

By the Committee on Banking and Insurance; and Senators Bennett, Dockery, and Hill

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1 A bill to be entitled
2 An act relating to residential property insurance;
3 amending s. 627.062, F.S.; authorizing certain
4 insurers to use a rate different from otherwise
5 applicable filed rates; prohibiting the consideration
6 of certain policies when making a specified
7 calculation; limiting the maximum average statewide
8 increase for certain rate filings; preserving the
9 authority of the Office of Insurance Regulation to
10 disapprove rates as inadequate or disapprove a rate
11 filing for using certain rating factors; authorizing
12 the office to direct an insurer to make a specified
13 type of rate filing under certain circumstances;
14 amending s. 627.351, F.S.; providing requirements for
15 the levy of the Citizens policyholder surcharge;
16 prohibiting the corporation from levying certain
17 regular assessments until after levying the full
18 amount of a Citizens policyholder surcharge; requiring
19 the corporation's plan of operation to require agents
20 to obtain an acknowledgement of potential surcharge
21 and assessment liability from applicants and
22 policyholders; requiring the corporation to
23 permanently retain a copy of such acknowledgments;
24 specifying that the acknowledgement creates a
25 conclusive presumption of understanding and acceptance
26 by the policyholder; creating s. 627.7031, F.S.;
27 authorizing certain insurers to offer or renew
28 policies at rates established under certain
29 circumstances; prohibiting certain insurers from

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30 purchasing TICL option coverage from the Florida
31 Hurricane Catastrophe Fund under certain
32 circumstances; requiring that certain policies contain
33 a specified rate notice; requiring insurers to offer
34 applicants or insureds an estimate of the premium for
35 a policy from Citizens Property Insurance Corporation
36 reflecting similar coverage, limits, and deductibles;
37 requiring applicants or insureds to provide a signed
38 premium comparison acknowledgement; specifying
39 criteria for insurer compliance with certain
40 requirements; specifying acknowledgement contents;
41 requiring insurers and agents to retain a copy of the
42 acknowledgement for a specified time; specifying a
43 presumption created by a signed acknowledgement;
44 specifying types of residential property insurance
45 policies that are not eligible for certain rates or
46 subject to other requirements; requiring written
47 notice of certain nonrenewals; preserving insurer
48 authority to cancel policies; specifying a criterion
49 for what constitutes an offer to renew a policy;
50 providing an effective date.

51
52 Be It Enacted by the Legislature of the State of Florida:

53
54 Section 1. Paragraph (1) is added to subsection (2) of
55 section 627.062, Florida Statutes, to read:

56 627.062 Rate standards.—

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

58 (1)1. An insurer complying with the requirements of s.

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59 627.7031 may use a rate for residential property insurance, as
60 defined in s. 627.4025, different from the otherwise applicable
61 filed rate as provided in this paragraph.

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

64 3. Such rates shall be filed with the office as a separate
65 filing. The initial rates used by an insurer under this
66 paragraph may not provide for rates that represent more than a 5
67 percent statewide average rate increase over the most recently
68 filed and approved rate. A rate filing made pursuant to this
69 paragraph submitted in the year following the implementation of
70 such initial rates may not provide for rates that represent more
71 than a 10 percent statewide average rate increase in any one
72 year over the rates in effect under this paragraph at the time
73 of the filing. A rate filing made pursuant this paragraph
74 submitted in the second year following the implementation of
75 such initial rates, or in any subsequent year, may not provide
76 for rates that represent more than a 15 percent statewide
77 average rate increase in any one year over the rates in effect
78 under this paragraph at the time of the filing.

79 4. This paragraph does not affect the authority of the
80 office to disapprove a rate as inadequate or to disapprove a
81 rate filing for charging any insured or applicant a higher
82 premium solely because of the insured's or applicant's race,
83 color, creed, marital status, sex, or national origin. Upon
84 finding that an insurer has used any such factor in charging an
85 insured or applicant a higher premium, the office may direct the
86 insurer to make a new filing for a new rate that does not use
87 such factor.

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89 The provisions of this subsection shall not apply to workers'
90 compensation and employer's liability insurance and to motor
91 vehicle insurance.

92 Section 2. Paragraphs (g) through (ff) of subsection (6) of
93 section 627.351, Florida Statutes, are redesignated as
94 paragraphs (f) through (ee), respectively, present paragraph (f)
95 of that subsection is redesignated as paragraph (ff), and
96 paragraphs (b) and (c) of subsection (6) of section 627.351,
97 Florida Statutes, are amended to read:

98 627.351 Insurance risk apportionment plans.—

99 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

100 (b)1. All insurers authorized to write one or more subject
101 lines of business in this state are subject to assessment by the
102 corporation and, for the purposes of this subsection, are
103 referred to collectively as "assessable insurers." Insurers
104 writing one or more subject lines of business in this state
105 pursuant to part VIII of chapter 626 are not assessable
106 insurers, but insureds who procure one or more subject lines of
107 business in this state pursuant to part VIII of chapter 626 are
108 subject to assessment by the corporation and are referred to
109 collectively as "assessable insureds." An authorized insurer's
110 assessment liability shall begin on the first day of the
111 calendar year following the year in which the insurer was issued
112 a certificate of authority to transact insurance for subject
113 lines of business in this state and shall terminate 1 year after
114 the end of the first calendar year during which the insurer no
115 longer holds a certificate of authority to transact insurance
116 for subject lines of business in this state.

