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1 A bill to be entitled
2 An act relating to insurance; amending s. 320.27,
3 F.S.; exempting salvage motor vehicle dealers from
4 having to carry certain types of insurance coverage
5 under certain circumstances; amending s. 624.501,
6 F.S.; conforming a cross-reference; amending s.
7 624.610, F.S.; revising provisions specifying which
8 insurers are not subject to certain filing
9 requirements relating to reinsurance; amending s.
10 626.261, F.S.; authorizing the Department of Financial
11 Services to provide examinations in Spanish; providing
12 for the proration of costs among applicants who
13 request examinations in Spanish; providing
14 requirements with respect to whether an examination in
15 Spanish should be allowed in a particular county;
16 amending s. 626.321, F.S.; revising provisions
17 relating to limited licenses for travel insurance;
18 providing that a full-time salaried employee of a
19 licensed general lines agent or a business entity that
20 offers travel planning services may be issued such
21 license under certain circumstances; creating s.
22 626.8685, F.S.; exempting certain employees who
23 conduct data entry from licensure as insurance
24 adjusters under certain circumstances; defining the
25 term "automated claims adjudication system" with
26 respect to application of such exemption; prohibiting
27 residents of Canada from licensure as nonresident
28 independent adjusters under certain circumstances;

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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29 | amending s. 626.916, F.S.; revising the disclosure
30 | statement signed by an insured placing coverage in the
31 | surplus lines market; amending s. 627.0629, F.S.;
32 | providing addition factors that an insurer may include
33 | in a residential property insurance rate filing;
34 | amending s. 627.351, F.S.; increasing the amount of
35 | surplus as to policyholders that certain insurers who
36 | are members of a plan to equitably apportion or share
37 | windstorm coverage may have in order to petition the
38 | Department of Financial Services to qualify as a
39 | limited apportionment company; amending s. 627.4133,
40 | F.S.; increasing the number of days of prior notice
41 | that an insurer must give a first-named insured before
42 | nonrenewal, cancellation, or termination of a personal
43 | lines or commercial insurance policy covering a
44 | residential structure or its contents; deleting a
45 | provision relating to notice for the nonrenewal,
46 | cancellation, or termination of a residential property
47 | insurance policy that would take effect during the
48 | hurricane season; amending s. 627.43141, F.S.;
49 | clarifying provisions relating to changing policy
50 | terms in a renewal policy; creating s. 627.6011, F.S.;
51 | providing that mandatory health benefits apply only to
52 | certain health benefit plans; amending s. 627.7015,
53 | F.S.; revising provisions relating to alternative
54 | procedures for the resolution of disputed property
55 | insurance claims; amending s. 627.7295, F.S.;
56 | clarifying provisions relating to cancellation for

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57 nonpayment of premiums for motor vehicle insurance;
 58 allowing the cancellation of such policies under
 59 certain circumstances; amending s. 627.736, F.S.;
 60 specifying the interest rate applicable to the accrual
 61 of interest on overdue payments of personal injury
 62 protection benefits; providing an effective date.

63
 64 Be It Enacted by the Legislature of the State of Florida:

65
 66 Section 1. Subsection (3) of section 320.27, Florida
 67 Statutes, is amended to read:

68 320.27 Motor vehicle dealers.—

69 (3) APPLICATION AND FEE.—The application for the license
 70 shall be in such form as may be prescribed by the department and
 71 shall be subject to such rules with respect thereto as may be so
 72 prescribed by it. Such application shall be verified by oath or
 73 affirmation and shall contain a full statement of the name and
 74 birth date of the person or persons applying therefor; the name
 75 of the firm or copartnership, with the names and places of
 76 residence of all members thereof, if such applicant is a firm or
 77 copartnership; the names and places of residence of the
 78 principal officers, if the applicant is a body corporate or
 79 other artificial body; the name of the state under whose laws
 80 the corporation is organized; the present and former place or
 81 places of residence of the applicant; and prior business in
 82 which the applicant has been engaged and the location thereof.
 83 Such application shall describe the exact location of the place
 84 of business and shall state whether the place of business is

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85 | owned by the applicant and when acquired, or, if leased, a true
86 | copy of the lease shall be attached to the application. The
87 | applicant shall certify that the location provides an adequately
88 | equipped office and is not a residence; that the location
89 | affords sufficient unoccupied space upon and within which
90 | adequately to store all motor vehicles offered and displayed for
91 | sale; and that the location is a suitable place where the
92 | applicant can in good faith carry on such business and keep and
93 | maintain books, records, and files necessary to conduct such
94 | business, which will be available at all reasonable hours to
95 | inspection by the department or any of its inspectors or other
96 | employees. The applicant shall certify that the business of a
97 | motor vehicle dealer is the principal business which shall be
98 | conducted at that location. Such application shall contain a
99 | statement that the applicant is either franchised by a
100 | manufacturer of motor vehicles, in which case the name of each
101 | motor vehicle that the applicant is franchised to sell shall be
102 | included, or an independent (nonfranchised) motor vehicle
103 | dealer. Such application shall contain such other relevant
104 | information as may be required by the department, including
105 | evidence that the applicant is insured under a garage liability
106 | insurance policy or a general liability insurance policy coupled
107 | with a business automobile policy, which shall include, at a
108 | minimum, \$25,000 combined single-limit liability coverage
109 | including bodily injury and property damage protection and
110 | \$10,000 personal injury protection. A salvage motor vehicle
111 | dealer is exempt from having to carry garage liability insurance
112 | coverage or personal injury protection insurance coverage on any

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113 vehicle that has been issued a certificate of destruction if the
114 vehicle may not be legally operated on the roads, highways, or
115 streets of this state. Franchise dealers must submit a garage
116 liability insurance policy, and all other dealers must submit a
117 garage liability insurance policy or a general liability
118 insurance policy coupled with a business automobile policy. Such
119 policy shall be for the license period, and evidence of a new or
120 continued policy shall be delivered to the department at the
121 beginning of each license period. Upon making initial
122 application, the applicant shall pay to the department a fee of
123 \$300 in addition to any other fees now required by law; upon
124 making a subsequent renewal application, the applicant shall pay
125 to the department a fee of \$75 in addition to any other fees now
126 required by law. Upon making an application for a change of
127 location, the person shall pay a fee of \$50 in addition to any
128 other fees now required by law. The department shall, in the
129 case of every application for initial licensure, verify whether
130 certain facts set forth in the application are true. Each
131 applicant, general partner in the case of a partnership, or
132 corporate officer and director in the case of a corporate
133 applicant, must file a set of fingerprints with the department
134 for the purpose of determining any prior criminal record or any
135 outstanding warrants. The department shall submit the
136 fingerprints to the Department of Law Enforcement for state
137 processing and forwarding to the Federal Bureau of Investigation
138 for federal processing. The actual cost of state and federal
139 processing shall be borne by the applicant and is in addition to
140 the fee for licensure. The department may issue a license to an

141 applicant pending the results of the fingerprint investigation,
 142 which license is fully revocable if the department subsequently
 143 determines that any facts set forth in the application are not
 144 true or correctly represented.

