

1 A bill to be entitled
2 An act relating to property insurance; amending s.
3 624.407, F.S.; revising capital funds requirements for
4 domestic insurers; amending s. 627.062, F.S.; revising
5 separate filing requirements and criteria; providing for
6 application solely to residential property insurance;
7 specifying certain publication responsibilities of the
8 Office of Insurance Regulation; amending s. 627.0621,
9 F.S.; deleting definitions; revising requirements for
10 provision by the office of certain information on the
11 Internet; amending s. 627.0629, F.S.; extending a date
12 requirement for the office to develop and make publicly
13 available hurricane mitigation measure methodologies for
14 insurers; extending a date requirement for the Financial
15 Services Commission to adopt certain rules; amending s.
16 627.351, F.S.; deleting a legislative intent provision;
17 deleting certain reporting requirements of the board of
18 directors of Citizens Property Insurance Corporation;
19 creating s. 627.41335, F.S.; providing legislative intent;
20 providing definitions; providing criteria, requirements,
21 and procedures for changes in insurance policy terms;
22 providing notice form requirements; providing for
23 acceptance of changes in policy terms; providing an
24 exception; amending s. 627.7011, F.S.; revising certain
25 replacement cost requirements for losses for insured
26 dwellings and personal property; repealing s. 627.7065,
27 F.S., relating to a database of information relating to
28 sinkholes; providing an effective date.

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

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

624.407 Capital funds required; new insurers.—

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

(a) Five million dollars for a property and casualty insurer, or \$2.5 million for any other insurer;

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

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

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

however, a domestic insurer initially licensed after June 1, 2020, that transacts residential property insurance shall possess surplus as to policyholders of at least \$15 million. A new domestic insurer initially licensed after June 1, 2010, that is a subsidiary or affiliate of an existing domestic property insurer shall possess surplus as to policyholders of \$5 million.

57 A domestic insurer that transacts residential property insurance
 58 and is a wholly owned subsidiary of an insurer domiciled in any
 59 other state shall possess surplus as to policyholders of at
 60 least \$50 million, but no insurer shall be required under this
 61 subsection to have surplus as to policyholders greater than \$100
 62 million.

63 Section 2. Paragraph (k) of subsection (2) of section
 64 627.062, Florida Statutes, is amended to read:

65 627.062 Rate standards.—

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

67 (k)1.a. An insurer may make a separate filing for
 68 residential property insurance limited solely to an adjustment
 69 of its rates for an inflation trend factor, reinsurance, or
 70 financing products to replace reinsurance. For purposes of this
 71 paragraph, reinsurance includes private reinsurance and
 72 coverages available under costs incurred in the purchase of
 73 reinsurance or financing products to replace or finance the
 74 payment of the amount covered by the Temporary Increase in
 75 Coverage Limits (TICL) portion of the Florida Hurricane
 76 Catastrophe Fund, including replacement reinsurance for the TICL
 77 reductions made pursuant to s. 215.555(17) (e); the actual cost
 78 paid due to the application of the TICL premium factor pursuant
 79 to s. 215.555(17) (f); and the actual cost paid due to the
 80 application of the cash build-up factor pursuant to s.
 81 215.555(5) (b). All costs contained in the filing may not result
 82 in an overall premium increase of more than 10 percent for any
 83 individual policyholder. Any filing made in accordance with this
 84 paragraph is subject to the following criteria ~~if the insurer:~~

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85 ~~a. Elects to purchase financing products such as a~~
86 ~~liquidity instrument or line of credit, in which case the cost~~
87 ~~included in the filing for the liquidity instrument or line of~~
88 ~~credit may not result in a premium increase exceeding 3 percent~~
89 ~~for any individual policyholder. All costs contained in the~~
90 ~~filing may not result in an overall premium increase of more~~
91 ~~than 10 percent for any individual policyholder.~~

92 ~~(I)b.~~ An insurer must include ~~includes~~ in the filing a
93 copy of all of its reinsurance, liquidity instrument, or line of
94 credit contracts; proof of the billing or payment for the
95 contracts; and the calculation upon which the proposed rate
96 change is based, demonstrating ~~demonstrates~~ that the costs meet
97 the criteria of this section and are not loaded for expenses or
98 profit for the insurer making the filing.

99 ~~(II)e.~~ A filing must include ~~includes~~ no other changes to
100 the insurer's ~~its~~ rates in the filing.

