

1 A bill to be entitled
2 An act relating to insurance; amending s.
3 215.5595, F.S.; providing that domestic and
4 other insurers writing only manufactured
5 housing policies are eligible to receive a
6 surplus note in a specified amount; amending s.
7 626.916, F.S.; providing requirements for
8 insurance coverage eligible for export for
9 residential property risks; requiring that the
10 insured be notified that coverage may be
11 available from Citizens Property Insurance
12 Corporation; amending s. 626.914, F.S.;
13 revising the definition of the term "diligent
14 effort"; amending s. 215.555, F.S.; revising
15 the dates regarding an exemption from emergency
16 assessments for medical malpractice insurance
17 premiums; amending s. 627.351, F.S.; revising
18 legislative findings to provide a finding that
19 the lack of affordable property insurance
20 threatens the public health, safety, and
21 welfare and threatens the economic health of
22 the state; revising provisions for determining
23 eligibility for coverage under Citizens
24 Property Insurance Corporation; amending s.
25 627.062, F.S.; providing that certain interest
26 paid by an insurer may not be included in rate
27 base or used to justify a rate or rate change;
28 amending s. 626.9541, F.S.; providing
29 additional unfair claim settlement practices;
30 amending s. 627.70131, F.S.; deleting the
31 definition of the term "insurer"; defining the

1 term "claim"; revising provisions relating to
2 when an insurer must pay a claim; providing
3 conditions under which interest must be paid;
4 extending the date for increasing rates;
5 prohibiting issuance of new certificates of
6 authority to certain insurers; requiring rate
7 filings of certain insurers to include certain
8 parent company profits information;
9 establishing a pilot program to offer optional
10 sinkhole coverage; amending s. 626.9201, F.S.;
11 revising requirements concerning cancellation
12 for nonpayment of premium of policies providing
13 coverage for property, casualty, surety, or
14 marine insurance; defining the term "nonpayment
15 of premium"; providing that certain contracts
16 or contractual obligations concerning such
17 coverage are void under specified conditions;
18 requiring the refund of certain premiums
19 received by an insurer; providing that the
20 internal design option of the Florida Building
21 Code remains in effect until a specified date
22 for a building permit application made before
23 that date, notwithstanding provisions of ch.
24 2007-1, Laws of Florida; providing an effective
25 date and for retroactive application; applying
26 the act to any actions taken with respect to a
27 building permit affected by such prior act;
28 providing effective dates.

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30 Be It Enacted by the Legislature of the State of Florida:
31

1 Section 1. Paragraphs (b) and (c) of subsection (2) of
2 section 215.5595, Florida Statutes, as amended by section 5 of
3 chapter 2007-1, Laws of Florida, are amended to read:

4 215.5595 Insurance Capital Build-Up Incentive
5 Program.--

6 (2) The purpose of this section is to provide surplus
7 notes to new or existing authorized residential property
8 insurers under the Insurance Capital Build-Up Incentive
9 Program administered by the State Board of Administration,
10 under the following conditions:

11 (b) The insurer must contribute an amount of new
12 capital to its surplus which is at least equal to the amount
13 of the surplus note and must apply to the board by July 1,
14 2006. If an insurer applies after July 1, 2006, but before
15 June 1, 2007, the amount of the surplus note is limited to
16 one-half of the new capital that the insurer contributes to
17 its surplus, except that an insurer writing only manufactured
18 housing policies is eligible to receive a surplus note in the
19 amount of \$7 million and a domestic mutual insurer is eligible
20 to receive a surplus note in the amount of \$12.5 million. For
21 purposes of this section, new capital must be in the form of
22 cash or cash equivalents as specified in s. 625.012(1).

23 (c) The insurer's surplus, new capital, and the
24 surplus note must total at least \$50 million, except for
25 insurers writing residential property insurance covering only
26 manufactured housing or for a domestic mutual insurer. The
27 insurer's surplus, new capital, and the surplus note must
28 total at least \$14 million for insurers writing only
29 residential property insurance covering manufactured housing
30 policies as provided in paragraph (a). The surplus, new
31

1 capital, and surplus note for a domestic mutual insurer must
2 total at least \$25 million.

3 Section 2. Paragraph (e) is added to subsection (1) of
4 section 626.916, Florida Statutes, to read:

5 626.916 Eligibility for export.--

6 (1) No insurance coverage shall be eligible for export
7 unless it meets all of the following conditions:

8 (e) For personal residential property risks, the
9 retail or producing agent must advise the insured in writing
10 that coverage may be available and may be less expensive from
11 Citizens Property Insurance Corporation. The notice must
12 include other information that states that Citizens'
13 assessments are higher and the coverage provided by Citizens
14 may be less than the property's existing coverage. If the
15 notice is signed by the insured, it is presumed that the
16 insured has been informed and knows that policies from
17 Citizens Property Insurance Corporation may be less expensive,
18 may provide less coverage, and will be accompanied by higher
19 assessments.

20 Section 3. Subsection (4) of section 626.914, Florida
21 Statutes, is amended to read:

22 626.914 Definitions.--As used in this Surplus Lines
23 Law, the term:

24 (4) "Diligent effort" means seeking coverage from and
25 having been rejected by at least three authorized insurers
26 currently writing this type of coverage and documenting these
27 rejections. However, if the residential structure has a
28 dwelling replacement cost of \$1 million or more, the term
29 means seeking coverage from and having been rejected by at
30 least one authorized insurer currently writing this type of
31 coverage and documenting this rejection.

