

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. 626.7452, F.S.; deleting an
11 exception to a provision allowing examination of a
12 managing general agent; amending s. 627.0613, F.S.;
13 revising annual reporting requirements for the consumer
14 advocate; providing a definition; amending s. 627.062,
15 F.S.; requiring that the Office of Insurance Regulation
16 issue an approval rather than a notice of intent to
17 approve following its approval of a file and use filing;
18 prohibiting the office from, directly or indirectly,
19 prohibiting an insurer from paying acquisition costs based
20 on the full amount of the premium; prohibiting the office
21 from, directly or indirectly, impeding or compromising the
22 right of an insurer to acquire policyholders, advertise or
23 appoint agents, or regulate agent commissions; requiring
24 the office to publish an annual information memorandum
25 establishing certain inflation trend factors for certain
26 purposes; specifying factor criteria; authorizing an
27 insurer to make a rate filing limited to changes in the
28 cost of reinsurance, the costs of financing products used

29 | as a replacement for reinsurance, or changes in an
30 | inflation trend factor published annually by the office;
31 | authorizing certain insurers to use a rate different from
32 | otherwise applicable filed rates; requiring such rates to
33 | be filed with the office as a separate filing; providing
34 | requirements and limitations for such separate filings;
35 | prohibiting the consideration of certain policies when
36 | making a specified calculation; preserving the authority
37 | of the office to disapprove rates as inadequate or
38 | disapprove a rate filing for using certain rating factors;
39 | authorizing the office to direct an insurer to make a
40 | specified type of rate filing under certain circumstances;
41 | providing construction relating to certifications;
42 | prohibiting the requirement of a new certification upon an
43 | insurer providing certain additional information;
44 | specifying nonapplication to certain filings; amending s.
45 | 627.0621, F.S.; revising provisions relating to
46 | transparency in rate regulation; amending s. 627.0629,
47 | F.S.; revising legislative intent relating to residential
48 | property insurance rate filings; deleting a requirement
49 | that the office develop and make available a method for
50 | insurers to establish discounts, credits, or rate
51 | differentials for certain hurricane mitigation measures;
52 | revising restrictions relating to including the cost of
53 | reinsurance for certain purposes; requiring the office to
54 | contract with a private entity to develop a comprehensive
55 | consumer information program; specifying program criteria;
56 | requiring the office to conduct a cost benefit analysis on

57 | a program implementation plan; requiring review and
58 | approval by the Financial Services Commission; amending s.
59 | 627.351, F.S.; providing requirements for attachment and
60 | payment of the Citizens policyholder surcharge;
61 | prohibiting the corporation from levying certain regular
62 | assessments until after levying the full amount of a
63 | Citizens policyholder surcharge; providing that certain
64 | members of Citizens Property Insurance Corporation's board
65 | of governors are within the scope of an exemption from
66 | certain conflict of interest provisions for public
67 | officers; requiring the corporation's plan of operation to
68 | require agents to obtain an acknowledgement of potential
69 | surcharge and assessment liability from applicants and
70 | policyholders; requiring the corporation to permanently
71 | retain a copy of such acknowledgments; specifying that the
72 | acknowledgement creates a conclusive presumption of
73 | understanding and acceptance by the policyholder;
74 | prohibiting votes on certain measures by board members;
75 | specifying vote criteria; providing disclosure
76 | requirements; deleting an obsolete legislative intent
77 | provision; amending s. 627.4133, F.S.; authorizing an
78 | insurer to cancel or nonrenew property insurance policies
79 | under certain circumstances; specifying duties of the
80 | office; requiring certain notice; creating s. 627.41341,
81 | F.S.; specifying requirements for a notice of change in
82 | policy terms; providing definitions; authorizing policy
83 | renewals to contain a change in policy terms; specifying
84 | notice requirements; providing procedural requirements;

85 providing intent; amending s. 627.7011, F.S.; revising
86 requirements and procedures under homeowners' insurance
87 policies for replacement cost coverage of a dwelling and
88 personal property; providing criteria for initial and
89 subsequent replacement cost payments by an insurer;
90 deleting obsolete time references; amending s. 627.70131,
91 F.S.; specifying application of certain time periods to
92 initial or supplemental property insurance claim notices
93 and payments; creating s. 627.7031, F.S.; authorizing
94 certain insurers to offer or renew policies at rates
95 established under certain circumstances; prohibiting
96 certain insurers from purchasing TICL option coverage from
97 the Florida Hurricane Catastrophe Fund under certain
98 circumstances; requiring that certain policies contain a
99 specified rate notice; requiring insurers to offer
100 applicants or insureds an estimate of the premium for a
101 policy from Citizens Property Insurance Corporation
102 reflecting similar coverage, limits, and deductibles;
103 requiring applicants or insureds to provide a signed
104 premium comparison acknowledgement; specifying criteria
105 for insurer compliance with certain requirements;
106 specifying acknowledgement contents; requiring insurers
107 and agents to retain a copy of the acknowledgement for a
108 specified time; specifying a presumption created by a
109 signed acknowledgement; specifying types of residential
110 property insurance policies that are not eligible for
111 certain rates or subject to other requirements; requiring
112 written notice of certain nonrenewals; preserving insurer

113 authority to cancel policies; specifying a criterion for
114 what constitutes an offer to renew a policy; amending s.
115 627.707, F.S.; revising standards for investigation of
116 sinkhole claims by insurers; specifying requirements for
117 contracts for repairs to prevent additional damage to
118 buildings or structures; providing application; amending
119 s. 627.7072, F.S.; specifying requirements for tests
120 performed by professional engineers and professional
121 geologists for certain purposes; providing application;
122 amending s. 627.7073, F.S.; revising requirements for
123 sinkhole reports; providing application; amending s.
124 627.7074, F.S.; revising requirements and procedures for
125 an alternative procedure for resolution of disputed
126 sinkhole insurance claims; providing a definition;
127 providing criteria and procedures for disqualification of
128 neutral evaluators; providing requirements and procedures
129 for neutral evaluators to enlist assistance from other
130 professionals under certain circumstances; providing
131 application; amending s. 627.711, F.S.; deleting a
132 provision for a uniform mitigation verification form to be
133 certified by the Department of Financial Services;
134 revising persons authorized to sign a uniform mitigation
135 verification form; authorizing an insurer to accept a
136 mitigation verification form from certain other persons;
137 providing personal inspection requirements; prohibiting
138 misconduct in performing hurricane mitigation inspections
139 or completing mitigation verification forms; specifying
140 criteria for misconduct; authorizing certain licensing

141 boards to commence disciplinary proceedings and impose
 142 administrative fines and sanctions for certain violations;
 143 requiring insurers, persons, or other entities obtaining
 144 evidence of fraud or making false statements to report to
 145 the Division of Insurance Fraud; specifying immunity from
 146 liability for making such a report; providing duties and
 147 responsibilities of the division; specifying a required
 148 notice for insurance policies issued or renewed in this
 149 state; providing notice requirements; repealing s.
 150 627.7065, F.S., relating to database of information
 151 relating to sinkholes, the Department of Financial
 152 Services, and the Department of Environmental Protection;
 153 providing effective dates.

154

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

156

157 Section 1. Paragraph (b) of subsection (6) of section
 158 215.555, Florida Statutes, is amended to read:

159 215.555 Florida Hurricane Catastrophe Fund.—

160 (6) REVENUE BONDS.—

161 (b) Emergency assessments.—

162 1. If the board determines that the amount of revenue
 163 produced under subsection (5) is insufficient to fund the
 164 obligations, costs, and expenses of the fund and the
 165 corporation, including repayment of revenue bonds and that
 166 portion of the debt service coverage not met by reimbursement
 167 premiums, the board shall direct the Office of Insurance
 168 Regulation to levy, by order, an emergency assessment on direct

169 premiums for all property and casualty lines of business in this
170 state, including property and casualty business of surplus lines
171 insurers regulated under part VIII of chapter 626, but not
172 including any workers' compensation premiums or medical
173 malpractice premiums. As used in this subsection, the term
174 "property and casualty business" includes all lines of business
175 identified on Form 2, Exhibit of Premiums and Losses, in the
176 annual statement required of authorized insurers by s. 624.424
177 and any rule adopted under this section, except for those lines
178 identified as accident and health insurance and except for
179 policies written under the National Flood Insurance Program. The
180 assessment shall be specified as a percentage of direct written
181 premium and is subject to annual adjustments by the board in
182 order to meet debt obligations. The same percentage shall apply
183 to all policies in lines of business subject to the assessment
184 issued or renewed during the 12-month period beginning on the
185 effective date of the assessment.

186 2. A premium is not subject to an annual assessment under
187 this paragraph in excess of 6 percent of premium with respect to
188 obligations arising out of losses attributable to any one
189 contract year, and a premium is not subject to an aggregate
190 annual assessment under this paragraph in excess of 10 percent
191 of premium. An annual assessment under this paragraph shall
192 continue as long as the revenue bonds issued with respect to
193 which the assessment was imposed are outstanding, including any
194 bonds the proceeds of which were used to refund the revenue
195 bonds, unless adequate provision has been made for the payment
196 of the bonds under the documents authorizing issuance of the

197 bonds.

198 3. Emergency assessments shall be collected from
199 policyholders. Emergency assessments shall be remitted by
200 insurers as a percentage of direct written premium for the
201 preceding calendar quarter as specified in the order from the
202 Office of Insurance Regulation. The office shall verify the
203 accurate and timely collection and remittance of emergency
204 assessments and shall report the information to the board in a
205 form and at a time specified by the board. Each insurer
206 collecting assessments shall provide the information with
207 respect to premiums and collections as may be required by the
208 office to enable the office to monitor and verify compliance
209 with this paragraph.

210 4. With respect to assessments of surplus lines premiums,
211 each surplus lines agent shall collect the assessment at the
212 same time as the agent collects the surplus lines tax required
213 by s. 626.932, and the surplus lines agent shall remit the
214 assessment to the Florida Surplus Lines Service Office created
215 by s. 626.921 at the same time as the agent remits the surplus
216 lines tax to the Florida Surplus Lines Service Office. The
217 emergency assessment on each insured procuring coverage and
218 filing under s. 626.938 shall be remitted by the insured to the
219 Florida Surplus Lines Service Office at the time the insured
220 pays the surplus lines tax to the Florida Surplus Lines Service
221 Office. The Florida Surplus Lines Service Office shall remit the
222 collected assessments to the fund or corporation as provided in
223 the order levied by the Office of Insurance Regulation. The
224 Florida Surplus Lines Service Office shall verify the proper

225 application of such emergency assessments and shall assist the
226 board in ensuring the accurate and timely collection and
227 remittance of assessments as required by the board. The Florida
228 Surplus Lines Service Office shall annually calculate the
229 aggregate written premium on property and casualty business,
230 other than workers' compensation and medical malpractice,
231 procured through surplus lines agents and insureds procuring
232 coverage and filing under s. 626.938 and shall report the
233 information to the board in a form and at a time specified by
234 the board.

235 5. Any assessment authority not used for a particular
236 contract year may be used for a subsequent contract year. If,
237 for a subsequent contract year, the board determines that the
238 amount of revenue produced under subsection (5) is insufficient
239 to fund the obligations, costs, and expenses of the fund and the
240 corporation, including repayment of revenue bonds and that
241 portion of the debt service coverage not met by reimbursement
242 premiums, the board shall direct the Office of Insurance
243 Regulation to levy an emergency assessment up to an amount not
244 exceeding the amount of unused assessment authority from a
245 previous contract year or years, plus an additional 4 percent
246 provided that the assessments in the aggregate do not exceed the
247 limits specified in subparagraph 2.

248 6. The assessments otherwise payable to the corporation
249 under this paragraph shall be paid to the fund unless and until
250 the Office of Insurance Regulation and the Florida Surplus Lines
251 Service Office have received from the corporation and the fund a
252 notice, which shall be conclusive and upon which they may rely

253 without further inquiry, that the corporation has issued bonds
254 and the fund has no agreements in effect with local governments
255 under paragraph (c). On or after the date of the notice and
256 until the date the corporation has no bonds outstanding, the
257 fund shall have no right, title, or interest in or to the
258 assessments, except as provided in the fund's agreement with the
259 corporation.

260 7. Emergency assessments are not premium and are not
261 subject to the premium tax, to the surplus lines tax, to any
262 fees, or to any commissions. An insurer is liable for all
263 assessments that it collects and must treat the failure of an
264 insured to pay an assessment as a failure to pay the premium. An
265 insurer is not liable for uncollectible assessments.

266 8. When an insurer is required to return an unearned
267 premium, it shall also return any collected assessment
268 attributable to the unearned premium. A credit adjustment to the
269 collected assessment may be made by the insurer with regard to
270 future remittances that are payable to the fund or corporation,
271 but the insurer is not entitled to a refund.

272 9. When a surplus lines insured or an insured who has
273 procured coverage and filed under s. 626.938 is entitled to the
274 return of an unearned premium, the Florida Surplus Lines Service
275 Office shall provide a credit or refund to the agent or such
276 insured for the collected assessment attributable to the
277 unearned premium prior to remitting the emergency assessment
278 collected to the fund or corporation.

279 10. The exemption of medical malpractice insurance
280 premiums from emergency assessments under this paragraph is

281 repealed May 31, 2013 ~~2010~~, and medical malpractice insurance
 282 premiums shall be subject to emergency assessments attributable
 283 to loss events occurring in the contract years commencing on
 284 June 1, 2013 ~~2010~~.

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

287 624.407 Capital funds required; new insurers.—

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

294 (a) Except as otherwise provided in this subsection, \$5
 295 ~~five million dollars~~ for a property and casualty insurer, or
 296 \$2.5 million for any other insurer;

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

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

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

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

309 to a domestic insurer that is a subsidiary or affiliate of a
 310 domestic property insurer that was licensed before July 1, 2010;
 311

312 however, a domestic insurer that transacts residential property
 313 insurance and is a wholly owned subsidiary of an insurer
 314 domiciled in any other state shall possess surplus as to
 315 policyholders of at least \$50 million, but no insurer shall be
 316 required under this subsection to have surplus as to
 317 policyholders greater than \$100 million.

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

320 624.408 Surplus as to policyholders required; new and
 321 existing insurers.-

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

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

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

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

334 (d)4. For all insurers other than mortgage guaranty
 335 insurers, life insurers, and life and health insurers, 10
 336 percent of the insurer's total liabilities;;

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

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

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

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

351 ~~2. On December 31, 2002, and until December 30, 2003,~~
 352 ~~\$3.25 million.~~

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

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

356 Section 4. Section 626.7452, Florida Statutes, is amended
 357 to read:

358 626.7452 Managing general agents; examination authority.-
 359 The acts of the managing general agent are considered to be the
 360 acts of the insurer on whose behalf it is acting. A managing
 361 general agent may be examined as if it were the insurer ~~except~~
 362 ~~in the case where the managing general agent solely represents a~~
 363 ~~single domestic insurer.~~

364 Section 5. Subsection (4) of section 627.0613, Florida

365 Statutes, is amended to read:

366 627.0613 Consumer advocate.—The Chief Financial Officer
 367 must appoint a consumer advocate who must represent the general
 368 public of the state before the department and the office. The
 369 consumer advocate must report directly to the Chief Financial
 370 Officer, but is not otherwise under the authority of the
 371 department or of any employee of the department. The consumer
 372 advocate has such powers as are necessary to carry out the
 373 duties of the office of consumer advocate, including, but not
 374 limited to, the powers to:

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

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

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

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

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

390 (b) For purposes of this subsection, the term "valid
 391 consumer complaint" means a written communication from a
 392 consumer that expresses dissatisfaction with a specific personal

393 residential property insurer whose conduct as described in the
394 communication is found to constitute a violation of the
395 insurance laws of this state by the Division of Consumer
396 Services of the Department of Financial Services.

