

1 A bill to be entitled
2 An act relating to property insurance; authorizing the
3 State Board of Administration to sell reinsurance to
4 private insurance companies taking insurance policies from
5 Citizens Property Insurance Corporation under certain
6 circumstances; providing for a discount to policyholders
7 of Citizens Property Insurance Corporation; authorizing
8 the State Board of Administration to offer discounted
9 reinsurance rates to private insurance companies under
10 certain circumstances; authorizing the State Board of
11 Administration to determine the number of policies taken
12 from Citizens Property Insurance Corporation to get
13 discounted reinsurance; providing requirements for private
14 insurance companies to get a discounted reinsurance rate;
15 amending s. 627.351, F.S.; revising legislative findings
16 to provide a finding that the lack of affordable property
17 insurance threatens the public health, safety, and welfare
18 and threatens the economic health of the state; revising
19 membership of the corporation's board of governors;
20 revising provisions for determining eligibility for
21 coverage under the corporation; reinstating certain rate
22 filings by the corporation; prohibiting issuance of new
23 certificates of authority to certain insurers; requiring
24 rate filings of certain insurers to include certain parent
25 company profits information; creating the Citizens
26 Property Insurance Corporation Mission Review Task Force;
27 providing purposes; requiring a report; providing report
28 requirements; providing for appointment of members;

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29 providing responsibilities; specifying service without
30 compensation; providing for reimbursement of per diem and
31 travel expenses; providing meeting requirements; requiring
32 the corporation to assist the task force; providing for
33 the expiration of the task force; providing effective
34 dates.

35
36 Be It Enacted by the Legislature of the State of Florida:

37
38 Section 1. (1) The State Board of Administration may sell
39 reinsurance below the Florida Hurricane Catastrophe Fund
40 retention level in the Florida Hurricane Catastrophe Fund within
41 the range of 30 to 60 percent online to private insurance
42 companies that agree to take out of Citizens Property Insurance
43 Corporation a specified number of individual policies held by
44 Citizens Property Insurance Corporation on a geographically
45 diverse basis.

46 (2) Policyholders of Citizens Property Insurance
47 Corporation must receive a discount no less than a rate
48 specified by the State Board of Administration, which must be no
49 less than 10 percent.

50 (3) The State Board of Administration may offer discounted
51 reinsurance rates to private insurance companies through offers
52 to negotiate via auction, individual negotiation, or any method
53 designed to achieve the best discounted rate for policyholders
54 of Citizens Property Insurance Corporation.

55 (4) The State Board of Administration may determine how
56 many policies a private company must assume from Citizens

57 Property Insurance Corporation in order to purchase reinsurance
 58 from the state at the discounted rate.

59 (5) Private insurance companies must assume 100 percent of
 60 each policy taken from Citizens Property Insurance Corporation
 61 in exchange for the discounted reinsurance rate.

62 Section 2. Paragraphs (a), (c), and (m) of subsection (6)
 63 of section 627.351, Florida Statutes, as amended by section 21
 64 of chapter 2007-1, Laws of Florida, are amended to read:

65 627.351 Insurance risk apportionment plans.--

66 (6) CITIZENS PROPERTY INSURANCE CORPORATION.--

67 (a)1. It is the public purpose of this subsection to
 68 ensure the existence of an orderly market for property insurance
 69 for citizens of this state and businesses in this state. The
 70 Legislature finds that private insurers are unwilling or unable
 71 to provide affordable property insurance coverage in this state
 72 to the extent sought and needed. The absence of affordable
 73 property insurance threatens the public health, safety, and
 74 welfare and likewise threatens the economic health of the state.
 75 The state therefore has a compelling public interest and a
 76 public purpose to assist in ensuring that property in the state
 77 is insured and that property is insured at affordable rates so
 78 as to facilitate the remediation, reconstruction, and
 79 replacement of damaged or destroyed property in order to reduce
 80 or avoid the negative effects otherwise resulting to the public
 81 health, safety, and welfare, to the economy of the state, and to
 82 the revenues of the state and local governments which are needed
 83 to provide for the public welfare. It is necessary, therefore,
 84 to provide affordable property insurance to applicants who are

