

1 A bill to be entitled
 2 An act relating to property insurance; amending s.
 3 627.351, F.S.; revising legislative findings to provide a
 4 finding that the lack of affordable property insurance
 5 threatens the public health, safety, and welfare and
 6 threatens the economic health of the state; revising
 7 provisions for determining eligibility for coverage under
 8 the corporation; reinstating certain rate filings by the
 9 corporation; prohibiting issuance of new certificates of
 10 authority to certain insurers; requiring rate filings of
 11 certain insurers to include certain parent company profits
 12 information; providing effective dates.

13

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

15

16 Section 1. Paragraphs (a), (c), and (m) of subsection (6)
 17 of section 627.351, Florida Statutes, as amended by section 21
 18 of chapter 2007-1, Laws of Florida, are amended to read:

19 627.351 Insurance risk apportionment plans.--

20 (6) CITIZENS PROPERTY INSURANCE CORPORATION.--

21 (a)1. It is the public purpose of this subsection to
 22 ensure the existence of an orderly market for property insurance
 23 for citizens of this state and businesses in this state. The
 24 Legislature finds that private insurers are unwilling or unable
 25 to provide affordable property insurance coverage in this state
 26 to the extent sought and needed. The absence of affordable
 27 property insurance threatens the public health, safety, and
 28 welfare and likewise threatens the economic health of the state.

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29 The state therefore has a compelling public interest and a
30 public purpose to assist in ensuring that property in the state
31 is insured and that property is insured at affordable rates so
32 as to facilitate the remediation, reconstruction, and
33 replacement of damaged or destroyed property in order to reduce
34 or avoid the negative effects otherwise resulting to the public
35 health, safety, and welfare, to the economy of the state, and to
36 the revenues of the state and local governments which are needed
37 to provide for the public welfare. It is necessary, therefore,
38 to provide affordable property insurance to applicants who are
39 in good faith entitled to procure insurance through the
40 voluntary market but are unable to do so. The Legislature
41 intends by this subsection that affordable property insurance be
42 provided and that such insurance continue to be provided, as
43 long as necessary, through Citizens Property Insurance
44 Corporation, a government entity that is an integral part of the
45 state and that is not a private insurance company. To that end,
46 Citizens Property Insurance Company shall strive to increase the
47 availability of affordable property insurance in this state,
48 while achieving efficiencies and economies and while providing
49 service to policyholders, applicants, and agents which is no
50 less than the quality generally provided in the voluntary
51 market, for the achievement of the foregoing public purposes.
52 Because it is essential for this government entity to have the
53 maximum financial resources to pay claims following a
54 catastrophic hurricane, it is the intent of the Legislature that
55 Citizens Property Insurance Corporation continue to be an
56 integral part of the state and that the income of the

57 corporation be exempt from federal income taxation and that
58 interest on the debt obligations issued by the corporation be
59 exempt from federal income taxation. The Legislature finds that
60 ~~actual and threatened catastrophic losses to property in this~~
61 ~~state from hurricanes have caused insurers to be unwilling or~~
62 ~~unable to provide property insurance coverage to the extent~~
63 ~~sought and needed. It is in the public interest and a public~~
64 ~~purpose to assist in assuring that property in the state is~~
65 ~~insured so as to facilitate the remediation, reconstruction, and~~
66 ~~replacement of damaged or destroyed property in order to reduce~~
67 ~~or avoid the negative effects otherwise resulting to the public~~
68 ~~health, safety, and welfare; to the economy of the state; and to~~
69 ~~the revenues of the state and local governments needed to~~
70 ~~provide for the public welfare. It is necessary, therefore, to~~
71 ~~provide property insurance to applicants who are in good faith~~
72 ~~entitled to procure insurance through the voluntary market but~~
73 ~~are unable to do so. The Legislature intends by this subsection~~
74 ~~that property insurance be provided and that it continues, as~~
75 ~~long as necessary, through an entity organized to achieve~~
76 ~~efficiencies and economies, while providing service to~~
77 ~~policyholders, applicants, and agents that is no less than the~~
78 ~~quality generally provided in the voluntary market, all toward~~
79 ~~the achievement of the foregoing public purposes. Because it is~~
80 ~~essential for the corporation to have the maximum financial~~
81 ~~resources to pay claims following a catastrophic hurricane, it~~
82 ~~is the intent of the Legislature that the income of the~~
83 ~~corporation be exempt from federal income taxation and that~~
84 ~~interest on the debt obligations issued by the corporation be~~