397 Section 6. Paragraphs (a), (i), and (k) of subsection (2)
398 of section 627.062, Florida Statutes, are amended, paragraph (l)
399 is added to subsection (2), and paragraph (d) of subsection (9)
400 of that section is redesignated as paragraph (g) and new
401 paragraphs (d), (e), and (f) are added to that subsection, to
402 read:

403 627.062 Rate standards.—

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

405 (a) Insurers or rating organizations shall establish and
406 use rates, rating schedules, or rating manuals to allow the
407 insurer a reasonable rate of return on such classes of insurance
408 written in this state. A copy of rates, rating schedules, rating
409 manuals, premium credits or discount schedules, and surcharge
410 schedules, and changes thereto, shall be filed with the office
411 under one of the following procedures except as provided in
412 subparagraph 3.:

413 1. If the filing is made at least 90 days before the
414 proposed effective date and the filing is not implemented during
415 the office's review of the filing and any proceeding and
416 judicial review, then such filing shall be considered a "file
417 and use" filing. In such case, the office shall finalize its
418 review by issuance of an approval ~~a notice of intent to approve~~
419 or a notice of intent to disapprove within 90 days after receipt
420 of the filing. The approval ~~notice of intent to approve~~ and the

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

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

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

444 (i)1. Except as otherwise specifically provided in this
445 chapter, the office may ~~shall~~ not, directly or indirectly,
446 prohibit any insurer, including any residual market plan or
447 joint underwriting association, from paying acquisition costs
448 based on the full amount of premium, as defined in s. 627.403,

449 applicable to any policy, or prohibit, directly or indirectly,
 450 any such insurer from including the full amount of acquisition
 451 costs in a rate filing.

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

457 (k)1.a. An insurer may make a separate filing limited
 458 solely to an adjustment of its rates for reinsurance, financing
 459 products to replace insurance, or financing costs incurred in
 460 the purchase of reinsurance and may include an adjustment of its
 461 rates based upon an inflation trend factor as set forth in
 462 subparagraph 4. If an insurer chooses to make a separate filing
 463 under this paragraph, the insurer shall implement the rate in
 464 such a manner that all previously approved rate increases
 465 implemented as a result of a separate filing, together with the
 466 rate increase under a filing made under this paragraph ~~or~~
 467 ~~financing products to replace or finance the payment of the~~
 468 ~~amount covered by the Temporary Increase in Coverage Limits~~
 469 ~~(TICL) portion of the Florida Hurricane Catastrophe Fund~~
 470 ~~including replacement reinsurance for the TICL reductions made~~
 471 ~~pursuant to s. 215.555(17)(e); the actual cost paid due to the~~
 472 ~~application of the TICL premium factor pursuant to s.~~
 473 ~~215.555(17)(f); and the actual cost paid due to the application~~
 474 ~~of the cash build-up factor pursuant to s. 215.555(5)(b) if the~~
 475 ~~insurer:~~

476 ~~a. Elects to purchase financing products such as a~~

477 ~~liquidity instrument or line of credit, in which case the cost~~
 478 ~~included in the filing for the liquidity instrument or line of~~
 479 ~~credit may not result in a premium increase exceeding 3 percent~~
 480 ~~for any individual policyholder. All costs contained in the~~
 481 ~~filing may not result in an overall rate premium increase of~~
 482 ~~more than 10 percent for any individual policyholder, excluding~~
 483 ~~coverage changes and surcharges.~~

484 b. An insurer shall include ~~includes~~ in the filing a copy
 485 of all of its reinsurance, liquidity instrument, or line of
 486 credit contracts; proof of the billing or payment for the
 487 contracts; and the calculation upon which the proposed rate
 488 change is based demonstrating ~~demonstrates~~ that the costs meet
 489 the criteria of this section ~~and are not loaded for expenses or~~
 490 ~~profit for the insurer making the filing.~~

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

493 d. ~~Has not implemented a rate increase within the 6 months~~
 494 ~~immediately preceding the filing.~~

495 e. ~~Does not file for a rate increase under any other~~
 496 ~~paragraph within 6 months after making a filing under this~~
 497 ~~paragraph.~~

498 d.f. An insurer that purchases reinsurance or financing
 499 products from an affiliate may make a filing under affiliated
 500 ~~company in compliance with~~ this paragraph ~~does so~~ only if the
 501 costs for such reinsurance or financing products are charged at
 502 or below charges made for comparable coverage by nonaffiliated
 503 reinsurers or financial entities making such coverage or
 504 financing products available in this state.

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

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

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

528 (1)1. On or after January 1, 2011, an insurer complying
529 with the requirements of s. 627.7031 may use a rate for
530 residential property insurance, as defined in s. 627.4025,
531 different from the otherwise applicable filed rate as provided
532 in this paragraph.

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

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

556 4. This paragraph does not affect the authority of the
557 office to disapprove a rate as inadequate or to disapprove a
558 rate filing for charging any insured or applicant a higher
559 premium solely because of the insured's or applicant's race,
560 color, creed, marital status, sex, or national origin. Upon

561 finding that an insurer has used any such factor in charging an
 562 insured or applicant a higher premium, the office may direct the
 563 insurer to make a new filing for a new rate that does not use
 564 such factor.

565
 566 The provisions of this subsection shall not apply to workers'
 567 compensation and employer's liability insurance and to motor
 568 vehicle insurance.

569 (9)

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

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

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

581 Section 7. Section 627.0621, Florida Statutes, is amended
 582 to read:

583 627.0621 Transparency in rate regulation.-

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

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

587 ~~(b) "Recommendation" means any proposed, preliminary, or~~
 588 ~~final recommendation from an office actuary reviewing a rate~~

589 ~~filing with respect to the issue of approval or disapproval of~~
 590 ~~the rate filing or with respect to rate indications that the~~
 591 ~~office would consider acceptable.~~

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

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

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

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

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

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

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

612 627.0629 Residential property insurance; rate filings.—

613 (1)(a) It is the intent of the Legislature that insurers
 614 ~~must~~ provide the most accurate pricing signals available ~~savings~~
 615 to encourage consumers who install or implement windstorm damage
 616 mitigation techniques, alterations, or solutions to their

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617 | properties to prevent windstorm losses. It is also the intent of
618 | the Legislature that implementation of mitigation discounts not
619 | result in a loss of income to the insurers granting the
620 | discounts, so that the aggregate of mitigation discounts should
621 | not exceed the aggregate of the expected reduction in loss that
622 | is attributable to the mitigation efforts for which discounts
623 | are granted. A rate filing for residential property insurance
624 | must include actuarially reasonable discounts, credits, debits,
625 | or other rate differentials, or appropriate reductions in
626 | deductibles, that provide the proper pricing for all properties.
627 | The rate filing must take into account the presence or absence
628 | of ~~on which~~ fixtures or construction techniques demonstrated to
629 | reduce the amount of loss in a windstorm have been installed or
630 | implemented. The fixtures or construction techniques shall
631 | include, but not be limited to, fixtures or construction
632 | techniques ~~that~~ ~~which~~ enhance roof strength, roof covering
633 | performance, roof-to-wall strength, wall-to-floor-to-foundation
634 | strength, opening protection, and window, door, and skylight
635 | strength. Credits, debits, discounts, or other rate
636 | differentials, or appropriate reductions or increases in
637 | deductibles, that recognize the presence or absence of ~~for~~
638 | fixtures and construction techniques ~~that~~ ~~which~~ meet the minimum
639 | requirements of the Florida Building Code must be included in
640 | the rate filing. If an insurer demonstrates that the aggregate
641 | of its mitigation discounts results in a reduction to revenue
642 | that exceeds the reduction of the aggregate loss that is
643 | expected to result from the mitigation, the insurer may recover
644 | the lost revenue through an increase in its base rates. ~~All~~

645 ~~insurance companies must make a rate filing which includes the~~
646 ~~credits, discounts, or other rate differentials or reductions in~~
647 ~~deductibles by February 28, 2003.~~ By July 1, 2007, the office
648 shall reevaluate the discounts, credits, other rate
649 differentials, and appropriate reductions in deductibles for
650 fixtures and construction techniques that meet the minimum
651 requirements of the Florida Building Code, based upon actual
652 experience or any other loss relativity studies available to the
653 office. The office shall determine the discounts, credits,
654 debits, other rate differentials, and appropriate reductions or
655 increases in deductibles that reflect the full actuarial value
656 of such revaluation, which may be used by insurers in rate
657 filings.

658 ~~(b) By February 1, 2011, the Office of Insurance~~
659 ~~Regulation, in consultation with the Department of Financial~~
660 ~~Services and the Department of Community Affairs, shall develop~~
661 ~~and make publicly available a proposed method for insurers to~~
662 ~~establish discounts, credits, or other rate differentials for~~
663 ~~hurricane mitigation measures which directly correlate to the~~
664 ~~numerical rating assigned to a structure pursuant to the uniform~~
665 ~~home grading scale adopted by the Financial Services Commission~~
666 ~~pursuant to s. 215.55865, including any proposed changes to the~~
667 ~~uniform home grading scale. By October 1, 2011, the commission~~
668 ~~shall adopt rules requiring insurers to make rate filings for~~
669 ~~residential property insurance which revise insurers' discounts,~~
670 ~~credits, or other rate differentials for hurricane mitigation~~
671 ~~measures so that such rate differentials correlate directly to~~
672 ~~the uniform home grading scale. The rules may include such~~

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673 ~~changes to the uniform home grading scale as the commission~~
674 ~~determines are necessary, and may specify the minimum required~~
675 ~~discounts, credits, or other rate differentials. Such rate~~
676 ~~differentials must be consistent with generally accepted~~
677 ~~actuarial principles and wind-loss mitigation studies. The rules~~
678 ~~shall allow a period of at least 2 years after the effective~~
679 ~~date of the revised mitigation discounts, credits, or other rate~~
680 ~~differentials for a property owner to obtain an inspection or~~
681 ~~otherwise qualify for the revised credit, during which time the~~
682 ~~insurer shall continue to apply the mitigation credit that was~~
683 ~~applied immediately prior to the effective date of the revised~~
684 ~~credit. Discounts, credits, and other rate differentials~~
685 ~~established for rate filings under this paragraph shall~~
686 ~~supersede, after adoption, the discounts, credits, and other~~
687 ~~rate differentials included in rate filings under paragraph (a).~~

688 (5) In order to provide an appropriate transition period,
689 an insurer may, in its sole discretion, implement an approved
690 rate filing for residential property insurance over a period of
691 years. An insurer electing to phase in its rate filing must
692 provide an informational notice to the office setting out its
693 schedule for implementation of the phased-in rate filing. An
694 insurer may include in its rate the actual cost of private
695 market reinsurance that corresponds to available coverage of the
696 Temporary Increase in Coverage Limits, TICL, from the Florida
697 Hurricane Catastrophe Fund. The insurer may also include the
698 cost of reinsurance to replace the TICL reduction implemented
699 pursuant to s. 215.555(17)(d)9. However, this cost for
700 reinsurance may not ~~include any expense or profit load or result~~

701 in a total annual base rate increase in excess of 10 percent.

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

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

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

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

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

726 4. Developing a plan to publicize the existence,
 727 availability, and value of the website.

728 5. Any other provision that would make relevant

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729 homeowners' insurance information more readily available so that
730 consumers can make informed product comparisons and purchasing
731 decisions.

732 (c) Before establishing the program or website, the office
733 shall conduct a cost-benefit analysis to determine the most
734 effective approach for establishing and operating the program
735 and website. Based on the results of the analysis, the office
736 shall submit a proposed implementation plan for review and
737 approval by the Financial Services Commission. The
738 implementation plan shall include an estimated timeline for
739 establishing the program and website; a description of the data
740 and functionality to be provided by the site; a strategy for
741 publicizing the website to consumers; a recommended approach for
742 developing, hosting, and operating the website; and an estimate
743 of all major nonrecurring and recurring costs required to
744 establish and operate the website. Upon approval of the plan,
745 the office may initiate the establishment of the program.

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

749 627.351 Insurance risk apportionment plans.—

750 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

751 (b)1. All insurers authorized to write one or more subject
752 lines of business in this state are subject to assessment by the
753 corporation and, for the purposes of this subsection, are
754 referred to collectively as "assessable insurers." Insurers
755 writing one or more subject lines of business in this state
756 pursuant to part VIII of chapter 626 are not assessable

757 insurers, but insureds who procure one or more subject lines of
758 business in this state pursuant to part VIII of chapter 626 are
759 subject to assessment by the corporation and are referred to
760 collectively as "assessable insureds." An authorized insurer's
761 assessment liability shall begin on the first day of the
762 calendar year following the year in which the insurer was issued
763 a certificate of authority to transact insurance for subject
764 lines of business in this state and shall terminate 1 year after
765 the end of the first calendar year during which the insurer no
766 longer holds a certificate of authority to transact insurance
767 for subject lines of business in this state.

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

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

780 (II) A commercial lines account for commercial residential
781 and commercial nonresidential policies issued by the corporation
782 or issued by the Residential Property and Casualty Joint
783 Underwriting Association and renewed by the corporation that
784 provide coverage for basic property perils on risks that are not

785 | located in areas eligible for coverage in the Florida Windstorm
786 | Underwriting Association as those areas were defined on January
787 | 1, 2002, and for such policies that do not provide coverage for
788 | the peril of wind on risks that are located in such areas; and
789 | (III) A high-risk account for personal residential
790 | policies and commercial residential and commercial
791 | nonresidential property policies issued by the corporation or
792 | transferred to the corporation that provide coverage for the
793 | peril of wind on risks that are located in areas eligible for
794 | coverage in the Florida Windstorm Underwriting Association as
795 | those areas were defined on January 1, 2002. The corporation may
796 | offer policies that provide multiperil coverage and the
797 | corporation shall continue to offer policies that provide
798 | coverage only for the peril of wind for risks located in areas
799 | eligible for coverage in the high-risk account. In issuing
800 | multiperil coverage, the corporation may use its approved policy
801 | forms and rates for the personal lines account. An applicant or
802 | insured who is eligible to purchase a multiperil policy from the
803 | corporation may purchase a multiperil policy from an authorized
804 | insurer without prejudice to the applicant's or insured's
805 | eligibility to prospectively purchase a policy that provides
806 | coverage only for the peril of wind from the corporation. An
807 | applicant or insured who is eligible for a corporation policy
808 | that provides coverage only for the peril of wind may elect to
809 | purchase or retain such policy and also purchase or retain
810 | coverage excluding wind from an authorized insurer without
811 | prejudice to the applicant's or insured's eligibility to
812 | prospectively purchase a policy that provides multiperil

813 coverage from the corporation. It is the goal of the Legislature
814 that there would be an overall average savings of 10 percent or
815 more for a policyholder who currently has a wind-only policy
816 with the corporation, and an ex-wind policy with a voluntary
817 insurer or the corporation, and who then obtains a multiperil
818 policy from the corporation. It is the intent of the Legislature
819 that the offer of multiperil coverage in the high-risk account
820 be made and implemented in a manner that does not adversely
821 affect the tax-exempt status of the corporation or
822 creditworthiness of or security for currently outstanding
823 financing obligations or credit facilities of the high-risk
824 account, the personal lines account, or the commercial lines
825 account. The high-risk account must also include quota share
826 primary insurance under subparagraph (c)2. The area eligible for
827 coverage under the high-risk account also includes the area
828 within Port Canaveral, which is bordered on the south by the
829 City of Cape Canaveral, bordered on the west by the Banana
830 River, and bordered on the north by Federal Government property.

831 b. The three separate accounts must be maintained as long
832 as financing obligations entered into by the Florida Windstorm
833 Underwriting Association or Residential Property and Casualty
834 Joint Underwriting Association are outstanding, in accordance
835 with the terms of the corresponding financing documents. When
836 the financing obligations are no longer outstanding, in
837 accordance with the terms of the corresponding financing
838 documents, the corporation may use a single account for all
839 revenues, assets, liabilities, losses, and expenses of the
840 corporation. Consistent with the requirement of this

841 | subparagraph and prudent investment policies that minimize the
 842 | cost of carrying debt, the board shall exercise its best efforts
 843 | to retire existing debt or to obtain approval of necessary
 844 | parties to amend the terms of existing debt, so as to structure
 845 | the most efficient plan to consolidate the three separate
 846 | accounts into a single account. By February 1, 2007, the board
 847 | shall submit a report to the Financial Services Commission, the
 848 | President of the Senate, and the Speaker of the House of
 849 | Representatives which includes an analysis of consolidating the
 850 | accounts, the actions the board has taken to minimize the cost
 851 | of carrying debt, and its recommendations for executing the most
 852 | efficient plan.

