

1 interest and a public purpose to assist in assuring that
2 property in the state is insured and that it is insured at
3 affordable rates so as to facilitate the remediation,
4 reconstruction, and replacement of damaged or destroyed
5 property in order to reduce or avoid the negative effects
6 otherwise resulting to the public health, safety, and welfare;
7 to the economy of the state; and to the revenues of the state
8 and local governments which are needed to provide for the
9 public welfare. It is necessary, therefore, to provide
10 affordable property insurance to applicants who are in good
11 faith entitled to procure insurance through the voluntary
12 market but are unable to do so. The Legislature intends by
13 this subsection that affordable property insurance be provided
14 and that it continue to be provided, as long as necessary,
15 through Citizens Property Insurance Corporation, a government
16 entity that is an integral part of the state, and that is not
17 a private insurance company. To that end, Citizens Property
18 Insurance Company shall strive to increase the availability of
19 affordable property insurance in this state, while achieving
20 efficiencies and economies, and while providing service to
21 policyholders, applicants, and agents which is no less than
22 the quality generally provided in the voluntary market, for
23 the achievement of the foregoing public purposes. Because it
24 is essential for this government entity to have the maximum
25 financial resources to pay claims following a catastrophic
26 hurricane, it is the intent of the Legislature that Citizens
27 Property Insurance Corporation continue to be an integral part
28 of the state and that the income of the corporation be exempt
29 from federal income taxation and that interest on the debt
30 obligations issued by the corporation be exempt from federal
31 income taxation. ~~The Legislature finds that actual and~~

1 ~~threatened catastrophic losses to property in this state from~~
2 ~~hurricanes have caused insurers to be unwilling or unable to~~
3 ~~provide property insurance coverage to the extent sought and~~
4 ~~needed. It is in the public interest and a public purpose to~~
5 ~~assist in assuring that property in the state is insured so as~~
6 ~~to facilitate the remediation, reconstruction, and replacement~~
7 ~~of damaged or destroyed property in order to reduce or avoid~~
8 ~~the negative effects otherwise resulting to the public health,~~
9 ~~safety, and welfare; to the economy of the state; and to the~~
10 ~~revenues of the state and local governments needed to provide~~
11 ~~for the public welfare. It is necessary, therefore, to provide~~
12 ~~property insurance to applicants who are in good faith~~
13 ~~entitled to procure insurance through the voluntary market but~~
14 ~~are unable to do so. The Legislature intends by this~~
15 ~~subsection that property insurance be provided and that it~~
16 ~~continues, as long as necessary, through an entity organized~~
17 ~~to achieve efficiencies and economies, while providing service~~
18 ~~to policyholders, applicants, and agents that is no less than~~
19 ~~the quality generally provided in the voluntary market, all~~
20 ~~toward the achievement of the foregoing public purposes.~~
21 ~~Because it is essential for the corporation to have the~~
22 ~~maximum financial resources to pay claims following a~~
23 ~~catastrophic hurricane, it is the intent of the Legislature~~
24 ~~that the income of the corporation be exempt from federal~~
25 ~~income taxation and that interest on the debt obligations~~
26 ~~issued by the corporation be exempt from federal income~~
27 ~~taxation.~~

28 2. The Residential Property and Casualty Joint
29 Underwriting Association originally created by this statute
30 shall be known, as of July 1, 2002, as the Citizens Property
31 Insurance Corporation. The corporation shall provide insurance

1 for residential and commercial property, for applicants who
2 are in good faith entitled, but are unable, to procure
3 insurance through the voluntary market. The corporation shall
4 operate pursuant to a plan of operation approved by order of
5 the Financial Services Commission. The plan is subject to
6 continuous review by the commission. The commission may, by
7 order, withdraw approval of all or part of a plan if the
8 commission determines that conditions have changed since
9 approval was granted and that the purposes of the plan require
10 changes in the plan. The corporation shall continue to operate
11 pursuant to the plan of operation approved by the Office of
12 Insurance Regulation until October 1, 2006. For the purposes
13 of this subsection, residential coverage includes both
14 personal lines residential coverage, which consists of the
15 type of coverage provided by homeowner's, mobile home owner's,
16 dwelling, tenant's, condominium unit owner's, and similar
17 policies, and commercial lines residential coverage, which
18 consists of the type of coverage provided by condominium
19 association, apartment building, and similar policies.

