

1 A bill to be entitled
2 An act relating to property insurance; amending s.
3 215.555, F.S.; extending a repeal date for an exemption of
4 medical malpractice insurance premiums from emergency
5 assessments; amending s. 624.407, F.S.; specifying an
6 additional surplus requirement for certain domestic
7 insurers; amending s. 624.408, F.S.; specifying an
8 additional surplus requirement for certain domestic
9 insurers; deleting obsolete surplus requirement
10 provisions; amending s. 626.7452, F.S.; deleting an
11 exception to a provision allowing examination of a
12 managing general agent; amending s. 627.0613, F.S.;
13 revising annual reporting requirements for the consumer
14 advocate; providing a definition; amending s. 627.062,
15 F.S.; requiring that the Office of Insurance Regulation
16 issue an approval rather than a notice of intent to
17 approve following its approval of a file and use filing;
18 prohibiting the office from, directly or indirectly,
19 prohibiting an insurer from paying acquisition costs based
20 on the full amount of the premium; prohibiting the office
21 from, directly or indirectly, impeding or compromising the
22 right of an insurer to acquire policyholders, advertise or
23 appoint agents, or regulate agent commissions; requiring
24 the office to publish an annual information memorandum
25 establishing certain inflation trend factors for certain
26 purposes; specifying factor criteria; authorizing an
27 insurer to make a rate filing limited to changes in the
28 cost of reinsurance, the costs of financing products used

29 | as a replacement for reinsurance, or changes in an
30 | inflation trend factor published annually by the office;
31 | authorizing certain insurers to use a rate different from
32 | otherwise applicable filed rates; requiring such rates to
33 | be filed with the office as a separate filing; providing
34 | requirements and limitations for such separate filings;
35 | prohibiting the consideration of certain policies when
36 | making a specified calculation; preserving the authority
37 | of the office to disapprove rates as inadequate or
38 | disapprove a rate filing for using certain rating factors;
39 | authorizing the office to direct an insurer to make a
40 | specified type of rate filing under certain circumstances;
41 | providing construction relating to certifications;
42 | prohibiting the requirement of a new certification upon an
43 | insurer providing certain additional information;
44 | specifying nonapplication to certain filings; amending s.
45 | 627.0621, F.S.; revising provisions relating to
46 | transparency in rate regulation; amending s. 627.0629,
47 | F.S.; revising legislative intent relating to residential
48 | property insurance rate filings; deleting a requirement
49 | that the office develop and make available a method for
50 | insurers to establish discounts, credits, or rate
51 | differentials for certain hurricane mitigation measures;
52 | revising restrictions relating to including the cost of
53 | reinsurance for certain purposes; requiring the office to
54 | contract with a private entity to develop a comprehensive
55 | consumer information program; specifying program criteria;
56 | requiring the office to conduct a cost benefit analysis on

57 | a program implementation plan; requiring review and
58 | approval by the Financial Services Commission; amending s.
59 | 627.351, F.S.; providing requirements for attachment and
60 | payment of the Citizens policyholder surcharge;
61 | prohibiting the corporation from levying certain regular
62 | assessments until after levying the full amount of a
63 | Citizens policyholder surcharge; providing that certain
64 | members of Citizens Property Insurance Corporation's board
65 | of governors are within the scope of an exemption from
66 | certain conflict of interest provisions for public
67 | officers; requiring the corporation's plan of operation to
68 | require agents to obtain an acknowledgement of potential
69 | surcharge and assessment liability from applicants and
70 | policyholders; requiring the corporation to permanently
71 | retain a copy of such acknowledgments; specifying that the
72 | acknowledgement creates a conclusive presumption of
73 | understanding and acceptance by the policyholder;
74 | prohibiting votes on certain measures by board members;
75 | specifying vote criteria; providing disclosure
76 | requirements; deleting an obsolete legislative intent
77 | provision; requiring the Division of Statutory Revision to
78 | prepare a reviser's bill for the next regular session of
79 | the Legislature to revise certain terminology; amending s.
80 | 627.4133, F.S.; authorizing an insurer to cancel or
81 | nonrenew property insurance policies under certain
82 | circumstances; specifying duties of the office; requiring
83 | certain notice; creating s. 627.41341, F.S.; specifying
84 | requirements for a notice of change in policy terms;

85 providing definitions; authorizing policy renewals to
86 contain a change in policy terms; specifying notice
87 requirements; providing procedural requirements; providing
88 intent; amending s. 627.7011, F.S.; revising requirements
89 and procedures under homeowners' insurance policies for
90 replacement cost coverage of a dwelling and personal
91 property; providing criteria for initial and subsequent
92 replacement cost payments by an insurer; deleting obsolete
93 time references; amending s. 627.70131, F.S.; specifying
94 application of certain time periods to initial or
95 supplemental property insurance claim notices and
96 payments; creating s. 627.7031, F.S.; authorizing certain
97 insurers to offer or renew policies at rates established
98 under certain circumstances; prohibiting certain insurers
99 from purchasing TICL option coverage from the Florida
100 Hurricane Catastrophe Fund under certain circumstances;
101 requiring that certain policies contain a specified rate
102 notice; requiring insurers to offer applicants or insureds
103 an estimate of the premium for a policy from Citizens
104 Property Insurance Corporation reflecting similar
105 coverage, limits, and deductibles; requiring applicants or
106 insureds to provide a signed premium comparison
107 acknowledgement; specifying criteria for insurer
108 compliance with certain requirements; specifying
109 acknowledgement contents; requiring insurers and agents to
110 retain a copy of the acknowledgement for a specified time;
111 specifying a presumption created by a signed
112 acknowledgement; specifying types of residential property

113 insurance policies that are not eligible for certain rates
114 or subject to other requirements; requiring written notice
115 of certain nonrenewals; preserving insurer authority to
116 cancel policies; specifying a criterion for what
117 constitutes an offer to renew a policy; amending s.
118 627.707, F.S.; revising standards for investigation of
119 sinkhole claims by insurers; specifying requirements for
120 contracts for repairs to prevent additional damage to
121 buildings or structures; providing application; amending
122 s. 627.7072, F.S.; specifying requirements for tests
123 performed by professional engineers and professional
124 geologists for certain purposes; providing application;
125 amending s. 627.7073, F.S.; revising requirements for
126 sinkhole reports; providing application; amending s.
127 627.7074, F.S.; revising requirements and procedures for
128 an alternative procedure for resolution of disputed
129 sinkhole insurance claims; providing a definition;
130 providing criteria and procedures for disqualification of
131 neutral evaluators; providing requirements and procedures
132 for neutral evaluators to enlist assistance from other
133 professionals under certain circumstances; providing
134 application; amending s. 627.711, F.S.; deleting a
135 provision for a uniform mitigation verification form to be
136 certified by the Department of Financial Services;
137 revising persons authorized to sign a uniform mitigation
138 verification form; authorizing an insurer to accept a
139 mitigation verification form from certain other persons;
140 providing personal inspection requirements; prohibiting

141 misconduct in performing hurricane mitigation inspections
 142 or completing mitigation verification forms; specifying
 143 criteria for misconduct; authorizing certain licensing
 144 boards to commence disciplinary proceedings and impose
 145 administrative fines and sanctions for certain violations;
 146 requiring insurers, persons, or other entities obtaining
 147 evidence of fraud or making false statements to report to
 148 the Division of Insurance Fraud; specifying immunity from
 149 liability for making such a report; providing duties and
 150 responsibilities of the division; specifying a required
 151 notice for insurance policies issued or renewed in this
 152 state; providing notice requirements; repealing s.
 153 627.7065, F.S., relating to database of information
 154 relating to sinkholes, the Department of Financial
 155 Services, and the Department of Environmental Protection;
 156 providing effective dates.

157

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

159

160 Section 1. Paragraph (b) of subsection (6) of section
 161 215.555, Florida Statutes, is amended to read:

162 215.555 Florida Hurricane Catastrophe Fund.—

163 (6) REVENUE BONDS.—

164 (b) Emergency assessments.—

165 1. If the board determines that the amount of revenue
 166 produced under subsection (5) is insufficient to fund the
 167 obligations, costs, and expenses of the fund and the
 168 corporation, including repayment of revenue bonds and that

169 | portion of the debt service coverage not met by reimbursement
 170 | premiums, the board shall direct the Office of Insurance
 171 | Regulation to levy, by order, an emergency assessment on direct
 172 | premiums for all property and casualty lines of business in this
 173 | state, including property and casualty business of surplus lines
 174 | insurers regulated under part VIII of chapter 626, but not
 175 | including any workers' compensation premiums or medical
 176 | malpractice premiums. As used in this subsection, the term
 177 | "property and casualty business" includes all lines of business
 178 | identified on Form 2, Exhibit of Premiums and Losses, in the
 179 | annual statement required of authorized insurers by s. 624.424
 180 | and any rule adopted under this section, except for those lines
 181 | identified as accident and health insurance and except for
 182 | policies written under the National Flood Insurance Program. The
 183 | assessment shall be specified as a percentage of direct written
 184 | premium and is subject to annual adjustments by the board in
 185 | order to meet debt obligations. The same percentage shall apply
 186 | to all policies in lines of business subject to the assessment
 187 | issued or renewed during the 12-month period beginning on the
 188 | effective date of the assessment.

189 | 2. A premium is not subject to an annual assessment under
 190 | this paragraph in excess of 6 percent of premium with respect to
 191 | obligations arising out of losses attributable to any one
 192 | contract year, and a premium is not subject to an aggregate
 193 | annual assessment under this paragraph in excess of 10 percent
 194 | of premium. An annual assessment under this paragraph shall
 195 | continue as long as the revenue bonds issued with respect to
 196 | which the assessment was imposed are outstanding, including any

197 | bonds the proceeds of which were used to refund the revenue
198 | bonds, unless adequate provision has been made for the payment
199 | of the bonds under the documents authorizing issuance of the
200 | bonds.

201 | 3. Emergency assessments shall be collected from
202 | policyholders. Emergency assessments shall be remitted by
203 | insurers as a percentage of direct written premium for the
204 | preceding calendar quarter as specified in the order from the
205 | Office of Insurance Regulation. The office shall verify the
206 | accurate and timely collection and remittance of emergency
207 | assessments and shall report the information to the board in a
208 | form and at a time specified by the board. Each insurer
209 | collecting assessments shall provide the information with
210 | respect to premiums and collections as may be required by the
211 | office to enable the office to monitor and verify compliance
212 | with this paragraph.

213 | 4. With respect to assessments of surplus lines premiums,
214 | each surplus lines agent shall collect the assessment at the
215 | same time as the agent collects the surplus lines tax required
216 | by s. 626.932, and the surplus lines agent shall remit the
217 | assessment to the Florida Surplus Lines Service Office created
218 | by s. 626.921 at the same time as the agent remits the surplus
219 | lines tax to the Florida Surplus Lines Service Office. The
220 | emergency assessment on each insured procuring coverage and
221 | filing under s. 626.938 shall be remitted by the insured to the
222 | Florida Surplus Lines Service Office at the time the insured
223 | pays the surplus lines tax to the Florida Surplus Lines Service
224 | Office. The Florida Surplus Lines Service Office shall remit the

225 collected assessments to the fund or corporation as provided in
226 the order levied by the Office of Insurance Regulation. The
227 Florida Surplus Lines Service Office shall verify the proper
228 application of such emergency assessments and shall assist the
229 board in ensuring the accurate and timely collection and
230 remittance of assessments as required by the board. The Florida
231 Surplus Lines Service Office shall annually calculate the
232 aggregate written premium on property and casualty business,
233 other than workers' compensation and medical malpractice,
234 procured through surplus lines agents and insureds procuring
235 coverage and filing under s. 626.938 and shall report the
236 information to the board in a form and at a time specified by
237 the board.

238 5. Any assessment authority not used for a particular
239 contract year may be used for a subsequent contract year. If,
240 for a subsequent contract year, the board determines that the
241 amount of revenue produced under subsection (5) is insufficient
242 to fund the obligations, costs, and expenses of the fund and the
243 corporation, including repayment of revenue bonds and that
244 portion of the debt service coverage not met by reimbursement
245 premiums, the board shall direct the Office of Insurance
246 Regulation to levy an emergency assessment up to an amount not
247 exceeding the amount of unused assessment authority from a
248 previous contract year or years, plus an additional 4 percent
249 provided that the assessments in the aggregate do not exceed the
250 limits specified in subparagraph 2.

251 6. The assessments otherwise payable to the corporation
252 under this paragraph shall be paid to the fund unless and until

253 the Office of Insurance Regulation and the Florida Surplus Lines
254 Service Office have received from the corporation and the fund a
255 notice, which shall be conclusive and upon which they may rely
256 without further inquiry, that the corporation has issued bonds
257 and the fund has no agreements in effect with local governments
258 under paragraph (c). On or after the date of the notice and
259 until the date the corporation has no bonds outstanding, the
260 fund shall have no right, title, or interest in or to the
261 assessments, except as provided in the fund's agreement with the
262 corporation.

263 7. Emergency assessments are not premium and are not
264 subject to the premium tax, to the surplus lines tax, to any
265 fees, or to any commissions. An insurer is liable for all
266 assessments that it collects and must treat the failure of an
267 insured to pay an assessment as a failure to pay the premium. An
268 insurer is not liable for uncollectible assessments.

269 8. When an insurer is required to return an unearned
270 premium, it shall also return any collected assessment
271 attributable to the unearned premium. A credit adjustment to the
272 collected assessment may be made by the insurer with regard to
273 future remittances that are payable to the fund or corporation,
274 but the insurer is not entitled to a refund.

275 9. When a surplus lines insured or an insured who has
276 procured coverage and filed under s. 626.938 is entitled to the
277 return of an unearned premium, the Florida Surplus Lines Service
278 Office shall provide a credit or refund to the agent or such
279 insured for the collected assessment attributable to the
280 unearned premium prior to remitting the emergency assessment

281 collected to the fund or corporation.

282 10. The exemption of medical malpractice insurance
 283 premiums from emergency assessments under this paragraph is
 284 repealed May 31, 2013 ~~2010~~, and medical malpractice insurance
 285 premiums shall be subject to emergency assessments attributable
 286 to loss events occurring in the contract years commencing on
 287 June 1, 2013 ~~2010~~.

288 Section 2. Subsection (1) of section 624.407, Florida
 289 Statutes, is amended to read:

290 624.407 Capital funds required; new insurers.—

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

297 (a) Except as otherwise provided in this subsection, \$5
 298 ~~five million dollars~~ for a property and casualty insurer, or
 299 \$2.5 million for any other insurer;

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

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

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

307 or

308 (e) For a domestic insurer initially licensed on or after

309 July 1, 2010, that transacts residential property insurance and
 310 is not a wholly owned subsidiary of an insurer domiciled in any
 311 other state, \$15 million; however, this paragraph does not apply
 312 to a domestic insurer that is a subsidiary or affiliate of a
 313 domestic property insurer that was licensed before July 1, 2010;

314
 315 however, a domestic insurer that transacts residential property
 316 insurance and is a wholly owned subsidiary of an insurer
 317 domiciled in any other state shall possess surplus as to
 318 policyholders of at least \$50 million, but no insurer shall be
 319 required under this subsection to have surplus as to
 320 policyholders greater than \$100 million.

321 Section 3. Subsection (1) of section 624.408, Florida
 322 Statutes, is amended to read:

323 624.408 Surplus as to policyholders required; new and
 324 existing insurers.-

325 (1)~~(a)~~ To maintain a certificate of authority to transact
 326 any one kind or combinations of kinds of insurance, as defined
 327 in part V of this chapter, an insurer in this state shall at all
 328 times maintain surplus as to policyholders not less than the
 329 greater of:

330 (a)1. Except as provided in paragraphs (e) and (f)
 331 ~~subparagraph 5. and paragraph (b)~~, \$1.5 million;

332 (b)2. For life insurers, 4 percent of the insurer's total
 333 liabilities;

334 (c)3. For life and health insurers, 4 percent of the
 335 insurer's total liabilities plus 6 percent of the insurer's
 336 liabilities relative to health insurance; ~~or~~

337 (d)4. For all insurers other than mortgage guaranty
 338 insurers, life insurers, and life and health insurers, 10
 339 percent of the insurer's total liabilities;~~;~~

340 (e)5. Except as provided in paragraph (f), for property
 341 and casualty insurers, \$4 million; ~~or.~~

342 (f) For a domestic insurer initially licensed on or after
 343 July 1, 2010, that transacts residential property insurance and
 344 is not a wholly owned subsidiary of an insurer domiciled in any
 345 other state, \$12 million; however, this paragraph does not apply
 346 to a domestic insurer that is a subsidiary or affiliate of a
 347 domestic property insurer that was licensed before July 1, 2010.

348 ~~(b) For any property and casualty insurer holding a~~
 349 ~~certificate of authority on December 1, 1993, the following~~
 350 ~~amounts apply instead of the \$4 million required by subparagraph~~
 351 ~~(a)5.:~~

352 ~~1. On December 31, 2001, and until December 30, 2002, \$3~~
 353 ~~million.~~

354 ~~2. On December 31, 2002, and until December 30, 2003,~~
 355 ~~\$3.25 million.~~

356 ~~3. On December 31, 2003, and until December 30, 2004, \$3.6~~
 357 ~~million.~~

358 ~~4. On December 31, 2004, and thereafter, \$4 million.~~

359 Section 4. Section 626.7452, Florida Statutes, is amended
 360 to read:

361 626.7452 Managing general agents; examination authority.-
 362 The acts of the managing general agent are considered to be the
 363 acts of the insurer on whose behalf it is acting. A managing
 364 general agent may be examined as if it were the insurer ~~except~~

365 ~~in the case where the managing general agent solely represents a~~
366 ~~single domestic insurer.~~

367 Section 5. Subsection (4) of section 627.0613, Florida
368 Statutes, is amended to read:

369 627.0613 Consumer advocate.—The Chief Financial Officer
370 must appoint a consumer advocate who must represent the general
371 public of the state before the department and the office. The
372 consumer advocate must report directly to the Chief Financial
373 Officer, but is not otherwise under the authority of the
374 department or of any employee of the department. The consumer
375 advocate has such powers as are necessary to carry out the
376 duties of the office of consumer advocate, including, but not
377 limited to, the powers to:

378 (4) (a) By June 1, 2012, and each June 1 thereafter,
379 prepare an annual report card for each authorized personal
380 residential property insurer, on a form and using a letter-grade
381 scale developed by the commission by rule, which objectively
382 grades each insurer based on the following factors:

383 1.(a) The number and nature of valid consumer complaints,
384 as a market share ratio, received by the department against the
385 insurer.