85 ~~exempt from federal income taxation.~~

86 2. The Residential Property and Casualty Joint
87 Underwriting Association originally created by this statute
88 shall be known, as of July 1, 2002, as the Citizens Property
89 Insurance Corporation. The corporation shall provide insurance
90 for residential and commercial property, for applicants who are
91 in good faith entitled, but are unable, to procure insurance
92 through the voluntary market. The corporation shall operate
93 pursuant to a plan of operation approved by order of the
94 Financial Services Commission. The plan is subject to continuous
95 review by the commission. The commission may, by order, withdraw
96 approval of all or part of a plan if the commission determines
97 that conditions have changed since approval was granted and that
98 the purposes of the plan require changes in the plan. The
99 corporation shall continue to operate pursuant to the plan of
100 operation approved by the Office of Insurance Regulation until
101 October 1, 2006. For the purposes of this subsection,
102 residential coverage includes both personal lines residential
103 coverage, which consists of the type of coverage provided by
104 homeowner's, mobile home owner's, dwelling, tenant's,
105 condominium unit owner's, and similar policies, and commercial
106 lines residential coverage, which consists of the type of
107 coverage provided by condominium association, apartment
108 building, and similar policies.

109 3. For the purposes of this subsection, the term
110 "homestead property" means:

111 a. Property that has been granted a homestead exemption
112 under chapter 196;

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113 b. Property for which the owner has a current, written
114 lease with a renter for a term of at least 7 months and for
115 which the dwelling is insured by the corporation for \$200,000 or
116 less;

117 c. An owner-occupied mobile home or manufactured home, as
118 defined in s. 320.01, which is permanently affixed to real
119 property, is owned by a Florida resident, and has been granted a
120 homestead exemption under chapter 196 or, if the owner does not
121 own the real property, the owner certifies that the mobile home
122 or manufactured home is his or her principal place of residence;

123 d. Tenant's coverage;

124 e. Commercial lines residential property; or

125 f. Any county, district, or municipal hospital; a hospital
126 licensed by any not-for-profit corporation qualified under s.
127 501(c)(3) of the United States Internal Revenue Code; or a
128 continuing care retirement community that is certified under
129 chapter 651 and that receives an exemption from ad valorem taxes
130 under chapter 196.

131 4. For the purposes of this subsection, the term
132 "nonhomestead property" means property that is not homestead
133 property.

134 5. Effective July 1, 2008, a personal lines residential
135 structure that has a dwelling replacement cost of \$1 million or
136 more, or a single condominium unit that has a combined dwelling
137 and content replacement cost of \$1 million or more is not
138 eligible for coverage by the corporation. Such dwellings insured
139 by the corporation on June 30, 2008, may continue to be covered
140 by the corporation until the end of the policy term. However,

141 such dwellings that are insured by the corporation and become
142 ineligible for coverage due to the provisions of this
143 subparagraph may reapply and obtain coverage in the high-risk
144 account and be considered "nonhomestead property" if the
145 property owner provides the corporation with a sworn affidavit
146 from one or more insurance agents, on a form provided by the
147 corporation, stating that the agents have made their best
148 efforts to obtain coverage and that the property has been
149 rejected for coverage by at least one authorized insurer and at
150 least three surplus lines insurers. If such conditions are met,
151 the dwelling may be insured by the corporation for up to 3
152 years, after which time the dwelling is ineligible for coverage.
153 The office shall approve the method used by the corporation for
154 valuing the dwelling replacement cost for the purposes of this
155 subparagraph. If a policyholder is insured by the corporation
156 prior to being determined to be ineligible pursuant to this
157 subparagraph and such policyholder files a lawsuit challenging
158 the determination, the policyholder may remain insured by the
159 corporation until the conclusion of the litigation.

160 6. For properties constructed on or after January 1, 2009,
161 the corporation may not insure any property located within 2,500
162 feet landward of the coastal construction control line created
163 pursuant to s. 161.053 unless the property meets the
164 requirements of the code-plus building standards developed by
165 the Florida Building Commission.

