1203 the assumption period, the policyholder remains eligible for
 1204 coverage from the corporation regardless of any offer of

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1205 coverage from an authorized insurer or surplus lines insurer.

1206 (I) If the risk accepts an offer of coverage through the
 1207 market assistance plan or an offer of coverage through a
 1208 mechanism established by the corporation before a policy is
 1209 issued to the risk by the corporation or during the first 30
 1210 days of coverage by the corporation, and the producing agent who
 1211 submitted the application to the plan or the corporation is not
 1212 currently appointed by the insurer, the insurer shall:

1213 (A) Pay to the producing agent of record of the policy,
 1214 for the first year, an amount that is the greater of the
 1215 insurer's usual and customary commission for the type of policy
 1216 written or a fee equal to the usual and customary commission of
 1217 the corporation; or

1218 (B) Offer to allow the producing agent of record of the
 1219 policy to continue servicing the policy for a period of not less
 1220 than 1 year and offer to pay the agent the greater of the
 1221 insurer's or the corporation's usual and customary commission
 1222 for the type of policy written.

1223
 1224 If the producing agent is unwilling or unable to accept
 1225 appointment, the new insurer shall pay the agent in accordance
 1226 with sub-sub-sub-subparagraph (A).

1227 (II) When the corporation enters into a contractual
 1228 agreement for a take-out plan, the producing agent of record of
 1229 the corporation policy is entitled to retain any unearned
 1230 commission on the policy, and the insurer shall:

1231 (A) Pay to the producing agent of record of the
 1232 corporation policy, for the first year, an amount that is the

1233 greater of the insurer's usual and customary commission for the
 1234 type of policy written or a fee equal to the usual and customary
 1235 commission of the corporation; or

1236 (B) Offer to allow the producing agent of record of the
 1237 corporation policy to continue servicing the policy for a period
 1238 of not less than 1 year and offer to pay the agent the greater
 1239 of the insurer's or the corporation's usual and customary
 1240 commission for the type of policy written.

1241
 1242 If the producing agent is unwilling or unable to accept
 1243 appointment, the new insurer shall pay the agent in accordance
 1244 with sub-sub-sub-subparagraph (A).

1245 c. For purposes of determining comparable coverage under
 1246 sub-subparagraphs a. and b., the comparison shall be based on
 1247 those forms and coverages that are reasonably comparable. The
 1248 corporation may rely on a determination of comparable coverage
 1249 and premium made by the producing agent who submits the
 1250 application to the corporation, made in the agent's capacity as
 1251 the corporation's agent. A comparison may be made solely of the
 1252 premium with respect to the main building or structure only on
 1253 the following basis: the same coverage A or other building
 1254 limits; the same percentage hurricane deductible that applies on
 1255 an annual basis or that applies to each hurricane for commercial
 1256 residential property; the same percentage of ordinance and law
 1257 coverage, if the same limit is offered by both the corporation
 1258 and the authorized insurer; the same mitigation credits, to the
 1259 extent the same types of credits are offered both by the
 1260 corporation and the authorized insurer; the same method for loss

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1261 payment, such as replacement cost or actual cash value, if the
1262 same method is offered both by the corporation and the
1263 authorized insurer in accordance with underwriting rules; and
1264 any other form or coverage that is reasonably comparable as
1265 determined by the board. If an application is submitted to the
1266 corporation for wind-only coverage in the high-risk account, the
1267 premium for the corporation's wind-only policy plus the premium
1268 for the ex-wind policy that is offered by an authorized insurer
1269 to the applicant shall be compared to the premium for multiperil
1270 coverage offered by an authorized insurer, subject to the
1271 standards for comparison specified in this subparagraph. If the
1272 corporation or the applicant requests from the authorized
1273 insurer a breakdown of the premium of the offer by types of
1274 coverage so that a comparison may be made by the corporation or
1275 its agent and the authorized insurer refuses or is unable to
1276 provide such information, the corporation may treat the offer as
1277 not being an offer of coverage from an authorized insurer at the
1278 insurer's approved rate.

1279 6. Must include rules for classifications of risks and
1280 rates therefor.

1281 7. Must provide that if premium and investment income for
1282 an account attributable to a particular calendar year are in
1283 excess of projected losses and expenses for the account
1284 attributable to that year, such excess shall be held in surplus
1285 in the account. Such surplus shall be available to defray
1286 deficits in that account as to future years and shall be used
1287 for that purpose prior to assessing assessable insurers and
1288 assessable insureds as to any calendar year.

1289 8. Must provide objective criteria and procedures to be
 1290 uniformly applied for all applicants in determining whether an
 1291 individual risk is so hazardous as to be uninsurable. In making
 1292 this determination and in establishing the criteria and
 1293 procedures, the following shall be considered:

1294 a. Whether the likelihood of a loss for the individual
 1295 risk is substantially higher than for other risks of the same
 1296 class; and

1297 b. Whether the uncertainty associated with the individual
 1298 risk is such that an appropriate premium cannot be determined.

1299
 1300 The acceptance or rejection of a risk by the corporation shall
 1301 be construed as the private placement of insurance, and the
 1302 provisions of chapter 120 shall not apply.

1303 9. Must provide that the corporation shall make its best
 1304 efforts to procure catastrophe reinsurance at reasonable rates,
 1305 to cover its projected 100-year probable maximum loss as
 1306 determined by the board of governors.

1307 10. The policies issued by the corporation must provide
 1308 that, if the corporation or the market assistance plan obtains
 1309 an offer from an authorized insurer to cover the risk at its
 1310 approved rates, the risk is no longer eligible for renewal
 1311 through the corporation, except as otherwise provided in this
 1312 subsection.

1313 11. Corporation policies and applications must include a
 1314 notice that the corporation policy could, under this section, be
 1315 replaced with a policy issued by an authorized insurer that does
 1316 not provide coverage identical to the coverage provided by the

1317 corporation. The notice shall also specify that acceptance of
 1318 corporation coverage creates a conclusive presumption that the
 1319 applicant or policyholder is aware of this potential.

1320 12. May establish, subject to approval by the office,
 1321 different eligibility requirements and operational procedures
 1322 for any line or type of coverage for any specified county or
 1323 area if the board determines that such changes to the
 1324 eligibility requirements and operational procedures are
 1325 justified due to the voluntary market being sufficiently stable
 1326 and competitive in such area or for such line or type of
 1327 coverage and that consumers who, in good faith, are unable to
 1328 obtain insurance through the voluntary market through ordinary
 1329 methods would continue to have access to coverage from the
 1330 corporation. When coverage is sought in connection with a real
 1331 property transfer, such requirements and procedures shall not
 1332 provide for an effective date of coverage later than the date of
 1333 the closing of the transfer as established by the transferor,
 1334 the transferee, and, if applicable, the lender.