1 Section 4. Paragraph (b) of subsection (6) of section
2 215.555, Florida Statutes, as amended by chapter 2007-1, Laws
3 of Florida, is amended to read:

4 215.555 Florida Hurricane Catastrophe Fund.--

5 (6) REVENUE BONDS.--

6 (b) Emergency assessments.--

7 1. If the board determines that the amount of revenue
8 produced under subsection (5) is insufficient to fund the
9 obligations, costs, and expenses of the fund and the
10 corporation, including repayment of revenue bonds and that
11 portion of the debt service coverage not met by reimbursement
12 premiums, the board shall direct the Office of Insurance
13 Regulation to levy, by order, an emergency assessment on
14 direct premiums for all property and casualty lines of
15 business in this state, including property and casualty
16 business of surplus lines insurers regulated under part VIII
17 of chapter 626, but not including any workers' compensation
18 premiums or medical malpractice premiums. As used in this
19 subsection, the term "property and casualty business" includes
20 all lines of business identified on Form 2, Exhibit of
21 Premiums and Losses, in the annual statement required of
22 authorized insurers by s. 624.424 and any rule adopted under
23 this section, except for those lines identified as accident
24 and health insurance and except for policies written under the
25 National Flood Insurance Program. The assessment shall be
26 specified as a percentage of direct written premium and is
27 subject to annual adjustments by the board in order to meet
28 debt obligations. The same percentage shall apply to all
29 policies in lines of business subject to the assessment issued
30 or renewed during the 12-month period beginning on the
31 effective date of the assessment.

1 2. A premium is not subject to an annual assessment
2 under this paragraph in excess of 6 percent of premium with
3 respect to obligations arising out of losses attributable to
4 any one contract year, and a premium is not subject to an
5 aggregate annual assessment under this paragraph in excess of
6 10 percent of premium. An annual assessment under this
7 paragraph shall continue as long as the revenue bonds issued
8 with respect to which the assessment was imposed are
9 outstanding, including any bonds the proceeds of which were
10 used to refund the revenue bonds, unless adequate provision
11 has been made for the payment of the bonds under the documents
12 authorizing issuance of the bonds.

13 3. Emergency assessments shall be collected from
14 policyholders. Emergency assessments shall be remitted by
15 insurers as a percentage of direct written premium for the
16 preceding calendar quarter as specified in the order from the
17 Office of Insurance Regulation. The office shall verify the
18 accurate and timely collection and remittance of emergency
19 assessments and shall report the information to the board in a
20 form and at a time specified by the board. Each insurer
21 collecting assessments shall provide the information with
22 respect to premiums and collections as may be required by the
23 office to enable the office to monitor and verify compliance
24 with this paragraph.

25 4. With respect to assessments of surplus lines
26 premiums, each surplus lines agent shall collect the
27 assessment at the same time as the agent collects the surplus
28 lines tax required by s. 626.932, and the surplus lines agent
29 shall remit the assessment to the Florida Surplus Lines
30 Service Office created by s. 626.921 at the same time as the
31 agent remits the surplus lines tax to the Florida Surplus

1 Lines Service Office. The emergency assessment on each insured
2 procuring coverage and filing under s. 626.938 shall be
3 remitted by the insured to the Florida Surplus Lines Service
4 Office at the time the insured pays the surplus lines tax to
5 the Florida Surplus Lines Service Office. The Florida Surplus
6 Lines Service Office shall remit the collected assessments to
7 the fund or corporation as provided in the order levied by the
8 Office of Insurance Regulation. The Florida Surplus Lines
9 Service Office shall verify the proper application of such
10 emergency assessments and shall assist the board in ensuring
11 the accurate and timely collection and remittance of
12 assessments as required by the board. The Florida Surplus
13 Lines Service Office shall annually calculate the aggregate
14 written premium on property and casualty business, other than
15 workers' compensation and medical malpractice, procured
16 through surplus lines agents and insureds procuring coverage
17 and filing under s. 626.938 and shall report the information
18 to the board in a form and at a time specified by the board.

19 5. Any assessment authority not used for a particular
20 contract year may be used for a subsequent contract year. If,
21 for a subsequent contract year, the board determines that the
22 amount of revenue produced under subsection (5) is
23 insufficient to fund the obligations, costs, and expenses of
24 the fund and the corporation, including repayment of revenue
25 bonds and that portion of the debt service coverage not met by
26 reimbursement premiums, the board shall direct the Office of
27 Insurance Regulation to levy an emergency assessment up to an
28 amount not exceeding the amount of unused assessment authority
29 from a previous contract year or years, plus an additional 4
30 percent provided that the assessments in the aggregate do not
31 exceed the limits specified in subparagraph 2.

1 6. The assessments otherwise payable to the
2 corporation under this paragraph shall be paid to the fund
3 unless and until the Office of Insurance Regulation and the
4 Florida Surplus Lines Service Office have received from the
5 corporation and the fund a notice, which shall be conclusive
6 and upon which they may rely without further inquiry, that the
7 corporation has issued bonds and the fund has no agreements in
8 effect with local governments under paragraph (c). On or after
9 the date of the notice and until the date the corporation has
10 no bonds outstanding, the fund shall have no right, title, or
11 interest in or to the assessments, except as provided in the
12 fund's agreement with the corporation.

13 7. Emergency assessments are not premium and are not
14 subject to the premium tax, to the surplus lines tax, to any
15 fees, or to any commissions. An insurer is liable for all
16 assessments that it collects and must treat the failure of an
17 insured to pay an assessment as a failure to pay the premium.
18 An insurer is not liable for uncollectible assessments.

19 8. When an insurer is required to return an unearned
20 premium, it shall also return any collected assessment
21 attributable to the unearned premium. A credit adjustment to
22 the collected assessment may be made by the insurer with
23 regard to future remittances that are payable to the fund or
24 corporation, but the insurer is not entitled to a refund.

25 9. When a surplus lines insured or an insured who has
26 procured coverage and filed under s. 626.938 is entitled to
27 the return of an unearned premium, the Florida Surplus Lines
28 Service Office shall provide a credit or refund to the agent
29 or such insured for the collected assessment attributable to
30 the unearned premium prior to remitting the emergency
31 assessment collected to the fund or corporation.

1 10. The exemption of medical malpractice insurance
2 premiums from emergency assessments under this paragraph is
3 repealed ~~May 31, 2010~~ ~~May 31, 2007~~, and medical malpractice
4 insurance premiums shall be subject to emergency assessments
5 attributable to loss events occurring in the contract years
6 commencing on June 1, 2010 ~~June 1, 2007~~.