101 ~~(III)d.~~ An insurer ~~has not implemented a rate increase~~
102 ~~within the 6 months immediately preceding the filing.~~

103 ~~e.~~ ~~Does not file for a rate increase under any other~~
104 ~~paragraph within 6 months after making a filing under this~~
105 ~~paragraph.~~

106 ~~f.~~ ~~that purchases reinsurance or financing products from~~
107 ~~an~~ affiliate may make a filing under this paragraph ~~affiliated~~
108 ~~company in compliance with this paragraph does so~~ only if the
109 costs for such reinsurance or financing products are charged at
110 or below charges made for comparable coverage by nonaffiliated
111 reinsurers or financial entities making such coverage or
112 financing products available in this state.

113 b. Beginning June 1, 2010, the office shall publish an
 114 annual informational memorandum to establish an inflation trend
 115 factor for residential property insurance representing an
 116 estimate of cost increases based on industry-wide data available
 117 from the Insurance Services Office or other public source. The
 118 inflation trend factor is exempt from the rulemaking
 119 requirements of chapter 120, and an insurer is not required to
 120 adopt the inflation trend factor. This sub-subparagraph applies
 121 only to residential property insurance, and the inflation trend
 122 factor may be used in making the filing set forth in this
 123 subparagraph.

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

126 3. An insurer that elects to implement a rate change under
 127 this paragraph must file its rate filing with the office at
 128 least 45 days before the effective date of the rate change.
 129 After an insurer submits a complete filing that meets all of the
 130 requirements of this paragraph, the office has 45 days after the
 131 date of the filing to review the rate filing and determine if
 132 the rate is excessive, inadequate, or unfairly discriminatory.

133
 134 The provisions of this subsection shall not apply to workers'
 135 compensation and employer's liability insurance and to motor
 136 vehicle insurance.

137 Section 3. Section 627.0621, Florida Statutes, is amended
 138 to read:

139 627.0621 Transparency in rate regulation.—

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

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

143 ~~(b) "Recommendation" means any proposed, preliminary, or~~
 144 ~~final recommendation from an office actuary reviewing a rate~~
 145 ~~filing with respect to the issue of approval or disapproval of~~
 146 ~~the rate filing or with respect to rate indications that the~~
 147 ~~office would consider acceptable.~~

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

149 (1) ~~(a)~~ With respect to any residential property rate
 150 filing, the office shall provide the following information on a
 151 publicly accessible Internet website:

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

153 (b) ~~2.~~ The rate change approved by the office along with
 154 all of the actuary's assumptions and recommendations forming the
 155 basis of the office's decision.

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

159 (2) ~~(b)~~ For any rate filing, whether or not the filing is
 160 subject to a public hearing, the office shall provide on its
 161 website a means for any policyholder who may be affected by a
 162 proposed rate change to send an e-mail regarding the proposed
 163 rate change. Such e-mail must be accessible to the actuary
 164 assigned to review the rate filing.

165 Section 4. Paragraph (b) of subsection (1) of section
 166 627.0629, Florida Statutes, is amended to read:

167 627.0629 Residential property insurance; rate filings.—

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169 (b) By February 1, 2013 ~~2011~~, the Office of Insurance
170 Regulation, in consultation with the Department of Financial
171 Services and the Department of Community Affairs, shall develop
172 and make publicly available a proposed method for insurers to
173 establish discounts, credits, or other rate differentials for
174 hurricane mitigation measures which directly correlate to the
175 numerical rating assigned to a structure pursuant to the uniform
176 home grading scale adopted by the Financial Services Commission
177 pursuant to s. 215.55865, including any proposed changes to the
178 uniform home grading scale. By October 1, 2013 ~~2011~~, the
179 commission shall adopt rules requiring insurers to make rate
180 filings for residential property insurance which revise
181 insurers' discounts, credits, or other rate differentials for
182 hurricane mitigation measures so that such rate differentials
183 correlate directly to the uniform home grading scale. The rules
184 may include such changes to the uniform home grading scale as
185 the commission determines are necessary, and may specify the
186 minimum required discounts, credits, or other rate
187 differentials. Such rate differentials must be consistent with
188 generally accepted actuarial principles and wind-loss mitigation
189 studies. The rules shall allow a period of at least 2 years
190 after the effective date of the revised mitigation discounts,
191 credits, or other rate differentials for a property owner to
192 obtain an inspection or otherwise qualify for the revised
193 credit, during which time the insurer shall continue to apply
194 the mitigation credit that was applied immediately prior to the
195 effective date of the revised credit. Discounts, credits, and
196 other rate differentials established for rate filings under this

197 paragraph shall supersede, after adoption, the discounts,
 198 credits, and other rate differentials included in rate filings
 199 under paragraph (a).