20 3. For the purposes of this subsection, the term
21 "homestead property" means:

22 a. Property that has been granted a homestead
23 exemption under chapter 196;

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

28 c. An owner-occupied mobile home or manufactured home,
29 as defined in s. 320.01, which is permanently affixed to real
30 property, is owned by a Florida resident, and has been granted
31 a homestead exemption under chapter 196 or, if the owner does

1 not own the real property, the owner certifies that the mobile
2 home or manufactured home is his or her principal place of
3 residence;

4 d. Tenant's coverage;

5 e. Commercial lines residential property; or

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

12 4. For the purposes of this subsection, the term
13 "nonhomestead property" means property that is not homestead
14 property.

15 5. Effective July 1, 2008, a personal lines
16 residential structure that has a dwelling replacement cost of
17 \$1 million or more, or a single condominium unit that has a
18 combined dwelling and content replacement cost of \$1 million
19 or more is not eligible for coverage by the corporation. Such
20 dwellings insured by the corporation on June 30, 2008, may
21 continue to be covered by the corporation until the end of the
22 policy term. However, such dwellings that are insured by the
23 corporation and become ineligible for coverage due to the
24 provisions of this subparagraph may reapply and obtain
25 coverage in the high-risk account and be considered
26 "nonhomestead property" if the property owner provides the
27 corporation with a sworn affidavit from one or more insurance
28 agents, on a form provided by the corporation, stating that
29 the agents have made their best efforts to obtain coverage and
30 that the property has been rejected for coverage by at least
31 one authorized insurer and at least three surplus lines

1 insurers. If such conditions are met, the dwelling may be
2 insured by the corporation for up to 3 years, after which time
3 the dwelling is ineligible for coverage. The office shall
4 approve the method used by the corporation for valuing the
5 dwelling replacement cost for the purposes of this
6 subparagraph. If a policyholder is insured by the corporation
7 prior to being determined to be ineligible pursuant to this
8 subparagraph and such policyholder files a lawsuit challenging
9 the determination, the policyholder may remain insured by the
10 corporation until the conclusion of the litigation.

11 6. For properties constructed on or after January 1,
12 2009, the corporation may not insure any property located
13 within 2,500 feet landward of the coastal construction control
14 line created pursuant to s. 161.053 unless the property meets
15 the requirements of the code-plus building standards developed
16 by the Florida Building Commission.

17 7. It is the intent of the Legislature that
18 policyholders, applicants, and agents of the corporation
19 receive service and treatment of the highest possible level
20 but never less than that generally provided in the voluntary
21 market. It also is intended that the corporation be held to
22 service standards no less than those applied to insurers in
23 the voluntary market by the office with respect to
24 responsiveness, timeliness, customer courtesy, and overall
25 dealings with policyholders, applicants, or agents of the
26 corporation.

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

28 1. Must provide for adoption of residential property
29 and casualty insurance policy forms and commercial residential
30 and nonresidential property insurance forms, which forms must
31

1 be approved by the office prior to use. The corporation shall
2 adopt the following policy forms:

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

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

13 c. Commercial lines residential and nonresidential
14 policy forms that are generally similar to the basic perils of
15 full coverage obtainable for commercial residential structures
16 and commercial nonresidential structures in the admitted
17 voluntary market.

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

23 e. Commercial lines nonresidential property insurance
24 forms that cover the peril of wind only. The forms are
25 applicable only to nonresidential properties located in areas
26 eligible for coverage under the high-risk account referred to
27 in sub-subparagraph (b)2.a.

28 f. The corporation may adopt variations of the policy
29 forms listed in sub-subparagraphs a.-e. that contain more
30 restrictive coverage.