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

120 (I) A personal lines account for personal residential
121 policies issued by the corporation or issued by the Residential
122 Property and Casualty Joint Underwriting Association and renewed
123 by the corporation that provide comprehensive, multiperil
124 coverage on risks that are not located in areas eligible for
125 coverage in the Florida Windstorm Underwriting Association as
126 those areas were defined on January 1, 2002, and for such
127 policies that do not provide coverage for the peril of wind on
128 risks that are located in such areas;

129 (II) A commercial lines account for commercial residential
130 and commercial nonresidential policies issued by the corporation
131 or issued by the Residential Property and Casualty Joint
132 Underwriting Association and renewed by the corporation that
133 provide coverage for basic property perils on risks that are not
134 located in areas eligible for coverage in the Florida Windstorm
135 Underwriting Association as those areas were defined on January
136 1, 2002, and for such policies that do not provide coverage for
137 the peril of wind on risks that are located in such areas; and

138 (III) A high-risk account for personal residential policies
139 and commercial residential and commercial nonresidential
140 property policies issued by the corporation or transferred to
141 the corporation that provide coverage for the peril of wind on
142 risks that are located in areas eligible for coverage in the
143 Florida Windstorm Underwriting Association as those areas were
144 defined on January 1, 2002. The corporation may offer policies
145 that provide multiperil coverage and the corporation shall

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146 continue to offer policies that provide coverage only for the
147 peril of wind for risks located in areas eligible for coverage
148 in the high-risk account. In issuing multiperil coverage, the
149 corporation may use its approved policy forms and rates for the
150 personal lines account. An applicant or insured who is eligible
151 to purchase a multiperil policy from the corporation may
152 purchase a multiperil policy from an authorized insurer without
153 prejudice to the applicant's or insured's eligibility to
154 prospectively purchase a policy that provides coverage only for
155 the peril of wind from the corporation. An applicant or insured
156 who is eligible for a corporation policy that provides coverage
157 only for the peril of wind may elect to purchase or retain such
158 policy and also purchase or retain coverage excluding wind from
159 an authorized insurer without prejudice to the applicant's or
160 insured's eligibility to prospectively purchase a policy that
161 provides multiperil coverage from the corporation. It is the
162 goal of the Legislature that there would be an overall average
163 savings of 10 percent or more for a policyholder who currently
164 has a wind-only policy with the corporation, and an ex-wind
165 policy with a voluntary insurer or the corporation, and who then
166 obtains a multiperil policy from the corporation. It is the
167 intent of the Legislature that the offer of multiperil coverage
168 in the high-risk account be made and implemented in a manner
169 that does not adversely affect the tax-exempt status of the
170 corporation or creditworthiness of or security for currently
171 outstanding financing obligations or credit facilities of the
172 high-risk account, the personal lines account, or the commercial
173 lines account. The high-risk account must also include quota
174 share primary insurance under subparagraph (c)2. The area

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175 eligible for coverage under the high-risk account also includes
176 the area within Port Canaveral, which is bordered on the south
177 by the City of Cape Canaveral, bordered on the west by the
178 Banana River, and bordered on the north by Federal Government
179 property.

180 b. The three separate accounts must be maintained as long
181 as financing obligations entered into by the Florida Windstorm
182 Underwriting Association or Residential Property and Casualty
183 Joint Underwriting Association are outstanding, in accordance
184 with the terms of the corresponding financing documents. When
185 the financing obligations are no longer outstanding, in
186 accordance with the terms of the corresponding financing
187 documents, the corporation may use a single account for all
188 revenues, assets, liabilities, losses, and expenses of the
189 corporation. Consistent with the requirement of this
190 subparagraph and prudent investment policies that minimize the
191 cost of carrying debt, the board shall exercise its best efforts
192 to retire existing debt or to obtain approval of necessary
193 parties to amend the terms of existing debt, so as to structure
194 the most efficient plan to consolidate the three separate
195 accounts into a single account. By February 1, 2007, the board
196 shall submit a report to the Financial Services Commission, the
197 President of the Senate, and the Speaker of the House of
198 Representatives which includes an analysis of consolidating the
199 accounts, the actions the board has taken to minimize the cost
200 of carrying debt, and its recommendations for executing the most
201 efficient plan.

202 c. Creditors of the Residential Property and Casualty Joint
203 Underwriting Association and of the accounts specified in sub-

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204 sub-subparagraphs a.(I) and (II) may have a claim against, and
205 recourse to, the accounts referred to in sub-sub-subparagraphs
206 a.(I) and (II) and shall have no claim against, or recourse to,
207 the account referred to in sub-sub-subparagraph a.(III).
208 Creditors of the Florida Windstorm Underwriting Association
209 shall have a claim against, and recourse to, the account
210 referred to in sub-sub-subparagraph a.(III) and shall have no
211 claim against, or recourse to, the accounts referred to in sub-
212 sub-subparagraphs a.(I) and (II).

213 d. Revenues, assets, liabilities, losses, and expenses not
214 attributable to particular accounts shall be prorated among the
215 accounts.

216 e. The Legislature finds that the revenues of the
217 corporation are revenues that are necessary to meet the
218 requirements set forth in documents authorizing the issuance of
219 bonds under this subsection.

220 f. No part of the income of the corporation may inure to
221 the benefit of any private person.

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

223 a. After accounting for the Citizens policyholder surcharge
224 imposed under sub-subparagraph i., when the remaining projected
225 deficit incurred in a particular calendar year is not greater
226 than 6 percent of the aggregate statewide direct written premium
227 for the subject lines of business for the prior calendar year,
228 the entire deficit shall be recovered through regular
229 assessments of assessable insurers under paragraph (p) and
230 assessable insureds.

231 b. After accounting for the Citizens policyholder surcharge
232 imposed under sub-subparagraph i., when the remaining projected

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233 deficit incurred in a particular calendar year exceeds 6 percent
234 of the aggregate statewide direct written premium for the
235 subject lines of business for the prior calendar year, the
236 corporation shall levy regular assessments on assessable
237 insurers under paragraph (p) and on assessable insureds in an
238 amount equal to the greater of 6 percent of the deficit or 6
239 percent of the aggregate statewide direct written premium for
240 the subject lines of business for the prior calendar year. Any
241 remaining deficit shall be recovered through emergency
242 assessments under sub-subparagraph d.