166 7. It is the intent of the Legislature that policyholders,
167 applicants, and agents of the corporation receive service and
168 treatment of the highest possible level but never less than that

169 generally provided in the voluntary market. It also is intended
170 that the corporation be held to service standards no less than
171 those applied to insurers in the voluntary market by the office
172 with respect to responsiveness, timeliness, customer courtesy,
173 and overall dealings with policyholders, applicants, or agents
174 of the corporation.

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

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

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

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

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

195 d. Personal lines and commercial lines residential
196 property insurance forms that cover the peril of wind only. The

197 forms are applicable only to residential properties located in
198 areas eligible for coverage under the high-risk account referred
199 to in sub-subparagraph (b)2.a.

200 e. Commercial lines nonresidential property insurance
201 forms that cover the peril of wind only. The forms are
202 applicable only to nonresidential properties located in areas
203 eligible for coverage under the high-risk account referred to in
204 sub-subparagraph (b)2.a.

205 f. The corporation may adopt variations of the policy
206 forms listed in sub-subparagraphs a.-e. that contain more
207 restrictive coverage.

208 2.a. Must provide that the corporation adopt a program in
209 which the corporation and authorized insurers enter into quota
210 share primary insurance agreements for hurricane coverage, as
211 defined in s. 627.4025(2)(a), for eligible risks, and adopt
212 property insurance forms for eligible risks which cover the
213 peril of wind only. As used in this subsection, the term:

214 (I) "Quota share primary insurance" means an arrangement
215 in which the primary hurricane coverage of an eligible risk is
216 provided in specified percentages by the corporation and an
217 authorized insurer. The corporation and authorized insurer are
218 each solely responsible for a specified percentage of hurricane
219 coverage of an eligible risk as set forth in a quota share
220 primary insurance agreement between the corporation and an
221 authorized insurer and the insurance contract. The
222 responsibility of the corporation or authorized insurer to pay
223 its specified percentage of hurricane losses of an eligible
224 risk, as set forth in the quota share primary insurance

225 agreement, may not be altered by the inability of the other
226 party to the agreement to pay its specified percentage of
227 hurricane losses. Eligible risks that are provided hurricane
228 coverage through a quota share primary insurance arrangement
229 must be provided policy forms that set forth the obligations of
230 the corporation and authorized insurer under the arrangement,
231 clearly specify the percentages of quota share primary insurance
232 provided by the corporation and authorized insurer, and
233 conspicuously and clearly state that neither the authorized
234 insurer nor the corporation may be held responsible beyond its
235 specified percentage of coverage of hurricane losses.

236 (II) "Eligible risks" means personal lines residential and
237 commercial lines residential risks that meet the underwriting
238 criteria of the corporation and are located in areas that were
239 eligible for coverage by the Florida Windstorm Underwriting
240 Association on January 1, 2002.

241 b. The corporation may enter into quota share primary
242 insurance agreements with authorized insurers at corporation
243 coverage levels of 90 percent and 50 percent.

244 c. If the corporation determines that additional coverage
245 levels are necessary to maximize participation in quota share
246 primary insurance agreements by authorized insurers, the
247 corporation may establish additional coverage levels. However,
248 the corporation's quota share primary insurance coverage level
249 may not exceed 90 percent.

250 d. Any quota share primary insurance agreement entered
251 into between an authorized insurer and the corporation must
252 provide for a uniform specified percentage of coverage of

253 hurricane losses, by county or territory as set forth by the
254 corporation board, for all eligible risks of the authorized
255 insurer covered under the quota share primary insurance
256 agreement.

257 e. Any quota share primary insurance agreement entered
258 into between an authorized insurer and the corporation is
259 subject to review and approval by the office. However, such
260 agreement shall be authorized only as to insurance contracts
261 entered into between an authorized insurer and an insured who is
262 already insured by the corporation for wind coverage.