853 | c. Creditors of the Residential Property and Casualty
 854 | Joint Underwriting Association and of the accounts specified in
 855 | sub-sub-subparagraphs a.(I) and (II) may have a claim against,
 856 | and recourse to, the accounts referred to in sub-sub-
 857 | subparagraphs a.(I) and (II) and shall have no claim against, or
 858 | recourse to, the account referred to in sub-sub-subparagraph
 859 | a.(III). Creditors of the Florida Windstorm Underwriting
 860 | Association shall have a claim against, and recourse to, the
 861 | account referred to in sub-sub-subparagraph a.(III) and shall
 862 | have no claim against, or recourse to, the accounts referred to
 863 | in sub-sub-subparagraphs a.(I) and (II).

864 | d. Revenues, assets, liabilities, losses, and expenses not
 865 | attributable to particular accounts shall be prorated among the
 866 | accounts.

867 | e. The Legislature finds that the revenues of the
 868 | corporation are revenues that are necessary to meet the

869 requirements set forth in documents authorizing the issuance of
870 bonds under this subsection.

871 f. No part of the income of the corporation may inure to
872 the benefit of any private person.

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

874 a. After accounting for the Citizens policyholder
875 surcharge imposed under sub-subparagraph i., when the remaining
876 projected deficit incurred in a particular calendar year is not
877 greater than 6 percent of the aggregate statewide direct written
878 premium for the subject lines of business for the prior calendar
879 year, the entire deficit shall be recovered through regular
880 assessments of assessable insurers under paragraph (p) and
881 assessable insureds.

882 b. After accounting for the Citizens policyholder
883 surcharge imposed under sub-subparagraph i., when the remaining
884 projected deficit incurred in a particular calendar year exceeds
885 6 percent of the aggregate statewide direct written premium for
886 the subject lines of business for the prior calendar year, the
887 corporation shall levy regular assessments on assessable
888 insurers under paragraph (p) and on assessable insureds in an
889 amount equal to the greater of 6 percent of the deficit or 6
890 percent of the aggregate statewide direct written premium for
891 the subject lines of business for the prior calendar year. Any
892 remaining deficit shall be recovered through emergency
893 assessments under sub-subparagraph d.

894 c. Each assessable insurer's share of the amount being
895 assessed under sub-subparagraph a. or sub-subparagraph b. shall
896 be in the proportion that the assessable insurer's direct

897 written premium for the subject lines of business for the year
898 preceding the assessment bears to the aggregate statewide direct
899 written premium for the subject lines of business for that year.
900 The assessment percentage applicable to each assessable insured
901 is the ratio of the amount being assessed under sub-subparagraph
902 a. or sub-subparagraph b. to the aggregate statewide direct
903 written premium for the subject lines of business for the prior
904 year. Assessments levied by the corporation on assessable
905 insurers under sub-subparagraphs a. and b. shall be paid as
906 required by the corporation's plan of operation and paragraph
907 (p). Assessments levied by the corporation on assessable
908 insureds under sub-subparagraphs a. and b. shall be collected by
909 the surplus lines agent at the time the surplus lines agent
910 collects the surplus lines tax required by s. 626.932 and shall
911 be paid to the Florida Surplus Lines Service Office at the time
912 the surplus lines agent pays the surplus lines tax to the
913 Florida Surplus Lines Service Office. Upon receipt of regular
914 assessments from surplus lines agents, the Florida Surplus Lines
915 Service Office shall transfer the assessments directly to the
916 corporation as determined by the corporation.

917 d. Upon a determination by the board of governors that a
918 deficit in an account exceeds the amount that will be recovered
919 through regular assessments under sub-subparagraph a. or sub-
920 subparagraph b., plus the amount that is expected to be
921 recovered through surcharges under sub-subparagraph i., as to
922 the remaining projected deficit the board shall levy, after
923 verification by the office, emergency assessments, for as many
924 years as necessary to cover the deficits, to be collected by

925 assessable insurers and the corporation and collected from
926 assessable insureds upon issuance or renewal of policies for
927 subject lines of business, excluding National Flood Insurance
928 policies. The amount of the emergency assessment collected in a
929 particular year shall be a uniform percentage of that year's
930 direct written premium for subject lines of business and all
931 accounts of the corporation, excluding National Flood Insurance
932 Program policy premiums, as annually determined by the board and
933 verified by the office. The office shall verify the arithmetic
934 calculations involved in the board's determination within 30
935 days after receipt of the information on which the determination
936 was based. Notwithstanding any other provision of law, the
937 corporation and each assessable insurer that writes subject
938 lines of business shall collect emergency assessments from its
939 policyholders without such obligation being affected by any
940 credit, limitation, exemption, or deferment. Emergency
941 assessments levied by the corporation on assessable insureds
942 shall be collected by the surplus lines agent at the time the
943 surplus lines agent collects the surplus lines tax required by
944 s. 626.932 and shall be paid to the Florida Surplus Lines
945 Service Office at the time the surplus lines agent pays the
946 surplus lines tax to the Florida Surplus Lines Service Office.
947 The emergency assessments so collected shall be transferred
948 directly to the corporation on a periodic basis as determined by
949 the corporation and shall be held by the corporation solely in
950 the applicable account. The aggregate amount of emergency
951 assessments levied for an account under this sub-subparagraph in
952 any calendar year may, at the discretion of the board of

953 | governors, be less than but may not exceed the greater of 10
954 | percent of the amount needed to cover the deficit, plus
955 | interest, fees, commissions, required reserves, and other costs
956 | associated with financing of the original deficit, or 10 percent
957 | of the aggregate statewide direct written premium for subject
958 | lines of business and for all accounts of the corporation for
959 | the prior year, plus interest, fees, commissions, required
960 | reserves, and other costs associated with financing the deficit.

961 | e. The corporation may pledge the proceeds of assessments,
962 | projected recoveries from the Florida Hurricane Catastrophe
963 | Fund, other insurance and reinsurance recoverables, policyholder
964 | surcharges and other surcharges, and other funds available to
965 | the corporation as the source of revenue for and to secure bonds
966 | issued under paragraph (p), bonds or other indebtedness issued
967 | under subparagraph (c)3., or lines of credit or other financing
968 | mechanisms issued or created under this subsection, or to retire
969 | any other debt incurred as a result of deficits or events giving
970 | rise to deficits, or in any other way that the board determines
971 | will efficiently recover such deficits. The purpose of the lines
972 | of credit or other financing mechanisms is to provide additional
973 | resources to assist the corporation in covering claims and
974 | expenses attributable to a catastrophe. As used in this
975 | subsection, the term "assessments" includes regular assessments
976 | under sub-subparagraph a., sub-subparagraph b., or subparagraph
977 | (p)1. and emergency assessments under sub-subparagraph d.
978 | Emergency assessments collected under sub-subparagraph d. are
979 | not part of an insurer's rates, are not premium, and are not
980 | subject to premium tax, fees, or commissions; however, failure

981 to pay the emergency assessment shall be treated as failure to
982 pay premium. The emergency assessments under sub-subparagraph d.
983 shall continue as long as any bonds issued or other indebtedness
984 incurred with respect to a deficit for which the assessment was
985 imposed remain outstanding, unless adequate provision has been
986 made for the payment of such bonds or other indebtedness
987 pursuant to the documents governing such bonds or other
988 indebtedness.

989 f. As used in this subsection for purposes of any deficit
990 incurred on or after January 25, 2007, the term "subject lines
991 of business" means insurance written by assessable insurers or
992 procured by assessable insureds for all property and casualty
993 lines of business in this state, but not including workers'
994 compensation or medical malpractice. As used in the sub-
995 subparagraph, the term "property and casualty lines of business"
996 includes all lines of business identified on Form 2, Exhibit of
997 Premiums and Losses, in the annual statement required of
998 authorized insurers by s. 624.424 and any rule adopted under
999 this section, except for those lines identified as accident and
1000 health insurance and except for policies written under the
1001 National Flood Insurance Program or the Federal Crop Insurance
1002 Program. For purposes of this sub-subparagraph, the term
1003 "workers' compensation" includes both workers' compensation
1004 insurance and excess workers' compensation insurance.

1005 g. The Florida Surplus Lines Service Office shall
1006 determine annually the aggregate statewide written premium in
1007 subject lines of business procured by assessable insureds and
1008 shall report that information to the corporation in a form and

1009 at a time the corporation specifies to ensure that the
 1010 corporation can meet the requirements of this subsection and the
 1011 corporation's financing obligations.

1012 h. The Florida Surplus Lines Service Office shall verify
 1013 the proper application by surplus lines agents of assessment
 1014 percentages for regular assessments and emergency assessments
 1015 levied under this subparagraph on assessable insureds and shall
 1016 assist the corporation in ensuring the accurate, timely
 1017 collection and payment of assessments by surplus lines agents as
 1018 required by the corporation.

1019 i. (I) If a deficit is incurred in any account in 2008 or
 1020 thereafter, the board of governors shall levy a Citizens
 1021 policyholder surcharge against all policyholders of the
 1022 corporation.

1023 (II) The policyholder's liability for the Citizens
 1024 policyholder surcharge attaches on the date of the event giving
 1025 rise to an order levying the surcharge or the date of the order,
 1026 whichever is earlier. The Citizens policyholder surcharge is
 1027 payable upon cancellation or termination of the policy, upon
 1028 renewal of the policy, or upon issuance of a new policy by
 1029 Citizens within the first 12 months after the date of the levy
 1030 or the period of time necessary to fully collect the Citizens
 1031 policyholder surcharge amount.

1032 (III) The Citizens policyholder surcharge ~~for a 12-month~~
 1033 ~~period, which shall be levied collected at the time of issuance~~
 1034 ~~or renewal of a policy,~~ as a uniform percentage of the premium
 1035 for the policy of up to 15 percent of such premium, which funds
 1036 shall be used to offset the deficit.

1037 (IV) The corporation may not levy any regular assessments
 1038 under sub-subparagraph a. or sub-subparagraph b. with respect to
 1039 a particular year's deficit until the corporation has first
 1040 levied a Citizens policyholder surcharge under this sub-
 1041 subparagraph in the full amount authorized by this sub-
 1042 subparagraph.

1043 (V) Citizens policyholder surcharges under this sub-
 1044 subparagraph are not considered premium and are not subject to
 1045 commissions, fees, or premium taxes. However, failure to pay
 1046 such surcharges shall be treated as failure to pay premium.

1047 j. If the amount of any assessments or surcharges
 1048 collected from corporation policyholders, assessable insurers or
 1049 their policyholders, or assessable insureds exceeds the amount
 1050 of the deficits, such excess amounts shall be remitted to and
 1051 retained by the corporation in a reserve to be used by the
 1052 corporation, as determined by the board of governors and
 1053 approved by the office, to pay claims or reduce any past,
 1054 present, or future plan-year deficits or to reduce outstanding
 1055 debt.

1056 (c) The plan of operation of the corporation:

1057 1. Must provide for adoption of residential property and
 1058 casualty insurance policy forms and commercial residential and
 1059 nonresidential property insurance forms, which forms must be
 1060 approved by the office prior to use. The corporation shall adopt
 1061 the following policy forms:

1062 a. Standard personal lines policy forms that are
 1063 comprehensive multiperil policies providing full coverage of a
 1064 residential property equivalent to the coverage provided in the

1065 private insurance market under an HO-3, HO-4, or HO-6 policy.

1066 b. Basic personal lines policy forms that are policies
 1067 similar to an HO-8 policy or a dwelling fire policy that provide
 1068 coverage meeting the requirements of the secondary mortgage
 1069 market, but which coverage is more limited than the coverage
 1070 under a standard policy.

1071 c. Commercial lines residential and nonresidential policy
 1072 forms that are generally similar to the basic perils of full
 1073 coverage obtainable for commercial residential structures and
 1074 commercial nonresidential structures in the admitted voluntary
 1075 market.

1076 d. Personal lines and commercial lines residential
 1077 property insurance forms that cover the peril of wind only. The
 1078 forms are applicable only to residential properties located in
 1079 areas eligible for coverage under the high-risk account referred
 1080 to in sub-subparagraph (b)2.a.

1081 e. Commercial lines nonresidential property insurance
 1082 forms that cover the peril of wind only. The forms are
 1083 applicable only to nonresidential properties located in areas
 1084 eligible for coverage under the high-risk account referred to in
 1085 sub-subparagraph (b)2.a.

1086 f. The corporation may adopt variations of the policy
 1087 forms listed in sub-subparagraphs a.-e. that contain more
 1088 restrictive coverage.

1089 2.a. Must provide that the corporation adopt a program in
 1090 which the corporation and authorized insurers enter into quota
 1091 share primary insurance agreements for hurricane coverage, as
 1092 defined in s. 627.4025(2)(a), for eligible risks, and adopt

1093 property insurance forms for eligible risks which cover the
1094 peril of wind only. As used in this subsection, the term:

1095 (I) "Quota share primary insurance" means an arrangement
1096 in which the primary hurricane coverage of an eligible risk is
1097 provided in specified percentages by the corporation and an
1098 authorized insurer. The corporation and authorized insurer are
1099 each solely responsible for a specified percentage of hurricane
1100 coverage of an eligible risk as set forth in a quota share
1101 primary insurance agreement between the corporation and an
1102 authorized insurer and the insurance contract. The
1103 responsibility of the corporation or authorized insurer to pay
1104 its specified percentage of hurricane losses of an eligible
1105 risk, as set forth in the quota share primary insurance
1106 agreement, may not be altered by the inability of the other
1107 party to the agreement to pay its specified percentage of
1108 hurricane losses. Eligible risks that are provided hurricane
1109 coverage through a quota share primary insurance arrangement
1110 must be provided policy forms that set forth the obligations of
1111 the corporation and authorized insurer under the arrangement,
1112 clearly specify the percentages of quota share primary insurance
1113 provided by the corporation and authorized insurer, and
1114 conspicuously and clearly state that neither the authorized
1115 insurer nor the corporation may be held responsible beyond its
1116 specified percentage of coverage of hurricane losses.

1117 (II) "Eligible risks" means personal lines residential and
1118 commercial lines residential risks that meet the underwriting
1119 criteria of the corporation and are located in areas that were
1120 eligible for coverage by the Florida Windstorm Underwriting

1121 Association on January 1, 2002.

1122 b. The corporation may enter into quota share primary
1123 insurance agreements with authorized insurers at corporation
1124 coverage levels of 90 percent and 50 percent.

1125 c. If the corporation determines that additional coverage
1126 levels are necessary to maximize participation in quota share
1127 primary insurance agreements by authorized insurers, the
1128 corporation may establish additional coverage levels. However,
1129 the corporation's quota share primary insurance coverage level
1130 may not exceed 90 percent.

1131 d. Any quota share primary insurance agreement entered
1132 into between an authorized insurer and the corporation must
1133 provide for a uniform specified percentage of coverage of
1134 hurricane losses, by county or territory as set forth by the
1135 corporation board, for all eligible risks of the authorized
1136 insurer covered under the quota share primary insurance
1137 agreement.

1138 e. Any quota share primary insurance agreement entered
1139 into between an authorized insurer and the corporation is
1140 subject to review and approval by the office. However, such
1141 agreement shall be authorized only as to insurance contracts
1142 entered into between an authorized insurer and an insured who is
1143 already insured by the corporation for wind coverage.

1144 f. For all eligible risks covered under quota share
1145 primary insurance agreements, the exposure and coverage levels
1146 for both the corporation and authorized insurers shall be
1147 reported by the corporation to the Florida Hurricane Catastrophe
1148 Fund. For all policies of eligible risks covered under quota

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1149 | share primary insurance agreements, the corporation and the
1150 | authorized insurer shall maintain complete and accurate records
1151 | for the purpose of exposure and loss reimbursement audits as
1152 | required by Florida Hurricane Catastrophe Fund rules. The
1153 | corporation and the authorized insurer shall each maintain
1154 | duplicate copies of policy declaration pages and supporting
1155 | claims documents.

1156 | g. The corporation board shall establish in its plan of
1157 | operation standards for quota share agreements which ensure that
1158 | there is no discriminatory application among insurers as to the
1159 | terms of quota share agreements, pricing of quota share
1160 | agreements, incentive provisions if any, and consideration paid
1161 | for servicing policies or adjusting claims.