1335 13. Must provide that, with respect to the high-risk
 1336 account, any assessable insurer with a surplus as to
 1337 policyholders of \$25 million or less writing 25 percent or more
 1338 of its total countrywide property insurance premiums in this
 1339 state may petition the office, within the first 90 days of each
 1340 calendar year, to qualify as a limited apportionment company. A
 1341 regular assessment levied by the corporation on a limited
 1342 apportionment company for a deficit incurred by the corporation
 1343 for the high-risk account in 2006 or thereafter may be paid to
 1344 the corporation on a monthly basis as the assessments are

1345 collected by the limited apportionment company from its insureds
 1346 pursuant to s. 627.3512, but the regular assessment must be paid
 1347 in full within 12 months after being levied by the corporation.
 1348 A limited apportionment company shall collect from its
 1349 policyholders any emergency assessment imposed under sub-
 1350 subparagraph (b)3.d. The plan shall provide that, if the office
 1351 determines that any regular assessment will result in an
 1352 impairment of the surplus of a limited apportionment company,
 1353 the office may direct that all or part of such assessment be
 1354 deferred as provided in subparagraph (p)4. However, there shall
 1355 be no limitation or deferment of an emergency assessment to be
 1356 collected from policyholders under sub-subparagraph (b)3.d.

1357 14. Must provide that the corporation appoint as its
 1358 licensed agents only those agents who also hold an appointment
 1359 as defined in s. 626.015(3) with an insurer who at the time of
 1360 the agent's initial appointment by the corporation is authorized
 1361 to write and is actually writing personal lines residential
 1362 property coverage, commercial residential property coverage, or
 1363 commercial nonresidential property coverage within the state.

1364 15. Must provide, by July 1, 2007, a premium payment plan
 1365 option to its policyholders which allows at a minimum for
 1366 quarterly and semiannual payment of premiums. A monthly payment
 1367 plan may, but is not required to, be offered.

1368 16. Must limit coverage on mobile homes or manufactured
 1369 homes built prior to 1994 to actual cash value of the dwelling
 1370 rather than replacement costs of the dwelling.

1371 17. May provide such limits of coverage as the board
 1372 determines, consistent with the requirements of this subsection.

1373 18. May require commercial property to meet specified
 1374 hurricane mitigation construction features as a condition of
 1375 eligibility for coverage.

1376 19.a. Shall require the agent to obtain from any applicant
 1377 for coverage the following acknowledgement, signed by the
 1378 applicant, and shall require the agent of record to obtain the
 1379 following acknowledgment from each corporation policyholder
 1380 prior to the policy's first renewal after the effective date of
 1381 this act:

1382
 1383 ACKNOWLEDGEMENT OF POTENTIAL SURCHARGE AND ASSESSMENT

1384 LIABILITY:

1385 1. I UNDERSTAND, AS A CITIZENS PROPERTY
 1386 INSURANCE CORPORATION POLICYHOLDER, THAT IF THE
 1387 CORPORATION SUSTAINS A DEFICIT AS A RESULT OF
 1388 HURRICANE LOSSES OR FOR ANY OTHER REASON, MY POLICY
 1389 COULD BE SUBJECT TO CITIZENS POLICYHOLDER SURCHARGES,
 1390 WHICH WOULD BE DUE AND PAYABLE UPON ISSUANCE, RENEWAL,
 1391 CANCELLATION, OR TERMINATION OF THE POLICY, AND THAT
 1392 THE SURCHARGES COULD BE AS HIGH AS 15 PERCENT OF MY
 1393 PREMIUM FOR DEFICITS IN EACH OF THREE CITIZENS
 1394 ACCOUNTS, OR A DIFFERENT AMOUNT AS ESTABLISHED BY THE
 1395 FLORIDA LEGISLATURE.

1396 2. I ALSO UNDERSTAND THAT I MAY BE SUBJECT TO
 1397 EMERGENCY ASSESSMENTS TO THE SAME EXTENT AS
 1398 POLICYHOLDERS OF OTHER INSURANCE COMPANIES.

1399
 1400 b. The corporation shall permanently maintain a signed

1401 copy of the signed acknowledgement required by this
 1402 subparagraph, and the agent may also retain a copy.

1403 c. The signed acknowledgement form creates a conclusive
 1404 presumption that the policyholder understood and accepted his or
 1405 her potential surcharge and assessment liability as a Citizens
 1406 policyholder.

1407 ~~(y) It is the intent of the Legislature that the~~
 1408 ~~amendments to this subsection enacted in 2002 should, over time,~~
 1409 ~~reduce the probable maximum windstorm losses in the residual~~
 1410 ~~markets and should reduce the potential assessments to be levied~~
 1411 ~~on property insurers and policyholders statewide. In furtherance~~
 1412 ~~of this intent:~~

1413 ~~1. The board shall, on or before February 1 of each year,~~
 1414 ~~provide a report to the President of the Senate and the Speaker~~
 1415 ~~of the House of Representatives showing the reduction or~~
 1416 ~~increase in the 100-year probable maximum loss attributable to~~
 1417 ~~wind-only coverages and the quota share program under this~~
 1418 ~~subsection combined, as compared to the benchmark 100-year~~
 1419 ~~probable maximum loss of the Florida Windstorm Underwriting~~
 1420 ~~Association. For purposes of this paragraph, the benchmark 100-~~
 1421 ~~year probable maximum loss of the Florida Windstorm Underwriting~~
 1422 ~~Association shall be the calculation dated February 2001 and~~
 1423 ~~based on November 30, 2000, exposures. In order to ensure~~
 1424 ~~comparability of data, the board shall use the same methods for~~
 1425 ~~calculating its probable maximum loss as were used to calculate~~
 1426 ~~the benchmark probable maximum loss.~~

1427 ~~2. Beginning December 1, 2010, if the report under~~
 1428 ~~subparagraph 1. for any year indicates that the 100-year~~

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1429 ~~probable maximum loss attributable to wind-only coverages and~~
1430 ~~the quota share program combined does not reflect a reduction of~~
1431 ~~at least 25 percent from the benchmark, the board shall reduce~~
1432 ~~the boundaries of the high-risk area eligible for wind-only~~
1433 ~~coverages under this subsection in a manner calculated to reduce~~
1434 ~~such probable maximum loss to an amount at least 25 percent~~
1435 ~~below the benchmark.~~

1436 ~~3. Beginning February 1, 2015, if the report under~~
1437 ~~subparagraph 1. for any year indicates that the 100-year~~
1438 ~~probable maximum loss attributable to wind-only coverages and~~
1439 ~~the quota share program combined does not reflect a reduction of~~
1440 ~~at least 50 percent from the benchmark, the boundaries of the~~
1441 ~~high-risk area eligible for wind-only coverages under this~~
1442 ~~subsection shall be reduced by the elimination of any area that~~
1443 ~~is not seaward of a line 1,000 feet inland from the Intracoastal~~
1444 ~~Waterway.~~