31

1 2.a. Must provide that the corporation adopt a program
2 in which the corporation and authorized insurers enter into
3 quota share primary insurance agreements for hurricane
4 coverage, as defined in s. 627.4025(2)(a), for eligible risks,
5 and adopt property insurance forms for eligible risks which
6 cover the peril of wind only. As used in this subsection, the
7 term:

8 (I) "Quota share primary insurance" means an
9 arrangement in which the primary hurricane coverage of an
10 eligible risk is provided in specified percentages by the
11 corporation and an authorized insurer. The corporation and
12 authorized insurer are each solely responsible for a specified
13 percentage of hurricane coverage of an eligible risk as set
14 forth in a quota share primary insurance agreement between the
15 corporation and an authorized insurer and the insurance
16 contract. The responsibility of the corporation or authorized
17 insurer to pay its specified percentage of hurricane losses of
18 an eligible risk, as set forth in the quota share primary
19 insurance agreement, may not be altered by the inability of
20 the other party to the agreement to pay its specified
21 percentage of hurricane losses. Eligible risks that are
22 provided hurricane coverage through a quota share primary
23 insurance arrangement must be provided policy forms that set
24 forth the obligations of the corporation and authorized
25 insurer under the arrangement, clearly specify the percentages
26 of quota share primary insurance provided by the corporation
27 and authorized insurer, and conspicuously and clearly state
28 that neither the authorized insurer nor the corporation may be
29 held responsible beyond its specified percentage of coverage
30 of hurricane losses.
31

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

6 b. The corporation may enter into quota share primary
7 insurance agreements with authorized insurers at corporation
8 coverage levels of 90 percent and 50 percent.

9 c. If the corporation determines that additional
10 coverage levels are necessary to maximize participation in
11 quota share primary insurance agreements by authorized
12 insurers, the corporation may establish additional coverage
13 levels. However, the corporation's quota share primary
14 insurance coverage level may not exceed 90 percent.

15 d. Any quota share primary insurance agreement entered
16 into between an authorized insurer and the corporation must
17 provide for a uniform specified percentage of coverage of
18 hurricane losses, by county or territory as set forth by the
19 corporation board, for all eligible risks of the authorized
20 insurer covered under the quota share primary insurance
21 agreement.

22 e. Any quota share primary insurance agreement entered
23 into between an authorized insurer and the corporation is
24 subject to review and approval by the office. However, such
25 agreement shall be authorized only as to insurance contracts
26 entered into between an authorized insurer and an insured who
27 is already insured by the corporation for wind coverage.

28 f. For all eligible risks covered under quota share
29 primary insurance agreements, the exposure and coverage levels
30 for both the corporation and authorized insurers shall be
31 reported by the corporation to the Florida Hurricane

1 Catastrophe Fund. For all policies of eligible risks covered
2 under quota share primary insurance agreements, the
3 corporation and the authorized insurer shall maintain complete
4 and accurate records for the purpose of exposure and loss
5 reimbursement audits as required by Florida Hurricane
6 Catastrophe Fund rules. The corporation and the authorized
7 insurer shall each maintain duplicate copies of policy
8 declaration pages and supporting claims documents.

9 g. The corporation board shall establish in its plan
10 of operation standards for quota share agreements which ensure
11 that there is no discriminatory application among insurers as
12 to the terms of quota share agreements, pricing of quota share
13 agreements, incentive provisions if any, and consideration
14 paid for servicing policies or adjusting claims.

15 h. The quota share primary insurance agreement between
16 the corporation and an authorized insurer must set forth the
17 specific terms under which coverage is provided, including,
18 but not limited to, the sale and servicing of policies issued
19 under the agreement by the insurance agent of the authorized
20 insurer producing the business, the reporting of information
21 concerning eligible risks, the payment of premium to the
22 corporation, and arrangements for the adjustment and payment
23 of hurricane claims incurred on eligible risks by the claims
24 adjuster and personnel of the authorized insurer. Entering
25 into a quota sharing insurance agreement between the
26 corporation and an authorized insurer shall be voluntary and
27 at the discretion of the authorized insurer.

28 3. May provide that the corporation may employ or
29 otherwise contract with individuals or other entities to
30 provide administrative or professional services that may be
31 appropriate to effectuate the plan. The corporation shall have