145 Section 2. Paragraph (b) of subsection (9) of section
 146 624.501, Florida Statutes, is amended to read:

147 624.501 Filing, license, appointment, and miscellaneous
 148 fees.—The department, commission, or office, as appropriate,
 149 shall collect in advance, and persons so served shall pay to it
 150 in advance, fees, licenses, and miscellaneous charges as
 151 follows:

152 (9)

153 (b) For all limited appointments as agent, as provided ~~for~~
 154 in s. 626.321(1)(c) and (d) ~~626.321(1)(d)~~, the agent's original
 155 appointment and biennial renewal or continuation thereof for
 156 each insurer is ~~shall be~~ equal to the number of offices, branch
 157 offices, or places of business covered by the license multiplied
 158 by the fees set forth in paragraph (a).

159 Section 3. Paragraph (c) of subsection (11) of section
 160 624.610, Florida Statutes, is amended to read:

161 624.610 Reinsurance.—

162 (11)

163 (c) This subsection applies to cessions of directly
 164 written risk or loss. This subsection does not apply to
 165 contracts of facultative reinsurance or to any ceding insurer
 166 that has a with surplus as to policyholders which ~~that~~ exceeds
 167 \$100 million as of the immediately preceding December 31. A
 168 ~~Additionally, any~~ ceding insurer otherwise subject to this

169 section which had ~~with~~ less than \$500,000 in direct premiums
 170 written in this state during the preceding calendar year and no
 171 more than \$250,000 in direct premiums written in this state
 172 during the preceding calendar quarter, or which had ~~with~~ less
 173 than 1,000 policyholders at the end of the preceding calendar
 174 year, is exempt from ~~the requirements of~~ this subsection.
 175 However, ~~any ceding insurer otherwise subject to this section~~
 176 ~~with more than \$250,000 in direct premiums written in this state~~
 177 ~~during the preceding calendar quarter is not exempt from the~~
 178 ~~requirements of this subsection.~~

179 Section 4. Subsection (5) is added to section 626.261,
 180 Florida Statutes, to read:

181 626.261 Conduct of examination.—

182 (5) The department may provide licensure examinations in
 183 Spanish. Applicants requesting examination or reexamination in
 184 Spanish must bear the estimated cost of the Spanish-language
 185 examination. The department's estimated cost for each
 186 examination must be prorated among the applicants based on the
 187 estimated number of applicants requesting the Spanish-language
 188 examination. When determining whether it is in the public
 189 interest to allow the examination to be translated into and
 190 administered in Spanish within a particular county, the
 191 department shall consider the percentage of the population
 192 within the county who speak Spanish.

193 Section 5. Paragraph (c) of subsection (1) of section
 194 626.321, Florida Statutes, is amended to read:

195 626.321 Limited licenses.—

196 (1) The department shall issue to a qualified individual,

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197 or a qualified individual or entity under paragraphs (c), (d),
 198 (e), and (i), a license as agent authorized to transact a
 199 limited class of business in any of the following categories:

200 (c) Travel insurance.—License covering only policies and
 201 certificates of travel insurance, which are subject to review by
 202 the office ~~under s. 624.605(1)(g)~~. Policies and certificates of
 203 travel insurance may provide coverage for risks incidental to
 204 travel, planned travel, or accommodations while traveling,
 205 including, but not limited to, accidental death and
 206 dismemberment of a traveler; trip or event cancellation,
 207 interruption, or delay; loss of or damage to personal effects or
 208 travel documents; damages to travel accommodations; baggage
 209 delay; emergency medical travel or evacuation of a traveler; or
 210 medical, surgical, and hospital expenses related to an illness
 211 or emergency of a traveler. ~~Any~~ Such policy or certificate may
 212 be issued for terms longer than 90 ~~60~~ days, but ~~each policy or~~
 213 ~~certificate~~, other than a policy or certificate providing
 214 coverage for air ambulatory services only, each policy or
 215 certificate must be limited to coverage for travel or use of
 216 accommodations of no longer than 90 ~~60~~ days. The license may be
 217 issued only:

218 1. To a full-time salaried employee of a common carrier or
 219 a full-time salaried employee or owner of a transportation
 220 ticket agency and may authorize the sale of such ticket policies
 221 only in connection with the sale of transportation tickets, or
 222 to the full-time salaried employee of such an agent. ~~No~~ Such
 223 policy may not ~~shall~~ be for a ~~duration of~~ more than 48 hours or
 224 more than ~~for~~ the duration of a specified one-way trip or round

- 225 trip.
- 226 2. To an entity or individual that is:
- 227 a. The developer of a timeshare plan that is the subject
- 228 of an approved public offering statement under chapter 721;
- 229 b. An exchange company operating an exchange program
- 230 approved under chapter 721;
- 231 c. A managing entity operating a timeshare plan approved
- 232 under chapter 721;
- 233 d. A seller of travel as defined in chapter 559; or
- 234 e. A subsidiary or affiliate of any of the entities
- 235 described in sub-subparagraphs a.-d.

236

237 A licensee shall require each individual ~~employee~~ who offers

238 policies or certificates under this subparagraph to receive

239 initial training from a general lines agent or an insurer

240 authorized under chapter 624 to transact insurance within this

241 state. For an entity applying for a license as a travel

242 insurance agent, the fingerprinting requirement of this section

243 applies only to the president, secretary, and treasurer and to

244 any other officer or person who directs or controls the travel

245 insurance operations of the entity.

246 3. To a full-time salaried employee of a licensed general

247 lines agent or to a business entity that offers travel planning

248 services if insurance sales activities authorized by the license

249 are in connection with, and incidental to, travel.

250 a. A license issued to a business entity that offers

251 travel planning services must encompass each office, branch

252 office, or place of business making use of the entity's business

253 name in order to offer, solicit, and sell insurance pursuant to
 254 this paragraph.

255 b. The application for licensure must list the name,
 256 address, and phone number for each office, branch office, or
 257 place of business that is to be covered by the license. The
 258 licensee shall notify the department of the name, address, and
 259 phone number of any new location that is to be covered by the
 260 license before the new office, branch office, or place of
 261 business engages in the sale of insurance pursuant to this
 262 paragraph. The licensee shall notify the department within 30
 263 days after the closing or terminating of an office, branch
 264 office, or place of business. Upon receipt of the notice, the
 265 department shall delete the office, branch office, or place of
 266 business from the license.

267 c. A licensed and appointed entity is directly responsible
 268 and accountable for all acts of the licensee's employees and
 269 parties with whom the licensee has entered into a contractual
 270 agreement to offer travel insurance.