85 in good faith entitled to procure insurance through the
86 voluntary market but are unable to do so. The Legislature
87 intends by this subsection that affordable property insurance be
88 provided and that such insurance continue to be provided, as
89 long as necessary, through Citizens Property Insurance
90 Corporation, a government entity that is an integral part of the
91 state and that is not a private insurance company. To that end,
92 Citizens Property Insurance Company shall strive to increase the
93 availability of affordable property insurance in this state,
94 while achieving efficiencies and economies and while providing
95 service to policyholders, applicants, and agents which is no
96 less than the quality generally provided in the voluntary
97 market, for the achievement of the foregoing public purposes.
98 Because it is essential for this government entity to have the
99 maximum financial resources to pay claims following a
100 catastrophic hurricane, it is the intent of the Legislature that
101 Citizens Property Insurance Corporation continue to be an
102 integral part of the state and that the income of the
103 corporation be exempt from federal income taxation and that
104 interest on the debt obligations issued by the corporation be
105 exempt from federal income taxation. The Legislature finds that
106 ~~actual and threatened catastrophic losses to property in this~~
107 ~~state from hurricanes have caused insurers to be unwilling or~~
108 ~~unable to provide property insurance coverage to the extent~~
109 ~~sought and needed. It is in the public interest and a public~~
110 ~~purpose to assist in assuring that property in the state is~~
111 ~~insured so as to facilitate the remediation, reconstruction, and~~
112 ~~replacement of damaged or destroyed property in order to reduce~~

113 ~~er avoid the negative effects otherwise resulting to the public~~
114 ~~health, safety, and welfare; to the economy of the state; and to~~
115 ~~the revenues of the state and local governments needed to~~
116 ~~provide for the public welfare. It is necessary, therefore, to~~
117 ~~provide property insurance to applicants who are in good faith~~
118 ~~entitled to procure insurance through the voluntary market but~~
119 ~~are unable to do so. The Legislature intends by this subsection~~
120 ~~that property insurance be provided and that it continues, as~~
121 ~~long as necessary, through an entity organized to achieve~~
122 ~~efficiencies and economies, while providing service to~~
123 ~~policyholders, applicants, and agents that is no less than the~~
124 ~~quality generally provided in the voluntary market, all toward~~
125 ~~the achievement of the foregoing public purposes. Because it is~~
126 ~~essential for the corporation to have the maximum financial~~
127 ~~resources to pay claims following a catastrophic hurricane, it~~
128 ~~is the intent of the Legislature that the income of the~~
129 ~~corporation be exempt from federal income taxation and that~~
130 ~~interest on the debt obligations issued by the corporation be~~
131 ~~exempt from federal income taxation.~~

132 2. The Residential Property and Casualty Joint
133 Underwriting Association originally created by this statute
134 shall be known, as of July 1, 2002, as the Citizens Property
135 Insurance Corporation. The corporation shall provide insurance
136 for residential and commercial property, for applicants who are
137 in good faith entitled, but are unable, to procure insurance
138 through the voluntary market. The corporation shall operate
139 pursuant to a plan of operation approved by order of the
140 Financial Services Commission. The plan is subject to continuous

141 review by the commission. The commission may, by order, withdraw
142 approval of all or part of a plan if the commission determines
143 that conditions have changed since approval was granted and that
144 the purposes of the plan require changes in the plan. The
145 corporation shall continue to operate pursuant to the plan of
146 operation approved by the Office of Insurance Regulation until
147 October 1, 2006. For the purposes of this subsection,
148 residential coverage includes both personal lines residential
149 coverage, which consists of the type of coverage provided by
150 homeowner's, mobile home owner's, dwelling, tenant's,
151 condominium unit owner's, and similar policies, and commercial
152 lines residential coverage, which consists of the type of
153 coverage provided by condominium association, apartment
154 building, and similar policies.

155 3. For the purposes of this subsection, the term
156 "homestead property" means:

157 a. Property that has been granted a homestead exemption
158 under chapter 196;

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

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

169 d. Tenant's coverage;
 170 e. Commercial lines residential property; or
 171 f. Any county, district, or municipal hospital; a hospital
 172 licensed by any not-for-profit corporation qualified under s.
 173 501(c)(3) of the United States Internal Revenue Code; or a
 174 continuing care retirement community that is certified under
 175 chapter 651 and that receives an exemption from ad valorem taxes
 176 under chapter 196.

177 4. For the purposes of this subsection, the term
 178 "nonhomestead property" means property that is not homestead
 179 property.