1162 | h. The quota share primary insurance agreement between the
1163 | corporation and an authorized insurer must set forth the
1164 | specific terms under which coverage is provided, including, but
1165 | not limited to, the sale and servicing of policies issued under
1166 | the agreement by the insurance agent of the authorized insurer
1167 | producing the business, the reporting of information concerning
1168 | eligible risks, the payment of premium to the corporation, and
1169 | arrangements for the adjustment and payment of hurricane claims
1170 | incurred on eligible risks by the claims adjuster and personnel
1171 | of the authorized insurer. Entering into a quota sharing
1172 | insurance agreement between the corporation and an authorized
1173 | insurer shall be voluntary and at the discretion of the
1174 | authorized insurer.

1175 | 3. May provide that the corporation may employ or
1176 | otherwise contract with individuals or other entities to provide

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1177 administrative or professional services that may be appropriate
1178 to effectuate the plan. The corporation shall have the power to
1179 borrow funds, by issuing bonds or by incurring other
1180 indebtedness, and shall have other powers reasonably necessary
1181 to effectuate the requirements of this subsection, including,
1182 without limitation, the power to issue bonds and incur other
1183 indebtedness in order to refinance outstanding bonds or other
1184 indebtedness. The corporation may, but is not required to, seek
1185 judicial validation of its bonds or other indebtedness under
1186 chapter 75. The corporation may issue bonds or incur other
1187 indebtedness, or have bonds issued on its behalf by a unit of
1188 local government pursuant to subparagraph (p)2., in the absence
1189 of a hurricane or other weather-related event, upon a
1190 determination by the corporation, subject to approval by the
1191 office, that such action would enable it to efficiently meet the
1192 financial obligations of the corporation and that such
1193 financings are reasonably necessary to effectuate the
1194 requirements of this subsection. The corporation is authorized
1195 to take all actions needed to facilitate tax-free status for any
1196 such bonds or indebtedness, including formation of trusts or
1197 other affiliated entities. The corporation shall have the
1198 authority to pledge assessments, projected recoveries from the
1199 Florida Hurricane Catastrophe Fund, other reinsurance
1200 recoverables, market equalization and other surcharges, and
1201 other funds available to the corporation as security for bonds
1202 or other indebtedness. In recognition of s. 10, Art. I of the
1203 State Constitution, prohibiting the impairment of obligations of
1204 contracts, it is the intent of the Legislature that no action be

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1205 taken whose purpose is to impair any bond indenture or financing
1206 agreement or any revenue source committed by contract to such
1207 bond or other indebtedness.

1208 4.a. Must require that the corporation operate subject to
1209 the supervision and approval of a board of governors consisting
1210 of eight individuals who are residents of this state, from
1211 different geographical areas of this state. The Governor, the
1212 Chief Financial Officer, the President of the Senate, and the
1213 Speaker of the House of Representatives shall each appoint two
1214 members of the board. At least one of the two members appointed
1215 by each appointing officer must have demonstrated expertise in
1216 insurance. Members appointed for having a demonstrated expertise
1217 in insurance as provided in this subparagraph shall be deemed to
1218 be within the scope of the exemption set forth in s.

1219 112.313(7)(b). The Chief Financial Officer shall designate one
1220 of the appointees as chair. All board members serve at the
1221 pleasure of the appointing officer. All members of the board of
1222 governors are subject to removal at will by the officers who
1223 appointed them. All board members, including the chair, must be
1224 appointed to serve for 3-year terms beginning annually on a date
1225 designated by the plan. However, for the first term beginning on
1226 or after July 1, 2009, each appointing officer shall appoint one
1227 member of the board for a 2-year term and one member for a 3-
1228 year term. Any board vacancy shall be filled for the unexpired
1229 term by the appointing officer. The Chief Financial Officer
1230 shall appoint a technical advisory group to provide information
1231 and advice to the board of governors in connection with the
1232 board's duties under this subsection. The executive director and

1233 senior managers of the corporation shall be engaged by the board
 1234 and serve at the pleasure of the board. Any executive director
 1235 appointed on or after July 1, 2006, is subject to confirmation
 1236 by the Senate. The executive director is responsible for
 1237 employing other staff as the corporation may require, subject to
 1238 review and concurrence by the board.

1239 b. The board shall create a Market Accountability Advisory
 1240 Committee to assist the corporation in developing awareness of
 1241 its rates and its customer and agent service levels in
 1242 relationship to the voluntary market insurers writing similar
 1243 coverage. The members of the advisory committee shall consist of
 1244 the following 11 persons, one of whom must be elected chair by
 1245 the members of the committee: four representatives, one
 1246 appointed by the Florida Association of Insurance Agents, one by
 1247 the Florida Association of Insurance and Financial Advisors, one
 1248 by the Professional Insurance Agents of Florida, and one by the
 1249 Latin American Association of Insurance Agencies; three
 1250 representatives appointed by the insurers with the three highest
 1251 voluntary market share of residential property insurance
 1252 business in the state; one representative from the Office of
 1253 Insurance Regulation; one consumer appointed by the board who is
 1254 insured by the corporation at the time of appointment to the
 1255 committee; one representative appointed by the Florida
 1256 Association of Realtors; and one representative appointed by the
 1257 Florida Bankers Association. All members must serve for 3-year
 1258 terms and may serve for consecutive terms. The committee shall
 1259 report to the corporation at each board meeting on insurance
 1260 market issues which may include rates and rate competition with

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1261 the voluntary market; service, including policy issuance, claims
1262 processing, and general responsiveness to policyholders,
1263 applicants, and agents; and matters relating to depopulation.

1264 5. Must provide a procedure for determining the
1265 eligibility of a risk for coverage, as follows:

1266 a. Subject to the provisions of s. 627.3517, with respect
1267 to personal lines residential risks, if the risk is offered
1268 coverage from an authorized insurer at the insurer's approved
1269 rate under either a standard policy including wind coverage or,
1270 if consistent with the insurer's underwriting rules as filed
1271 with the office, a basic policy including wind coverage, for a
1272 new application to the corporation for coverage, the risk is not
1273 eligible for any policy issued by the corporation unless the
1274 premium for coverage from the authorized insurer is more than 15
1275 percent greater than the premium for comparable coverage from
1276 the corporation. If the risk is not able to obtain any such
1277 offer, the risk is eligible for either a standard policy
1278 including wind coverage or a basic policy including wind
1279 coverage issued by the corporation; however, if the risk could
1280 not be insured under a standard policy including wind coverage
1281 regardless of market conditions, the risk shall be eligible for
1282 a basic policy including wind coverage unless rejected under
1283 subparagraph 8. However, with regard to a policyholder of the
1284 corporation or a policyholder removed from the corporation
1285 through an assumption agreement until the end of the assumption
1286 period, the policyholder remains eligible for coverage from the
1287 corporation regardless of any offer of coverage from an
1288 authorized insurer or surplus lines insurer. The corporation

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1289 shall determine the type of policy to be provided on the basis
1290 of objective standards specified in the underwriting manual and
1291 based on generally accepted underwriting practices.

1292 (I) If the risk accepts an offer of coverage through the
1293 market assistance plan or an offer of coverage through a
1294 mechanism established by the corporation before a policy is
1295 issued to the risk by the corporation or during the first 30
1296 days of coverage by the corporation, and the producing agent who
1297 submitted the application to the plan or to the corporation is
1298 not currently appointed by the insurer, the insurer shall:

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

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

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

1313 (II) When the corporation enters into a contractual
1314 agreement for a take-out plan, the producing agent of record of
1315 the corporation policy is entitled to retain any unearned
1316 commission on the policy, and the insurer shall:

1317 (A) Pay to the producing agent of record of the
 1318 corporation policy, for the first year, an amount that is the
 1319 greater of the insurer's usual and customary commission for the
 1320 type of policy written or a fee equal to the usual and customary
 1321 commission of the corporation; or

1322 (B) Offer to allow the producing agent of record of the
 1323 corporation policy to continue servicing the policy for a period
 1324 of not less than 1 year and offer to pay the agent the greater
 1325 of the insurer's or the corporation's usual and customary
 1326 commission for the type of policy written.

1327
 1328 If the producing agent is unwilling or unable to accept
 1329 appointment, the new insurer shall pay the agent in accordance
 1330 with sub-sub-sub-subparagraph (A).

1331 b. With respect to commercial lines residential risks, for
 1332 a new application to the corporation for coverage, if the risk
 1333 is offered coverage under a policy including wind coverage from
 1334 an authorized insurer at its approved rate, the risk is not
 1335 eligible for any policy issued by the corporation unless the
 1336 premium for coverage from the authorized insurer is more than 15
 1337 percent greater than the premium for comparable coverage from
 1338 the corporation. If the risk is not able to obtain any such
 1339 offer, the risk is eligible for a policy including wind coverage
 1340 issued by the corporation. However, with regard to a
 1341 policyholder of the corporation or a policyholder removed from
 1342 the corporation through an assumption agreement until the end of
 1343 the assumption period, the policyholder remains eligible for
 1344 coverage from the corporation regardless of any offer of

1345 coverage from an authorized insurer or surplus lines insurer.

1346 (I) If the risk accepts an offer of coverage through the
 1347 market assistance plan or an offer of coverage through a
 1348 mechanism established by the corporation before a policy is
 1349 issued to the risk by the corporation or during the first 30
 1350 days of coverage by the corporation, and the producing agent who
 1351 submitted the application to the plan or the corporation is not
 1352 currently appointed by the insurer, the insurer shall:

1353 (A) Pay to the producing agent of record of the policy,
 1354 for the first year, an amount that is the greater of the
 1355 insurer's usual and customary commission for the type of policy
 1356 written or a fee equal to the usual and customary commission of
 1357 the corporation; or

1358 (B) Offer to allow the producing agent of record of the
 1359 policy to continue servicing the policy for a period of not less
 1360 than 1 year and offer to pay the agent the greater of the
 1361 insurer's or the corporation's usual and customary commission
 1362 for the type of policy written.

1363
 1364 If the producing agent is unwilling or unable to accept
 1365 appointment, the new insurer shall pay the agent in accordance
 1366 with sub-sub-sub-subparagraph (A).

1367 (II) When the corporation enters into a contractual
 1368 agreement for a take-out plan, the producing agent of record of
 1369 the corporation policy is entitled to retain any unearned
 1370 commission on the policy, and the insurer shall:

1371 (A) Pay to the producing agent of record of the
 1372 corporation policy, for the first year, an amount that is the

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1373 greater of the insurer's usual and customary commission for the
1374 type of policy written or a fee equal to the usual and customary
1375 commission of the corporation; or

1376 (B) Offer to allow the producing agent of record of the
1377 corporation policy to continue servicing the policy for a period
1378 of not less than 1 year and offer to pay the agent the greater
1379 of the insurer's or the corporation's usual and customary
1380 commission for the type of policy written.

1381
1382 If the producing agent is unwilling or unable to accept
1383 appointment, the new insurer shall pay the agent in accordance
1384 with sub-sub-sub-subparagraph (A).

1385 c. For purposes of determining comparable coverage under
1386 sub-subparagraphs a. and b., the comparison shall be based on
1387 those forms and coverages that are reasonably comparable. The
1388 corporation may rely on a determination of comparable coverage
1389 and premium made by the producing agent who submits the
1390 application to the corporation, made in the agent's capacity as
1391 the corporation's agent. A comparison may be made solely of the
1392 premium with respect to the main building or structure only on
1393 the following basis: the same coverage A or other building
1394 limits; the same percentage hurricane deductible that applies on
1395 an annual basis or that applies to each hurricane for commercial
1396 residential property; the same percentage of ordinance and law
1397 coverage, if the same limit is offered by both the corporation
1398 and the authorized insurer; the same mitigation credits, to the
1399 extent the same types of credits are offered both by the
1400 corporation and the authorized insurer; the same method for loss

1401 payment, such as replacement cost or actual cash value, if the
1402 same method is offered both by the corporation and the
1403 authorized insurer in accordance with underwriting rules; and
1404 any other form or coverage that is reasonably comparable as
1405 determined by the board. If an application is submitted to the
1406 corporation for wind-only coverage in the high-risk account, the
1407 premium for the corporation's wind-only policy plus the premium
1408 for the ex-wind policy that is offered by an authorized insurer
1409 to the applicant shall be compared to the premium for multiperil
1410 coverage offered by an authorized insurer, subject to the
1411 standards for comparison specified in this subparagraph. If the
1412 corporation or the applicant requests from the authorized
1413 insurer a breakdown of the premium of the offer by types of
1414 coverage so that a comparison may be made by the corporation or
1415 its agent and the authorized insurer refuses or is unable to
1416 provide such information, the corporation may treat the offer as
1417 not being an offer of coverage from an authorized insurer at the
1418 insurer's approved rate.

1419 6. Must include rules for classifications of risks and
1420 rates therefor.

1421 7. Must provide that if premium and investment income for
1422 an account attributable to a particular calendar year are in
1423 excess of projected losses and expenses for the account
1424 attributable to that year, such excess shall be held in surplus
1425 in the account. Such surplus shall be available to defray
1426 deficits in that account as to future years and shall be used
1427 for that purpose prior to assessing assessable insurers and
1428 assessable insureds as to any calendar year.

1429 8. Must provide objective criteria and procedures to be
 1430 uniformly applied for all applicants in determining whether an
 1431 individual risk is so hazardous as to be uninsurable. In making
 1432 this determination and in establishing the criteria and
 1433 procedures, the following shall be considered:

1434 a. Whether the likelihood of a loss for the individual
 1435 risk is substantially higher than for other risks of the same
 1436 class; and

1437 b. Whether the uncertainty associated with the individual
 1438 risk is such that an appropriate premium cannot be determined.

1439
 1440 The acceptance or rejection of a risk by the corporation shall
 1441 be construed as the private placement of insurance, and the
 1442 provisions of chapter 120 shall not apply.

1443 9. Must provide that the corporation shall make its best
 1444 efforts to procure catastrophe reinsurance at reasonable rates,
 1445 to cover its projected 100-year probable maximum loss as
 1446 determined by the board of governors.

1447 10. The policies issued by the corporation must provide
 1448 that, if the corporation or the market assistance plan obtains
 1449 an offer from an authorized insurer to cover the risk at its
 1450 approved rates, the risk is no longer eligible for renewal
 1451 through the corporation, except as otherwise provided in this
 1452 subsection.

1453 11. Corporation policies and applications must include a
 1454 notice that the corporation policy could, under this section, be
 1455 replaced with a policy issued by an authorized insurer that does
 1456 not provide coverage identical to the coverage provided by the

1457 corporation. The notice shall also specify that acceptance of
1458 corporation coverage creates a conclusive presumption that the
1459 applicant or policyholder is aware of this potential.

1460 12. May establish, subject to approval by the office,
1461 different eligibility requirements and operational procedures
1462 for any line or type of coverage for any specified county or
1463 area if the board determines that such changes to the
1464 eligibility requirements and operational procedures are
1465 justified due to the voluntary market being sufficiently stable
1466 and competitive in such area or for such line or type of
1467 coverage and that consumers who, in good faith, are unable to
1468 obtain insurance through the voluntary market through ordinary
1469 methods would continue to have access to coverage from the
1470 corporation. When coverage is sought in connection with a real
1471 property transfer, such requirements and procedures shall not
1472 provide for an effective date of coverage later than the date of
1473 the closing of the transfer as established by the transferor,
1474 the transferee, and, if applicable, the lender.

1475 13. Must provide that, with respect to the high-risk
1476 account, any assessable insurer with a surplus as to
1477 policyholders of \$25 million or less writing 25 percent or more
1478 of its total countrywide property insurance premiums in this
1479 state may petition the office, within the first 90 days of each
1480 calendar year, to qualify as a limited apportionment company. A
1481 regular assessment levied by the corporation on a limited
1482 apportionment company for a deficit incurred by the corporation
1483 for the high-risk account in 2006 or thereafter may be paid to
1484 the corporation on a monthly basis as the assessments are

1485 collected by the limited apportionment company from its insureds
1486 pursuant to s. 627.3512, but the regular assessment must be paid
1487 in full within 12 months after being levied by the corporation.
1488 A limited apportionment company shall collect from its
1489 policyholders any emergency assessment imposed under sub-
1490 subparagraph (b)3.d. The plan shall provide that, if the office
1491 determines that any regular assessment will result in an
1492 impairment of the surplus of a limited apportionment company,
1493 the office may direct that all or part of such assessment be
1494 deferred as provided in subparagraph (p)4. However, there shall
1495 be no limitation or deferment of an emergency assessment to be
1496 collected from policyholders under sub-subparagraph (b)3.d.