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

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

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281 h. The quota share primary insurance agreement between the
282 corporation and an authorized insurer must set forth the
283 specific terms under which coverage is provided, including, but
284 not limited to, the sale and servicing of policies issued under
285 the agreement by the insurance agent of the authorized insurer
286 producing the business, the reporting of information concerning
287 eligible risks, the payment of premium to the corporation, and
288 arrangements for the adjustment and payment of hurricane claims
289 incurred on eligible risks by the claims adjuster and personnel
290 of the authorized insurer. Entering into a quota sharing
291 insurance agreement between the corporation and an authorized
292 insurer shall be voluntary and at the discretion of the
293 authorized insurer.

294 3. May provide that the corporation may employ or
295 otherwise contract with individuals or other entities to provide
296 administrative or professional services that may be appropriate
297 to effectuate the plan. The corporation shall have the power to
298 borrow funds, by issuing bonds or by incurring other
299 indebtedness, and shall have other powers reasonably necessary
300 to effectuate the requirements of this subsection, including,
301 without limitation, the power to issue bonds and incur other
302 indebtedness in order to refinance outstanding bonds or other
303 indebtedness. The corporation may, but is not required to, seek
304 judicial validation of its bonds or other indebtedness under
305 chapter 75. The corporation may issue bonds or incur other
306 indebtedness, or have bonds issued on its behalf by a unit of
307 local government pursuant to subparagraph (g)2., in the absence
308 of a hurricane or other weather-related event, upon a

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309 determination by the corporation, subject to approval by the
310 office, that such action would enable it to efficiently meet the
311 financial obligations of the corporation and that such
312 financings are reasonably necessary to effectuate the
313 requirements of this subsection. The corporation is authorized
314 to take all actions needed to facilitate tax-free status for any
315 such bonds or indebtedness, including formation of trusts or
316 other affiliated entities. The corporation shall have the
317 authority to pledge assessments, projected recoveries from the
318 Florida Hurricane Catastrophe Fund, other reinsurance
319 recoverables, market equalization and other surcharges, and
320 other funds available to the corporation as security for bonds
321 or other indebtedness. In recognition of s. 10, Art. I of the
322 State Constitution, prohibiting the impairment of obligations of
323 contracts, it is the intent of the Legislature that no action be
324 taken whose purpose is to impair any bond indenture or financing
325 agreement or any revenue source committed by contract to such
326 bond or other indebtedness.

327 4.a. Must require that the corporation operate subject to
328 the supervision and approval of a board of governors consisting
329 of eight individuals who are residents of this state, from
330 different geographical areas of this state. The Governor, the
331 Chief Financial Officer, the President of the Senate, and the
332 Speaker of the House of Representatives shall each appoint two
333 members of the board. At least one of the two members appointed
334 by each appointing officer must have demonstrated expertise in
335 insurance. The Chief Financial Officer shall designate one of
336 the appointees as chair. All board members serve at the pleasure

337 of the appointing officer. All members of the board of governors
338 are subject to removal at will by the officers who appointed
339 them. All board members, including the chair, must be appointed
340 to serve for 3-year terms beginning annually on a date
341 designated by the plan. Any board vacancy shall be filled for
342 the unexpired term by the appointing officer. The Chief
343 Financial Officer shall appoint a technical advisory group to
344 provide information and advice to the board of governors in
345 connection with the board's duties under this subsection. The
346 executive director and senior managers of the corporation shall
347 be engaged by the board and serve at the pleasure of the board.
348 Any executive director appointed on or after July 1, 2006, is
349 subject to confirmation by the Senate. The executive director is
350 responsible for employing other staff as the corporation may
351 require, subject to review and concurrence by the board.

352 b. The board shall create a Market Accountability Advisory
353 Committee to assist the corporation in developing awareness of
354 its rates and its customer and agent service levels in
355 relationship to the voluntary market insurers writing similar
356 coverage. The members of the advisory committee shall consist of
357 the following 11 persons, one of whom must be elected chair by
358 the members of the committee: four representatives, one
359 appointed by the Florida Association of Insurance Agents, one by
360 the Florida Association of Insurance and Financial Advisors, one
361 by the Professional Insurance Agents of Florida, and one by the
362 Latin American Association of Insurance Agencies; three
363 representatives appointed by the insurers with the three highest
364 voluntary market share of residential property insurance

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365 business in the state; one representative from the Office of
366 Insurance Regulation; one consumer appointed by the board who is
367 insured by the corporation at the time of appointment to the
368 committee; one representative appointed by the Florida
369 Association of Realtors; and one representative appointed by the
370 Florida Bankers Association. All members must serve for 3-year
371 terms and may serve for consecutive terms. The committee shall
372 report to the corporation at each board meeting on insurance
373 market issues which may include rates and rate competition with
374 the voluntary market; service, including policy issuance, claims
375 processing, and general responsiveness to policyholders,
376 applicants, and agents; and matters relating to depopulation.