180 5. Effective July 1, 2008, a personal lines residential
 181 structure that has a dwelling replacement cost of \$1 million or
 182 more, or a single condominium unit that has a combined dwelling
 183 and content replacement cost of \$1 million or more is not
 184 eligible for coverage by the corporation. Such dwellings insured
 185 by the corporation on June 30, 2008, may continue to be covered
 186 by the corporation until the end of the policy term. However,
 187 such dwellings that are insured by the corporation and become
 188 ineligible for coverage due to the provisions of this
 189 subparagraph may reapply and obtain coverage in the high-risk
 190 account and be considered "nonhomestead property" if the
 191 property owner provides the corporation with a sworn affidavit
 192 from one or more insurance agents, on a form provided by the
 193 corporation, stating that the agents have made their best
 194 efforts to obtain coverage and that the property has been
 195 rejected for coverage by at least one authorized insurer and at
 196 least three surplus lines insurers. If such conditions are met,

197 the dwelling may be insured by the corporation for up to 3
198 years, after which time the dwelling is ineligible for coverage.
199 The office shall approve the method used by the corporation for
200 valuing the dwelling replacement cost for the purposes of this
201 subparagraph. If a policyholder is insured by the corporation
202 prior to being determined to be ineligible pursuant to this
203 subparagraph and such policyholder files a lawsuit challenging
204 the determination, the policyholder may remain insured by the
205 corporation until the conclusion of the litigation.

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

212 7. It is the intent of the Legislature that policyholders,
213 applicants, and agents of the corporation receive service and
214 treatment of the highest possible level but never less than that
215 generally provided in the voluntary market. It also is intended
216 that the corporation be held to service standards no less than
217 those applied to insurers in the voluntary market by the office
218 with respect to responsiveness, timeliness, customer courtesy,
219 and overall dealings with policyholders, applicants, or agents
220 of the corporation.

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

222 1. Must provide for adoption of residential property and
223 casualty insurance policy forms and commercial residential and
224 nonresidential property insurance forms, which forms must be

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

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

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

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

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

246 e. Commercial lines nonresidential property insurance
247 forms that cover the peril of wind only. The forms are
248 applicable only to nonresidential properties located in areas
249 eligible for coverage under the high-risk account referred to in
250 sub-subparagraph (b)2.a.

251 f. The corporation may adopt variations of the policy
252 forms listed in sub-subparagraphs a.-e. that contain more

253 restrictive coverage.

254 2.a. Must provide that the corporation adopt a program in
255 which the corporation and authorized insurers enter into quota
256 share primary insurance agreements for hurricane coverage, as
257 defined in s. 627.4025(2)(a), for eligible risks, and adopt
258 property insurance forms for eligible risks which cover the
259 peril of wind only. As used in this subsection, the term:

260 (I) "Quota share primary insurance" means an arrangement
261 in which the primary hurricane coverage of an eligible risk is
262 provided in specified percentages by the corporation and an
263 authorized insurer. The corporation and authorized insurer are
264 each solely responsible for a specified percentage of hurricane
265 coverage of an eligible risk as set forth in a quota share
266 primary insurance agreement between the corporation and an
267 authorized insurer and the insurance contract. The
268 responsibility of the corporation or authorized insurer to pay
269 its specified percentage of hurricane losses of an eligible
270 risk, as set forth in the quota share primary insurance
271 agreement, may not be altered by the inability of the other
272 party to the agreement to pay its specified percentage of
273 hurricane losses. Eligible risks that are provided hurricane
274 coverage through a quota share primary insurance arrangement
275 must be provided policy forms that set forth the obligations of
276 the corporation and authorized insurer under the arrangement,
277 clearly specify the percentages of quota share primary insurance
278 provided by the corporation and authorized insurer, and
279 conspicuously and clearly state that neither the authorized
280 insurer nor the corporation may be held responsible beyond its

281 specified percentage of coverage of hurricane losses.

282 (II) "Eligible risks" means personal lines residential and
283 commercial lines residential risks that meet the underwriting
284 criteria of the corporation and are located in areas that were
285 eligible for coverage by the Florida Windstorm Underwriting
286 Association on January 1, 2002.

287 b. The corporation may enter into quota share primary
288 insurance agreements with authorized insurers at corporation
289 coverage levels of 90 percent and 50 percent.