1497 14. Must provide that the corporation appoint as its
1498 licensed agents only those agents who also hold an appointment
1499 as defined in s. 626.015(3) with an insurer who at the time of
1500 the agent's initial appointment by the corporation is authorized
1501 to write and is actually writing personal lines residential
1502 property coverage, commercial residential property coverage, or
1503 commercial nonresidential property coverage within the state.

1504 15. Must provide, by July 1, 2007, a premium payment plan
1505 option to its policyholders which allows at a minimum for
1506 quarterly and semiannual payment of premiums. A monthly payment
1507 plan may, but is not required to, be offered.

1508 16. Must limit coverage on mobile homes or manufactured
1509 homes built prior to 1994 to actual cash value of the dwelling
1510 rather than replacement costs of the dwelling.

1511 17. May provide such limits of coverage as the board
1512 determines, consistent with the requirements of this subsection.

1513 18. May require commercial property to meet specified
 1514 hurricane mitigation construction features as a condition of
 1515 eligibility for coverage.

1516 19.a. Shall require the agent to obtain from any applicant
 1517 for coverage the following acknowledgement, signed by the
 1518 applicant, and shall require the agent of record to obtain the
 1519 following acknowledgment from each corporation policyholder
 1520 prior to the policy's first renewal after the effective date of
 1521 this act:

1522
 1523 ACKNOWLEDGEMENT OF POTENTIAL SURCHARGE AND ASSESSMENT
 1524 LIABILITY:

1525 1. I UNDERSTAND, AS A CITIZENS PROPERTY
 1526 INSURANCE CORPORATION POLICYHOLDER, THAT IF THE
 1527 CORPORATION SUSTAINS A DEFICIT AS A RESULT OF
 1528 HURRICANE LOSSES OR FOR ANY OTHER REASON, MY POLICY
 1529 COULD BE SUBJECT TO CITIZENS POLICYHOLDER SURCHARGES,
 1530 WHICH WOULD BE DUE AND PAYABLE UPON ISSUANCE, RENEWAL,
 1531 CANCELLATION, OR TERMINATION OF THE POLICY, AND THAT
 1532 THE SURCHARGES COULD BE AS HIGH AS 15 PERCENT OF MY
 1533 PREMIUM FOR DEFICITS IN EACH OF THREE CITIZENS
 1534 ACCOUNTS, OR A DIFFERENT AMOUNT AS ESTABLISHED BY THE
 1535 FLORIDA LEGISLATURE.

1536 2. I ALSO UNDERSTAND THAT I MAY BE SUBJECT TO
 1537 EMERGENCY ASSESSMENTS TO THE SAME EXTENT AS
 1538 POLICYHOLDERS OF OTHER INSURANCE COMPANIES.

1539
 1540 b. The corporation shall permanently maintain a signed

1541 copy of the signed acknowledgement required by this
1542 subparagraph, and the agent may also retain a copy.

1543 c. The signed acknowledgement form creates a conclusive
1544 presumption that the policyholder understood and accepted his or
1545 her potential surcharge and assessment liability as a Citizens
1546 policyholder.

1547 (d)1. All prospective employees for senior management
1548 positions, as defined by the plan of operation, are subject to
1549 background checks as a prerequisite for employment. The office
1550 shall conduct background checks on such prospective employees
1551 pursuant to ss. 624.34, 624.404(3), and 628.261.

1552 2. On or before July 1 of each year, employees of the
1553 corporation are required to sign and submit a statement
1554 attesting that they do not have a conflict of interest, as
1555 defined in part III of chapter 112. As a condition of
1556 employment, all prospective employees are required to sign and
1557 submit to the corporation a conflict-of-interest statement.

1558 3. Senior managers and members of the board of governors
1559 are subject to the provisions of part III of chapter 112,
1560 including, but not limited to, the code of ethics and public
1561 disclosure and reporting of financial interests, pursuant to s.
1562 112.3145. Notwithstanding s. 112.3143(2), a board member may not
1563 vote upon any measure that would inure to his or her special
1564 private gain or loss; that he or she knows would inure to the
1565 special private gain or loss of any principal by whom he or she
1566 is retained or to the parent organization or subsidiary of a
1567 corporate principal by which he or she is retained, other than
1568 an agency as defined in s. 112.312(2); or that he or she knows

1569 would inure to the special private gain or loss of a relative or
1570 business associate of the public officer. Such member shall,
1571 prior to the vote being taken, publicly state to the assembly
1572 the nature of his or her interest in the matter from which he or
1573 she is abstaining from voting and, within 15 days after the vote
1574 occurs, disclose the nature of his or her interest as a public
1575 record in a memorandum filed with the person responsible for
1576 recording the minutes of the meeting, who shall incorporate the
1577 memorandum in the minutes. Senior managers and board members are
1578 also required to file such disclosures with the Commission on
1579 Ethics and the Office of Insurance Regulation. The executive
1580 director of the corporation or his or her designee shall notify
1581 each newly appointed and existing appointed member of the board
1582 of governors and senior managers of their duty to comply with
1583 the reporting requirements of part III of chapter 112. At least
1584 quarterly, the executive director or his or her designee shall
1585 submit to the Commission on Ethics a list of names of the senior
1586 managers and members of the board of governors who are subject
1587 to the public disclosure requirements under s. 112.3145.

1588 4. Notwithstanding s. 112.3148 or s. 112.3149, or any
1589 other provision of law, an employee or board member may not
1590 knowingly accept, directly or indirectly, any gift or
1591 expenditure from a person or entity, or an employee or
1592 representative of such person or entity, that has a contractual
1593 relationship with the corporation or who is under consideration
1594 for a contract. An employee or board member who fails to comply
1595 with subparagraph 3. or this subparagraph is subject to
1596 penalties provided under ss. 112.317 and 112.3173.

1597 5. Any senior manager of the corporation who is employed
 1598 on or after January 1, 2007, regardless of the date of hire, who
 1599 subsequently retires or terminates employment is prohibited from
 1600 representing another person or entity before the corporation for
 1601 2 years after retirement or termination of employment from the
 1602 corporation.

1603 6. Any senior manager of the corporation who is employed
 1604 on or after January 1, 2007, regardless of the date of hire, who
 1605 subsequently retires or terminates employment is prohibited from
 1606 having any employment or contractual relationship for 2 years
 1607 with an insurer that has entered into a take-out bonus agreement
 1608 with the corporation.

1609 ~~(y) It is the intent of the Legislature that the~~
 1610 ~~amendments to this subsection enacted in 2002 should, over time,~~
 1611 ~~reduce the probable maximum windstorm losses in the residual~~
 1612 ~~markets and should reduce the potential assessments to be levied~~
 1613 ~~on property insurers and policyholders statewide. In furtherance~~
 1614 ~~of this intent:~~

1615 ~~1. The board shall, on or before February 1 of each year,~~
 1616 ~~provide a report to the President of the Senate and the Speaker~~
 1617 ~~of the House of Representatives showing the reduction or~~
 1618 ~~increase in the 100-year probable maximum loss attributable to~~
 1619 ~~wind only coverages and the quota share program under this~~
 1620 ~~subsection combined, as compared to the benchmark 100-year~~
 1621 ~~probable maximum loss of the Florida Windstorm Underwriting~~
 1622 ~~Association. For purposes of this paragraph, the benchmark 100-~~
 1623 ~~year probable maximum loss of the Florida Windstorm Underwriting~~
 1624 ~~Association shall be the calculation dated February 2001 and~~

1625 ~~based on November 30, 2000, exposures. In order to ensure~~
1626 ~~comparability of data, the board shall use the same methods for~~
1627 ~~calculating its probable maximum loss as were used to calculate~~
1628 ~~the benchmark probable maximum loss.~~

1629 ~~2. Beginning December 1, 2010, if the report under~~
1630 ~~subparagraph 1. for any year indicates that the 100-year~~
1631 ~~probable maximum loss attributable to wind-only coverages and~~
1632 ~~the quota share program combined does not reflect a reduction of~~
1633 ~~at least 25 percent from the benchmark, the board shall reduce~~
1634 ~~the boundaries of the high-risk area eligible for wind-only~~
1635 ~~coverages under this subsection in a manner calculated to reduce~~
1636 ~~such probable maximum loss to an amount at least 25 percent~~
1637 ~~below the benchmark.~~

1638 ~~3. Beginning February 1, 2015, if the report under~~
1639 ~~subparagraph 1. for any year indicates that the 100-year~~
1640 ~~probable maximum loss attributable to wind-only coverages and~~
1641 ~~the quota share program combined does not reflect a reduction of~~
1642 ~~at least 50 percent from the benchmark, the boundaries of the~~
1643 ~~high-risk area eligible for wind-only coverages under this~~
1644 ~~subsection shall be reduced by the elimination of any area that~~
1645 ~~is not seaward of a line 1,000 feet inland from the Intracoastal~~
1646 ~~Waterway.~~

1647 (y)~~(z)~~ In enacting the provisions of this section, the
1648 Legislature recognizes that both the Florida Windstorm
1649 Underwriting Association and the Residential Property and
1650 Casualty Joint Underwriting Association have entered into
1651 financing arrangements that obligate each entity to service its
1652 debts and maintain the capacity to repay funds secured under

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1653 | these financing arrangements. It is the intent of the
1654 | Legislature that nothing in this section be construed to
1655 | compromise, diminish, or interfere with the rights of creditors
1656 | under such financing arrangements. It is further the intent of
1657 | the Legislature to preserve the obligations of the Florida
1658 | Windstorm Underwriting Association and Residential Property and
1659 | Casualty Joint Underwriting Association with regard to
1660 | outstanding financing arrangements, with such obligations
1661 | passing entirely and unchanged to the corporation and,
1662 | specifically, to the applicable account of the corporation. So
1663 | long as any bonds, notes, indebtedness, or other financing
1664 | obligations of the Florida Windstorm Underwriting Association or
1665 | the Residential Property and Casualty Joint Underwriting
1666 | Association are outstanding, under the terms of the financing
1667 | documents pertaining to them, the governing board of the
1668 | corporation shall have and shall exercise the authority to levy,
1669 | charge, collect, and receive all premiums, assessments,
1670 | surcharges, charges, revenues, and receipts that the
1671 | associations had authority to levy, charge, collect, or receive
1672 | under the provisions of subsection (2) and this subsection,
1673 | respectively, as they existed on January 1, 2002, to provide
1674 | moneys, without exercise of the authority provided by this
1675 | subsection, in at least the amounts, and by the times, as would
1676 | be provided under those former provisions of subsection (2) or
1677 | this subsection, respectively, so that the value, amount, and
1678 | collectability of any assets, revenues, or revenue source
1679 | pledged or committed to, or any lien thereon securing such
1680 | outstanding bonds, notes, indebtedness, or other financing

1681 obligations will not be diminished, impaired, or adversely
1682 affected by the amendments made by this act and to permit
1683 compliance with all provisions of financing documents pertaining
1684 to such bonds, notes, indebtedness, or other financing
1685 obligations, or the security or credit enhancement for them, and
1686 any reference in this subsection to bonds, notes, indebtedness,
1687 financing obligations, or similar obligations, of the
1688 corporation shall include like instruments or contracts of the
1689 Florida Windstorm Underwriting Association and the Residential
1690 Property and Casualty Joint Underwriting Association to the
1691 extent not inconsistent with the provisions of the financing
1692 documents pertaining to them.

1693 (z)~~(aa)~~ The corporation shall not require the securing of
1694 flood insurance as a condition of coverage if the insured or
1695 applicant executes a form approved by the office affirming that
1696 flood insurance is not provided by the corporation and that if
1697 flood insurance is not secured by the applicant or insured in
1698 addition to coverage by the corporation, the risk will not be
1699 covered for flood damage. A corporation policyholder electing
1700 not to secure flood insurance and executing a form as provided
1701 herein making a claim for water damage against the corporation
1702 shall have the burden of proving the damage was not caused by
1703 flooding. Notwithstanding other provisions of this subsection,
1704 the corporation may deny coverage to an applicant or insured who
1705 refuses to execute the form described herein.

1706 (aa)~~(bb)~~ A salaried employee of the corporation who
1707 performs policy administration services subsequent to the
1708 effectuation of a corporation policy is not required to be

1709 licensed as an agent under the provisions of s. 626.112.

1710 (bb)~~(ee)~~ By February 1, 2007, the corporation shall submit

1711 a report to the President of the Senate, the Speaker of the

1712 House of Representatives, the minority party leaders of the

1713 Senate and the House of Representatives, and the chairs of the

1714 standing committees of the Senate and the House of

1715 Representatives having jurisdiction over matters relating to

1716 property and casualty insurance. In preparing the report, the

1717 corporation shall consult with the Office of Insurance

1718 Regulation, the Department of Financial Services, and any other

1719 party the corporation determines appropriate. The report must

1720 include all findings and recommendations on the feasibility of

1721 requiring authorized insurers that issue and service personal

1722 and commercial residential policies and commercial

1723 nonresidential policies that provide coverage for basic property

1724 perils except for the peril of wind to issue and service for a

1725 fee personal and commercial residential policies and commercial

1726 nonresidential policies providing coverage for the peril of wind

1727 issued by the corporation. The report must include:

1728 1. The expense savings to the corporation of issuing and

1729 servicing such policies as determined by a cost-benefit

1730 analysis.

1731 2. The expenses and liability to authorized insurers

1732 associated with issuing and servicing such policies.

1733 3. The effect on service to policyholders of the

1734 corporation relating to issuing and servicing such policies.

1735 4. The effect on the producing agent of the corporation of

1736 issuing and servicing such policies.

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1737 5. Recommendations as to the amount of the fee which
1738 should be paid to authorized insurers for issuing and servicing
1739 such policies.

1740 6. The effect that issuing and servicing such policies
1741 will have on the corporation's number of policies, total insured
1742 value, and probable maximum loss.

1743 (cc)~~(dd)~~ There shall be no liability on the part of, and
1744 no cause of action of any nature shall arise against, producing
1745 agents of record of the corporation or employees of such agents
1746 for insolvency of any take-out insurer.

1747 (dd)~~(ee)~~ The assets of the corporation may be invested and
1748 managed by the State Board of Administration.

1749 (ee)~~(ff)~~ The office may establish a pilot program to offer
1750 optional sinkhole coverage in one or more counties or other
1751 territories of the corporation for the purpose of implementing
1752 s. 627.706, as amended by s. 30, chapter 2007-1, Laws of
1753 Florida. Under the pilot program, the corporation is not
1754 required to issue a notice of nonrenewal to exclude sinkhole
1755 coverage upon the renewal of existing policies, but may exclude
1756 such coverage using a notice of coverage change.

1757 Section 10. Paragraph (b) of subsection (2) of section
1758 627.4133, Florida Statutes, is amended to read:

1759 627.4133 Notice of cancellation, nonrenewal, or renewal
1760 premium.—

1761 (2) With respect to any personal lines or commercial
1762 residential property insurance policy, including, but not
1763 limited to, any homeowner's, mobile home owner's, farmowner's,
1764 condominium association, condominium unit owner's, apartment

1765 building, or other policy covering a residential structure or
 1766 its contents:

1767 (b) The insurer shall give the named insured written
 1768 notice of nonrenewal, cancellation, or termination at least 100
 1769 days prior to the effective date of the nonrenewal,
 1770 cancellation, or termination. However, the insurer shall give at
 1771 least 100 days' written notice, or written notice by June 1,
 1772 whichever is earlier, for any nonrenewal, cancellation, or
 1773 termination that would be effective between June 1 and November
 1774 30. The notice must include the reason or reasons for the
 1775 nonrenewal, cancellation, or termination, except that:

1776 1. The insurer shall give the named insured written notice
 1777 of nonrenewal, cancellation, or termination at least 180 days
 1778 prior to the effective date of the nonrenewal, cancellation, or
 1779 termination for a named insured whose residential structure has
 1780 been insured by that insurer or an affiliated insurer for at
 1781 least a 5-year period immediately prior to the date of the
 1782 written notice.