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

379 a. Subject to the provisions of s. 627.3517, with respect
380 to personal lines residential risks, if the risk is offered
381 coverage from an authorized insurer at the insurer's approved
382 rate under either a standard policy including wind coverage or,
383 if consistent with the insurer's underwriting rules as filed
384 with the office, a basic policy including wind coverage, for a
385 new application to the corporation for coverage, the risk is not
386 eligible for any policy issued by the corporation unless the
387 premium for coverage from the authorized insurer is more than 15
388 ~~25~~ percent greater than the premium for comparable coverage from
389 the corporation. If the risk is not able to obtain any such
390 offer, the risk is eligible for either a standard policy
391 including wind coverage or a basic policy including wind
392 coverage issued by the corporation; however, if the risk could

393 not be insured under a standard policy including wind coverage
394 regardless of market conditions, the risk shall be eligible for
395 a basic policy including wind coverage unless rejected under
396 subparagraph 8. However, with regard to a policyholder of the
397 corporation, the policyholder remains eligible for coverage from
398 the corporation regardless of any offer of coverage from an
399 authorized insurer or surplus lines insurer. The corporation
400 shall determine the type of policy to be provided on the basis
401 of objective standards specified in the underwriting manual and
402 based on generally accepted underwriting practices.

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

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

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

420

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

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

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

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

438
 439 If the producing agent is unwilling or unable to accept
 440 appointment, the new insurer shall pay the agent in accordance
 441 with sub-sub-sub-subparagraph (A).

442 b. With respect to commercial lines residential risks, for
 443 a new application to the corporation for coverage, if the risk
 444 is offered coverage under a policy including wind coverage from
 445 an authorized insurer at its approved rate, the risk is not
 446 eligible for any policy issued by the corporation unless the
 447 premium for coverage from the authorized insurer is more than 15
 448 ~~25~~ percent greater than the premium for comparable coverage from

449 the corporation. If the risk is not able to obtain any such
450 offer, the risk is eligible for a policy including wind coverage
451 issued by the corporation. However, with regard to a
452 policyholder of the corporation, the policyholder remains
453 eligible for coverage from the corporation regardless of any
454 offer of coverage from an authorized insurer or surplus lines
455 insurer.

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

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

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

473
474 If the producing agent is unwilling or unable to accept
475 appointment, the new insurer shall pay the agent in accordance
476 with sub-sub-sub-subparagraph (A).

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

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

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

491
492 If the producing agent is unwilling or unable to accept
493 appointment, the new insurer shall pay the agent in accordance
494 with sub-sub-sub-subparagraph (A).

495 6. Must provide by July 1, 2007, that an application for
496 coverage for a new policy is subject to a waiting period of 10
497 days before coverage is effective, during which time the
498 corporation shall make such application available for review by
499 general lines agents and authorized property and casualty
500 insurers. The board shall approve an exception that allows for
501 coverage to be effective before the end of the 10-day waiting
502 period, for coverage issued in conjunction with a real estate
503 closing. The board may approve such other exceptions as the
504 board determines are necessary to prevent lapses in coverage.

505 7. Must include rules for classifications of risks and
506 rates therefor.

507 8. Must provide that if premium and investment income for
508 an account attributable to a particular calendar year are in
509 excess of projected losses and expenses for the account
510 attributable to that year, such excess shall be held in surplus
511 in the account. Such surplus shall be available to defray
512 deficits in that account as to future years and shall be used
513 for that purpose prior to assessing assessable insurers and
514 assessable insureds as to any calendar year.