290 c. If the corporation determines that additional coverage
291 levels are necessary to maximize participation in quota share
292 primary insurance agreements by authorized insurers, the
293 corporation may establish additional coverage levels. However,
294 the corporation's quota share primary insurance coverage level
295 may not exceed 90 percent.

296 d. Any quota share primary insurance agreement entered
297 into between an authorized insurer and the corporation must
298 provide for a uniform specified percentage of coverage of
299 hurricane losses, by county or territory as set forth by the
300 corporation board, for all eligible risks of the authorized
301 insurer covered under the quota share primary insurance
302 agreement.

303 e. Any quota share primary insurance agreement entered
304 into between an authorized insurer and the corporation is
305 subject to review and approval by the office. However, such
306 agreement shall be authorized only as to insurance contracts
307 entered into between an authorized insurer and an insured who is
308 already insured by the corporation for wind coverage.

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

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

327 h. The quota share primary insurance agreement between the
328 corporation and an authorized insurer must set forth the
329 specific terms under which coverage is provided, including, but
330 not limited to, the sale and servicing of policies issued under
331 the agreement by the insurance agent of the authorized insurer
332 producing the business, the reporting of information concerning
333 eligible risks, the payment of premium to the corporation, and
334 arrangements for the adjustment and payment of hurricane claims
335 incurred on eligible risks by the claims adjuster and personnel
336 of the authorized insurer. Entering into a quota sharing

337 insurance agreement between the corporation and an authorized
338 insurer shall be voluntary and at the discretion of the
339 authorized insurer.

340 3. May provide that the corporation may employ or
341 otherwise contract with individuals or other entities to provide
342 administrative or professional services that may be appropriate
343 to effectuate the plan. The corporation shall have the power to
344 borrow funds, by issuing bonds or by incurring other
345 indebtedness, and shall have other powers reasonably necessary
346 to effectuate the requirements of this subsection, including,
347 without limitation, the power to issue bonds and incur other
348 indebtedness in order to refinance outstanding bonds or other
349 indebtedness. The corporation may, but is not required to, seek
350 judicial validation of its bonds or other indebtedness under
351 chapter 75. The corporation may issue bonds or incur other
352 indebtedness, or have bonds issued on its behalf by a unit of
353 local government pursuant to subparagraph (g)2., in the absence
354 of a hurricane or other weather-related event, upon a
355 determination by the corporation, subject to approval by the
356 office, that such action would enable it to efficiently meet the
357 financial obligations of the corporation and that such
358 financings are reasonably necessary to effectuate the
359 requirements of this subsection. The corporation is authorized
360 to take all actions needed to facilitate tax-free status for any
361 such bonds or indebtedness, including formation of trusts or
362 other affiliated entities. The corporation shall have the
363 authority to pledge assessments, projected recoveries from the
364 Florida Hurricane Catastrophe Fund, other reinsurance

365 recoverables, market equalization and other surcharges, and
366 other funds available to the corporation as security for bonds
367 or other indebtedness. In recognition of s. 10, Art. I of the
368 State Constitution, prohibiting the impairment of obligations of
369 contracts, it is the intent of the Legislature that no action be
370 taken whose purpose is to impair any bond indenture or financing
371 agreement or any revenue source committed by contract to such
372 bond or other indebtedness.

373 4.a. Must require that the corporation operate subject to
374 the supervision and approval of a board of governors consisting
375 of nine ~~eight~~ individuals ~~who are residents of this state, from~~
376 ~~different geographical areas of this state.~~ The Governor shall
377 appoint three members of the board. The Chief Financial
378 Officer, the President of the Senate, and the Speaker of the
379 House of Representatives shall each appoint two members of the
380 board. All board members shall possess demonstrated expertise or
381 knowledge in insurance, bond financing, business management or
382 corporate board membership. ~~At least one of the two members~~
383 ~~appointed by each appointing officer must have demonstrated~~
384 ~~expertise in insurance. The Chief Financial Officer shall~~
385 ~~designate one of the appointees as chair.~~ All board members
386 serve at the pleasure of the appointing officer. All members of
387 the board of governors are subject to removal at will by the
388 officers who appointed them. All board members, including the
389 chair, must be appointed to serve for 3-year terms beginning
390 annually on a date designated by the plan. Any board vacancy
391 shall be filled for the unexpired term by the appointing
392 officer. The Governor shall designate one of the nine board

393 ~~members as chair. The Chief Financial Officer shall appoint a~~
394 ~~technical advisory group to provide information and advice to~~
395 ~~the board of governors in connection with the board's duties~~
396 ~~under this subsection.~~ The executive director of the corporation
397 must have substantial insurance and managerial expertise and
398 ~~senior managers of the corporation~~ shall be engaged by the board
399 and serve at the pleasure of the board. Any executive director
400 appointed on or after July 1, 2006, is subject to confirmation
401 by the Senate. The executive director is responsible for
402 employing other staff as the corporation may require, subject to
403 review and concurrence by the board.