243 c. Each assessable insurer's share of the amount being
244 assessed under sub-subparagraph a. or sub-subparagraph b. shall
245 be in the proportion that the assessable insurer's direct
246 written premium for the subject lines of business for the year
247 preceding the assessment bears to the aggregate statewide direct
248 written premium for the subject lines of business for that year.
249 The assessment percentage applicable to each assessable insured
250 is the ratio of the amount being assessed under sub-subparagraph
251 a. or sub-subparagraph b. to the aggregate statewide direct
252 written premium for the subject lines of business for the prior
253 year. Assessments levied by the corporation on assessable
254 insurers under sub-subparagraphs a. and b. shall be paid as
255 required by the corporation's plan of operation and paragraph
256 (p). Assessments levied by the corporation on assessable
257 insureds under sub-subparagraphs a. and b. shall be collected by
258 the surplus lines agent at the time the surplus lines agent
259 collects the surplus lines tax required by s. 626.932 and shall
260 be paid to the Florida Surplus Lines Service Office at the time
261 the surplus lines agent pays the surplus lines tax to the

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262 Florida Surplus Lines Service Office. Upon receipt of regular
263 assessments from surplus lines agents, the Florida Surplus Lines
264 Service Office shall transfer the assessments directly to the
265 corporation as determined by the corporation.

266 d. Upon a determination by the board of governors that a
267 deficit in an account exceeds the amount that will be recovered
268 through regular assessments under sub-subparagraph a. or sub-
269 subparagraph b., plus the amount that is expected to be
270 recovered through surcharges under sub-subparagraph i., as to
271 the remaining projected deficit the board shall levy, after
272 verification by the office, emergency assessments, for as many
273 years as necessary to cover the deficits, to be collected by
274 assessable insurers and the corporation and collected from
275 assessable insureds upon issuance or renewal of policies for
276 subject lines of business, excluding National Flood Insurance
277 policies. The amount of the emergency assessment collected in a
278 particular year shall be a uniform percentage of that year's
279 direct written premium for subject lines of business and all
280 accounts of the corporation, excluding National Flood Insurance
281 Program policy premiums, as annually determined by the board and
282 verified by the office. The office shall verify the arithmetic
283 calculations involved in the board's determination within 30
284 days after receipt of the information on which the determination
285 was based. Notwithstanding any other provision of law, the
286 corporation and each assessable insurer that writes subject
287 lines of business shall collect emergency assessments from its
288 policyholders without such obligation being affected by any
289 credit, limitation, exemption, or deferment. Emergency
290 assessments levied by the corporation on assessable insureds

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291 shall be collected by the surplus lines agent at the time the
292 surplus lines agent collects the surplus lines tax required by
293 s. 626.932 and shall be paid to the Florida Surplus Lines
294 Service Office at the time the surplus lines agent pays the
295 surplus lines tax to the Florida Surplus Lines Service Office.
296 The emergency assessments so collected shall be transferred
297 directly to the corporation on a periodic basis as determined by
298 the corporation and shall be held by the corporation solely in
299 the applicable account. The aggregate amount of emergency
300 assessments levied for an account under this sub-subparagraph in
301 any calendar year may, at the discretion of the board of
302 governors, be less than but may not exceed the greater of 10
303 percent of the amount needed to cover the deficit, plus
304 interest, fees, commissions, required reserves, and other costs
305 associated with financing of the original deficit, or 10 percent
306 of the aggregate statewide direct written premium for subject
307 lines of business and for all accounts of the corporation for
308 the prior year, plus interest, fees, commissions, required
309 reserves, and other costs associated with financing the deficit.

310 e. The corporation may pledge the proceeds of assessments,
311 projected recoveries from the Florida Hurricane Catastrophe
312 Fund, other insurance and reinsurance recoverables, policyholder
313 surcharges and other surcharges, and other funds available to
314 the corporation as the source of revenue for and to secure bonds
315 issued under paragraph (p), bonds or other indebtedness issued
316 under subparagraph (c)3., or lines of credit or other financing
317 mechanisms issued or created under this subsection, or to retire
318 any other debt incurred as a result of deficits or events giving
319 rise to deficits, or in any other way that the board determines

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320 will efficiently recover such deficits. The purpose of the lines
321 of credit or other financing mechanisms is to provide additional
322 resources to assist the corporation in covering claims and
323 expenses attributable to a catastrophe. As used in this
324 subsection, the term "assessments" includes regular assessments
325 under sub-subparagraph a., sub-subparagraph b., or subparagraph
326 (p)1. and emergency assessments under sub-subparagraph d.
327 Emergency assessments collected under sub-subparagraph d. are
328 not part of an insurer's rates, are not premium, and are not
329 subject to premium tax, fees, or commissions; however, failure
330 to pay the emergency assessment shall be treated as failure to
331 pay premium. The emergency assessments under sub-subparagraph d.
332 shall continue as long as any bonds issued or other indebtedness
333 incurred with respect to a deficit for which the assessment was
334 imposed remain outstanding, unless adequate provision has been
335 made for the payment of such bonds or other indebtedness
336 pursuant to the documents governing such bonds or other
337 indebtedness.

338 f. As used in this subsection for purposes of any deficit
339 incurred on or after January 25, 2007, the term "subject lines
340 of business" means insurance written by assessable insurers or
341 procured by assessable insureds for all property and casualty
342 lines of business in this state, but not including workers'
343 compensation or medical malpractice. As used in the sub-
344 subparagraph, the term "property and casualty lines of business"
345 includes all lines of business identified on Form 2, Exhibit of
346 Premiums and Losses, in the annual statement required of
347 authorized insurers by s. 624.424 and any rule adopted under
348 this section, except for those lines identified as accident and

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349 health insurance and except for policies written under the
350 National Flood Insurance Program or the Federal Crop Insurance
351 Program. For purposes of this sub-subparagraph, the term
352 "workers' compensation" includes both workers' compensation
353 insurance and excess workers' compensation insurance.