386 2.(b) The disposition of all valid consumer complaints
387 received by the department.

388 3.(c) The average length of time for payment of claims by
389 the insurer.

390 4.(d) Any other measurable and objective factors the
391 commission identifies as capable of assisting policyholders in
392 making informed choices about homeowner's insurance.

393 (b) For purposes of this subsection, the term "valid
 394 consumer complaint" means a written communication, or an oral
 395 communication that is subsequently converted to a written form,
 396 from a consumer that expresses dissatisfaction involving a
 397 personal residential insurance policy with a specific personal
 398 residential property insurer. However, a valid complaint will
 399 not arise when in the disposition thereof by the department the
 400 insurer or agent position is upheld, the policy provision is
 401 upheld, the coverage is explained, additional information is
 402 provided, the complaint is withdrawn, the complaint is referred
 403 outside the department, or when an inquiry has missing or
 404 insufficient information, is not within the jurisdiction of the
 405 department, or requests mediation of a claim that is not
 406 eligible for mediation.

407 Section 6. Paragraphs (a), (i), and (k) of subsection (2)
 408 of section 627.062, Florida Statutes, are amended, paragraph (l)
 409 is added to subsection (2), and paragraph (d) of subsection (9)
 410 of that section is redesignated as paragraph (g) and new
 411 paragraphs (d), (e), and (f) are added to that subsection, to
 412 read:

413 627.062 Rate standards.—

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

415 (a) Insurers or rating organizations shall establish and
 416 use rates, rating schedules, or rating manuals to allow the
 417 insurer a reasonable rate of return on such classes of insurance
 418 written in this state. A copy of rates, rating schedules, rating
 419 manuals, premium credits or discount schedules, and surcharge
 420 schedules, and changes thereto, shall be filed with the office

421 under one of the following procedures except as provided in
422 subparagraph 3.:

423 1. If the filing is made at least 90 days before the
424 proposed effective date and the filing is not implemented during
425 the office's review of the filing and any proceeding and
426 judicial review, then such filing shall be considered a "file
427 and use" filing. In such case, the office shall finalize its
428 review by issuance of an approval ~~a notice of intent to approve~~
429 or a notice of intent to disapprove within 90 days after receipt
430 of the filing. The approval ~~notice of intent to approve~~ and the
431 notice of intent to disapprove constitute agency action for
432 purposes of the Administrative Procedure Act. Requests for
433 supporting information, requests for mathematical or mechanical
434 corrections, or notification to the insurer by the office of its
435 preliminary findings shall not toll the 90-day period during any
436 such proceedings and subsequent judicial review. The rate shall
437 be deemed approved if the office does not issue an approval ~~a~~
438 ~~notice of intent to approve~~ or a notice of intent to disapprove
439 within 90 days after receipt of the filing.

440 2. If the filing is not made in accordance with the
441 provisions of subparagraph 1., such filing shall be made as soon
442 as practicable, but no later than 30 days after the effective
443 date, and shall be considered a "use and file" filing. An
444 insurer making a "use and file" filing is potentially subject to
445 an order by the office to return to policyholders portions of
446 rates found to be excessive, as provided in paragraph (h).

447 3. For all property insurance filings made or submitted
448 after January 25, 2007, but before December 31, 2010, an insurer

449 seeking a rate that is greater than the rate most recently
450 approved by the office shall make a "file and use" filing. For
451 purposes of this subparagraph, motor vehicle collision and
452 comprehensive coverages are not considered to be property
453 coverages.

454 (i)1. Except as otherwise specifically provided in this
455 chapter, the office may ~~shall~~ not, directly or indirectly,
456 prohibit any insurer, including any residual market plan or
457 joint underwriting association, from paying acquisition costs
458 based on the full amount of premium, as defined in s. 627.403,
459 applicable to any policy, or prohibit, directly or indirectly,
460 any such insurer from including the full amount of acquisition
461 costs in a rate filing.

462 2. The office may not, directly or indirectly, impede,
463 abridge, or otherwise compromise an insurer's right to acquire
464 policyholders or advertise, or appoint agents, including, but
465 not limited to, the calculation, manner, or amount of such
466 agents' commissions, if any.

467 (k)1.a. An insurer may make a separate filing limited
468 solely to an adjustment of its rates for reinsurance, financing
469 products to replace insurance, or financing costs incurred in
470 the purchase of reinsurance and may include an adjustment of its
471 rates based upon an inflation trend factor as set forth in
472 subparagraph 4. If an insurer chooses to make a separate filing
473 under this paragraph, the insurer shall implement the rate in
474 such a manner that all previously approved rate increases
475 implemented as a result of a separate filing, together with the
476 rate increase under a filing made under this paragraph ~~or~~

477 ~~financing products to replace or finance the payment of the~~
478 ~~amount covered by the Temporary Increase in Coverage Limits~~
479 ~~(TICL) portion of the Florida Hurricane Catastrophe Fund~~
480 ~~including replacement reinsurance for the TICL reductions made~~
481 ~~pursuant to s. 215.555(17)(c); the actual cost paid due to the~~
482 ~~application of the TICL premium factor pursuant to s.~~
483 ~~215.555(17)(f); and the actual cost paid due to the application~~
484 ~~of the cash build-up factor pursuant to s. 215.555(5)(b) if the~~
485 ~~insurer:~~

486 a. ~~Elects to purchase financing products such as a~~
487 ~~liquidity instrument or line of credit, in which case the cost~~
488 ~~included in the filing for the liquidity instrument or line of~~
489 ~~credit may not result in a premium increase exceeding 3 percent~~
490 ~~for any individual policyholder. All costs contained in the~~
491 ~~filing may not result in an overall rate premium increase of~~
492 ~~more than 10 percent for any individual policyholder, excluding~~
493 ~~coverage changes and surcharges.~~

494 b. An insurer shall include ~~includes~~ in the filing a copy
495 of all of its reinsurance, liquidity instrument, or line of
496 credit contracts; proof of the billing or payment for the
497 contracts; and the calculation upon which the proposed rate
498 change is based demonstrating ~~demonstrates~~ that the costs meet
499 the criteria of this section and ~~are not loaded for expenses or~~
500 ~~profit for the insurer making the filing.~~

501 c. Any such filing may not include ~~includes no other~~
502 ~~changes to the insurer's ~~its~~ rates in the filing.~~

503 d. ~~Has not implemented a rate increase within the 6 months~~
504 ~~immediately preceding the filing.~~

505 ~~e. Does not file for a rate increase under any other~~
506 ~~paragraph within 6 months after making a filing under this~~
507 ~~paragraph.~~

508 ~~d.f.~~ An insurer that purchases reinsurance or financing
509 products from an affiliate may make a filing under affiliated
510 ~~company in compliance with~~ this paragraph ~~does so~~ only if the
511 costs for such reinsurance or financing products are charged at
512 or below charges made for comparable coverage by nonaffiliated
513 reinsurers or financial entities making such coverage or
514 financing products available in this state.

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

517 3. An insurer that elects to implement a rate change under
518 this paragraph must file its rate filing with the office at
519 least 45 days before the effective date of the rate change.
520 After an insurer submits a complete filing that meets all of the
521 requirements of this paragraph, the office has 45 days after the
522 date of the filing to review the rate filing and determine if
523 the rate is excessive, inadequate, or unfairly discriminatory.

524 4. Beginning January 1, 2011, the office shall publish an
525 annual informational memorandum to establish one or more inflation
526 trend factors which may be stated separately for personal and
527 residential property and for building coverage, contents
528 coverage, additional living expense coverage, and liability
529 coverage, if applicable. Such factors shall represent an estimate
530 of cost increases or decreases based on publicly available relevant
531 data and economic indices that are identified in the memorandum
532 including, but not limited to, overall claim cost data. Such

533 factors are exempt from the rulemaking requirements of chapter 120
534 and insurers may not be required to adopt the factors. The office
535 may publish factors for any line, but is required to annually
536 publish a factor only for residential property insurance by March 1
537 of each year.

538 (1)1. On or after January 1, 2011, an insurer complying
539 with the requirements of s. 627.7031 may use a rate for
540 residential property insurance, as defined in s. 627.4025,
541 different from the otherwise applicable filed rate as provided
542 in this paragraph.

543 2. Policies subject to this paragraph may not be counted
544 in the calculation under s. 627.171(2).

545 3. Such rates shall be filed with the office as a separate
546 filing. The filing must be accompanied by an actuary's
547 certification stating that the filing was prepared in accordance
548 with current actuarial standards of practice adopted by the
549 Actuarial Standards Board and that the statewide average rate
550 change is within a range consistent with applicable actuarial
551 principles or, if the percentage limitations of this paragraph
552 do not allow for a rate within a range consistent with
553 applicable actuarial principles, is below such range. The
554 initial rates used by an insurer under this paragraph may not
555 provide for rates that represent more than a 10-percent
556 statewide average rate increase over the most recently filed and
557 approved rate. A rate filing under this paragraph submitted in
558 any year following the implementation of such initial rates may
559 not provide for rates that represent more than a 10-percent
560 statewide average rate increase in any single year over the

561 rates in effect under this paragraph at the time of the filing.
562 A rate filing under this paragraph may not provide for a
563 percentage rate increase as to any single policyholder that
564 exceeds two times the statewide average rate increase provided
565 in the filing.

566 4. This paragraph does not affect the authority of the
567 office to disapprove a rate as inadequate or to disapprove a
568 rate filing for charging any insured or applicant a higher
569 premium solely because of the insured's or applicant's race,
570 color, creed, marital status, sex, or national origin. Upon
571 finding that an insurer has used any such factor in charging an
572 insured or applicant a higher premium, the office may direct the
573 insurer to make a new filing for a new rate that does not use
574 such factor.

575
576 The provisions of this subsection shall not apply to workers'
577 compensation and employer's liability insurance and to motor
578 vehicle insurance.

579 (9)

580 (d) A certification under this subsection is not rendered
581 false when, after making the subject rate filing, the insurer
582 provides the office with additional or supplementary information
583 pursuant to a formal or informal request from the office.

584 (e) If an insurer adds additional information to a pending
585 filing that has not yet been disapproved by the office, the
586 additional information may not be required to include a new
587 certification under this subsection.

588 (f) This subsection does not apply to a filing made

589 pursuant to paragraph (2) (k).

590 Section 7. Section 627.0621, Florida Statutes, is amended
591 to read:

592 627.0621 Transparency in rate regulation.—

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

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

596 ~~(b) "Recommendation" means any proposed, preliminary, or~~
597 ~~final recommendation from an office actuary reviewing a rate~~
598 ~~filing with respect to the issue of approval or disapproval of~~
599 ~~the rate filing or with respect to rate indications that the~~
600 ~~office would consider acceptable.~~

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

602 (1)(a) With respect to any residential property rate
603 filing, the office shall provide the following information on a
604 publicly accessible Internet website:

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

606 (b)2. The rate change approved by the office along with
607 all of the actuary's assumptions and recommendations forming the
608 basis of the office's decision.

609 ~~3.—Certification by the office's actuary that, based on~~
610 ~~the actuary's knowledge, his or her recommendations are~~
611 ~~consistent with accepted actuarial principles.~~

612 (2)(b) For any rate filing, whether or not the filing is
613 subject to a public hearing, the office shall provide on its
614 website a means for any policyholder who may be affected by a
615 proposed rate change to send an e-mail regarding the proposed
616 rate change. Such e-mail must be accessible to the actuary

617 assigned to review the rate filing.

618 Section 8. Subsections (1) and (5) of section 627.0629,
 619 Florida Statutes, are amended, and subsection (10) is added to
 620 that section, to read:

621 627.0629 Residential property insurance; rate filings.—

622 (1)~~(a)~~ It is the intent of the Legislature that insurers
 623 ~~must~~ provide the most accurate pricing signals available ~~savings~~
 624 to encourage consumers who install or implement windstorm damage
 625 mitigation techniques, alterations, or solutions to their
 626 properties to prevent windstorm losses. It is also the intent of
 627 the Legislature that implementation of mitigation discounts not
 628 result in a loss of income to the insurers granting the
 629 discounts, so that the aggregate of mitigation discounts should
 630 not exceed the aggregate of the expected reduction in loss that
 631 is attributable to the mitigation efforts for which discounts
 632 are granted. A rate filing for residential property insurance
 633 must include actuarially reasonable discounts, credits, debits,
 634 or other rate differentials, or appropriate reductions in
 635 deductibles, that provide the proper pricing for all properties.
 636 The rate filing must take into account the presence or absence
 637 of ~~on which~~ fixtures or construction techniques demonstrated to
 638 reduce the amount of loss in a windstorm have been installed or
 639 implemented. The fixtures or construction techniques shall
 640 include, but not be limited to, fixtures or construction
 641 techniques that ~~which~~ enhance roof strength, roof covering
 642 performance, roof-to-wall strength, wall-to-floor-to-foundation
 643 strength, opening protection, and window, door, and skylight
 644 strength. Credits, debits, discounts, or other rate

645 differentials, or appropriate reductions or increases in
646 deductibles, that recognize the presence or absence of ~~for~~
647 fixtures and construction techniques that ~~which~~ meet the minimum
648 requirements of the Florida Building Code must be included in
649 the rate filing. If an insurer demonstrates that the aggregate
650 of its mitigation discounts results in a reduction to revenue
651 that exceeds the reduction of the aggregate loss that is
652 expected to result from the mitigation, the insurer may recover
653 the lost revenue through an increase in its base rates. ~~All~~
654 ~~insurance companies must make a rate filing which includes the~~
655 ~~credits, discounts, or other rate differentials or reductions in~~
656 ~~deductibles by February 28, 2003.~~ By July 1, 2007, the office
657 shall reevaluate the discounts, credits, other rate
658 differentials, and appropriate reductions in deductibles for
659 fixtures and construction techniques that meet the minimum
660 requirements of the Florida Building Code, based upon actual
661 experience or any other loss relativity studies available to the
662 office. The office shall determine the discounts, credits,
663 debits, other rate differentials, and appropriate reductions or
664 increases in deductibles that reflect the full actuarial value
665 of such revaluation, which may be used by insurers in rate
666 filings.

667 ~~(b) By February 1, 2011, the Office of Insurance~~
668 ~~Regulation, in consultation with the Department of Financial~~
669 ~~Services and the Department of Community Affairs, shall develop~~
670 ~~and make publicly available a proposed method for insurers to~~
671 ~~establish discounts, credits, or other rate differentials for~~
672 ~~hurricane mitigation measures which directly correlate to the~~

673 ~~numerical rating assigned to a structure pursuant to the uniform~~
674 ~~home grading scale adopted by the Financial Services Commission~~
675 ~~pursuant to s. 215.55865, including any proposed changes to the~~
676 ~~uniform home grading scale. By October 1, 2011, the commission~~
677 ~~shall adopt rules requiring insurers to make rate filings for~~
678 ~~residential property insurance which revise insurers' discounts,~~
679 ~~credits, or other rate differentials for hurricane mitigation~~
680 ~~measures so that such rate differentials correlate directly to~~
681 ~~the uniform home grading scale. The rules may include such~~
682 ~~changes to the uniform home grading scale as the commission~~
683 ~~determines are necessary, and may specify the minimum required~~
684 ~~discounts, credits, or other rate differentials. Such rate~~
685 ~~differentials must be consistent with generally accepted~~
686 ~~actuarial principles and wind-loss mitigation studies. The rules~~
687 ~~shall allow a period of at least 2 years after the effective~~
688 ~~date of the revised mitigation discounts, credits, or other rate~~
689 ~~differentials for a property owner to obtain an inspection or~~
690 ~~otherwise qualify for the revised credit, during which time the~~
691 ~~insurer shall continue to apply the mitigation credit that was~~
692 ~~applied immediately prior to the effective date of the revised~~
693 ~~credit. Discounts, credits, and other rate differentials~~
694 ~~established for rate filings under this paragraph shall~~
695 ~~supersede, after adoption, the discounts, credits, and other~~
696 ~~rate differentials included in rate filings under paragraph (a).~~

697 (5) In order to provide an appropriate transition period,
698 an insurer may, in its sole discretion, implement an approved
699 rate filing for residential property insurance over a period of
700 years. An insurer electing to phase in its rate filing must

701 provide an informational notice to the office setting out its
702 schedule for implementation of the phased-in rate filing. An
703 insurer may include in its rate the actual cost of private
704 market reinsurance that corresponds to available coverage of the
705 Temporary Increase in Coverage Limits, TICL, from the Florida
706 Hurricane Catastrophe Fund. The insurer may also include the
707 cost of reinsurance to replace the TICL reduction implemented
708 pursuant to s. 215.555(17)(d)9. However, this cost for
709 reinsurance may not ~~include any expense or profit load or result~~
710 in a total annual base rate increase in excess of 10 percent.