404 b. The board shall create a Market Accountability Advisory
405 Committee to assist the corporation in developing awareness of
406 its rates and its customer and agent service levels in
407 relationship to the voluntary market insurers writing similar
408 coverage. The members of the advisory committee shall consist of
409 the following 11 persons, one of whom must be elected chair by
410 the members of the committee: four representatives, one
411 appointed by the Florida Association of Insurance Agents, one by
412 the Florida Association of Insurance and Financial Advisors, one
413 by the Professional Insurance Agents of Florida, and one by the
414 Latin American Association of Insurance Agencies; three
415 representatives appointed by the insurers with the three highest
416 voluntary market share of residential property insurance
417 business in the state; one representative from the Office of
418 Insurance Regulation; one consumer appointed by the board who is
419 insured by the corporation at the time of appointment to the
420 committee; one representative appointed by the Florida

421 Association of Realtors; and one representative appointed by the
422 Florida Bankers Association. All members must serve for 3-year
423 terms and may serve for consecutive terms. The committee shall
424 report to the corporation at each board meeting on insurance
425 market issues which may include rates and rate competition with
426 the voluntary market; service, including policy issuance, claims
427 processing, and general responsiveness to policyholders,
428 applicants, and agents; and matters relating to depopulation.

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

431 a. Subject to the provisions of s. 627.3517, with respect
432 to personal lines residential risks, if the risk is offered
433 coverage from an authorized insurer at the insurer's approved
434 rate under either a standard policy including wind coverage or,
435 if consistent with the insurer's underwriting rules as filed
436 with the office, a basic policy including wind coverage, for a
437 new application to the corporation for coverage, the risk is not
438 eligible for any policy issued by the corporation unless the
439 premium for coverage from the authorized insurer is more than 25
440 percent greater than the premium for comparable coverage from
441 the corporation. If the risk is not able to obtain any such
442 offer, the risk is eligible for either a standard policy
443 including wind coverage or a basic policy including wind
444 coverage issued by the corporation; however, if the risk could
445 not be insured under a standard policy including wind coverage
446 regardless of market conditions, the risk shall be eligible for
447 a basic policy including wind coverage unless rejected under
448 subparagraph 8. However, with regard to a policyholder of the

449 corporation, the policyholder remains eligible for coverage from
450 the corporation regardless of any offer of coverage from an
451 authorized insurer or surplus lines insurer. The corporation
452 shall determine the type of policy to be provided on the basis
453 of objective standards specified in the underwriting manual and
454 based on generally accepted underwriting practices.

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

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

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

472

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

476 (II) When the corporation enters into a contractual

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477 agreement for a take-out plan, the producing agent of record of
478 the corporation policy is entitled to retain any unearned
479 commission on the policy, and the insurer shall:

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

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

490

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

494 b. With respect to commercial lines residential risks, for
495 a new application to the corporation for coverage, if the risk
496 is offered coverage under a policy including wind coverage from
497 an authorized insurer at its approved rate, the risk is not
498 eligible for any policy issued by the corporation unless the
499 premium for coverage from the authorized insurer is more than 25
500 percent greater than the premium for comparable coverage from
501 the corporation. If the risk is not able to obtain any such
502 offer, the risk is eligible for a policy including wind coverage
503 issued by the corporation. However, with regard to a
504 policyholder of the corporation, the policyholder remains

505 eligible for coverage from the corporation regardless of any
 506 offer of coverage from an authorized insurer or surplus lines
 507 insurer.

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

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

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

525
 526 If the producing agent is unwilling or unable to accept
 527 appointment, the new insurer shall pay the agent in accordance
 528 with sub-sub-sub-subparagraph (A).