1445 (y) ~~(z)~~ In enacting the provisions of this section, the
1446 Legislature recognizes that both the Florida Windstorm
1447 Underwriting Association and the Residential Property and
1448 Casualty Joint Underwriting Association have entered into
1449 financing arrangements that obligate each entity to service its
1450 debts and maintain the capacity to repay funds secured under
1451 these financing arrangements. It is the intent of the
1452 Legislature that nothing in this section be construed to
1453 compromise, diminish, or interfere with the rights of creditors
1454 under such financing arrangements. It is further the intent of
1455 the Legislature to preserve the obligations of the Florida
1456 Windstorm Underwriting Association and Residential Property and

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1457 Casualty Joint Underwriting Association with regard to
 1458 outstanding financing arrangements, with such obligations
 1459 passing entirely and unchanged to the corporation and,
 1460 specifically, to the applicable account of the corporation. So
 1461 long as any bonds, notes, indebtedness, or other financing
 1462 obligations of the Florida Windstorm Underwriting Association or
 1463 the Residential Property and Casualty Joint Underwriting
 1464 Association are outstanding, under the terms of the financing
 1465 documents pertaining to them, the governing board of the
 1466 corporation shall have and shall exercise the authority to levy,
 1467 charge, collect, and receive all premiums, assessments,
 1468 surcharges, charges, revenues, and receipts that the
 1469 associations had authority to levy, charge, collect, or receive
 1470 under the provisions of subsection (2) and this subsection,
 1471 respectively, as they existed on January 1, 2002, to provide
 1472 moneys, without exercise of the authority provided by this
 1473 subsection, in at least the amounts, and by the times, as would
 1474 be provided under those former provisions of subsection (2) or
 1475 this subsection, respectively, so that the value, amount, and
 1476 collectability of any assets, revenues, or revenue source
 1477 pledged or committed to, or any lien thereon securing such
 1478 outstanding bonds, notes, indebtedness, or other financing
 1479 obligations will not be diminished, impaired, or adversely
 1480 affected by the amendments made by this act and to permit
 1481 compliance with all provisions of financing documents pertaining
 1482 to such bonds, notes, indebtedness, or other financing
 1483 obligations, or the security or credit enhancement for them, and
 1484 any reference in this subsection to bonds, notes, indebtedness,

1485 financing obligations, or similar obligations, of the
 1486 corporation shall include like instruments or contracts of the
 1487 Florida Windstorm Underwriting Association and the Residential
 1488 Property and Casualty Joint Underwriting Association to the
 1489 extent not inconsistent with the provisions of the financing
 1490 documents pertaining to them.

1491 (z) ~~(aa)~~ The corporation shall not require the securing of
 1492 flood insurance as a condition of coverage if the insured or
 1493 applicant executes a form approved by the office affirming that
 1494 flood insurance is not provided by the corporation and that if
 1495 flood insurance is not secured by the applicant or insured in
 1496 addition to coverage by the corporation, the risk will not be
 1497 covered for flood damage. A corporation policyholder electing
 1498 not to secure flood insurance and executing a form as provided
 1499 herein making a claim for water damage against the corporation
 1500 shall have the burden of proving the damage was not caused by
 1501 flooding. Notwithstanding other provisions of this subsection,
 1502 the corporation may deny coverage to an applicant or insured who
 1503 refuses to execute the form described herein.

1504 (aa) ~~(bb)~~ A salaried employee of the corporation who
 1505 performs policy administration services subsequent to the
 1506 effectuation of a corporation policy is not required to be
 1507 licensed as an agent under the provisions of s. 626.112.

1508 (bb) ~~(cc)~~ By February 1, 2007, the corporation shall submit
 1509 a report to the President of the Senate, the Speaker of the
 1510 House of Representatives, the minority party leaders of the
 1511 Senate and the House of Representatives, and the chairs of the
 1512 standing committees of the Senate and the House of

1513 Representatives having jurisdiction over matters relating to
 1514 property and casualty insurance. In preparing the report, the
 1515 corporation shall consult with the Office of Insurance
 1516 Regulation, the Department of Financial Services, and any other
 1517 party the corporation determines appropriate. The report must
 1518 include all findings and recommendations on the feasibility of
 1519 requiring authorized insurers that issue and service personal
 1520 and commercial residential policies and commercial
 1521 nonresidential policies that provide coverage for basic property
 1522 perils except for the peril of wind to issue and service for a
 1523 fee personal and commercial residential policies and commercial
 1524 nonresidential policies providing coverage for the peril of wind
 1525 issued by the corporation. The report must include:

1526 1. The expense savings to the corporation of issuing and
 1527 servicing such policies as determined by a cost-benefit
 1528 analysis.

1529 2. The expenses and liability to authorized insurers
 1530 associated with issuing and servicing such policies.

1531 3. The effect on service to policyholders of the
 1532 corporation relating to issuing and servicing such policies.

1533 4. The effect on the producing agent of the corporation of
 1534 issuing and servicing such policies.

1535 5. Recommendations as to the amount of the fee which
 1536 should be paid to authorized insurers for issuing and servicing
 1537 such policies.

1538 6. The effect that issuing and servicing such policies
 1539 will have on the corporation's number of policies, total insured
 1540 value, and probable maximum loss.

1541 (cc)~~(dd)~~ There shall be no liability on the part of, and
 1542 no cause of action of any nature shall arise against, producing
 1543 agents of record of the corporation or employees of such agents
 1544 for insolvency of any take-out insurer.

1545 (dd)~~(ee)~~ The assets of the corporation may be invested and
 1546 managed by the State Board of Administration.

1547 (ee)~~(ff)~~ The office may establish a pilot program to offer
 1548 optional sinkhole coverage in one or more counties or other
 1549 territories of the corporation for the purpose of implementing
 1550 s. 627.706, as amended by s. 30, chapter 2007-1, Laws of
 1551 Florida. Under the pilot program, the corporation is not
 1552 required to issue a notice of nonrenewal to exclude sinkhole
 1553 coverage upon the renewal of existing policies, but may exclude
 1554 such coverage using a notice of coverage change.

1555 Section 9. Paragraph (b) of subsection (2) of section
 1556 627.4133, Florida Statutes, is amended to read:

1557 627.4133 Notice of cancellation, nonrenewal, or renewal
 1558 premium.—

1559 (2) With respect to any personal lines or commercial
 1560 residential property insurance policy, including, but not
 1561 limited to, any homeowner's, mobile home owner's, farmowner's,
 1562 condominium association, condominium unit owner's, apartment
 1563 building, or other policy covering a residential structure or
 1564 its contents:

1565 (b) The insurer shall give the named insured written
 1566 notice of nonrenewal, cancellation, or termination at least 100
 1567 days prior to the effective date of the nonrenewal,
 1568 cancellation, or termination. However, the insurer shall give at

1569 | least 100 days' written notice, or written notice by June 1,
1570 | whichever is earlier, for any nonrenewal, cancellation, or
1571 | termination that would be effective between June 1 and November
1572 | 30. The notice must include the reason or reasons for the
1573 | nonrenewal, cancellation, or termination, except that:

1574 | 1. The insurer shall give the named insured written notice
1575 | of nonrenewal, cancellation, or termination at least 180 days
1576 | prior to the effective date of the nonrenewal, cancellation, or
1577 | termination for a named insured whose residential structure has
1578 | been insured by that insurer or an affiliated insurer for at
1579 | least a 5-year period immediately prior to the date of the
1580 | written notice.