711 (10) (a) Contingent upon specific appropriations made to
712 implement this subsection, in order to enhance the ability of
713 consumers to compare premiums and to increase the accuracy and
714 usefulness of rate and product comparison information for
715 homeowners' insurance, the office shall develop or contract with
716 a private entity to develop a comprehensive program for
717 providing the consumer with all available information necessary
718 to make an informed purchase of the insurance product that best
719 serves the needs of the individual.

720 (b) In developing the comprehensive program, the office
721 shall rely as much as is practical on information that is
722 currently available and shall consider:

723 1. The most efficient means for developing, hosting, and
724 operating a separate website that consolidates all consumer
725 information for price comparisons, filed complaints, financial
726 strength, underwriting, and receivership information and other
727 data useful to consumers.

728 2. Whether all admitted insurers should be required to

729 submit additional information to populate the composite website
730 and how often such submissions must be made.

731 3. Whether all admitted insurers should be required to
732 provide links from the website into each individual insurer's
733 website in order to enable consumers to access product rate
734 information and apply for quotations.

735 4. Developing a plan to publicize the existence,
736 availability, and value of the website.

737 5. Any other provision that would make relevant
738 homeowners' insurance information more readily available so that
739 consumers can make informed product comparisons and purchasing
740 decisions.

741 (c) Before establishing the program or website, the office
742 shall conduct a cost-benefit analysis to determine the most
743 effective approach for establishing and operating the program
744 and website. Based on the results of the analysis, the office
745 shall submit a proposed implementation plan for review and
746 approval by the Financial Services Commission. The
747 implementation plan shall include an estimated timeline for
748 establishing the program and website; a description of the data
749 and functionality to be provided by the site; a strategy for
750 publicizing the website to consumers; a recommended approach for
751 developing, hosting, and operating the website; and an estimate
752 of all major nonrecurring and recurring costs required to
753 establish and operate the website. Upon approval of the plan,
754 the office may initiate the establishment of the program.

755 Section 9. Paragraphs (b), (c), (d), (y), (z), (aa), (bb),
756 (cc), (dd), (ee), and (ff) of subsection (6) of section 627.351,

757 Florida Statutes, are amended to read:

758 627.351 Insurance risk apportionment plans.—

759 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

760 (b)1. All insurers authorized to write one or more subject
 761 lines of business in this state are subject to assessment by the
 762 corporation and, for the purposes of this subsection, are
 763 referred to collectively as "assessable insurers." Insurers
 764 writing one or more subject lines of business in this state
 765 pursuant to part VIII of chapter 626 are not assessable
 766 insurers, but insureds who procure one or more subject lines of
 767 business in this state pursuant to part VIII of chapter 626 are
 768 subject to assessment by the corporation and are referred to
 769 collectively as "assessable insureds." An authorized insurer's
 770 assessment liability shall begin on the first day of the
 771 calendar year following the year in which the insurer was issued
 772 a certificate of authority to transact insurance for subject
 773 lines of business in this state and shall terminate 1 year after
 774 the end of the first calendar year during which the insurer no
 775 longer holds a certificate of authority to transact insurance
 776 for subject lines of business in this state.

777 2.a. All revenues, assets, liabilities, losses, and
 778 expenses of the corporation shall be divided into three separate
 779 accounts as follows:

780 (I) A personal lines account for personal residential
 781 policies issued by the corporation or issued by the Residential
 782 Property and Casualty Joint Underwriting Association and renewed
 783 by the corporation that provide comprehensive, multiperil
 784 coverage on risks that are not located in areas eligible for

785 coverage in the Florida Windstorm Underwriting Association as
786 those areas were defined on January 1, 2002, and for such
787 policies that do not provide coverage for the peril of wind on
788 risks that are located in such areas;

789 (II) A commercial lines account for commercial residential
790 and commercial nonresidential policies issued by the corporation
791 or issued by the Residential Property and Casualty Joint
792 Underwriting Association and renewed by the corporation that
793 provide coverage for basic property perils on risks that are not
794 located in areas eligible for coverage in the Florida Windstorm
795 Underwriting Association as those areas were defined on January
796 1, 2002, and for such policies that do not provide coverage for
797 the peril of wind on risks that are located in such areas; and

798 (III) A high-risk account for personal residential
799 policies and commercial residential and commercial
800 nonresidential property policies issued by the corporation or
801 transferred to the corporation that provide coverage for the
802 peril of wind on risks that are located in areas eligible for
803 coverage in the Florida Windstorm Underwriting Association as
804 those areas were defined on January 1, 2002. The corporation may
805 offer policies that provide multiperil coverage and the
806 corporation shall continue to offer policies that provide
807 coverage only for the peril of wind for risks located in areas
808 eligible for coverage in the high-risk account. In issuing
809 multiperil coverage, the corporation may use its approved policy
810 forms and rates for the personal lines account. An applicant or
811 insured who is eligible to purchase a multiperil policy from the
812 corporation may purchase a multiperil policy from an authorized

813 insurer without prejudice to the applicant's or insured's
814 eligibility to prospectively purchase a policy that provides
815 coverage only for the peril of wind from the corporation. An
816 applicant or insured who is eligible for a corporation policy
817 that provides coverage only for the peril of wind may elect to
818 purchase or retain such policy and also purchase or retain
819 coverage excluding wind from an authorized insurer without
820 prejudice to the applicant's or insured's eligibility to
821 prospectively purchase a policy that provides multiperil
822 coverage from the corporation. It is the goal of the Legislature
823 that there would be an overall average savings of 10 percent or
824 more for a policyholder who currently has a wind-only policy
825 with the corporation, and an ex-wind policy with a voluntary
826 insurer or the corporation, and who then obtains a multiperil
827 policy from the corporation. It is the intent of the Legislature
828 that the offer of multiperil coverage in the high-risk account
829 be made and implemented in a manner that does not adversely
830 affect the tax-exempt status of the corporation or
831 creditworthiness of or security for currently outstanding
832 financing obligations or credit facilities of the high-risk
833 account, the personal lines account, or the commercial lines
834 account. The high-risk account must also include quota share
835 primary insurance under subparagraph (c)2. The area eligible for
836 coverage under the high-risk account also includes the area
837 within Port Canaveral, which is bordered on the south by the
838 City of Cape Canaveral, bordered on the west by the Banana
839 River, and bordered on the north by Federal Government property.

840 b. The three separate accounts must be maintained as long

841 as financing obligations entered into by the Florida Windstorm
842 Underwriting Association or Residential Property and Casualty
843 Joint Underwriting Association are outstanding, in accordance
844 with the terms of the corresponding financing documents. When
845 the financing obligations are no longer outstanding, in
846 accordance with the terms of the corresponding financing
847 documents, the corporation may use a single account for all
848 revenues, assets, liabilities, losses, and expenses of the
849 corporation. Consistent with the requirement of this
850 subparagraph and prudent investment policies that minimize the
851 cost of carrying debt, the board shall exercise its best efforts
852 to retire existing debt or to obtain approval of necessary
853 parties to amend the terms of existing debt, so as to structure
854 the most efficient plan to consolidate the three separate
855 accounts into a single account. By February 1, 2007, the board
856 shall submit a report to the Financial Services Commission, the
857 President of the Senate, and the Speaker of the House of
858 Representatives which includes an analysis of consolidating the
859 accounts, the actions the board has taken to minimize the cost
860 of carrying debt, and its recommendations for executing the most
861 efficient plan.

862 c. Creditors of the Residential Property and Casualty
863 Joint Underwriting Association and of the accounts specified in
864 sub-sub-subparagraphs a.(I) and (II) may have a claim against,
865 and recourse to, the accounts referred to in sub-sub-
866 subparagraphs a.(I) and (II) and shall have no claim against, or
867 recourse to, the account referred to in sub-sub-subparagraph
868 a.(III). Creditors of the Florida Windstorm Underwriting

869 Association shall have a claim against, and recourse to, the
 870 account referred to in sub-sub-subparagraph a.(III) and shall
 871 have no claim against, or recourse to, the accounts referred to
 872 in sub-sub-subparagraphs a.(I) and (II).

873 d. Revenues, assets, liabilities, losses, and expenses not
 874 attributable to particular accounts shall be prorated among the
 875 accounts.

876 e. The Legislature finds that the revenues of the
 877 corporation are revenues that are necessary to meet the
 878 requirements set forth in documents authorizing the issuance of
 879 bonds under this subsection.

880 f. No part of the income of the corporation may inure to
 881 the benefit of any private person.

882 3. With respect to a deficit in an account:

883 a. After accounting for the Citizens policyholder
 884 surcharge imposed under sub-subparagraph i., when the remaining
 885 projected deficit incurred in a particular calendar year is not
 886 greater than 6 percent of the aggregate statewide direct written
 887 premium for the subject lines of business for the prior calendar
 888 year, the entire deficit shall be recovered through regular
 889 assessments of assessable insurers under paragraph (p) and
 890 assessable insureds.

891 b. After accounting for the Citizens policyholder
 892 surcharge imposed under sub-subparagraph i., when the remaining
 893 projected deficit incurred in a particular calendar year exceeds
 894 6 percent of the aggregate statewide direct written premium for
 895 the subject lines of business for the prior calendar year, the
 896 corporation shall levy regular assessments on assessable

897 insurers under paragraph (p) and on assessable insureds in an
898 amount equal to the greater of 6 percent of the deficit or 6
899 percent of the aggregate statewide direct written premium for
900 the subject lines of business for the prior calendar year. Any
901 remaining deficit shall be recovered through emergency
902 assessments under sub-subparagraph d.

903 c. Each assessable insurer's share of the amount being
904 assessed under sub-subparagraph a. or sub-subparagraph b. shall
905 be in the proportion that the assessable insurer's direct
906 written premium for the subject lines of business for the year
907 preceding the assessment bears to the aggregate statewide direct
908 written premium for the subject lines of business for that year.
909 The assessment percentage applicable to each assessable insured
910 is the ratio of the amount being assessed under sub-subparagraph
911 a. or sub-subparagraph b. to the aggregate statewide direct
912 written premium for the subject lines of business for the prior
913 year. Assessments levied by the corporation on assessable
914 insurers under sub-subparagraphs a. and b. shall be paid as
915 required by the corporation's plan of operation and paragraph
916 (p). Assessments levied by the corporation on assessable
917 insureds under sub-subparagraphs a. and b. shall be collected by
918 the surplus lines agent at the time the surplus lines agent
919 collects the surplus lines tax required by s. 626.932 and shall
920 be paid to the Florida Surplus Lines Service Office at the time
921 the surplus lines agent pays the surplus lines tax to the
922 Florida Surplus Lines Service Office. Upon receipt of regular
923 assessments from surplus lines agents, the Florida Surplus Lines
924 Service Office shall transfer the assessments directly to the

925 corporation as determined by the corporation.

926 d. Upon a determination by the board of governors that a
927 deficit in an account exceeds the amount that will be recovered
928 through regular assessments under sub-subparagraph a. or sub-
929 subparagraph b., plus the amount that is expected to be
930 recovered through surcharges under sub-subparagraph i., as to
931 the remaining projected deficit the board shall levy, after
932 verification by the office, emergency assessments, for as many
933 years as necessary to cover the deficits, to be collected by
934 assessable insurers and the corporation and collected from
935 assessable insureds upon issuance or renewal of policies for
936 subject lines of business, excluding National Flood Insurance
937 policies. The amount of the emergency assessment collected in a
938 particular year shall be a uniform percentage of that year's
939 direct written premium for subject lines of business and all
940 accounts of the corporation, excluding National Flood Insurance
941 Program policy premiums, as annually determined by the board and
942 verified by the office. The office shall verify the arithmetic
943 calculations involved in the board's determination within 30
944 days after receipt of the information on which the determination
945 was based. Notwithstanding any other provision of law, the
946 corporation and each assessable insurer that writes subject
947 lines of business shall collect emergency assessments from its
948 policyholders without such obligation being affected by any
949 credit, limitation, exemption, or deferment. Emergency
950 assessments levied by the corporation on assessable insureds
951 shall be collected by the surplus lines agent at the time the
952 surplus lines agent collects the surplus lines tax required by

953 s. 626.932 and shall be paid to the Florida Surplus Lines
954 Service Office at the time the surplus lines agent pays the
955 surplus lines tax to the Florida Surplus Lines Service Office.
956 The emergency assessments so collected shall be transferred
957 directly to the corporation on a periodic basis as determined by
958 the corporation and shall be held by the corporation solely in
959 the applicable account. The aggregate amount of emergency
960 assessments levied for an account under this sub-subparagraph in
961 any calendar year may, at the discretion of the board of
962 governors, be less than but may not exceed the greater of 10
963 percent of the amount needed to cover the deficit, plus
964 interest, fees, commissions, required reserves, and other costs
965 associated with financing of the original deficit, or 10 percent
966 of the aggregate statewide direct written premium for subject
967 lines of business and for all accounts of the corporation for
968 the prior year, plus interest, fees, commissions, required
969 reserves, and other costs associated with financing the deficit.

970 e. The corporation may pledge the proceeds of assessments,
971 projected recoveries from the Florida Hurricane Catastrophe
972 Fund, other insurance and reinsurance recoverables, policyholder
973 surcharges and other surcharges, and other funds available to
974 the corporation as the source of revenue for and to secure bonds
975 issued under paragraph (p), bonds or other indebtedness issued
976 under subparagraph (c)3., or lines of credit or other financing
977 mechanisms issued or created under this subsection, or to retire
978 any other debt incurred as a result of deficits or events giving
979 rise to deficits, or in any other way that the board determines
980 will efficiently recover such deficits. The purpose of the lines

981 of credit or other financing mechanisms is to provide additional
982 resources to assist the corporation in covering claims and
983 expenses attributable to a catastrophe. As used in this
984 subsection, the term "assessments" includes regular assessments
985 under sub-subparagraph a., sub-subparagraph b., or subparagraph
986 (p)1. and emergency assessments under sub-subparagraph d.
987 Emergency assessments collected under sub-subparagraph d. are
988 not part of an insurer's rates, are not premium, and are not
989 subject to premium tax, fees, or commissions; however, failure
990 to pay the emergency assessment shall be treated as failure to
991 pay premium. The emergency assessments under sub-subparagraph d.
992 shall continue as long as any bonds issued or other indebtedness
993 incurred with respect to a deficit for which the assessment was
994 imposed remain outstanding, unless adequate provision has been
995 made for the payment of such bonds or other indebtedness
996 pursuant to the documents governing such bonds or other
997 indebtedness.

998 f. As used in this subsection for purposes of any deficit
999 incurred on or after January 25, 2007, the term "subject lines
1000 of business" means insurance written by assessable insurers or
1001 procured by assessable insureds for all property and casualty
1002 lines of business in this state, but not including workers'
1003 compensation or medical malpractice. As used in the sub-
1004 subparagraph, the term "property and casualty lines of business"
1005 includes all lines of business identified on Form 2, Exhibit of
1006 Premiums and Losses, in the annual statement required of
1007 authorized insurers by s. 624.424 and any rule adopted under
1008 this section, except for those lines identified as accident and

1009 health insurance and except for policies written under the
1010 National Flood Insurance Program or the Federal Crop Insurance
1011 Program. For purposes of this sub-subparagraph, the term
1012 "workers' compensation" includes both workers' compensation
1013 insurance and excess workers' compensation insurance.

1014 g. The Florida Surplus Lines Service Office shall
1015 determine annually the aggregate statewide written premium in
1016 subject lines of business procured by assessable insureds and
1017 shall report that information to the corporation in a form and
1018 at a time the corporation specifies to ensure that the
1019 corporation can meet the requirements of this subsection and the
1020 corporation's financing obligations.

1021 h. The Florida Surplus Lines Service Office shall verify
1022 the proper application by surplus lines agents of assessment
1023 percentages for regular assessments and emergency assessments
1024 levied under this subparagraph on assessable insureds and shall
1025 assist the corporation in ensuring the accurate, timely
1026 collection and payment of assessments by surplus lines agents as
1027 required by the corporation.

1028 i. (I) If a deficit is incurred in any account in 2008 or
1029 thereafter, the board of governors shall levy a Citizens
1030 policyholder surcharge against all policyholders of the
1031 corporation.

1032 (II) The policyholder's liability for the Citizens
1033 policyholder surcharge attaches on the date of the event giving
1034 rise to an order levying the surcharge or the date of the order,
1035 whichever is earlier. The Citizens policyholder surcharge is
1036 payable upon cancellation or termination of the policy, upon

1037 renewal of the policy, or upon issuance of a new policy by
 1038 Citizens within the first 12 months after the date of the levy
 1039 or the period of time necessary to fully collect the Citizens
 1040 policyholder surcharge amount.

1041 (III) The Citizens policyholder surcharge for a 12-month
 1042 period, which shall be levied collected at the time of issuance
 1043 or renewal of a policy, as a uniform percentage of the premium
 1044 for the policy of up to 15 percent of such premium, which funds
 1045 shall be used to offset the deficit.

1046 (IV) The corporation may not levy any regular assessments
 1047 under sub-subparagraph a. or sub-subparagraph b. with respect to
 1048 a particular year's deficit until the corporation has first
 1049 levied a Citizens policyholder surcharge under this sub-
 1050 subparagraph in the full amount authorized by this sub-
 1051 subparagraph.

1052 (V) Citizens policyholder surcharges under this sub-
 1053 subparagraph are not considered premium and are not subject to
 1054 commissions, fees, or premium taxes. However, failure to pay
 1055 such surcharges shall be treated as failure to pay premium.

1056 j. If the amount of any assessments or surcharges
 1057 collected from corporation policyholders, assessable insurers or
 1058 their policyholders, or assessable insureds exceeds the amount
 1059 of the deficits, such excess amounts shall be remitted to and
 1060 retained by the corporation in a reserve to be used by the
 1061 corporation, as determined by the board of governors and
 1062 approved by the office, to pay claims or reduce any past,
 1063 present, or future plan-year deficits or to reduce outstanding
 1064 debt.