7 Section 5. Paragraphs (a), (c), (m) and (r) of
8 subsection (6) of section 627.351, Florida Statutes, as
9 amended by section 21 of chapter 2007-1, Laws of Florida, are
10 amended, and paragraph (ff) is added to that subsection, to
11 read:

12 627.351 Insurance risk apportionment plans.--

13 (6) CITIZENS PROPERTY INSURANCE CORPORATION.--

14 (a)1. It is the public purpose of this subsection to
15 ensure the existence of an orderly market for property
16 insurance for Floridians and Florida businesses. The
17 Legislature finds that private insurers are unwilling or
18 unable to provide affordable property insurance coverage in
19 this state to the extent sought and needed. The absence of
20 affordable property insurance threatens the public health,
21 safety, and welfare and likewise threatens the economic health
22 of the state. The state therefore has a compelling public
23 interest and a public purpose to assist in assuring that
24 property in the state is insured and that it is insured at
25 affordable rates so as to facilitate the remediation,
26 reconstruction, and replacement of damaged or destroyed
27 property in order to reduce or avoid the negative effects
28 otherwise resulting to the public health, safety, and welfare;
29 to the economy of the state; and to the revenues of the state
30 and local governments which are needed to provide for the
31 public welfare. It is necessary, therefore, to provide

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

1 ~~revenues of the state and local governments needed to provide~~
2 ~~for the public welfare. It is necessary, therefore, to provide~~
3 ~~property insurance to applicants who are in good faith~~
4 ~~entitled to procure insurance through the voluntary market but~~
5 ~~are unable to do so. The Legislature intends by this~~
6 ~~subsection that property insurance be provided and that it~~
7 ~~continues, as long as necessary, through an entity organized~~
8 ~~to achieve efficiencies and economies, while providing service~~
9 ~~to policyholders, applicants, and agents that is no less than~~
10 ~~the quality generally provided in the voluntary market, all~~
11 ~~toward the achievement of the foregoing public purposes.~~
12 ~~Because it is essential for the corporation to have the~~
13 ~~maximum financial resources to pay claims following a~~
14 ~~catastrophic hurricane, it is the intent of the Legislature~~
15 ~~that the income of the corporation be exempt from federal~~
16 ~~income taxation and that interest on the debt obligations~~
17 ~~issued by the corporation be exempt from federal income~~
18 ~~taxation.~~

19 2. The Residential Property and Casualty Joint
20 Underwriting Association originally created by this statute
21 shall be known, as of July 1, 2002, as the Citizens Property
22 Insurance Corporation. The corporation shall provide insurance
23 for residential and commercial property, for applicants who
24 are in good faith entitled, but are unable, to procure
25 insurance through the voluntary market. The corporation shall
26 operate pursuant to a plan of operation approved by order of
27 the Financial Services Commission. The plan is subject to
28 continuous review by the commission. The commission may, by
29 order, withdraw approval of all or part of a plan if the
30 commission determines that conditions have changed since
31 approval was granted and that the purposes of the plan require

1 changes in the plan. The corporation shall continue to operate
2 pursuant to the plan of operation approved by the Office of
3 Insurance Regulation until October 1, 2006. For the purposes
4 of this subsection, residential coverage includes both
5 personal lines residential coverage, which consists of the
6 type of coverage provided by homeowner's, mobile home owner's,
7 dwelling, tenant's, condominium unit owner's, and similar
8 policies, and commercial lines residential coverage, which
9 consists of the type of coverage provided by condominium
10 association, apartment building, and similar policies.

11 3. For the purposes of this subsection, the term
12 "homestead property" means:

13 a. Property that has been granted a homestead
14 exemption under chapter 196;

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

19 c. An owner-occupied mobile home or manufactured home,
20 as defined in s. 320.01, which is permanently affixed to real
21 property, is owned by a Florida resident, and has been granted
22 a homestead exemption under chapter 196 or, if the owner does
23 not own the real property, the owner certifies that the mobile
24 home or manufactured home is his or her principal place of
25 residence;

26 d. Tenant's coverage;

27 e. Commercial lines residential property; or

28 f. Any county, district, or municipal hospital; a
29 hospital licensed by any not-for-profit corporation qualified
30 under s. 501(c)(3) of the United States Internal Revenue Code;
31 or a continuing care retirement community that is certified

1 under chapter 651 and that receives an exemption from ad
2 valorem taxes under chapter 196.

3 4. For the purposes of this subsection, the term
4 "nonhomestead property" means property that is not homestead
5 property.

6 5. Effective January 1, 2009 ~~July 1, 2008~~, a personal
7 lines residential structure that has a dwelling replacement
8 cost of \$1 million or more, or a single condominium unit that
9 has a combined dwelling and content replacement cost of \$1
10 million or more is not eligible for coverage by the
11 corporation. Such dwellings insured by the corporation on
12 December 31, 2008 ~~June 30, 2008~~, may continue to be covered by
13 the corporation until the end of the policy term. However,
14 such dwellings that are insured by the corporation and become
15 ineligible for coverage due to the provisions of this
16 subparagraph may reapply and obtain coverage in the high-risk
17 account and be considered "nonhomestead property" if the
18 property owner provides the corporation with a sworn affidavit
19 from one or more insurance agents, on a form provided by the
20 corporation, stating that the agents have made their best
21 efforts to obtain coverage and that the property has been
22 rejected for coverage by at least one authorized insurer and
23 at least three surplus lines insurers. If such conditions are
24 met, the dwelling may be insured by the corporation for up to
25 3 years, after which time the dwelling is ineligible for
26 coverage. The office shall approve the method used by the
27 corporation for valuing the dwelling replacement cost for the
28 purposes of this subparagraph. If a policyholder is insured by
29 the corporation prior to being determined to be ineligible
30 pursuant to this subparagraph and such policyholder files a
31 lawsuit challenging the determination, the policyholder may

1 remain insured by the corporation until the conclusion of the
2 litigation.

3 6. For properties constructed on or after January 1,
4 2009, the corporation may not insure any property located
5 within 2,500 feet landward of the coastal construction control
6 line created pursuant to s. 161.053 unless the property meets
7 the requirements of the code-plus building standards developed
8 by the Florida Building Commission.

9 7. It is the intent of the Legislature that
10 policyholders, applicants, and agents of the corporation
11 receive service and treatment of the highest possible level
12 but never less than that generally provided in the voluntary
13 market. It also is intended that the corporation be held to
14 service standards no less than those applied to insurers in
15 the voluntary market by the office with respect to
16 responsiveness, timeliness, customer courtesy, and overall
17 dealings with policyholders, applicants, or agents of the
18 corporation.