1783 2. When cancellation is for nonpayment of premium, at
 1784 least 10 days' written notice of cancellation accompanied by the
 1785 reason therefor shall be given. As used in this subparagraph,
 1786 the term "nonpayment of premium" means failure of the named
 1787 insured to discharge when due any of her or his obligations in
 1788 connection with the payment of premiums on a policy or any
 1789 installment of such premium, whether the premium is payable
 1790 directly to the insurer or its agent or indirectly under any
 1791 premium finance plan or extension of credit, or failure to
 1792 maintain membership in an organization if such membership is a

1793 condition precedent to insurance coverage. "Nonpayment of
 1794 premium" also means the failure of a financial institution to
 1795 honor an insurance applicant's check after delivery to a
 1796 licensed agent for payment of a premium, even if the agent has
 1797 previously delivered or transferred the premium to the insurer.
 1798 If a dishonored check represents the initial premium payment,
 1799 the contract and all contractual obligations shall be void ab
 1800 initio unless the nonpayment is cured within the earlier of 5
 1801 days after actual notice by certified mail is received by the
 1802 applicant or 15 days after notice is sent to the applicant by
 1803 certified mail or registered mail, and if the contract is void,
 1804 any premium received by the insurer from a third party shall be
 1805 refunded to that party in full.

1806 3. When such cancellation or termination occurs during the
 1807 first 90 days during which the insurance is in force and the
 1808 insurance is canceled or terminated for reasons other than
 1809 nonpayment of premium, at least 20 days' written notice of
 1810 cancellation or termination accompanied by the reason therefor
 1811 shall be given except where there has been a material
 1812 misstatement or misrepresentation or failure to comply with the
 1813 underwriting requirements established by the insurer.

1814 4. The requirement for providing written notice of
 1815 nonrenewal by June 1 of any nonrenewal that would be effective
 1816 between June 1 and November 30 does not apply to the following
 1817 situations, but the insurer remains subject to the requirement
 1818 to provide such notice at least 100 days prior to the effective
 1819 date of nonrenewal:

1820 a. A policy that is nonrenewed due to a revision in the

1821 coverage for sinkhole losses and catastrophic ground cover
 1822 collapse pursuant to s. 627.706, as amended by s. 30, chapter
 1823 2007-1, Laws of Florida.

1824 b. A policy that is nonrenewed by Citizens Property
 1825 Insurance Corporation, pursuant to s. 627.351(6), for a policy
 1826 that has been assumed by an authorized insurer offering
 1827 replacement or renewal coverage to the policyholder.

1828 5. Notwithstanding any other provision of law, an insurer
 1829 may cancel or nonrenew a property insurance policy upon a
 1830 minimum of 45 days' notice if the office finds that the early
 1831 cancellation of some or all of the insurer's policies is
 1832 necessary to protect the best interests of the public or
 1833 policyholders and the office approves the insurer's plan for
 1834 early cancellation or nonrenewal of some or all of its policies.
 1835 The office may base such a finding upon the financial condition
 1836 of the insurer, lack of adequate reinsurance coverage for
 1837 hurricane risk, or other relevant factors. The office may
 1838 condition its finding on the consent of the insurer to be placed
 1839 in administrative supervision pursuant to s. 624.81 or consent
 1840 to the appointment of a receiver under chapter 631.

1841 6. Citizens Property Insurance Corporation shall give the
 1842 named insured written notice of nonrenewal, cancellation, or
 1843 termination at least 45 days before the effective date of the
 1844 nonrenewal, cancellation, or termination if the policy being
 1845 nonrenewed, canceled, or terminated has been assumed by an
 1846 authorized insurer offering coverage to the policyholder.

1847
 1848 After the policy has been in effect for 90 days, the policy

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1849 shall not be canceled by the insurer except when there has been
1850 a material misstatement, a nonpayment of premium, a failure to
1851 comply with underwriting requirements established by the insurer
1852 within 90 days of the date of effectuation of coverage, or a
1853 substantial change in the risk covered by the policy or when the
1854 cancellation is for all insureds under such policies for a given
1855 class of insureds. This paragraph does not apply to individually
1856 rated risks having a policy term of less than 90 days.

1857 Section 11. Section 627.41341, Florida Statutes, is
1858 created to read:

1859 627.41341 Notice of change in policy terms.—

1860 (1) As used in this section, the term:

1861 (a) "Change in policy terms" means the modification,
1862 addition, or deletion of any term, coverage, duty, or condition
1863 from the prior policy. The correction of typographical or
1864 scrivener's errors or the application of mandated legislative
1865 changes is not a change in policy terms.

1866 (b) "Policy" means a written contract of personal lines
1867 insurance or a written agreement for or effecting insurance, or
1868 the certificate of such insurance, by whatever name called, and
1869 includes all clauses, riders, endorsements, and papers which are
1870 a part of such policy. The term "policy" does not include a
1871 binder as defined in s. 627.420 unless the duration of the
1872 binder period exceeds 60 days.

1873 (c) "Renewal" means the issuance and delivery by an
1874 insurer of a policy superseding at the end of the policy period
1875 a policy previously issued and delivered by the same insurer or
1876 the issuance and delivery of a certificate or notice extending

1877 the term of a policy beyond its policy period or term. Any
1878 policy with a policy period or term of less than 6 months or any
1879 policy with no fixed expiration date shall for the purpose of
1880 this section be considered as if written for successive policy
1881 periods or terms of 6 months.

1882 (2) A renewal policy may contain a change in policy terms.
1883 If a renewal policy contains a change in policy terms, the
1884 insurer shall give the named insured a written notice of change
1885 in policy terms that shall be enclosed with the written notice
1886 of renewal premium required by ss. 627.4133 and 627.728. The
1887 notice shall be entitled "Notice of Change in Policy Terms."

1888 (3) Although not required, United States Postal Service
1889 proof of mailing or registered mailing of the notice of change
1890 in policy terms to the named insured at the address shown in the
1891 policy shall be sufficient proof of notice.

1892 (4) Receipt of payment of the premium for the renewal
1893 policy by the insurer shall be deemed to be acceptance of the
1894 new policy terms by the named insured.

1895 (5) If an insurer fails to provide the notice of change in
1896 policy terms required under subsection (2), the original policy
1897 terms shall remain in effect until the next renewal and the
1898 proper service of the notice of change in policy terms or until
1899 the effective date of replacement coverage obtained by the named
1900 insured, whichever occurs first.

1901 (6) The intent of this section is to:

1902 (a) Allow an insurer to make a change in policy terms
1903 without nonrenewing policyholders that the insurer wishes to
1904 continue insuring.

1905 (b) Alleviate the concern and confusion to the
 1906 policyholders caused by the required policy nonrenewal for the
 1907 limited issue when an insurer intends to renew the insurance
 1908 policy but the new policy contains a change in policy terms.

1909 (c) Encourage policyholders to discuss their coverages
 1910 with their insurance agent.

1911 Section 12. Subsections (1), (3), (4), and (5) of section
 1912 627.7011, Florida Statutes, are amended to read:

1913 627.7011 Homeowners' policies; offer of replacement cost
 1914 coverage and law and ordinance coverage.—

1915 (1) Before ~~Prior to~~ issuing or renewing a homeowner's
 1916 insurance policy ~~on or after October 1, 2005, or prior to the~~
 1917 ~~first renewal of a homeowner's insurance policy on or after~~
 1918 ~~October 1, 2005,~~ the insurer must offer each of the following:

1919 (a) A policy or endorsement providing that any loss which
 1920 is repaired or replaced will be adjusted on the basis of
 1921 replacement costs not exceeding policy limits as to the
 1922 dwelling, rather than actual cash value, but not including costs
 1923 necessary to meet applicable laws and ordinances regulating the
 1924 construction, use, or repair of any property or requiring the
 1925 tearing down of any property, including the costs of removing
 1926 debris.

1927 (b) A policy or endorsement providing that, subject to
 1928 other policy provisions, any loss which is repaired or replaced
 1929 at any location will be adjusted on the basis of replacement
 1930 costs not exceeding policy limits as to the dwelling, rather
 1931 than actual cash value, and also including costs necessary to
 1932 meet applicable laws and ordinances regulating the construction,

1933 use, or repair of any property or requiring the tearing down of
 1934 any property, including the costs of removing debris; however,
 1935 such additional costs necessary to meet applicable laws and
 1936 ordinances may be limited to either 25 percent or 50 percent of
 1937 the dwelling limit, as selected by the policyholder, and such
 1938 coverage shall apply only to repairs of the damaged portion of
 1939 the structure unless the total damage to the structure exceeds
 1940 50 percent of the replacement cost of the structure.

1941
 1942 An insurer is not required to make the offers required by this
 1943 subsection with respect to the issuance or renewal of a
 1944 homeowner's policy that contains the provisions specified in
 1945 paragraph (b) for law and ordinance coverage limited to 25
 1946 percent of the dwelling limit, except that the insurer must
 1947 offer the law and ordinance coverage limited to 50 percent of
 1948 the dwelling limit. This subsection does not prohibit the offer
 1949 of a guaranteed replacement cost policy.

1950 (3) (a) If ~~In the event of~~ a loss occurs for which a
 1951 dwelling ~~or personal property~~ is insured on the basis of
 1952 replacement costs, the insurer shall initially pay at least the
 1953 actual cash value of the loss and shall pay the actual cash
 1954 value of the insured loss, less any applicable deductible. In
 1955 order to receive payment from an insurer under this paragraph, a
 1956 policyholder must enter into a contract for the performance of
 1957 building and structural repairs. The insurer shall pay any
 1958 remaining amounts necessary to perform such repairs as work is
 1959 performed and expenses are incurred. Other than incidental
 1960 expenses to mitigate further damage, the insurer or any

1961 contractor or subcontractor may not require the policyholder to
 1962 advance payment for such repairs or expenses. The insurer may
 1963 waive the requirement for a contract under this paragraph
 1964 ~~replacement cost without reservation or holdback of any~~
 1965 ~~depreciation in value, whether or not the insured replaces or~~
 1966 ~~repairs the dwelling or property.~~

1967 (b) If a loss occurs for which personal property is
 1968 insured on the basis of replacement costs, the insurer may limit
 1969 an initial payment to 50 percent of the replacement cost value
 1970 of the personal property to be replaced, less any applicable
 1971 deductible. An insurer may require an insured to provide the
 1972 receipts for purchases of property financed by the initial 50-
 1973 percent payment required by this paragraph, and the insurer
 1974 shall use such receipts to make any remaining payments requested
 1975 by the insured for the replacement of remaining insured personal
 1976 property. If a total loss occurs, the insurer shall pay the
 1977 replacement cost for content coverage without reservation or
 1978 holdback of any depreciation in value. The insurer may not
 1979 require the policyholder to advance payment for the replaced
 1980 property.

1981 (4) A ~~Any~~ homeowner's insurance policy ~~issued or renewed~~
 1982 ~~on or after October 1, 2005,~~ must include in bold type no
 1983 smaller than 18 points the following statement:

1984
 1985 "LAW AND ORDINANCE COVERAGE IS AN IMPORTANT COVERAGE
 1986 THAT YOU MAY WISH TO PURCHASE. YOU MAY ALSO NEED TO
 1987 CONSIDER THE PURCHASE OF FLOOD INSURANCE FROM THE
 1988 NATIONAL FLOOD INSURANCE PROGRAM. WITHOUT THIS

1989 COVERAGE, YOU MAY HAVE UNCOVERED LOSSES. PLEASE
 1990 DISCUSS THESE COVERAGES WITH YOUR INSURANCE AGENT."

1991
 1992 The intent of this subsection is to encourage policyholders to
 1993 purchase sufficient coverage to protect them in case events
 1994 excluded from the standard homeowners policy, such as law and
 1995 ordinance enforcement and flood, combine with covered events to
 1996 produce damage or loss to the insured property. The intent is
 1997 also to encourage policyholders to discuss these issues with
 1998 their insurance agent.

1999 (5) ~~Nothing in~~ This section does not ~~shall be construed to~~
 2000 apply to policies not considered to be "homeowners' policies,"
 2001 as that term is commonly understood in the insurance industry.
 2002 This section specifically does not apply to mobile home
 2003 policies. ~~Nothing in~~ This section does not limit ~~shall be~~
 2004 ~~construed as limiting~~ the ability of any insurer to reject or
 2005 nonrenew any insured or applicant on the grounds that the
 2006 structure does not meet underwriting criteria applicable to
 2007 replacement cost or law and ordinance policies or for other
 2008 lawful reasons.

2009 Section 13. Paragraph (a) of subsection (5) of section
 2010 627.70131, Florida Statutes, is amended to read:

2011 627.70131 Insurer's duty to acknowledge communications
 2012 regarding claims; investigation.—

2013 (5) (a) Within 90 days after an insurer receives notice of
 2014 an initial or supplemental a property insurance claim from a
 2015 policyholder, the insurer shall pay or deny such claim or a
 2016 portion of the claim unless the failure to pay such claim or a

2017 | portion of the claim is caused by factors beyond the control of
 2018 | the insurer which reasonably prevent such payment. Any payment
 2019 | of an initial or supplemental ~~a~~ claim or portion of such ~~a~~ claim
 2020 | made ~~paid~~ 90 days after the insurer receives notice of the
 2021 | claim, or made ~~paid~~ more than 15 days after there are no longer
 2022 | factors beyond the control of the insurer which reasonably
 2023 | prevented such payment, whichever is later, shall bear interest
 2024 | at the rate set forth in s. 55.03. Interest begins to accrue
 2025 | from the date the insurer receives notice of the claim. The
 2026 | provisions of this subsection may not be waived, voided, or
 2027 | nullified by the terms of the insurance policy. If there is a
 2028 | right to prejudgment interest, the insured shall select whether
 2029 | to receive prejudgment interest or interest under this
 2030 | subsection. Interest is payable when the claim or portion of the
 2031 | claim is paid. Failure to comply with this subsection
 2032 | constitutes a violation of this code. However, failure to comply
 2033 | with this subsection shall not form the sole basis for a private
 2034 | cause of action.

2035 | Section 14. Effective January 1, 2011, section 627.7031,
 2036 | Florida Statutes, is created to read:

2037 | 627.7031 Residential property insurance option.—

2038 | (1) An insurer holding a certificate of authority to write
 2039 | property insurance in this state may offer or renew policies at
 2040 | rates established in accordance with s. 627.062(2)(1), subject
 2041 | to all of the requirements and prohibitions of this section.

2042 | (2) An insurer offering or renewing policies at rates
 2043 | established in accordance with s. 627.062(2)(1) may not purchase
 2044 | coverage from the Florida Hurricane Catastrophe Fund under the

2045 temporary increase in coverage limit option under s.
 2046 215.555(17).

2047 (3) (a) Before the effective date of a newly issued policy
 2048 at rates established in accordance with s. 627.062(2)(1) or
 2049 before the effective date of a renewal policy at rates
 2050 established in accordance with s. 627.062(2)(1), the applicant
 2051 or insured must be given the following notice, printed in at
 2052 least 12-point boldfaced type:

2053
 2054 THE RATE FOR THIS POLICY IS NOT SUBJECT TO FULL RATE
 2055 REGULATION BY THE FLORIDA OFFICE OF INSURANCE REGULATION AND MAY
 2056 BE HIGHER THAN RATES APPROVED BY THAT OFFICE. A RESIDENTIAL
 2057 PROPERTY POLICY SUBJECT TO FULL RATE REGULATION REQUIREMENTS MAY
 2058 BE AVAILABLE FROM THIS INSURER, ANOTHER INSURER, OR CITIZENS
 2059 PROPERTY INSURANCE CORPORATION. PLEASE DISCUSS YOUR POLICY
 2060 OPTIONS WITH AN INSURANCE AGENT WHO CAN PROVIDE A CITIZENS
 2061 QUOTE. YOU MAY WISH TO VIEW THE OFFICE OF INSURANCE REGULATION'S
 2062 WEBSITE AT WWW.SHOPANDCOMPARERATES.COM FOR MORE INFORMATION
 2063 ABOUT CHOICES AVAILABLE TO YOU.

2064
 2065 (b) For policies renewed at a rate established in
 2066 accordance with s. 627.062(2)(1), the notice described in
 2067 paragraph (a) must be provided in writing at the same time as
 2068 the renewal notice on a document separate from the renewal
 2069 notice, but may be contained within the same mailing as the
 2070 renewal notice.

2071 (4) Before the effective date of a newly issued policy at
 2072 rates established in accordance with s. 627.062(2)(1), or before

2073 the effective date of the first renewal at rates established in
 2074 accordance with s. 627.062(2)(1) of a policy originally issued
 2075 before the effective date of this section, the applicant or
 2076 insured must:

2077 (a) Be provided or offered, for comparison purposes, an
 2078 estimate of the premium for a policy from Citizens Property
 2079 Insurance Corporation reflecting substantially similar
 2080 coverages, limits, and deductibles to the extent available.