1581 | 2. When cancellation is for nonpayment of premium, at
1582 | least 10 days' written notice of cancellation accompanied by the
1583 | reason therefor shall be given. As used in this subparagraph,
1584 | the term "nonpayment of premium" means failure of the named
1585 | insured to discharge when due any of her or his obligations in
1586 | connection with the payment of premiums on a policy or any
1587 | installment of such premium, whether the premium is payable
1588 | directly to the insurer or its agent or indirectly under any
1589 | premium finance plan or extension of credit, or failure to
1590 | maintain membership in an organization if such membership is a
1591 | condition precedent to insurance coverage. "Nonpayment of
1592 | premium" also means the failure of a financial institution to
1593 | honor an insurance applicant's check after delivery to a
1594 | licensed agent for payment of a premium, even if the agent has
1595 | previously delivered or transferred the premium to the insurer.
1596 | If a dishonored check represents the initial premium payment,

1597 the contract and all contractual obligations shall be void ab
1598 initio unless the nonpayment is cured within the earlier of 5
1599 days after actual notice by certified mail is received by the
1600 applicant or 15 days after notice is sent to the applicant by
1601 certified mail or registered mail, and if the contract is void,
1602 any premium received by the insurer from a third party shall be
1603 refunded to that party in full.

1604 3. When such cancellation or termination occurs during the
1605 first 90 days during which the insurance is in force and the
1606 insurance is canceled or terminated for reasons other than
1607 nonpayment of premium, at least 20 days' written notice of
1608 cancellation or termination accompanied by the reason therefor
1609 shall be given except where there has been a material
1610 misstatement or misrepresentation or failure to comply with the
1611 underwriting requirements established by the insurer.

1612 4. The requirement for providing written notice of
1613 nonrenewal by June 1 of any nonrenewal that would be effective
1614 between June 1 and November 30 does not apply to the following
1615 situations, but the insurer remains subject to the requirement
1616 to provide such notice at least 100 days prior to the effective
1617 date of nonrenewal:

1618 a. A policy that is nonrenewed due to a revision in the
1619 coverage for sinkhole losses and catastrophic ground cover
1620 collapse pursuant to s. 627.706, as amended by s. 30, chapter
1621 2007-1, Laws of Florida.

1622 b. A policy that is nonrenewed by Citizens Property
1623 Insurance Corporation, pursuant to s. 627.351(6), for a policy
1624 that has been assumed by an authorized insurer offering

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1625 replacement or renewal coverage to the policyholder.

1626 5. Notwithstanding any other provision of law, an insurer
 1627 may cancel or nonrenew a property insurance policy upon a
 1628 minimum of 45 days' notice if the office finds that the early
 1629 cancellation of some or all of the insurer's policies is
 1630 necessary to protect the best interests of the public or
 1631 policyholders and the office approves the insurer's plan for
 1632 early cancellation or nonrenewal of some or all of its policies.
 1633 The office may base such a finding upon the financial condition
 1634 of the insurer, lack of adequate reinsurance coverage for
 1635 hurricane risk, or other relevant factors. The office may
 1636 condition its finding on the consent of the insurer to be placed
 1637 in administrative supervision pursuant to s. 624.81 or consent
 1638 to the appointment of a receiver under chapter 631.

1639
 1640 After the policy has been in effect for 90 days, the policy
 1641 shall not be canceled by the insurer except when there has been
 1642 a material misstatement, a nonpayment of premium, a failure to
 1643 comply with underwriting requirements established by the insurer
 1644 within 90 days of the date of effectuation of coverage, or a
 1645 substantial change in the risk covered by the policy or when the
 1646 cancellation is for all insureds under such policies for a given
 1647 class of insureds. This paragraph does not apply to individually
 1648 rated risks having a policy term of less than 90 days.

1649 Section 10. Section 627.41341, Florida Statutes, is
 1650 created to read:

1651 627.41341 Notice of change in policy terms.—
 1652 (1) As used in this section, the term:

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1653 (a) "Change in policy terms" means the modification,
1654 addition, or deletion of any term, coverage, duty, or condition
1655 from the prior policy. The correction of typographical or
1656 scrivener's errors or the application of mandated legislative
1657 changes is not a change in policy terms.

1658 (b) "Policy" means a written contract of personal lines
1659 insurance or a written agreement for or effecting insurance, or
1660 the certificate of such insurance, by whatever name called, and
1661 includes all clauses, riders, endorsements, and papers which are
1662 a part of such policy. The term "policy" does not include a
1663 binder as defined in s. 627.420 unless the duration of the
1664 binder period exceeds 60 days.

1665 (c) "Renewal" means the issuance and delivery by an
1666 insurer of a policy superseding at the end of the policy period
1667 a policy previously issued and delivered by the same insurer or
1668 the issuance and delivery of a certificate or notice extending
1669 the term of a policy beyond its policy period or term. Any
1670 policy with a policy period or term of less than 6 months or any
1671 policy with no fixed expiration date shall for the purpose of
1672 this section be considered as if written for successive policy
1673 periods or terms of 6 months.

1674 (2) A renewal policy may contain a change in policy terms.
1675 If a renewal policy contains a change in policy terms, the
1676 insurer shall give the named insured a written notice of change
1677 in policy terms that shall be enclosed with the written notice
1678 of renewal premium required by ss. 627.4133 and 627.728, stated
1679 separately, and entitled "Notice of Change in Policy Terms."

1680 (3) Although not required, United States Postal Service

1681 proof of mailing or registered mailing of the notice of change
 1682 in policy terms to the named insured at the address shown in the
 1683 policy shall be sufficient proof of notice.

1684 (4) Receipt of payment of the premium for the renewal
 1685 policy by the insurer shall be deemed to be acceptance of the
 1686 new policy terms by the named insured.

1687 (5) If an insurer fails to provide the notice of change in
 1688 policy terms required under subsection (2), the original policy
 1689 terms shall remain in effect until the next renewal and the
 1690 proper service of the notice of change in policy terms or until
 1691 the effective date of replacement coverage obtained by the named
 1692 insured, whichever occurs first.

1693 (6) The intent of this section is to:

1694 (a) Allow an insurer to make a change in policy terms
 1695 without nonrenewing policyholders that the insurer wishes to
 1696 continue insuring.

1697 (b) Alleviate the concern and confusion to the
 1698 policyholders caused by the required policy nonrenewal for the
 1699 limited issue when an insurer intends to renew the insurance
 1700 policy but the new policy contains a change in policy terms.