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

20 1. Must provide for adoption of residential property
21 and casualty insurance policy forms and commercial residential
22 and nonresidential property insurance forms, which forms must
23 be approved by the office prior to use. The corporation shall
24 adopt the following policy forms:

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

30 b. Basic personal lines policy forms that are policies
31 similar to an HO-8 policy or a dwelling fire policy that

1 provide coverage meeting the requirements of the secondary
2 mortgage market, but which coverage is more limited than the
3 coverage under a standard policy.

4 c. Commercial lines residential and nonresidential
5 policy forms that are generally similar to the basic perils of
6 full coverage obtainable for commercial residential structures
7 and commercial nonresidential structures in the admitted
8 voluntary market.

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

14 e. Commercial lines nonresidential property insurance
15 forms that cover the peril of wind only. The forms are
16 applicable only to nonresidential properties located in areas
17 eligible for coverage under the high-risk account referred to
18 in sub-subparagraph (b)2.a.

19 f. The corporation may adopt variations of the policy
20 forms listed in sub-subparagraphs a.-e. that contain more
21 restrictive coverage.

22 2.a. Must provide that the corporation adopt a program
23 in which the corporation and authorized insurers enter into
24 quota share primary insurance agreements for hurricane
25 coverage, as defined in s. 627.4025(2)(a), for eligible risks,
26 and adopt property insurance forms for eligible risks which
27 cover the peril of wind only. As used in this subsection, the
28 term:

29 (I) "Quota share primary insurance" means an
30 arrangement in which the primary hurricane coverage of an
31 eligible risk is provided in specified percentages by the

1 corporation and an authorized insurer. The corporation and
2 authorized insurer are each solely responsible for a specified
3 percentage of hurricane coverage of an eligible risk as set
4 forth in a quota share primary insurance agreement between the
5 corporation and an authorized insurer and the insurance
6 contract. The responsibility of the corporation or authorized
7 insurer to pay its specified percentage of hurricane losses of
8 an eligible risk, as set forth in the quota share primary
9 insurance agreement, may not be altered by the inability of
10 the other party to the agreement to pay its specified
11 percentage of hurricane losses. Eligible risks that are
12 provided hurricane coverage through a quota share primary
13 insurance arrangement must be provided policy forms that set
14 forth the obligations of the corporation and authorized
15 insurer under the arrangement, clearly specify the percentages
16 of quota share primary insurance provided by the corporation
17 and authorized insurer, and conspicuously and clearly state
18 that neither the authorized insurer nor the corporation may be
19 held responsible beyond its specified percentage of coverage
20 of hurricane losses.

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

26 b. The corporation may enter into quota share primary
27 insurance agreements with authorized insurers at corporation
28 coverage levels of 90 percent and 50 percent.

29 c. If the corporation determines that additional
30 coverage levels are necessary to maximize participation in
31 quota share primary insurance agreements by authorized

1 insurers, the corporation may establish additional coverage
2 levels. However, the corporation's quota share primary
3 insurance coverage level may not exceed 90 percent.

4 d. Any quota share primary insurance agreement entered
5 into between an authorized insurer and the corporation must
6 provide for a uniform specified percentage of coverage of
7 hurricane losses, by county or territory as set forth by the
8 corporation board, for all eligible risks of the authorized
9 insurer covered under the quota share primary insurance
10 agreement.

11 e. Any quota share primary insurance agreement entered
12 into between an authorized insurer and the corporation is
13 subject to review and approval by the office. However, such
14 agreement shall be authorized only as to insurance contracts
15 entered into between an authorized insurer and an insured who
16 is already insured by the corporation for wind coverage.

17 f. For all eligible risks covered under quota share
18 primary insurance agreements, the exposure and coverage levels
19 for both the corporation and authorized insurers shall be
20 reported by the corporation to the Florida Hurricane
21 Catastrophe Fund. For all policies of eligible risks covered
22 under quota share primary insurance agreements, the
23 corporation and the authorized insurer shall maintain complete
24 and accurate records for the purpose of exposure and loss
25 reimbursement audits as required by Florida Hurricane
26 Catastrophe Fund rules. The corporation and the authorized
27 insurer shall each maintain duplicate copies of policy
28 declaration pages and supporting claims documents.

29 g. The corporation board shall establish in its plan
30 of operation standards for quota share agreements which ensure
31 that there is no discriminatory application among insurers as

1 to the terms of quota share agreements, pricing of quota share
2 agreements, incentive provisions if any, and consideration
3 paid for servicing policies or adjusting claims.

4 h. The quota share primary insurance agreement between
5 the corporation and an authorized insurer must set forth the
6 specific terms under which coverage is provided, including,
7 but not limited to, the sale and servicing of policies issued
8 under the agreement by the insurance agent of the authorized
9 insurer producing the business, the reporting of information
10 concerning eligible risks, the payment of premium to the
11 corporation, and arrangements for the adjustment and payment
12 of hurricane claims incurred on eligible risks by the claims
13 adjuster and personnel of the authorized insurer. Entering
14 into a quota sharing insurance agreement between the
15 corporation and an authorized insurer shall be voluntary and
16 at the discretion of the authorized insurer.

17 3. May provide that the corporation may employ or
18 otherwise contract with individuals or other entities to
19 provide administrative or professional services that may be
20 appropriate to effectuate the plan. The corporation shall have
21 the power to borrow funds, by issuing bonds or by incurring
22 other indebtedness, and shall have other powers reasonably
23 necessary to effectuate the requirements of this subsection,
24 including, without limitation, the power to issue bonds and
25 incur other indebtedness in order to refinance outstanding
26 bonds or other indebtedness. The corporation may, but is not
27 required to, seek judicial validation of its bonds or other
28 indebtedness under chapter 75. The corporation may issue bonds
29 or incur other indebtedness, or have bonds issued on its
30 behalf by a unit of local government pursuant to subparagraph
31 (g)2., in the absence of a hurricane or other weather-related

1 event, upon a determination by the corporation, subject to
2 approval by the office, that such action would enable it to
3 efficiently meet the financial obligations of the corporation
4 and that such financings are reasonably necessary to
5 effectuate the requirements of this subsection. The
6 corporation is authorized to take all actions needed to
7 facilitate tax-free status for any such bonds or indebtedness,
8 including formation of trusts or other affiliated entities.
9 The corporation shall have the authority to pledge
10 assessments, projected recoveries from the Florida Hurricane
11 Catastrophe Fund, other reinsurance recoverables, market
12 equalization and other surcharges, and other funds available
13 to the corporation as security for bonds or other
14 indebtedness. In recognition of s. 10, Art. I of the State
15 Constitution, prohibiting the impairment of obligations of
16 contracts, it is the intent of the Legislature that no action
17 be taken whose purpose is to impair any bond indenture or
18 financing agreement or any revenue source committed by
19 contract to such bond or other indebtedness.