- 1065 (c) The plan of operation of the corporation:
- 1066 1. Must provide for adoption of residential property and
- 1067 casualty insurance policy forms and commercial residential and
- 1068 nonresidential property insurance forms, which forms must be
- 1069 approved by the office prior to use. The corporation shall adopt
- 1070 the following policy forms:
- 1071 a. Standard personal lines policy forms that are
- 1072 comprehensive multiperil policies providing full coverage of a
- 1073 residential property equivalent to the coverage provided in the
- 1074 private insurance market under an HO-3, HO-4, or HO-6 policy.
- 1075 b. Basic personal lines policy forms that are policies
- 1076 similar to an HO-8 policy or a dwelling fire policy that provide
- 1077 coverage meeting the requirements of the secondary mortgage
- 1078 market, but which coverage is more limited than the coverage
- 1079 under a standard policy.
- 1080 c. Commercial lines residential and nonresidential policy
- 1081 forms that are generally similar to the basic perils of full
- 1082 coverage obtainable for commercial residential structures and
- 1083 commercial nonresidential structures in the admitted voluntary
- 1084 market.
- 1085 d. Personal lines and commercial lines residential
- 1086 property insurance forms that cover the peril of wind only. The
- 1087 forms are applicable only to residential properties located in
- 1088 areas eligible for coverage under the high-risk account referred
- 1089 to in sub-subparagraph (b)2.a.
- 1090 e. Commercial lines nonresidential property insurance
- 1091 forms that cover the peril of wind only. The forms are
- 1092 applicable only to nonresidential properties located in areas

1093 eligible for coverage under the high-risk account referred to in
 1094 sub-subparagraph (b)2.a.

1095 f. The corporation may adopt variations of the policy
 1096 forms listed in sub-subparagraphs a.-e. that contain more
 1097 restrictive coverage.

1098 2.a. Must provide that the corporation adopt a program in
 1099 which the corporation and authorized insurers enter into quota
 1100 share primary insurance agreements for hurricane coverage, as
 1101 defined in s. 627.4025(2)(a), for eligible risks, and adopt
 1102 property insurance forms for eligible risks which cover the
 1103 peril of wind only. As used in this subsection, the term:

1104 (I) "Quota share primary insurance" means an arrangement
 1105 in which the primary hurricane coverage of an eligible risk is
 1106 provided in specified percentages by the corporation and an
 1107 authorized insurer. The corporation and authorized insurer are
 1108 each solely responsible for a specified percentage of hurricane
 1109 coverage of an eligible risk as set forth in a quota share
 1110 primary insurance agreement between the corporation and an
 1111 authorized insurer and the insurance contract. The
 1112 responsibility of the corporation or authorized insurer to pay
 1113 its specified percentage of hurricane losses of an eligible
 1114 risk, as set forth in the quota share primary insurance
 1115 agreement, may not be altered by the inability of the other
 1116 party to the agreement to pay its specified percentage of
 1117 hurricane losses. Eligible risks that are provided hurricane
 1118 coverage through a quota share primary insurance arrangement
 1119 must be provided policy forms that set forth the obligations of
 1120 the corporation and authorized insurer under the arrangement,

1121 clearly specify the percentages of quota share primary insurance
1122 provided by the corporation and authorized insurer, and
1123 conspicuously and clearly state that neither the authorized
1124 insurer nor the corporation may be held responsible beyond its
1125 specified percentage of coverage of hurricane losses.

1126 (II) "Eligible risks" means personal lines residential and
1127 commercial lines residential risks that meet the underwriting
1128 criteria of the corporation and are located in areas that were
1129 eligible for coverage by the Florida Windstorm Underwriting
1130 Association on January 1, 2002.

1131 b. The corporation may enter into quota share primary
1132 insurance agreements with authorized insurers at corporation
1133 coverage levels of 90 percent and 50 percent.

1134 c. If the corporation determines that additional coverage
1135 levels are necessary to maximize participation in quota share
1136 primary insurance agreements by authorized insurers, the
1137 corporation may establish additional coverage levels. However,
1138 the corporation's quota share primary insurance coverage level
1139 may not exceed 90 percent.

1140 d. Any quota share primary insurance agreement entered
1141 into between an authorized insurer and the corporation must
1142 provide for a uniform specified percentage of coverage of
1143 hurricane losses, by county or territory as set forth by the
1144 corporation board, for all eligible risks of the authorized
1145 insurer covered under the quota share primary insurance
1146 agreement.

1147 e. Any quota share primary insurance agreement entered
1148 into between an authorized insurer and the corporation is

1149 subject to review and approval by the office. However, such
1150 agreement shall be authorized only as to insurance contracts
1151 entered into between an authorized insurer and an insured who is
1152 already insured by the corporation for wind coverage.

1153 f. For all eligible risks covered under quota share
1154 primary insurance agreements, the exposure and coverage levels
1155 for both the corporation and authorized insurers shall be
1156 reported by the corporation to the Florida Hurricane Catastrophe
1157 Fund. For all policies of eligible risks covered under quota
1158 share primary insurance agreements, the corporation and the
1159 authorized insurer shall maintain complete and accurate records
1160 for the purpose of exposure and loss reimbursement audits as
1161 required by Florida Hurricane Catastrophe Fund rules. The
1162 corporation and the authorized insurer shall each maintain
1163 duplicate copies of policy declaration pages and supporting
1164 claims documents.

1165 g. The corporation board shall establish in its plan of
1166 operation standards for quota share agreements which ensure that
1167 there is no discriminatory application among insurers as to the
1168 terms of quota share agreements, pricing of quota share
1169 agreements, incentive provisions if any, and consideration paid
1170 for servicing policies or adjusting claims.

1171 h. The quota share primary insurance agreement between the
1172 corporation and an authorized insurer must set forth the
1173 specific terms under which coverage is provided, including, but
1174 not limited to, the sale and servicing of policies issued under
1175 the agreement by the insurance agent of the authorized insurer
1176 producing the business, the reporting of information concerning

1177 eligible risks, the payment of premium to the corporation, and
1178 arrangements for the adjustment and payment of hurricane claims
1179 incurred on eligible risks by the claims adjuster and personnel
1180 of the authorized insurer. Entering into a quota sharing
1181 insurance agreement between the corporation and an authorized
1182 insurer shall be voluntary and at the discretion of the
1183 authorized insurer.

1184 3. May provide that the corporation may employ or
1185 otherwise contract with individuals or other entities to provide
1186 administrative or professional services that may be appropriate
1187 to effectuate the plan. The corporation shall have the power to
1188 borrow funds, by issuing bonds or by incurring other
1189 indebtedness, and shall have other powers reasonably necessary
1190 to effectuate the requirements of this subsection, including,
1191 without limitation, the power to issue bonds and incur other
1192 indebtedness in order to refinance outstanding bonds or other
1193 indebtedness. The corporation may, but is not required to, seek
1194 judicial validation of its bonds or other indebtedness under
1195 chapter 75. The corporation may issue bonds or incur other
1196 indebtedness, or have bonds issued on its behalf by a unit of
1197 local government pursuant to subparagraph (p)2., in the absence
1198 of a hurricane or other weather-related event, upon a
1199 determination by the corporation, subject to approval by the
1200 office, that such action would enable it to efficiently meet the
1201 financial obligations of the corporation and that such
1202 financings are reasonably necessary to effectuate the
1203 requirements of this subsection. The corporation is authorized
1204 to take all actions needed to facilitate tax-free status for any

1205 such bonds or indebtedness, including formation of trusts or
1206 other affiliated entities. The corporation shall have the
1207 authority to pledge assessments, projected recoveries from the
1208 Florida Hurricane Catastrophe Fund, other reinsurance
1209 recoverables, market equalization and other surcharges, and
1210 other funds available to the corporation as security for bonds
1211 or other indebtedness. In recognition of s. 10, Art. I of the
1212 State Constitution, prohibiting the impairment of obligations of
1213 contracts, it is the intent of the Legislature that no action be
1214 taken whose purpose is to impair any bond indenture or financing
1215 agreement or any revenue source committed by contract to such
1216 bond or other indebtedness.

1217 4.a. Must require that the corporation operate subject to
1218 the supervision and approval of a board of governors consisting
1219 of eight individuals who are residents of this state, from
1220 different geographical areas of this state. The Governor, the
1221 Chief Financial Officer, the President of the Senate, and the
1222 Speaker of the House of Representatives shall each appoint two
1223 members of the board. At least one of the two members appointed
1224 by each appointing officer must have demonstrated expertise in
1225 insurance. Members appointed for having a demonstrated expertise
1226 in insurance as provided in this subparagraph shall be deemed to
1227 be within the scope of the exemption set forth in s.

1228 112.313(7)(b). The Chief Financial Officer shall designate one
1229 of the appointees as chair. All board members serve at the
1230 pleasure of the appointing officer. All members of the board of
1231 governors are subject to removal at will by the officers who
1232 appointed them. All board members, including the chair, must be

1233 appointed to serve for 3-year terms beginning annually on a date
1234 designated by the plan. However, for the first term beginning on
1235 or after July 1, 2009, each appointing officer shall appoint one
1236 member of the board for a 2-year term and one member for a 3-
1237 year term. Any board vacancy shall be filled for the unexpired
1238 term by the appointing officer. The Chief Financial Officer
1239 shall appoint a technical advisory group to provide information
1240 and advice to the board of governors in connection with the
1241 board's duties under this subsection. The executive director and
1242 senior managers of the corporation shall be engaged by the board
1243 and serve at the pleasure of the board. Any executive director
1244 appointed on or after July 1, 2006, is subject to confirmation
1245 by the Senate. The executive director is responsible for
1246 employing other staff as the corporation may require, subject to
1247 review and concurrence by the board.

1248 b. The board shall create a Market Accountability Advisory
1249 Committee to assist the corporation in developing awareness of
1250 its rates and its customer and agent service levels in
1251 relationship to the voluntary market insurers writing similar
1252 coverage. The members of the advisory committee shall consist of
1253 the following 11 persons, one of whom must be elected chair by
1254 the members of the committee: four representatives, one
1255 appointed by the Florida Association of Insurance Agents, one by
1256 the Florida Association of Insurance and Financial Advisors, one
1257 by the Professional Insurance Agents of Florida, and one by the
1258 Latin American Association of Insurance Agencies; three
1259 representatives appointed by the insurers with the three highest
1260 voluntary market share of residential property insurance

1261 business in the state; one representative from the Office of
 1262 Insurance Regulation; one consumer appointed by the board who is
 1263 insured by the corporation at the time of appointment to the
 1264 committee; one representative appointed by the Florida
 1265 Association of Realtors; and one representative appointed by the
 1266 Florida Bankers Association. All members must serve for 3-year
 1267 terms and may serve for consecutive terms. The committee shall
 1268 report to the corporation at each board meeting on insurance
 1269 market issues which may include rates and rate competition with
 1270 the voluntary market; service, including policy issuance, claims
 1271 processing, and general responsiveness to policyholders,
 1272 applicants, and agents; and matters relating to depopulation.

1273 5. Must provide a procedure for determining the
 1274 eligibility of a risk for coverage, as follows:

1275 a. Subject to the provisions of s. 627.3517, with respect
 1276 to personal lines residential risks, if the risk is offered
 1277 coverage from an authorized insurer at the insurer's approved
 1278 rate under either a standard policy including wind coverage or,
 1279 if consistent with the insurer's underwriting rules as filed
 1280 with the office, a basic policy including wind coverage, for a
 1281 new application to the corporation for coverage, the risk is not
 1282 eligible for any policy issued by the corporation unless the
 1283 premium for coverage from the authorized insurer is more than 15
 1284 percent greater than the premium for comparable coverage from
 1285 the corporation. If the risk is not able to obtain any such
 1286 offer, the risk is eligible for either a standard policy
 1287 including wind coverage or a basic policy including wind
 1288 coverage issued by the corporation; however, if the risk could

1289 not be insured under a standard policy including wind coverage
1290 regardless of market conditions, the risk shall be eligible for
1291 a basic policy including wind coverage unless rejected under
1292 subparagraph 8. However, with regard to a policyholder of the
1293 corporation or a policyholder removed from the corporation
1294 through an assumption agreement until the end of the assumption
1295 period, the policyholder remains eligible for coverage from the
1296 corporation regardless of any offer of coverage from an
1297 authorized insurer or surplus lines insurer. The corporation
1298 shall determine the type of policy to be provided on the basis
1299 of objective standards specified in the underwriting manual and
1300 based on generally accepted underwriting practices.

1301 (I) If the risk accepts an offer of coverage through the
1302 market assistance plan or an offer of coverage through a
1303 mechanism established by the corporation before a policy is
1304 issued to the risk by the corporation or during the first 30
1305 days of coverage by the corporation, and the producing agent who
1306 submitted the application to the plan or to the corporation is
1307 not currently appointed by the insurer, the insurer shall:

1308 (A) Pay to the producing agent of record of the policy,
1309 for the first year, an amount that is the greater of the
1310 insurer's usual and customary commission for the type of policy
1311 written or a fee equal to the usual and customary commission of
1312 the corporation; or

1313 (B) Offer to allow the producing agent of record of the
1314 policy to continue servicing the policy for a period of not less
1315 than 1 year and offer to pay the agent the greater of the
1316 insurer's or the corporation's usual and customary commission

1317 | for the type of policy written.

1318 |

1319 | If the producing agent is unwilling or unable to accept
 1320 | appointment, the new insurer shall pay the agent in accordance
 1321 | with sub-sub-sub-subparagraph (A).

1322 | (II) When the corporation enters into a contractual
 1323 | agreement for a take-out plan, the producing agent of record of
 1324 | the corporation policy is entitled to retain any unearned
 1325 | commission on the policy, and the insurer shall:

1326 | (A) Pay to the producing agent of record of the
 1327 | corporation policy, for the first year, an amount that is the
 1328 | greater of the insurer's usual and customary commission for the
 1329 | type of policy written or a fee equal to the usual and customary
 1330 | commission of the corporation; or

1331 | (B) Offer to allow the producing agent of record of the
 1332 | corporation policy to continue servicing the policy for a period
 1333 | of not less than 1 year and offer to pay the agent the greater
 1334 | of the insurer's or the corporation's usual and customary
 1335 | commission for the type of policy written.

1336 |

1337 | If the producing agent is unwilling or unable to accept
 1338 | appointment, the new insurer shall pay the agent in accordance
 1339 | with sub-sub-sub-subparagraph (A).

1340 | b. With respect to commercial lines residential risks, for
 1341 | a new application to the corporation for coverage, if the risk
 1342 | is offered coverage under a policy including wind coverage from
 1343 | an authorized insurer at its approved rate, the risk is not
 1344 | eligible for any policy issued by the corporation unless the

1345 premium for coverage from the authorized insurer is more than 15
1346 percent greater than the premium for comparable coverage from
1347 the corporation. If the risk is not able to obtain any such
1348 offer, the risk is eligible for a policy including wind coverage
1349 issued by the corporation. However, with regard to a
1350 policyholder of the corporation or a policyholder removed from
1351 the corporation through an assumption agreement until the end of
1352 the assumption period, the policyholder remains eligible for
1353 coverage from the corporation regardless of any offer of
1354 coverage from an authorized insurer or surplus lines insurer.

1355 (I) If the risk accepts an offer of coverage through the
1356 market assistance plan or an offer of coverage through a
1357 mechanism established by the corporation before a policy is
1358 issued to the risk by the corporation or during the first 30
1359 days of coverage by the corporation, and the producing agent who
1360 submitted the application to the plan or the corporation is not
1361 currently appointed by the insurer, the insurer shall:

1362 (A) Pay to the producing agent of record of the policy,
1363 for the first year, an amount that is the greater of the
1364 insurer's usual and customary commission for the type of policy
1365 written or a fee equal to the usual and customary commission of
1366 the corporation; or

1367 (B) Offer to allow the producing agent of record of the
1368 policy to continue servicing the policy for a period of not less
1369 than 1 year and offer to pay the agent the greater of the
1370 insurer's or the corporation's usual and customary commission
1371 for the type of policy written.

1372

1373 If the producing agent is unwilling or unable to accept
 1374 appointment, the new insurer shall pay the agent in accordance
 1375 with sub-sub-sub-subparagraph (A).

1376 (II) When the corporation enters into a contractual
 1377 agreement for a take-out plan, the producing agent of record of
 1378 the corporation policy is entitled to retain any unearned
 1379 commission on the policy, and the insurer shall:

1380 (A) Pay to the producing agent of record of the
 1381 corporation policy, for the first year, an amount that is the
 1382 greater of the insurer's usual and customary commission for the
 1383 type of policy written or a fee equal to the usual and customary
 1384 commission of the corporation; or

1385 (B) Offer to allow the producing agent of record of the
 1386 corporation policy to continue servicing the policy for a period
 1387 of not less than 1 year and offer to pay the agent the greater
 1388 of the insurer's or the corporation's usual and customary
 1389 commission for the type of policy written.

1390
 1391 If the producing agent is unwilling or unable to accept
 1392 appointment, the new insurer shall pay the agent in accordance
 1393 with sub-sub-sub-subparagraph (A).