271 Section 6. Section 626.8685, Florida Statutes, is created
 272 to read:

273 626.8685 Portable electronics insurance claims; exemption;
 274 licensure restriction.-

275 (1) This part does not apply to any individual who
 276 collects claims information from, or furnishes claims
 277 information to, insureds or claimants, and who conducts data
 278 entry, including entering data into an automated claims
 279 adjudication system, provided that the individual is an employee
 280 of a business entity licensed under this chapter, or its

281 affiliate, and no more than 25 such persons are under the
 282 supervision of one licensed independent adjuster or licensed
 283 agent who is exempt from licensure pursuant to s. 626.862. For
 284 purposes of this subsection, the term "automated claims
 285 adjudication system" means a preprogrammed computer system
 286 designed for the collection, data entry, calculation, and final
 287 resolution of portable electronics insurance claims that:

288 (a) May be used only by a licensed independent adjuster,
 289 licensed agent, or supervised individual operating pursuant to
 290 this subsection;

291 (b) Must comply with all claims payment requirements of
 292 the insurance code; and

293 (c) Must be certified as compliant with this subsection by
 294 a licensed independent adjuster that is an officer of a licensed
 295 business entity under this chapter.

296 (2) Notwithstanding any other provision of law, a resident
 297 of Canada may not be licensed as a nonresident independent
 298 adjuster for purposes of adjusting portable electronics
 299 insurance claims unless the person has successfully obtained an
 300 adjuster's license in another state.

301 Section 7. Paragraph (b) of subsection (3) of section
 302 626.916, Florida Statutes, is amended to read:

303 626.916 Eligibility for export.—

304 (3)

305 (b) Paragraphs (1) (a)-(d) do not apply to classes of
 306 insurance which are subject to s. 627.062(3)(d)1. These classes
 307 may be exportable under the following conditions:

308 1. The insurance must be placed only by or through a

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309 surplus lines agent licensed in this state;

310 2. The insurer must be made eligible under s. 626.918; and

311 3. The insured must sign a disclosure that substantially
 312 provides the following: "You are agreeing to place coverage in
 313 the surplus lines market. ~~Superior~~ Coverage may be available in
 314 the admitted market ~~and at a lesser cost~~. Persons insured by
 315 surplus lines carriers are not protected under the Florida
 316 Insurance Guaranty Act with respect to any right of recovery for
 317 the obligation of an insolvent unlicensed insurer." If the
 318 notice is signed by the insured, the insured is presumed to have
 319 been informed and to know that other coverage may be available,
 320 and, with respect to the diligent-effort requirement under
 321 subsection (1), there is no liability on the part of, and no
 322 cause of action arises against, the retail agent presenting the
 323 form.

324 Section 8. Subsection (5) of section 627.0629, Florida
 325 Statutes, is amended to read:

326 627.0629 Residential property insurance; rate filings.—

327 (5) In order to provide an appropriate transition period,
 328 an insurer may implement an approved rate filing for residential
 329 property insurance over a period of years. Such insurer must
 330 provide an informational notice to the office setting out its
 331 schedule for implementation of the phased-in rate filing. The
 332 insurer may include an adjustment for reinsurance, the costs of
 333 financing products used as a replacement for reinsurance,
 334 financing costs incurred in the purchase of reinsurance, and the
 335 actual cost paid due to the application of the cash build-up
 336 factor in accordance with s. 215.555(5) (b) in its rate filing.

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337 The insurer may also include the actual cost of private market
338 reinsurance that corresponds to available coverage of the
339 Temporary Increase in Coverage Limits, (TICL), from the Florida
340 Hurricane Catastrophe Fund as well as. ~~The insurer may also~~
341 ~~include~~ the cost of reinsurance to replace the TICL reduction
342 implemented under ~~pursuant to~~ s. 215.555(17)(d)9. However, the
343 ~~this~~ cost for reinsurance may not ~~include any expense or profit~~
344 ~~load or~~ result in a total annual base rate increase in excess of
345 10 percent.

346 Section 9. Paragraph (b) of subsection (2) of section
347 627.351, Florida Statutes, is amended to read:

348 627.351 Insurance risk apportionment plans.—

349 (2) WINDSTORM INSURANCE RISK APPORTIONMENT.—

350 (b) The department shall require all insurers holding a
351 certificate of authority to transact property insurance on a
352 direct basis in this state, other than joint underwriting
353 associations and other entities formed pursuant to this section,
354 to provide windstorm coverage to applicants from areas
355 determined to be eligible pursuant to paragraph (c) who in good
356 faith are entitled to, but are unable to procure, such coverage
357 through ordinary means; or it shall adopt a reasonable plan or
358 plans for the equitable apportionment or sharing among such
359 insurers of windstorm coverage, which may include formation of
360 an association for this purpose. As used in this subsection, the
361 term "property insurance" means insurance on real or personal
362 property, as defined in s. 624.604, including insurance for
363 fire, industrial fire, allied lines, farmowners multiperil,
364 homeowners' multiperil, commercial multiperil, and mobile homes,

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365 and including liability coverages on all such insurance, but
366 excluding inland marine as defined in s. 624.607(3) and
367 excluding vehicle insurance as defined in s. 624.605(1)(a) other
368 than insurance on mobile homes used as permanent dwellings. The
369 department shall adopt rules that provide a formula for the
370 recovery and repayment of any deferred assessments.

371 1. For the purpose of this section, properties eligible
372 for such windstorm coverage are defined as dwellings, buildings,
373 and other structures, including mobile homes which are used as
374 dwellings and which are tied down in compliance with mobile home
375 tie-down requirements prescribed by the Department of Highway
376 Safety and Motor Vehicles pursuant to s. 320.8325, and the
377 contents of all such properties. An applicant or policyholder is
378 eligible for coverage only if an offer of coverage cannot be
379 obtained by or for the applicant or policyholder from an
380 admitted insurer at approved rates.

381 2.a.(I) All insurers required to be members of such
382 association shall participate in its writings, expenses, and
383 losses. Surplus of the association shall be retained for the
384 payment of claims and shall not be distributed to the member
385 insurers. Such participation by member insurers shall be in the
386 proportion that the net direct premiums of each member insurer
387 written for property insurance in this state during the
388 preceding calendar year bear to the aggregate net direct
389 premiums for property insurance of all member insurers, as
390 reduced by any credits for voluntary writings, in this state
391 during the preceding calendar year. For the purposes of this
392 subsection, the term "net direct premiums" means direct written

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393 premiums for property insurance, reduced by premium for
394 liability coverage and for the following if included in allied
395 lines: rain and hail on growing crops; livestock; association
396 direct premiums booked; National Flood Insurance Program direct
397 premiums; and similar deductions specifically authorized by the
398 plan of operation and approved by the department. A member's
399 participation shall begin on the first day of the calendar year
400 following the year in which it is issued a certificate of
401 authority to transact property insurance in the state and shall
402 terminate 1 year after the end of the calendar year during which
403 it no longer holds a certificate of authority to transact
404 property insurance in the state. The commissioner, after review
405 of annual statements, other reports, and any other statistics
406 that the commissioner deems necessary, shall certify to the
407 association the aggregate direct premiums written for property
408 insurance in this state by all member insurers.

409 (II) Effective July 1, 2002, the association shall operate
410 subject to the supervision and approval of a board of governors
411 who are the same individuals that have been appointed by the
412 Treasurer to serve on the board of governors of the Citizens
413 Property Insurance Corporation.

414 (III) The plan of operation shall provide a formula
415 whereby a company voluntarily providing windstorm coverage in
416 affected areas will be relieved wholly or partially from
417 apportionment of a regular assessment pursuant to sub-sub-
418 subparagraph d.(I) or sub-sub-subparagraph d.(II).