20 4.a. Must require that the corporation operate subject
21 to the supervision and approval of a board of governors
22 consisting of eight individuals who are residents of this
23 state, from different geographical areas of this state. The
24 Governor, the Chief Financial Officer, the President of the
25 Senate, and the Speaker of the House of Representatives shall
26 each appoint two members of the board. At least one of the two
27 members appointed by each appointing officer must have
28 demonstrated expertise in insurance. The Chief Financial
29 Officer shall designate one of the appointees as chair. All
30 board members serve at the pleasure of the appointing officer.
31 All members of the board of governors are subject to removal

1 at will by the officers who appointed them. All board members,
2 including the chair, must be appointed to serve for 3-year
3 terms beginning annually on a date designated by the plan. Any
4 board vacancy shall be filled for the unexpired term by the
5 appointing officer. The Chief Financial Officer shall appoint
6 a technical advisory group to provide information and advice
7 to the board of governors in connection with the board's
8 duties under this subsection. The executive director and
9 senior managers of the corporation shall be engaged by the
10 board and serve at the pleasure of the board. Any executive
11 director appointed on or after July 1, 2006, is subject to
12 confirmation by the Senate. The executive director is
13 responsible for employing other staff as the corporation may
14 require, subject to review and concurrence by the board.

15 b. The board shall create a Market Accountability
16 Advisory Committee to assist the corporation in developing
17 awareness of its rates and its customer and agent service
18 levels in relationship to the voluntary market insurers
19 writing similar coverage. The members of the advisory
20 committee shall consist of the following 11 persons, one of
21 whom must be elected chair by the members of the committee:
22 four representatives, one appointed by the Florida Association
23 of Insurance Agents, one by the Florida Association of
24 Insurance and Financial Advisors, one by the Professional
25 Insurance Agents of Florida, and one by the Latin American
26 Association of Insurance Agencies; three representatives
27 appointed by the insurers with the three highest voluntary
28 market share of residential property insurance business in the
29 state; one representative from the Office of Insurance
30 Regulation; one consumer appointed by the board who is insured
31 by the corporation at the time of appointment to the

1 committee; one representative appointed by the Florida
2 Association of Realtors; and one representative appointed by
3 the Florida Bankers Association. All members must serve for
4 3-year terms and may serve for consecutive terms. The
5 committee shall report to the corporation at each board
6 meeting on insurance market issues which may include rates and
7 rate competition with the voluntary market; service, including
8 policy issuance, claims processing, and general responsiveness
9 to policyholders, applicants, and agents; and matters relating
10 to depopulation.

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

13 a. Subject to the provisions of s. 627.3517, with
14 respect to personal lines residential risks, if the risk is
15 offered coverage from an authorized insurer at the insurer's
16 approved rate under either a standard policy including wind
17 coverage or, if consistent with the insurer's underwriting
18 rules as filed with the office, a basic policy including wind
19 coverage, for a new application to the corporation for
20 coverage, the risk is not eligible for any policy issued by
21 the corporation unless the premium for coverage from the
22 authorized insurer is more than 15 ~~25~~ percent greater than the
23 premium for comparable coverage from the corporation. If the
24 risk is not able to obtain any such offer, the risk is
25 eligible for either a standard policy including wind coverage
26 or a basic policy including wind coverage issued by the
27 corporation; however, if the risk could not be insured under a
28 standard policy including wind coverage regardless of market
29 conditions, the risk shall be eligible for a basic policy
30 including wind coverage unless rejected under subparagraph 8.
31 However, with regard to a policyholder of the corporation, the

1 | policyholder remains eligible for coverage from the
2 | corporation regardless of any offer of coverage from an
3 | authorized insurer or surplus lines insurer. The corporation
4 | shall determine the type of policy to be provided on the basis
5 | of objective standards specified in the underwriting manual
6 | and based on generally accepted underwriting practices.

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

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

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

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

29 | (II) When the corporation enters into a contractual
30 | agreement for a take-out plan, the producing agent of record
31 |

1 of the corporation policy is entitled to retain any unearned
2 commission on the policy, and the insurer shall:

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

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

13
14 If the producing agent is unwilling or unable to accept
15 appointment, the new insurer shall pay the agent in accordance
16 with sub-sub-sub-subparagraph (A).

17 b. With respect to commercial lines residential risks,
18 for a new application to the corporation for coverage, if the
19 risk is offered coverage under a policy including wind
20 coverage from an authorized insurer at its approved rate, the
21 risk is not eligible for any policy issued by the corporation
22 unless the premium for coverage from the authorized insurer is
23 more than 15 ~~25~~ percent greater than the premium for
24 comparable coverage from the corporation. If the risk is not
25 able to obtain any such offer, the risk is eligible for a
26 policy including wind coverage issued by the corporation.
27 However, with regard to a policyholder of the corporation, the
28 policyholder remains eligible for coverage from the
29 corporation regardless of any offer of coverage from an
30 authorized insurer or surplus lines insurer.

31

1 (I) If the risk accepts an offer of coverage through
2 the market assistance plan or an offer of coverage through a
3 mechanism established by the corporation before a policy is
4 issued to the risk by the corporation or during the first 30
5 days of coverage by the corporation, and the producing agent
6 who submitted the application to the plan or the corporation
7 is not currently appointed by the insurer, the insurer shall:

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

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

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

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

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

31

1 (B) Offer to allow the producing agent of record of
2 the corporation policy to continue servicing the policy for a
3 period of not less than 1 year and offer to pay the agent the
4 greater of the insurer's or the corporation's usual and
5 customary 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 6. Must provide by July 1, 2007, that an application
11 for coverage for a new policy is subject to a waiting period
12 of 10 days before coverage is effective, during which time the
13 corporation shall make such application available for review
14 by general lines agents and authorized property and casualty
15 insurers. The board shall approve an exception that allows for
16 coverage to be effective before the end of the 10-day waiting
17 period, for coverage issued in conjunction with a real estate
18 closing. The board may approve such other exceptions as the
19 board determines are necessary to prevent lapses in coverage.