200 Section 5. Paragraphs (y) through (ff) of subsection (6)
 201 of section 627.351, Florida Statutes, are amended to read:

202 627.351 Insurance risk apportionment plans.—

203 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

204 ~~(y) It is the intent of the Legislature that the~~
 205 ~~amendments to this subsection enacted in 2002 should, over time,~~
 206 ~~reduce the probable maximum windstorm losses in the residual~~
 207 ~~markets and should reduce the potential assessments to be levied~~
 208 ~~on property insurers and policyholders statewide. In furtherance~~
 209 ~~of this intent:~~

210 ~~1. The board shall, on or before February 1 of each year,~~
 211 ~~provide a report to the President of the Senate and the Speaker~~
 212 ~~of the House of Representatives showing the reduction or~~
 213 ~~increase in the 100-year probable maximum loss attributable to~~
 214 ~~wind-only coverages and the quota share program under this~~
 215 ~~subsection combined, as compared to the benchmark 100-year~~
 216 ~~probable maximum loss of the Florida Windstorm Underwriting~~
 217 ~~Association. For purposes of this paragraph, the benchmark 100-~~
 218 ~~year probable maximum loss of the Florida Windstorm Underwriting~~
 219 ~~Association shall be the calculation dated February 2001 and~~
 220 ~~based on November 30, 2000, exposures. In order to ensure~~
 221 ~~comparability of data, the board shall use the same methods for~~
 222 ~~calculating its probable maximum loss as were used to calculate~~
 223 ~~the benchmark probable maximum loss.~~

224 ~~2. Beginning December 1, 2010, if the report under~~

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225 ~~subparagraph 1. for any year indicates that the 100-year~~
226 ~~probable maximum loss attributable to wind-only coverages and~~
227 ~~the quota share program combined does not reflect a reduction of~~
228 ~~at least 25 percent from the benchmark, the board shall reduce~~
229 ~~the boundaries of the high-risk area eligible for wind-only~~
230 ~~coverages under this subsection in a manner calculated to reduce~~
231 ~~such probable maximum loss to an amount at least 25 percent~~
232 ~~below the benchmark.~~

233 ~~3. Beginning February 1, 2015, if the report under~~
234 ~~subparagraph 1. for any year indicates that the 100-year~~
235 ~~probable maximum loss attributable to wind-only coverages and~~
236 ~~the quota share program combined does not reflect a reduction of~~
237 ~~at least 50 percent from the benchmark, the boundaries of the~~
238 ~~high-risk area eligible for wind-only coverages under this~~
239 ~~subsection shall be reduced by the elimination of any area that~~
240 ~~is not seaward of a line 1,000 feet inland from the Intracoastal~~
241 ~~Waterway.~~

242 (y)~~(z)~~ In enacting the provisions of this section, the
243 Legislature recognizes that both the Florida Windstorm
244 Underwriting Association and the Residential Property and
245 Casualty Joint Underwriting Association have entered into
246 financing arrangements that obligate each entity to service its
247 debts and maintain the capacity to repay funds secured under
248 these financing arrangements. It is the intent of the
249 Legislature that nothing in this section be construed to
250 compromise, diminish, or interfere with the rights of creditors
251 under such financing arrangements. It is further the intent of
252 the Legislature to preserve the obligations of the Florida

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253 | Windstorm Underwriting Association and Residential Property and
254 | Casualty Joint Underwriting Association with regard to
255 | outstanding financing arrangements, with such obligations
256 | passing entirely and unchanged to the corporation and,
257 | specifically, to the applicable account of the corporation. So
258 | long as any bonds, notes, indebtedness, or other financing
259 | obligations of the Florida Windstorm Underwriting Association or
260 | the Residential Property and Casualty Joint Underwriting
261 | Association are outstanding, under the terms of the financing
262 | documents pertaining to them, the governing board of the
263 | corporation shall have and shall exercise the authority to levy,
264 | charge, collect, and receive all premiums, assessments,
265 | surcharges, charges, revenues, and receipts that the
266 | associations had authority to levy, charge, collect, or receive
267 | under the provisions of subsection (2) and this subsection,
268 | respectively, as they existed on January 1, 2002, to provide
269 | moneys, without exercise of the authority provided by this
270 | subsection, in at least the amounts, and by the times, as would
271 | be provided under those former provisions of subsection (2) or
272 | this subsection, respectively, so that the value, amount, and
273 | collectability of any assets, revenues, or revenue source
274 | pledged or committed to, or any lien thereon securing such
275 | outstanding bonds, notes, indebtedness, or other financing
276 | obligations will not be diminished, impaired, or adversely
277 | affected by the amendments made by this act and to permit
278 | compliance with all provisions of financing documents pertaining
279 | to such bonds, notes, indebtedness, or other financing
280 | obligations, or the security or credit enhancement for them, and