354 g. The Florida Surplus Lines Service Office shall determine
355 annually the aggregate statewide written premium in subject
356 lines of business procured by assessable insureds and shall
357 report that information to the corporation in a form and at a
358 time the corporation specifies to ensure that the corporation
359 can meet the requirements of this subsection and the
360 corporation's financing obligations.

361 h. The Florida Surplus Lines Service Office shall verify
362 the proper application by surplus lines agents of assessment
363 percentages for regular assessments and emergency assessments
364 levied under this subparagraph on assessable insureds and shall
365 assist the corporation in ensuring the accurate, timely
366 collection and payment of assessments by surplus lines agents as
367 required by the corporation.

368 i. (I) If a deficit is incurred in any account in 2008 or
369 thereafter, the board of governors shall levy a Citizens
370 policyholder surcharge against all policyholders of the
371 corporation.

372 (II) ~~The Citizens policyholder surcharge for a 12-month~~
373 ~~period, which shall be levied collected at the time of issuance~~
374 ~~or renewal of a policy,~~ as a uniform percentage of the premium
375 for the policy of up to 15 percent of such premium, which funds
376 shall be used to offset the deficit.

377 (III) The Citizens policyholder surcharge is payable upon

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378 cancellation or termination of the policy, upon renewal of the
379 policy, or upon issuance of a new policy by Citizens within the
380 first 12 months after the date of the levy or the period of time
381 necessary to fully collect the Citizens policyholder surcharge
382 amount.

383 (IV) The corporation may not levy any regular assessments
384 under paragraph (q) pursuant to sub-subparagraph a. or sub-
385 subparagraph b. with respect to a particular year's deficit
386 until the corporation has first levied a Citizens policyholder
387 surcharge under this sub-subparagraph in the full amount
388 authorized by this sub-subparagraph.

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

393 j. If the amount of any assessments or surcharges collected
394 from corporation policyholders, assessable insurers or their
395 policyholders, or assessable insureds exceeds the amount of the
396 deficits, such excess amounts shall be remitted to and retained
397 by the corporation in a reserve to be used by the corporation,
398 as determined by the board of governors and approved by the
399 office, to pay claims or reduce any past, present, or future
400 plan-year deficits or to reduce outstanding debt.

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

402 1. Must provide for adoption of residential property and
403 casualty insurance policy forms and commercial residential and
404 nonresidential property insurance forms, which forms must be
405 approved by the office prior to use. The corporation shall adopt
406 the following policy forms:

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

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

416 c. Commercial lines residential and nonresidential policy
417 forms that are generally similar to the basic perils of full
418 coverage obtainable for commercial residential structures and
419 commercial nonresidential structures in the admitted voluntary
420 market.

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

426 e. Commercial lines nonresidential property insurance forms
427 that cover the peril of wind only. The forms are applicable only
428 to nonresidential properties located in areas eligible for
429 coverage under the high-risk account referred to in sub-
430 subparagraph (b)2.a.

431 f. The corporation may adopt variations of the policy forms
432 listed in sub-subparagraphs a.-e. that contain more restrictive
433 coverage.

434 2.a. Must provide that the corporation adopt a program in
435 which the corporation and authorized insurers enter into quota

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436 share primary insurance agreements for hurricane coverage, as
437 defined in s. 627.4025(2)(a), for eligible risks, and adopt
438 property insurance forms for eligible risks which cover the
439 peril of wind only. As used in this subsection, the term:

440 (I) "Quota share primary insurance" means an arrangement in
441 which the primary hurricane coverage of an eligible risk is
442 provided in specified percentages by the corporation and an
443 authorized insurer. The corporation and authorized insurer are
444 each solely responsible for a specified percentage of hurricane
445 coverage of an eligible risk as set forth in a quota share
446 primary insurance agreement between the corporation and an
447 authorized insurer and the insurance contract. The
448 responsibility of the corporation or authorized insurer to pay
449 its specified percentage of hurricane losses of an eligible
450 risk, as set forth in the quota share primary insurance
451 agreement, may not be altered by the inability of the other
452 party to the agreement to pay its specified percentage of
453 hurricane losses. Eligible risks that are provided hurricane
454 coverage through a quota share primary insurance arrangement
455 must be provided policy forms that set forth the obligations of
456 the corporation and authorized insurer under the arrangement,
457 clearly specify the percentages of quota share primary insurance
458 provided by the corporation and authorized insurer, and
459 conspicuously and clearly state that neither the authorized
460 insurer nor the corporation may be held responsible beyond its
461 specified percentage of coverage of hurricane losses.

462 (II) "Eligible risks" means personal lines residential and
463 commercial lines residential risks that meet the underwriting
464 criteria of the corporation and are located in areas that were

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465 eligible for coverage by the Florida Windstorm Underwriting
466 Association on January 1, 2002.

467 b. The corporation may enter into quota share primary
468 insurance agreements with authorized insurers at corporation
469 coverage levels of 90 percent and 50 percent.

470 c. If the corporation determines that additional coverage
471 levels are necessary to maximize participation in quota share
472 primary insurance agreements by authorized insurers, the
473 corporation may establish additional coverage levels. However,
474 the corporation's quota share primary insurance coverage level
475 may not exceed 90 percent.

476 d. Any quota share primary insurance agreement entered into
477 between an authorized insurer and the corporation must provide
478 for a uniform specified percentage of coverage of hurricane
479 losses, by county or territory as set forth by the corporation
480 board, for all eligible risks of the authorized insurer covered
481 under the quota share primary insurance agreement.