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

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

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

543

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

547 6. Must provide by July 1, 2007, that an application for
548 coverage for a new policy is subject to a waiting period of 10
549 days before coverage is effective, during which time the
550 corporation shall make such application available for review by
551 general lines agents and authorized property and casualty
552 insurers. The board shall approve an exception that allows for
553 coverage to be effective before the end of the 10-day waiting
554 period, for coverage issued in conjunction with a real estate
555 closing. The board may approve such other exceptions as the
556 board determines are necessary to prevent lapses in coverage.

557 7. Must include rules for classifications of risks and
558 rates therefor.

559 8. Must provide that if premium and investment income for
560 an account attributable to a particular calendar year are in

561 excess of projected losses and expenses for the account
562 attributable to that year, such excess shall be held in surplus
563 in the account. Such surplus shall be available to defray
564 deficits in that account as to future years and shall be used
565 for that purpose prior to assessing assessable insurers and
566 assessable insureds as to any calendar year.

567 9. Must provide objective criteria and procedures to be
568 uniformly applied for all applicants in determining whether an
569 individual risk is so hazardous as to be uninsurable. In making
570 this determination and in establishing the criteria and
571 procedures, the following shall be considered:

572 a. Whether the likelihood of a loss for the individual
573 risk is substantially higher than for other risks of the same
574 class; and

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

577

578 The acceptance or rejection of a risk by the corporation shall
579 be construed as the private placement of insurance, and the
580 provisions of chapter 120 shall not apply.

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

585 11. Must provide that in the event of regular deficit
586 assessments under sub-subparagraph (b)3.a. or sub-subparagraph
587 (b)3.b., in the personal lines account, the commercial lines
588 residential account, or the high-risk account, the corporation

589 shall levy upon corporation policyholders in its next rate
590 filing, or by a separate rate filing solely for this purpose, a
591 Citizens policyholder surcharge arising from a regular
592 assessment in such account in a percentage equal to the total
593 amount of such regular assessments divided by the aggregate
594 statewide direct written premium for subject lines of business
595 for the prior calendar year. For purposes of calculating the
596 Citizens policyholder surcharge to be levied under this
597 subparagraph, the total amount of the regular assessment to
598 which this surcharge is related shall be determined as set forth
599 in subparagraph (b)3., without deducting the estimated Citizens
600 policyholder surcharge. Citizens policyholder surcharges under
601 this subparagraph are not considered premium and are not subject
602 to commissions, fees, or premium taxes; however, failure to pay
603 a market equalization surcharge shall be treated as failure to
604 pay premium.

605 12. The policies issued by the corporation must provide
606 that, if the corporation or the market assistance plan obtains
607 an offer from an authorized insurer to cover the risk at its
608 approved rates, the risk is no longer eligible for renewal
609 through the corporation, except as otherwise provided in this
610 subsection.

611 13. Corporation policies and applications must include a
612 notice that the corporation policy could, under this section, be
613 replaced with a policy issued by an authorized insurer that does
614 not provide coverage identical to the coverage provided by the
615 corporation. The notice shall also specify that acceptance of
616 corporation coverage creates a conclusive presumption that the

617 applicant or policyholder is aware of this potential.

618 14. May establish, subject to approval by the office,
619 different eligibility requirements and operational procedures
620 for any line or type of coverage for any specified county or
621 area if the board determines that such changes to the
622 eligibility requirements and operational procedures are
623 justified due to the voluntary market being sufficiently stable
624 and competitive in such area or for such line or type of
625 coverage and that consumers who, in good faith, are unable to
626 obtain insurance through the voluntary market through ordinary
627 methods would continue to have access to coverage from the
628 corporation. When coverage is sought in connection with a real
629 property transfer, such requirements and procedures shall not
630 provide for an effective date of coverage later than the date of
631 the closing of the transfer as established by the transferor,
632 the transferee, and, if applicable, the lender.

633 15. Must provide that, with respect to the high-risk
634 account, any assessable insurer with a surplus as to
635 policyholders of \$25 million or less writing 25 percent or more
636 of its total countrywide property insurance premiums in this
637 state may petition the office, within the first 90 days of each
638 calendar year, to qualify as a limited apportionment company. A
639 regular assessment levied by the corporation on a limited
640 apportionment company for a deficit incurred by the corporation
641 for the high-risk account in 2006 or thereafter may be paid to
642 the corporation on a monthly basis as the assessments are
643 collected by the limited apportionment company from its insureds
644 pursuant to s. 627.3512, but the regular assessment must be paid

645 in full within 12 months after being levied by the corporation.
646 A limited apportionment company shall collect from its
647 policyholders any emergency assessment imposed under sub-
648 subparagraph (b)3.d. The plan shall provide that, if the office
649 determines that any regular assessment will result in an
650 impairment of the surplus of a limited apportionment company,
651 the office may direct that all or part of such assessment be
652 deferred as provided in subparagraph (g)4. However, there shall
653 be no limitation or deferment of an emergency assessment to be
654 collected from policyholders under sub-subparagraph (b)3.d.

