

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 costs to be paid by applicants who request
13 examinations in Spanish; providing a requirement with
14 respect to whether an examination in Spanish should be
15 allowed; amending s. 626.321, F.S.; revising
16 provisions relating to limited licenses for travel
17 insurance; providing that a full-time salaried
18 employee of a licensed general lines agent or a
19 business entity that offers travel planning services
20 may be issued such license under certain
21 circumstances; creating s. 626.8685, F.S.; exempting
22 certain employees who conduct data entry from
23 licensure as insurance adjusters under certain
24 circumstances; defining the term "automated claims
25 adjudication system" with respect to application of
26 such exemption; prohibiting residents of Canada from
27 licensure as nonresident independent adjusters under
28 certain circumstances; amending s. 626.916, F.S.;

29 | revising the disclosure statement signed by an insured
30 | placing coverage in the surplus lines market; amending
31 | s. 626.9541, F.S.; providing an additional action that
32 | is a misrepresentation and false advertising of
33 | insurance policies; amending s. 627.351, F.S.;
34 | increasing the amount of surplus as to policyholders
35 | that certain insurers who are members of a plan to
36 | equitably apportion or share windstorm coverage may
37 | have in order to petition the Department of Financial
38 | Services to qualify as a limited apportionment
39 | company; requiring the Citizens Property Insurance
40 | Corporation to offer certain policies; specifying
41 | acceptable valuations for replacement costs; amending
42 | s. 627.7015, F.S.; revising provisions relating to
43 | alternative procedures for the resolution of disputed
44 | property insurance claims; amending s. 627.706, F.S.;
45 | providing for renewal of property insurance policies
46 | maintaining sinkhole coverage; amending s. 627.707,
47 | F.S.; providing a definition; amending s. 627.7295,
48 | F.S.; clarifying provisions relating to cancellation
49 | for nonpayment of premiums for motor vehicle
50 | insurance; allowing the cancellation of such policies
51 | under certain circumstances; amending s. 627.736,
52 | F.S.; specifying the interest rate applicable to the
53 | accrual of interest on overdue payments of personal
54 | injury protection benefits; amending s. 627.7405,
55 | F.S.; providing an exception for liability for right
56 | of reimbursement; amending s. 628.901, F.S.; providing

57 definitions; amending s. 628.905, F.S.; expanding the
58 kinds of insurance for which a captive insurer may
59 seek licensure; limiting the risks that certain
60 captive insurers may insure; specifying requirements
61 and conditions relating to a captive insurer's
62 authority to conduct business; requiring that before
63 licensure certain captive insurers must file or submit
64 to the Office of Insurance Regulation specified
65 information, documents, and statements; requiring a
66 captive insurance company to file specific evidence
67 with the office relating to the financial condition
68 and quality of management and operations of the
69 company; specifying certain fees to be paid by captive
70 insurance companies; authorizing a foreign or alien
71 captive insurance company to become a domestic captive
72 insurance company by complying with specified
73 requirements; authorizing the office to waive any
74 requirements for public hearings relating to the
75 redomestication of an alien captive insurance company;
76 creating s. 628.906, F.S.; requiring biographical
77 affidavits, background investigations, and fingerprint
78 cards for all officers and directors; providing
79 restrictions on officers and directors involved with
80 insolvent insurers under certain conditions; providing
81 restrictions on officers and directors that are found
82 guilty of, or have pleaded guilty or nolo contendere
83 to, any felony or crime involving moral turpitude,
84 including a crime of dishonesty or breach of trust;

85 | amending s. 628.907, F.S.; revising capitalization
86 | requirements for specified captive insurance
87 | companies; requiring capital of specified captive
88 | insurance companies to be held in certain forms;
89 | requiring contributions to captive insurance companies
90 | that are stock insurer corporations to be in a certain
91 | form; authorizing the office to issue a captive
92 | insurance company license conditioned upon certain
93 | evidence relating to possession of specified capital;
94 | authorizing revocation of a conditional license under
95 | certain circumstances; authorizing the office to
96 | prescribe certain additional capital and net asset
97 | requirements; requiring such additional requirements
98 | relating to capital and net assets to be held in
99 | specified forms; requiring dividends or distributions
100 | of capital or surplus to meet certain conditions and
101 | be approved by the office; requiring certain
102 | irrevocable letters of credit to meet certain
103 | standards; creating s. 628.908, F.S.; prohibiting the
104 | issuance of a license to specified captive insurance
105 | companies unless such companies possess and maintain
106 | certain levels of unimpaired surplus; authorizing the
107 | office to condition issuance of a captive insurance
108 | company license upon the provision of certain evidence
109 | relating to the possession of a minimum amount of
110 | unimpaired surplus; authorizing revocation of a
111 | conditional license under certain circumstances;
112 | requiring dividends or distributions of capital or

113 surplus to meet certain conditions and be approved by
114 the office; requiring certain irrevocable letters of
115 credit to meet certain standards; amending s. 628.909,
116 F.S.; providing for applicability of certain statutory
117 provisions to specified captive insurers; creating s.
118 628.910, F.S.; providing requirements, options, and
119 conditions relating to how a captive insurance company
120 may be incorporated or organized as a business;
121 amending s. 628.911, F.S.; providing reporting
122 requirements for specified captive insurance companies
123 and captive reinsurance companies; creating s.
124 628.912, F.S.; authorizing a captive reinsurance
125 company to discount specified losses subject to
126 certain conditions; amending s. 628.913, F.S.;
127 authorizing a captive reinsurance company to apply to
128 the office for licensure to write reinsurance covering
129 property and casualty insurance or reinsurance
130 contracts; authorizing the office to allow a captive
131 reinsurance company to write reinsurance contracts
132 covering risks in any state; specifying that a captive
133 reinsurance company is subject to specified
134 requirements and must meet specified conditions in
135 order to conduct business in this state; creating s.
136 628.914, F.S.; specifying requirements and conditions
137 relating to the capitalization or maintenance of
138 reserves by a captive reinsurance company; creating s.
139 628.9141, F.S.; specifying requirements and conditions
140 relating to the incorporation of a captive reinsurance

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141 company; creating s. 628.9142, F.S.; providing for the
142 effect on reserves of certain actions taken by a
143 captive insurance company relating to providing
144 reinsurance for specified risks; creating s. 628.918,
145 F.S.; requiring a specified percentage of a captive
146 reinsurance company's assets to be managed by an asset
147 manager domiciled in this state; creating s. 628.919,
148 F.S.; authorizing the Financial Services Commission to
149 adopt rules establishing certain standards for control
150 of an unaffiliated business by a parent or affiliated
151 company relating to coverage by a pure captive
152 insurance company; creating s. 628.920, F.S.;
153 requiring that a licensed captive insurance company
154 must be considered for issuance of a certificate of
155 authority as an insurer under certain circumstances;
156 amending s. 626.7491, F.S.; conforming a cross-
157 reference; repealing s. 628.903, F.S., relating to the
158 definition of the term "industrial insured captive
159 insurer," to conform to changes made by the act;
160 amending s. 631.271, F.S.; providing for priority of
161 interest on allowed claims; providing that if this act
162 and certain legislation become law in the same
163 legislative session or an extension thereof, a surplus
164 lines insurer removing policies from the Citizens
165 Property Insurance Corporation must maintain a
166 specified financial rating; providing effective dates.

167

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

169

170 Section 1. Subsection (3) of section 320.27, Florida
171 Statutes, is amended to read:

172 320.27 Motor vehicle dealers.—

173 (3) APPLICATION AND FEE.—The application for the license
174 shall be in such form as may be prescribed by the department and
175 shall be subject to such rules with respect thereto as may be so
176 prescribed by it. Such application shall be verified by oath or
177 affirmation and shall contain a full statement of the name and
178 birth date of the person or persons applying therefor; the name
179 of the firm or copartnership, with the names and places of
180 residence of all members thereof, if such applicant is a firm or
181 copartnership; the names and places of residence of the
182 principal officers, if the applicant is a body corporate or
183 other artificial body; the name of the state under whose laws
184 the corporation is organized; the present and former place or
185 places of residence of the applicant; and prior business in
186 which the applicant has been engaged and the location thereof.
187 Such application shall describe the exact location of the place
188 of business and shall state whether the place of business is
189 owned by the applicant and when acquired, or, if leased, a true
190 copy of the lease shall be attached to the application. The
191 applicant shall certify that the location provides an adequately
192 equipped office and is not a residence; that the location
193 affords sufficient unoccupied space upon and within which
194 adequately to store all motor vehicles offered and displayed for
195 sale; and that the location is a suitable place where the
196 applicant can in good faith carry on such business and keep and

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197 | maintain books, records, and files necessary to conduct such
198 | business, which will be available at all reasonable hours to
199 | inspection by the department or any of its inspectors or other
200 | employees. The applicant shall certify that the business of a
201 | motor vehicle dealer is the principal business which shall be
202 | conducted at that location. Such application shall contain a
203 | statement that the applicant is either franchised by a
204 | manufacturer of motor vehicles, in which case the name of each
205 | motor vehicle that the applicant is franchised to sell shall be
206 | included, or an independent (nonfranchised) motor vehicle
207 | dealer. Such application shall contain such other relevant
208 | information as may be required by the department, including
209 | evidence that the applicant is insured under a garage liability
210 | insurance policy or a general liability insurance policy coupled
211 | with a business automobile policy, which shall include, at a
212 | minimum, \$25,000 combined single-limit liability coverage
213 | including bodily injury and property damage protection and
214 | \$10,000 personal injury protection. However, a salvage motor
215 | vehicle dealer as defined in subparagraph (1)(c)5. is exempt
216 | from the requirements for garage liability insurance and
217 | personal injury protection insurance on those vehicles that
218 | cannot be legally operated on roads, highways, or streets in
219 | this state. Franchise dealers must submit a garage liability
220 | insurance policy, and all other dealers must submit a garage
221 | liability insurance policy or a general liability insurance
222 | policy coupled with a business automobile policy. Such policy
223 | shall be for the license period, and evidence of a new or
224 | continued policy shall be delivered to the department at the

225 beginning of each license period. Upon making initial
226 application, the applicant shall pay to the department a fee of
227 \$300 in addition to any other fees now required by law; upon
228 making a subsequent renewal application, the applicant shall pay
229 to the department a fee of \$75 in addition to any other fees now
230 required by law. Upon making an application for a change of
231 location, the person shall pay a fee of \$50 in addition to any
232 other fees now required by law. The department shall, in the
233 case of every application for initial licensure, verify whether
234 certain facts set forth in the application are true. Each
235 applicant, general partner in the case of a partnership, or
236 corporate officer and director in the case of a corporate
237 applicant, must file a set of fingerprints with the department
238 for the purpose of determining any prior criminal record or any
239 outstanding warrants. The department shall submit the
240 fingerprints to the Department of Law Enforcement for state
241 processing and forwarding to the Federal Bureau of Investigation
242 for federal processing. The actual cost of state and federal
243 processing shall be borne by the applicant and is in addition to
244 the fee for licensure. The department may issue a license to an
245 applicant pending the results of the fingerprint investigation,
246 which license is fully revocable if the department subsequently
247 determines that any facts set forth in the application are not
248 true or correctly represented.

249 Section 2. Paragraph (b) of subsection (9) of section
250 624.501, Florida Statutes, is amended to read:

251 624.501 Filing, license, appointment, and miscellaneous
252 fees.—The department, commission, or office, as appropriate,

253 shall collect in advance, and persons so served shall pay to it
 254 in advance, fees, licenses, and miscellaneous charges as
 255 follows:

256 (9)

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

263 Section 3. Paragraph (c) of subsection (11) of section
 264 624.610, Florida Statutes, is amended to read:

265 624.610 Reinsurance.—

266 (11)

267 (c) This subsection applies to cessions of directly
 268 written risk or loss. This subsection does not apply to
 269 contracts of facultative reinsurance or to any ceding insurer
 270 that has a with surplus as to policyholders which ~~that~~ exceeds
 271 \$100 million as of the immediately preceding December 31. A
 272 ~~Additionally, any~~ ceding insurer otherwise subject to this
 273 section which had with less than \$500,000 in direct premiums
 274 written in this state during the preceding calendar year and no
 275 more than \$250,000 in direct premiums written in this state
 276 during the preceding calendar quarter, and which had fewer ~~or~~
 277 ~~with less~~ than 1,000 policyholders at the end of the preceding
 278 calendar year, is exempt from ~~the requirements of~~ this
 279 subsection. ~~However, any ceding insurer otherwise subject to~~
 280 ~~this section with more than \$250,000 in direct premiums written~~

281 ~~in this state during the preceding calendar quarter is not~~
 282 ~~exempt from the requirements of this subsection.~~

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

285 626.261 Conduct of examination.—

286 (5) The department may provide licensure examinations in
 287 Spanish. Applicants requesting examination or reexamination in
 288 Spanish must bear the full cost of the department's development,
 289 preparation, administration, grading, and evaluation of the
 290 Spanish-language examination. When determining whether it is in
 291 the public interest to allow the examination to be translated
 292 into and administered in Spanish, the department shall consider
 293 the percentage of the population who speak Spanish.

294 Section 5. Paragraph (c) of subsection (1) of section
 295 626.321, Florida Statutes, is amended to read:

296 626.321 Limited licenses.—

297 (1) The department shall issue to a qualified individual,
 298 or a qualified individual or entity under paragraphs (c), (d),
 299 (e), and (i), a license as agent authorized to transact a
 300 limited class of business in any of the following categories:

301 (c) Travel insurance.—License covering only policies and
 302 certificates of travel insurance, which are subject to review by
 303 the office ~~under s. 624.605(1)(g)~~. Policies and certificates of
 304 travel insurance may provide coverage for risks incidental to
 305 travel, planned travel, or accommodations while traveling,
 306 including, but not limited to, accidental death and
 307 dismemberment of a traveler; trip or event cancellation,
 308 interruption, or delay; loss of or damage to personal effects or

309 travel documents; damages to travel accommodations; baggage
 310 delay; emergency medical travel or evacuation of a traveler; or
 311 medical, surgical, and hospital expenses related to an illness
 312 or emergency of a traveler. ~~Any~~ Such policy or certificate may
 313 be issued for terms longer than 90 ~~60~~ days, but ~~each policy or~~
 314 ~~certificate,~~ other than a policy or certificate providing
 315 coverage for air ambulatory services only, each policy or
 316 certificate must be limited to coverage for travel or use of
 317 accommodations of no longer than 90 ~~60~~ days. The license may be
 318 issued only:

319 1. To a full-time salaried employee of a common carrier or
 320 a full-time salaried employee or owner of a transportation
 321 ticket agency and may authorize the sale of such ticket policies
 322 only in connection with the sale of transportation tickets, or
 323 to the full-time salaried employee of such an agent. ~~No~~ Such
 324 policy may not shall be for ~~a duration of~~ more than 48 hours or
 325 more than ~~for~~ the duration of a specified one-way trip or round
 326 trip.

327 2. To an entity or individual that is:
 328 a. The developer of a timeshare plan that is the subject
 329 of an approved public offering statement under chapter 721;
 330 b. An exchange company operating an exchange program
 331 approved under chapter 721;
 332 c. A managing entity operating a timeshare plan approved
 333 under chapter 721;
 334 d. A seller of travel as defined in chapter 559; or
 335 e. A subsidiary or affiliate of any of the entities
 336 described in sub-subparagraphs a.-d.

337 3. To a full-time salaried employee of a licensed general
338 lines agent or a business entity that offers travel planning
339 services if insurance sales activities authorized by the license
340 are in connection with, and incidental to, travel.

341 a. A license issued to a business entity that offers
342 travel planning services must encompass each office, branch
343 office, or place of business making use of the entity's business
344 name in order to offer, solicit, and sell insurance pursuant to
345 this paragraph.

346 b. The application for licensure must list the name,
347 address, and phone number for each office, branch office, or
348 place of business that is to be covered by the license. The
349 licensee shall notify the department of the name, address, and
350 phone number of any new location that is to be covered by the
351 license before the new office, branch office, or place of
352 business engages in the sale of insurance pursuant to this
353 paragraph. The licensee shall notify the department within 30
354 days after the closing or terminating of an office, branch
355 office, or place of business. Upon receipt of the notice, the
356 department shall delete the office, branch office, or place of
357 business from the license.