515 9. Must provide objective criteria and procedures to be
516 uniformly applied for all applicants in determining whether an
517 individual risk is so hazardous as to be uninsurable. In making
518 this determination and in establishing the criteria and
519 procedures, the following shall be considered:

520 a. Whether the likelihood of a loss for the individual
521 risk is substantially higher than for other risks of the same
522 class; and

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

525
526 The acceptance or rejection of a risk by the corporation shall
527 be construed as the private placement of insurance, and the
528 provisions of chapter 120 shall not apply.

529 10. Must provide that the corporation shall make its best
530 efforts to procure catastrophe reinsurance at reasonable rates,
531 to cover its projected 100-year probable maximum loss as
532 determined by the board of governors.

533 11. Must provide that in the event of regular deficit
534 assessments under sub-subparagraph (b)3.a. or sub-subparagraph
535 (b)3.b., in the personal lines account, the commercial lines
536 residential account, or the high-risk account, the corporation
537 shall levy upon corporation policyholders in its next rate
538 filing, or by a separate rate filing solely for this purpose, a
539 Citizens policyholder surcharge arising from a regular
540 assessment in such account in a percentage equal to the total
541 amount of such regular assessments divided by the aggregate
542 statewide direct written premium for subject lines of business
543 for the prior calendar year. For purposes of calculating the
544 Citizens policyholder surcharge to be levied under this
545 subparagraph, the total amount of the regular assessment to
546 which this surcharge is related shall be determined as set forth
547 in subparagraph (b)3., without deducting the estimated Citizens
548 policyholder surcharge. Citizens policyholder surcharges under
549 this subparagraph are not considered premium and are not subject
550 to commissions, fees, or premium taxes; however, failure to pay
551 a market equalization surcharge shall be treated as failure to
552 pay premium.

553 12. The policies issued by the corporation must provide
554 that, if the corporation or the market assistance plan obtains
555 an offer from an authorized insurer to cover the risk at its
556 approved rates, the risk is no longer eligible for renewal
557 through the corporation, except as otherwise provided in this
558 subsection.

559 13. Corporation policies and applications must include a
560 notice that the corporation policy could, under this section, be

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561 replaced with a policy issued by an authorized insurer that does
562 not provide coverage identical to the coverage provided by the
563 corporation. The notice shall also specify that acceptance of
564 corporation coverage creates a conclusive presumption that the
565 applicant or policyholder is aware of this potential.

566 14. May establish, subject to approval by the office,
567 different eligibility requirements and operational procedures
568 for any line or type of coverage for any specified county or
569 area if the board determines that such changes to the
570 eligibility requirements and operational procedures are
571 justified due to the voluntary market being sufficiently stable
572 and competitive in such area or for such line or type of
573 coverage and that consumers who, in good faith, are unable to
574 obtain insurance through the voluntary market through ordinary
575 methods would continue to have access to coverage from the
576 corporation. When coverage is sought in connection with a real
577 property transfer, such requirements and procedures shall not
578 provide for an effective date of coverage later than the date of
579 the closing of the transfer as established by the transferor,
580 the transferee, and, if applicable, the lender.

581 15. Must provide that, with respect to the high-risk
582 account, any assessable insurer with a surplus as to
583 policyholders of \$25 million or less writing 25 percent or more
584 of its total countrywide property insurance premiums in this
585 state may petition the office, within the first 90 days of each
586 calendar year, to qualify as a limited apportionment company. A
587 regular assessment levied by the corporation on a limited
588 apportionment company for a deficit incurred by the corporation

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589 for the high-risk account in 2006 or thereafter may be paid to
590 the corporation on a monthly basis as the assessments are
591 collected by the limited apportionment company from its insureds
592 pursuant to s. 627.3512, but the regular assessment must be paid
593 in full within 12 months after being levied by the corporation.
594 A limited apportionment company shall collect from its
595 policyholders any emergency assessment imposed under sub-
596 subparagraph (b)3.d. The plan shall provide that, if the office
597 determines that any regular assessment will result in an
598 impairment of the surplus of a limited apportionment company,
599 the office may direct that all or part of such assessment be
600 deferred as provided in subparagraph (g)4. However, there shall
601 be no limitation or deferment of an emergency assessment to be
602 collected from policyholders under sub-subparagraph (b)3.d.