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281 any reference in this subsection to bonds, notes, indebtedness,
282 financing obligations, or similar obligations, of the
283 corporation shall include like instruments or contracts of the
284 Florida Windstorm Underwriting Association and the Residential
285 Property and Casualty Joint Underwriting Association to the
286 extent not inconsistent with the provisions of the financing
287 documents pertaining to them.

288 (z)~~(aa)~~ The corporation shall not require the securing of
289 flood insurance as a condition of coverage if the insured or
290 applicant executes a form approved by the office affirming that
291 flood insurance is not provided by the corporation and that if
292 flood insurance is not secured by the applicant or insured in
293 addition to coverage by the corporation, the risk will not be
294 covered for flood damage. A corporation policyholder electing
295 not to secure flood insurance and executing a form as provided
296 herein making a claim for water damage against the corporation
297 shall have the burden of proving the damage was not caused by
298 flooding. Notwithstanding other provisions of this subsection,
299 the corporation may deny coverage to an applicant or insured who
300 refuses to execute the form described herein.

301 (aa)~~(bb)~~ A salaried employee of the corporation who
302 performs policy administration services subsequent to the
303 effectuation of a corporation policy is not required to be
304 licensed as an agent under the provisions of s. 626.112.

305 (bb)~~(cc)~~ By February 1, 2007, the corporation shall submit
306 a report to the President of the Senate, the Speaker of the
307 House of Representatives, the minority party leaders of the
308 Senate and the House of Representatives, and the chairs of the

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309 standing committees of the Senate and the House of
310 Representatives having jurisdiction over matters relating to
311 property and casualty insurance. In preparing the report, the
312 corporation shall consult with the Office of Insurance
313 Regulation, the Department of Financial Services, and any other
314 party the corporation determines appropriate. The report must
315 include all findings and recommendations on the feasibility of
316 requiring authorized insurers that issue and service personal
317 and commercial residential policies and commercial
318 nonresidential policies that provide coverage for basic property
319 perils except for the peril of wind to issue and service for a
320 fee personal and commercial residential policies and commercial
321 nonresidential policies providing coverage for the peril of wind
322 issued by the corporation. The report must include:

323 1. The expense savings to the corporation of issuing and
324 servicing such policies as determined by a cost-benefit
325 analysis.

326 2. The expenses and liability to authorized insurers
327 associated with issuing and servicing such policies.

328 3. The effect on service to policyholders of the
329 corporation relating to issuing and servicing such policies.

330 4. The effect on the producing agent of the corporation of
331 issuing and servicing such policies.

332 5. Recommendations as to the amount of the fee which
333 should be paid to authorized insurers for issuing and servicing
334 such policies.

335 6. The effect that issuing and servicing such policies
336 will have on the corporation's number of policies, total insured

337 value, and probable maximum loss.

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

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

344 ~~(ee)~~-(ff) The office may establish a pilot program to offer
 345 optional sinkhole coverage in one or more counties or other
 346 territories of the corporation for the purpose of implementing
 347 s. 627.706, as amended by s. 30, chapter 2007-1, Laws of
 348 Florida. Under the pilot program, the corporation is not
 349 required to issue a notice of nonrenewal to exclude sinkhole
 350 coverage upon the renewal of existing policies, but may exclude
 351 such coverage using a notice of coverage change.

352 Section 6. Section 627.41335, Florida Statutes, is created
 353 to read:

354 627.41335 Notice of change in policy terms.-

355 (1) The intent of this section is to:

356 (a) Allow an insurer to make a change in policy terms
 357 without nonrenewing policyholders that the insurer wishes to
 358 continue insuring.

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

363 (c) Encourage policyholders to discuss their coverages
 364 with their insurance agent.