1 | the power to borrow funds, by issuing bonds or by incurring
2 | other indebtedness, and shall have other powers reasonably
3 | necessary to effectuate the requirements of this subsection,
4 | including, without limitation, the power to issue bonds and
5 | incur other indebtedness in order to refinance outstanding
6 | bonds or other indebtedness. The corporation may, but is not
7 | required to, seek judicial validation of its bonds or other
8 | indebtedness under chapter 75. The corporation may issue bonds
9 | or incur other indebtedness, or have bonds issued on its
10 | behalf by a unit of local government pursuant to subparagraph
11 | (g)2., in the absence of a hurricane or other weather-related
12 | event, upon a determination by the corporation, subject to
13 | approval by the office, that such action would enable it to
14 | efficiently meet the financial obligations of the corporation
15 | and that such financings are reasonably necessary to
16 | effectuate the requirements of this subsection. The
17 | corporation is authorized to take all actions needed to
18 | facilitate tax-free status for any such bonds or indebtedness,
19 | including formation of trusts or other affiliated entities.
20 | The corporation shall have the authority to pledge
21 | assessments, projected recoveries from the Florida Hurricane
22 | Catastrophe Fund, other reinsurance recoverables, market
23 | equalization and other surcharges, and other funds available
24 | to the corporation as security for bonds or other
25 | indebtedness. In recognition of s. 10, Art. I of the State
26 | Constitution, prohibiting the impairment of obligations of
27 | contracts, it is the intent of the Legislature that no action
28 | be taken whose purpose is to impair any bond indenture or
29 | financing agreement or any revenue source committed by
30 | contract to such bond or other indebtedness.

31 |

1 4.a. Must require that the corporation operate subject
2 to the supervision and approval of a board of governors
3 consisting of eight individuals who are residents of this
4 state, from different geographical areas of this state. The
5 Governor, the Chief Financial Officer, the President of the
6 Senate, and the Speaker of the House of Representatives shall
7 each appoint two members of the board. At least one of the two
8 members appointed by each appointing officer must have
9 demonstrated expertise in insurance. The Chief Financial
10 Officer shall designate one of the appointees as chair. All
11 board members serve at the pleasure of the appointing officer.
12 All members of the board of governors are subject to removal
13 at will by the officers who appointed them. All board members,
14 including the chair, must be appointed to serve for 3-year
15 terms beginning annually on a date designated by the plan. Any
16 board vacancy shall be filled for the unexpired term by the
17 appointing officer. The Chief Financial Officer shall appoint
18 a technical advisory group to provide information and advice
19 to the board of governors in connection with the board's
20 duties under this subsection. The executive director and
21 senior managers of the corporation shall be engaged by the
22 board and serve at the pleasure of the board. Any executive
23 director appointed on or after July 1, 2006, is subject to
24 confirmation by the Senate. The executive director is
25 responsible for employing other staff as the corporation may
26 require, subject to review and concurrence by the board.

27 b. The board shall create a Market Accountability
28 Advisory Committee to assist the corporation in developing
29 awareness of its rates and its customer and agent service
30 levels in relationship to the voluntary market insurers
31 writing similar coverage. The members of the advisory

1 | committee shall consist of the following 11 persons, one of
2 | whom must be elected chair by the members of the committee:
3 | four representatives, one appointed by the Florida Association
4 | of Insurance Agents, one by the Florida Association of
5 | Insurance and Financial Advisors, one by the Professional
6 | Insurance Agents of Florida, and one by the Latin American
7 | Association of Insurance Agencies; three representatives
8 | appointed by the insurers with the three highest voluntary
9 | market share of residential property insurance business in the
10 | state; one representative from the Office of Insurance
11 | Regulation; one consumer appointed by the board who is insured
12 | by the corporation at the time of appointment to the
13 | committee; one representative appointed by the Florida
14 | Association of Realtors; and one representative appointed by
15 | the Florida Bankers Association. All members must serve for
16 | 3-year terms and may serve for consecutive terms. The
17 | committee shall report to the corporation at each board
18 | meeting on insurance market issues which may include rates and
19 | rate competition with the voluntary market; service, including
20 | policy issuance, claims processing, and general responsiveness
21 | to policyholders, applicants, and agents; and matters relating
22 | to depopulation.