1701 (c) Encourage policyholders to discuss their coverages
 1702 with their insurance agent.

1703 Section 11. Subsection (3) of section 627.7011, Florida
 1704 Statutes, is amended to read:

1705 627.7011 Homeowners' policies; offer of replacement cost
 1706 coverage and law and ordinance coverage.—

1707 (3) In the event of a loss for which a dwelling or
 1708 personal property is insured on the basis of replacement costs,

1709 the insurer shall initially pay only the depreciated value for
 1710 structure and contents repair or replacement, or shall pay 40
 1711 percent of the replacement cost value, whichever is higher, and
 1712 shall thereafter pay the remaining cost for repair or
 1713 replacement of covered property up to the total replacement cost
 1714 as the insured submits invoices or receipts for completed
 1715 repairs or replacement of covered property ~~the replacement cost~~
 1716 ~~without reservation or holdback of any depreciation in value,~~
 1717 ~~whether or not the insured replaces or repairs the dwelling or~~
 1718 ~~property.~~

1719 Section 12. Effective January 1, 2011, section 627.7031,
 1720 Florida Statutes, is created to read:

1721 627.7031 Residential property insurance option.-

1722 (1) An insurer holding a certificate of authority to write
 1723 property insurance in this state may offer or renew policies at
 1724 rates established in accordance with s. 627.062(2)(1), subject
 1725 to all of the requirements and prohibitions of this section.

1726 (2) An insurer offering or renewing policies at rates
 1727 established in accordance with s. 627.062(2)(1) may not purchase
 1728 coverage from the Florida Hurricane Catastrophe Fund under the
 1729 temporary increase in coverage limit option under s.
 1730 215.555(17).

1731 (3) (a) Before the effective date of a newly issued policy
 1732 at rates established in accordance with s. 627.062(2)(1) or
 1733 before the effective date of a renewal policy at rates
 1734 established in accordance with s. 627.062(2)(k), the applicant
 1735 or insured must be given the following notice, printed in at
 1736 least 12-point boldfaced type:

1737
1738 THE RATE FOR THIS POLICY IS NOT SUBJECT TO FULL RATE
1739 REGULATION BY THE FLORIDA OFFICE OF INSURANCE REGULATION AND MAY
1740 BE HIGHER THAN RATES APPROVED BY THAT OFFICE. A RESIDENTIAL
1741 PROPERTY POLICY SUBJECT TO FULL RATE REGULATION REQUIREMENTS MAY
1742 BE AVAILABLE FROM THIS INSURER, ANOTHER INSURER, OR CITIZENS
1743 PROPERTY INSURANCE CORPORATION. PLEASE DISCUSS YOUR POLICY
1744 OPTIONS WITH AN INSURANCE AGENT WHO CAN PROVIDE A CITIZENS
1745 QUOTE. YOU MAY WISH TO VIEW THE OFFICE OF INSURANCE REGULATION'S
1746 WEBSITE AT WWW.SHOPANDCOMPARERATES.COM FOR MORE INFORMATION
1747 ABOUT CHOICES AVAILABLE TO YOU.

1748
1749 (b) For policies renewed at a rate established in
1750 accordance with s. 627.062(2)(1), the notice described in
1751 paragraph (a) must be provided in writing at the same time as
1752 the renewal notice on a document separate from the renewal
1753 notice, but may be contained within the same mailing as the
1754 renewal notice.

1755 (4) Before the effective date of a newly issued policy at
1756 rates established in accordance with s. 627.062(2)(1), or before
1757 the effective date of the first renewal at rates established in
1758 accordance with s. 627.062(2)(1) of a policy originally issued
1759 before the effective date of this section, the applicant or
1760 insured must:

1761 (a) Be provided or offered, for comparison purposes, an
1762 estimate of the premium for a policy from Citizens Property
1763 Insurance Corporation reflecting substantially similar
1764 coverages, limits, and deductibles to the extent available.

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1765 (b) Provide the insurer or agent with a signed copy of the
1766 following acknowledgement form, which must be retained by the
1767 insurer or agent for at least 3 years. If the acknowledgement
1768 form is signed by the insured or if the insured remits payment
1769 in the amount of the rate established in accordance with s.
1770 627.062(2)(1) after being mailed, otherwise provided, or offered
1771 the comparison specified in paragraph (a), an insurer renewing a
1772 policy at such rate shall be deemed to comply with this section,
1773 and it is presumed that the insured has been informed and
1774 understands the information contained in the comparison and
1775 acknowledgement forms:

1776
1777 ACKNOWLEDGEMENT

- 1778 1. I HAVE REVIEWED THE REQUIRED DISCLOSURES AND THE
1779 REQUIRED PREMIUM COMPARISON.
- 1780 2. I UNDERSTAND THAT THE RATE FOR THIS RESIDENTIAL
1781 PROPERTY INSURANCE POLICY IS NOT SUBJECT TO FULL RATE REGULATION
1782 BY THE FLORIDA OFFICE OF INSURANCE REGULATION AND MAY BE HIGHER
1783 THAN RATES APPROVED BY THAT OFFICE.
- 1784 3. I UNDERSTAND THAT A RESIDENTIAL PROPERTY INSURANCE
1785 POLICY SUBJECT TO FULL RATE REGULATION REQUIREMENTS MAY BE
1786 AVAILABLE FROM CITIZENS PROPERTY INSURANCE CORPORATION.
- 1787 4. I UNDERSTAND THAT THE FLORIDA OFFICE OF INSURANCE
1788 REGULATION'S WEBSITE WWW.SHOPANDCOMPARERATES.COM CONTAINS
1789 RESIDENTIAL PROPERTY INSURANCE RATE COMPARISON INFORMATION.
- 1790 5. I UNDERSTAND THAT IF CITIZENS PROPERTY INSURANCE
1791 CORPORATION INCURS A DEFICIT BECAUSE OF HURRICANE LOSSES OR
1792 OTHER LOSSES, I MAY BE REQUIRED TO PAY AN ASSESSMENT BASED UPON

1793 THE PREMIUM FOR THIS POLICY AND THAT A POLICYHOLDER OF CITIZENS
 1794 PROPERTY INSURANCE CORPORATION MAY BE REQUIRED TO PAY A
 1795 DIFFERENT ASSESSMENT.

1796
 1797 (5) The following types of residential property insurance
 1798 policies are not eligible for rates established in accordance
 1799 with s. 627.062(2)(1) and are not subject to the other
 1800 provisions of this section:

1801 (a) Residential property insurance policies that exclude
 1802 coverage for the perils of windstorm or hurricane.

1803 (b) Residential property insurance policies that are
 1804 subject to a consent decree, agreement, understanding, or other
 1805 arrangement between the insurer and the office relating to rates
 1806 or premiums for policies removed from Citizens Property
 1807 Insurance Corporation.