419 (IV) A company which is a member of a group of companies
420 under common management may elect to have its credits applied on

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421 a group basis, and any company or group may elect to have its
422 credits applied to any other company or group.

423 (V) There shall be no credits or relief from apportionment
424 to a company for emergency assessments collected from its
425 policyholders under sub-sub-subparagraph d.(III).

426 (VI) The plan of operation may also provide for the award
427 of credits, for a period not to exceed 3 years, from a regular
428 assessment pursuant to sub-sub-subparagraph d.(I) or sub-sub-
429 subparagraph d.(II) as an incentive for taking policies out of
430 the Residential Property and Casualty Joint Underwriting
431 Association. In order to qualify for the exemption under this
432 sub-sub-subparagraph, the take-out plan must provide that at
433 least 40 percent of the policies removed from the Residential
434 Property and Casualty Joint Underwriting Association cover risks
435 located in Miami-Dade, Broward, and Palm Beach Counties or at
436 least 30 percent of the policies so removed cover risks located
437 in Miami-Dade, Broward, and Palm Beach Counties and an
438 additional 50 percent of the policies so removed cover risks
439 located in other coastal counties, and must also provide that no
440 more than 15 percent of the policies so removed may exclude
441 windstorm coverage. With the approval of the department, the
442 association may waive these geographic criteria for a take-out
443 plan that removes at least the lesser of 100,000 Residential
444 Property and Casualty Joint Underwriting Association policies or
445 15 percent of the total number of Residential Property and
446 Casualty Joint Underwriting Association policies, provided the
447 governing board of the Residential Property and Casualty Joint
448 Underwriting Association certifies that the take-out plan will

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449 materially reduce the Residential Property and Casualty Joint
450 Underwriting Association's 100-year probable maximum loss from
451 hurricanes. With the approval of the department, the board may
452 extend such credits for an additional year if the insurer
453 guarantees an additional year of renewability for all policies
454 removed from the Residential Property and Casualty Joint
455 Underwriting Association, or for 2 additional years if the
456 insurer guarantees 2 additional years of renewability for all
457 policies removed from the Residential Property and Casualty
458 Joint Underwriting Association.

459 b. Assessments to pay deficits in the association under
460 this subparagraph shall be included as an appropriate factor in
461 the making of rates as provided in s. 627.3512.

462 c. The Legislature finds that the potential for unlimited
463 deficit assessments under this subparagraph may induce insurers
464 to attempt to reduce their writings in the voluntary market, and
465 that such actions would worsen the availability problems that
466 the association was created to remedy. It is the intent of the
467 Legislature that insurers remain fully responsible for paying
468 regular assessments and collecting emergency assessments for any
469 deficits of the association; however, it is also the intent of
470 the Legislature to provide a means by which assessment
471 liabilities may be amortized over a period of years.

472 d.(I) When the deficit incurred in a particular calendar
473 year is 10 percent or less of the aggregate statewide direct
474 written premium for property insurance for the prior calendar
475 year for all member insurers, the association shall levy an
476 assessment on member insurers in an amount equal to the deficit.

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477 (II) When the deficit incurred in a particular calendar
478 year exceeds 10 percent of the aggregate statewide direct
479 written premium for property insurance for the prior calendar
480 year for all member insurers, the association shall levy an
481 assessment on member insurers in an amount equal to the greater
482 of 10 percent of the deficit or 10 percent of the aggregate
483 statewide direct written premium for property insurance for the
484 prior calendar year for member insurers. Any remaining deficit
485 shall be recovered through emergency assessments under sub-sub-
486 subparagraph (III).

487 (III) Upon a determination by the board of directors that
488 a deficit exceeds the amount that will be recovered through
489 regular assessments on member insurers, pursuant to sub-sub-
490 subparagraph (I) or sub-sub-subparagraph (II), the board shall
491 levy, after verification by the department, emergency
492 assessments to be collected by member insurers and by
493 underwriting associations created pursuant to this section which
494 write property insurance, upon issuance or renewal of property
495 insurance policies other than National Flood Insurance policies
496 in the year or years following levy of the regular assessments.
497 The amount of the emergency assessment collected in a particular
498 year shall be a uniform percentage of that year's direct written
499 premium for property insurance for all member insurers and
500 underwriting associations, excluding National Flood Insurance
501 policy premiums, as annually determined by the board and
502 verified by the department. The department shall verify the
503 arithmetic calculations involved in the board's determination
504 within 30 days after receipt of the information on which the

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505 determination was based. Notwithstanding any other provision of
506 law, each member insurer and each underwriting association
507 created pursuant to this section shall collect emergency
508 assessments from its policyholders without such obligation being
509 affected by any credit, limitation, exemption, or deferment. The
510 emergency assessments so collected shall be transferred directly
511 to the association on a periodic basis as determined by the
512 association. The aggregate amount of emergency assessments
513 levied under this sub-sub-subparagraph in any calendar year may
514 not exceed the greater of 10 percent of the amount needed to
515 cover the original deficit, plus interest, fees, commissions,
516 required reserves, and other costs associated with financing of
517 the original deficit, or 10 percent of the aggregate statewide
518 direct written premium for property insurance written by member
519 insurers and underwriting associations for the prior year, plus
520 interest, fees, commissions, required reserves, and other costs
521 associated with financing the original deficit. The board may
522 pledge the proceeds of the emergency assessments under this sub-
523 sub-subparagraph as the source of revenue for bonds, to retire
524 any other debt incurred as a result of the deficit or events
525 giving rise to the deficit, or in any other way that the board
526 determines will efficiently recover the deficit. The emergency
527 assessments under this sub-sub-subparagraph shall continue as
528 long as any bonds issued or other indebtedness incurred with
529 respect to a deficit for which the assessment was imposed remain
530 outstanding, unless adequate provision has been made for the
531 payment of such bonds or other indebtedness pursuant to the
532 document governing such bonds or other indebtedness. Emergency

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533 assessments collected under this sub-sub-subparagraph are not
534 part of an insurer's rates, are not premium, and are not subject
535 to premium tax, fees, or commissions; however, failure to pay
536 the emergency assessment shall be treated as failure to pay
537 premium.

538 (IV) Each member insurer's share of the total regular
539 assessments under sub-sub-subparagraph (I) or sub-sub-
540 subparagraph (II) shall be in the proportion that the insurer's
541 net direct premium for property insurance in this state, for the
542 year preceding the assessment bears to the aggregate statewide
543 net direct premium for property insurance of all member
544 insurers, as reduced by any credits for voluntary writings for
545 that year.

546 (V) If regular deficit assessments are made under sub-sub-
547 subparagraph (I) or sub-sub-subparagraph (II), or by the
548 Residential Property and Casualty Joint Underwriting Association
549 under sub-subparagraph (6)(b)3.a. or sub-subparagraph
550 (6)(b)3.b., the association shall levy upon the association's
551 policyholders, as part of its next rate filing, or by a separate
552 rate filing solely for this purpose, a market equalization
553 surcharge in a percentage equal to the total amount of such
554 regular assessments divided by the aggregate statewide direct
555 written premium for property insurance for member insurers for
556 the prior calendar year. Market equalization surcharges under
557 this sub-sub-subparagraph are not considered premium and are not
558 subject to commissions, fees, or premium taxes; however, failure
559 to pay a market equalization surcharge shall be treated as
560 failure to pay premium.