1394 c. For purposes of determining comparable coverage under
 1395 sub-subparagraphs a. and b., the comparison shall be based on
 1396 those forms and coverages that are reasonably comparable. The
 1397 corporation may rely on a determination of comparable coverage
 1398 and premium made by the producing agent who submits the
 1399 application to the corporation, made in the agent's capacity as
 1400 the corporation's agent. A comparison may be made solely of the

1401 premium with respect to the main building or structure only on
1402 the following basis: the same coverage A or other building
1403 limits; the same percentage hurricane deductible that applies on
1404 an annual basis or that applies to each hurricane for commercial
1405 residential property; the same percentage of ordinance and law
1406 coverage, if the same limit is offered by both the corporation
1407 and the authorized insurer; the same mitigation credits, to the
1408 extent the same types of credits are offered both by the
1409 corporation and the authorized insurer; the same method for loss
1410 payment, such as replacement cost or actual cash value, if the
1411 same method is offered both by the corporation and the
1412 authorized insurer in accordance with underwriting rules; and
1413 any other form or coverage that is reasonably comparable as
1414 determined by the board. If an application is submitted to the
1415 corporation for wind-only coverage in the high-risk account, the
1416 premium for the corporation's wind-only policy plus the premium
1417 for the ex-wind policy that is offered by an authorized insurer
1418 to the applicant shall be compared to the premium for multiperil
1419 coverage offered by an authorized insurer, subject to the
1420 standards for comparison specified in this subparagraph. If the
1421 corporation or the applicant requests from the authorized
1422 insurer a breakdown of the premium of the offer by types of
1423 coverage so that a comparison may be made by the corporation or
1424 its agent and the authorized insurer refuses or is unable to
1425 provide such information, the corporation may treat the offer as
1426 not being an offer of coverage from an authorized insurer at the
1427 insurer's approved rate.

1428 6. Must include rules for classifications of risks and

1429 rates therefor.

1430 7. Must provide that if premium and investment income for
 1431 an account attributable to a particular calendar year are in
 1432 excess of projected losses and expenses for the account
 1433 attributable to that year, such excess shall be held in surplus
 1434 in the account. Such surplus shall be available to defray
 1435 deficits in that account as to future years and shall be used
 1436 for that purpose prior to assessing assessable insurers and
 1437 assessable insureds as to any calendar year.

1438 8. Must provide objective criteria and procedures to be
 1439 uniformly applied for all applicants in determining whether an
 1440 individual risk is so hazardous as to be uninsurable. In making
 1441 this determination and in establishing the criteria and
 1442 procedures, the following shall be considered:

1443 a. Whether the likelihood of a loss for the individual
 1444 risk is substantially higher than for other risks of the same
 1445 class; and

1446 b. Whether the uncertainty associated with the individual
 1447 risk is such that an appropriate premium cannot be determined.

1448
 1449 The acceptance or rejection of a risk by the corporation shall
 1450 be construed as the private placement of insurance, and the
 1451 provisions of chapter 120 shall not apply.

1452 9. Must provide that the corporation shall make its best
 1453 efforts to procure catastrophe reinsurance at reasonable rates,
 1454 to cover its projected 100-year probable maximum loss as
 1455 determined by the board of governors.

1456 10. The policies issued by the corporation must provide

1457 that, if the corporation or the market assistance plan obtains
1458 an offer from an authorized insurer to cover the risk at its
1459 approved rates, the risk is no longer eligible for renewal
1460 through the corporation, except as otherwise provided in this
1461 subsection.

1462 11. Corporation policies and applications must include a
1463 notice that the corporation policy could, under this section, be
1464 replaced with a policy issued by an authorized insurer that does
1465 not provide coverage identical to the coverage provided by the
1466 corporation. The notice shall also specify that acceptance of
1467 corporation coverage creates a conclusive presumption that the
1468 applicant or policyholder is aware of this potential.

1469 12. May establish, subject to approval by the office,
1470 different eligibility requirements and operational procedures
1471 for any line or type of coverage for any specified county or
1472 area if the board determines that such changes to the
1473 eligibility requirements and operational procedures are
1474 justified due to the voluntary market being sufficiently stable
1475 and competitive in such area or for such line or type of
1476 coverage and that consumers who, in good faith, are unable to
1477 obtain insurance through the voluntary market through ordinary
1478 methods would continue to have access to coverage from the
1479 corporation. When coverage is sought in connection with a real
1480 property transfer, such requirements and procedures shall not
1481 provide for an effective date of coverage later than the date of
1482 the closing of the transfer as established by the transferor,
1483 the transferee, and, if applicable, the lender.

1484 13. Must provide that, with respect to the high-risk

1485 account, any assessable insurer with a surplus as to
1486 policyholders of \$25 million or less writing 25 percent or more
1487 of its total countrywide property insurance premiums in this
1488 state may petition the office, within the first 90 days of each
1489 calendar year, to qualify as a limited apportionment company. A
1490 regular assessment levied by the corporation on a limited
1491 apportionment company for a deficit incurred by the corporation
1492 for the high-risk account in 2006 or thereafter may be paid to
1493 the corporation on a monthly basis as the assessments are
1494 collected by the limited apportionment company from its insureds
1495 pursuant to s. 627.3512, but the regular assessment must be paid
1496 in full within 12 months after being levied by the corporation.
1497 A limited apportionment company shall collect from its
1498 policyholders any emergency assessment imposed under sub-
1499 subparagraph (b)3.d. The plan shall provide that, if the office
1500 determines that any regular assessment will result in an
1501 impairment of the surplus of a limited apportionment company,
1502 the office may direct that all or part of such assessment be
1503 deferred as provided in subparagraph (p)4. However, there shall
1504 be no limitation or deferment of an emergency assessment to be
1505 collected from policyholders under sub-subparagraph (b)3.d.

1506 14. Must provide that the corporation appoint as its
1507 licensed agents only those agents who also hold an appointment
1508 as defined in s. 626.015(3) with an insurer who at the time of
1509 the agent's initial appointment by the corporation is authorized
1510 to write and is actually writing personal lines residential
1511 property coverage, commercial residential property coverage, or
1512 commercial nonresidential property coverage within the state.

1513 15. Must provide, by July 1, 2007, a premium payment plan
 1514 option to its policyholders which allows at a minimum for
 1515 quarterly and semiannual payment of premiums. A monthly payment
 1516 plan may, but is not required to, be offered.

1517 16. Must limit coverage on mobile homes or manufactured
 1518 homes built prior to 1994 to actual cash value of the dwelling
 1519 rather than replacement costs of the dwelling.

1520 17. May provide such limits of coverage as the board
 1521 determines, consistent with the requirements of this subsection.

1522 18. May require commercial property to meet specified
 1523 hurricane mitigation construction features as a condition of
 1524 eligibility for coverage.

1525 19.a. Shall require the agent to obtain from any applicant
 1526 for coverage the following acknowledgement, signed by the
 1527 applicant, and shall require the agent of record to obtain the
 1528 following acknowledgment from each corporation policyholder
 1529 prior to the policy's first renewal after the effective date of
 1530 this act:

1532 ACKNOWLEDGEMENT OF POTENTIAL SURCHARGE AND ASSESSMENT

1533 LIABILITY:

1534 1. I UNDERSTAND, AS A CITIZENS PROPERTY
 1535 INSURANCE CORPORATION POLICYHOLDER, THAT IF THE
 1536 CORPORATION SUSTAINS A DEFICIT AS A RESULT OF
 1537 HURRICANE LOSSES OR FOR ANY OTHER REASON, MY POLICY
 1538 COULD BE SUBJECT TO CITIZENS POLICYHOLDER SURCHARGES,
 1539 WHICH WOULD BE DUE AND PAYABLE UPON ISSUANCE, RENEWAL,
 1540 CANCELLATION, OR TERMINATION OF THE POLICY, AND THAT

1541 THE SURCHARGES COULD BE AS HIGH AS 15 PERCENT OF MY
1542 PREMIUM FOR DEFICITS IN EACH OF THREE CITIZENS
1543 ACCOUNTS, OR A DIFFERENT AMOUNT AS ESTABLISHED BY THE
1544 FLORIDA LEGISLATURE.

1545 2. I ALSO UNDERSTAND THAT I MAY BE SUBJECT TO
1546 EMERGENCY ASSESSMENTS TO THE SAME EXTENT AS
1547 POLICYHOLDERS OF OTHER INSURANCE COMPANIES.

1548
1549 b. The corporation shall permanently maintain a signed
1550 copy of the signed acknowledgement required by this
1551 subparagraph, and the agent may also retain a copy.

1552 c. The signed acknowledgement form creates a conclusive
1553 presumption that the policyholder understood and accepted his or
1554 her potential surcharge and assessment liability as a Citizens
1555 policyholder.

1556 (d)1. All prospective employees for senior management
1557 positions, as defined by the plan of operation, are subject to
1558 background checks as a prerequisite for employment. The office
1559 shall conduct background checks on such prospective employees
1560 pursuant to ss. 624.34, 624.404(3), and 628.261.

1561 2. On or before July 1 of each year, employees of the
1562 corporation are required to sign and submit a statement
1563 attesting that they do not have a conflict of interest, as
1564 defined in part III of chapter 112. As a condition of
1565 employment, all prospective employees are required to sign and
1566 submit to the corporation a conflict-of-interest statement.

1567 3. Senior managers and members of the board of governors
1568 are subject to the provisions of part III of chapter 112,

1569 including, but not limited to, the code of ethics and public
1570 disclosure and reporting of financial interests, pursuant to s.
1571 112.3145. Notwithstanding s. 112.3143(2), a board member may not
1572 vote upon any measure that would inure to his or her special
1573 private gain or loss; that he or she knows would inure to the
1574 special private gain or loss of any principal by whom he or she
1575 is retained or to the parent organization or subsidiary of a
1576 corporate principal by which he or she is retained, other than
1577 an agency as defined in s. 112.312(2); or that he or she knows
1578 would inure to the special private gain or loss of a relative or
1579 business associate of the public officer. Such member shall,
1580 prior to the vote being taken, publicly state to the assembly
1581 the nature of his or her interest in the matter from which he or
1582 she is abstaining from voting and, within 15 days after the vote
1583 occurs, disclose the nature of his or her interest as a public
1584 record in a memorandum filed with the person responsible for
1585 recording the minutes of the meeting, who shall incorporate the
1586 memorandum in the minutes. Senior managers and board members are
1587 also required to file such disclosures with the Commission on
1588 Ethics and the Office of Insurance Regulation. The executive
1589 director of the corporation or his or her designee shall notify
1590 each newly appointed and existing appointed member of the board
1591 of governors and senior managers of their duty to comply with
1592 the reporting requirements of part III of chapter 112. At least
1593 quarterly, the executive director or his or her designee shall
1594 submit to the Commission on Ethics a list of names of the senior
1595 managers and members of the board of governors who are subject
1596 to the public disclosure requirements under s. 112.3145.

1597 4. Notwithstanding s. 112.3148 or s. 112.3149, or any
 1598 other provision of law, an employee or board member may not
 1599 knowingly accept, directly or indirectly, any gift or
 1600 expenditure from a person or entity, or an employee or
 1601 representative of such person or entity, that has a contractual
 1602 relationship with the corporation or who is under consideration
 1603 for a contract. An employee or board member who fails to comply
 1604 with subparagraph 3. or this subparagraph is subject to
 1605 penalties provided under ss. 112.317 and 112.3173.

1606 5. Any senior manager of the corporation who is employed
 1607 on or after January 1, 2007, regardless of the date of hire, who
 1608 subsequently retires or terminates employment is prohibited from
 1609 representing another person or entity before the corporation for
 1610 2 years after retirement or termination of employment from the
 1611 corporation.

1612 6. Any senior manager of the corporation who is employed
 1613 on or after January 1, 2007, regardless of the date of hire, who
 1614 subsequently retires or terminates employment is prohibited from
 1615 having any employment or contractual relationship for 2 years
 1616 with an insurer that has entered into a take-out bonus agreement
 1617 with the corporation.

1618 ~~(y) It is the intent of the Legislature that the~~
 1619 ~~amendments to this subsection enacted in 2002 should, over time,~~
 1620 ~~reduce the probable maximum windstorm losses in the residual~~
 1621 ~~markets and should reduce the potential assessments to be levied~~
 1622 ~~on property insurers and policyholders statewide. In furtherance~~
 1623 ~~of this intent:~~

1624 ~~1. The board shall, on or before February 1 of each year,~~

1625 ~~provide a report to the President of the Senate and the Speaker~~
1626 ~~of the House of Representatives showing the reduction or~~
1627 ~~increase in the 100-year probable maximum loss attributable to~~
1628 ~~wind-only coverages and the quota share program under this~~
1629 ~~subsection combined, as compared to the benchmark 100-year~~
1630 ~~probable maximum loss of the Florida Windstorm Underwriting~~
1631 ~~Association. For purposes of this paragraph, the benchmark 100-~~
1632 ~~year probable maximum loss of the Florida Windstorm Underwriting~~
1633 ~~Association shall be the calculation dated February 2001 and~~
1634 ~~based on November 30, 2000, exposures. In order to ensure~~
1635 ~~comparability of data, the board shall use the same methods for~~
1636 ~~calculating its probable maximum loss as were used to calculate~~
1637 ~~the benchmark probable maximum loss.~~

1638 ~~2. Beginning December 1, 2010, if the report under~~
1639 ~~subparagraph 1. for any year indicates that the 100-year~~
1640 ~~probable maximum loss attributable to wind-only coverages and~~
1641 ~~the quota share program combined does not reflect a reduction of~~
1642 ~~at least 25 percent from the benchmark, the board shall reduce~~
1643 ~~the boundaries of the high-risk area eligible for wind-only~~
1644 ~~coverages under this subsection in a manner calculated to reduce~~
1645 ~~such probable maximum loss to an amount at least 25 percent~~
1646 ~~below the benchmark.~~

1647 ~~3. Beginning February 1, 2015, if the report under~~
1648 ~~subparagraph 1. for any year indicates that the 100-year~~
1649 ~~probable maximum loss attributable to wind-only coverages and~~
1650 ~~the quota share program combined does not reflect a reduction of~~
1651 ~~at least 50 percent from the benchmark, the boundaries of the~~
1652 ~~high-risk area eligible for wind-only coverages under this~~

1653 ~~subsection shall be reduced by the elimination of any area that~~
 1654 ~~is not seaward of a line 1,000 feet inland from the Intracoastal~~
 1655 ~~Waterway.~~

1656 (y)~~(z)~~ In enacting the provisions of this section, the
 1657 Legislature recognizes that both the Florida Windstorm
 1658 Underwriting Association and the Residential Property and
 1659 Casualty Joint Underwriting Association have entered into
 1660 financing arrangements that obligate each entity to service its
 1661 debts and maintain the capacity to repay funds secured under
 1662 these financing arrangements. It is the intent of the
 1663 Legislature that nothing in this section be construed to
 1664 compromise, diminish, or interfere with the rights of creditors
 1665 under such financing arrangements. It is further the intent of
 1666 the Legislature to preserve the obligations of the Florida
 1667 Windstorm Underwriting Association and Residential Property and
 1668 Casualty Joint Underwriting Association with regard to
 1669 outstanding financing arrangements, with such obligations
 1670 passing entirely and unchanged to the corporation and,
 1671 specifically, to the applicable account of the corporation. So
 1672 long as any bonds, notes, indebtedness, or other financing
 1673 obligations of the Florida Windstorm Underwriting Association or
 1674 the Residential Property and Casualty Joint Underwriting
 1675 Association are outstanding, under the terms of the financing
 1676 documents pertaining to them, the governing board of the
 1677 corporation shall have and shall exercise the authority to levy,
 1678 charge, collect, and receive all premiums, assessments,
 1679 surcharges, charges, revenues, and receipts that the
 1680 associations had authority to levy, charge, collect, or receive

1681 under the provisions of subsection (2) and this subsection,
1682 respectively, as they existed on January 1, 2002, to provide
1683 moneys, without exercise of the authority provided by this
1684 subsection, in at least the amounts, and by the times, as would
1685 be provided under those former provisions of subsection (2) or
1686 this subsection, respectively, so that the value, amount, and
1687 collectability of any assets, revenues, or revenue source
1688 pledged or committed to, or any lien thereon securing such
1689 outstanding bonds, notes, indebtedness, or other financing
1690 obligations will not be diminished, impaired, or adversely
1691 affected by the amendments made by this act and to permit
1692 compliance with all provisions of financing documents pertaining
1693 to such bonds, notes, indebtedness, or other financing
1694 obligations, or the security or credit enhancement for them, and
1695 any reference in this subsection to bonds, notes, indebtedness,
1696 financing obligations, or similar obligations, of the
1697 corporation shall include like instruments or contracts of the
1698 Florida Windstorm Underwriting Association and the Residential
1699 Property and Casualty Joint Underwriting Association to the
1700 extent not inconsistent with the provisions of the financing
1701 documents pertaining to them.

1702 (z)~~(aa)~~ The corporation shall not require the securing of
1703 flood insurance as a condition of coverage if the insured or
1704 applicant executes a form approved by the office affirming that
1705 flood insurance is not provided by the corporation and that if
1706 flood insurance is not secured by the applicant or insured in
1707 addition to coverage by the corporation, the risk will not be
1708 covered for flood damage. A corporation policyholder electing

1709 not to secure flood insurance and executing a form as provided
1710 herein making a claim for water damage against the corporation
1711 shall have the burden of proving the damage was not caused by
1712 flooding. Notwithstanding other provisions of this subsection,
1713 the corporation may deny coverage to an applicant or insured who
1714 refuses to execute the form described herein.

1715 (aa) ~~(bb)~~ A salaried employee of the corporation who
1716 performs policy administration services subsequent to the
1717 effectuation of a corporation policy is not required to be
1718 licensed as an agent under the provisions of s. 626.112.