1808 (6) Notwithstanding s. 627.4133, an insurer that has
 1809 issued a policy under this section shall provide the named
 1810 insured written notice of nonrenewal at least 180 days before
 1811 the effective date of the nonrenewal as to subsequent
 1812 nonrenewals. However, this subsection does not prohibit an
 1813 insurer from canceling a policy as permitted under s. 627.4133.
 1814 The offer of a policy at rates authorized by this section
 1815 constitutes an offer to renew the policy at the rates specified
 1816 in the offer and does not constitute a nonrenewal.

1817 Section 13. Subsection (1), paragraph (b) of subsection
 1818 (2), and subsections (5), (7), and (8) of section 627.707,
 1819 Florida Statutes, are amended to read:

1820 627.707 Standards for investigation of sinkhole claims by

1821 insurers; nonrenewals.—Upon receipt of a claim for a sinkhole
 1822 loss, an insurer must meet the following standards in
 1823 investigating a claim:

1824 (1) The insurer must make an inspection of the insured's
 1825 premises to determine if there has been physical damage to the
 1826 structure which is consistent with ~~may be the result of~~ sinkhole
 1827 loss activity.

1828 (2) Following the insurer's initial inspection, the
 1829 insurer shall engage a professional engineer or a professional
 1830 geologist to conduct testing as provided in s. 627.7072 to
 1831 determine the cause of the loss within a reasonable professional
 1832 probability and issue a report as provided in s. 627.7073, if:

1833 (b) The policyholder demands testing in accordance with
 1834 this section or s. 627.7072 and coverage under the policy is
 1835 available if sinkhole loss is verified.

1836 (5) (a) Subject to paragraph (b), if a sinkhole loss is
 1837 verified, the insurer shall pay to stabilize the land and
 1838 building and repair the foundation in accordance with the
 1839 recommendations of the professional engineer as provided under
 1840 s. 627.7073, with notice to ~~and in consultation with~~ the
 1841 policyholder, subject to the coverage and terms of the policy.
 1842 The insurer shall pay for other repairs to the structure and
 1843 contents in accordance with the terms of the policy.

1844 (b) The insurer may limit its payment to the actual cash
 1845 value of the sinkhole loss, not including underpinning or
 1846 grouting or any other repair technique performed below the
 1847 existing foundation of the building, until the policyholder
 1848 enters into a contract for the performance of building

1849 stabilization or foundation repairs. After the policyholder
1850 enters into the contract, the insurer shall pay the amounts
1851 necessary to begin and perform such repairs as the work is
1852 performed and the expenses are incurred. The insurer may not
1853 require the policyholder to advance payment for such repairs. If
1854 repair covered by a personal lines residential property
1855 insurance policy has begun and the professional engineer
1856 selected or approved by the insurer determines that the repair
1857 cannot be completed within the policy limits, the insurer must
1858 either complete the professional engineer's recommended repair
1859 or tender the policy limits to the policyholder without a
1860 reduction for the repair expenses incurred.

1861 1. The policyholder shall enter into such contract for
1862 repairs within 90 days after the insurance company approves
1863 coverage for a sinkhole loss to prevent additional damage to the
1864 building or structure. The 90-day time period may be extended
1865 for an additional reasonable time period if the policyholder is
1866 unable to find a qualified person or entity to contract for such
1867 repairs within the 90-day time period based upon factors beyond
1868 the policyholder's control.

1869 2. The stabilization and all other repairs to the
1870 structure and contents must be completed within 12 months after
1871 entering into the contract for repairs as described in
1872 subparagraph 1. unless there is a mutual agreement between the
1873 insurer and the insured, the stabilization and all other repairs
1874 cannot be completed due to factors beyond the control of the
1875 insured which reasonably prevent completion, the claim is
1876 involved with the neutral evaluation process under s. 627.7074,

1877 | or the claim is in litigation.

1878 | (c) Upon the insurer's obtaining the written approval of
 1879 | the policyholder and any lienholder, the insurer may make
 1880 | payment directly to the persons selected by the policyholder to
 1881 | perform the land and building stabilization and foundation
 1882 | repairs. The decision by the insurer to make payment to such
 1883 | persons does not hold the insurer liable for the work performed.

1884 | (7) If the insurer obtains, pursuant to s. 627.7073,
 1885 | written certification that there is no sinkhole loss ~~or that the~~
 1886 | ~~cause of the damage was not sinkhole activity,~~ and if the
 1887 | policyholder has submitted the sinkhole claim without good faith
 1888 | grounds for submitting such claim, the policyholder shall
 1889 | reimburse the insurer for 50 percent of the actual costs of the
 1890 | analyses and services provided under ss. 627.7072 and 627.7073;
 1891 | however, a policyholder is not required to reimburse an insurer
 1892 | more than \$2,500 with respect to any claim. A policyholder is
 1893 | required to pay reimbursement under this subsection only if the
 1894 | insurer, prior to ordering the analysis under s. 627.7072,
 1895 | informs the policyholder in writing of the policyholder's
 1896 | potential liability for reimbursement and gives the policyholder
 1897 | the opportunity to withdraw the claim.

1898 | (8) No insurer shall nonrenew any policy of property
 1899 | insurance on the basis of filing of claims for partial loss
 1900 | caused by sinkhole damage or clay shrinkage as long as the total
 1901 | of such payments does not exceed the ~~current~~ policy limits of
 1902 | coverage for property damage for the policy in effect on the
 1903 | date of the loss, and provided the insured has repaired the
 1904 | structure in accordance with the engineering recommendations

1905 upon which any payment or policy proceeds were based.

1906 Section 14. Section 627.7073, Florida Statutes, is amended
 1907 to read:

1908 627.7073 Sinkhole reports.—

1909 (1) Upon completion of testing as provided in s. 627.7072,
 1910 the professional engineer or professional geologist shall issue
 1911 a report and certification to the insurer, with an additional
 1912 copy and certification for the insurer to forward to ~~and~~ the
 1913 policyholder as provided in this section.

1914 (a) Sinkhole loss is verified if, based upon tests
 1915 performed in accordance with s. 627.7072, a professional
 1916 engineer or a professional geologist issues a written report and
 1917 certification stating:

1918 1. That the cause of the actual physical and structural
 1919 damage is sinkhole activity within a reasonable professional
 1920 probability.

1921 2. That the analyses conducted were of sufficient scope to
 1922 identify sinkhole activity as the cause of damage within a
 1923 reasonable professional probability.

1924 3. A description of the tests performed.

1925 4. A recommendation by the professional engineer of
 1926 methods for stabilizing the land and building and for making
 1927 repairs to the foundation.

1928 (b) If sinkhole activity is eliminated as the cause of
 1929 damage to the structure, the professional engineer or
 1930 professional geologist shall issue a written report and
 1931 certification to the policyholder and the insurer stating:

1932 1. That the cause of the damage is not sinkhole activity

1933 within a reasonable professional probability.