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561 e. The governing body of any unit of local government, any
562 residents of which are insured under the plan, may issue bonds
563 as defined in s. 125.013 or s. 166.101 to fund an assistance
564 program, in conjunction with the association, for the purpose of
565 defraying deficits of the association. In order to avoid
566 needless and indiscriminate proliferation, duplication, and
567 fragmentation of such assistance programs, any unit of local
568 government, any residents of which are insured by the
569 association, may provide for the payment of losses, regardless
570 of whether or not the losses occurred within or outside of the
571 territorial jurisdiction of the local government. Revenue bonds
572 may not be issued until validated pursuant to chapter 75, unless
573 a state of emergency is declared by executive order or
574 proclamation of the Governor pursuant to s. 252.36 making such
575 findings as are necessary to determine that it is in the best
576 interests of, and necessary for, the protection of the public
577 health, safety, and general welfare of residents of this state
578 and the protection and preservation of the economic stability of
579 insurers operating in this state, and declaring it an essential
580 public purpose to permit certain municipalities or counties to
581 issue bonds as will provide relief to claimants and
582 policyholders of the association and insurers responsible for
583 apportionment of plan losses. Any such unit of local government
584 may enter into such contracts with the association and with any
585 other entity created pursuant to this subsection as are
586 necessary to carry out this paragraph. Any bonds issued under
587 this sub-subparagraph shall be payable from and secured by
588 moneys received by the association from assessments under this

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589 | subparagraph, and assigned and pledged to or on behalf of the
590 | unit of local government for the benefit of the holders of such
591 | bonds. The funds, credit, property, and taxing power of the
592 | state or of the unit of local government shall not be pledged
593 | for the payment of such bonds. If any of the bonds remain unsold
594 | 60 days after issuance, the department shall require all
595 | insurers subject to assessment to purchase the bonds, which
596 | shall be treated as admitted assets; each insurer shall be
597 | required to purchase that percentage of the unsold portion of
598 | the bond issue that equals the insurer's relative share of
599 | assessment liability under this subsection. An insurer shall not
600 | be required to purchase the bonds to the extent that the
601 | department determines that the purchase would endanger or impair
602 | the solvency of the insurer. The authority granted by this sub-
603 | subparagraph is additional to any bonding authority granted by
604 | subparagraph 6.

605 | 3. The plan shall also provide that any member with a
606 | surplus as to policyholders of \$25 ~~\$20~~ million or less writing
607 | 25 percent or more of its total countrywide property insurance
608 | premiums in this state may petition the department, within the
609 | first 90 days of each calendar year, to qualify as a limited
610 | apportionment company. The apportionment of such a member
611 | company in any calendar year for which it is qualified shall not
612 | exceed its gross participation, which shall not be affected by
613 | the formula for voluntary writings. In no event shall a limited
614 | apportionment company be required to participate in any
615 | apportionment of losses pursuant to sub-sub-subparagraph 2.d.(I)
616 | or sub-sub-subparagraph 2.d.(II) in the aggregate which exceeds

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617 \$50 million after payment of available plan funds in any
618 calendar year. However, a limited apportionment company shall
619 collect from its policyholders any emergency assessment imposed
620 under sub-sub-subparagraph 2.d.(III). The plan shall provide
621 that, if the department determines that any regular assessment
622 will result in an impairment of the surplus of a limited
623 apportionment company, the department may direct that all or
624 part of such assessment be deferred. However, there shall be no
625 limitation or deferment of an emergency assessment to be
626 collected from policyholders under sub-sub-subparagraph
627 2.d.(III).

628 4. The plan shall provide for the deferment, in whole or
629 in part, of a regular assessment of a member insurer under sub-
630 sub-subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II), but
631 not for an emergency assessment collected from policyholders
632 under sub-sub-subparagraph 2.d.(III), if, in the opinion of the
633 commissioner, payment of such regular assessment would endanger
634 or impair the solvency of the member insurer. In the event a
635 regular assessment against a member insurer is deferred in whole
636 or in part, the amount by which such assessment is deferred may
637 be assessed against the other member insurers in a manner
638 consistent with the basis for assessments set forth in sub-sub-
639 subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II).

640 5.a. The plan of operation may include deductibles and
641 rules for classification of risks and rate modifications
642 consistent with the objective of providing and maintaining funds
643 sufficient to pay catastrophe losses.

644 b. It is the intent of the Legislature that the rates for

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645 coverage provided by the association be actuarially sound and
646 not competitive with approved rates charged in the admitted
647 voluntary market such that the association functions as a
648 residual market mechanism to provide insurance only when the
649 insurance cannot be procured in the voluntary market. The plan
650 of operation shall provide a mechanism to assure that, beginning
651 no later than January 1, 1999, the rates charged by the
652 association for each line of business are reflective of approved
653 rates in the voluntary market for hurricane coverage for each
654 line of business in the various areas eligible for association
655 coverage.

656 c. The association shall provide for windstorm coverage on
657 residential properties in limits up to \$10 million for
658 commercial lines residential risks and up to \$1 million for
659 personal lines residential risks. If coverage with the
660 association is sought for a residential risk valued in excess of
661 these limits, coverage shall be available to the risk up to the
662 replacement cost or actual cash value of the property, at the
663 option of the insured, if coverage for the risk cannot be
664 located in the authorized market. The association must accept a
665 commercial lines residential risk with limits above \$10 million
666 or a personal lines residential risk with limits above \$1
667 million if coverage is not available in the authorized market.
668 The association may write coverage above the limits specified in
669 this subparagraph with or without facultative or other
670 reinsurance coverage, as the association determines appropriate.

671 d. The plan of operation must provide objective criteria
672 and procedures, approved by the department, to be uniformly

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673 applied for all applicants in determining whether an individual
674 risk is so hazardous as to be uninsurable. In making this
675 determination and in establishing the criteria and procedures,
676 the following shall be considered:

677 (I) Whether the likelihood of a loss for the individual
678 risk is substantially higher than for other risks of the same
679 class; and

680 (II) Whether the uncertainty associated with the
681 individual risk is such that an appropriate premium cannot be
682 determined.

683

684 The acceptance or rejection of a risk by the association
685 pursuant to such criteria and procedures must be construed as
686 the private placement of insurance, and the provisions of
687 chapter 120 do not apply.

688 e. If the risk accepts an offer of coverage through the
689 market assistance program or through a mechanism established by
690 the association, either before the policy is issued by the
691 association or during the first 30 days of coverage by the
692 association, and the producing agent who submitted the
693 application to the association is not currently appointed by the
694 insurer, the insurer shall:

695 (I) Pay to the producing agent of record of the policy,
696 for the first year, an amount that is the greater of the
697 insurer's usual and customary commission for the type of policy
698 written or a fee equal to the usual and customary commission of
699 the association; or

700 (II) Offer to allow the producing agent of record of the

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701 policy to continue servicing the policy for a period of not less
702 than 1 year and offer to pay the agent the greater of the
703 insurer's or the association's usual and customary commission
704 for the type of policy written.