482 e. Any quota share primary insurance agreement entered into
483 between an authorized insurer and the corporation is subject to
484 review and approval by the office. However, such agreement shall
485 be authorized only as to insurance contracts entered into
486 between an authorized insurer and an insured who is already
487 insured by the corporation for wind coverage.

488 f. For all eligible risks covered under quota share primary
489 insurance agreements, the exposure and coverage levels for both
490 the corporation and authorized insurers shall be reported by the
491 corporation to the Florida Hurricane Catastrophe Fund. For all
492 policies of eligible risks covered under quota share primary
493 insurance agreements, the corporation and the authorized insurer

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494 shall maintain complete and accurate records for the purpose of
495 exposure and loss reimbursement audits as required by Florida
496 Hurricane Catastrophe Fund rules. The corporation and the
497 authorized insurer shall each maintain duplicate copies of
498 policy declaration pages and supporting claims documents.

499 g. The corporation board shall establish in its plan of
500 operation standards for quota share agreements which ensure that
501 there is no discriminatory application among insurers as to the
502 terms of quota share agreements, pricing of quota share
503 agreements, incentive provisions if any, and consideration paid
504 for servicing policies or adjusting claims.

505 h. The quota share primary insurance agreement between the
506 corporation and an authorized insurer must set forth the
507 specific terms under which coverage is provided, including, but
508 not limited to, the sale and servicing of policies issued under
509 the agreement by the insurance agent of the authorized insurer
510 producing the business, the reporting of information concerning
511 eligible risks, the payment of premium to the corporation, and
512 arrangements for the adjustment and payment of hurricane claims
513 incurred on eligible risks by the claims adjuster and personnel
514 of the authorized insurer. Entering into a quota sharing
515 insurance agreement between the corporation and an authorized
516 insurer shall be voluntary and at the discretion of the
517 authorized insurer.

518 3. May provide that the corporation may employ or otherwise
519 contract with individuals or other entities to provide
520 administrative or professional services that may be appropriate
521 to effectuate the plan. The corporation shall have the power to
522 borrow funds, by issuing bonds or by incurring other

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523 indebtedness, and shall have other powers reasonably necessary
524 to effectuate the requirements of this subsection, including,
525 without limitation, the power to issue bonds and incur other
526 indebtedness in order to refinance outstanding bonds or other
527 indebtedness. The corporation may, but is not required to, seek
528 judicial validation of its bonds or other indebtedness under
529 chapter 75. The corporation may issue bonds or incur other
530 indebtedness, or have bonds issued on its behalf by a unit of
531 local government pursuant to subparagraph (p)2., in the absence
532 of a hurricane or other weather-related event, upon a
533 determination by the corporation, subject to approval by the
534 office, that such action would enable it to efficiently meet the
535 financial obligations of the corporation and that such
536 financings are reasonably necessary to effectuate the
537 requirements of this subsection. The corporation is authorized
538 to take all actions needed to facilitate tax-free status for any
539 such bonds or indebtedness, including formation of trusts or
540 other affiliated entities. The corporation shall have the
541 authority to pledge assessments, projected recoveries from the
542 Florida Hurricane Catastrophe Fund, other reinsurance
543 recoverables, market equalization and other surcharges, and
544 other funds available to the corporation as security for bonds
545 or other indebtedness. In recognition of s. 10, Art. I of the
546 State Constitution, prohibiting the impairment of obligations of
547 contracts, it is the intent of the Legislature that no action be
548 taken whose purpose is to impair any bond indenture or financing
549 agreement or any revenue source committed by contract to such
550 bond or other indebtedness.

551 4.a. Must require that the corporation operate subject to

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552 the supervision and approval of a board of governors consisting
553 of eight individuals who are residents of this state, from
554 different geographical areas of this state. The Governor, the
555 Chief Financial Officer, the President of the Senate, and the
556 Speaker of the House of Representatives shall each appoint two
557 members of the board. At least one of the two members appointed
558 by each appointing officer must have demonstrated expertise in
559 insurance. The Chief Financial Officer shall designate one of
560 the appointees as chair. All board members serve at the pleasure
561 of the appointing officer. All members of the board of governors
562 are subject to removal at will by the officers who appointed
563 them. All board members, including the chair, must be appointed
564 to serve for 3-year terms beginning annually on a date
565 designated by the plan. However, for the first term beginning on
566 or after July 1, 2009, each appointing officer shall appoint one
567 member of the board for a 2-year term and one member for a 3-
568 year term. Any board vacancy shall be filled for the unexpired
569 term by the appointing officer. The Chief Financial Officer
570 shall appoint a technical advisory group to provide information
571 and advice to the board of governors in connection with the
572 board's duties under this subsection. The executive director and
573 senior managers of the corporation shall be engaged by the board
574 and serve at the pleasure of the board. Any executive director
575 appointed on or after July 1, 2006, is subject to confirmation
576 by the Senate. The executive director is responsible for
577 employing other staff as the corporation may require, subject to
578 review and concurrence by the board.

579 b. The board shall create a Market Accountability Advisory
580 Committee to assist the corporation in developing awareness of

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581 its rates and its customer and agent service levels in
582 relationship to the voluntary market insurers writing similar
583 coverage. The members of the advisory committee shall consist of
584 the following 11 persons, one of whom must be elected chair by
585 the members of the committee: four representatives, one
586 appointed by the Florida Association of Insurance Agents, one by
587 the Florida Association of Insurance and Financial Advisors, one
588 by the Professional Insurance Agents of Florida, and one by the
589 Latin American Association of Insurance Agencies; three
590 representatives appointed by the insurers with the three highest
591 voluntary market share of residential property insurance
592 business in the state; one representative from the Office of
593 Insurance Regulation; one consumer appointed by the board who is
594 insured by the corporation at the time of appointment to the
595 committee; one representative appointed by the Florida
596 Association of Realtors; and one representative appointed by the
597 Florida Bankers Association. All members must serve for 3-year
598 terms and may serve for consecutive terms. The committee shall
599 report to the corporation at each board meeting on insurance
600 market issues which may include rates and rate competition with
601 the voluntary market; service, including policy issuance, claims
602 processing, and general responsiveness to policyholders,
603 applicants, and agents; and matters relating to depopulation.