20 7. Must include rules for classifications of risks and
21 rates therefor.

22 8. Must provide that if premium and investment income
23 for an account attributable to a particular calendar year are
24 in excess of projected losses and expenses for the account
25 attributable to that year, such excess shall be held in
26 surplus in the account. Such surplus shall be available to
27 defray deficits in that account as to future years and shall
28 be used for that purpose prior to assessing assessable
29 insurers and assessable insureds as to any calendar year.

30 9. Must provide objective criteria and procedures to
31 be uniformly applied for all applicants in determining whether

1 an individual risk is so hazardous as to be uninsurable. In
2 making this determination and in establishing the criteria and
3 procedures, the following shall be considered:

4 a. Whether the likelihood of a loss for the individual
5 risk is substantially higher than for other risks of the same
6 class; and

7 b. Whether the uncertainty associated with the
8 individual risk is such that an appropriate premium cannot be
9 determined.

10

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

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

18 11. Must provide that in the event of regular deficit
19 assessments under sub-subparagraph (b)3.a. or sub-subparagraph
20 (b)3.b., in the personal lines account, the commercial lines
21 residential account, or the high-risk account, the corporation
22 shall levy upon corporation policyholders in its next rate
23 filing, or by a separate rate filing solely for this purpose,
24 a Citizens policyholder surcharge arising from a regular
25 assessment in such account in a percentage equal to the total
26 amount of such regular assessments divided by the aggregate
27 statewide direct written premium for subject lines of business
28 for the prior calendar year. For purposes of calculating the
29 Citizens policyholder surcharge to be levied under this
30 subparagraph, the total amount of the regular assessment to
31 which this surcharge is related shall be determined as set

1 forth in subparagraph (b)3., without deducting the estimated
2 Citizens policyholder surcharge. Citizens policyholder
3 surcharges under this subparagraph are not considered premium
4 and are not subject to commissions, fees, or premium taxes;
5 however, failure to pay a market equalization surcharge shall
6 be treated as failure to pay premium.

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

13 13. Corporation policies and applications must include
14 a notice that the corporation policy could, under this
15 section, be replaced with a policy issued by an authorized
16 insurer that does not provide coverage identical to the
17 coverage provided by the corporation. The notice shall also
18 specify that acceptance of corporation coverage creates a
19 conclusive presumption that the applicant or policyholder is
20 aware of this potential.

21 14. May establish, subject to approval by the office,
22 different eligibility requirements and operational procedures
23 for any line or type of coverage for any specified county or
24 area if the board determines that such changes to the
25 eligibility requirements and operational procedures are
26 justified due to the voluntary market being sufficiently
27 stable and competitive in such area or for such line or type
28 of coverage and that consumers who, in good faith, are unable
29 to obtain insurance through the voluntary market through
30 ordinary methods would continue to have access to coverage
31 from the corporation. When coverage is sought in connection

1 with a real property transfer, such requirements and
2 procedures shall not provide for an effective date of coverage
3 later than the date of the closing of the transfer as
4 established by the transferor, the transferee, and, if
5 applicable, the lender.

6 15. Must provide that, with respect to the high-risk
7 account, any assessable insurer with a surplus as to
8 policyholders of \$25 million or less writing 25 percent or
9 more of its total countrywide property insurance premiums in
10 this state may petition the office, within the first 90 days
11 of each calendar year, to qualify as a limited apportionment
12 company. A regular assessment levied by the corporation on a
13 limited apportionment company for a deficit incurred by the
14 corporation for the high-risk account in 2006 or thereafter
15 may be paid to the corporation on a monthly basis as the
16 assessments are collected by the limited apportionment company
17 from its insureds pursuant to s. 627.3512, but the regular
18 assessment must be paid in full within 12 months after being
19 levied by the corporation. A limited apportionment company
20 shall collect from its policyholders any emergency assessment
21 imposed under sub-subparagraph (b)3.d. The plan shall provide
22 that, if the office determines that any regular assessment
23 will result in an impairment of the surplus of a limited
24 apportionment company, the office may direct that all or part
25 of such assessment be deferred as provided in subparagraph
26 (g)4. However, there shall be no limitation or deferment of an
27 emergency assessment to be collected from policyholders under
28 sub-subparagraph (b)3.d.

29 16. Must provide that the corporation appoint as its
30 licensed agents only those agents who also hold an appointment
31 as defined in s. 626.015(3) with an insurer who at the time of

1 the agent's initial appointment by the corporation is
2 authorized to write and is actually writing personal lines
3 residential property coverage, commercial residential property
4 coverage, or commercial nonresidential property coverage
5 within the state.

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

9 ~~18. Must provide, effective June 1, 2007, that the~~
10 ~~corporation contract with each insurer providing the non wind~~
11 ~~coverage for risks insured by the corporation in the high risk~~
12 ~~account, requiring that the insurer provide claims adjusting~~
13 ~~services for the wind coverage provided by the corporation for~~
14 ~~such risks. An insurer is required to enter into this contract~~
15 ~~as a condition of providing non wind coverage for a risk that~~
16 ~~is insured by the corporation in the high risk account unless~~
17 ~~the board finds, after a hearing, that the insurer is not~~
18 ~~capable of providing adjusting services at an acceptable level~~
19 ~~of quality to corporation policyholders. The terms and~~
20 ~~conditions of such contracts must be substantially the same as~~
21 ~~the contracts that the corporation executed with insurers~~
22 ~~under the "adjust your own" program in 2006, except as may be~~
23 ~~mutually agreed to by the parties and except for such changes~~
24 ~~that the board determines are necessary to ensure that claims~~
25 ~~are adjusted appropriately. The corporation shall provide a~~
26 ~~process for neutral arbitration of any dispute between the~~
27 ~~corporation and the insurer regarding the terms of the~~
28 ~~contract. The corporation shall review and monitor the~~
29 ~~performance of insurers under these contracts.~~

1 ~~18.19.~~ Must limit coverage on mobile homes or
2 manufactured homes built prior to 1994 to actual cash value of
3 the dwelling rather than replacement costs of the dwelling.