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

362
363 A licensee shall require each individual ~~employee~~ who offers
364 policies or certificates under this subparagraph to receive

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365 initial training from a general lines agent or an insurer
366 authorized under chapter 624 to transact insurance within this
367 state. For an entity applying for a license as a travel
368 insurance agent, the fingerprinting requirement of this section
369 applies only to the president, secretary, and treasurer and to
370 any other officer or person who directs or controls the travel
371 insurance operations of the entity.

372 Section 6. Effective January 1, 2013, section 626.8685,
373 Florida Statutes, is created to read:

374 626.8685 Portable electronics insurance claims; exemption;
375 licensure restriction.-

376 (1) This part does not apply to any individual who
377 collects claims information from, or furnishes claims
378 information to, insureds or claimants, and who conducts data
379 entry, including entering data into an automated claims
380 adjudication system, provided that the individual is an employee
381 of a business entity licensed under this chapter, or its
382 affiliate, and no more than 25 such persons are under the
383 supervision of one licensed independent adjuster or licensed
384 agent who is exempt from licensure pursuant to s. 626.862. For
385 purposes of this subsection, the term "automated claims
386 adjudication system" means a preprogrammed computer system
387 designed for the collection, data entry, calculation, and final
388 resolution of portable electronics insurance claims that:

389 (a) May be used only by a licensed independent adjuster,
390 licensed agent, or supervised individual operating pursuant to
391 this subsection;

392 (b) Must comply with all claims payment requirements of

393 | the insurance code; and

394 | (c) Must be certified as compliant with this subsection by
 395 | a licensed independent adjuster that is an officer of a licensed
 396 | business entity under this chapter.

397 | (2) Notwithstanding any other provision of law, a resident
 398 | of Canada may not be licensed as a nonresident independent
 399 | adjuster for purposes of adjusting portable electronics
 400 | insurance claims unless the person has successfully obtained an
 401 | adjuster's license in another state.

402 | Section 7. Paragraph (b) of subsection (3) of section
 403 | 626.916, Florida Statutes, is amended to read:

404 | 626.916 Eligibility for export.—

405 | (3)

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

409 | 1. The insurance must be placed only by or through a
 410 | surplus lines agent licensed in this state;

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

412 | 3. The insured must sign a disclosure that substantially
 413 | provides the following: "You are agreeing to place coverage in
 414 | the surplus lines market. ~~Superior~~ Coverage may be available in
 415 | the admitted market ~~and at a lesser cost~~. Persons insured by
 416 | surplus lines carriers are not protected under the Florida
 417 | Insurance Guaranty Act with respect to any right of recovery for
 418 | the obligation of an insolvent unlicensed insurer." If the
 419 | notice is signed by the insured, the insured is presumed to have
 420 | been informed and to know that other coverage may be available,

421 and, with respect to the diligent-effort requirement under
 422 subsection (1), there is no liability on the part of, and no
 423 cause of action arises against, the retail agent presenting the
 424 form.

425 Section 8. Paragraphs (a) and (h) of subsection (1) of
 426 section 626.9541, Florida Statutes, are amended to read:

427 626.9541 Unfair methods of competition and unfair or
 428 deceptive acts or practices defined.—

429 (1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE
 430 ACTS.—The following are defined as unfair methods of competition
 431 and unfair or deceptive acts or practices:

432 (a) Misrepresentations and false advertising of insurance
 433 policies.—Knowingly making, issuing, circulating, or causing to
 434 be made, issued, or circulated, any estimate, illustration,
 435 circular, statement, sales presentation, omission, ~~or~~
 436 comparison, or certificate of insurance altered after being
 437 issued by an insurer or its authorized agent or broker, as a
 438 statement or summary of coverage under a property and casualty
 439 policy, which:

440 1. Misrepresents the benefits, advantages, conditions, or
 441 terms of any insurance policy.

442 2. Misrepresents the dividends or share of the surplus to
 443 be received on any insurance policy.

444 3. Makes any false or misleading statements as to the
 445 dividends or share of surplus previously paid on any insurance
 446 policy.

447 4. Is misleading, or is a misrepresentation, as to the
 448 financial condition of any person or as to the legal reserve

449 system upon which any life insurer operates.

450 5. Uses any name or title of any insurance policy or class
451 of insurance policies misrepresenting the true nature thereof.

452 6. Is a misrepresentation for the purpose of inducing, or
453 tending to induce, the lapse, forfeiture, exchange, conversion,
454 or surrender of any insurance policy.

455 7. Is a misrepresentation for the purpose of effecting a
456 pledge or assignment of, or effecting a loan against, any
457 insurance policy.

458 8. Misrepresents any insurance policy as being shares of
459 stock or misrepresents ownership interest in the company.

460 9. Uses any advertisement that would mislead or otherwise
461 cause a reasonable person to believe mistakenly that the state
462 or the Federal Government is responsible for the insurance sales
463 activities of any person or stands behind any person's credit or
464 that any person, the state, or the Federal Government guarantees
465 any returns on insurance products or is a source of payment of
466 any insurance obligation of or sold by any person.

467 (h) Unlawful rebates.—

468 1. Except as otherwise expressly provided by law, or in an
469 applicable filing with the office, knowingly:

470 a. Permitting, or offering to make, or making, any
471 contract or agreement as to such contract other than as plainly
472 expressed in the insurance contract issued thereon;

473 b. Paying, allowing, or giving, or offering to pay, allow,
474 or give, directly or indirectly, as inducement to such insurance
475 contract, any unlawful rebate of premiums payable on the
476 contract, any special favor or advantage in the dividends or

477 other benefits thereon, or any valuable consideration or
 478 inducement whatever not specified in the contract;

479 c. Giving, selling, or purchasing, or offering to give,
 480 sell, or purchase, as inducement to such insurance contract or
 481 in connection therewith, any stocks, bonds, or other securities
 482 of any insurance company or other corporation, association, or
 483 partnership, or any dividends or profits accrued thereon, or
 484 anything of value whatsoever not specified in the insurance
 485 contract.

486 2. Nothing in paragraph (g) or subparagraph 1. of this
 487 paragraph shall be construed as including within the definition
 488 of discrimination or unlawful rebates:

489 a. In the case of any contract of life insurance or life
 490 annuity, paying bonuses to all policyholders or otherwise
 491 abating their premiums in whole or in part out of surplus
 492 accumulated from nonparticipating insurance; provided that any
 493 such bonuses or abatement of premiums is fair and equitable to
 494 all policyholders and for the best interests of the company and
 495 its policyholders.

496 b. In the case of life insurance policies issued on the
 497 industrial debit plan, making allowance to policyholders who
 498 have continuously for a specified period made premium payments
 499 directly to an office of the insurer in an amount which fairly
 500 represents the saving in collection expenses.

501 c. Readjustment of the rate of premium for a group
 502 insurance policy based on the loss or expense thereunder, at the
 503 end of the first or any subsequent policy year of insurance
 504 thereunder, which may be made retroactive only for such policy

505 year.

506 d. Issuance of life insurance policies or annuity
 507 contracts at rates less than the usual rates of premiums for
 508 such policies or contracts, as group insurance or employee
 509 insurance as defined in this code.

510 e. Issuing life or disability insurance policies on a
 511 salary savings, bank draft, preauthorized check, payroll
 512 deduction, or other similar plan at a reduced rate reasonably
 513 related to the savings made by the use of such plan.

514 3.a. No title insurer, or any member, employee, attorney,
 515 agent, or agency thereof, shall pay, allow, or give, or offer to
 516 pay, allow, or give, directly or indirectly, as inducement to
 517 title insurance, or after such insurance has been effected, any
 518 rebate or abatement of the premium or any other charge or fee,
 519 or provide any special favor or advantage, or any monetary
 520 consideration or inducement whatever.

521 b. Nothing in this subparagraph shall be construed as
 522 prohibiting the payment of fees to attorneys at law duly
 523 licensed to practice law in the courts of this state, for
 524 professional services, or as prohibiting the payment of earned
 525 portions of the premium to duly appointed agents or agencies who
 526 actually perform services for the title insurer. Nothing in this
 527 subparagraph shall be construed as prohibiting a rebate or
 528 abatement of an attorney ~~attorney's~~ fee charged for professional
 529 services, or that portion of the premium that is not required to
 530 be retained by the insurer pursuant to s. 627.782(1), or any
 531 other agent charge or fee to the person responsible for paying
 532 the premium, charge, or fee.

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533 c. No insured named in a policy, or any other person
534 directly or indirectly connected with the transaction involving
535 the issuance of such policy, including, but not limited to, any
536 mortgage broker, real estate broker, builder, or attorney, any
537 employee, agent, agency, or representative thereof, or any other
538 person whatsoever, shall knowingly receive or accept, directly
539 or indirectly, any rebate or abatement of any portion of the
540 title insurance premium or of any other charge or fee or any
541 monetary consideration or inducement whatsoever, except as set
542 forth in sub-subparagraph b.; provided, in no event shall any
543 portion of the attorney ~~attorney's~~ fee, any portion of the
544 premium that is not required to be retained by the insurer
545 pursuant to s. 627.782(1), any agent charge or fee, or any other
546 monetary consideration or inducement be paid directly or
547 indirectly for the referral of title insurance business.

548 Section 9. Paragraph (b) of subsection (2) and paragraph
549 (c) of subsection (6) of section 627.351, Florida Statutes, are
550 amended, and paragraph (ff) is added to subsection (6) of that
551 section, to read:

552 627.351 Insurance risk apportionment plans.—

553 (2) WINDSTORM INSURANCE RISK APPORTIONMENT.—

554 (b) The department shall require all insurers holding a
555 certificate of authority to transact property insurance on a
556 direct basis in this state, other than joint underwriting
557 associations and other entities formed pursuant to this section,
558 to provide windstorm coverage to applicants from areas
559 determined to be eligible pursuant to paragraph (c) who in good
560 faith are entitled to, but are unable to procure, such coverage

561 through ordinary means; or it shall adopt a reasonable plan or
562 plans for the equitable apportionment or sharing among such
563 insurers of windstorm coverage, which may include formation of
564 an association for this purpose. As used in this subsection, the
565 term "property insurance" means insurance on real or personal
566 property, as defined in s. 624.604, including insurance for
567 fire, industrial fire, allied lines, farmowners multiperil,
568 homeowners' multiperil, commercial multiperil, and mobile homes,
569 and including liability coverages on all such insurance, but
570 excluding inland marine as defined in s. 624.607(3) and
571 excluding vehicle insurance as defined in s. 624.605(1)(a) other
572 than insurance on mobile homes used as permanent dwellings. The
573 department shall adopt rules that provide a formula for the
574 recovery and repayment of any deferred assessments.

575 1. For the purpose of this section, properties eligible
576 for such windstorm coverage are defined as dwellings, buildings,
577 and other structures, including mobile homes which are used as
578 dwellings and which are tied down in compliance with mobile home
579 tie-down requirements prescribed by the Department of Highway
580 Safety and Motor Vehicles pursuant to s. 320.8325, and the
581 contents of all such properties. An applicant or policyholder is
582 eligible for coverage only if an offer of coverage cannot be
583 obtained by or for the applicant or policyholder from an
584 admitted insurer at approved rates.

585 2.a.(I) All insurers required to be members of such
586 association shall participate in its writings, expenses, and
587 losses. Surplus of the association shall be retained for the
588 payment of claims and shall not be distributed to the member

589 insurers. Such participation by member insurers shall be in the
590 proportion that the net direct premiums of each member insurer
591 written for property insurance in this state during the
592 preceding calendar year bear to the aggregate net direct
593 premiums for property insurance of all member insurers, as
594 reduced by any credits for voluntary writings, in this state
595 during the preceding calendar year. For the purposes of this
596 subsection, the term "net direct premiums" means direct written
597 premiums for property insurance, reduced by premium for
598 liability coverage and for the following if included in allied
599 lines: rain and hail on growing crops; livestock; association
600 direct premiums booked; National Flood Insurance Program direct
601 premiums; and similar deductions specifically authorized by the
602 plan of operation and approved by the department. A member's
603 participation shall begin on the first day of the calendar year
604 following the year in which it is issued a certificate of
605 authority to transact property insurance in the state and shall
606 terminate 1 year after the end of the calendar year during which
607 it no longer holds a certificate of authority to transact
608 property insurance in the state. The commissioner, after review
609 of annual statements, other reports, and any other statistics
610 that the commissioner deems necessary, shall certify to the
611 association the aggregate direct premiums written for property
612 insurance in this state by all member insurers.

613 (II) Effective July 1, 2002, the association shall operate
614 subject to the supervision and approval of a board of governors
615 who are the same individuals that have been appointed by the
616 Treasurer to serve on the board of governors of the Citizens

617 Property Insurance Corporation.

618 (III) The plan of operation shall provide a formula
619 whereby a company voluntarily providing windstorm coverage in
620 affected areas will be relieved wholly or partially from
621 apportionment of a regular assessment pursuant to sub-sub-
622 subparagraph d.(I) or sub-sub-subparagraph d.(II).

623 (IV) A company which is a member of a group of companies
624 under common management may elect to have its credits applied on
625 a group basis, and any company or group may elect to have its
626 credits applied to any other company or group.

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

630 (VI) The plan of operation may also provide for the award
631 of credits, for a period not to exceed 3 years, from a regular
632 assessment pursuant to sub-sub-subparagraph d.(I) or sub-sub-
633 subparagraph d.(II) as an incentive for taking policies out of
634 the Residential Property and Casualty Joint Underwriting
635 Association. In order to qualify for the exemption under this
636 sub-sub-subparagraph, the take-out plan must provide that at
637 least 40 percent of the policies removed from the Residential
638 Property and Casualty Joint Underwriting Association cover risks
639 located in Miami-Dade, Broward, and Palm Beach Counties or at
640 least 30 percent of the policies so removed cover risks located
641 in Miami-Dade, Broward, and Palm Beach Counties and an
642 additional 50 percent of the policies so removed cover risks
643 located in other coastal counties, and must also provide that no
644 more than 15 percent of the policies so removed may exclude

645 windstorm coverage. With the approval of the department, the
646 association may waive these geographic criteria for a take-out
647 plan that removes at least the lesser of 100,000 Residential
648 Property and Casualty Joint Underwriting Association policies or
649 15 percent of the total number of Residential Property and
650 Casualty Joint Underwriting Association policies, provided the
651 governing board of the Residential Property and Casualty Joint
652 Underwriting Association certifies that the take-out plan will
653 materially reduce the Residential Property and Casualty Joint
654 Underwriting Association's 100-year probable maximum loss from
655 hurricanes. With the approval of the department, the board may
656 extend such credits for an additional year if the insurer
657 guarantees an additional year of renewability for all policies
658 removed from the Residential Property and Casualty Joint
659 Underwriting Association, or for 2 additional years if the
660 insurer guarantees 2 additional years of renewability for all
661 policies removed from the Residential Property and Casualty
662 Joint Underwriting Association.

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

666 c. The Legislature finds that the potential for unlimited
667 deficit assessments under this subparagraph may induce insurers
668 to attempt to reduce their writings in the voluntary market, and
669 that such actions would worsen the availability problems that
670 the association was created to remedy. It is the intent of the
671 Legislature that insurers remain fully responsible for paying
672 regular assessments and collecting emergency assessments for any

673 | deficits of the association; however, it is also the intent of
674 | the Legislature to provide a means by which assessment
675 | liabilities may be amortized over a period of years.

676 | d.(I) When the deficit incurred in a particular calendar
677 | year is 10 percent or less of the aggregate statewide direct
678 | written premium for property insurance for the prior calendar
679 | year for all member insurers, the association shall levy an
680 | assessment on member insurers in an amount equal to the deficit.