1934 2. That the analyses and tests conducted were of
 1935 sufficient scope to eliminate sinkhole activity as the cause of
 1936 damage within a reasonable professional probability.

1937 3. A statement of the cause of the damage within a
 1938 reasonable professional probability.

1939 4. A description of the tests performed.

1940 (c) The respective findings, opinions, and recommendations
 1941 of the professional engineer or professional geologist as to the
 1942 cause of distress to the property and the findings, opinions,
 1943 and recommendations of the professional engineer as to land and
 1944 building stabilization and foundation repair as required by s.
 1945 627.707(2), shall be presumed correct. The presumption of
 1946 correctness is based upon the public policy concerns relating to
 1947 the availability and affordability of sinkhole coverage, to
 1948 provide consistency in claims handling and reduce the number of
 1949 disputed sinkhole claims and is therefore a presumption shifting
 1950 the burden of proof by clear and convincing evidence under s.
 1951 90.304.

1952 (2) (a) Any insurer that has paid a claim for a sinkhole
 1953 loss shall file a copy of the report and certification, prepared
 1954 pursuant to subsection (1), including the legal description of
 1955 the real property, ~~and~~ and the name of the property owner, and the
 1956 amount paid by the insurer, with the county clerk of court, who
 1957 shall record the report and certification. The insurer shall
 1958 also file a copy of any report prepared on behalf of the insured
 1959 or the insured's representative which indicates that sinkhole
 1960 loss caused the damage claimed. The insurer shall bear the cost

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1961 of filing and recording of one or more reports ~~the report~~ and
 1962 certifications ~~certification~~. There shall be no cause of action
 1963 or liability against an insurer for compliance with this
 1964 section. The recording of the report and certification does not:

1965 1. Constitute a lien, encumbrance, or restriction on the
 1966 title to the real property or constitute a defect in the title
 1967 to the real property;

1968 2. Create any cause of action or liability against any
 1969 grantor of the real property for breach of any warranty of good
 1970 title or warranty against encumbrances; or

1971 3. Create any cause of action or liability against any
 1972 title insurer that insures the title to the real property.

1973 (b) The seller of real property upon which a sinkhole
 1974 claim has been made by the seller and paid by the insurer shall
 1975 disclose to the buyer of such property that a claim has been
 1976 paid, the amount of the payment, and whether or not the full
 1977 amount of the proceeds were used to repair the sinkhole damage.
 1978 The seller shall also provide to the buyer a copy of the report
 1979 prepared pursuant to subsection (1) and any report prepared on
 1980 behalf of the insured.

1981 Section 15. Section 627.7074, Florida Statutes, is amended
 1982 to read:

1983 627.7074 Alternative procedure for resolution of disputed
 1984 sinkhole insurance claims.—

1985 (1) As used in this section, the term:

1986 (a) "Neutral evaluation" means the alternative dispute
 1987 resolution provided for in this section.

1988 (b) "Neutral evaluator" means a professional engineer or a

1989 professional geologist who has completed a course of study in
 1990 alternative dispute resolution designed or approved by the
 1991 department for use in the neutral evaluation process, who is
 1992 determined to be fair and impartial.

1993 (2) (a) The department shall certify and maintain a list of
 1994 persons who are neutral evaluators.

1995 (b) The department shall prepare a consumer information
 1996 pamphlet for distribution by insurers to policyholders which
 1997 clearly describes the neutral evaluation process and includes
 1998 information and forms necessary for the policyholder to request
 1999 a neutral evaluation.

2000 (3) Neutral evaluation is available to either party if a
 2001 sinkhole report has been issued pursuant to s. 627.7073.

2002 Following the receipt of the report provided under s. 627.7073
 2003 or the denial of a claim for a sinkhole loss, the insurer shall
 2004 notify the policyholder of his or her right to participate in
 2005 the neutral evaluation program under this section. Neutral
 2006 evaluation supersedes the alternative dispute resolution process
 2007 under s. 627.7015 but does not supersede the appraisal clause,
 2008 if provided by the insurance policy. The insurer shall provide
 2009 to the policyholder the consumer information pamphlet prepared
 2010 by the department pursuant to paragraph (2) (b).

2011 (4) Neutral evaluation is nonbinding, but mandatory if
 2012 requested by either party. A request for neutral evaluation may
 2013 be filed with the department by the policyholder or the insurer
 2014 on a form approved by the department. The request for neutral
 2015 evaluation must state the reason for the request and must
 2016 include an explanation of all the issues in dispute at the time

2017 of the request. Filing a request for neutral evaluation tolls
 2018 the applicable time requirements for filing suit for a period of
 2019 60 days following the conclusion of the neutral evaluation
 2020 process or the time prescribed in s. 95.11, whichever is later.

2021 (5) Neutral evaluation shall be conducted as an informal
 2022 process in which formal rules of evidence and procedure need not
 2023 be observed. A party to neutral evaluation is not required to
 2024 attend neutral evaluation if a representative of the party
 2025 attends and has the authority to make a binding decision on
 2026 behalf of the party. All parties shall participate in the
 2027 evaluation in good faith.

2028 (6) The insurer shall pay the costs associated with the
 2029 neutral evaluation.

2030 (7) Upon receipt of a request for neutral evaluation, the
 2031 department shall provide the parties a list of certified neutral
 2032 evaluators from which, the parties shall mutually select a
 2033 neutral evaluator ~~from the list~~ and promptly inform the
 2034 department.

2035 (a) If the parties cannot agree to a neutral evaluator
 2036 within 10 business days, the department shall allow the parties
 2037 to submit requests to disqualify neutral evaluators on the list
 2038 for cause. The department shall find a ground for cause under
 2039 this paragraph only if:

2040 1. A familial relationship exists between the neutral
 2041 evaluator and either party or a representative of either party
 2042 within the third degree;

2043 2. The proposed neutral evaluator has, in a professional
 2044 capacity, previously represented either party or a

2045 representative of either party in the same or a substantially
 2046 related matter;

2047 3. The proposed neutral evaluator has, in a professional
 2048 capacity, represented another person in the same or a
 2049 substantially related matter and that person's interests are
 2050 materially adverse to the interests of the parties; or

2051 4. The proposed neutral evaluator works in the same firm
 2052 or corporation as a person who has, in a professional capacity,
 2053 previously represented either party or a representative of
 2054 either party in the same or a substantially related matter.

2055 (b) The department shall appoint a neutral evaluator from
 2056 the department list and, if requested by either party, shall
 2057 appoint a neutral evaluator who can determine both causation and
 2058 method of repair. The department shall allow each party to
 2059 disqualify one neutral evaluator without cause. Upon selection
 2060 or appointment, the department shall promptly refer the request
 2061 to the neutral evaluator.

2062 (c) Within 5 business days after the referral, the neutral
 2063 evaluator shall notify the policyholder and the insurer of the
 2064 date, time, and place of the neutral evaluation conference. The
 2065 conference may be held by telephone, if feasible and desirable.
 2066 The neutral evaluation conference shall be held within 45 days
 2067 after the receipt of the request by the department.