705

706 If the producing agent is unwilling or unable to accept
707 appointment, the new insurer shall pay the agent in accordance
708 with sub-sub-subparagraph (I). Subject to the provisions of s.
709 627.3517, the policies issued by the association must provide
710 that if the association obtains an offer from an authorized
711 insurer to cover the risk at its approved rates under either a
712 standard policy including wind coverage or, if consistent with
713 the insurer's underwriting rules as filed with the department, a
714 basic policy including wind coverage, the risk is no longer
715 eligible for coverage through the association. Upon termination
716 of eligibility, the association shall provide written notice to
717 the policyholder and agent of record stating that the
718 association policy must be canceled as of 60 days after the date
719 of the notice because of the offer of coverage from an
720 authorized insurer. Other provisions of the insurance code
721 relating to cancellation and notice of cancellation do not apply
722 to actions under this sub-subparagraph.

723 f. When the association enters into a contractual
724 agreement for a take-out plan, the producing agent of record of
725 the association policy is entitled to retain any unearned
726 commission on the policy, and the insurer shall:

727 (I) Pay to the producing agent of record of the
728 association policy, for the first year, an amount that is the

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729 greater of the insurer's usual and customary commission for the
 730 type of policy written or a fee equal to the usual and customary
 731 commission of the association; or

732 (II) Offer to allow the producing agent of record of the
 733 association policy to continue servicing the policy for a period
 734 of not less than 1 year and offer to pay the agent the greater
 735 of the insurer's or the association's usual and customary
 736 commission for the type of policy written.

737
 738 If the producing agent is unwilling or unable to accept
 739 appointment, the new insurer shall pay the agent in accordance
 740 with sub-sub-subparagraph (I).

741 6.a. The plan of operation may authorize the formation of
 742 a private nonprofit corporation, a private nonprofit
 743 unincorporated association, a partnership, a trust, a limited
 744 liability company, or a nonprofit mutual company which may be
 745 empowered, among other things, to borrow money by issuing bonds
 746 or by incurring other indebtedness and to accumulate reserves or
 747 funds to be used for the payment of insured catastrophe losses.
 748 The plan may authorize all actions necessary to facilitate the
 749 issuance of bonds, including the pledging of assessments or
 750 other revenues.

751 b. Any entity created under this subsection, or any entity
 752 formed for the purposes of this subsection, may sue and be sued,
 753 may borrow money; issue bonds, notes, or debt instruments;
 754 pledge or sell assessments, market equalization surcharges and
 755 other surcharges, rights, premiums, contractual rights,
 756 projected recoveries from the Florida Hurricane Catastrophe

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757 Fund, other reinsurance recoverables, and other assets as
758 security for such bonds, notes, or debt instruments; enter into
759 any contracts or agreements necessary or proper to accomplish
760 such borrowings; and take other actions necessary to carry out
761 the purposes of this subsection. The association may issue bonds
762 or incur other indebtedness, or have bonds issued on its behalf
763 by a unit of local government pursuant to subparagraph (6)(q)2.,
764 in the absence of a hurricane or other weather-related event,
765 upon a determination by the association subject to approval by
766 the department that such action would enable it to efficiently
767 meet the financial obligations of the association and that such
768 financings are reasonably necessary to effectuate the
769 requirements of this subsection. Any such entity may accumulate
770 reserves and retain surpluses as of the end of any association
771 year to provide for the payment of losses incurred by the
772 association during that year or any future year. The association
773 shall incorporate and continue the plan of operation and
774 articles of agreement in effect on the effective date of chapter
775 76-96, Laws of Florida, to the extent that it is not
776 inconsistent with chapter 76-96, and as subsequently modified
777 consistent with chapter 76-96. The board of directors and
778 officers currently serving shall continue to serve until their
779 successors are duly qualified as provided under the plan. The
780 assets and obligations of the plan in effect immediately prior
781 to the effective date of chapter 76-96 shall be construed to be
782 the assets and obligations of the successor plan created herein.

783 c. In recognition of s. 10, Art. I of the State
784 Constitution, prohibiting the impairment of obligations of

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785 | contracts, it is the intent of the Legislature that no action be
786 | taken whose purpose is to impair any bond indenture or financing
787 | agreement or any revenue source committed by contract to such
788 | bond or other indebtedness issued or incurred by the association
789 | or any other entity created under this subsection.

790 | 7. On such coverage, an agent's remuneration shall be that
791 | amount of money payable to the agent by the terms of his or her
792 | contract with the company with which the business is placed.
793 | However, no commission will be paid on that portion of the
794 | premium which is in excess of the standard premium of that
795 | company.

796 | 8. Subject to approval by the department, the association
797 | may establish different eligibility requirements and operational
798 | procedures for any line or type of coverage for any specified
799 | eligible area or portion of an eligible area if the board
800 | determines that such changes to the eligibility requirements and
801 | operational procedures are justified due to the voluntary market
802 | being sufficiently stable and competitive in such area or for
803 | such line or type of coverage and that consumers who, in good
804 | faith, are unable to obtain insurance through the voluntary
805 | market through ordinary methods would continue to have access to
806 | coverage from the association. When coverage is sought in
807 | connection with a real property transfer, such requirements and
808 | procedures shall not provide for an effective date of coverage
809 | later than the date of the closing of the transfer as
810 | established by the transferor, the transferee, and, if
811 | applicable, the lender.

812 | 9. Notwithstanding any other provision of law:

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813 a. The pledge or sale of, the lien upon, and the security
814 interest in any rights, revenues, or other assets of the
815 association created or purported to be created pursuant to any
816 financing documents to secure any bonds or other indebtedness of
817 the association shall be and remain valid and enforceable,
818 notwithstanding the commencement of and during the continuation
819 of, and after, any rehabilitation, insolvency, liquidation,
820 bankruptcy, receivership, conservatorship, reorganization, or
821 similar proceeding against the association under the laws of
822 this state or any other applicable laws.

823 b. No such proceeding shall relieve the association of its
824 obligation, or otherwise affect its ability to perform its
825 obligation, to continue to collect, or levy and collect,
826 assessments, market equalization or other surcharges, projected
827 recoveries from the Florida Hurricane Catastrophe Fund,
828 reinsurance recoverables, or any other rights, revenues, or
829 other assets of the association pledged.

830 c. Each such pledge or sale of, lien upon, and security
831 interest in, including the priority of such pledge, lien, or
832 security interest, any such assessments, emergency assessments,
833 market equalization or renewal surcharges, projected recoveries
834 from the Florida Hurricane Catastrophe Fund, reinsurance
835 recoverables, or other rights, revenues, or other assets which
836 are collected, or levied and collected, after the commencement
837 of and during the pendency of or after any such proceeding shall
838 continue unaffected by such proceeding.