2081 (b) Provide the insurer or agent with a signed copy of the
 2082 following acknowledgement form, which must be retained by the
 2083 insurer or agent for at least 3 years. If the acknowledgement
 2084 form is signed by the insured or if the insured remits payment
 2085 in the amount of the rate established in accordance with s.
 2086 627.062(2)(1) after being mailed, otherwise provided, or offered
 2087 the comparison specified in paragraph (a), an insurer renewing a
 2088 policy at such rate shall be deemed to comply with this section,
 2089 and it is presumed that the insured has been informed and
 2090 understands the information contained in the comparison and
 2091 acknowledgement forms:

2092
 2093 ACKNOWLEDGEMENT

2094 1. I HAVE REVIEWED THE REQUIRED DISCLOSURES AND THE
 2095 REQUIRED PREMIUM COMPARISON.

2096 2. I UNDERSTAND THAT THE RATE FOR THIS RESIDENTIAL
 2097 PROPERTY INSURANCE POLICY IS NOT SUBJECT TO FULL RATE REGULATION
 2098 BY THE FLORIDA OFFICE OF INSURANCE REGULATION AND MAY BE HIGHER
 2099 THAN RATES APPROVED BY THAT OFFICE.

2100 3. I UNDERSTAND THAT A RESIDENTIAL PROPERTY INSURANCE

2101 POLICY SUBJECT TO FULL RATE REGULATION REQUIREMENTS MAY BE
 2102 AVAILABLE FROM CITIZENS PROPERTY INSURANCE CORPORATION.

2103 4. I UNDERSTAND THAT THE FLORIDA OFFICE OF INSURANCE
 2104 REGULATION'S WEBSITE WWW.SHOPANDCOMPARERATES.COM CONTAINS
 2105 RESIDENTIAL PROPERTY INSURANCE RATE COMPARISON INFORMATION.

2106 5. I UNDERSTAND THAT IF CITIZENS PROPERTY INSURANCE
 2107 CORPORATION INCURS A DEFICIT BECAUSE OF HURRICANE LOSSES OR
 2108 OTHER LOSSES, I MAY BE REQUIRED TO PAY AN ASSESSMENT BASED UPON
 2109 THE PREMIUM FOR THIS POLICY AND THAT A POLICYHOLDER OF CITIZENS
 2110 PROPERTY INSURANCE CORPORATION MAY BE REQUIRED TO PAY A
 2111 DIFFERENT ASSESSMENT.

2112
 2113 (5) The following types of residential property insurance
 2114 policies are not eligible for rates established in accordance
 2115 with s. 627.062(2)(1) and are not subject to the other
 2116 provisions of this section:

2117 (a) Residential property insurance policies that exclude
 2118 coverage for the perils of windstorm or hurricane.

2119 (b) Residential property insurance policies that are
 2120 subject to a consent decree, agreement, understanding, or other
 2121 arrangement between the insurer and the office relating to rates
 2122 or premiums for policies removed from Citizens Property
 2123 Insurance Corporation.

2124 (6) Notwithstanding s. 627.4133, an insurer that has
 2125 issued a policy under this section shall provide the named
 2126 insured written notice of nonrenewal at least 180 days before
 2127 the effective date of the nonrenewal as to subsequent
 2128 nonrenewals. However, this subsection does not prohibit an

2129 insurer from canceling a policy as permitted under s. 627.4133.
 2130 The offer of a policy at rates authorized by this section
 2131 constitutes an offer to renew the policy at the rates specified
 2132 in the offer and does not constitute a nonrenewal.

2133 Section 15. Effective June 1, 2010, and applying only to
 2134 insurance claims made on or after that date, subsection (1),
 2135 paragraph (b) of subsection (2), and subsections (5), (7), and
 2136 (8) of section 627.707, Florida Statutes, are amended to read:

2137 627.707 Standards for investigation of sinkhole claims by
 2138 insurers; nonrenewals.—Upon receipt of a claim for a sinkhole
 2139 loss, an insurer must meet the following standards in
 2140 investigating a claim:

2141 (1) The insurer must make an inspection of the insured's
 2142 premises to determine if there has been physical damage to the
 2143 structure which is consistent with ~~may be the result of~~ sinkhole
 2144 loss activity.

2145 (2) Following the insurer's initial inspection, the
 2146 insurer shall engage a professional engineer or a professional
 2147 geologist to conduct testing as provided in s. 627.7072 to
 2148 determine the cause of the loss within a reasonable professional
 2149 probability and issue a report as provided in s. 627.7073, if:

2150 (b) The policyholder demands testing in accordance with
 2151 this section or s. 627.7072 and coverage under the policy is
 2152 available if sinkhole loss is verified.

2153 (5) (a) Subject to paragraph (b), if a sinkhole loss is
 2154 verified, the insurer shall pay to stabilize the land and
 2155 building and repair the foundation in accordance with the
 2156 recommendations of the professional engineer as provided under

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2157 s. 627.7073, with notice to ~~and in consultation with~~ the
 2158 policyholder, subject to the coverage and terms of the policy.
 2159 The insurer shall pay for other repairs to the structure and
 2160 contents in accordance with the terms of the policy.

2161 (b) 1. ~~After a~~ ~~The insurer may limit its payment to the~~
 2162 ~~actual cash value of the sinkhole loss, not including~~
 2163 ~~underpinning or grouting or any other repair technique performed~~
 2164 ~~below the existing foundation of the building, until the~~
 2165 policyholder enters into a contract for the performance of
 2166 building stabilization or foundation repairs, the claim shall be
 2167 paid up to the full cost of the stabilization or foundation
 2168 repairs and up to full replacement cost for above-ground repairs
 2169 as set forth in this paragraph, less the insured's deductible.
 2170 After the policyholder enters into a contract for the
 2171 performance of building stabilization or foundation repairs in
 2172 accordance with the recommendations set forth in s. 627.7073,
 2173 the insurer may:

2174 a. Limit its initial payment to 10 percent of the
 2175 estimated costs to implement the building stabilization and
 2176 foundation repairs.

2177 b. Limit its initial payment to the actual cash value of
 2178 the sinkhole loss for above-ground repairs to the structure.

2179 2. However, after the policyholder enters into the
 2180 contract for the performance of building stabilization or
 2181 foundation repairs, the insurer shall pay the amounts necessary
 2182 to ~~begin and~~ perform such stabilization and repairs as the work
 2183 is performed and the expenses are incurred. Final payments for
 2184 the structural or building stabilization and foundation repair

2185 work shall be remitted after such work is complete and finished
 2186 in accordance with the terms of the policy and the report's
 2187 recommendations and after final bills or receipts have been
 2188 submitted to the insurer. The insurer may not require the
 2189 policyholder to advance payment for such repairs. If repair
 2190 covered by a personal lines residential property insurance
 2191 policy has begun and the professional engineer selected or
 2192 approved by the insurer determines that the repair cannot be
 2193 completed within the policy limits, the insurer must either
 2194 complete the professional engineer's recommended repair or
 2195 tender the policy limits to the policyholder without a reduction
 2196 for the repair expenses incurred.

2197 (c) The policyholder shall enter into such contract for
 2198 repairs within 90 days after the insurance company approves
 2199 coverage for a sinkhole loss to prevent additional damage to the
 2200 building or structure. The 90-day time period may be extended
 2201 for an additional reasonable time period if the policyholder is
 2202 unable to find a qualified person or entity to contract for such
 2203 repairs within the 90-day time period based upon factors beyond
 2204 the policyholder's control or the policyholder is actively
 2205 seeking to retain a professional engineer or geologist as
 2206 provided in s. 627.7073(1)(c). This time period is tolled if
 2207 either party invokes neutral evaluation.

2208 (d) The stabilization and all other repairs to the
 2209 structure and contents must be completed within 12 months after
 2210 entering into the contract for repairs as described in paragraph

2211 (c) unless:

2212 1. There is a mutual agreement between the insurer and the

2213 insured;
 2214 2. The stabilization and all other repairs cannot be
 2215 completed due to factors beyond the control of the insured which
 2216 reasonably prevent completion;
 2217 3. The claim is involved with the neutral evaluation
 2218 process under s. 627.7074;
 2219 4. The claim is in litigation; or
 2220 5. The claim is under appraisal.
 2221 (e) ~~(e)~~ Upon the insurer's obtaining the written approval
 2222 of the policyholder and any lienholder, the insurer may make
 2223 payment directly to the persons selected by the policyholder to
 2224 perform the land and building stabilization and foundation
 2225 repairs. The decision by the insurer to make payment to such
 2226 persons does not hold the insurer liable for the work performed.
 2227 (7) If the insurer obtains, pursuant to s. 627.7073,
 2228 written certification that there is no sinkhole loss ~~or that the~~
 2229 ~~cause of the damage was not sinkhole activity,~~ and if the
 2230 policyholder has submitted the sinkhole claim without good faith
 2231 grounds for submitting such claim, the policyholder shall
 2232 reimburse the insurer for 50 percent of the actual costs of the
 2233 analyses and services provided under ss. 627.7072 and 627.7073;
 2234 however, a policyholder is not required to reimburse an insurer
 2235 more than \$2,500 with respect to any claim. A policyholder is
 2236 required to pay reimbursement under this subsection only if the
 2237 insurer, prior to ordering the analysis under s. 627.7072,
 2238 informs the policyholder in writing of the policyholder's
 2239 potential liability for reimbursement and gives the policyholder
 2240 the opportunity to withdraw the claim.

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2241 (8) An ~~No~~ insurer may not ~~shall~~ nonrenew any policy of
 2242 property insurance on the basis of filing of claims for partial
 2243 loss caused by sinkhole damage or clay shrinkage as long as the
 2244 total of such payments does not exceed the ~~current~~ policy limits
 2245 of coverage for property damage for the policy in effect on the
 2246 date of the loss, or ~~and~~ provided the insured has repaired the
 2247 structure in accordance with the engineering recommendations
 2248 upon which any payment or policy proceeds were based.

2249 Section 16. Effective June 1, 2010, and applying only to
 2250 insurance claims made on or after that date, section 627.7072,
 2251 Florida Statutes, is amended to read:

2252 627.7072 Testing standards for sinkholes.—

2253 (1) The professional engineer and professional geologist
 2254 shall perform such tests as sufficient, in their professional
 2255 opinion, to determine the presence or absence of sinkhole loss
 2256 or other cause of damage within reasonable professional
 2257 probability and for the professional engineer to make
 2258 recommendations regarding necessary building stabilization and
 2259 foundation repair.

2260 (2) The professional engineer and professional geologist
 2261 shall perform tests under this section in accordance with
 2262 Florida Geological Survey Special Publication 57 to determine
 2263 the presence or absence of sinkhole loss or other cause of
 2264 damage within a reasonable professional probability.

2265 Section 17. Effective June 1, 2010, and applying only to
 2266 insurance claims made on or after that date, section 627.7073,
 2267 Florida Statutes, is amended to read:

2268 627.7073 Sinkhole reports.—

2269 (1) Upon completion of testing as provided in s. 627.7072,
 2270 the professional engineer or professional geologist shall issue
 2271 a report and certification to the insurer, with an additional
 2272 copy and certification for the insurer to forward to ~~and~~ the
 2273 policyholder as provided in this section.

2274 (a) Sinkhole loss is verified if, based upon tests
 2275 performed in accordance with s. 627.7072, a professional
 2276 engineer or a professional geologist issues a written report and
 2277 certification stating:

2278 1. That the cause of the actual physical and structural
 2279 damage is sinkhole activity within a reasonable professional
 2280 probability.

2281 2. That the analyses conducted were of sufficient scope to
 2282 identify sinkhole activity as the cause of damage within a
 2283 reasonable professional probability.

2284 3. A description of the tests performed.

2285 4. A recommendation by the professional engineer of
 2286 methods for stabilizing the land and building and for making
 2287 repairs to the foundation.

2288 (b) If sinkhole activity is eliminated as the cause of
 2289 damage to the structure, the professional engineer or
 2290 professional geologist shall issue a written report and
 2291 certification to the policyholder and the insurer stating:

2292 1. That the cause of the damage is not sinkhole activity
 2293 within a reasonable professional probability.

2294 2. That the analyses and tests conducted were of
 2295 sufficient scope to eliminate sinkhole activity as the cause of
 2296 damage within a reasonable professional probability.

2297 3. A statement of the cause of the damage within a
 2298 reasonable professional probability.

2299 4. A description of the tests performed.

2300 (c) If the policyholder disagrees with the findings,
 2301 opinions, or recommendations of the professional engineer or
 2302 professional geologist engaged by the insurer, the policyholder
 2303 may engage a professional engineer or professional geologist, at
 2304 the policyholder's expense, to conduct testing under s. 627.7072
 2305 and to render findings, opinions, and recommendations as to the
 2306 cause of distress to the property and the appropriate method of
 2307 land and building stabilization and foundation repair and
 2308 certify such findings, opinions, and recommendations in a report
 2309 that meets the requirements of this section and forward a copy
 2310 of the report to the insurer. Unless the policyholder engages a
 2311 professional engineer or professional geologist as described in
 2312 this paragraph who disputes the findings of the insurer's
 2313 engineer or geologist, the respective findings, opinions, and
 2314 recommendations of the professional engineer or professional
 2315 geologist as to the cause of distress to the property and the
 2316 findings, opinions, and recommendations of the insurer's
 2317 professional engineer as to land and building stabilization and
 2318 foundation repair as required by s. 627.707(2), shall be
 2319 presumed correct, which presumption shall shift the burden of
 2320 proof under s. 90.304.

2321 (2) (a) Any insurer that has paid a claim for a sinkhole
 2322 loss shall file a copy of the report and certification, prepared
 2323 pursuant to subsection (1), including the legal description of
 2324 the real property, ~~and~~ and the name of the property owner, and the

2325 amount paid by the insurer, with the county clerk of court, who
 2326 shall record the report and certification. The insurer shall
 2327 also file a copy of any report prepared on behalf of the insured
 2328 or the insured's representative that has been provided to the
 2329 insurer that indicates that sinkhole loss caused the damage
 2330 claimed. The insurer shall bear the cost of filing and recording
 2331 of one or more reports ~~the report~~ and certifications
 2332 ~~certification~~. There shall be no cause of action or liability
 2333 against an insurer for compliance with this section. The
 2334 recording of the report and certification does not:

2335 1. Constitute a lien, encumbrance, or restriction on the
 2336 title to the real property or constitute a defect in the title
 2337 to the real property;

2338 2. Create any cause of action or liability against any
 2339 grantor of the real property for breach of any warranty of good
 2340 title or warranty against encumbrances; or

2341 3. Create any cause of action or liability against any
 2342 title insurer that insures the title to the real property.

2343 (b) The seller of real property upon which a sinkhole
 2344 claim has been made by the seller and paid by the insurer shall
 2345 disclose to the buyer of such property that a claim has been
 2346 paid, the amount of the payment, and whether or not the full
 2347 amount of the proceeds were used to repair the sinkhole damage.
 2348 The seller shall also provide to the buyer a copy of the report
 2349 prepared pursuant to subsection (1) and any report prepared on
 2350 behalf of the insured.

2351 Section 18. Effective June 1, 2010, and applying only to
 2352 insurance claims made on or after that date, section 627.7074,

2353 Florida Statutes, is amended to read:

2354 627.7074 Alternative procedure for resolution of disputed
2355 sinkhole insurance claims.—

2356 (1) As used in this section, the term:

2357 (a) "Neutral evaluation" means the alternative dispute
2358 resolution provided for in this section.

2359 (b) "Neutral evaluator" means a professional engineer or a
2360 professional geologist who has completed a course of study in
2361 alternative dispute resolution designed or approved by the
2362 department for use in the neutral evaluation process, who is
2363 determined to be fair and impartial.

2364 (2) (a) The department shall certify and maintain a list of
2365 persons who are neutral evaluators.

2366 (b) The department shall prepare a consumer information
2367 pamphlet for distribution by insurers to policyholders which
2368 clearly describes the neutral evaluation process and includes
2369 information and forms necessary for the policyholder to request
2370 a neutral evaluation.

2371 (3) Neutral evaluation is available to either party if a
2372 sinkhole report has been issued pursuant to s. 627.7073.