365 (2) As used in this section, the term:

366 (a) "Change in policy terms" means the modification,
 367 addition, or deletion of any term, coverage, duty, or condition
 368 from the prior policy. The correction of typographical or
 369 scrivener's errors is not a change in policy terms.

370 (b) "Policy" means a written contract of personal lines
 371 insurance or written agreement for or effecting insurance, or
 372 the certificate of such insurance, by whatever name called, and
 373 includes all clauses, riders, endorsements, and papers which are
 374 a part of such insurance. The term "policy" does not include a
 375 binder as described in s. 627.420 unless the duration of the
 376 binder period exceeds 60 days.

377 (c) "Renewal" means the issuance and delivery by an
 378 insurer of a policy superseding at the end of the policy period
 379 a policy previously issued and delivered by the same insurer or
 380 the issuance and delivery of a certificate or notice extending
 381 the term of a policy beyond its policy period or term. Any
 382 policy with a policy period or term of less than 6 months or any
 383 policy with no fixed expiration date shall for the purpose of
 384 this section be considered as if written for successive policy
 385 periods or terms of 6 months.

386 (3) A renewal policy may contain a change in policy terms.
 387 If a renewal policy contains a change in policy terms, the
 388 insurer shall give the named insured a written notice of change
 389 in policy terms that shall be enclosed with the written notice
 390 of renewal premium required by ss. 627.4133 and 627.728.

391 (4) All forms for a notice of change in policy terms must
 392 include:

393 (a) In bold type no smaller than 14 points a heading that
 394 is centered at the top of the notice that states "NOTICE OF
 395 CHANGE IN POLICY TERMS."

396 (b) In bold type no smaller than 12 points the following
 397 statement that must be placed below the date and above the
 398 salutation:

399
 400 YOUR RENEWAL POLICY CONTAINS CHANGES FROM YOUR CURRENT
 401 POLICY. YOU SHOULD REVIEW THE CHANGES TO ENSURE THAT YOU
 402 UNDERSTAND AND ACCEPT THEM. ENCLOSED IS A COPY OF THE
 403 CHANGED POLICY LANGUAGE ALONG WITH A SUMMARY OF THE
 404 CHANGES FOR YOU TO REVIEW. IF YOU DECIDE THAT YOU DO NOT
 405 WANT TO ACCEPT THE CHANGED POLICY LANGUAGE, PLEASE
 406 DISCUSS YOUR INSURANCE COVERAGE OPTIONS WITH YOUR
 407 INSURANCE AGENT. PAYMENT OF YOUR RENEWAL PREMIUM WILL BE
 408 CONSIDERED YOUR ACCEPTANCE OF THE NEW POLICY TERMS.

409
 410 (c) A summary of the current and revised language that
 411 must be contained in the notice.

412 (5) United States postal proof of mailing or certified or
 413 registered mailing of the notice of change in policy terms to
 414 the named insured at the address shown in the policy is
 415 sufficient proof of notice.

416 (6) Receipt of payment of the premium for the renewal
 417 policy by the insurer shall be deemed to be acceptance of the
 418 new policy terms by the named insured.

419 (7) If an insurer fails to provide the notice of change in
 420 policy terms required under this section, the original policy

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421 terms shall remain in effect until the next renewal and the
 422 proper service of the notice of change in policy terms or until
 423 the effective date of replacement coverage obtained by the named
 424 insured, whichever occurs first.

425 Section 7. Subsection (3) of section 627.7011, Florida
 426 Statutes, is amended to read:

427 627.7011 Homeowners' policies; offer of replacement cost
 428 coverage and law and ordinance coverage.—

429 (3) In the event of a loss for which a dwelling or
 430 personal property is insured on the basis of replacement costs,
 431 the insurer shall initially pay only the depreciated value for
 432 structure and contents repair or replacement, or shall pay 40
 433 percent of the replacement cost value, whichever is higher, and
 434 shall thereafter pay the remaining cost for repair or
 435 replacement of covered property up to the total replacement cost
 436 as the insured submits invoices for completed repairs or
 437 replacement of covered property ~~the replacement cost without~~
 438 ~~reservation or holdback of any depreciation in value, whether or~~
 439 ~~not the insured replaces or repairs the dwelling or property.~~

440 Section 8. Section 627.7065, Florida Statutes, is
 441 repealed.

442 Section 9. This act shall take effect July 1, 2010.