681 | (II) When the deficit incurred in a particular calendar
682 | year exceeds 10 percent of the aggregate statewide direct
683 | written premium for property insurance for the prior calendar
684 | year for all member insurers, the association shall levy an
685 | assessment on member insurers in an amount equal to the greater
686 | of 10 percent of the deficit or 10 percent of the aggregate
687 | statewide direct written premium for property insurance for the
688 | prior calendar year for member insurers. Any remaining deficit
689 | shall be recovered through emergency assessments under sub-sub-
690 | subparagraph (III).

691 | (III) Upon a determination by the board of directors that
692 | a deficit exceeds the amount that will be recovered through
693 | regular assessments on member insurers, pursuant to sub-sub-
694 | subparagraph (I) or sub-sub-subparagraph (II), the board shall
695 | levy, after verification by the department, emergency
696 | assessments to be collected by member insurers and by
697 | underwriting associations created pursuant to this section which
698 | write property insurance, upon issuance or renewal of property
699 | insurance policies other than National Flood Insurance policies
700 | in the year or years following levy of the regular assessments.

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701 The amount of the emergency assessment collected in a particular
702 year shall be a uniform percentage of that year's direct written
703 premium for property insurance for all member insurers and
704 underwriting associations, excluding National Flood Insurance
705 policy premiums, as annually determined by the board and
706 verified by the department. The department shall verify the
707 arithmetic calculations involved in the board's determination
708 within 30 days after receipt of the information on which the
709 determination was based. Notwithstanding any other provision of
710 law, each member insurer and each underwriting association
711 created pursuant to this section shall collect emergency
712 assessments from its policyholders without such obligation being
713 affected by any credit, limitation, exemption, or deferment. The
714 emergency assessments so collected shall be transferred directly
715 to the association on a periodic basis as determined by the
716 association. The aggregate amount of emergency assessments
717 levied under this sub-sub-subparagraph in any calendar year may
718 not exceed the greater of 10 percent of the amount needed to
719 cover the original deficit, plus interest, fees, commissions,
720 required reserves, and other costs associated with financing of
721 the original deficit, or 10 percent of the aggregate statewide
722 direct written premium for property insurance written by member
723 insurers and underwriting associations for the prior year, plus
724 interest, fees, commissions, required reserves, and other costs
725 associated with financing the original deficit. The board may
726 pledge the proceeds of the emergency assessments under this sub-
727 sub-subparagraph as the source of revenue for bonds, to retire
728 any other debt incurred as a result of the deficit or events

729 giving rise to the deficit, or in any other way that the board
730 determines will efficiently recover the deficit. The emergency
731 assessments under this sub-sub-subparagraph shall continue as
732 long as any bonds issued or other indebtedness incurred with
733 respect to a deficit for which the assessment was imposed remain
734 outstanding, unless adequate provision has been made for the
735 payment of such bonds or other indebtedness pursuant to the
736 document governing such bonds or other indebtedness. Emergency
737 assessments collected under this sub-sub-subparagraph are not
738 part of an insurer's rates, are not premium, and are not subject
739 to premium tax, fees, or commissions; however, failure to pay
740 the emergency assessment shall be treated as failure to pay
741 premium.

742 (IV) Each member insurer's share of the total regular
743 assessments under sub-sub-subparagraph (I) or sub-sub-
744 subparagraph (II) shall be in the proportion that the insurer's
745 net direct premium for property insurance in this state, for the
746 year preceding the assessment bears to the aggregate statewide
747 net direct premium for property insurance of all member
748 insurers, as reduced by any credits for voluntary writings for
749 that year.

750 (V) If regular deficit assessments are made under sub-sub-
751 subparagraph (I) or sub-sub-subparagraph (II), or by the
752 Residential Property and Casualty Joint Underwriting Association
753 under sub-subparagraph (6)(b)3.a. or sub-subparagraph
754 (6)(b)3.b., the association shall levy upon the association's
755 policyholders, as part of its next rate filing, or by a separate
756 rate filing solely for this purpose, a market equalization

757 surcharge in a percentage equal to the total amount of such
758 regular assessments divided by the aggregate statewide direct
759 written premium for property insurance for member insurers for
760 the prior calendar year. Market equalization surcharges under
761 this sub-sub-subparagraph are not considered premium and are not
762 subject to commissions, fees, or premium taxes; however, failure
763 to pay a market equalization surcharge shall be treated as
764 failure to pay premium.

765 e. The governing body of any unit of local government, any
766 residents of which are insured under the plan, may issue bonds
767 as defined in s. 125.013 or s. 166.101 to fund an assistance
768 program, in conjunction with the association, for the purpose of
769 defraying deficits of the association. In order to avoid
770 needless and indiscriminate proliferation, duplication, and
771 fragmentation of such assistance programs, any unit of local
772 government, any residents of which are insured by the
773 association, may provide for the payment of losses, regardless
774 of whether or not the losses occurred within or outside of the
775 territorial jurisdiction of the local government. Revenue bonds
776 may not be issued until validated pursuant to chapter 75, unless
777 a state of emergency is declared by executive order or
778 proclamation of the Governor pursuant to s. 252.36 making such
779 findings as are necessary to determine that it is in the best
780 interests of, and necessary for, the protection of the public
781 health, safety, and general welfare of residents of this state
782 and the protection and preservation of the economic stability of
783 insurers operating in this state, and declaring it an essential
784 public purpose to permit certain municipalities or counties to

785 issue bonds as will provide relief to claimants and
786 policyholders of the association and insurers responsible for
787 apportionment of plan losses. Any such unit of local government
788 may enter into such contracts with the association and with any
789 other entity created pursuant to this subsection as are
790 necessary to carry out this paragraph. Any bonds issued under
791 this sub-subparagraph shall be payable from and secured by
792 moneys received by the association from assessments under this
793 subparagraph, and assigned and pledged to or on behalf of the
794 unit of local government for the benefit of the holders of such
795 bonds. The funds, credit, property, and taxing power of the
796 state or of the unit of local government shall not be pledged
797 for the payment of such bonds. If any of the bonds remain unsold
798 60 days after issuance, the department shall require all
799 insurers subject to assessment to purchase the bonds, which
800 shall be treated as admitted assets; each insurer shall be
801 required to purchase that percentage of the unsold portion of
802 the bond issue that equals the insurer's relative share of
803 assessment liability under this subsection. An insurer shall not
804 be required to purchase the bonds to the extent that the
805 department determines that the purchase would endanger or impair
806 the solvency of the insurer. The authority granted by this sub-
807 subparagraph is additional to any bonding authority granted by
808 subparagraph 6.

809 3. The plan shall also provide that any member with a
810 surplus as to policyholders of \$25 ~~\$20~~ million or less writing
811 25 percent or more of its total countrywide property insurance
812 premiums in this state may petition the department, within the

813 first 90 days of each calendar year, to qualify as a limited
814 apportionment company. The apportionment of such a member
815 company in any calendar year for which it is qualified shall not
816 exceed its gross participation, which shall not be affected by
817 the formula for voluntary writings. In no event shall a limited
818 apportionment company be required to participate in any
819 apportionment of losses pursuant to sub-sub-subparagraph 2.d.(I)
820 or sub-sub-subparagraph 2.d.(II) in the aggregate which exceeds
821 \$50 million after payment of available plan funds in any
822 calendar year. However, a limited apportionment company shall
823 collect from its policyholders any emergency assessment imposed
824 under sub-sub-subparagraph 2.d.(III). The plan shall provide
825 that, if the department determines that any regular assessment
826 will result in an impairment of the surplus of a limited
827 apportionment company, the department may direct that all or
828 part of such assessment be deferred. However, there shall be no
829 limitation or deferment of an emergency assessment to be
830 collected from policyholders under sub-sub-subparagraph
831 2.d.(III).

832 4. The plan shall provide for the deferment, in whole or
833 in part, of a regular assessment of a member insurer under sub-
834 sub-subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II), but
835 not for an emergency assessment collected from policyholders
836 under sub-sub-subparagraph 2.d.(III), if, in the opinion of the
837 commissioner, payment of such regular assessment would endanger
838 or impair the solvency of the member insurer. In the event a
839 regular assessment against a member insurer is deferred in whole
840 or in part, the amount by which such assessment is deferred may

841 be assessed against the other member insurers in a manner
842 consistent with the basis for assessments set forth in sub-sub-
843 subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II).

844 5.a. The plan of operation may include deductibles and
845 rules for classification of risks and rate modifications
846 consistent with the objective of providing and maintaining funds
847 sufficient to pay catastrophe losses.

848 b. It is the intent of the Legislature that the rates for
849 coverage provided by the association be actuarially sound and
850 not competitive with approved rates charged in the admitted
851 voluntary market such that the association functions as a
852 residual market mechanism to provide insurance only when the
853 insurance cannot be procured in the voluntary market. The plan
854 of operation shall provide a mechanism to assure that, beginning
855 no later than January 1, 1999, the rates charged by the
856 association for each line of business are reflective of approved
857 rates in the voluntary market for hurricane coverage for each
858 line of business in the various areas eligible for association
859 coverage.

860 c. The association shall provide for windstorm coverage on
861 residential properties in limits up to \$10 million for
862 commercial lines residential risks and up to \$1 million for
863 personal lines residential risks. If coverage with the
864 association is sought for a residential risk valued in excess of
865 these limits, coverage shall be available to the risk up to the
866 replacement cost or actual cash value of the property, at the
867 option of the insured, if coverage for the risk cannot be
868 located in the authorized market. The association must accept a

869 commercial lines residential risk with limits above \$10 million
870 or a personal lines residential risk with limits above \$1
871 million if coverage is not available in the authorized market.
872 The association may write coverage above the limits specified in
873 this subparagraph with or without facultative or other
874 reinsurance coverage, as the association determines appropriate.

875 d. The plan of operation must provide objective criteria
876 and procedures, approved by the department, to be uniformly
877 applied for all applicants in determining whether an individual
878 risk is so hazardous as to be uninsurable. In making this
879 determination and in establishing the criteria and procedures,
880 the following shall be considered:

881 (I) Whether the likelihood of a loss for the individual
882 risk is substantially higher than for other risks of the same
883 class; and

884 (II) Whether the uncertainty associated with the
885 individual risk is such that an appropriate premium cannot be
886 determined.

887

888 The acceptance or rejection of a risk by the association
889 pursuant to such criteria and procedures must be construed as
890 the private placement of insurance, and the provisions of
891 chapter 120 do not apply.

892 e. If the risk accepts an offer of coverage through the
893 market assistance program or through a mechanism established by
894 the association, either before the policy is issued by the
895 association or during the first 30 days of coverage by the
896 association, and the producing agent who submitted the

897 application to the association is not currently appointed by the
 898 insurer, the insurer shall:

899 (I) Pay to the producing agent of record of the policy,
 900 for the first year, an amount that is the greater of the
 901 insurer's usual and customary commission for the type of policy
 902 written or a fee equal to the usual and customary commission of
 903 the association; or

904 (II) Offer to allow the producing agent of record of the
 905 policy to continue servicing the policy for a period of not less
 906 than 1 year and offer to pay the agent the greater of the
 907 insurer's or the association's usual and customary commission
 908 for the type of policy written.

909

910 If the producing agent is unwilling or unable to accept
 911 appointment, the new insurer shall pay the agent in accordance
 912 with sub-sub-subparagraph (I). Subject to the provisions of s.
 913 627.3517, the policies issued by the association must provide
 914 that if the association obtains an offer from an authorized
 915 insurer to cover the risk at its approved rates under either a
 916 standard policy including wind coverage or, if consistent with
 917 the insurer's underwriting rules as filed with the department, a
 918 basic policy including wind coverage, the risk is no longer
 919 eligible for coverage through the association. Upon termination
 920 of eligibility, the association shall provide written notice to
 921 the policyholder and agent of record stating that the
 922 association policy must be canceled as of 60 days after the date
 923 of the notice because of the offer of coverage from an
 924 authorized insurer. Other provisions of the insurance code

925 relating to cancellation and notice of cancellation do not apply
 926 to actions under this sub-subparagraph.

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

931 (I) Pay to the producing agent of record of the
 932 association policy, for the first year, an amount that is the
 933 greater of the insurer's usual and customary commission for the
 934 type of policy written or a fee equal to the usual and customary
 935 commission of the association; or

936 (II) Offer to allow the producing agent of record of the
 937 association policy to continue servicing the policy for a period
 938 of not less than 1 year and offer to pay the agent the greater
 939 of the insurer's or the association's usual and customary
 940 commission for the type of policy written.

941
 942 If the producing agent is unwilling or unable to accept
 943 appointment, the new insurer shall pay the agent in accordance
 944 with sub-sub-subparagraph (I).

945 6.a. The plan of operation may authorize the formation of
 946 a private nonprofit corporation, a private nonprofit
 947 unincorporated association, a partnership, a trust, a limited
 948 liability company, or a nonprofit mutual company which may be
 949 empowered, among other things, to borrow money by issuing bonds
 950 or by incurring other indebtedness and to accumulate reserves or
 951 funds to be used for the payment of insured catastrophe losses.
 952 The plan may authorize all actions necessary to facilitate the

953 issuance of bonds, including the pledging of assessments or
954 other revenues.

955 b. Any entity created under this subsection, or any entity
956 formed for the purposes of this subsection, may sue and be sued,
957 may borrow money; issue bonds, notes, or debt instruments;
958 pledge or sell assessments, market equalization surcharges and
959 other surcharges, rights, premiums, contractual rights,
960 projected recoveries from the Florida Hurricane Catastrophe
961 Fund, other reinsurance recoverables, and other assets as
962 security for such bonds, notes, or debt instruments; enter into
963 any contracts or agreements necessary or proper to accomplish
964 such borrowings; and take other actions necessary to carry out
965 the purposes of this subsection. The association may issue bonds
966 or incur other indebtedness, or have bonds issued on its behalf
967 by a unit of local government pursuant to subparagraph (6)(q)2.,
968 in the absence of a hurricane or other weather-related event,
969 upon a determination by the association subject to approval by
970 the department that such action would enable it to efficiently
971 meet the financial obligations of the association and that such
972 financings are reasonably necessary to effectuate the
973 requirements of this subsection. Any such entity may accumulate
974 reserves and retain surpluses as of the end of any association
975 year to provide for the payment of losses incurred by the
976 association during that year or any future year. The association
977 shall incorporate and continue the plan of operation and
978 articles of agreement in effect on the effective date of chapter
979 76-96, Laws of Florida, to the extent that it is not
980 inconsistent with chapter 76-96, and as subsequently modified

981 consistent with chapter 76-96. The board of directors and
982 officers currently serving shall continue to serve until their
983 successors are duly qualified as provided under the plan. The
984 assets and obligations of the plan in effect immediately prior
985 to the effective date of chapter 76-96 shall be construed to be
986 the assets and obligations of the successor plan created herein.

987 c. In recognition of s. 10, Art. I of the State
988 Constitution, prohibiting the impairment of obligations of
989 contracts, it is the intent of the Legislature that no action be
990 taken whose purpose is to impair any bond indenture or financing
991 agreement or any revenue source committed by contract to such
992 bond or other indebtedness issued or incurred by the association
993 or any other entity created under this subsection.

994 7. On such coverage, an agent's remuneration shall be that
995 amount of money payable to the agent by the terms of his or her
996 contract with the company with which the business is placed.
997 However, no commission will be paid on that portion of the
998 premium which is in excess of the standard premium of that
999 company.

1000 8. Subject to approval by the department, the association
1001 may establish different eligibility requirements and operational
1002 procedures for any line or type of coverage for any specified
1003 eligible area or portion of an eligible area if the board
1004 determines that such changes to the eligibility requirements and
1005 operational procedures are justified due to the voluntary market
1006 being sufficiently stable and competitive in such area or for
1007 such line or type of coverage and that consumers who, in good
1008 faith, are unable to obtain insurance through the voluntary

1009 market through ordinary methods would continue to have access to
 1010 coverage from the association. When coverage is sought in
 1011 connection with a real property transfer, such requirements and
 1012 procedures shall not provide for an effective date of coverage
 1013 later than the date of the closing of the transfer as
 1014 established by the transferor, the transferee, and, if
 1015 applicable, the lender.