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

606 a. Subject to the provisions of s. 627.3517, with respect
607 to personal lines residential risks, if the risk is offered
608 coverage from an authorized insurer at the insurer's approved
609 rate under either a standard policy including wind coverage or,

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610 if consistent with the insurer's underwriting rules as filed
611 with the office, a basic policy including wind coverage, for a
612 new application to the corporation for coverage, the risk is not
613 eligible for any policy issued by the corporation unless the
614 premium for coverage from the authorized insurer is more than 15
615 percent greater than the premium for comparable coverage from
616 the corporation. If the risk is not able to obtain any such
617 offer, the risk is eligible for either a standard policy
618 including wind coverage or a basic policy including wind
619 coverage issued by the corporation; however, if the risk could
620 not be insured under a standard policy including wind coverage
621 regardless of market conditions, the risk shall be eligible for
622 a basic policy including wind coverage unless rejected under
623 subparagraph 8. However, with regard to a policyholder of the
624 corporation or a policyholder removed from the corporation
625 through an assumption agreement until the end of the assumption
626 period, the policyholder remains eligible for coverage from the
627 corporation regardless of any offer of coverage from an
628 authorized insurer or surplus lines insurer. The corporation
629 shall determine the type of policy to be provided on the basis
630 of objective standards specified in the underwriting manual and
631 based on generally accepted underwriting practices.

632 (I) If the risk accepts an offer of coverage through the
633 market assistance plan or an offer of coverage through a
634 mechanism established by the corporation before a policy is
635 issued to the risk by the corporation or during the first 30
636 days of coverage by the corporation, and the producing agent who
637 submitted the application to the plan or to the corporation is
638 not currently appointed by the insurer, the insurer shall:

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639 (A) Pay to the producing agent of record of the policy, for
640 the first year, an amount that is the greater of the insurer's
641 usual and customary commission for the type of policy written or
642 a fee equal to the usual and customary commission of the
643 corporation; or

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

649
650 If the producing agent is unwilling or unable to accept
651 appointment, the new insurer shall pay the agent in accordance
652 with sub-sub-sub-subparagraph (A).

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

657 (A) Pay to the producing agent of record of the corporation
658 policy, for the first year, an amount that is the greater of the
659 insurer's usual and customary commission for the type of policy
660 written or a fee equal to the usual and customary commission of
661 the corporation; or

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

667

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

671 b. With respect to commercial lines residential risks, for
672 a new application to the corporation for coverage, if the risk
673 is offered coverage under a policy including wind coverage from
674 an authorized insurer at its approved rate, the risk is not
675 eligible for any policy issued by the corporation unless the
676 premium for coverage from the authorized insurer is more than 15
677 percent greater than the premium for comparable coverage from
678 the corporation. If the risk is not able to obtain any such
679 offer, the risk is eligible for a policy including wind coverage
680 issued by the corporation. However, with regard to a
681 policyholder of the corporation or a policyholder removed from
682 the corporation through an assumption agreement until the end of
683 the assumption period, the policyholder remains eligible for
684 coverage from the corporation regardless of any offer of
685 coverage from an authorized insurer or surplus lines insurer.

686 (I) If the risk accepts an offer of coverage through the
687 market assistance plan or an offer of coverage through a
688 mechanism established by the corporation before a policy is
689 issued to the risk by the corporation or during the first 30
690 days of coverage by the corporation, and the producing agent who
691 submitted the application to the plan or the corporation is not
692 currently appointed by the insurer, the insurer shall:

693 (A) Pay to the producing agent of record of the policy, for
694 the first year, an amount that is the greater of the insurer's
695 usual and customary commission for the type of policy written or
696 a fee equal to the usual and customary commission of the

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697 corporation; or

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

703

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

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

711 (A) Pay to the producing agent of record of the corporation
712 policy, for the first year, an amount that is the greater of the
713 insurer's usual and customary commission for the type of policy
714 written or a fee equal to the usual and customary commission of
715 the corporation; or

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

721

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

725 c. For purposes of determining comparable coverage under

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726 sub-subparagraphs a. and b., the comparison shall be based on
727 those forms and coverages that are reasonably comparable. The
728 corporation may rely on a determination of comparable coverage
729 and premium made by the producing agent who submits the
730 application to the corporation, made in the agent's capacity as
731 the corporation's agent. A comparison may be made solely of the
732 premium with respect to the main building or structure only on
733 the following basis: the same coverage A or other building
734 limits; the same percentage hurricane deductible that applies on
735 an annual basis or that applies to each hurricane for commercial
736 residential property; the same percentage of ordinance and law
737 coverage, if the same limit is offered by both the corporation
738 and the authorized insurer; the same mitigation credits, to the
739 extent the same types of credits are offered both by the
740 corporation and the authorized insurer; the same method for loss
741 payment, such as replacement cost or actual cash value, if the
742 same method is offered both by the corporation and the
743 authorized insurer in accordance with underwriting rules; and
744 any other form or coverage that is reasonably comparable as
745 determined by the board. If an application is submitted to the
746 corporation for wind-only coverage in the high-risk account, the
747 premium for the corporation's wind-only policy plus the premium
748 for the ex-wind policy that is offered by an authorized insurer
749 to the applicant shall be compared to the premium for multiperil
750 coverage offered by an authorized insurer, subject to the
751 standards for comparison specified in this subparagraph. If the
752 corporation or the applicant requests from the authorized
753 insurer a breakdown of the premium of the offer by types of
754 coverage so that a comparison may be made by the corporation or

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755 its agent and the authorized insurer refuses or is unable to
756 provide such information, the corporation may treat the offer as
757 not being an offer of coverage from an authorized insurer at the
758 insurer's approved rate.