23 | 5. Must provide a procedure for determining the
24 | eligibility of a risk for coverage, as follows:

25 | a. Subject to the provisions of s. 627.3517, with
26 | respect to personal lines residential risks, if the risk is
27 | offered coverage from an authorized insurer at the insurer's
28 | approved rate under either a standard policy including wind
29 | coverage or, if consistent with the insurer's underwriting
30 | rules as filed with the office, a basic policy including wind
31 | coverage, for a new application to the corporation for

1 coverage, the risk is not eligible for any policy issued by
2 the corporation unless the premium for coverage from the
3 authorized insurer is more than 15 ~~25~~ percent greater than the
4 premium for comparable coverage from the corporation. If the
5 risk is not able to obtain any such offer, the risk is
6 eligible for either a standard policy including wind coverage
7 or a basic policy including wind coverage issued by the
8 corporation; however, if the risk could not be insured under a
9 standard policy including wind coverage regardless of market
10 conditions, the risk shall be eligible for a basic policy
11 including wind coverage unless rejected under subparagraph 8.
12 However, with regard to a policyholder of the corporation, the
13 policyholder remains eligible for coverage from the
14 corporation regardless of any offer of coverage from an
15 authorized insurer or surplus lines insurer. The corporation
16 shall determine the type of policy to be provided on the basis
17 of objective standards specified in the underwriting manual
18 and based on generally accepted underwriting practices.

19 (I) If the risk accepts an offer of coverage through
20 the market assistance plan or an offer of coverage through a
21 mechanism established by the corporation before a policy is
22 issued to the risk by the corporation or during the first 30
23 days of coverage by the corporation, and the producing agent
24 who submitted the application to the plan or to the
25 corporation is not currently appointed by the insurer, the
26 insurer shall:

27 (A) Pay to the producing agent of record of the
28 policy, for the first year, an amount that is the greater of
29 the insurer's usual and customary commission for the type of
30 policy written or a fee equal to the usual and customary
31 commission of the corporation; or

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

6
7 If the producing agent is unwilling or unable to accept
8 appointment, the new insurer shall pay the agent in accordance
9 with sub-sub-sub-subparagraph (A).

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

14 (A) Pay to the producing agent of record of the
15 corporation policy, for the first year, an amount that is the
16 greater of the insurer's usual and customary commission for
17 the type of policy written or a fee equal to the usual and
18 customary commission of the corporation; or

19 (B) Offer to allow the producing agent of record of
20 the corporation policy to continue servicing the policy for a
21 period of not less than 1 year and offer to pay the agent the
22 greater of the insurer's or the corporation's usual and
23 customary commission for the type of policy written.

24
25 If the producing agent is unwilling or unable to accept
26 appointment, the new insurer shall pay the agent in accordance
27 with sub-sub-sub-subparagraph (A).

28 b. With respect to commercial lines residential risks,
29 for a new application to the corporation for coverage, if the
30 risk is offered coverage under a policy including wind
31 coverage from an authorized insurer at its approved rate, the

1 risk is not eligible for any policy issued by the corporation
2 unless the premium for coverage from the authorized insurer is
3 more than 15 ~~25~~ percent greater than the premium for
4 comparable coverage from the corporation. If the risk is not
5 able to obtain any such offer, the risk is eligible for a
6 policy including wind coverage issued by the corporation.
7 However, with regard to a policyholder of the corporation, the
8 policyholder remains eligible for coverage from the
9 corporation regardless of any offer of coverage from an
10 authorized insurer or surplus lines insurer.

11 (I) If the risk accepts an offer of coverage through
12 the market assistance plan or an offer of coverage through a
13 mechanism established by the corporation before a policy is
14 issued to the risk by the corporation or during the first 30
15 days of coverage by the corporation, and the producing agent
16 who submitted the application to the plan or the corporation
17 is not currently appointed by the insurer, the insurer shall:

18 (A) Pay to the producing agent of record of the
19 policy, for the first year, an amount that is the greater of
20 the insurer's usual and customary commission for the type of
21 policy written or a fee equal to the usual and customary
22 commission of the corporation; or

23 (B) Offer to allow the producing agent of record of
24 the policy to continue servicing the policy for a period of
25 not less than 1 year and offer to pay the agent the greater of
26 the insurer's or the corporation's usual and customary
27 commission for the type of policy written.

28
29 If the producing agent is unwilling or unable to accept
30 appointment, the new insurer shall pay the agent in accordance
31 with sub-sub-sub-subparagraph (A).