4 19.20. May provide such limits of coverage as the
5 board determines, consistent with the requirements of this
6 subsection.

7 20.21. May require commercial property to meet
8 specified hurricane mitigation construction features as a
9 condition of eligibility for coverage.

10 (m)1. Rates for coverage provided by the corporation
11 shall be actuarially sound and subject to the requirements of
12 s. 627.062, except as otherwise provided in this paragraph.
13 The corporation shall file its recommended rates with the
14 office at least annually. The corporation shall provide any
15 additional information regarding the rates which the office
16 requires. The office shall consider the recommendations of the
17 board and issue a final order establishing the rates for the
18 corporation within 45 days after the recommended rates are
19 filed. The corporation may not pursue an administrative
20 challenge or judicial review of the final order of the office.

21 2. In addition to the rates otherwise determined
22 pursuant to this paragraph, the corporation shall impose and
23 collect an amount equal to the premium tax provided for in s.
24 624.509 to augment the financial resources of the corporation.

25 3. After the public hurricane loss-projection model
26 under s. 627.06281 has been found to be accurate and reliable
27 by the Florida Commission on Hurricane Loss Projection
28 Methodology, that model shall serve as the minimum benchmark
29 for determining the windstorm portion of the corporation's
30 rates. This subparagraph does not require or allow the
31

1 corporation to adopt rates lower than the rates otherwise
2 required or allowed by this paragraph.

3 4. The rate filings for the corporation which were
4 approved by the office and which took effect January 1, 2007,
5 are rescinded, except for those rates that were lowered. As
6 soon as possible, the corporation shall begin using the lower
7 rates that were in effect on December 31, 2006, and shall
8 provide refunds to policyholders who have paid higher rates as
9 a result of that rate filing. The rates in effect on December
10 31, 2006, shall remain in effect for the 2007 and 2008
11 calendar years ~~year~~ except for any rate change that results in
12 a lower rate. The next rate change that may increase rates
13 shall take effect January 1, 2009 ~~2008~~, pursuant to a new rate
14 filing recommended by the corporation and established by the
15 office, subject to the requirements of this paragraph.

16 (r)1. There shall be no liability on the part of, and
17 no cause of action of any nature shall arise against, any
18 assessable insurer or its agents or employees, the corporation
19 or its agents or employees, members of the board of governors
20 or their respective designees at a board meeting, corporation
21 committee members, or the office or its representatives, for
22 any action taken by them in the performance of their duties or
23 responsibilities under this subsection. Such immunity does not
24 apply to:

25 a.1. Any of the foregoing persons or entities for any
26 willful tort;

27 b.2. The corporation or its producing agents for
28 breach of any contract or agreement pertaining to insurance
29 coverage;

30 c.3. The corporation with respect to issuance or
31 payment of debt; ~~or~~

1 ~~d.4.~~ Any assessable insurer with respect to any action
2 to enforce an assessable insurer's obligations to the
3 corporation under this subsection; ~~or-~~

4 e. The corporation in any pending or future action for
5 breach of contract or for benefits under a policy issued by
6 the corporation; in any such action, the corporation shall be
7 liable to the policyholders and beneficiaries for attorney's
8 fees under s. 627.428.

9 2. The corporation shall manage its claim employees,
10 independent adjusters, and others who handle claims to ensure
11 they carry out the corporation's duty to its policyholders to
12 handle claims carefully, timely, diligently, and in good
13 faith, balanced against the corporation's duty to the state to
14 manage its assets responsibly to minimize its assessment
15 potential.

16 (ff) The office may establish a pilot program to offer
17 optional sinkhole coverage in one or more counties or other
18 territories of the corporation for the purpose of implementing
19 s. 627.706, as amended by s. 30 of chapter 2007-1, Laws of
20 Florida. Under the pilot program, the corporation is not
21 required to issue a notice of nonrenewal to exclude sinkhole
22 coverage upon the renewal of existing policies, but may
23 exclude such coverage using a notice of coverage change.

24 Section 6. Subsection (11) is added to section
25 627.062, Florida Statutes, as amended by section 18 of chapter
26 2007-1, Laws of Florida, to read:

27 627.062 Rate standards.--

28 (11) Any interest paid pursuant to s. 627.70131(5) may
29 not be included in the insurer's rate base and may not be used
30 to justify a rate or rate change.

31

1 Section 7. Paragraph (i) of subsection (1) of section
2 626.9541, Florida Statutes, is amended to read:

3 626.9541 Unfair methods of competition and unfair or
4 deceptive acts or practices defined.--

5 (1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR
6 DECEPTIVE ACTS.--The following are defined as unfair methods
7 of competition and unfair or deceptive acts or practices:

8 (i) Unfair claim settlement practices.--

9 1. Attempting to settle claims on the basis of an
10 application, when serving as a binder or intended to become a
11 part of the policy, or any other material document which was
12 altered without notice to, or knowledge or consent of, the
13 insured;

14 2. A material misrepresentation made to an insured or
15 any other person having an interest in the proceeds payable
16 under such contract or policy, for the purpose and with the
17 intent of effecting settlement of such claims, loss, or damage
18 under such contract or policy on less favorable terms than
19 those provided in, and contemplated by, such contract or
20 policy; ~~or~~

21 3. A violation of s. 627.70131(5), if the insurer's
22 handling of the claim is found to be dishonest or in reckless
23 disregard for the rights of any insured;

24 4. Failing to pay undisputed amounts of partial or
25 full benefits under first-party property insurance policies
26 within 30 days after determining the amounts of partial or
27 full benefits and agreeing to coverage; or

28 ~~5.3-~~ Committing or performing with such frequency as
29 to indicate a general business practice any of the following:

30 a. Failing to adopt and implement standards for the
31 proper investigation of claims;

1 b. Misrepresenting pertinent facts or insurance policy
2 provisions relating to coverages at issue;

3 c. Failing to acknowledge and act promptly upon
4 communications with respect to claims;

5 d. Denying claims without conducting reasonable
6 investigations based upon available information;

7 e. Failing to affirm or deny full or partial coverage
8 of claims, and, as to partial coverage, the dollar amount or
9 extent of coverage, or failing to provide a written statement
10 that the claim is being investigated, upon the written request
11 of the insured within 30 days after proof-of-loss statements
12 have been completed;

13 f. Failing to promptly provide a reasonable
14 explanation in writing to the insured of the basis in the
15 insurance policy, in relation to the facts or applicable law,
16 for denial of a claim or for the offer of a compromise
17 settlement;

18 g. Failing to promptly notify the insured of any
19 additional information necessary for the processing of a
20 claim; or

21 h. Failing to clearly explain the nature of the
22 requested information and the reasons why such information is
23 necessary.