2373 Following the receipt of the report provided under s. 627.7073
2374 or the denial of a claim for a sinkhole loss, the insurer shall
2375 notify the policyholder of his or her right to participate in
2376 the neutral evaluation program under this section. Neutral
2377 evaluation supersedes the alternative dispute resolution process
2378 under s. 627.7015 but does not supersede the appraisal clause if
2379 an appraisal clause is provided by the insurance policy. The
2380 insurer shall provide to the policyholder the consumer

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2381 information pamphlet prepared by the department pursuant to
2382 paragraph (2) (b).

2383 (4) Neutral evaluation is nonbinding, but mandatory if
2384 requested by either party. A request for neutral evaluation may
2385 be filed with the department by the policyholder or the insurer
2386 on a form approved by the department. The request for neutral
2387 evaluation must state the reason for the request and must
2388 include an explanation of all the issues in dispute at the time
2389 of the request. Filing a request for neutral evaluation tolls
2390 the applicable time requirements for filing suit for a period of
2391 60 days following the conclusion of the neutral evaluation
2392 process or the time prescribed in s. 95.11, whichever is later.

2393 (5) Neutral evaluation shall be conducted as an informal
2394 process in which formal rules of evidence and procedure need not
2395 be observed. A party to neutral evaluation is not required to
2396 attend neutral evaluation if a representative of the party
2397 attends and has the authority to make a binding decision on
2398 behalf of the party. All parties shall participate in the
2399 evaluation in good faith.

2400 (6) The insurer shall pay the costs associated with the
2401 neutral evaluation.

2402 (7) (a) Upon receipt of a request for neutral evaluation,
2403 the department shall ~~provide the parties a list of certified~~
2404 ~~neutral evaluators. The parties shall mutually select a neutral~~
2405 ~~evaluator from the list and promptly inform the department. If~~
2406 ~~the parties cannot agree to a neutral evaluator within 10~~
2407 ~~business days, the department~~ allow the parties to submit
2408 requests to disqualify neutral evaluators on the list for cause.

2409 For purposes of this subsection, a ground for cause is required
2410 to be found by the department only if:

2411 1. A familial relationship exists between the neutral
2412 evaluator and either party or a representative of either party
2413 within the third degree;

2414 2. The proposed neutral evaluator has, in a professional
2415 capacity, previously represented either party or a
2416 representative of either party in the same or a substantially
2417 related matter;

2418 3. The proposed neutral evaluator has, in a professional
2419 capacity, represented another person in the same or a
2420 substantially related matter and that person's interests are
2421 materially adverse to the interests of the parties;

2422 4. The proposed neutral evaluator works in the same firm
2423 or corporation as a person who has, in a professional capacity,
2424 previously represented either party or a representative of
2425 either party in the same or a substantially related matter; or

2426 5. The proposed neutral evaluator has, within the
2427 preceding 5 years, worked as an employee of any party to the
2428 case.

2429 (b) The parties shall mutually appoint a neutral evaluator
2430 from the ~~department~~ list and promptly inform the department. If
2431 the parties cannot agree to a neutral evaluator within 10
2432 business days, the department shall appoint a neutral evaluator
2433 from the department's list of certified neutral evaluators. The
2434 department shall allow each party to disqualify one neutral
2435 evaluator without cause. Upon selection or appointment, the
2436 department shall promptly refer the request to the neutral

2437 evaluator.

2438 (c) Within 5 business days after the referral, the neutral
 2439 evaluator shall notify the policyholder and the insurer of the
 2440 date, time, and place of the neutral evaluation conference. The
 2441 conference may be held by telephone, if feasible and desirable.
 2442 The neutral evaluation conference shall be held within 90 ~~45~~
 2443 days after the receipt of the request by the department. If the
 2444 neutral evaluator fails to hold a neutral evaluation conference
 2445 in accordance with this paragraph, the neutral evaluator's fee
 2446 shall be reduced by 10 percent unless the failure was due to
 2447 factors beyond the control of the neutral evaluator.

2448 (d) As used in this subsection, the term "substantially
 2449 related matter" means participation by the neutral evaluator on
 2450 the same claim, property, or any adjacent property.

2451 (8) The department shall adopt rules of procedure for the
 2452 neutral evaluation process.

2453 (9) For policyholders not represented by an attorney, a
 2454 consumer affairs specialist of the department or an employee
 2455 designated as the primary contact for consumers on issues
 2456 relating to sinkholes under s. 20.121 shall be available for
 2457 consultation to the extent that he or she may lawfully do so.

2458 (10) Evidence of an offer to settle a claim during the
 2459 neutral evaluation process, as well as any relevant conduct or
 2460 statements made in negotiations concerning the offer to settle a
 2461 claim, is inadmissible to prove liability or absence of
 2462 liability for the claim or its value, except as provided in
 2463 subsection (14) ~~(13)~~.

2464 (11) Regardless of when invoked, any court proceeding

2465 related to the subject matter of the neutral evaluation shall be
2466 stayed pending completion of the neutral evaluation and for 5
2467 days after the filing of the neutral evaluator's report with the
2468 court.

2469 (12) If the neutral evaluator, based upon his or her
2470 professional training and credentials, is qualified only to
2471 determine the causation issue or the method of repair issue, the
2472 department shall allow the neutral evaluator to enlist the
2473 assistance of another professional from the qualified neutral
2474 evaluators list, not previously struck by parties with respect
2475 to the subject evaluation, who, based upon his or her
2476 professional training and credentials, is able to provide an
2477 opinion as to the other disputed issue. Any professional who, if
2478 appointed as the neutral evaluator, would be disqualified for
2479 any reason listed in subsection (7) must be disqualified. In
2480 addition, the neutral evaluator may use the service of other
2481 experts or professionals as necessary to ensure that all items
2482 in dispute are addressed in order to complete the neutral
2483 evaluation. The neutral evaluator may request that the entity
2484 that performed testing pursuant to s. 627.7072 perform such
2485 additional reasonable testing deemed necessary in the
2486 professional opinion of the neutral evaluator to complete the
2487 neutral evaluation.

2488 (13)~~(12)~~ For all matters that are not resolved by the
2489 parties at the conclusion of the neutral evaluation, the neutral
2490 evaluator shall prepare a report stating that in his or her
2491 opinion the sinkhole loss has been verified or eliminated within
2492 a reasonable degree of professional probability and, if

2493 | verified, whether the sinkhole loss has caused structural or
 2494 | cosmetic damage to the building and, if so, the need for and
 2495 | estimated costs of stabilizing the land and any covered
 2496 | structures or buildings and other appropriate remediation or
 2497 | structural repairs that are necessary due to the sinkhole loss.

2498 | The evaluator's report shall be sent to all parties in
 2499 | attendance at the neutral evaluation and to the department.

2500 | (14)~~(13)~~ The recommendation of the neutral evaluator is
 2501 | not binding on any party, and the parties retain access to
 2502 | court. The neutral evaluator's written recommendation is
 2503 | admissible in any ~~subsequent~~ action or proceeding relating to
 2504 | the claim or to the cause of action giving rise to the claim.

2505 | (15)~~(14)~~ If the neutral evaluator first verifies the
 2506 | existence of a sinkhole and, second, recommends the need for and
 2507 | estimates costs of stabilizing the land and any covered
 2508 | structures or buildings and other appropriate remediation or
 2509 | structural repairs, which costs exceed the amount that the
 2510 | insurer has offered to pay the policyholder, the insurer is
 2511 | liable to the policyholder for up to \$2,500 in attorney's fees
 2512 | for the attorney's participation in the neutral evaluation
 2513 | process. For purposes of this subsection, the term "offer to
 2514 | pay" means a written offer signed by the insurer or its legal
 2515 | representative and delivered to the policyholder within 10 days
 2516 | after the insurer receives notice that a request for neutral
 2517 | evaluation has been made under this section.

2518 | (16)~~(15)~~ If the insurer timely agrees in writing to comply
 2519 | and timely complies with the recommendation of the neutral
 2520 | evaluator, but the policyholder declines to resolve the matter

2521 in accordance with the recommendation of the neutral evaluator
 2522 pursuant to this section:

2523 (a) The insurer is not liable for extracontractual damages
 2524 related to a claim for a sinkhole loss but only as related to
 2525 the issues determined by the neutral evaluation process. This
 2526 section does not affect or impair claims for extracontractual
 2527 damages unrelated to the issues determined by the neutral
 2528 evaluation process contained in this section; and

2529 (b) The actions of the insurer are not a confession of
 2530 judgment or an admission of liability, and the insurer may ~~is~~
 2531 not be liable for attorney's fees under s. 627.428 or other
 2532 provisions of the insurance code unless the policyholder obtains
 2533 a judgment that is more favorable than the recommendation of the
 2534 neutral evaluator.

2535 (17) If the insurer agrees to comply with the neutral
 2536 evaluator's report, payment for stabilizing the land and
 2537 building and repairing the foundation shall be made in
 2538 accordance with the terms and conditions of the applicable
 2539 insurance policy.

2540 Section 19. Section 627.711, Florida Statutes, is amended
 2541 to read:

2542 627.711 Notice of premium discounts for hurricane loss
 2543 mitigation; uniform mitigation verification inspection form.—

2544 (1) Using a form prescribed by the Office of Insurance
 2545 Regulation, the insurer shall clearly notify the applicant or
 2546 policyholder of any personal lines residential property
 2547 insurance policy, at the time of the issuance of the policy and
 2548 at each renewal, of the availability and the range of each

2549 premium discount, credit, other rate differential, or reduction
 2550 in deductibles, and combinations of discounts, credits, rate
 2551 differentials, or reductions in deductibles, for properties on
 2552 which fixtures or construction techniques demonstrated to reduce
 2553 the amount of loss in a windstorm can be or have been installed
 2554 or implemented. The prescribed form shall describe generally
 2555 what actions the policyholders may be able to take to reduce
 2556 their windstorm premium. The prescribed form and a list of such
 2557 ranges approved by the office for each insurer licensed in the
 2558 state and providing such discounts, credits, other rate
 2559 differentials, or reductions in deductibles for properties
 2560 described in this subsection shall be available for electronic
 2561 viewing and download from the Department of Financial Services'
 2562 or the Office of Insurance Regulation's Internet website. The
 2563 Financial Services Commission may adopt rules to implement this
 2564 subsection.

2565 (2) (a) ~~By July 1, 2007,~~ The Financial Services Commission
 2566 shall develop by rule a uniform mitigation verification
 2567 inspection form that shall be used by all insurers when
 2568 submitted by policyholders for the purpose of factoring
 2569 discounts for wind insurance. In developing the form, the
 2570 commission shall seek input from insurance, construction, and
 2571 building code representatives. Further, the commission shall
 2572 provide guidance as to the length of time the inspection results
 2573 are valid. An insurer shall accept as valid a uniform mitigation
 2574 verification form ~~certified by the Department of Financial~~
 2575 ~~Services~~ or signed by:

2576 ~~(a) A hurricane mitigation inspector certified by the My~~

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2577 ~~Safe Florida Home program;~~
 2578 1.(b) A building code inspector certified under s.
 2579 468.607;
 2580 2.(e) A general, building, or residential contractor
 2581 licensed under s. 489.111;
 2582 3.(d) A professional engineer licensed under s. 471.015
 2583 who has passed the appropriate equivalency test of the building
 2584 code training program as required by s. 553.841; or
 2585 4.(e) A professional architect licensed under s. 481.213;
 2586 ~~or~~
 2587 ~~(f) Any other individual or entity recognized by the~~
 2588 ~~insurer as possessing the necessary qualifications to properly~~
 2589 ~~complete a uniform mitigation verification form.~~
 2590 (b) An insurer may, but is not required to, accept a
 2591 mitigation verification form from any other person possessing
 2592 qualifications and experience acceptable to the insurer.
 2593 (3) A person who is authorized to sign a mitigation
 2594 verification form must inspect the structures referenced by the
 2595 form personally, not through employees or other persons, and
 2596 must certify or attest to that person's personal inspection of
 2597 the structures referenced by the form.
 2598 (4) An individual or entity that signs a uniform
 2599 mitigation form may not commit misconduct in performing
 2600 hurricane mitigation inspections or in completing a uniform
 2601 mitigation form that causes financial harm to a customer or the
 2602 customer's insurer or that jeopardizes a customer's health and
 2603 safety. Misconduct occurs when an authorized mitigation
 2604 inspector signs a uniform mitigation verification form that:

2605 (a) Falsely indicates that he or she personally inspected
 2606 the structures referenced by the form;

2607 (b) Falsely indicates the existence of a feature which
 2608 entitles an insured to a mitigation discount that the inspector
 2609 knows does not exist or did not personally inspect;

2610 (c) Contains erroneous information due to the gross
 2611 negligence of the inspector; or

2612 (d) Contains demonstrably false information relating to
 2613 the existence of mitigation features that may give an insured a
 2614 false evaluation of the ability of the structure to withstand
 2615 major damage from a hurricane endangering the safety of the
 2616 insured's life and property.

2617 (5) The licensing board of an authorized mitigation
 2618 inspector who violates subsection (4) may commence disciplinary
 2619 proceedings and impose administrative fines and other sanctions
 2620 authorized under the inspector's licensing act.

2621 (6) An insurer, person, or other entity that obtains
 2622 evidence of fraud or evidence that an inspector has made false
 2623 statements in the completion of a mitigation inspection form
 2624 shall file a report with the Division of Insurance Fraud,
 2625 together with all of the evidence in its possession that
 2626 supports the allegation of fraud or falsity. An insurer, person,
 2627 or other entity making the report is immune from liability in
 2628 accordance with s. 626.989(4) for any statements made in the
 2629 report, during the investigation, or in connection with the
 2630 report. The Division of Insurance Fraud shall issue an
 2631 investigative report if the division finds that probable cause
 2632 exists to believe that the inspector made intentionally false or

2633 fraudulent statements in the inspection form. Upon conclusion of
 2634 the investigation and a finding of probable cause that a
 2635 violation has occurred, the Division of Insurance Fraud shall
 2636 send a copy of the investigative report to the office and a copy
 2637 to the agency responsible for the professional licensure of the
 2638 inspector, whether or not a prosecutor takes action based upon
 2639 the report.

2640 (7) The insurer may require the mitigation inspector or
 2641 inspection company to provide evidence of the inspector's or
 2642 inspection company's quality assurance program. At the insurer's
 2643 expense, the insurer may require that any uniform mitigation
 2644 verification form provided by a mitigation inspector or
 2645 inspection company that does not possess or has not provided
 2646 evidence to the insurer of a quality assurance program be
 2647 independently verified by an inspector, inspection company, or
 2648 independent third-party quality assurance provider that
 2649 possesses a quality assurance program prior to accepting it as
 2650 valid.

2651 (8)~~(3)~~ An individual or entity who knowingly provides or
 2652 utters a false or fraudulent mitigation verification form with
 2653 the intent to obtain or receive a discount on an insurance
 2654 premium to which the individual or entity is not entitled
 2655 commits a misdemeanor of the first degree, punishable as
 2656 provided in s. 775.082 or s. 775.083.

2657 Section 20. In the interest of full disclosure and
 2658 transparency to insurance policy owners, and because most
 2659 insurance policies sold in this state are subject to assessments
 2660 to make up for the funding deficiencies of the Citizens Property

2661 Insurance Corporation, the Florida Insurance Guaranty
 2662 Association, or the Florida Hurricane Catastrophe Fund, the
 2663 following warning shall be printed in bold type of not less than
 2664 16 points and shall be displayed on the declarations page or on
 2665 the renewal notice of every insurance policy sold or issued in
 2666 this state that is or may be subject to assessment by the
 2667 Citizens Property Insurance Corporation, the Florida Insurance
 2668 Guaranty Association, or the Florida Hurricane Catastrophe Fund:

2670 WARNING

2671 The premium you are about to pay may NOT be the full cost
 2672 of this insurance policy. If a hurricane strikes Florida,
 2673 you may be forced to pay additional moneys to offset the
 2674 inability of the state-owned Citizens Property Insurance
 2675 Corporation, the Florida Insurance Guaranty Association,
 2676 or the Florida Hurricane Catastrophe Fund to pay claims
 2677 resulting from the losses due to the hurricane.

2678 Section 21. Section 627.7065, Florida Statutes, is
 2679 repealed.

2680 Section 22. Except as otherwise expressly provided in this
 2681 act, this act shall take effect July 1, 2010.