1719 (bb) ~~(cc)~~ By February 1, 2007, the corporation shall submit
1720 a report to the President of the Senate, the Speaker of the
1721 House of Representatives, the minority party leaders of the
1722 Senate and the House of Representatives, and the chairs of the
1723 standing committees of the Senate and the House of
1724 Representatives having jurisdiction over matters relating to
1725 property and casualty insurance. In preparing the report, the
1726 corporation shall consult with the Office of Insurance
1727 Regulation, the Department of Financial Services, and any other
1728 party the corporation determines appropriate. The report must
1729 include all findings and recommendations on the feasibility of
1730 requiring authorized insurers that issue and service personal
1731 and commercial residential policies and commercial
1732 nonresidential policies that provide coverage for basic property
1733 perils except for the peril of wind to issue and service for a
1734 fee personal and commercial residential policies and commercial
1735 nonresidential policies providing coverage for the peril of wind
1736 issued by the corporation. The report must include:

1737 1. The expense savings to the corporation of issuing and
 1738 servicing such policies as determined by a cost-benefit
 1739 analysis.

1740 2. The expenses and liability to authorized insurers
 1741 associated with issuing and servicing such policies.

1742 3. The effect on service to policyholders of the
 1743 corporation relating to issuing and servicing such policies.

1744 4. The effect on the producing agent of the corporation of
 1745 issuing and servicing such policies.

1746 5. Recommendations as to the amount of the fee which
 1747 should be paid to authorized insurers for issuing and servicing
 1748 such policies.

1749 6. The effect that issuing and servicing such policies
 1750 will have on the corporation's number of policies, total insured
 1751 value, and probable maximum loss.

1752 (cc)~~(dd)~~ There shall be no liability on the part of, and
 1753 no cause of action of any nature shall arise against, producing
 1754 agents of record of the corporation or employees of such agents
 1755 for insolvency of any take-out insurer.

1756 (dd)~~(ee)~~ The assets of the corporation may be invested and
 1757 managed by the State Board of Administration.

1758 (ee)~~(ff)~~ The office may establish a pilot program to offer
 1759 optional sinkhole coverage in one or more counties or other
 1760 territories of the corporation for the purpose of implementing
 1761 s. 627.706, as amended by s. 30, chapter 2007-1, Laws of
 1762 Florida. Under the pilot program, the corporation is not
 1763 required to issue a notice of nonrenewal to exclude sinkhole
 1764 coverage upon the renewal of existing policies, but may exclude

1765 such coverage using a notice of coverage change.

1766 Section 10. The Division of Statutory Revision shall
 1767 prepare a reviser's bill for introduction at the next regular
 1768 session of the Legislature to change the term "high-risk
 1769 account" to "coastal account" in s. 627.351(6), Florida
 1770 Statutes.

1771 Section 11. Paragraph (b) of subsection (2) of section
 1772 627.4133, Florida Statutes, is amended to read:

1773 627.4133 Notice of cancellation, nonrenewal, or renewal
 1774 premium.—

1775 (2) With respect to any personal lines or commercial
 1776 residential property insurance policy, including, but not
 1777 limited to, any homeowner's, mobile home owner's, farmowner's,
 1778 condominium association, condominium unit owner's, apartment
 1779 building, or other policy covering a residential structure or
 1780 its contents:

1781 (b) The insurer shall give the named insured written
 1782 notice of nonrenewal, cancellation, or termination at least 100
 1783 days prior to the effective date of the nonrenewal,
 1784 cancellation, or termination. However, the insurer shall give at
 1785 least 100 days' written notice, or written notice by June 1,
 1786 whichever is earlier, for any nonrenewal, cancellation, or
 1787 termination that would be effective between June 1 and November
 1788 30. The notice must include the reason or reasons for the
 1789 nonrenewal, cancellation, or termination, except that:

1790 1. The insurer shall give the named insured written notice
 1791 of nonrenewal, cancellation, or termination at least 180 days
 1792 prior to the effective date of the nonrenewal, cancellation, or

1793 termination for a named insured whose residential structure has
1794 been insured by that insurer or an affiliated insurer for at
1795 least a 5-year period immediately prior to the date of the
1796 written notice.

1797 2. When cancellation is for nonpayment of premium, at
1798 least 10 days' written notice of cancellation accompanied by the
1799 reason therefor shall be given. As used in this subparagraph,
1800 the term "nonpayment of premium" means failure of the named
1801 insured to discharge when due any of her or his obligations in
1802 connection with the payment of premiums on a policy or any
1803 installment of such premium, whether the premium is payable
1804 directly to the insurer or its agent or indirectly under any
1805 premium finance plan or extension of credit, or failure to
1806 maintain membership in an organization if such membership is a
1807 condition precedent to insurance coverage. "Nonpayment of
1808 premium" also means the failure of a financial institution to
1809 honor an insurance applicant's check after delivery to a
1810 licensed agent for payment of a premium, even if the agent has
1811 previously delivered or transferred the premium to the insurer.
1812 If a dishonored check represents the initial premium payment,
1813 the contract and all contractual obligations shall be void ab
1814 initio unless the nonpayment is cured within the earlier of 5
1815 days after actual notice by certified mail is received by the
1816 applicant or 15 days after notice is sent to the applicant by
1817 certified mail or registered mail, and if the contract is void,
1818 any premium received by the insurer from a third party shall be
1819 refunded to that party in full.

1820 3. When such cancellation or termination occurs during the

1821 first 90 days during which the insurance is in force and the
1822 insurance is canceled or terminated for reasons other than
1823 nonpayment of premium, at least 20 days' written notice of
1824 cancellation or termination accompanied by the reason therefor
1825 shall be given except where there has been a material
1826 misstatement or misrepresentation or failure to comply with the
1827 underwriting requirements established by the insurer.

1828 4. The requirement for providing written notice of
1829 nonrenewal by June 1 of any nonrenewal that would be effective
1830 between June 1 and November 30 does not apply to the following
1831 situations, but the insurer remains subject to the requirement
1832 to provide such notice at least 100 days prior to the effective
1833 date of nonrenewal:

1834 a. A policy that is nonrenewed due to a revision in the
1835 coverage for sinkhole losses and catastrophic ground cover
1836 collapse pursuant to s. 627.706, as amended by s. 30, chapter
1837 2007-1, Laws of Florida.

1838 b. A policy that is nonrenewed by Citizens Property
1839 Insurance Corporation, pursuant to s. 627.351(6), for a policy
1840 that has been assumed by an authorized insurer offering
1841 replacement or renewal coverage to the policyholder.

1842 5. Notwithstanding any other provision of law, an insurer
1843 may cancel or nonrenew a property insurance policy upon a
1844 minimum of 45 days' notice if the office finds that the early
1845 cancellation of some or all of the insurer's policies is
1846 necessary to protect the best interests of the public or
1847 policyholders and the office approves the insurer's plan for
1848 early cancellation or nonrenewal of some or all of its policies.

1849 The office may base such a finding upon the financial condition
 1850 of the insurer, lack of adequate reinsurance coverage for
 1851 hurricane risk, or other relevant factors. The office may
 1852 condition its finding on the consent of the insurer to be placed
 1853 in administrative supervision pursuant to s. 624.81 or consent
 1854 to the appointment of a receiver under chapter 631.

1855 6. Citizens Property Insurance Corporation shall give the
 1856 named insured written notice of nonrenewal, cancellation, or
 1857 termination at least 45 days before the effective date of the
 1858 nonrenewal, cancellation, or termination if the policy being
 1859 nonrenewed, canceled, or terminated has been assumed by an
 1860 authorized insurer offering coverage to the policyholder.

1861
 1862 After the policy has been in effect for 90 days, the policy
 1863 shall not be canceled by the insurer except when there has been
 1864 a material misstatement, a nonpayment of premium, a failure to
 1865 comply with underwriting requirements established by the insurer
 1866 within 90 days of the date of effectuation of coverage, or a
 1867 substantial change in the risk covered by the policy or when the
 1868 cancellation is for all insureds under such policies for a given
 1869 class of insureds. This paragraph does not apply to individually
 1870 rated risks having a policy term of less than 90 days.

1871 Section 12. Section 627.41341, Florida Statutes, is
 1872 created to read:

1873 627.41341 Notice of change in policy terms.—

1874 (1) As used in this section, the term:

1875 (a) "Change in policy terms" means the modification,
 1876 addition, or deletion of any term, coverage, duty, or condition

1877 from the prior policy. The correction of typographical or
1878 scrivener's errors or the application of mandated legislative
1879 changes is not a change in policy terms.

1880 (b) "Policy" means a written contract of personal lines
1881 insurance or a written agreement for or effecting insurance, or
1882 the certificate of such insurance, by whatever name called, and
1883 includes all clauses, riders, endorsements, and papers which are
1884 a part of such policy. The term "policy" does not include a
1885 binder as defined in s. 627.420 unless the duration of the
1886 binder period exceeds 60 days.

1887 (c) "Renewal" means the issuance and delivery by an
1888 insurer of a policy superseding at the end of the policy period
1889 a policy previously issued and delivered by the same insurer or
1890 the issuance and delivery of a certificate or notice extending
1891 the term of a policy beyond its policy period or term. Any
1892 policy with a policy period or term of less than 6 months or any
1893 policy with no fixed expiration date shall for the purpose of
1894 this section be considered as if written for successive policy
1895 periods or terms of 6 months.

1896 (2) A renewal policy may contain a change in policy terms.
1897 If a renewal policy contains a change in policy terms, the
1898 insurer shall give the named insured a written notice of change
1899 in policy terms that shall be enclosed with the written notice
1900 of renewal premium required by ss. 627.4133 and 627.728. The
1901 notice shall be entitled "Notice of Change in Policy Terms."

1902 (3) Although not required, United States Postal Service
1903 proof of mailing or registered mailing of the notice of change
1904 in policy terms to the named insured at the address shown in the

1905 policy shall be sufficient proof of notice.

1906 (4) Receipt of payment of the premium for the renewal
 1907 policy by the insurer shall be deemed to be acceptance of the
 1908 new policy terms by the named insured.

1909 (5) If an insurer fails to provide the notice of change in
 1910 policy terms required under subsection (2), the original policy
 1911 terms shall remain in effect until the next renewal and the
 1912 proper service of the notice of change in policy terms or until
 1913 the effective date of replacement coverage obtained by the named
 1914 insured, whichever occurs first.

1915 (6) The intent of this section is to:

1916 (a) Allow an insurer to make a change in policy terms
 1917 without nonrenewing policyholders that the insurer wishes to
 1918 continue insuring.

1919 (b) Alleviate the concern and confusion to the
 1920 policyholders caused by the required policy nonrenewal for the
 1921 limited issue when an insurer intends to renew the insurance
 1922 policy but the new policy contains a change in policy terms.

1923 (c) Encourage policyholders to discuss their coverages
 1924 with their insurance agent.

1925 Section 13. Subsections (1), (3), (4), and (5) of section
 1926 627.7011, Florida Statutes, are amended to read:

1927 627.7011 Homeowners' policies; offer of replacement cost
 1928 coverage and law and ordinance coverage.—

1929 (1) Before ~~Prior to~~ issuing or renewing a homeowner's
 1930 insurance policy ~~on or after October 1, 2005, or prior to the~~
 1931 ~~first renewal of a homeowner's insurance policy on or after~~
 1932 ~~October 1, 2005,~~ the insurer must offer each of the following:

1933 (a) A policy or endorsement providing that any loss which
 1934 is repaired or replaced will be adjusted on the basis of
 1935 replacement costs not exceeding policy limits as to the
 1936 dwelling, rather than actual cash value, but not including costs
 1937 necessary to meet applicable laws and ordinances regulating the
 1938 construction, use, or repair of any property or requiring the
 1939 tearing down of any property, including the costs of removing
 1940 debris.

1941 (b) A policy or endorsement providing that, subject to
 1942 other policy provisions, any loss which is repaired or replaced
 1943 at any location will be adjusted on the basis of replacement
 1944 costs not exceeding policy limits as to the dwelling, rather
 1945 than actual cash value, and also including costs necessary to
 1946 meet applicable laws and ordinances regulating the construction,
 1947 use, or repair of any property or requiring the tearing down of
 1948 any property, including the costs of removing debris; however,
 1949 such additional costs necessary to meet applicable laws and
 1950 ordinances may be limited to either 25 percent or 50 percent of
 1951 the dwelling limit, as selected by the policyholder, and such
 1952 coverage shall apply only to repairs of the damaged portion of
 1953 the structure unless the total damage to the structure exceeds
 1954 50 percent of the replacement cost of the structure.

1955
 1956 An insurer is not required to make the offers required by this
 1957 subsection with respect to the issuance or renewal of a
 1958 homeowner's policy that contains the provisions specified in
 1959 paragraph (b) for law and ordinance coverage limited to 25
 1960 percent of the dwelling limit, except that the insurer must

1961 offer the law and ordinance coverage limited to 50 percent of
 1962 the dwelling limit. This subsection does not prohibit the offer
 1963 of a guaranteed replacement cost policy.

1964 (3) (a) If In the event of a loss occurs for which a
 1965 dwelling ~~or personal property~~ is insured on the basis of
 1966 replacement costs, the insurer shall initially pay at least the
 1967 actual cash value of the loss and shall pay the actual cash
 1968 value of the insured loss, less any applicable deductible. In
 1969 order to receive payment from an insurer under this paragraph, a
 1970 policyholder must enter into a contract for the performance of
 1971 building and structural repairs. The insurer shall pay any
 1972 remaining amounts necessary to perform such repairs as work is
 1973 performed and expenses are incurred. Other than incidental
 1974 expenses to mitigate further damage, the insurer or any
 1975 contractor or subcontractor may not require the policyholder to
 1976 advance payment for such repairs or expenses. The insurer may
 1977 wave the requirement for a contract under this paragraph
 1978 ~~replacement cost without reservation or holdback of any~~
 1979 ~~depreciation in value, whether or not the insured replaces or~~
 1980 ~~repairs the dwelling or property.~~

1981 (b) If a loss occurs for which personal property is
 1982 insured on the basis of replacement costs, the insurer may limit
 1983 an initial payment to 50 percent of the replacement cost value
 1984 of the personal property to be replaced, less any applicable
 1985 deductible. An insurer may require an insured to provide the
 1986 receipts for purchases of property financed by the initial 50-
 1987 percent payment required by this paragraph, and the insurer
 1988 shall use such receipts to make any remaining payments requested

1989 by the insured for the replacement of remaining insured personal
 1990 property. If a total loss occurs, the insurer shall pay the
 1991 replacement cost for content coverage without reservation or
 1992 holdback of any depreciation in value. The insurer may not
 1993 require the policyholder to advance payment for the replaced
 1994 property.

1995 (4) A ~~Any~~ homeowner's insurance policy ~~issued or renewed~~
 1996 ~~on or after October 1, 2005,~~ must include in bold type no
 1997 smaller than 18 points the following statement:

1998
 1999 "LAW AND ORDINANCE COVERAGE IS AN IMPORTANT COVERAGE
 2000 THAT YOU MAY WISH TO PURCHASE. YOU MAY ALSO NEED TO
 2001 CONSIDER THE PURCHASE OF FLOOD INSURANCE FROM THE
 2002 NATIONAL FLOOD INSURANCE PROGRAM. WITHOUT THIS
 2003 COVERAGE, YOU MAY HAVE UNCOVERED LOSSES. PLEASE
 2004 DISCUSS THESE COVERAGES WITH YOUR INSURANCE AGENT."
 2005

2006 The intent of this subsection is to encourage policyholders to
 2007 purchase sufficient coverage to protect them in case events
 2008 excluded from the standard homeowners policy, such as law and
 2009 ordinance enforcement and flood, combine with covered events to
 2010 produce damage or loss to the insured property. The intent is
 2011 also to encourage policyholders to discuss these issues with
 2012 their insurance agent.

2013 (5) ~~Nothing in This section~~ does not ~~shall be construed to~~
 2014 ~~apply to policies not considered to be "homeowners' policies,"~~
 2015 ~~as that term is commonly understood in the insurance industry.~~
 2016 This section specifically does not apply to mobile home

2017 | policies. ~~Nothing in~~ This section does not limit ~~shall be~~
 2018 | ~~construed as limiting~~ the ability of any insurer to reject or
 2019 | nonrenew any insured or applicant on the grounds that the
 2020 | structure does not meet underwriting criteria applicable to
 2021 | replacement cost or law and ordinance policies or for other
 2022 | lawful reasons.

2023 | Section 14. Paragraph (a) of subsection (5) of section
 2024 | 627.70131, Florida Statutes, is amended to read:

2025 | 627.70131 Insurer's duty to acknowledge communications
 2026 | regarding claims; investigation.-

2027 | (5) (a) Within 90 days after an insurer receives notice of
 2028 | an initial or supplemental ~~a~~ property insurance claim from a
 2029 | policyholder, the insurer shall pay or deny such claim or a
 2030 | portion of the claim unless the failure to pay such claim or a
 2031 | portion of the claim is caused by factors beyond the control of
 2032 | the insurer which reasonably prevent such payment. Any payment
 2033 | of an initial or supplemental ~~a~~ claim or portion of such ~~a~~ claim
 2034 | made ~~paid~~ 90 days after the insurer receives notice of the
 2035 | claim, or made ~~paid~~ more than 15 days after there are no longer
 2036 | factors beyond the control of the insurer which reasonably
 2037 | prevented such payment, whichever is later, shall bear interest
 2038 | at the rate set forth in s. 55.03. Interest begins to accrue
 2039 | from the date the insurer receives notice of the claim. The
 2040 | provisions of this subsection may not be waived, voided, or
 2041 | nullified by the terms of the insurance policy. If there is a
 2042 | right to prejudgment interest, the insured shall select whether
 2043 | to receive prejudgment interest or interest under this
 2044 | subsection. Interest is payable when the claim or portion of the

2045 claim is paid. Failure to comply with this subsection
 2046 constitutes a violation of this code. However, failure to comply
 2047 with this subsection shall not form the sole basis for a private
 2048 cause of action.