839 d. As used in this subsection, the term "financing
840 documents" means any agreement, instrument, or other document

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841 | now existing or hereafter created evidencing any bonds or other
842 | indebtedness of the association or pursuant to which any such
843 | bonds or other indebtedness has been or may be issued and
844 | pursuant to which any rights, revenues, or other assets of the
845 | association are pledged or sold to secure the repayment of such
846 | bonds or indebtedness, together with the payment of interest on
847 | such bonds or such indebtedness, or the payment of any other
848 | obligation of the association related to such bonds or
849 | indebtedness.

850 | e. Any such pledge or sale of assessments, revenues,
851 | contract rights or other rights or assets of the association
852 | shall constitute a lien and security interest, or sale, as the
853 | case may be, that is immediately effective and attaches to such
854 | assessments, revenues, contract, or other rights or assets,
855 | whether or not imposed or collected at the time the pledge or
856 | sale is made. Any such pledge or sale is effective, valid,
857 | binding, and enforceable against the association or other entity
858 | making such pledge or sale, and valid and binding against and
859 | superior to any competing claims or obligations owed to any
860 | other person or entity, including policyholders in this state,
861 | asserting rights in any such assessments, revenues, contract, or
862 | other rights or assets to the extent set forth in and in
863 | accordance with the terms of the pledge or sale contained in the
864 | applicable financing documents, whether or not any such person
865 | or entity has notice of such pledge or sale and without the need
866 | for any physical delivery, recordation, filing, or other action.

867 | f. There shall be no liability on the part of, and no
868 | cause of action of any nature shall arise against, any member

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869 insurer or its agents or employees, agents or employees of the
 870 association, members of the board of directors of the
 871 association, or the department or its representatives, for any
 872 action taken by them in the performance of their duties or
 873 responsibilities under this subsection. Such immunity does not
 874 apply to actions for breach of any contract or agreement
 875 pertaining to insurance, or any willful tort.

876 Section 10. Paragraph (b) of subsection (2) of section
 877 627.4133, Florida Statutes, is amended to read:

878 627.4133 Notice of cancellation, nonrenewal, or renewal
 879 premium.—

880 (2) With respect to any personal lines or commercial
 881 residential property insurance policy, including, but not
 882 limited to, any homeowner's, mobile home owner's, farmowner's,
 883 condominium association, condominium unit owner's, apartment
 884 building, or other policy covering a residential structure or
 885 its contents:

886 (b) The insurer shall give the first-named insured written
 887 notice of nonrenewal, cancellation, or termination at least 120
 888 ~~100~~ days before the effective date of the nonrenewal,
 889 cancellation, or termination. ~~However, the insurer shall give at~~
 890 ~~least 100 days' written notice, or written notice by June 1,~~
 891 ~~whichever is earlier, for any nonrenewal, cancellation, or~~
 892 ~~termination that would be effective between June 1 and November~~
 893 ~~30.~~ The notice must include the ~~reason or~~ reasons for the
 894 nonrenewal, cancellation, or termination, except that:

895 1. The insurer must ~~shall~~ give the first-named insured
 896 written notice of nonrenewal, cancellation, or termination at

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897 | least 120 days before ~~prior to~~ the effective date of the
898 | nonrenewal, cancellation, or termination for a first-named
899 | insured whose residential structure has been insured by that
900 | insurer or an affiliated insurer for at least the 5 years before
901 | ~~a 5-year period immediately prior to~~ the date of the written
902 | notice.

903 | 2. If cancellation is for nonpayment of premium, at least
904 | 10 days' written notice of cancellation accompanied by the
905 | reason therefor must be given. As used in this subparagraph, the
906 | term "nonpayment of premium" means failure of the named insured
907 | to discharge when due her or his obligations for ~~in connection~~
908 | ~~with~~ the payment of premiums on a policy or any installment of
909 | such premium, whether the premium is payable directly to the
910 | insurer or its agent or indirectly under any premium finance
911 | plan or extension of credit, or failure to maintain membership
912 | in an organization if such membership is a condition precedent
913 | to insurance coverage. The term also means the failure of a
914 | financial institution to honor an insurance applicant's check
915 | after delivery to a licensed agent for payment of a premium,
916 | even if the agent has previously delivered or transferred the
917 | premium to the insurer. If a dishonored check represents the
918 | initial premium payment, the contract and all contractual
919 | obligations are void ab initio unless the nonpayment is cured
920 | within the earlier of 5 days after actual notice by certified
921 | mail is received by the applicant or 15 days after notice is
922 | sent to the applicant by certified mail or registered mail, ~~and~~
923 | If the contract is void, any premium received by the insurer
924 | from a third party must be refunded to that party in full.

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925 3. If ~~such~~ cancellation or termination occurs during the
926 first 90 days the insurance is in force and the insurance is
927 canceled or terminated for reasons other than nonpayment of
928 premium, at least 20 days' written notice of cancellation or
929 termination accompanied by the reason therefor must be given
930 unless there has been a material misstatement or
931 misrepresentation or failure to comply with the underwriting
932 requirements established by the insurer.

933 4. The requirement for providing written notice by June 1
934 of any nonrenewal that would be effective between June 1 and
935 November 30 does not apply to the following situations, but the
936 insurer remains subject to the requirement to provide such
937 notice at least 100 days before the effective date of
938 nonrenewal:

939 a. A policy that is nonrenewed due to a revision in the
940 coverage for sinkhole losses and catastrophic ground cover
941 collapse pursuant to s. 627.706.

942 b. A policy that is nonrenewed by Citizens Property
943 Insurance Corporation, pursuant to s. 627.351(6), for a policy
944 that has been assumed by an authorized insurer offering
945 replacement coverage to the policyholder is exempt from the
946 notice requirements of paragraph (a) and this paragraph. In such
947 cases, the corporation must give the named insured written
948 notice of nonrenewal at least 45 days before the effective date
949 of the nonrenewal.

950
951 After the policy has been in effect for 90 days, the policy may
952 not be canceled by the insurer unless there has been a material

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953 misstatement, a nonpayment of premium, a failure to comply with
954 underwriting requirements established by the insurer within 90
955 days after the date of effectuation of coverage, or a
956 substantial change in the risk covered by the policy or if the
957 cancellation is for all insureds under such policies for a given
958 class of insureds. This paragraph does not apply to individually
959 rated risks having a policy term of less than 90 days.

960 5. Notwithstanding any other provision of law, an insurer
961 may cancel or nonrenew a property insurance policy after at
962 least 45 days' notice if the office finds that the early
963 cancellation of some or all of the insurer's policies is
964 necessary to protect the best interests of the public or
965 policyholders and the office approves the insurer's plan for
966 early cancellation or nonrenewal of some or all of its policies.
967 The office may base such finding upon the financial condition of
968 the insurer, lack of adequate reinsurance coverage for hurricane
969 risk, or other relevant factors. The office may condition its
970 finding on the consent of the insurer to be placed under
971 administrative supervision pursuant to s. 624.81 or to the
972 appointment of a receiver under chapter 631.

973 6. A policy covering both a home and motor vehicle may be
974 nonrenewed for any reason applicable to ~~either~~ the property or
975 motor vehicle insurance after providing 90 days' notice.