1016 9. Notwithstanding any other provision of law:

1017 a. The pledge or sale of, the lien upon, and the security
 1018 interest in any rights, revenues, or other assets of the
 1019 association created or purported to be created pursuant to any
 1020 financing documents to secure any bonds or other indebtedness of
 1021 the association shall be and remain valid and enforceable,
 1022 notwithstanding the commencement of and during the continuation
 1023 of, and after, any rehabilitation, insolvency, liquidation,
 1024 bankruptcy, receivership, conservatorship, reorganization, or
 1025 similar proceeding against the association under the laws of
 1026 this state or any other applicable laws.

1027 b. No such proceeding shall relieve the association of its
 1028 obligation, or otherwise affect its ability to perform its
 1029 obligation, to continue to collect, or levy and collect,
 1030 assessments, market equalization or other surcharges, projected
 1031 recoveries from the Florida Hurricane Catastrophe Fund,
 1032 reinsurance recoverables, or any other rights, revenues, or
 1033 other assets of the association pledged.

1034 c. Each such pledge or sale of, lien upon, and security
 1035 interest in, including the priority of such pledge, lien, or
 1036 security interest, any such assessments, emergency assessments,

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1037 market equalization or renewal surcharges, projected recoveries
1038 from the Florida Hurricane Catastrophe Fund, reinsurance
1039 recoverables, or other rights, revenues, or other assets which
1040 are collected, or levied and collected, after the commencement
1041 of and during the pendency of or after any such proceeding shall
1042 continue unaffected by such proceeding.

1043 d. As used in this subsection, the term "financing
1044 documents" means any agreement, instrument, or other document
1045 now existing or hereafter created evidencing any bonds or other
1046 indebtedness of the association or pursuant to which any such
1047 bonds or other indebtedness has been or may be issued and
1048 pursuant to which any rights, revenues, or other assets of the
1049 association are pledged or sold to secure the repayment of such
1050 bonds or indebtedness, together with the payment of interest on
1051 such bonds or such indebtedness, or the payment of any other
1052 obligation of the association related to such bonds or
1053 indebtedness.

1054 e. Any such pledge or sale of assessments, revenues,
1055 contract rights or other rights or assets of the association
1056 shall constitute a lien and security interest, or sale, as the
1057 case may be, that is immediately effective and attaches to such
1058 assessments, revenues, contract, or other rights or assets,
1059 whether or not imposed or collected at the time the pledge or
1060 sale is made. Any such pledge or sale is effective, valid,
1061 binding, and enforceable against the association or other entity
1062 making such pledge or sale, and valid and binding against and
1063 superior to any competing claims or obligations owed to any
1064 other person or entity, including policyholders in this state,

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1065 asserting rights in any such assessments, revenues, contract, or
1066 other rights or assets to the extent set forth in and in
1067 accordance with the terms of the pledge or sale contained in the
1068 applicable financing documents, whether or not any such person
1069 or entity has notice of such pledge or sale and without the need
1070 for any physical delivery, recordation, filing, or other action.

1071 f. There shall be no liability on the part of, and no
1072 cause of action of any nature shall arise against, any member
1073 insurer or its agents or employees, agents or employees of the
1074 association, members of the board of directors of the
1075 association, or the department or its representatives, for any
1076 action taken by them in the performance of their duties or
1077 responsibilities under this subsection. Such immunity does not
1078 apply to actions for breach of any contract or agreement
1079 pertaining to insurance, or any willful tort.

1080 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

1081 (c) The corporation's plan of operation:

1082 1. Must provide for adoption of residential property and
1083 casualty insurance policy forms and commercial residential and
1084 nonresidential property insurance forms, which must be approved
1085 by the office before use. The corporation shall adopt the
1086 following policy forms:

1087 a. Standard personal lines policy forms that are
1088 comprehensive multiperil policies providing full coverage of a
1089 residential property equivalent to the coverage provided in the
1090 private insurance market under an HO-3, HO-4, or HO-6 policy.

1091 b. Basic personal lines policy forms that are policies
1092 similar to an HO-8 policy or a dwelling fire policy that provide

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1093 coverage meeting the requirements of the secondary mortgage
 1094 market, but which is more limited than the coverage under a
 1095 standard policy.

1096 c. Commercial lines residential and nonresidential policy
 1097 forms that are generally similar to the basic perils of full
 1098 coverage obtainable for commercial residential structures and
 1099 commercial nonresidential structures in the admitted voluntary
 1100 market.

1101 d. Personal lines and commercial lines residential
 1102 property insurance forms that cover the peril of wind only. The
 1103 forms are applicable only to residential properties located in
 1104 areas eligible for coverage under the coastal account referred
 1105 to in sub-subparagraph (b)2.a.

1106 e. Commercial lines nonresidential property insurance
 1107 forms that cover the peril of wind only. The forms are
 1108 applicable only to nonresidential properties located in areas
 1109 eligible for coverage under the coastal account referred to in
 1110 sub-subparagraph (b)2.a.

1111 f. The corporation may adopt variations of the policy
 1112 forms listed in sub-subparagraphs a.-e. which contain more
 1113 restrictive coverage.

1114 g. Effective January 1, 2013, the corporation shall offer
 1115 a basic personal lines policy similar to an HO-8 policy.

1116 2. Must provide that the corporation adopt a program in
 1117 which the corporation and authorized insurers enter into quota
 1118 share primary insurance agreements for hurricane coverage, as
 1119 defined in s. 627.4025(2) (a), for eligible risks, and adopt
 1120 property insurance forms for eligible risks which cover the

1121 | peril of wind only.

1122 | a. As used in this subsection, the term:

1123 | (I) "Quota share primary insurance" means an arrangement
 1124 | in which the primary hurricane coverage of an eligible risk is
 1125 | provided in specified percentages by the corporation and an
 1126 | authorized insurer. The corporation and authorized insurer are
 1127 | each solely responsible for a specified percentage of hurricane
 1128 | coverage of an eligible risk as set forth in a quota share
 1129 | primary insurance agreement between the corporation and an
 1130 | authorized insurer and the insurance contract. The
 1131 | responsibility of the corporation or authorized insurer to pay
 1132 | its specified percentage of hurricane losses of an eligible
 1133 | risk, as set forth in the agreement, may not be altered by the
 1134 | inability of the other party to pay its specified percentage of
 1135 | losses. Eligible risks that are provided hurricane coverage
 1136 | through a quota share primary insurance arrangement must be
 1137 | provided policy forms that set forth the obligations of the
 1138 | corporation and authorized insurer under the arrangement,
 1139 | clearly specify the percentages of quota share primary insurance
 1140 | provided by the corporation and authorized insurer, and
 1141 | conspicuously and clearly state that the authorized insurer and
 1142 | the corporation may not be held responsible beyond their
 1143 | specified percentage of coverage of hurricane losses.

1144 | (II) "Eligible risks" means personal lines residential and
 1145 | commercial lines residential risks that meet the underwriting
 1146 | criteria of the corporation and are located in areas that were
 1147 | eligible for coverage by the Florida Windstorm Underwriting
 1148 | Association on January 1, 2002.

1149 b. The corporation may enter into quota share primary
 1150 insurance agreements with authorized insurers at corporation
 1151 coverage levels of 90 percent and 50 percent.

1152 c. If the corporation determines that additional coverage
 1153 levels are necessary to maximize participation in quota share
 1154 primary insurance agreements by authorized insurers, the
 1155 corporation may establish additional coverage levels. However,
 1156 the corporation's quota share primary insurance coverage level
 1157 may not exceed 90 percent.

1158 d. Any quota share primary insurance agreement entered
 1159 into between an authorized insurer and the corporation must
 1160 provide for a uniform specified percentage of coverage of
 1161 hurricane losses, by county or territory as set forth by the
 1162 corporation board, for all eligible risks of the authorized
 1163 insurer covered under the agreement.

1164 e. Any quota share primary insurance agreement entered
 1165 into between an authorized insurer and the corporation is
 1166 subject to review and approval by the office. However, such
 1167 agreement shall be authorized only as to insurance contracts
 1168 entered into between an authorized insurer and an insured who is
 1169 already insured by the corporation for wind coverage.

1170 f. For all eligible risks covered under quota share
 1171 primary insurance agreements, the exposure and coverage levels
 1172 for both the corporation and authorized insurers shall be
 1173 reported by the corporation to the Florida Hurricane Catastrophe
 1174 Fund. For all policies of eligible risks covered under such
 1175 agreements, the corporation and the authorized insurer must
 1176 maintain complete and accurate records for the purpose of

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1177 exposure and loss reimbursement audits as required by fund
1178 rules. The corporation and the authorized insurer shall each
1179 maintain duplicate copies of policy declaration pages and
1180 supporting claims documents.

1181 g. The corporation board shall establish in its plan of
1182 operation standards for quota share agreements which ensure that
1183 there is no discriminatory application among insurers as to the
1184 terms of the agreements, pricing of the agreements, incentive
1185 provisions if any, and consideration paid for servicing policies
1186 or adjusting claims.

1187 h. The quota share primary insurance agreement between the
1188 corporation and an authorized insurer must set forth the
1189 specific terms under which coverage is provided, including, but
1190 not limited to, the sale and servicing of policies issued under
1191 the agreement by the insurance agent of the authorized insurer
1192 producing the business, the reporting of information concerning
1193 eligible risks, the payment of premium to the corporation, and
1194 arrangements for the adjustment and payment of hurricane claims
1195 incurred on eligible risks by the claims adjuster and personnel
1196 of the authorized insurer. Entering into a quota sharing
1197 insurance agreement between the corporation and an authorized
1198 insurer is voluntary and at the discretion of the authorized
1199 insurer.

1200 3.a. May provide that the corporation may employ or
1201 otherwise contract with individuals or other entities to provide
1202 administrative or professional services that may be appropriate
1203 to effectuate the plan. The corporation may borrow funds by
1204 issuing bonds or by incurring other indebtedness, and shall have

1205 other powers reasonably necessary to effectuate the requirements
 1206 of this subsection, including, without limitation, the power to
 1207 issue bonds and incur other indebtedness in order to refinance
 1208 outstanding bonds or other indebtedness. The corporation may
 1209 seek judicial validation of its bonds or other indebtedness
 1210 under chapter 75. The corporation may issue bonds or incur other
 1211 indebtedness, or have bonds issued on its behalf by a unit of
 1212 local government pursuant to subparagraph (q)2. in the absence
 1213 of a hurricane or other weather-related event, upon a
 1214 determination by the corporation, subject to approval by the
 1215 office, that such action would enable it to efficiently meet the
 1216 financial obligations of the corporation and that such
 1217 financings are reasonably necessary to effectuate the
 1218 requirements of this subsection. The corporation may take all
 1219 actions needed to facilitate tax-free status for such bonds or
 1220 indebtedness, including formation of trusts or other affiliated
 1221 entities. The corporation may pledge assessments, projected
 1222 recoveries from the Florida Hurricane Catastrophe Fund, other
 1223 reinsurance recoverables, market equalization and other
 1224 surcharges, and other funds available to the corporation as
 1225 security for bonds or other indebtedness. In recognition of s.
 1226 10, Art. I of the State Constitution, prohibiting the impairment
 1227 of obligations of contracts, it is the intent of the Legislature
 1228 that no action be taken whose purpose is to impair any bond
 1229 indenture or financing agreement or any revenue source committed
 1230 by contract to such bond or other indebtedness.

1231 b. To ensure that the corporation is operating in an
 1232 efficient and economic manner while providing quality service to

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1233 | policyholders, applicants, and agents, the board shall
1234 | commission an independent third-party consultant having
1235 | expertise in insurance company management or insurance company
1236 | management consulting to prepare a report and make
1237 | recommendations on the relative costs and benefits of
1238 | outsourcing various policy issuance and service functions to
1239 | private servicing carriers or entities performing similar
1240 | functions in the private market for a fee, rather than
1241 | performing such functions in-house. In making such
1242 | recommendations, the consultant shall consider how other
1243 | residual markets, both in this state and around the country,
1244 | outsource appropriate functions or use servicing carriers to
1245 | better match expenses with revenues that fluctuate based on a
1246 | widely varying policy count. The report must be completed by
1247 | July 1, 2012. Upon receiving the report, the board shall develop
1248 | a plan to implement the report and submit the plan for review,
1249 | modification, and approval to the Financial Services Commission.
1250 | Upon the commission's approval of the plan, the board shall
1251 | begin implementing the plan by January 1, 2013.

1252 | 4. Must require that the corporation operate subject to
1253 | the supervision and approval of a board of governors consisting
1254 | of eight individuals who are residents of this state, from
1255 | different geographical areas of this state.

1256 | a. The Governor, the Chief Financial Officer, the
1257 | President of the Senate, and the Speaker of the House of
1258 | Representatives shall each appoint two members of the board. At
1259 | least one of the two members appointed by each appointing
1260 | officer must have demonstrated expertise in insurance and is

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1261 deemed to be within the scope of the exemption provided in s.
1262 112.313(7)(b). The Chief Financial Officer shall designate one
1263 of the appointees as chair. All board members serve at the
1264 pleasure of the appointing officer. All members of the board are
1265 subject to removal at will by the officers who appointed them.
1266 All board members, including the chair, must be appointed to
1267 serve for 3-year terms beginning annually on a date designated
1268 by the plan. However, for the first term beginning on or after
1269 July 1, 2009, each appointing officer shall appoint one member
1270 of the board for a 2-year term and one member for a 3-year term.
1271 A board vacancy shall be filled for the unexpired term by the
1272 appointing officer. The Chief Financial Officer shall appoint a
1273 technical advisory group to provide information and advice to
1274 the board in connection with the board's duties under this
1275 subsection. The executive director and senior managers of the
1276 corporation shall be engaged by the board and serve at the
1277 pleasure of the board. Any executive director appointed on or
1278 after July 1, 2006, is subject to confirmation by the Senate.
1279 The executive director is responsible for employing other staff
1280 as the corporation may require, subject to review and
1281 concurrence by the board.

1282 b. The board shall create a Market Accountability Advisory
1283 Committee to assist the corporation in developing awareness of
1284 its rates and its customer and agent service levels in
1285 relationship to the voluntary market insurers writing similar
1286 coverage.

1287 (I) The members of the advisory committee consist of the
1288 following 11 persons, one of whom must be elected chair by the

1289 members of the committee: four representatives, one appointed by
 1290 the Florida Association of Insurance Agents, one by the Florida
 1291 Association of Insurance and Financial Advisors, one by the
 1292 Professional Insurance Agents of Florida, and one by the Latin
 1293 American Association of Insurance Agencies; three
 1294 representatives appointed by the insurers with the three highest
 1295 voluntary market share of residential property insurance
 1296 business in the state; one representative from the Office of
 1297 Insurance Regulation; one consumer appointed by the board who is
 1298 insured by the corporation at the time of appointment to the
 1299 committee; one representative appointed by the Florida
 1300 Association of Realtors; and one representative appointed by the
 1301 Florida Bankers Association. All members shall be appointed to
 1302 3-year terms and may serve for consecutive terms.

1303 (II) The committee shall report to the corporation at each
 1304 board meeting on insurance market issues which may include rates
 1305 and rate competition with the voluntary market; service,
 1306 including policy issuance, claims processing, and general
 1307 responsiveness to policyholders, applicants, and agents; and
 1308 matters relating to depopulation.

1309 5. Must provide a procedure for determining the
 1310 eligibility of a risk for coverage, as follows:

1311 a. Subject to s. 627.3517, with respect to personal lines
 1312 residential risks, if the risk is offered coverage from an
 1313 authorized insurer at the insurer's approved rate under a
 1314 standard policy including wind coverage or, if consistent with
 1315 the insurer's underwriting rules as filed with the office, a
 1316 basic policy including wind coverage, for a new application to

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1317 the corporation for coverage, the risk is not eligible for any
1318 policy issued by the corporation unless the premium for coverage
1319 from the authorized insurer is more than 15 percent greater than
1320 the premium for comparable coverage from the corporation. If the
1321 risk is not able to obtain such offer, the risk is eligible for
1322 a standard policy including wind coverage or a basic policy
1323 including wind coverage issued by the corporation; however, if
1324 the risk could not be insured under a standard policy including
1325 wind coverage regardless of market conditions, the risk is
1326 eligible for a basic policy including wind coverage unless
1327 rejected under subparagraph 8. However, a policyholder of the
1328 corporation or a policyholder removed from the corporation
1329 through an assumption agreement until the end of the assumption
1330 period remains eligible for coverage from the corporation
1331 regardless of any offer of coverage from an authorized insurer
1332 or surplus lines insurer. The corporation shall determine the
1333 type of policy to be provided on the basis of objective
1334 standards specified in the underwriting manual and based on
1335 generally accepted underwriting practices.