2049 Section 15. Effective January 1, 2011, section 627.7031,
 2050 Florida Statutes, is created to read:

2051 627.7031 Residential property insurance option.-

2052 (1) An insurer holding a certificate of authority to write
 2053 property insurance in this state may offer or renew policies at
 2054 rates established in accordance with s. 627.062(2)(1), subject
 2055 to all of the requirements and prohibitions of this section.

2056 (2) An insurer offering or renewing policies at rates
 2057 established in accordance with s. 627.062(2)(1) may not purchase
 2058 coverage from the Florida Hurricane Catastrophe Fund under the
 2059 temporary increase in coverage limit option under s.
 2060 215.555(17).

2061 (3)(a) Before the effective date of a newly issued policy
 2062 at rates established in accordance with s. 627.062(2)(1) or
 2063 before the effective date of a renewal policy at rates
 2064 established in accordance with s. 627.062(2)(1), the applicant
 2065 or insured must be given the following notice, printed in at
 2066 least 12-point boldfaced type:

2067
 2068 THE RATE FOR THIS POLICY IS NOT SUBJECT TO FULL RATE
 2069 REGULATION BY THE FLORIDA OFFICE OF INSURANCE REGULATION AND MAY
 2070 BE HIGHER THAN RATES APPROVED BY THAT OFFICE. A RESIDENTIAL
 2071 PROPERTY POLICY SUBJECT TO FULL RATE REGULATION REQUIREMENTS MAY
 2072 BE AVAILABLE FROM THIS INSURER, ANOTHER INSURER, OR CITIZENS

2073 PROPERTY INSURANCE CORPORATION. PLEASE DISCUSS YOUR POLICY
 2074 OPTIONS WITH AN INSURANCE AGENT WHO CAN PROVIDE A CITIZENS
 2075 QUOTE. YOU MAY WISH TO VIEW THE OFFICE OF INSURANCE REGULATION'S
 2076 WEBSITE AT WWW.SHOPANDCOMPARERATES.COM FOR MORE INFORMATION
 2077 ABOUT CHOICES AVAILABLE TO YOU.

2078
 2079 (b) For policies renewed at a rate established in
 2080 accordance with s. 627.062(2)(1), the notice described in
 2081 paragraph (a) must be provided in writing at the same time as
 2082 the renewal notice on a document separate from the renewal
 2083 notice, but may be contained within the same mailing as the
 2084 renewal notice.

2085 (4) Before the effective date of a newly issued policy at
 2086 rates established in accordance with s. 627.062(2)(1), or before
 2087 the effective date of the first renewal at rates established in
 2088 accordance with s. 627.062(2)(1) of a policy originally issued
 2089 before the effective date of this section, the applicant or
 2090 insured must:

2091 (a) Be provided or offered, for comparison purposes, an
 2092 estimate of the premium for a policy from Citizens Property
 2093 Insurance Corporation reflecting substantially similar
 2094 coverages, limits, and deductibles to the extent available.

2095 (b) Provide the insurer or agent with a signed copy of the
 2096 following acknowledgement form, which must be retained by the
 2097 insurer or agent for at least 3 years. If the acknowledgement
 2098 form is signed by the insured or if the insured remits payment
 2099 in the amount of the rate established in accordance with s.
 2100 627.062(2)(1) after being mailed, otherwise provided, or offered

2101 the comparison specified in paragraph (a), an insurer renewing a
 2102 policy at such rate shall be deemed to comply with this section,
 2103 and it is presumed that the insured has been informed and
 2104 understands the information contained in the comparison and
 2105 acknowledgement forms:

2107 ACKNOWLEDGEMENT

2108 1. I HAVE REVIEWED THE REQUIRED DISCLOSURES AND THE
 2109 REQUIRED PREMIUM COMPARISON.

2110 2. I UNDERSTAND THAT THE RATE FOR THIS RESIDENTIAL
 2111 PROPERTY INSURANCE POLICY IS NOT SUBJECT TO FULL RATE REGULATION
 2112 BY THE FLORIDA OFFICE OF INSURANCE REGULATION AND MAY BE HIGHER
 2113 THAN RATES APPROVED BY THAT OFFICE.

2114 3. I UNDERSTAND THAT A RESIDENTIAL PROPERTY INSURANCE
 2115 POLICY SUBJECT TO FULL RATE REGULATION REQUIREMENTS MAY BE
 2116 AVAILABLE FROM CITIZENS PROPERTY INSURANCE CORPORATION.

2117 4. I UNDERSTAND THAT THE FLORIDA OFFICE OF INSURANCE
 2118 REGULATION'S WEBSITE WWW.SHOPANDCOMPARERATES.COM CONTAINS
 2119 RESIDENTIAL PROPERTY INSURANCE RATE COMPARISON INFORMATION.

2120 5. I UNDERSTAND THAT IF CITIZENS PROPERTY INSURANCE
 2121 CORPORATION INCURS A DEFICIT BECAUSE OF HURRICANE LOSSES OR
 2122 OTHER LOSSES, I MAY BE REQUIRED TO PAY AN ASSESSMENT BASED UPON
 2123 THE PREMIUM FOR THIS POLICY AND THAT A POLICYHOLDER OF CITIZENS
 2124 PROPERTY INSURANCE CORPORATION MAY BE REQUIRED TO PAY A
 2125 DIFFERENT ASSESSMENT.

2126
 2127 (5) The following types of residential property insurance
 2128 policies are not eligible for rates established in accordance

2129 with s. 627.062(2)(1) and are not subject to the other
 2130 provisions of this section:

2131 (a) Residential property insurance policies that exclude
 2132 coverage for the perils of windstorm or hurricane.

2133 (b) Residential property insurance policies that are
 2134 subject to a consent decree, agreement, understanding, or other
 2135 arrangement between the insurer and the office relating to rates
 2136 or premiums for policies removed from Citizens Property
 2137 Insurance Corporation.

2138 (6) Notwithstanding s. 627.4133, an insurer that has
 2139 issued a policy under this section shall provide the named
 2140 insured written notice of nonrenewal at least 180 days before
 2141 the effective date of the nonrenewal as to subsequent
 2142 nonrenewals. However, this subsection does not prohibit an
 2143 insurer from canceling a policy as permitted under s. 627.4133.
 2144 The offer of a policy at rates authorized by this section
 2145 constitutes an offer to renew the policy at the rates specified
 2146 in the offer and does not constitute a nonrenewal.

2147 Section 16. Effective June 1, 2010, and applying only to
 2148 insurance claims made on or after that date, subsection (1),
 2149 paragraph (b) of subsection (2), and subsections (5), (7), and
 2150 (8) of section 627.707, Florida Statutes, are amended to read:

2151 627.707 Standards for investigation of sinkhole claims by
 2152 insurers; nonrenewals.—Upon receipt of a claim for a sinkhole
 2153 loss, an insurer must meet the following standards in
 2154 investigating a claim:

2155 (1) The insurer must make an inspection of the insured's
 2156 premises to determine if there has been physical damage to the

2157 structure which is consistent with ~~may be the result of~~ sinkhole
 2158 loss activity.

2159 (2) Following the insurer's initial inspection, the
 2160 insurer shall engage a professional engineer or a professional
 2161 geologist to conduct testing as provided in s. 627.7072 to
 2162 determine the cause of the loss within a reasonable professional
 2163 probability and issue a report as provided in s. 627.7073, if:

2164 (b) The policyholder demands testing in accordance with
 2165 this section or s. 627.7072 and coverage under the policy is
 2166 available if sinkhole loss is verified.

2167 (5) (a) Subject to paragraph (b), if a sinkhole loss is
 2168 verified, the insurer shall pay to stabilize the land and
 2169 building and repair the foundation in accordance with the
 2170 recommendations of the professional engineer as provided under
 2171 s. 627.7073, with notice to ~~and in consultation with~~ the
 2172 policyholder, subject to the coverage and terms of the policy.
 2173 The insurer shall pay for other repairs to the structure and
 2174 contents in accordance with the terms of the policy.

2175 (b) 1. ~~After a~~ ~~The insurer may limit its payment to the~~
 2176 ~~actual cash value of the sinkhole loss, not including~~
 2177 ~~underpinning or grouting or any other repair technique performed~~
 2178 ~~below the existing foundation of the building, until the~~
 2179 policyholder enters into a contract for the performance of
 2180 building stabilization or foundation repairs, the claim shall be
 2181 paid up to the full cost of the stabilization or foundation
 2182 repairs and up to full replacement cost for above-ground repairs
 2183 as set forth in this paragraph, less the insured's deductible.
 2184 After the policyholder enters into a contract for the

2185 performance of building stabilization or foundation repairs in
 2186 accordance with the recommendations set forth in s. 627.7073,
 2187 the insurer may:

2188 a. Limit its initial payment to 10 percent of the
 2189 estimated costs to implement the building stabilization and
 2190 foundation repairs.

2191 b. Limit its initial payment to the actual cash value of
 2192 the sinkhole loss for above-ground repairs to the structure.

2193 2. However, after the policyholder enters into the
 2194 contract for the performance of building stabilization or
 2195 foundation repairs, the insurer shall pay the amounts necessary
 2196 to ~~begin and~~ perform such stabilization and repairs as the work
 2197 is performed and the expenses are incurred. Final payments for
 2198 the structural or building stabilization and foundation repair
 2199 work shall be remitted after such work is complete and finished
 2200 in accordance with the terms of the policy and the report's
 2201 recommendations and after final bills or receipts have been
 2202 submitted to the insurer. The insurer may not require the
 2203 policyholder to advance payment for such repairs. If repair
 2204 covered by a personal lines residential property insurance
 2205 policy has begun and the professional engineer selected or
 2206 approved by the insurer determines that the repair cannot be
 2207 completed within the policy limits, the insurer must either
 2208 complete the professional engineer's recommended repair or
 2209 tender the policy limits to the policyholder without a reduction
 2210 for the repair expenses incurred.

2211 (c) The policyholder shall enter into such contract for
 2212 repairs within 90 days after the insurance company approves

2213 coverage for a sinkhole loss to prevent additional damage to the
 2214 building or structure. The 90-day time period may be extended
 2215 for an additional reasonable time period if the policyholder is
 2216 unable to find a qualified person or entity to contract for such
 2217 repairs within the 90-day time period based upon factors beyond
 2218 the policyholder's control or the policyholder is actively
 2219 seeking to retain a professional engineer or geologist as
 2220 provided in s. 627.7073(1)(c). This time period is tolled if
 2221 either party invokes neutral evaluation.

2222 (d) The stabilization and all other repairs to the
 2223 structure and contents must be completed within 12 months after
 2224 entering into the contract for repairs as described in paragraph
 2225 (c) unless:

2226 1. There is a mutual agreement between the insurer and the
 2227 insured;

2228 2. The stabilization and all other repairs cannot be
 2229 completed due to factors beyond the control of the insured which
 2230 reasonably prevent completion;

2231 3. The claim is involved with the neutral evaluation
 2232 process under s. 627.7074;

2233 4. The claim is in litigation; or

2234 5. The claim is under appraisal.

2235 (e)-(e) Upon the insurer's obtaining the written approval
 2236 of the policyholder and any lienholder, the insurer may make
 2237 payment directly to the persons selected by the policyholder to
 2238 perform the land and building stabilization and foundation
 2239 repairs. The decision by the insurer to make payment to such
 2240 persons does not hold the insurer liable for the work performed.

2241 (7) If the insurer obtains, pursuant to s. 627.7073,
 2242 written certification that there is no sinkhole loss ~~or that the~~
 2243 ~~cause of the damage was not sinkhole activity~~, and if the
 2244 policyholder has submitted the sinkhole claim without good faith
 2245 grounds for submitting such claim, the policyholder shall
 2246 reimburse the insurer for 50 percent of the actual costs of the
 2247 analyses and services provided under ss. 627.7072 and 627.7073;
 2248 however, a policyholder is not required to reimburse an insurer
 2249 more than \$2,500 with respect to any claim. A policyholder is
 2250 required to pay reimbursement under this subsection only if the
 2251 insurer, prior to ordering the analysis under s. 627.7072,
 2252 informs the policyholder in writing of the policyholder's
 2253 potential liability for reimbursement and gives the policyholder
 2254 the opportunity to withdraw the claim.

2255 (8) An ~~No~~ insurer may not ~~shall~~ nonrenew any policy of
 2256 property insurance on the basis of filing of claims for partial
 2257 loss caused by sinkhole damage or clay shrinkage as long as the
 2258 total of such payments does not exceed the ~~current~~ policy limits
 2259 of coverage for property damage for the policy in effect on the
 2260 date of the loss, or ~~and~~ provided the insured has repaired the
 2261 structure in accordance with the engineering recommendations
 2262 upon which any payment or policy proceeds were based.

2263 Section 17. Effective June 1, 2010, and applying only to
 2264 insurance claims made on or after that date, section 627.7072,
 2265 Florida Statutes, is amended to read:

2266 627.7072 Testing standards for sinkholes.-

2267 (1) The professional engineer and professional geologist
 2268 shall perform such tests as sufficient, in their professional

2269 opinion, to determine the presence or absence of sinkhole loss
 2270 or other cause of damage within reasonable professional
 2271 probability and for the professional engineer to make
 2272 recommendations regarding necessary building stabilization and
 2273 foundation repair.

2274 (2) The professional engineer and professional geologist
 2275 shall perform tests under this section in accordance with
 2276 Florida Geological Survey Special Publication 57 to determine
 2277 the presence or absence of sinkhole loss or other cause of
 2278 damage within a reasonable professional probability.

2279 Section 18. Effective June 1, 2010, and applying only to
 2280 insurance claims made on or after that date, section 627.7073,
 2281 Florida Statutes, is amended to read:

2282 627.7073 Sinkhole reports.—

2283 (1) Upon completion of testing as provided in s. 627.7072,
 2284 the professional engineer or professional geologist shall issue
 2285 a report and certification to the insurer, with an additional
 2286 copy and certification for the insurer to forward to ~~and~~ the
 2287 policyholder as provided in this section.

2288 (a) Sinkhole loss is verified if, based upon tests
 2289 performed in accordance with s. 627.7072, a professional
 2290 engineer or a professional geologist issues a written report and
 2291 certification stating:

2292 1. That the cause of the actual physical and structural
 2293 damage is sinkhole activity within a reasonable professional
 2294 probability.

2295 2. That the analyses conducted were of sufficient scope to
 2296 identify sinkhole activity as the cause of damage within a

2297 reasonable professional probability.

2298 3. A description of the tests performed.

2299 4. A recommendation by the professional engineer of
 2300 methods for stabilizing the land and building and for making
 2301 repairs to the foundation.

2302 (b) If sinkhole activity is eliminated as the cause of
 2303 damage to the structure, the professional engineer or
 2304 professional geologist shall issue a written report and
 2305 certification to the policyholder and the insurer stating:

2306 1. That the cause of the damage is not sinkhole activity
 2307 within a reasonable professional probability.

2308 2. That the analyses and tests conducted were of
 2309 sufficient scope to eliminate sinkhole activity as the cause of
 2310 damage within a reasonable professional probability.

2311 3. A statement of the cause of the damage within a
 2312 reasonable professional probability.

2313 4. A description of the tests performed.

2314 (c) If the policyholder disagrees with the findings,
 2315 opinions, or recommendations of the professional engineer or
 2316 professional geologist engaged by the insurer, the policyholder
 2317 may engage a professional engineer or professional geologist, at
 2318 the policyholder's expense, to conduct testing under s. 627.7072
 2319 and to render findings, opinions, and recommendations as to the
 2320 cause of distress to the property and the appropriate method of
 2321 land and building stabilization and foundation repair and
 2322 certify such findings, opinions, and recommendations in a report
 2323 that meets the requirements of this section and forward a copy
 2324 of the report to the insurer. Unless the policyholder engages a

2325 professional engineer or professional geologist as described in
 2326 this paragraph who disputes the findings of the insurer's
 2327 engineer or geologist, the respective findings, opinions, and
 2328 recommendations of the professional engineer or professional
 2329 geologist as to the cause of distress to the property and the
 2330 findings, opinions, and recommendations of the insurer's
 2331 professional engineer as to land and building stabilization and
 2332 foundation repair as required by s. 627.707(2), shall be
 2333 presumed correct, which presumption shall shift the burden of
 2334 proof under s. 90.304.

2335 (2) (a) Any insurer that has paid a claim for a sinkhole
 2336 loss shall file a copy of the report and certification, prepared
 2337 pursuant to subsection (1), including the legal description of
 2338 the real property, ~~and~~ the name of the property owner, and the
 2339 amount paid by the insurer, with the county clerk of court, who
 2340 shall record the report and certification. The insurer shall
 2341 also file a copy of any report prepared on behalf of the insured
 2342 or the insured's representative that has been provided to the
 2343 insurer that indicates that sinkhole loss caused the damage
 2344 claimed. The insurer shall bear the cost of filing and recording
 2345 of one or more reports ~~the report~~ and certifications
 2346 ~~certification.~~ There shall be no cause of action or liability
 2347 against an insurer for compliance with this section. The
 2348 recording of the report and certification does not:

- 2349 1. Constitute a lien, encumbrance, or restriction on the
 2350 title to the real property or constitute a defect in the title
 2351 to the real property;
- 2352 2. Create any cause of action or liability against any

2353 grantor of the real property for breach of any warranty of good
 2354 title or warranty against encumbrances; or

2355 3. Create any cause of action or liability against any
 2356 title insurer that insures the title to the real property.