759 6. Must include rules for classifications of risks and
760 rates therefor.

761 7. Must provide that if premium and investment income for
762 an account attributable to a particular calendar year are in
763 excess of projected losses and expenses for the account
764 attributable to that year, such excess shall be held in surplus
765 in the account. Such surplus shall be available to defray
766 deficits in that account as to future years and shall be used
767 for that purpose prior to assessing assessable insurers and
768 assessable insureds as to any calendar year.

769 8. Must provide objective criteria and procedures to be
770 uniformly applied for all applicants in determining whether an
771 individual risk is so hazardous as to be uninsurable. In making
772 this determination and in establishing the criteria and
773 procedures, the following shall be considered:

774 a. Whether the likelihood of a loss for the individual risk
775 is substantially higher than for other risks of the same class;
776 and

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

779

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

783 9. Must provide that the corporation shall make its best

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784 efforts to procure catastrophe reinsurance at reasonable rates,
785 to cover its projected 100-year probable maximum loss as
786 determined by the board of governors.

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

793 11. Corporation policies and applications must include a
794 notice that the corporation policy could, under this section, be
795 replaced with a policy issued by an authorized insurer that does
796 not provide coverage identical to the coverage provided by the
797 corporation. The notice shall also specify that acceptance of
798 corporation coverage creates a conclusive presumption that the
799 applicant or policyholder is aware of this potential.

800 12. May establish, subject to approval by the office,
801 different eligibility requirements and operational procedures
802 for any line or type of coverage for any specified county or
803 area if the board determines that such changes to the
804 eligibility requirements and operational procedures are
805 justified due to the voluntary market being sufficiently stable
806 and competitive in such area or for such line or type of
807 coverage and that consumers who, in good faith, are unable to
808 obtain insurance through the voluntary market through ordinary
809 methods would continue to have access to coverage from the
810 corporation. When coverage is sought in connection with a real
811 property transfer, such requirements and procedures shall not
812 provide for an effective date of coverage later than the date of

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813 the closing of the transfer as established by the transferor,
814 the transferee, and, if applicable, the lender.

815 13. Must provide that, with respect to the high-risk
816 account, any assessable insurer with a surplus as to
817 policyholders of \$25 million or less writing 25 percent or more
818 of its total countrywide property insurance premiums in this
819 state may petition the office, within the first 90 days of each
820 calendar year, to qualify as a limited apportionment company. A
821 regular assessment levied by the corporation on a limited
822 apportionment company for a deficit incurred by the corporation
823 for the high-risk account in 2006 or thereafter may be paid to
824 the corporation on a monthly basis as the assessments are
825 collected by the limited apportionment company from its insureds
826 pursuant to s. 627.3512, but the regular assessment must be paid
827 in full within 12 months after being levied by the corporation.
828 A limited apportionment company shall collect from its
829 policyholders any emergency assessment imposed under sub-
830 subparagraph (b)3.d. The plan shall provide that, if the office
831 determines that any regular assessment will result in an
832 impairment of the surplus of a limited apportionment company,
833 the office may direct that all or part of such assessment be
834 deferred as provided in subparagraph (p)4. However, there shall
835 be no limitation or deferment of an emergency assessment to be
836 collected from policyholders under sub-subparagraph (b)3.d.

837 14. Must provide that the corporation appoint as its
838 licensed agents only those agents who also hold an appointment
839 as defined in s. 626.015(3) with an insurer who at the time of
840 the agent's initial appointment by the corporation is authorized
841 to write and is actually writing personal lines residential

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842 property coverage, commercial residential property coverage, or
843 commercial nonresidential property coverage within the state.

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

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

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

853 18. May require commercial property to meet specified
854 hurricane mitigation construction features as a condition of
855 eligibility for coverage.

856 19.a. Shall require the agent to obtain from any applicant
857 for coverage the following acknowledgement, signed by the
858 applicant, and shall require the agent of record to obtain the
859 following acknowledgment from each corporation policyholder,
860 signed by the policyholder, prior to the policy's first renewal
861 after the effective date of this act:

862
863 ACKNOWLEDGEMENT OF POTENTIAL SURCHARGE AND ASSESSMENT

864 LIABILITY:

865 1. I UNDERSTAND, AS A CITIZENS PROPERTY INSURANCE
866 CORPORATION POLICYHOLDER, THAT IF THE CORPORATION
867 SUSTAINS A DEFICIT AS A RESULT OF HURRICANE LOSSES OR
868 FOR ANY OTHER REASON, MY POLICY COULD BE SUBJECT TO
869 CITIZENS POLICYHOLDER SURCHARGES, WHICH WOULD BE DUE
870 AND PAYABLE UPON RENEWAL, CANCELLATION, OR TERMINATION

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871 OF THE POLICY, AND THAT THE SURCHARGES COULD BE AS
872 HIGH AS 15 PERCENT OF MY PREMIUM FOR DEFICITS IN EACH
873 OF THREE CITIZENS ACCOUNTS, OR A DIFFERENT AMOUNT AS
874 ESTABLISHED BY THE FLORIDA LEGISLATURE.

875 2. I ALSO UNDERSTAND THAT I MAY BE SUBJECT TO
876 EMERGENCY ASSESSMENTS TO THE SAME EXTENT AS
877 POLICYHOLDERS OF OTHER INSURANCE COMPANIES.
878

879 b. The corporation shall permanently maintain a signed copy
880 of the signed acknowledgement required by this subparagraph, and
881 the agent may also retain a copy.

882 c. The signed acknowledgement form creates a conclusive
883 presumption that the policyholder understood and accepted his or
884 her potential surcharge and assessment liability as a Citizens
885 policyholder.