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

5 (A) Pay to the producing agent of record of the
6 corporation policy, for the first year, an amount that is the
7 greater of the insurer's usual and customary commission for
8 the type of policy written or a fee equal to the usual and
9 customary commission of the corporation; or

10 (B) Offer to allow the producing agent of record of
11 the corporation policy to continue servicing the policy for a
12 period of not less than 1 year and offer to pay the agent the
13 greater of the insurer's or the corporation's usual and
14 customary commission for the type of policy written.

15
16 If the producing agent is unwilling or unable to accept
17 appointment, the new insurer shall pay the agent in accordance
18 with sub-sub-sub-subparagraph (A).

19 6. Must provide by July 1, 2007, that an application
20 for coverage for a new policy is subject to a waiting period
21 of 10 days before coverage is effective, during which time the
22 corporation shall make such application available for review
23 by general lines agents and authorized property and casualty
24 insurers. The board shall approve an exception that allows for
25 coverage to be effective before the end of the 10-day waiting
26 period, for coverage issued in conjunction with a real estate
27 closing. The board may approve such other exceptions as the
28 board determines are necessary to prevent lapses in coverage.

29 7. Must include rules for classifications of risks and
30 rates therefor.

31

1 8. Must provide that if premium and investment income
2 for an account attributable to a particular calendar year are
3 in excess of projected losses and expenses for the account
4 attributable to that year, such excess shall be held in
5 surplus in the account. Such surplus shall be available to
6 defray deficits in that account as to future years and shall
7 be used for that purpose prior to assessing assessable
8 insurers and assessable insureds as to any calendar year.

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

14 a. Whether the likelihood of a loss for the individual
15 risk is substantially higher than for other risks of the same
16 class; and

17 b. Whether the uncertainty associated with the
18 individual risk is such that an appropriate premium cannot be
19 determined.

20
21 The acceptance or rejection of a risk by the corporation shall
22 be construed as the private placement of insurance, and the
23 provisions of chapter 120 shall not apply.

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

28 11. Must provide that in the event of regular deficit
29 assessments under sub-subparagraph (b)3.a. or sub-subparagraph
30 (b)3.b., in the personal lines account, the commercial lines
31 residential account, or the high-risk account, the corporation

1 shall levy upon corporation policyholders in its next rate
2 filing, or by a separate rate filing solely for this purpose,
3 a Citizens policyholder surcharge arising from a regular
4 assessment in such account in a percentage equal to the total
5 amount of such regular assessments divided by the aggregate
6 statewide direct written premium for subject lines of business
7 for the prior calendar year. For purposes of calculating the
8 Citizens policyholder surcharge to be levied under this
9 subparagraph, the total amount of the regular assessment to
10 which this surcharge is related shall be determined as set
11 forth in subparagraph (b)3., without deducting the estimated
12 Citizens policyholder surcharge. Citizens policyholder
13 surcharges under this subparagraph are not considered premium
14 and are not subject to commissions, fees, or premium taxes;
15 however, failure to pay a market equalization surcharge shall
16 be treated as failure to pay premium.

17 12. The policies issued by the corporation must
18 provide that, if the corporation or the market assistance plan
19 obtains an offer from an authorized insurer to cover the risk
20 at its approved rates, the risk is no longer eligible for
21 renewal through the corporation, except as otherwise provided
22 in this subsection.

23 13. Corporation policies and applications must include
24 a notice that the corporation policy could, under this
25 section, be replaced with a policy issued by an authorized
26 insurer that does not provide coverage identical to the
27 coverage provided by the corporation. The notice shall also
28 specify that acceptance of corporation coverage creates a
29 conclusive presumption that the applicant or policyholder is
30 aware of this potential.

31

1 14. May establish, subject to approval by the office,
2 different eligibility requirements and operational procedures
3 for any line or type of coverage for any specified county or
4 area if the board determines that such changes to the
5 eligibility requirements and operational procedures are
6 justified due to the voluntary market being sufficiently
7 stable and competitive in such area or for such line or type
8 of coverage and that consumers who, in good faith, are unable
9 to obtain insurance through the voluntary market through
10 ordinary methods would continue to have access to coverage
11 from the corporation. When coverage is sought in connection
12 with a real property transfer, such requirements and
13 procedures shall not provide for an effective date of coverage
14 later than the date of the closing of the transfer as
15 established by the transferor, the transferee, and, if
16 applicable, the lender.