2357 (b) The seller of real property upon which a sinkhole
 2358 claim has been made by the seller and paid by the insurer shall
 2359 disclose to the buyer of such property that a claim has been
 2360 paid, the amount of the payment, and whether or not the full
 2361 amount of the proceeds were used to repair the sinkhole damage.
 2362 The seller shall also provide to the buyer a copy of the report
 2363 prepared pursuant to subsection (1) and any report prepared on
 2364 behalf of the insured.

2365 Section 19. Effective June 1, 2010, and applying only to
 2366 insurance claims made on or after that date, section 627.7074,
 2367 Florida Statutes, is amended to read:

2368 627.7074 Alternative procedure for resolution of disputed
 2369 sinkhole insurance claims.—

2370 (1) As used in this section, the term:

2371 (a) "Neutral evaluation" means the alternative dispute
 2372 resolution provided for in this section.

2373 (b) "Neutral evaluator" means a professional engineer or a
 2374 professional geologist who has completed a course of study in
 2375 alternative dispute resolution designed or approved by the
 2376 department for use in the neutral evaluation process, who is
 2377 determined to be fair and impartial.

2378 (2) (a) The department shall certify and maintain a list of
 2379 persons who are neutral evaluators.

2380 (b) The department shall prepare a consumer information

2381 pamphlet for distribution by insurers to policyholders which
2382 clearly describes the neutral evaluation process and includes
2383 information and forms necessary for the policyholder to request
2384 a neutral evaluation.

2385 (3) Neutral evaluation is available to either party if a
2386 sinkhole report has been issued pursuant to s. 627.7073.

2387 Following the receipt of the report provided under s. 627.7073
2388 or the denial of a claim for a sinkhole loss, the insurer shall
2389 notify the policyholder of his or her right to participate in
2390 the neutral evaluation program under this section. Neutral
2391 evaluation supersedes the alternative dispute resolution process
2392 under s. 627.7015 but does not supersede the appraisal clause if
2393 an appraisal clause is provided by the insurance policy. The
2394 insurer shall provide to the policyholder the consumer
2395 information pamphlet prepared by the department pursuant to
2396 paragraph (2) (b).

2397 (4) Neutral evaluation is nonbinding, but mandatory if
2398 requested by either party. A request for neutral evaluation may
2399 be filed with the department by the policyholder or the insurer
2400 on a form approved by the department. The request for neutral
2401 evaluation must state the reason for the request and must
2402 include an explanation of all the issues in dispute at the time
2403 of the request. Filing a request for neutral evaluation tolls
2404 the applicable time requirements for filing suit for a period of
2405 60 days following the conclusion of the neutral evaluation
2406 process or the time prescribed in s. 95.11, whichever is later.

2407 (5) Neutral evaluation shall be conducted as an informal
2408 process in which formal rules of evidence and procedure need not

2409 be observed. A party to neutral evaluation is not required to
 2410 attend neutral evaluation if a representative of the party
 2411 attends and has the authority to make a binding decision on
 2412 behalf of the party. All parties shall participate in the
 2413 evaluation in good faith.

2414 (6) The insurer shall pay the costs associated with the
 2415 neutral evaluation.

2416 (7) (a) Upon receipt of a request for neutral evaluation,
 2417 the department shall ~~provide the parties a list of certified~~
 2418 ~~neutral evaluators. The parties shall mutually select a neutral~~
 2419 ~~evaluator from the list and promptly inform the department. If~~
 2420 ~~the parties cannot agree to a neutral evaluator within 10~~
 2421 ~~business days, the department~~ allow the parties to submit
 2422 requests to disqualify neutral evaluators on the list for cause.
 2423 For purposes of this subsection, a ground for cause is required
 2424 to be found by the department only if:

2425 1. A familial relationship exists between the neutral
 2426 evaluator and either party or a representative of either party
 2427 within the third degree;

2428 2. The proposed neutral evaluator has, in a professional
 2429 capacity, previously represented either party or a
 2430 representative of either party in the same or a substantially
 2431 related matter;

2432 3. The proposed neutral evaluator has, in a professional
 2433 capacity, represented another person in the same or a
 2434 substantially related matter and that person's interests are
 2435 materially adverse to the interests of the parties;

2436 4. The proposed neutral evaluator works in the same firm

2437 or corporation as a person who has, in a professional capacity,
 2438 previously represented either party or a representative of
 2439 either party in the same or a substantially related matter; or

2440 5. The proposed neutral evaluator has, within the
 2441 preceding 5 years, worked as an employee of any party to the
 2442 case.

2443 (b) The parties shall mutually appoint a neutral evaluator
 2444 from the ~~department~~ list and promptly inform the department. If
 2445 the parties cannot agree to a neutral evaluator within 10
 2446 business days, the department shall appoint a neutral evaluator
 2447 from the department's list of certified neutral evaluators. The
 2448 department shall allow each party to disqualify one neutral
 2449 evaluator without cause. Upon selection or appointment, the
 2450 department shall promptly refer the request to the neutral
 2451 evaluator.

2452 (c) Within 5 business days after the referral, the neutral
 2453 evaluator shall notify the policyholder and the insurer of the
 2454 date, time, and place of the neutral evaluation conference. The
 2455 conference may be held by telephone, if feasible and desirable.
 2456 The neutral evaluation conference shall be held within 90 ~~45~~
 2457 days after the receipt of the request by the department. If the
 2458 neutral evaluator fails to hold a neutral evaluation conference
 2459 in accordance with this paragraph, the neutral evaluator's fee
 2460 shall be reduced by 10 percent unless the failure was due to
 2461 factors beyond the control of the neutral evaluator.

2462 (d) As used in this subsection, the term "substantially
 2463 related matter" means participation by the neutral evaluator on
 2464 the same claim, property, or any adjacent property.

2465 (8) The department shall adopt rules of procedure for the
2466 neutral evaluation process.

2467 (9) For policyholders not represented by an attorney, a
2468 consumer affairs specialist of the department or an employee
2469 designated as the primary contact for consumers on issues
2470 relating to sinkholes under s. 20.121 shall be available for
2471 consultation to the extent that he or she may lawfully do so.

2472 (10) Evidence of an offer to settle a claim during the
2473 neutral evaluation process, as well as any relevant conduct or
2474 statements made in negotiations concerning the offer to settle a
2475 claim, is inadmissible to prove liability or absence of
2476 liability for the claim or its value, except as provided in
2477 subsection (14) ~~(13)~~.

2478 (11) Regardless of when invoked, any court proceeding
2479 related to the subject matter of the neutral evaluation shall be
2480 stayed pending completion of the neutral evaluation and for 5
2481 days after the filing of the neutral evaluator's report with the
2482 court.

2483 (12) If the neutral evaluator, based upon his or her
2484 professional training and credentials, is qualified only to
2485 determine the causation issue or the method of repair issue, the
2486 department shall allow the neutral evaluator to enlist the
2487 assistance of another professional from the qualified neutral
2488 evaluators list, not previously struck by parties with respect
2489 to the subject evaluation, who, based upon his or her
2490 professional training and credentials, is able to provide an
2491 opinion as to the other disputed issue. Any professional who, if
2492 appointed as the neutral evaluator, would be disqualified for

2493 any reason listed in subsection (7) must be disqualified. In
 2494 addition, the neutral evaluator may use the service of other
 2495 experts or professionals as necessary to ensure that all items
 2496 in dispute are addressed in order to complete the neutral
 2497 evaluation. The neutral evaluator may request that the entity
 2498 that performed testing pursuant to s. 627.7072 perform such
 2499 additional reasonable testing deemed necessary in the
 2500 professional opinion of the neutral evaluator to complete the
 2501 neutral evaluation.

2502 (13)-(12) For all matters that are not resolved by the
 2503 parties at the conclusion of the neutral evaluation, the neutral
 2504 evaluator shall prepare a report stating that in his or her
 2505 opinion the sinkhole loss has been verified or eliminated within
 2506 a reasonable degree of professional probability and, if
 2507 verified, whether the sinkhole loss has caused structural or
 2508 cosmetic damage to the building and, if so, the need for and
 2509 estimated costs of stabilizing the land and any covered
 2510 structures or buildings and other appropriate remediation or
 2511 structural repairs that are necessary due to the sinkhole loss.
 2512 The evaluator's report shall be sent to all parties in
 2513 attendance at the neutral evaluation and to the department.

2514 (14)-(13) The recommendation of the neutral evaluator is
 2515 not binding on any party, and the parties retain access to
 2516 court. The neutral evaluator's written recommendation is
 2517 admissible in any ~~subsequent~~ action or proceeding relating to
 2518 the claim or to the cause of action giving rise to the claim.

2519 (15)-(14) If the neutral evaluator first verifies the
 2520 existence of a sinkhole and, second, recommends the need for and

2521 estimates costs of stabilizing the land and any covered
 2522 structures or buildings and other appropriate remediation or
 2523 structural repairs, which costs exceed the amount that the
 2524 insurer has offered to pay the policyholder, the insurer is
 2525 liable to the policyholder for up to \$2,500 in attorney's fees
 2526 for the attorney's participation in the neutral evaluation
 2527 process. For purposes of this subsection, the term "offer to
 2528 pay" means a written offer signed by the insurer or its legal
 2529 representative and delivered to the policyholder within 10 days
 2530 after the insurer receives notice that a request for neutral
 2531 evaluation has been made under this section.

2532 (16)~~(15)~~ If the insurer timely agrees in writing to comply
 2533 and timely complies with the recommendation of the neutral
 2534 evaluator, but the policyholder declines to resolve the matter
 2535 in accordance with the recommendation of the neutral evaluator
 2536 pursuant to this section:

2537 (a) The insurer is not liable for extracontractual damages
 2538 related to a claim for a sinkhole loss but only as related to
 2539 the issues determined by the neutral evaluation process. This
 2540 section does not affect or impair claims for extracontractual
 2541 damages unrelated to the issues determined by the neutral
 2542 evaluation process contained in this section; and

2543 (b) The actions of the insurer are not a confession of
 2544 judgment or an admission of liability, and the insurer may ~~is~~
 2545 not ~~be~~ liable for attorney's fees under s. 627.428 or other
 2546 provisions of the insurance code unless the policyholder obtains
 2547 a judgment that is more favorable than the recommendation of the
 2548 neutral evaluator.

2549 (17) If the insurer agrees to comply with the neutral
 2550 evaluator's report, payment for stabilizing the land and
 2551 building and repairing the foundation shall be made in
 2552 accordance with the terms and conditions of the applicable
 2553 insurance policy.

2554 Section 20. Section 627.711, Florida Statutes, is amended
 2555 to read:

2556 627.711 Notice of premium discounts for hurricane loss
 2557 mitigation; uniform mitigation verification inspection form.—

2558 (1) Using a form prescribed by the Office of Insurance
 2559 Regulation, the insurer shall clearly notify the applicant or
 2560 policyholder of any personal lines residential property
 2561 insurance policy, at the time of the issuance of the policy and
 2562 at each renewal, of the availability and the range of each
 2563 premium discount, credit, other rate differential, or reduction
 2564 in deductibles, and combinations of discounts, credits, rate
 2565 differentials, or reductions in deductibles, for properties on
 2566 which fixtures or construction techniques demonstrated to reduce
 2567 the amount of loss in a windstorm can be or have been installed
 2568 or implemented. The prescribed form shall describe generally
 2569 what actions the policyholders may be able to take to reduce
 2570 their windstorm premium. The prescribed form and a list of such
 2571 ranges approved by the office for each insurer licensed in the
 2572 state and providing such discounts, credits, other rate
 2573 differentials, or reductions in deductibles for properties
 2574 described in this subsection shall be available for electronic
 2575 viewing and download from the Department of Financial Services'
 2576 or the Office of Insurance Regulation's Internet website. The

2577 Financial Services Commission may adopt rules to implement this
 2578 subsection.

2579 (2) (a) ~~By July 1, 2007,~~ The Financial Services Commission
 2580 shall develop by rule a uniform mitigation verification
 2581 inspection form that shall be used by all insurers when
 2582 submitted by policyholders for the purpose of factoring
 2583 discounts for wind insurance. In developing the form, the
 2584 commission shall seek input from insurance, construction, and
 2585 building code representatives. Further, the commission shall
 2586 provide guidance as to the length of time the inspection results
 2587 are valid. An insurer shall accept as valid a uniform mitigation
 2588 verification form ~~certified by the Department of Financial~~
 2589 ~~Services or~~ signed by:

2590 ~~(a) A hurricane mitigation inspector certified by the My~~
 2591 ~~Safe Florida Home program;~~

2592 1. (b) A building code inspector certified under s.
 2593 468.607;

2594 2. (e) A general, building, or residential contractor
 2595 licensed under s. 489.111;

2596 3. (d) A professional engineer licensed under s. 471.015
 2597 who has passed the appropriate equivalency test of the building
 2598 code training program as required by s. 553.841; or

2599 4. (e) A professional architect licensed under s. 481.213;
 2600 ~~or~~

2601 ~~(f) Any other individual or entity recognized by the~~
 2602 ~~insurer as possessing the necessary qualifications to properly~~
 2603 ~~complete a uniform mitigation verification form.~~

2604 (b) An insurer may, but is not required to, accept a

2605 mitigation verification form from any other person possessing
 2606 qualifications and experience acceptable to the insurer.

2607 (3) A person who is authorized to sign a mitigation
 2608 verification form must inspect the structures referenced by the
 2609 form personally, not through employees or other persons, and
 2610 must certify or attest to that person's personal inspection of
 2611 the structures referenced by the form.

2612 (4) An individual or entity that signs a uniform
 2613 mitigation form may not commit misconduct in performing
 2614 hurricane mitigation inspections or in completing a uniform
 2615 mitigation form that causes financial harm to a customer or the
 2616 customer's insurer or that jeopardizes a customer's health and
 2617 safety. Misconduct occurs when an authorized mitigation
 2618 inspector signs a uniform mitigation verification form that:

2619 (a) Falsely indicates that he or she personally inspected
 2620 the structures referenced by the form;

2621 (b) Falsely indicates the existence of a feature which
 2622 entitles an insured to a mitigation discount that the inspector
 2623 knows does not exist or did not personally inspect;

2624 (c) Contains erroneous information due to the gross
 2625 negligence of the inspector; or

2626 (d) Contains demonstrably false information relating to
 2627 the existence of mitigation features that may give an insured a
 2628 false evaluation of the ability of the structure to withstand
 2629 major damage from a hurricane endangering the safety of the
 2630 insured's life and property.

2631 (5) The licensing board of an authorized mitigation
 2632 inspector who violates subsection (4) may commence disciplinary

2633 proceedings and impose administrative fines and other sanctions
2634 authorized under the inspector's licensing act.

2635 (6) An insurer, person, or other entity that obtains
2636 evidence of fraud or evidence that an inspector has made false
2637 statements in the completion of a mitigation inspection form
2638 shall file a report with the Division of Insurance Fraud,
2639 together with all of the evidence in its possession that
2640 supports the allegation of fraud or falsity. An insurer, person,
2641 or other entity making the report is immune from liability in
2642 accordance with s. 626.989(4) for any statements made in the
2643 report, during the investigation, or in connection with the
2644 report. The Division of Insurance Fraud shall issue an
2645 investigative report if the division finds that probable cause
2646 exists to believe that the inspector made intentionally false or
2647 fraudulent statements in the inspection form. Upon conclusion of
2648 the investigation and a finding of probable cause that a
2649 violation has occurred, the Division of Insurance Fraud shall
2650 send a copy of the investigative report to the office and a copy
2651 to the agency responsible for the professional licensure of the
2652 inspector, whether or not a prosecutor takes action based upon
2653 the report.

2654 (7) The insurer may require the mitigation inspector or
2655 inspection company to provide evidence of the inspector's or
2656 inspection company's quality assurance program. At the insurer's
2657 expense, the insurer may require that any uniform mitigation
2658 verification form provided by a mitigation inspector or
2659 inspection company that does not possess or has not provided
2660 evidence to the insurer of a quality assurance program be

2661 independently verified by an inspector, inspection company, or
 2662 independent third-party quality assurance provider that
 2663 possesses a quality assurance program prior to accepting it as
 2664 valid.

2665 ~~(8)(3)~~ An individual or entity who knowingly provides or
 2666 utters a false or fraudulent mitigation verification form with
 2667 the intent to obtain or receive a discount on an insurance
 2668 premium to which the individual or entity is not entitled
 2669 commits a misdemeanor of the first degree, punishable as
 2670 provided in s. 775.082 or s. 775.083.

2671 Section 21. In the interest of full disclosure and
 2672 transparency to insurance policy owners, and because most
 2673 insurance policies sold in this state are subject to assessments
 2674 to make up for the funding deficiencies of the Citizens Property
 2675 Insurance Corporation, the Florida Insurance Guaranty
 2676 Association, or the Florida Hurricane Catastrophe Fund, the
 2677 following warning shall be printed in bold type of not less than
 2678 16 points and shall be displayed on the declarations page or on
 2679 the renewal notice of every insurance policy sold or issued in
 2680 this state that is or may be subject to assessment by the
 2681 Citizens Property Insurance Corporation, the Florida Insurance
 2682 Guaranty Association, or the Florida Hurricane Catastrophe Fund:

2684 WARNING

2685 The premium you are about to pay may NOT be the full cost
 2686 of this insurance policy. If a hurricane strikes Florida,
 2687 you may be forced to pay additional moneys to offset the
 2688 inability of the state-owned Citizens Property Insurance

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2689 Corporation, the Florida Insurance Guaranty Association,
2690 or the Florida Hurricane Catastrophe Fund to pay claims
2691 resulting from the losses due to the hurricane.

2692 Section 22. Section 627.7065, Florida Statutes, is
2693 repealed.

2694 Section 23. Except as otherwise expressly provided in this
2695 act, this act shall take effect July 1, 2010.