1336 (I) If the risk accepts an offer of coverage through the
1337 market assistance plan or through a mechanism established by the
1338 corporation before a policy is issued to the risk by the
1339 corporation or during the first 30 days of coverage by the
1340 corporation, and the producing agent who submitted the
1341 application to the plan or to the corporation is not currently
1342 appointed by the insurer, the insurer shall:

1343 (A) Pay to the producing agent of record of the policy for
1344 the first year, an amount that is the greater of the insurer's

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1345 usual and customary commission for the type of policy written or
 1346 a fee equal to the usual and customary commission of the
 1347 corporation; or

1348 (B) Offer to allow the producing agent of record of the
 1349 policy to continue servicing the policy for at least 1 year and
 1350 offer to pay the agent the greater of the insurer's or the
 1351 corporation's usual and customary commission for the type of
 1352 policy written.

1353
 1354 If the producing agent is unwilling or unable to accept
 1355 appointment, the new insurer shall pay the agent in accordance
 1356 with sub-sub-sub-subparagraph (A).

1357 (II) If the corporation enters into a contractual
 1358 agreement for a take-out plan, the producing agent of record of
 1359 the corporation policy is entitled to retain any unearned
 1360 commission on the policy, and the insurer shall:

1361 (A) Pay to the producing agent of record, for the first
 1362 year, an amount that is the greater of the insurer's usual and
 1363 customary commission for the type of policy written or a fee
 1364 equal to the usual and customary commission of the corporation;
 1365 or

1366 (B) Offer to allow the producing agent of record to
 1367 continue servicing the policy for at least 1 year and offer to
 1368 pay the agent the greater of the insurer's or the corporation's
 1369 usual and customary commission for the type of policy written.

1370
 1371 If the producing agent is unwilling or unable to accept
 1372 appointment, the new insurer shall pay the agent in accordance

1373 with sub-sub-sub-subparagraph (A).

1374 b. With respect to commercial lines residential risks, for
 1375 a new application to the corporation for coverage, if the risk
 1376 is offered coverage under a policy including wind coverage from
 1377 an authorized insurer at its approved rate, the risk is not
 1378 eligible for a policy issued by the corporation unless the
 1379 premium for coverage from the authorized insurer is more than 15
 1380 percent greater than the premium for comparable coverage from
 1381 the corporation. If the risk is not able to obtain any such
 1382 offer, the risk is eligible for a policy including wind coverage
 1383 issued by the corporation. However, a policyholder of the
 1384 corporation or a policyholder removed from the corporation
 1385 through an assumption agreement until the end of the assumption
 1386 period remains eligible for coverage from the corporation
 1387 regardless of an offer of coverage from an authorized insurer or
 1388 surplus lines insurer.

1389 (I) If the risk accepts an offer of coverage through the
 1390 market assistance plan or through a mechanism established by the
 1391 corporation before a policy is issued to the risk by the
 1392 corporation or during the first 30 days of coverage by the
 1393 corporation, and the producing agent who submitted the
 1394 application to the plan or the corporation is not currently
 1395 appointed by the insurer, the insurer shall:

1396 (A) Pay to the producing agent of record of the policy,
 1397 for the first year, an amount that is the greater of the
 1398 insurer's usual and customary commission for the type of policy
 1399 written or a fee equal to the usual and customary commission of
 1400 the corporation; or

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1401 (B) Offer to allow the producing agent of record of the
 1402 policy to continue servicing the policy for at least 1 year and
 1403 offer to pay the agent the greater of the insurer's or the
 1404 corporation's usual and customary commission for the type of
 1405 policy written.

1406
 1407 If the producing agent is unwilling or unable to accept
 1408 appointment, the new insurer shall pay the agent in accordance
 1409 with sub-sub-sub-subparagraph (A).

1410 (II) If the corporation enters into a contractual
 1411 agreement for a take-out plan, the producing agent of record of
 1412 the corporation policy is entitled to retain any unearned
 1413 commission on the policy, and the insurer shall:

1414 (A) Pay to the producing agent of record, for the first
 1415 year, an amount that is the greater of the insurer's usual and
 1416 customary commission for the type of policy written or a fee
 1417 equal to the usual and customary commission of the corporation;
 1418 or

1419 (B) Offer to allow the producing agent of record to
 1420 continue servicing the policy for at least 1 year and offer to
 1421 pay the agent the greater of the insurer's or the corporation's
 1422 usual and customary commission for the type of policy written.

1423
 1424 If the producing agent is unwilling or unable to accept
 1425 appointment, the new insurer shall pay the agent in accordance
 1426 with sub-sub-sub-subparagraph (A).

1427 c. For purposes of determining comparable coverage under
 1428 sub-subparagraphs a. and b., the comparison must be based on

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1429 those forms and coverages that are reasonably comparable. The
1430 corporation may rely on a determination of comparable coverage
1431 and premium made by the producing agent who submits the
1432 application to the corporation, made in the agent's capacity as
1433 the corporation's agent. A comparison may be made solely of the
1434 premium with respect to the main building or structure only on
1435 the following basis: the same coverage A or other building
1436 limits; the same percentage hurricane deductible that applies on
1437 an annual basis or that applies to each hurricane for commercial
1438 residential property; the same percentage of ordinance and law
1439 coverage, if the same limit is offered by both the corporation
1440 and the authorized insurer; the same mitigation credits, to the
1441 extent the same types of credits are offered both by the
1442 corporation and the authorized insurer; the same method for loss
1443 payment, such as replacement cost or actual cash value, if the
1444 same method is offered both by the corporation and the
1445 authorized insurer in accordance with underwriting rules; and
1446 any other form or coverage that is reasonably comparable as
1447 determined by the board. If an application is submitted to the
1448 corporation for wind-only coverage in the coastal account, the
1449 premium for the corporation's wind-only policy plus the premium
1450 for the ex-wind policy that is offered by an authorized insurer
1451 to the applicant must be compared to the premium for multiperil
1452 coverage offered by an authorized insurer, subject to the
1453 standards for comparison specified in this subparagraph. If the
1454 corporation or the applicant requests from the authorized
1455 insurer a breakdown of the premium of the offer by types of
1456 coverage so that a comparison may be made by the corporation or

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1457 its agent and the authorized insurer refuses or is unable to
1458 provide such information, the corporation may treat the offer as
1459 not being an offer of coverage from an authorized insurer at the
1460 insurer's approved rate.

1461 6. Must include rules for classifications of risks and
1462 rates.

1463 7. Must provide that if premium and investment income for
1464 an account attributable to a particular calendar year are in
1465 excess of projected losses and expenses for the account
1466 attributable to that year, such excess shall be held in surplus
1467 in the account. Such surplus must be available to defray
1468 deficits in that account as to future years and used for that
1469 purpose before assessing assessable insurers and assessable
1470 insureds as to any calendar year.

1471 8. Must provide objective criteria and procedures to be
1472 uniformly applied to all applicants in determining whether an
1473 individual risk is so hazardous as to be uninsurable. In making
1474 this determination and in establishing the criteria and
1475 procedures, the following must be considered:

1476 a. Whether the likelihood of a loss for the individual
1477 risk is substantially higher than for other risks of the same
1478 class; and

1479 b. Whether the uncertainty associated with the individual
1480 risk is such that an appropriate premium cannot be determined.

1481
1482 The acceptance or rejection of a risk by the corporation shall
1483 be construed as the private placement of insurance, and the
1484 provisions of chapter 120 do not apply.

1485 9. Must provide that the corporation make its best efforts
 1486 to procure catastrophe reinsurance at reasonable rates, to cover
 1487 its projected 100-year probable maximum loss as determined by
 1488 the board of governors.

1489 10. The policies issued by the corporation must provide
 1490 that if the corporation or the market assistance plan obtains an
 1491 offer from an authorized insurer to cover the risk at its
 1492 approved rates, the risk is no longer eligible for renewal
 1493 through the corporation, except as otherwise provided in this
 1494 subsection.

1495 11. Corporation policies and applications must include a
 1496 notice that the corporation policy could, under this section, be
 1497 replaced with a policy issued by an authorized insurer which
 1498 does not provide coverage identical to the coverage provided by
 1499 the corporation. The notice must also specify that acceptance of
 1500 corporation coverage creates a conclusive presumption that the
 1501 applicant or policyholder is aware of this potential.

1502 12. May establish, subject to approval by the office,
 1503 different eligibility requirements and operational procedures
 1504 for any line or type of coverage for any specified county or
 1505 area if the board determines that such changes are justified due
 1506 to the voluntary market being sufficiently stable and
 1507 competitive in such area or for such line or type of coverage
 1508 and that consumers who, in good faith, are unable to obtain
 1509 insurance through the voluntary market through ordinary methods
 1510 continue to have access to coverage from the corporation. If
 1511 coverage is sought in connection with a real property transfer,
 1512 the requirements and procedures may not provide an effective

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1513 date of coverage later than the date of the closing of the
1514 transfer as established by the transferor, the transferee, and,
1515 if applicable, the lender.

1516 13. Must provide that, with respect to the coastal
1517 account, any assessable insurer with a surplus as to
1518 policyholders of \$25 million or less writing 25 percent or more
1519 of its total countrywide property insurance premiums in this
1520 state may petition the office, within the first 90 days of each
1521 calendar year, to qualify as a limited apportionment company. A
1522 regular assessment levied by the corporation on a limited
1523 apportionment company for a deficit incurred by the corporation
1524 for the coastal account may be paid to the corporation on a
1525 monthly basis as the assessments are collected by the limited
1526 apportionment company from its insureds pursuant to s. 627.3512,
1527 but the regular assessment must be paid in full within 12 months
1528 after being levied by the corporation. A limited apportionment
1529 company shall collect from its policyholders any emergency
1530 assessment imposed under sub-subparagraph (b)3.d. The plan must
1531 provide that, if the office determines that any regular
1532 assessment will result in an impairment of the surplus of a
1533 limited apportionment company, the office may direct that all or
1534 part of such assessment be deferred as provided in subparagraph
1535 (q)4. However, an emergency assessment to be collected from
1536 policyholders under sub-subparagraph (b)3.d. may not be limited
1537 or deferred.

1538 14. Must provide that the corporation appoint as its
1539 licensed agents only those agents who also hold an appointment
1540 as defined in s. 626.015(3) with an insurer who at the time of

1541 the agent's initial appointment by the corporation is authorized
 1542 to write and is actually writing personal lines residential
 1543 property coverage, commercial residential property coverage, or
 1544 commercial nonresidential property coverage within the state.

1545 15. Must provide a premium payment plan option to its
 1546 policyholders which, at a minimum, allows for quarterly and
 1547 semiannual payment of premiums. A monthly payment plan may, but
 1548 is not required to, be offered.

1549 16. Must limit coverage on mobile homes or manufactured
 1550 homes built before 1994 to actual cash value of the dwelling
 1551 rather than replacement costs of the dwelling.

1552 17. May provide such limits of coverage as the board
 1553 determines, consistent with the requirements of this subsection.

1554 18. May require commercial property to meet specified
 1555 hurricane mitigation construction features as a condition of
 1556 eligibility for coverage.

1557 19. Must provide that new or renewal policies issued by
 1558 the corporation on or after January 1, 2012, which cover
 1559 sinkhole loss do not include coverage for any loss to
 1560 appurtenant structures, driveways, sidewalks, decks, or patios
 1561 that are directly or indirectly caused by sinkhole activity. The
 1562 corporation shall exclude such coverage using a notice of
 1563 coverage change, which may be included with the policy renewal,
 1564 and not by issuance of a notice of nonrenewal of the excluded
 1565 coverage upon renewal of the current policy.

1566 20. As of January 1, 2012, must require that the agent
 1567 obtain from an applicant for coverage from the corporation an
 1568 acknowledgement signed by the applicant, which includes, at a

1569 | minimum, the following statement:

1570 | ACKNOWLEDGEMENT OF POTENTIAL SURCHARGE
 1571 | AND ASSESSMENT LIABILITY:

1572 | 1. AS A POLICYHOLDER OF CITIZENS PROPERTY INSURANCE
 1573 | CORPORATION, I UNDERSTAND THAT IF THE CORPORATION SUSTAINS A
 1574 | DEFICIT AS A RESULT OF HURRICANE LOSSES OR FOR ANY OTHER REASON,
 1575 | MY POLICY COULD BE SUBJECT TO SURCHARGES, WHICH WILL BE DUE AND
 1576 | PAYABLE UPON RENEWAL, CANCELLATION, OR TERMINATION OF THE
 1577 | POLICY, AND THAT THE SURCHARGES COULD BE AS HIGH AS 45 PERCENT
 1578 | OF MY PREMIUM, OR A DIFFERENT AMOUNT AS IMPOSED BY THE FLORIDA
 1579 | LEGISLATURE.

1580 | 2. I ALSO UNDERSTAND THAT I MAY BE SUBJECT TO EMERGENCY
 1581 | ASSESSMENTS TO THE SAME EXTENT AS POLICYHOLDERS OF OTHER
 1582 | INSURANCE COMPANIES, OR A DIFFERENT AMOUNT AS IMPOSED BY THE
 1583 | FLORIDA LEGISLATURE.

1584 | 3. I ALSO UNDERSTAND THAT CITIZENS PROPERTY INSURANCE
 1585 | CORPORATION IS NOT SUPPORTED BY THE FULL FAITH AND CREDIT OF THE
 1586 | STATE OF FLORIDA.

1587 | a. The corporation shall maintain, in electronic format or
 1588 | otherwise, a copy of the applicant's signed acknowledgement and
 1589 | provide a copy of the statement to the policyholder as part of
 1590 | the first renewal after the effective date of this subparagraph.

1591 | b. The signed acknowledgement form creates a conclusive
 1592 | presumption that the policyholder understood and accepted his or
 1593 | her potential surcharge and assessment liability as a
 1594 | policyholder of the corporation.

1595 | (ff) In establishing replacement costs for coverage on a
 1596 | dwelling insured by the corporation, the corporation must accept

1597 a valuation from any of the following sources and must use the
 1598 lowest valuation as the insured value of the dwelling, excluding
 1599 land value, provided the valuation was completed within the 12
 1600 months before the application or renewal date of coverage:

1601 1. A replacement cost valuation software that is
 1602 specifically designed for use in establishing insurance
 1603 replacement costs and that includes an itemized calculation of
 1604 the cost of reconstruction;

1605 2. A replacement cost valuation prepared by a certified or
 1606 licensed real estate appraiser under part II of chapter 475 that
 1607 is specifically formulated to establish insurance replacement
 1608 cost, rather than market value, and which includes an itemized
 1609 calculation of the cost of reconstruction; or

1610 3. A replacement cost valuation prepared by a general,
 1611 building, or residential contractor licensed under s. 489.113,
 1612 or a professional engineer licensed under s. 471.015, which
 1613 includes an itemized calculation of the total price of
 1614 reconstruction.