603 16. Must provide that the corporation appoint as its
604 licensed agents only those agents who also hold an appointment
605 as defined in s. 626.015(3) with an insurer who at the time of
606 the agent's initial appointment by the corporation is authorized
607 to write and is actually writing personal lines residential
608 property coverage, commercial residential property coverage, or
609 commercial nonresidential property coverage within the state.

610 17. Must provide, by July 1, 2007, a premium payment plan
611 option to its policyholders which allows for quarterly and
612 semiannual payment of premiums.

613 18. Must provide, effective June 1, 2007, that the
614 corporation contract with each insurer providing the non-wind
615 coverage for risks insured by the corporation in the high-risk
616 account, requiring that the insurer provide claims adjusting

617 services for the wind coverage provided by the corporation for
 618 such risks. An insurer is required to enter into this contract
 619 as a condition of providing non-wind coverage for a risk that is
 620 insured by the corporation in the high-risk account unless the
 621 board finds, after a hearing, that the insurer is not capable of
 622 providing adjusting services at an acceptable level of quality
 623 to corporation policyholders. The terms and conditions of such
 624 contracts must be substantially the same as the contracts that
 625 the corporation executed with insurers under the "adjust-your-
 626 own" program in 2006, except as may be mutually agreed to by the
 627 parties and except for such changes that the board determines
 628 are necessary to ensure that claims are adjusted appropriately.
 629 The corporation shall provide a process for neutral arbitration
 630 of any dispute between the corporation and the insurer regarding
 631 the terms of the contract. The corporation shall review and
 632 monitor the performance of insurers under these contracts.

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

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

638 21. May require commercial property to meet specified
 639 hurricane mitigation construction features as a condition of
 640 eligibility for coverage.

641 (m)1. Rates for coverage provided by the corporation shall
 642 be actuarially sound and subject to the requirements of s.
 643 627.062, except as otherwise provided in this paragraph. The
 644 corporation shall file its recommended rates with the office at

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645 least annually. The corporation shall provide any additional
646 information regarding the rates which the office requires. The
647 office shall consider the recommendations of the board and issue
648 a final order establishing the rates for the corporation within
649 45 days after the recommended rates are filed. The corporation
650 may not pursue an administrative challenge or judicial review of
651 the final order of the office.

652 2. In addition to the rates otherwise determined pursuant
653 to this paragraph, the corporation shall impose and collect an
654 amount equal to the premium tax provided for in s. 624.509 to
655 augment the financial resources of the corporation.

656 3. After the public hurricane loss-projection model under
657 s. 627.06281 has been found to be accurate and reliable by the
658 Florida Commission on Hurricane Loss Projection Methodology,
659 that model shall serve as the minimum benchmark for determining
660 the windstorm portion of the corporation's rates. This
661 subparagraph does not require or allow the corporation to adopt
662 rates lower than the rates otherwise required or allowed by this
663 paragraph.

664 4. The rate filings for the corporation which were
665 approved by the office and which took effect January 1, 2007,
666 are rescinded, except for those rates that were lowered. As soon
667 as possible, the corporation shall begin using the lower rates
668 that were in effect on December 31, 2006, and shall provide
669 refunds to policyholders who have paid higher rates as a result
670 of that rate filing. The rates in effect on December 31, 2006,
671 shall remain in effect for the 2007 and 2008 calendar years ~~year~~
672 except for any rate change that results in a lower rate. The

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673 next rate change that may increase rates shall take effect
674 January 1, 2009 ~~2008~~, pursuant to a new rate filing recommended
675 by the corporation and established by the office, subject to the
676 requirements of this paragraph.

677 Section 2. Effective January 1, 2008, and notwithstanding
678 any other provision of law:

679 (1) A new certificate of authority for the transaction of
680 residential property insurance may not be issued to any insurer
681 domiciled in this state that is a wholly owned subsidiary of an
682 insurer authorized to do business in any other state.

683 (2) The rate filings of any insurer domiciled in this
684 state that is a wholly owned subsidiary of an insurer authorized
685 to do business in any other state shall include information
686 relating to the profits of the parent company of the insurer
687 domiciled in this state.

688 Section 3. Except as otherwise expressly provided in this
689 act, this act shall take effect upon becoming a law.