655 16. Must provide that the corporation appoint as its
656 licensed agents only those agents who also hold an appointment
657 as defined in s. 626.015(3) with an insurer who at the time of
658 the agent's initial appointment by the corporation is authorized
659 to write and is actually writing personal lines residential
660 property coverage, commercial residential property coverage, or
661 commercial nonresidential property coverage within the state.

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

665 18. Must provide, effective June 1, 2007, that the
666 corporation contract with each insurer providing the non-wind
667 coverage for risks insured by the corporation in the high-risk
668 account, requiring that the insurer provide claims adjusting
669 services for the wind coverage provided by the corporation for
670 such risks. An insurer is required to enter into this contract
671 as a condition of providing non-wind coverage for a risk that is
672 insured by the corporation in the high-risk account unless the

673 board finds, after a hearing, that the insurer is not capable of
674 providing adjusting services at an acceptable level of quality
675 to corporation policyholders. The terms and conditions of such
676 contracts must be substantially the same as the contracts that
677 the corporation executed with insurers under the "adjust-your-
678 own" program in 2006, except as may be mutually agreed to by the
679 parties and except for such changes that the board determines
680 are necessary to ensure that claims are adjusted appropriately.
681 The corporation shall provide a process for neutral arbitration
682 of any dispute between the corporation and the insurer regarding
683 the terms of the contract. The corporation shall review and
684 monitor the performance of insurers under these contracts.

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

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

690 21. May require commercial property to meet specified
691 hurricane mitigation construction features as a condition of
692 eligibility for coverage.

693 (m)1. Rates for coverage provided by the corporation shall
694 be actuarially sound and subject to the requirements of s.
695 627.062, except as otherwise provided in this paragraph. The
696 corporation shall file its recommended rates with the office at
697 least annually. The corporation shall provide any additional
698 information regarding the rates which the office requires. The
699 office shall consider the recommendations of the board and issue
700 a final order establishing the rates for the corporation within

701 45 days after the recommended rates are filed. The corporation
702 may not pursue an administrative challenge or judicial review of
703 the final order of the office.

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

708 3. After the public hurricane loss-projection model under
709 s. 627.06281 has been found to be accurate and reliable by the
710 Florida Commission on Hurricane Loss Projection Methodology,
711 that model shall serve as the minimum benchmark for determining
712 the windstorm portion of the corporation's rates. This
713 subparagraph does not require or allow the corporation to adopt
714 rates lower than the rates otherwise required or allowed by this
715 paragraph.

716 4. The rate filings for the corporation which were
717 approved by the office and which took effect January 1, 2007,
718 are rescinded, except for those rates that were lowered. As soon
719 as possible, the corporation shall begin using the lower rates
720 that were in effect on December 31, 2006, and shall provide
721 refunds to policyholders who have paid higher rates as a result
722 of that rate filing. The rates in effect on December 31, 2006,
723 shall remain in effect until January 1, 2008, ~~for the 2007~~
724 ~~calendar year~~ except for any rate change that results in a lower
725 rate. The next rate change that may increase rates shall take
726 effect January 1, 2008, pursuant to a new rate filing
727 recommended by the corporation and established by the office,
728 subject to the requirements of this paragraph.

729 Section 3. Effective January 1, 2008, and notwithstanding
730 any other provision of law:

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

735 (2) The rate filings of any insurer domiciled in this
736 state that is a wholly owned subsidiary of an insurer authorized
737 to do business in any other state shall include information
738 relating to the profits of the parent company of the insurer
739 domiciled in this state.