1615 Section 10. Subsections (1), (2), (7), and (9) of section
 1616 627.7015, Florida Statutes, are amended to read:

1617 627.7015 Alternative procedure for resolution of disputed
 1618 property insurance claims.—

1619 (1) ~~PURPOSE AND SCOPE.~~—This section sets forth a
 1620 nonadversarial alternative dispute resolution procedure for a
 1621 mediated claim resolution conference prompted by the need for
 1622 effective, fair, and timely handling of property insurance
 1623 claims. There is a particular need for an informal,
 1624 nonthreatening forum for helping parties who elect this

1625 procedure to resolve their claims disputes because most
 1626 homeowner's and commercial residential insurance policies
 1627 obligate policyholders ~~insureds~~ to participate in a potentially
 1628 expensive and time-consuming adversarial appraisal process
 1629 before ~~prior to~~ litigation. The procedure set forth in this
 1630 section is designed to bring the parties together for a mediated
 1631 claims settlement conference without any of the trappings or
 1632 drawbacks of an adversarial process. Before resorting to these
 1633 procedures, policyholders ~~insureds~~ and insurers are encouraged
 1634 to resolve claims as quickly and fairly as possible. This
 1635 section is available with respect to claims under personal lines
 1636 and commercial residential policies before ~~for all claimants and~~
 1637 ~~insurers prior to~~ commencing the appraisal process, or before
 1638 commencing litigation. Mediation may be requested only by the
 1639 policyholder, as a first-party claimant, or the insurer. If
 1640 requested by the policyholder ~~insured~~, participation by legal
 1641 counsel is ~~shall be~~ permitted. Mediation under this section is
 1642 also available to litigants referred to the department by a
 1643 county court or circuit court. This section does not apply to
 1644 commercial coverages, to private passenger motor vehicle
 1645 insurance coverages, or to disputes relating to liability
 1646 coverages in policies of property insurance.

1647 (2) At the time a first-party claim within the scope of
 1648 this section is filed by the policyholder, the insurer shall
 1649 notify the policyholder ~~all first-party claimants~~ of its ~~their~~
 1650 right to participate in the mediation program under this
 1651 section. The department shall prepare a consumer information
 1652 pamphlet for distribution to persons participating in mediation

1653 ~~under this section.~~

1654 (7) If the insurer fails to comply with subsection (2) by
 1655 failing to notify a policyholder ~~first-party claimant~~ of its
 1656 right to participate in the mediation program under this section
 1657 or if the insurer requests the mediation, and the mediation
 1658 results are rejected by either party, the policyholder is
 1659 ~~insured shall~~ not be required to submit to or participate in any
 1660 contractual loss appraisal process of the property loss damage
 1661 as a precondition to legal action for breach of contract against
 1662 the insurer for its failure to pay the policyholder's claims
 1663 covered by the policy.

1664 (9) For purposes of this section, the term "claim" refers
 1665 to any dispute between an insurer and a policyholder ~~an insured~~
 1666 relating to a material issue of fact other than a dispute:

1667 (a) With respect to which the insurer has a reasonable
 1668 basis to suspect fraud;

1669 (b) Where, based on agreed-upon facts as to the cause of
 1670 loss, there is no coverage under the policy;

1671 (c) With respect to which the insurer has a reasonable
 1672 basis to believe that the policyholder ~~claimant~~ has
 1673 intentionally made a material misrepresentation of fact which is
 1674 relevant to the claim, and the entire request for payment of a
 1675 loss has been denied on the basis of the material
 1676 misrepresentation; ~~or~~

1677 (d) With respect to which the amount in controversy is
 1678 less than \$500, unless the parties agree to mediate a dispute
 1679 involving a lesser amount; or

1680 (e) Where the notice of loss is reported to the insurer

1681 more than 36 months after the declaration of a state of
 1682 emergency by the Governor in response to a hurricane that makes
 1683 landfall in this state.

1684 Section 11. Subsection (4) of section 627.706, Florida
 1685 Statutes, is amended to read:

1686 627.706 Sinkhole insurance; catastrophic ground cover
 1687 collapse; definitions.—

1688 (4) An insurer offering sinkhole coverage to policyholders
 1689 before or after the adoption of s. 30, chapter 2007-1, Laws of
 1690 Florida, may renew pursuant to s. 627.43141 or nonrenew the
 1691 policies of policyholders maintaining sinkhole coverage, at the
 1692 option of the insurer, and provide an offer of coverage or
 1693 renewal that includes catastrophic ground cover collapse and
 1694 excludes sinkhole coverage. Insurers acting in accordance with
 1695 this subsection are subject to the following requirements:

1696 (a) Policyholders must be notified that the renewal or a
 1697 nonrenewal is for purposes of removing sinkhole coverage, and
 1698 that the policyholder is being offered a policy that provides
 1699 coverage for catastrophic ground cover collapse.

1700 (b) Policyholders must be provided an actuarially
 1701 reasonable premium credit or discount for the removal of
 1702 sinkhole coverage and provision of only catastrophic ground
 1703 cover collapse.

1704 (c) Subject to the provisions of this subsection and the
 1705 insurer's approved underwriting or insurability guidelines, the
 1706 insurer shall provide each policyholder with the opportunity to
 1707 purchase an endorsement to his or her policy providing sinkhole
 1708 coverage and may require an inspection of the property before

1709 issuance of a sinkhole coverage endorsement.

1710 (d) Section 624.4305 does not apply to nonrenewal notices
1711 issued pursuant to this subsection.

1712 Section 12. Paragraph (e) of subsection (5) of section
1713 627.707, Florida Statutes, is amended, and paragraph (f) is
1714 added to that subsection, to read:

1715 627.707 Investigation of sinkhole claims; insurer payment;
1716 nonrenewals.—Upon receipt of a claim for a sinkhole loss to a
1717 covered building, an insurer must meet the following standards
1718 in investigating a claim:

1719 (5) If a sinkhole loss is verified, the insurer shall pay
1720 to stabilize the land and building and repair the foundation in
1721 accordance with the recommendations of the professional engineer
1722 retained pursuant to subsection (2), with notice to the
1723 policyholder, subject to the coverage and terms of the policy.
1724 The insurer shall pay for other repairs to the structure and
1725 contents in accordance with the terms of the policy. If a
1726 covered building suffers a sinkhole loss or a catastrophic
1727 ground cover collapse, the insured must repair such damage or
1728 loss in accordance with the insurer's professional engineer's
1729 recommended repairs. However, if the insurer's professional
1730 engineer determines that the repair cannot be completed within
1731 policy limits, the insurer must pay to complete the repairs
1732 recommended by the insurer's professional engineer or tender the
1733 policy limits to the policyholder.

1734 (e) Upon the insurer's obtaining the written approval of
1735 any lienholder, the insurer may make payment directly to the
1736 persons selected by the policyholder to perform the land and

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1737 building stabilization and foundation repairs. The decision by
1738 the insurer to make payment to such persons does not hold the
1739 insurer liable for the work performed. ~~The policyholder may not~~
1740 ~~accept a rebate from any person performing the repairs specified~~
1741 ~~in this section. If a policyholder does receive a rebate,~~
1742 ~~coverage is void and the policyholder must refund the amount of~~
1743 ~~the rebate to the insurer. Any person making the repairs~~
1744 ~~specified in this section who offers a rebate commits insurance~~
1745 ~~fraud punishable as a third degree felony as provided in s.~~
1746 ~~775.082, s. 775.083, or s. 775.084.~~

1747 (f) The policyholder may not accept a rebate from any
1748 person performing the repairs specified in this section. If a
1749 policyholder receives a rebate, coverage is void and the
1750 policyholder must refund the amount of the rebate to the
1751 insurer. Any person performing the repairs specified in this
1752 section who offers a rebate commits insurance fraud punishable
1753 as a third degree felony as provided in s. 775.082, s. 775.083,
1754 or s. 775.084. As used in this paragraph, the term "rebate"
1755 means a remuneration, payment, gift, discount, or transfer of
1756 any item of value to the policyholder by or on behalf of a
1757 person performing the repairs specified in this section as an
1758 incentive or inducement to obtain repairs performed by that
1759 person.

1760 Section 13. Effective upon this act becoming a law,
1761 subsection (4) of section 627.7295, Florida Statutes, is amended
1762 to read:

1763 627.7295 Motor vehicle insurance contracts.—

1764 (4) ~~If subsection (7) does not apply,~~ The insurer may

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1765 cancel the policy in accordance with this code except that,
 1766 notwithstanding s. 627.728, an insurer may not cancel a new
 1767 policy or binder during the first 60 days immediately following
 1768 the effective date of the policy or binder ~~except~~ for nonpayment
 1769 of premium unless the reason for the cancellation is the
 1770 issuance of a check for the premium that is dishonored for any
 1771 reason or any other type of premium payment that was
 1772 subsequently determined to be rejected or invalid.

1773 Section 14. Effective upon this act becoming a law,
 1774 paragraph (d) of subsection (4) of section 627.736, Florida
 1775 Statutes, is amended to read:

1776 627.736 Required personal injury protection benefits;
 1777 exclusions; priority; claims.—

1778 (4) BENEFITS; WHEN DUE.—Benefits due from an insurer under
 1779 ss. 627.730–627.7405 shall be primary, except that benefits
 1780 received under any workers' compensation law shall be credited
 1781 against the benefits provided by subsection (1) and shall be due
 1782 and payable as loss accrues, upon receipt of reasonable proof of
 1783 such loss and the amount of expenses and loss incurred which are
 1784 covered by the policy issued under ss. 627.730–627.7405. When
 1785 the Agency for Health Care Administration provides, pays, or
 1786 becomes liable for medical assistance under the Medicaid program
 1787 related to injury, sickness, disease, or death arising out of
 1788 the ownership, maintenance, or use of a motor vehicle, benefits
 1789 under ss. 627.730–627.7405 shall be subject to the provisions of
 1790 the Medicaid program.

1791 (d) All overdue payments shall bear simple interest at the
 1792 rate established under s. 55.03 or the rate established in the

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1793 insurance contract, whichever is greater, for the quarter year
 1794 in which the payment became overdue, calculated from the date
 1795 the insurer was furnished with written notice of the amount of
 1796 covered loss. Interest shall be due at the time payment of the
 1797 overdue claim is made.

1798 Section 15. Section 627.7405, Florida Statutes, is amended
 1799 to read:

1800 627.7405 Insurers' right of reimbursement.-

1801 (1) Notwithstanding any other provisions of ss. 627.730-
 1802 627.7405, any insurer providing personal injury protection
 1803 benefits on a private passenger motor vehicle shall have, to the
 1804 extent of any personal injury protection benefits paid to any
 1805 person as a benefit arising out of such private passenger motor
 1806 vehicle insurance, a right of reimbursement against the owner or
 1807 the insurer of the owner of a commercial motor vehicle, if the
 1808 benefits paid result from such person having been an occupant of
 1809 the commercial motor vehicle or having been struck by the
 1810 commercial motor vehicle while not an occupant of any self-
 1811 propelled vehicle.

1812 (2) For purposes of this section, no owner or registrant
 1813 identified in s. 627.733(1)(b) shall be liable for right of
 1814 reimbursement.

1815 Section 16. Effective upon this act becoming a law,
 1816 section 628.901, Florida Statutes, is amended to read:

1817 628.901 Definitions ~~"Captive insurer" defined.-As used in~~
 1818 ~~For the purposes of this part, the term: except as provided in~~
 1819 ~~s. 628.903, a "captive insurer" is a domestic insurer~~
 1820 ~~established under part I to insure the risks of a specific~~

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1821 ~~corporation or group of corporations under common ownership~~
1822 ~~owned by the corporation or corporations from which it accepts~~
1823 ~~risk under a contract of insurance.~~

1824 (1) "Affiliated company" means a company in the same
1825 corporate system as a parent, an industrial insured, or a member
1826 organization by virtue of common ownership, control, operation,
1827 or management.

1828 (2) "Captive insurance company" means a domestic insurer
1829 established under this part. A captive insurance company
1830 includes a pure captive insurance company, special purpose
1831 captive insurance company, or industrial insured captive
1832 insurance company formed and licensed under this part.

1833 (3) "Captive reinsurance company" means a reinsurance
1834 company that is formed and licensed under this part and is
1835 wholly owned by a qualifying reinsurance parent company. A
1836 captive reinsurance company is a stock corporation and may not
1837 directly insure risks. A captive reinsurance company may
1838 reinsure only risks.

1839 (4) "Consolidated debt to total capital ratio" means the
1840 ratio of the sum of all debts and hybrid capital instruments as
1841 described in paragraph (a) to total capital as described in
1842 paragraph (b).

1843 (a) Debts and hybrid capital instruments include, but are
1844 not limited to, all borrowings from banks, all senior debt, all
1845 subordinated debts, all trust preferred shares, and all other
1846 hybrid capital instruments that are not included in the
1847 determination of consolidated GAAP net worth issued and
1848 outstanding.

1849 (b) Total capital consists of all debts and hybrid capital
 1850 instruments as described in paragraph (a) plus owners' equity
 1851 determined in accordance with GAAP for reporting to the United
 1852 States Securities and Exchange Commission.

1853 (5) "Consolidated GAAP net worth" means the consolidated
 1854 owners' equity determined in accordance with generally accepted
 1855 accounting principles for reporting to the United States
 1856 Securities and Exchange Commission.

1857 (6) "Controlled unaffiliated business" means a company:

1858 (a) That is not in the corporate system of a parent and
 1859 affiliated companies;

1860 (b) That has an existing contractual relationship with a
 1861 parent or affiliated company; and

1862 (c) Whose risks are managed by a captive insurance company
 1863 in accordance with s. 628.919.

1864 (7) "GAAP" means generally accepted accounting principles.

1865 (8) "Industrial insured" means an insured that:

1866 (a) Has gross assets in excess of \$50 million;

1867 (b) Procures insurance through the use of a full-time
 1868 employee of the insured who acts as an insurance manager or
 1869 buyer or through the services of a person licensed as a property
 1870 and casualty insurance agent, broker, or consultant in such
 1871 person's state of domicile;

1872 (c) Has at least 100 full-time employees; and

1873 (d) Pays annual premiums of at least \$200,000 for each
 1874 line of insurance purchased from the industrial insured captive
 1875 insurer or at least \$75,000 for any line of coverage in excess
 1876 of at least \$25 million in the annual aggregate. The purchase of

1877 umbrella or general liability coverage in excess of \$25 million
 1878 in the annual aggregate shall be deemed to be the purchase of a
 1879 single line of insurance.

1880 (9) "Industrial insured captive insurance company" means a
 1881 captive insurance company that provides insurance only to the
 1882 industrial insureds that are its stockholders or members, and
 1883 affiliates thereof, or to the stockholders, and affiliates
 1884 thereof, of its parent corporation. An industrial insured
 1885 captive insurance company can also provide reinsurance to
 1886 insurers only on risks written by such insurers for the
 1887 industrial insureds that are the stockholders or members, and
 1888 affiliates thereof, of the industrial insured captive insurer,
 1889 or the stockholders, and affiliates thereof, of the parent
 1890 corporation of the industrial insured captive insurer.

1891 (10) "Office" means the Office of Insurance Regulation.

1892 (11) "Parent" means any corporation, limited liability
 1893 company, partnership, or individual that directly or indirectly
 1894 owns, controls, or holds with power to vote more than 50 percent
 1895 of the outstanding voting interests of a captive insurance
 1896 company.

1897 (12) "Pure captive insurance company" means a company that
 1898 insures risks of its parent, affiliated companies, controlled
 1899 unaffiliated businesses, or a combination thereof.

1900 (13) "Qualifying reinsurer parent company" means a
 1901 reinsurer which currently holds a certificate of authority,
 1902 letter of eligibility or is an accredited or a satisfactory non-
 1903 approved reinsurer in this state possessing a consolidated GAAP
 1904 net worth of at least \$500 million and a consolidated debt to

1905 total capital ratio of not greater than 0.50.

1906 (14) "Special purpose captive insurance company" means a
 1907 captive insurance company that is formed or licensed under this
 1908 chapter that does not meet the definition of any other type of
 1909 captive insurance company defined in this section.

1910 (15) "Treasury rates" means the United States Treasury
 1911 STRIPS asked yield as published in the Wall Street Journal as of
 1912 a balance sheet date.