2068 (d) As used in this subsection, the term "substantially
 2069 related matter" means participation by the neutral evaluator on
 2070 the same claim, property, or any adjacent property.

2071 (8) The department shall adopt rules of procedure for the
 2072 neutral evaluation process.

2073 (9) For policyholders not represented by an attorney, a
 2074 consumer affairs specialist of the department or an employee
 2075 designated as the primary contact for consumers on issues
 2076 relating to sinkholes under s. 20.121 shall be available for
 2077 consultation to the extent that he or she may lawfully do so.

2078 (10) Evidence of an offer to settle a claim during the
 2079 neutral evaluation process, as well as any relevant conduct or
 2080 statements made in negotiations concerning the offer to settle a
 2081 claim, is inadmissible to prove liability or absence of
 2082 liability for the claim or its value, except as provided in
 2083 subsection (14) ~~(13)~~.

2084 (11) Regardless of when invoked, any court proceeding
 2085 related to the subject matter of the neutral evaluation shall be
 2086 stayed pending completion of the neutral evaluation and for 5
 2087 days after the filing of the neutral evaluator's report with the
 2088 court.

2089 (12) If the neutral evaluator, based upon his or her
 2090 professional training and credentials, is only qualified to
 2091 determine the causation issue or the method of repair issue, the
 2092 department shall allow the neutral evaluator to enlist the
 2093 assistance of another professional from the qualified neutral
 2094 evaluators list, not previously stricken by parties with respect
 2095 to the subject evaluation, who, based upon his or her
 2096 professional training and credentials, is able to provide an
 2097 opinion as to the other disputed issue. Any professional who, if
 2098 appointed as the neutral evaluator, would be disqualified for
 2099 any reason enumerated in subsection (7) must be disqualified. In
 2100 addition, the neutral evaluator may use the service of other

2101 experts or professionals on the qualified neutral evaluators
 2102 list as necessary to ensure that all items in dispute are
 2103 addressed in order to complete the neutral evaluation. The
 2104 neutral evaluator may request that the entity that performed
 2105 testing pursuant to s. 627.7072 perform such additional
 2106 reasonable testing deemed necessary in the professional opinion
 2107 of the neutral evaluator to complete the neutral evaluation.

2108 ~~(13)-(12)~~ For all matters that are not resolved by the
 2109 parties at the conclusion of the neutral evaluation, the neutral
 2110 evaluator shall prepare a report stating that in his or her
 2111 opinion the sinkhole loss has been verified or eliminated within
 2112 a reasonable degree of professional probability and, if
 2113 verified, whether the sinkhole loss has caused structural or
 2114 cosmetic damage to the building and, if so, the need for and
 2115 estimated costs of stabilizing the land and any covered
 2116 structures or buildings and other appropriate remediation or
 2117 structural repairs that are necessary due to the sinkhole loss.
 2118 The evaluator's report shall be sent to all parties in
 2119 attendance at the neutral evaluation and to the department.

2120 ~~(14)-(13)~~ The recommendation of the neutral evaluator is
 2121 not binding on any party, and the parties retain access to
 2122 court. The neutral evaluator's written recommendation is
 2123 admissible in any ~~subsequent~~ action or proceeding relating to
 2124 the claim or to the cause of action giving rise to the claim.

2125 ~~(15)-(14)~~ If the neutral evaluator first verifies the
 2126 existence of a sinkhole and, second, recommends the need for and
 2127 estimates costs of stabilizing the land and any covered
 2128 structures or buildings and other appropriate remediation or

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2129 structural repairs, which costs exceed the amount that the
 2130 insurer has offered to pay the policyholder, the insurer is
 2131 liable to the policyholder for up to \$2,500 in attorney's fees
 2132 for the attorney's participation in the neutral evaluation
 2133 process. For purposes of this subsection, the term "offer to
 2134 pay" means a written offer signed by the insurer or its legal
 2135 representative and delivered to the policyholder within 10 days
 2136 after the insurer receives notice that a request for neutral
 2137 evaluation has been made under this section.

2138 (16)~~(15)~~ If the insurer timely agrees in writing to comply
 2139 and timely complies with the recommendation of the neutral
 2140 evaluator, but the policyholder declines to resolve the matter
 2141 in accordance with the recommendation of the neutral evaluator
 2142 pursuant to this section:

2143 (a) The insurer is not liable for extracontractual damages
 2144 related to a claim for a sinkhole loss but only as related to
 2145 the issues determined by the neutral evaluation process. This
 2146 section does not affect or impair claims for extracontractual
 2147 damages unrelated to the issues determined by the neutral
 2148 evaluation process contained in this section; and

2149 (b) The actions of the insurer are not a confession of
 2150 judgment or an admission of liability, and the insurer may ~~is~~
 2151 not be liable for attorney's fees under s. 627.428 or other
 2152 provisions of the insurance code unless the policyholder obtains
 2153 a judgment that is more favorable than the recommendation of the
 2154 neutral evaluator.

2155 (17) If the insurer agrees to comply with the neutral
 2156 evaluator's report, payment for stabilizing the land and

2157 building and repairing the foundation shall be made in
 2158 accordance with the terms and conditions of the applicable
 2159 insurance policy.

2160 Section 16. Subsection (2) of section 631.021, Florida
 2161 Statutes, is amended to read:

2162 631.021 Jurisdiction of delinquency proceeding; venue;
 2163 change of venue; exclusiveness of remedy; appeal.—

2164 (2) The venue of a delinquency proceeding or summary
 2165 proceeding against a domestic, foreign, or alien insurer shall
 2166 be in the Circuit Court of Leon County. The Circuit Court of
 2167 Leon County is also the venue for any collateral actions against
 2168 an insurer's affiliate, including, but not limited to, voidable
 2169 or fraudulent transfers made by an insurer or affiliate; actions
 2170 that constitute a breach of fiduciary duty by an officer,
 2171 director, or agent; or misreporting or misrepresenting what is
 2172 property, funds, or assets of the insurer, including premium and
 2173 unearned commissions.

2174 Section 17. In the interest of full disclosure and
 2175 transparency to insurance policy owners, and because most
 2176 insurance policies sold in this state are subject to assessments
 2177 to make up for the funding deficiencies of the Citizens Property
 2178 Insurance Corporation or the Florida Hurricane Catastrophe Fund,
 2179 the following warning shall be printed in bold type of not less
 2180 than 16 points and shall be displayed on the declarations page
 2181 or on the renewal notice of every insurance policy sold or
 2182 issued in this state that is or may be subject to assessment by
 2183 the Citizens Property Insurance Corporation or the Florida
 2184 Hurricane Catastrophe Fund:

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2197WARNING

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.

Section 18. Section 627.7065, Florida Statutes, is repealed.

Section 19. Except as otherwise expressly provided in this act, this act shall take effect July 1, 2010.