976 Section 11. Subsection (2) of section 627.43141, Florida
977 Statutes, is amended to read:

978 627.43141 Notice of change in policy terms.—

979 (2) Notwithstanding any other provision of law, a renewal
980 policy may contain a change in policy terms. If a renewal policy

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981 ~~contains~~ ~~does contain~~ such change, the insurer must give the
 982 named insured written notice of the change, which must be
 983 enclosed along with the written notice of renewal premium
 984 required under ~~by~~ ss. 627.4133 and 627.728. Such notice shall be
 985 entitled "Notice of Change in Policy Terms."

986 Section 12. Section 627.6011, Florida Statutes, is created
 987 to read:

988 627.6011 Mandated coverages.—Mandatory health benefits
 989 regulated under this chapter which must be covered by an insurer
 990 are intended to apply only to the type of health benefit plan
 991 defined in s. 627.6699(3), issued in any market, unless
 992 specifically designated otherwise. For purposes of this section,
 993 the term "mandatory health benefits" mean those benefits set
 994 forth in ss. 627.6401-627.64193 and any cross-references to
 995 these sections, and any other mandatory treatment or health
 996 coverages or benefits enacted on or after July 1, 2012.

997 Section 13. Subsections (1), (2), (7), and (9) of section
 998 627.7015, Florida Statutes, are amended to read:

999 627.7015 Alternative procedure for resolution of disputed
 1000 property insurance claims.—

1001 (1) ~~PURPOSE AND SCOPE.~~—This section sets forth a
 1002 nonadversarial alternative dispute resolution procedure for a
 1003 mediated claim resolution conference prompted by the need for
 1004 effective, fair, and timely handling of property insurance
 1005 claims. There is a particular need for an informal,
 1006 nonthreatening forum for helping parties who elect this
 1007 procedure to resolve their claims disputes because most
 1008 homeowner's and commercial residential insurance policies

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1009 obligate policyholders insureds to participate in a potentially
 1010 expensive and time-consuming adversarial appraisal process
 1011 before ~~prior to~~ litigation. The procedure set forth in this
 1012 section is designed to bring the parties together for a mediated
 1013 claims settlement conference without any of the trappings or
 1014 drawbacks of an adversarial process. Before resorting to these
 1015 procedures, policyholders insureds and insurers are encouraged
 1016 to resolve claims as quickly and fairly as possible. This
 1017 section is available with respect to claims under personal lines
 1018 and commercial residential policies before ~~for all claimants and~~
 1019 ~~insurers prior to~~ commencing the appraisal process, or before
 1020 commencing litigation. Mediation may be requested only by the
 1021 policyholder, as a first-party claimant, or the insurer. If
 1022 requested by the policyholder insured, participation by legal
 1023 counsel is ~~shall be~~ permitted. Mediation under this section is
 1024 also available to litigants referred to the department by a
 1025 county court or circuit court. This section does not apply to
 1026 commercial coverages, to private passenger motor vehicle
 1027 insurance coverages, or to disputes relating to liability
 1028 coverages in policies of property insurance.

1029 (2) At the time a first-party claim within the scope of
 1030 this section is filed by the policyholder, the insurer shall
 1031 notify the policyholder ~~all first-party claimants~~ of its ~~their~~
 1032 right to participate in the mediation program under this
 1033 section. The department shall prepare a consumer information
 1034 pamphlet for distribution to persons participating in mediation
 1035 ~~under this section.~~

1036 (7) If the insurer fails to comply with subsection (2) by

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1037 failing to notify a policyholder ~~first-party claimant~~ of its
 1038 right to participate in the mediation program under this section
 1039 or if the insurer requests the mediation, and the mediation
 1040 results are rejected by either party, the policyholder is
 1041 ~~insured shall~~ not be required to submit to or participate in any
 1042 contractual loss appraisal process of the property loss damage
 1043 as a precondition to legal action for breach of contract against
 1044 the insurer for its failure to pay the policyholder's claims
 1045 covered by the policy.

1046 (9) For purposes of this section, the term "claim" refers
 1047 to any dispute between an insurer and a policyholder ~~an insured~~
 1048 relating to a material issue of fact other than a dispute:

1049 (a) With respect to which the insurer has a reasonable
 1050 basis to suspect fraud;

1051 (b) Where, based on agreed-upon facts as to the cause of
 1052 loss, there is no coverage under the policy;

1053 (c) With respect to which the insurer has a reasonable
 1054 basis to believe that the policyholder ~~claimant~~ has
 1055 intentionally made a material misrepresentation of fact which is
 1056 relevant to the claim, and the entire request for payment of a
 1057 loss has been denied on the basis of the material
 1058 misrepresentation; ~~or~~

1059 (d) With respect to which the amount in controversy is
 1060 less than \$500, unless the parties agree to mediate a dispute
 1061 involving a lesser amount; or.

1062 (e) Where the notice of loss is reported to the insurer
 1063 more than 36 months after the declaration of a state of
 1064 emergency by the Governor in response to a hurricane that makes

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1065 landfall in this state.

1066 Section 14. Subsection (4) of section 627.7295, Florida
 1067 Statutes, is amended to read:

1068 627.7295 Motor vehicle insurance contracts.—

1069 (4) ~~If subsection (7) does not apply,~~ The insurer may
 1070 cancel the policy in accordance with this code except that,
 1071 notwithstanding s. 627.728, an insurer may not cancel a new
 1072 policy or binder during the first 60 days immediately following
 1073 the effective date of the policy or binder ~~except~~ for nonpayment
 1074 of premium unless the reason for the cancellation is the
 1075 issuance of a check for the premium that is dishonored for any
 1076 reason or any other type of premium payment that was
 1077 subsequently determined to be rejected or invalid.

1078 Section 15. Paragraph (d) of subsection (4) of section
 1079 627.736, Florida Statutes, is amended to read:

1080 627.736 Required personal injury protection benefits;
 1081 exclusions; priority; claims.—

1082 (4) BENEFITS; WHEN DUE.—Benefits due from an insurer under
 1083 ss. 627.730-627.7405 shall be primary, except that benefits
 1084 received under any workers' compensation law shall be credited
 1085 against the benefits provided by subsection (1) and shall be due
 1086 and payable as loss accrues, upon receipt of reasonable proof of
 1087 such loss and the amount of expenses and loss incurred which are
 1088 covered by the policy issued under ss. 627.730-627.7405. When
 1089 the Agency for Health Care Administration provides, pays, or
 1090 becomes liable for medical assistance under the Medicaid program
 1091 related to injury, sickness, disease, or death arising out of
 1092 the ownership, maintenance, or use of a motor vehicle, benefits

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1093 | under ss. 627.730-627.7405 shall be subject to the provisions of
1094 | the Medicaid program.

1095 | (d) All overdue payments shall bear simple interest fixed
1096 | at the rate established under s. 55.03 or the rate established
1097 | in the insurance contract, whichever is greater, in effect on
1098 | the date ~~for the year in which~~ the payment became overdue,
1099 | calculated from the date the insurer was furnished with written
1100 | notice of the amount of covered loss. Interest shall be due at
1101 | the time payment of the overdue claim is made.

1102 | Section 16. This act shall take effect July 1, 2012.