1913 Section 17. Effective upon this act becoming a law,
 1914 section 628.905, Florida Statutes, is amended to read:

1915 628.905 Licensing; authority.—

1916 (1) A Any captive insurer, if when permitted by its
 1917 charter or articles of incorporation, may apply to the office
 1918 for a license to do any and all insurance authorized under the
 1919 insurance code, ~~provide commercial property, commercial~~
 1920 ~~casualty, and commercial marine insurance coverage~~ other than
 1921 workers' compensation and employer's liability, life, health,
 1922 personal motor vehicle, and personal residential property
 1923 insurance coverage, except that: ~~an industrial insured captive~~
 1924 ~~insurer may apply for a license to provide workers' compensation~~
 1925 ~~and employer's liability insurance as set forth in subsection~~
 1926 ~~(6).~~

1927 (a) A pure captive insurance company may not insure any
 1928 risks other than those of its parent, affiliated companies,
 1929 controlled unaffiliated businesses, or a combination thereof.

1930 (b) An industrial insured captive insurance company may
 1931 not insure any risks other than those of the industrial insureds
 1932 that comprise the industrial insured group and their affiliated

1933 companies.

1934 (c) A special purpose captive insurance company may insure
 1935 only the risks of its parent.

1936 (d) A captive insurance company may not accept or cede
 1937 reinsurance except as provided in this part.

1938 (2) To conduct insurance business in this state, a ~~No~~
 1939 ~~captive insurer, other than an industrial insured captive~~
 1940 ~~insurer must:~~ shall insure or accept reinsurance on any risks
 1941 ~~other than those of its parent and affiliated companies.~~

1942 (a) Obtain from the office a license authorizing it to
 1943 conduct insurance business in this state;

1944 (b) Hold at least one board of directors' meeting each
 1945 year in this state;

1946 (c) Maintain its principal place of business in this
 1947 state; and

1948 (d) Appoint a resident registered agent to accept service
 1949 of process and to otherwise act on its behalf in this state. In
 1950 the case of a captive insurance company formed as a corporation
 1951 or a nonprofit corporation, if the registered agent cannot with
 1952 reasonable diligence be found at the registered office of the
 1953 captive insurance company, the Chief Financial Officer of this
 1954 state must be an agent of the captive insurance company upon
 1955 whom any process, notice, or demand may be served.

1956 (3) Before receiving a license, a captive insurance
 1957 company formed as a corporation or a nonprofit corporation must
 1958 file with the office a certified copy of its articles of
 1959 incorporation and bylaws, a statement under oath of its
 1960 president and secretary showing its financial condition, and any

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1961 other statements or documents required by the office. In
 1962 addition, an applicant captive insurance company must file with
 1963 the office evidence of:

1964 (a) The amount and liquidity of the proposed captive
 1965 insurance company's assets relative to the risks to be assumed;

1966 (b) The adequacy of the expertise, experience, and
 1967 character of the person or persons who will manage the company;

1968 (c) The overall soundness of the company's plan of
 1969 operation;

1970 (d) The adequacy of the loss prevention programs of the
 1971 company's parent, member organizations, or industrial insureds,
 1972 as applicable; and

1973 (e) Any other factors considered relevant by the office in
 1974 ascertaining whether the company will be able to meet its policy
 1975 obligations. ~~In addition to information otherwise required by~~
 1976 ~~this code, each applicant captive insurer shall file with the~~
 1977 ~~office evidence of the adequacy of the loss prevention program~~
 1978 ~~of its insureds.~~

1979 (4) A captive insurance company or captive reinsurance
 1980 company must pay to the office a nonrefundable fee of \$1,500 for
 1981 processing its application for license.

1982 (a) A captive insurance company or captive reinsurance
 1983 company must also pay an annual renewal fee of \$1,000.

1984 (b) The office may charge a fee of \$5 for any document
 1985 requiring certification of authenticity or the signature of the
 1986 commissioner or his or her designee. ~~An industrial insured~~
 1987 ~~captive insurer need not be incorporated in this state if it has~~
 1988 ~~been validly incorporated under the laws of another~~

1989 ~~jurisdiction.~~

1990 (5) If the commissioner is satisfied that the documents
 1991 and statements filed by the captive insurance company comply
 1992 with this chapter, the commissioner may grant a license
 1993 authorizing the company to conduct insurance business in this
 1994 state until the next succeeding March 1, at which time the
 1995 license may be renewed. ~~An industrial insured captive insurer is~~
 1996 ~~subject to all provisions of this part except as otherwise~~
 1997 ~~indicated.~~

1998 (6) Upon approval of the office, a foreign or alien
 1999 captive insurance company may become a domestic captive
 2000 insurance company by complying with all of the requirements of
 2001 law relative to the organization and licensing of a domestic
 2002 captive insurance company of the same or equivalent type in this
 2003 state and by filing with the Secretary of State its charter or
 2004 other organizational documents, together with any appropriate
 2005 amendments that have been adopted in accordance with the laws of
 2006 this state to bring the charter or other organizational
 2007 documents into compliance with the laws of this state, along
 2008 with a certificate of good standing issued by the office. The
 2009 captive insurance company is then entitled to the necessary or
 2010 appropriate certificates and licenses to continue transacting
 2011 business in this state and is subject to the authority and
 2012 jurisdiction of this state. In connection with this
 2013 redomestication, the office may waive any requirements for
 2014 public hearings. It is not necessary for a captive insurance
 2015 company redomesticating into this state to merge, consolidate,
 2016 transfer assets, or otherwise engage in any other

2017 reorganization, other than as specified in this section. ~~An~~
 2018 ~~industrial insured captive insurer may not provide workers'~~
 2019 ~~compensation and employer's liability insurance except in excess~~
 2020 ~~of at least \$25 million in the annual aggregate.~~

2021 (7) An industrial insured captive insurance company need
 2022 not be incorporated in this state if it has been validly
 2023 incorporated under the laws of another jurisdiction.

2024 Section 18. Effective upon this act becoming a law,
 2025 section 628.906, Florida Statutes, is created to read:

2026 628.906 Application requirements; restrictions on
 2027 eligibility of officers and directors.—

2028 (1) To evidence competence and trustworthiness of its
 2029 officers and directors, the application for a license to act as
 2030 a captive insurance company or captive reinsurance company shall
 2031 include, but not be limited to, background investigations,
 2032 biographical affidavits, and fingerprint cards for all officers
 2033 and directors. Fingerprints must be taken by a law enforcement
 2034 agency or other entity approved by the office, be accompanied by
 2035 the fingerprint processing fee specified in s. 624.501, and
 2036 processed in accordance with s. 624.34.

2037 (2) The office may deny, suspend, or revoke the license to
 2038 transact captive insurance or captive reinsurance in this state
 2039 if any person who was an officer or director of an insurer,
 2040 reinsurer, captive insurance company, captive reinsurance
 2041 company, financial institution, or financial services business
 2042 doing business in the United States, any state, or under the law
 2043 of any other country and who served in that capacity within the
 2044 2-year period prior to the date the insurer, reinsurer, captive

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2045 insurance company, captive reinsurance company, financial
2046 institution, or financial services business became insolvent,
2047 serves as an officer or director of a captive insurance company
2048 or officer or director of a captive reinsurance company licensed
2049 in this state unless the officer or director demonstrates that
2050 his or her personal actions or omissions were not a contributing
2051 cause to the insolvency or unless the officer or director is
2052 immediately removed from the captive insurance company or
2053 captive reinsurance company.

2054 (3) The office may deny, suspend, or revoke the license to
2055 transact insurance or reinsurance in this state of a captive
2056 insurance company or captive reinsurance company if any officer
2057 or director, any stockholder that owns 10 percent or more of the
2058 outstanding voting securities of the captive insurance company
2059 or captive reinsurance company, or incorporator has been found
2060 guilty of, or has pleaded guilty or nolo contendere to, any
2061 felony or crime involving moral turpitude, including a crime of
2062 dishonesty or breach of trust, punishable by imprisonment of 1
2063 year or more under the law of the United States or any state
2064 thereof or under the law of any other country without regard to
2065 whether a judgment of conviction has been entered by the court
2066 having jurisdiction in such case. However, in the case of a
2067 captive insurance company or captive reinsurance company
2068 operating under a subsisting license, the captive insurance
2069 company or captive reinsurance company shall remove any such
2070 person immediately upon discovery of the conditions set forth in
2071 this subsection when applicable to such person or upon the order
2072 of the office, and the failure to so act shall be grounds for

2073 revocation or suspension of the captive insurance company's or
 2074 captive reinsurance company's license.

2075 Section 19. Effective upon this act becoming a law,
 2076 section 628.907, Florida Statutes, is amended to read:

2077 628.907 Minimum capital and net assets requirements;
 2078 restriction on payment of dividends surplus.-

2079 (1) A ~~No~~ captive insurer may not ~~shall~~ be issued a license
 2080 unless it possesses and thereafter maintains:

2081 ~~(1)~~ unimpaired paid-in capital of:

2082 (a) In the case of a pure captive insurance company, at
 2083 least \$100,000. ~~\$500,000; and~~

2084 (b) In the case of an industrial insured captive insurance
 2085 company incorporated as a stock insurer, at least \$200,000.

2086 (c) In the case of a special purpose captive insurance
 2087 company, an amount determined by the office after giving due
 2088 consideration to the company's business plan, feasibility study,
 2089 and pro forma financial statements and projections, including
 2090 the nature of the risks to be insured.

2091 (2) The office may not issue a license to a captive
 2092 insurance company incorporated as a nonprofit corporation unless
 2093 the company possesses and maintains unrestricted net assets of:

2094 (a) In the case of a pure captive insurance company,
 2095 ~~Unimpaired surplus of~~ at least \$250,000.

2096 (b) In the case of a special purpose captive insurance
 2097 company, an amount determined by the office after giving due
 2098 consideration to the company's business plan, feasibility study,
 2099 and pro forma financial statements and projections, including
 2100 the nature of the risks to be insured.

2101 (3) Contributions to a captive insurance company
 2102 incorporated as a nonprofit corporation must be in the form of
 2103 cash, cash equivalent, or an irrevocable letter of credit issued
 2104 by a bank chartered by this state or a member bank of the
 2105 Federal Reserve System with a branch office in this state, or as
 2106 approved by the office.

2107 (4) For purposes of this section, the office may issue a
 2108 license expressly conditioned upon the captive insurance company
 2109 providing to the office satisfactory evidence of possession of
 2110 the minimum required unimpaired paid-in capital. Until this
 2111 evidence is provided, the captive insurance company may not
 2112 issue any policy, assume any liability, or otherwise provide
 2113 coverage. The office may revoke the conditional license if
 2114 satisfactory evidence of the required capital is not provided
 2115 within a maximum period of time, not to exceed 1 year, to be
 2116 established by the office at the time the conditional license is
 2117 issued.

2118 (5) The office may prescribe additional capital or net
 2119 assets based upon the type, volume, and nature of insurance
 2120 business transacted. Contributions in connection with these
 2121 prescribed additional net assets or capital must be in the form
 2122 of:

2123 (a) Cash;

2124 (b) Cash equivalent;

2125 (c) An irrevocable letter of credit issued by a bank
 2126 chartered by this state or a member bank of the Federal Reserve
 2127 System with a branch office in this state, or as approved by the
 2128 office; or

2129 (d) Securities invested as provided in part II of chapter
 2130 625.

2131 (6) A captive insurance company may not pay a dividend out
 2132 of, or other distribution with respect to, capital or surplus in
 2133 excess of the limitations set forth in this chapter without the
 2134 prior approval of the office. Approval of an ongoing plan for
 2135 the payment of dividends or other distributions must be
 2136 conditioned upon the retention, at the time of each payment, of
 2137 capital or surplus in excess of amounts specified by, or
 2138 determined in accordance with formulas approved by, the office.

2139 (7) An irrevocable letter of credit that is issued by a
 2140 financial institution other than a bank chartered by this state
 2141 or a member bank of the Federal Reserve System must meet the
 2142 same standards as an irrevocable letter of credit that has been
 2143 issued by a bank chartered by this state or a member bank of the
 2144 Federal Reserve System.

2145 Section 20. Effective upon this act becoming a law,
 2146 section 628.908, Florida Statutes, is created to read:

2147 628.908 Surplus requirements; restriction on payment of
 2148 dividends.—

2149 (1) The office may not issue a license to a captive
 2150 insurance company unless the company possesses and maintains
 2151 unimpaired surplus of:

2152 (a) In the case of a pure captive insurance company, at
 2153 least \$150,000.

2154 (b) In the case of an industrial insured captive insurance
 2155 company incorporated as a stock insurer, at least \$300,000.

2156 (c) In the case of an industrial insured captive insurance

2157 company incorporated as a mutual insurer, at least \$500,000.

2158 (d) In the case of a special purpose captive insurance
 2159 company, an amount determined by the office after giving due
 2160 consideration to the company's business plan, feasibility study,
 2161 and pro forma financial statements and projections, including
 2162 the nature of the risks to be insured.

2163 (2) For purposes of this section, the office may issue a
 2164 license expressly conditioned upon the captive insurance company
 2165 providing to the office satisfactory evidence of possession of
 2166 the minimum required unimpaired surplus. Until this evidence is
 2167 provided, the captive insurance company may not issue any
 2168 policy, assume any liability, or otherwise provide coverage. The
 2169 office may revoke the conditional license if satisfactory
 2170 evidence of the required surplus is not provided within a
 2171 maximum period of time, not to exceed 1 year, to be established
 2172 by the office at the time the conditional license is issued.

2173 (3) A captive insurance company may not pay a dividend out
 2174 of, or other distribution with respect to, capital or surplus in
 2175 excess of the limitations set forth in this chapter without the
 2176 prior approval of the office. Approval of an ongoing plan for
 2177 the payment of dividends or other distribution must be
 2178 conditioned upon the retention, at the time of each payment, of
 2179 capital or surplus in excess of amounts specified by, or
 2180 determined in accordance with formulas approved by, the office.

2181 (4) An irrevocable letter of credit that is issued by a
 2182 financial institution other than a bank chartered by this state
 2183 or a member bank of the Federal Reserve System must meet the
 2184 same standards as an irrevocable letter of credit that has been

2185 issued by a bank chartered by this state or a member bank of the
 2186 Federal Reserve System.

2187 Section 21. Effective upon this act becoming a law,
 2188 section 628.909, Florida Statutes, is amended to read:

2189 628.909 Applicability of other laws.—

2190 (1) The Florida Insurance Code does ~~shall~~ not apply to
 2191 captive insurers or industrial insured captive insurers except
 2192 as provided in this part and subsections (2) and (3).

2193 (2) The following provisions of the Florida Insurance Code
 2194 ~~shall~~ apply to captive insurers who are not industrial insured
 2195 captive insurers to the extent that such provisions are not
 2196 inconsistent with this part:

2197 (a) Chapter 624, except for ss. 624.407, 624.408,
 2198 624.4085, 624.40851, 624.4095, 624.425, and 624.426.

2199 (b) Chapter 625, part II.

2200 (c) Chapter 626, part IX.

2201 (d) Sections 627.730-627.7405, when no-fault coverage is
 2202 provided.

2203 (e) Chapter 628.

2204 (3) The following provisions of the Florida Insurance Code
 2205 ~~shall~~ apply to industrial insured captive insurers to the extent
 2206 that such provisions are not inconsistent with this part:

2207 (a) Chapter 624, except for ss. 624.407, 624.408,
 2208 624.4085, 624.40851, 624.4095, 624.425, 624.426, and 624.609(1).

2209 (b) Chapter 625, part II, if the industrial insured
 2210 captive insurer is incorporated in this state.

2211 (c) Chapter 626, part IX.

2212 (d) Sections 627.730-627.7405 when no-fault coverage is

2213 provided.

2214 (e) Chapter 628, except for ss. 628.341, 628.351, and
2215 628.6018.

2216 Section 22. Effective upon this act becoming a law,
2217 section 628.910, Florida Statutes, is created to read:

2218 628.910 Incorporation options and requirements.—

2219 (1) A pure captive insurance company may be:

2220 (a) Incorporated as a stock insurer with its capital
2221 divided into shares and held by the stockholders; or

2222 (b) Incorporated as a public benefit, mutual benefit, or
2223 religious nonprofit corporation with members in accordance with
2224 the Florida Not For Profit Corporation Act.

2225 (2) An industrial insured captive insurance company may
2226 be:

2227 (a) Incorporated as a stock insurer with its capital
2228 divided into shares and held by the stockholders; or

2229 (b) Incorporated as a mutual insurer without capital
2230 stock, the governing body of which is elected by its members.