740 Section 4. (1) The Citizens Property Insurance
741 Corporation Mission Review Task Force is created to analyze and
742 compile available data and to develop a report setting forth the
743 statutory and operational changes needed to return Citizens
744 Property Insurance Corporation to its former role as a state-
745 created, noncompetitive residual market mechanism that provides
746 property insurance coverage to risks that are otherwise entitled
747 but unable to obtain such coverage in the private insurance
748 market. The task force shall submit a report to the Governor,
749 the President of the Senate, and the Speaker of the House of
750 Representatives by January 31, 2008. At a minimum, the task
751 force shall analyze and evaluate relevant and applicable
752 information and data and develop recommendations concerning:

753 (a) The nature of Citizens Property Insurance
754 Corporation's role in providing property insurance coverage when
755 and only if such coverage is not available from private
756 insurers.

757 (b) The ability of the admitted market to offer policies
758 to those consumers formerly insured through Citizens Property
759 Insurance Corporation. This consideration shall include, but not
760 be limited to, the availability of private market reinsurance
761 and coverage through the Florida Hurricane Catastrophe Fund, the
762 general adequacy of the admitted market's current rates, and the
763 capacity of the industry to offer policies to former Citizens
764 Property Insurance Corporation policyholders within existing
765 writing ratio limitations.

766 (c) The appropriate relationship of rates charged by
767 Citizens Property Insurance Corporation to rates charged by
768 private insurers, with due consideration for the corporation's
769 role as a noncompetitive residual market mechanism.

770 (d) The relationships between the exposure of Citizens
771 Property Insurance Corporation to catastrophic hurricane losses,
772 the corporation's history of purchasing inadequate or no
773 reinsurance coverage, and the corporation's lack of adequate
774 capital to meet its potential claim obligations without
775 incurring large deficits.

776 (e) The adverse effects on the people and the economy of
777 this state of the large, multiyear deficit assessments by
778 Citizens Property Insurance Corporation that may be levied on
779 businesses and households in this state, and steps that can be
780 taken to reduce those effects.

781 (f) The operational implications of the variation in the
782 number of policies in force over time in Citizens Property
783 Insurance Corporation and the merits of outsourcing some or all
784 of its operational responsibilities.

785 (g) Changes in the mission and operations of Citizens
786 Property Insurance Corporation to reduce or eliminate any
787 adverse effect such mission and operations may be having on the
788 promotion of sound and economic growth and development of the
789 coastal areas of this state.

790 (2) The task force shall be composed of 17 members as
791 follows:

792 (a) Three members appointed by the Speaker of the House of
793 Representatives.

794 (b) Three members appointed by the President of the
795 Senate.

796 (c) Three members appointed by the Governor who are not
797 employed by or professionally affiliated with an insurance
798 company or a subsidiary of an insurance company.

799 (d) Eight members appointed as representatives of private
800 insurance companies as follows:

801 1. Two members representing two separate insurance
802 companies in this state that each provide at least 300,000
803 property insurance policies statewide at the time of the
804 creation of the task force.

805 2. Two members representing two separate insurance
806 companies in this state that each provide at least 100,000 but
807 no more than 299,000 property insurance policies statewide at
808 the time of the creation of the task force.

809 3. Two members representing two separate insurance
810 companies in this state that each provide fewer than 100,000
811 property insurance policies statewide at the time of the
812 creation of the task force.

813 4. Two members appointed by the Chief Financial Officer
814 representing insurance agents in this state, at least one of
815 whom represents the largest property and casualty insurance
816 agent's association in this state.

817
818 Of each pair of members appointed under subparagraphs 1., 2.,
819 and 3., one shall be appointed by the President of the Senate
820 and one by the Speaker of the House of Representatives.

821 (3) The task force shall conduct research, hold public
822 meetings, receive testimony, employ consultants and
823 administrative staff, and undertake other activities determined
824 by its members to be necessary to complete its responsibilities.
825 Citizens Property Insurance Corporation shall have appropriate
826 senior staff attend task force meetings, shall respond to
827 requests for testimony and data by the task force, and shall
828 otherwise cooperate with the task force.

829 (4) A member of the task force may not delegate his or her
830 attendance or voting power to a designee.

831 (5) Members of the task force shall serve without
832 compensation but are entitled to receive reimbursement for
833 travel and per diem as provided in s. 112.061, Florida Statutes.

834 (6) The appointments to the task force must be completed
835 within 30 calendar days after the effective date of this act,
836 and the task force must hold its initial meeting within 1 month
837 after appointment of all members. The task force shall expire no
838 later than 60 calendar days after submission of the report
839 required in subsection (1).

840 Section 5. Except as otherwise expressly provided in this

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2007

841 | act, this act shall take effect upon becoming a law. |