886 Section 3. Section 627.7031, Florida Statutes, is created
887 to read:

888 627.7031 Residential property insurance option.-

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

893 (2) An insurer offering or renewing policies at rates
894 established in accordance with s. 627.062(2)(1) may not purchase
895 coverage from the Florida Hurricane Catastrophe Fund under the
896 temporary increase in coverage limit option under s.
897 215.555(17).

898 (3) (a) Before the effective date of a newly issued or
899 renewal policy at rates established in accordance with s.

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900 627.062(2)(1), the applicant or insured must be given the
901 following notice, printed in at least 12-point boldfaced type:

902
903 THE RATE FOR THIS POLICY IS NOT SUBJECT TO FULL RATE
904 REGULATION BY THE FLORIDA OFFICE OF INSURANCE
905 REGULATION AND MAY BE HIGHER THAN RATES APPROVED BY
906 THAT OFFICE. A RESIDENTIAL PROPERTY POLICY SUBJECT TO
907 FULL RATE REGULATION REQUIREMENTS MAY BE AVAILABLE
908 FROM THIS INSURER, ANOTHER INSURER, OR CITIZENS
909 PROPERTY INSURANCE CORPORATION. PLEASE DISCUSS YOUR
910 POLICY OPTIONS WITH AN INSURANCE AGENT WHO CAN PROVIDE
911 A CITIZENS QUOTE. YOU MAY WISH TO VIEW THE OFFICE OF
912 INSURANCE REGULATION'S WEBSITE AT
913 WWW.SHOPANDCOMPARERATES.COM FOR MORE INFORMATION ABOUT
914 CHOICES AVAILABLE TO YOU.

915
916 (b) For policies renewed at a rate established in
917 accordance with s. 627.062(2)(1), the notice described in
918 paragraph (a) must be provided in writing at the same time as
919 the renewal notice on a document separate from the renewal
920 notice, but may be contained within the same mailing as the
921 renewal notice.

922 (4) Before the effective date of a newly issued policy at
923 rates established in accordance with s. 627.062(2)(1), or before
924 the effective date of the first renewal at rates established in
925 accordance with s. 627.062(2)(1) of a policy originally issued
926 before the effective date of this section, the applicant or
927 insured must:

928 (a) Be provided or offered, for comparison purposes, an

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929 estimate of the premium for a policy from Citizens Property
930 Insurance Corporation reflecting substantially similar
931 coverages, limits, and deductibles to the extent available.

932 (b) Provide the insurer or agent with a signed copy of the
933 following acknowledgement form, which must be retained by the
934 insurer or agent for at least 3 years. If the acknowledgement
935 form is signed by the insured or if the insured remits payment
936 in the amount of the rate established in accordance with s.
937 627.062 (2) (1) after being mailed or otherwise provided the
938 acknowledgement form specified in this paragraph, and after
939 being mailed, otherwise provided, or offered the comparison
940 specified in paragraph (a), an insurer renewing a policy at such
941 rate shall be deemed to comply with this section, and it is
942 presumed that the insured has been informed and understands the
943 information contained in the comparison and acknowledgement
944 forms:

945
946 ACKNOWLEDGEMENT

947 1. I HAVE REVIEWED THE REQUIRED DISCLOSURES AND
948 THE REQUIRED PREMIUM COMPARISON.

949 2. I UNDERSTAND THAT THE RATE FOR THIS
950 RESIDENTIAL PROPERTY INSURANCE POLICY IS NOT SUBJECT
951 TO FULL RATE REGULATION BY THE FLORIDA OFFICE OF
952 INSURANCE REGULATION AND MAY BE HIGHER THAN RATES
953 APPROVED BY THAT OFFICE.

954 3. I UNDERSTAND THAT A RESIDENTIAL PROPERTY
955 INSURANCE POLICY SUBJECT TO FULL RATE REGULATION
956 REQUIREMENTS MAY BE AVAILABLE FROM CITIZENS PROPERTY
957 INSURANCE CORPORATION.

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958 4. I UNDERSTAND THAT THE FLORIDA OFFICE OF
 959 INSURANCE REGULATION'S WEBSITE
 960 WWW.SHOPANDCOMPARERATES.COM CONTAINS RESIDENTIAL
 961 PROPERTY INSURANCE RATE COMPARISON INFORMATION.

962 5. I UNDERSTAND THAT IF CITIZENS PROPERTY
 963 INSURANCE CORPORATION INCURS A DEFICIT BECAUSE OF
 964 HURRICANE LOSSES OR OTHER LOSSES, I MAY BE REQUIRED TO
 965 PAY AN ASSESSMENT BASED UPON THE PREMIUM FOR THIS
 966 POLICY AND THAT A POLICYHOLDER OF CITIZENS PROPERTY
 967 INSURANCE CORPORATION MAY BE REQUIRED TO PAY A
 968 DIFFERENT ASSESSMENT.

969
 970 (5) The following types of residential property insurance
 971 policies are not eligible for rates established in accordance
 972 with s. 627.062(2)(1) and are not subject to the other
 973 provisions of this section:

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

976 (b) Residential property insurance policies that are
 977 subject to a consent decree, agreement, understanding, or other
 978 arrangement between the insurer and the office relating to rates
 979 or premiums for policies removed from Citizens Property
 980 Insurance Corporation.

981 (6) Notwithstanding s. 627.4133, an insurer that has issued
 982 a policy under this section shall provide the named insured
 983 written notice of nonrenewal at least 180 days before the
 984 effective date of the nonrenewal as to subsequent nonrenewals.
 985 However, this subsection does not prohibit an insurer from
 986 cancelling a policy as permitted under s. 627.4133. The offer of

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987 a policy at rates authorized by this section constitutes an
988 offer to renew the policy at the rates specified in the offer
989 and does not constitute a nonrenewal.

990 Section 4. This act shall take effect January 1, 2011.