2231 (3) A captive insurance company may not have fewer than
2232 three incorporators of whom not fewer than two must be residents
2233 of this state.

2234 (4) In the case of a captive insurance company formed as a
2235 corporation or a nonprofit corporation, before the articles of
2236 incorporation are transmitted to the Secretary of State, the
2237 incorporators shall file the articles of incorporation in
2238 triplicate with the office. The office shall promptly examine
2239 the articles of incorporation. If it finds that the articles of
2240 incorporation conform to law, it shall endorse its approval on

2241 each of the triplicate originals of the articles of
 2242 incorporation, retain one copy for its files, and return the
 2243 remaining copies to the incorporators for filing with the
 2244 Department of State.

2245 (5) The articles of incorporation, the certificate issued
 2246 pursuant to this section, and the organization fees required by
 2247 the Florida Business Corporation Act or the Florida Not For
 2248 Profit Corporation Act, as applicable, must be transmitted to
 2249 the Secretary of State, who must record the articles of
 2250 incorporation and the certificate.

2251 (6) The capital stock of a captive insurance company
 2252 incorporated as a stock insurer must be issued at par value of
 2253 not less than \$1 or more than \$100 per share.

2254 (7) In the case of a captive insurance company formed as a
 2255 corporation or a nonprofit corporation, at least one of the
 2256 members of the board of directors of a captive insurance company
 2257 incorporated in this state must be a resident of this state.

2258 (8) A captive insurance company formed as a corporation or
 2259 a nonprofit corporation, pursuant to the provisions of this
 2260 chapter, has the privileges and is subject to the provisions of
 2261 the general corporation law, including the Florida Not For
 2262 Profit Corporation Act for nonprofit corporations, as
 2263 applicable, as well as the applicable provisions contained in
 2264 this chapter. If a conflict occurs between a provision of the
 2265 general corporation law, including the Florida Not For Profit
 2266 Corporation Act for nonprofit corporations, as applicable, and a
 2267 provision of this chapter, the latter controls. The provisions
 2268 of this title pertaining to mergers, consolidations,

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2269 conversions, mutualizations, and redomestications apply in
 2270 determining the procedures to be followed by a captive insurance
 2271 company in carrying out any of the transactions described in
 2272 such provisions, except that the office may waive or modify the
 2273 requirements for public notice and hearing in accordance with
 2274 rules the office may adopt addressing categories of
 2275 transactions. If a notice of public hearing is required, but no
 2276 one requests a hearing, the office may cancel the hearing.

2277 (9) The articles of incorporation or bylaws of a captive
 2278 insurance company may authorize a quorum of a board of directors
 2279 to consist of no fewer than one-third of the fixed or prescribed
 2280 number of directors as provided for by the Florida Business
 2281 Corporation Act or the Florida Not For Profit Corporation Act.

2282 Section 23. Effective upon this act becoming a law,
 2283 section 628.911, Florida Statutes, is amended to read:

2284 628.911 Reports and statements.—

2285 (1) A captive insurance company may ~~insurer shall~~ not be
 2286 required to make any annual report except as provided in this
 2287 part section.

2288 (2) Annually no later than March 1, a captive insurance
 2289 company or a captive reinsurance company ~~insurer shall, within~~
 2290 ~~60 days after the end of its fiscal year and as often as the~~
 2291 ~~office may deem necessary,~~ submit to the office a report of its
 2292 financial condition verified by oath of two of its executive
 2293 officers. Except as provided in this part, a captive insurance
 2294 company or a captive reinsurance company must report using
 2295 generally accepted accounting principles, unless the office
 2296 approves the use of statutory accounting principles, with useful

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2297 or necessary modifications or adaptations required or approved
 2298 or accepted by the office for the type of insurance and kinds of
 2299 insurers to be reported upon, and as supplemented by additional
 2300 information required by the office. The Financial Services
 2301 Commission may adopt by rule the form in which captive insurance
 2302 companies ~~insurers~~ shall report.

2303 (3) A captive insurance company may make written
 2304 application for filing the required report on a fiscal year end
 2305 that is consistent with the parent company's fiscal year. If an
 2306 alternative reporting date is granted, the annual report is due
 2307 60 days after the fiscal year end.

2308 Section 24. Effective upon this act becoming a law,
 2309 section 628.912, Florida Statutes, is created to read:

2310 628.912 Discounting of loss and loss adjustment expense
 2311 reserves.—

2312 (1) A captive reinsurance company may discount its loss
 2313 and loss adjustment expense reserves at treasury rates applied
 2314 to the applicable payments projected through the use of the
 2315 expected payment pattern associated with the reserves.

2316 (2) A captive reinsurance company must file annually an
 2317 actuarial opinion on loss and loss adjustment expense reserves
 2318 provided by an independent actuary. The actuary may not be an
 2319 employee of the captive reinsurance company or its affiliates.

2320 (3) The office may disallow the discounting of reserves if
 2321 a captive reinsurance company violates a provision of this part.

2322 Section 25. Effective upon this act becoming a law,
 2323 section 628.913, Florida Statutes, is amended to read:

2324 (Substantial rewording of section. See

2325 s. 628.913, F.S., for present text.)
 2326 628.913 Captive reinsurance companies.—
 2327 (1) A captive reinsurance company, if permitted by its
 2328 articles of incorporation or charter, may apply to the office
 2329 for a license to write reinsurance covering property and
 2330 casualty insurance or reinsurance contracts. A captive
 2331 reinsurance company authorized by the office may write
 2332 reinsurance contracts covering risks in any state; however, a
 2333 captive reinsurance company authorized by the office may not
 2334 directly insure risks.
 2335 (2) To conduct business in this state, a captive
 2336 reinsurance company must:
 2337 (a) Obtain from the office a license authorizing it to
 2338 conduct business as a captive reinsurance company in this state;
 2339 (b) Hold at least one board of directors' meeting each
 2340 year in this state;
 2341 (c) Maintain its principal place of business in this
 2342 state; and
 2343 (d) Appoint a registered agent to accept service of
 2344 process and act otherwise on its behalf in this state.
 2345 (3) Before receiving a license, a captive reinsurance
 2346 company must file with the office:
 2347 (a) A certified copy of its charter and bylaws;
 2348 (b) A statement under oath of its president and secretary
 2349 showing its financial condition; and
 2350 (c) Other documents required by the office.
 2351 (4) In addition to the information required by this
 2352 section, the captive reinsurance company must file with the

2353 office evidence of:

2354 (a) The amount and liquidity of the captive reinsurance
 2355 company's assets relative to the risks to be assumed;

2356 (b) The adequacy of the expertise, experience, and
 2357 character of the person who manages the company;

2358 (c) The overall soundness of the company's plan of
 2359 operation; and

2360 (d) Other overall factors considered relevant by the
 2361 office in ascertaining if the company would be able to meet its
 2362 policy obligations.

2363 Section 26. Effective upon this act becoming a law,
 2364 section 628.914, Florida Statutes, is created to read:

2365 628.914 Minimum capitalization or reserves for captive
 2366 reinsurance companies.—

2367 (1) The office may not issue a license to a captive
 2368 reinsurance company unless the company possesses and maintains
 2369 capital or unimpaired surplus of at least the greater of \$300
 2370 million or 10 percent of reserves. The surplus may be in the
 2371 form of cash or securities as permitted by part II of chapter
 2372 625.

2373 (2) The office may prescribe additional capital or surplus
 2374 based upon the type, volume, and nature of the insurance
 2375 business transacted.

2376 (3) A captive reinsurance company may not pay a dividend
 2377 out of, or other distribution with respect to, capital or
 2378 surplus in excess of the limitations without the prior approval
 2379 of the office. Approval of an ongoing plan for the payment of
 2380 dividends or other distributions must be conditioned upon the

2381 retention, at the time of each payment, of capital or surplus in
 2382 excess of amounts specified by, or determined in accordance with
 2383 formulas approved by, the office.

2384 Section 27. Effective upon this act becoming a law,
 2385 section 628.9141, Florida Statutes, is created to read:

2386 628.9141 Incorporation of a captive reinsurance company.-

2387 (1) A captive reinsurance company must be incorporated as
 2388 a stock insurer with its capital divided into shares and held by
 2389 its shareholders.

2390 (2) A captive reinsurance company may not have fewer than
 2391 three incorporators of whom at least two must be residents of
 2392 this state.

2393 (3) Before the articles of incorporation are transmitted
 2394 to the Secretary of State, the incorporators must comply with
 2395 all the requirements of s. 628.091.

2396 (4) The capital stock of a captive reinsurance company
 2397 must be issued at par value of not less than \$1 or more than
 2398 \$100 per share.

2399 (5) At least one of the members of the board of directors
 2400 of a captive reinsurance company incorporated in this state must
 2401 be a resident of this state.

2402 Section 28. Effective upon this act becoming a law,
 2403 section 628.9142, Florida Statutes, is created to read:

2404 628.9142 Reinsurance; effect on reserves.-

2405 (1) A captive insurance company may provide reinsurance,
 2406 as authorized in this part, on risks ceded by any other insurer.

2407 (2) A captive insurance company may take credit for
 2408 reserves on risks or portions of risks ceded to authorized

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2409 insurers or reinsurers and unauthorized insurers or reinsurers
 2410 complying with s. 624.610. A captive insurer may not take credit
 2411 for reserves on risks or portions of risks ceded to an
 2412 unauthorized insurer or reinsurer if the insurer or reinsurer is
 2413 not in compliance with s. 624.610.

2414 Section 29. Effective upon this act becoming a law,
 2415 section 628.918, Florida Statutes, is created to read:

2416 628.918 Management of assets of captive reinsurance
 2417 company.—At least 35 percent of the assets of a captive
 2418 reinsurance company must be managed by an asset manager
 2419 domiciled in this state.

2420 Section 30. Effective upon this act becoming a law,
 2421 section 628.919, Florida Statutes, is created to read:

2422 628.919 Standards to ensure risk management control by
 2423 parent company.—The Financial Services Commission shall adopt
 2424 rules establishing standards to ensure that a parent or
 2425 affiliated company is able to exercise control of the risk
 2426 management function of any controlled unaffiliated business to
 2427 be insured by the pure captive insurance company.

2428 Section 31. Effective upon this act becoming a law,
 2429 section 628.920, Florida Statutes, is created to read:

2430 628.920 Eligibility of licensed captive insurance company
 2431 for certificate of authority to act as insurer.—A licensed
 2432 captive insurance company that meets the necessary requirements
 2433 of this part imposed upon an insurer must be considered for
 2434 issuance of a certificate of authority to act as an insurer in
 2435 this state.

2436 Section 32. Effective upon this act becoming a law,

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2437 paragraph (e) of subsection (2) of section 626.7491, Florida
 2438 Statutes, is amended to read:

2439 626.7491 Business transacted with producer controlled
 2440 property and casualty insurer.—

2441 (2) DEFINITIONS.—As used in this section:

2442 (e) "Licensed insurer" or "insurer" means any person,
 2443 firm, association, or corporation licensed to transact a
 2444 property or casualty insurance business in this state. The
 2445 following are not licensed insurers for the purposes of this
 2446 section:

2447 1. Any risk retention group as defined in:

2448 a. The Superfund Amendments Reauthorization Act of 1986,
 2449 Pub. L. No. 99-499, 100 Stat. 1613 (1986);

2450 b. The Risk Retention Act, 15 U.S.C. ss. 3901 et seq.
 2451 (1982 and Supp. 1986); or

2452 c. Section 627.942(9).

2453 2. Any residual market pool or joint underwriting
 2454 authority or association; and

2455 3. Any captive insurance company ~~insurer~~ as defined in s.
 2456 628.901.

2457 Section 33. Effective upon this act becoming a law,
 2458 section 628.903, Florida Statutes, is repealed.

2459 Section 34. Section 631.271, Florida Statutes, is amended
 2460 to read:

2461 631.271 Priority of claims.—

2462 (1) The priority of distribution of claims from the
 2463 insurer's estate shall be in accordance with the order in which
 2464 each class of claims is set forth in this subsection. Every

2465 claim in each class shall be paid in full or adequate funds
 2466 shall be retained for such payment before the members of the
 2467 next class may receive any payment. No subclasses may be
 2468 established within any class. The order of distribution of
 2469 claims shall be:

2470 (a) Class 1.—

2471 1. All of the receiver's costs and expenses of
 2472 administration.

2473 2. All of the expenses of a guaranty association or
 2474 foreign guaranty association in handling claims.

2475 (b) Class 2.—All claims under policies for losses
 2476 incurred, including third-party claims, all claims against the
 2477 insurer for liability for bodily injury or for injury to or
 2478 destruction of tangible property which claims are not under
 2479 policies, and all claims of a guaranty association or foreign
 2480 guaranty association. All claims under life insurance and
 2481 annuity policies, whether for death proceeds, annuity proceeds,
 2482 or investment values, shall be treated as loss claims. That
 2483 portion of any loss, indemnification for which is provided by
 2484 other benefits or advantages recovered by the claimant, may not
 2485 be included in this class, other than benefits or advantages
 2486 recovered or recoverable in discharge of familial obligations of
 2487 support or by way of succession at death or as proceeds of life
 2488 insurance, or as gratuities. No payment by an employer to her or
 2489 his employee may be treated as a gratuity.

2490 (c) Class 3.—Claims under nonassessable policies for
 2491 unearned premiums or premium refunds.

2492 (d) Class 4.—Claims of the Federal Government.

2493 (e) Class 5.—Debts due to employees for services
 2494 performed, to the extent that the debts do not exceed \$2,000 for
 2495 each employee and represent payment for services performed
 2496 within 6 months before the filing of the petition for
 2497 liquidation. Officers and directors are not entitled to the
 2498 benefit of this priority. This priority is in lieu of any other
 2499 similar priority that is authorized by law as to wages or
 2500 compensation of employees.

2501 (f) Class 6.—Claims of general creditors.

2502 (g) Class 7.—Claims of any state or local government.
 2503 Claims, including those of any state or local government for a
 2504 penalty or forfeiture, shall be allowed in this class, but only
 2505 to the extent of the pecuniary loss sustained from the act,
 2506 transaction, or proceeding out of which the penalty or
 2507 forfeiture arose, with reasonable and actual costs occasioned
 2508 thereby. The remainder of such claims shall be postponed to the
 2509 class of claims under paragraph (k)~~(j)~~.

2510 (h) Class 8.—Claims filed after the time specified in s.
 2511 631.181(3), except when ordered otherwise by the court to
 2512 prevent manifest injustice, or any claims other than claims
 2513 under paragraph (i) or under paragraph (k)~~(j)~~.

2514 (i) Class 9.—Surplus or contribution notes, or similar
 2515 obligations, and premium refunds on assessable policies.
 2516 Payments to members of domestic mutual insurance companies shall
 2517 be limited in accordance with law.

2518 (j) Class 10.—Interest on allowed claims of Classes 1
 2519 through 9, according to the terms of a plan to pay interest on
 2520 allowed claims proposed by the liquidator and approved by the

2521 receivership court.

2522 (k) Class 11.—The claims of shareholders or other owners.

2523 (2) In a liquidation proceeding involving one or more
 2524 reciprocal states, the order of distribution of the domiciliary
 2525 state shall control as to all claims of residents of this and
 2526 reciprocal states. All claims of residents of reciprocal states
 2527 shall be given equal priority of payment from general assets
 2528 regardless of where such assets are located.

2529 Section 35. If this act and CS for CS for HB 245 or
 2530 similar legislation are adopted in the same legislative session
 2531 or an extension thereof and become law, a surplus lines insurer
 2532 removing policies from the Citizens Property Insurance
 2533 Corporation must, pursuant to s. 627.351(6)(q)3.d.(II)(B),
 2534 Florida Statutes, maintain an A.M. Best Financial Strength
 2535 Rating of A- or better or, in the alternative, a Demotech
 2536 Financial Stability Rating of A or better.

2537 Section 36. Except as otherwise expressly provided in this
 2538 act, this act shall take effect July 1, 2012.