24 Section 8. Subsections (4) and (5) of section
25 627.70131, Florida Statutes, as amended by section 27 of
26 chapter 2007-1, Laws of Florida, are amended to read:

27 627.70131 Insurer's duty to acknowledge communications
28 regarding claims; investigation.--

29 (4) For purposes of this section, the term "claim"
30 means any of the following:

31

1 (a) A claim under an insurance policy providing
2 residential coverage as defined in s. 627.4025(1);

3 (b) A claim for structural or contents coverage under
4 a commercial property insurance policy if the insured
5 structure is 10,000 square feet or less; or

6 (c) A claim for contents coverage under a commercial
7 tenants policy if the insured premises is 10,000 square feet
8 or less. "insurer" means any residential property insurer.

9 (5) Within 90 days after an insurer receives notice of
10 a property insurance claim from a policyholder under a policy
11 providing residential coverage as defined in s. 627.4025, the
12 insurer shall pay or deny such claim or a portion of the claim
13 unless the failure to pay such claim or a portion of the claim
14 is caused by factors beyond the control of the insurer which
15 reasonably prevent such payment. Any payment of a claim or
16 portion of a claim paid 90 days after the insurer receives
17 notice of the claim, or paid more than 15 days after there are
18 no longer factors beyond the control of the insurer which
19 reasonably prevented such payment, whichever is later, shall
20 bear interest at the rate set forth in s. 55.03. Interest
21 begins to accrue from the date the insurer receives notice of
22 the claim. The provisions of this subsection may not be
23 waived, voided, or nullified by the terms of the insurance
24 policy. If there is a right to prejudgment interest, the
25 insured shall select whether to receive prejudgment interest
26 or interest under this subsection. Interest is payable when
27 the claim or portion of the claim is paid. Failure to comply
28 with this subsection constitutes a violation of this code.

29 Section 9. Effective January 1, 2008, and
30 notwithstanding any other provision of law:

31

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

6 (2) The rate filings of any insurer domiciled in this
7 state that is a wholly owned subsidiary of an insurer
8 authorized to do business in any other state shall include
9 information relating to the profits of the parent company of
10 the insurer domiciled in this state.

11 Section 10. Subsection (2) of section 626.9201,
12 Florida Statutes, is amended to read:

13 626.9201 Notice of cancellation or nonrenewal.--

14 (2) An insurer issuing a policy providing coverage for
15 property, casualty, surety, or marine insurance shall give the
16 named insured written notice of cancellation or termination
17 other than nonrenewal at least 45 days prior to the effective
18 date of the cancellation or termination, including in the
19 written notice the reason or reasons for the cancellation or
20 termination, except that:

21 (a) When cancellation is for nonpayment of premium, at
22 least 10 days' written notice of cancellation accompanied by
23 the reason therefor shall be given. As used in this paragraph,
24 the term "nonpayment of premium" means the failure of the
25 named insured to discharge when due any of his or her
26 obligations in connection with the payment of premiums on a
27 policy or an installment of such a premium, whether the
28 premium or installment is payable directly to the insurer or
29 its agent or indirectly under any plan for financing premiums
30 or extension of credit or the failure of the named insured to
31 maintain membership in an organization if such membership is a

1 condition precedent to insurance coverage. The term also
2 includes the failure of a financial institution to honor the
3 check of an applicant for insurance which was delivered to a
4 licensed agent for payment of a premium, even if the agent
5 previously delivered or transferred the premium to the
6 insurer. If a dishonored check represents payment of the
7 initial premium, the contract, and all contractual obligations
8 are void ab initio unless the nonpayment is cured within the
9 earlier of 5 days after actual notice by certified mail is
10 received by the applicant or 15 days after notice is sent to
11 the applicant by certified mail or registered mail, and, if
12 the contract is void, any premium received by the insurer from
13 a third party shall be refunded to that party in full; and

14 (b) When such cancellation or termination occurs
15 during the first 90 days during which the insurance is in
16 force and the insurance is canceled or terminated for reasons
17 other than nonpayment, at least 20 days' written notice of
18 cancellation or termination accompanied by the reason therefor
19 shall be given except where there has been a material
20 misstatement or misrepresentation or failure to comply with
21 the underwriting requirements established by the insurer.

22 Section 11. Notwithstanding section 9 of chapter
23 2007-1, Laws of Florida, the internal design option provided
24 in Section 1609.1.4.1, Florida Building Code, Building Volume,
25 and Section R301.2.1.2, Florida Building Code, Residential
26 Volume, shall remain in effect until June 1, 2007, for a
27 building permit application made before that date.

28 Section 12. Section 11 of this act shall take effect
29 upon becoming a law and applies retroactively to January 25,
30 2007, the effective date of chapter 2007-1, Laws of Florida.
31 Section 11 of this act applies to any action taken with

1 respect to a building permit affected by section 9 of chapter
2 2007-1, Laws of Florida, including any actions, legal or
3 ministerial, pertaining to the issuance, revocation, or
4 modifications of any building permit initiated or issued
5 before, on, or after January 25, 2007, or pending as of
6 January 25, 2007. If the retroactivity of any provision of
7 Section 11 of this act or its retroactive application to any
8 person or circumstance is held invalid, the invalidity does
9 not affect the retroactivity or retroactive application of
10 other provisions of Section 11 of this act.

11 Section 13. Except as otherwise expressly provided in
12 this act, this act shall take effect upon becoming a law.

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