17 15. Must provide that, with respect to the high-risk
18 account, any assessable insurer with a surplus as to
19 policyholders of \$25 million or less writing 25 percent or
20 more of its total countrywide property insurance premiums in
21 this state may petition the office, within the first 90 days
22 of each calendar year, to qualify as a limited apportionment
23 company. A regular assessment levied by the corporation on a
24 limited apportionment company for a deficit incurred by the
25 corporation for the high-risk account in 2006 or thereafter
26 may be paid to the corporation on a monthly basis as the
27 assessments are collected by the limited apportionment company
28 from its insureds pursuant to s. 627.3512, but the regular
29 assessment must be paid in full within 12 months after being
30 levied by the corporation. A limited apportionment company
31 shall collect from its policyholders any emergency assessment

1 imposed under sub-subparagraph (b)3.d. The plan shall provide
2 that, if the office determines that any regular assessment
3 will result in an impairment of the surplus of a limited
4 apportionment company, the office may direct that all or part
5 of such assessment be deferred as provided in subparagraph
6 (g)4. However, there shall be no limitation or deferment of an
7 emergency assessment to be collected from policyholders under
8 sub-subparagraph (b)3.d.

9 16. Must provide that the corporation appoint as its
10 licensed agents only those agents who also hold an appointment
11 as defined in s. 626.015(3) with an insurer who at the time of
12 the agent's initial appointment by the corporation is
13 authorized to write and is actually writing personal lines
14 residential property coverage, commercial residential property
15 coverage, or commercial nonresidential property coverage
16 within the state.

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

20 18. Must provide, effective June 1, 2007, that the
21 corporation contract with each insurer providing the non-wind
22 coverage for risks insured by the corporation in the high-risk
23 account, requiring that the insurer provide claims adjusting
24 services for the wind coverage provided by the corporation for
25 such risks. An insurer is required to enter into this contract
26 as a condition of providing non-wind coverage for a risk that
27 is insured by the corporation in the high-risk account unless
28 the board finds, after a hearing, that the insurer is not
29 capable of providing adjusting services at an acceptable level
30 of quality to corporation policyholders. The terms and
31 conditions of such contracts must be substantially the same as

1 the contracts that the corporation executed with insurers
2 under the "adjust-your-own" program in 2006, except as may be
3 mutually agreed to by the parties and except for such changes
4 that the board determines are necessary to ensure that claims
5 are adjusted appropriately. The corporation shall provide a
6 process for neutral arbitration of any dispute between the
7 corporation and the insurer regarding the terms of the
8 contract. The corporation shall review and monitor the
9 performance of insurers under these contracts.

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

13 20. May provide such limits of coverage as the board
14 determines, consistent with the requirements of this
15 subsection.

16 21. May require commercial property to meet specified
17 hurricane mitigation construction features as a condition of
18 eligibility for coverage.

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

21 (1) A new certificate of authority for the transaction
22 of residential property insurance may not be issued to any
23 insurer domiciled in this state which is a wholly owned
24 subsidiary of an insurer authorized to do business in any
25 other state.

26 (2) The rate filings of any insurer domiciled in this
27 state that is a wholly owned subsidiary of an insurer
28 authorized to do business in any other state shall include
29 information relating to the profits of the parent company of
30 the insurer domiciled in this state.

31

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

3
4 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
5 COMMITTEE SUBSTITUTE FOR
6 Senate Bill 2498

7 The committee substitute makes the following changes:

- 8 1. Removes the bill's provision authorizing Citizens
9 Property Insurance Corporation ("Citizens") to offer
10 multiperil and wind-only coverages in its high-risk
11 account, which is addressed in current law.
12 2. Provides that if a new applicant to Citizens is offered
13 coverage from an insurer at its approved rate, the
14 applicant is not eligible for a Citizens policy unless
15 the insurer's premium is more than 15 percent greater
16 than the premium for comparable Citizens' coverage.
17 3. Removes the bill's provision that revised Citizens'
18 underwriting criteria for determining eligibility for
19 coverage based on whether applicants have taken actions
20 to mitigate the risk of windstorm loss.
21 4. Removes the provision that an existing certificate of
22 authority of a Florida domestic residential property
23 insurer that is wholly owned subsidiary of an insurer
24 authorized to conduct business in another state shall
25 expire at the end of its period of validation and may not
26 be renewed.
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