

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. 624.4625,  
6           F.S.; authorizing corporation not for profit self-  
7           insurance funds that are required to maintain a  
8           continuing program of excess insurance coverage and  
9           reserve evaluation to purchase excess insurance from  
10          eligible surplus lines insurers or reinsurers;  
11          authorizing certain corporation not for profit self-  
12          insurance funds to purchase certain group insurance  
13          coverage for its members; providing requirements and  
14          conditions relating to such purchases; amending s.  
15          624.501, F.S.; conforming a cross-reference; amending  
16          s. 624.402, F.S.; revising provisions relating to  
17          determining whether the domicile of an insurer is  
18          outside the United States for certain purposes;  
19          providing that life insurance policies or annuity  
20          contracts may be solicited, sold, or issued in this  
21          state by insurers domiciled outside the United States  
22          in certain circumstances; amending s. 624.610, F.S.;  
23          revising provisions specifying which insurers are not  
24          subject to certain filing requirements relating to  
25          reinsurance; amending s. 626.261, F.S.; authorizing  
26          the Department of Financial Services to provide  
27          examinations in Spanish; providing for costs to be  
28          paid by applicants who request examinations in

29 Spanish; providing a requirement with respect to  
30 whether an examination in Spanish should be allowed;  
31 amending s. 626.321, F.S.; revising provisions  
32 relating to limited licenses for travel insurance;  
33 providing that a full-time salaried employee of a  
34 licensed general lines agent or a business entity that  
35 offers travel planning services may be issued such  
36 license under certain circumstances; creating s.  
37 626.8685, F.S.; exempting certain employees who  
38 conduct data entry from licensure as insurance  
39 adjusters under certain circumstances; defining the  
40 term "automated claims adjudication system" with  
41 respect to application of such exemption; prohibiting  
42 residents of Canada from licensure as nonresident  
43 independent adjusters under certain circumstances;  
44 amending s. 626.9201, F.S.; providing specified  
45 exemptions from the requirement that an insurer  
46 provide notification of nonrenewal to an insured;  
47 amending s. 626.9541, F.S.; providing an additional  
48 action that is a misrepresentation and false  
49 advertising of insurance policies; amending s.  
50 627.351, F.S.; increasing the amount of surplus as to  
51 policyholders that certain insurers who are members of  
52 a plan to equitably apportion or share windstorm  
53 coverage may have in order to petition the Department  
54 of Financial Services to qualify as a limited  
55 apportionment company; requiring the Citizens Property  
56 Insurance Corporation to offer certain policies;

57 specifying acceptable valuations for replacement  
58 costs; creating s. 627.6011, F.S.; providing  
59 legislative intent relating to the application of  
60 certain mandatory health benefits regulated under ch.  
61 627, F.S.; defining the term "mandatory health  
62 benefits"; amending s. 627.6699, F.S.; revising the  
63 definition of the term "carrier" for purposes of the  
64 Employee Health Care Access Act; amending s. 627.7015,  
65 F.S.; revising provisions relating to alternative  
66 procedures for the resolution of disputed property  
67 insurance claims; amending s. 627.706, F.S.; providing  
68 for renewal of property insurance policies maintaining  
69 sinkhole coverage; amending s. 627.707, F.S.;  
70 providing a definition; amending s. 627.7295, F.S.;  
71 clarifying provisions relating to cancellation for  
72 nonpayment of premiums for motor vehicle insurance;  
73 allowing the cancellation of such policies under  
74 certain circumstances; amending s. 627.736, F.S.;  
75 specifying the interest rate applicable to the accrual  
76 of interest on overdue payments of personal injury  
77 protection benefits; amending s. 627.7405, F.S.;  
78 providing an exception for liability for right of  
79 reimbursement; amending s. 628.901, F.S.; providing  
80 definitions; amending s. 628.905, F.S.; expanding the  
81 kinds of insurance for which a captive insurer may  
82 seek licensure; limiting the risks that certain  
83 captive insurers may insure; specifying requirements  
84 and conditions relating to a captive insurer's

85 authority to conduct business; requiring that before  
86 licensure certain captive insurers must file or submit  
87 to the Office of Insurance Regulation specified  
88 information, documents, and statements; requiring a  
89 captive insurance company to file specific evidence  
90 with the office relating to the financial condition  
91 and quality of management and operations of the  
92 company; specifying certain fees to be paid by captive  
93 insurance companies; authorizing a foreign or alien  
94 captive insurance company to become a domestic captive  
95 insurance company by complying with specified  
96 requirements; authorizing the office to waive any  
97 requirements for public hearings relating to the  
98 redomestication of an alien captive insurance company;  
99 creating s. 628.906, F.S.; requiring biographical  
100 affidavits, background investigations, and fingerprint  
101 cards for all officers and directors; providing  
102 restrictions on officers and directors involved with  
103 insolvent insurers under certain conditions; providing  
104 restrictions on officers and directors that are found  
105 guilty of, or have pleaded guilty or nolo contendere  
106 to, any felony or crime involving moral turpitude,  
107 including a crime of dishonesty or breach of trust;  
108 amending s. 628.907, F.S.; revising capitalization  
109 requirements for specified captive insurance  
110 companies; requiring capital of specified captive  
111 insurance companies to be held in certain forms;  
112 requiring contributions to captive insurance companies

113 | that are stock insurer corporations to be in a certain  
114 | form; authorizing the office to issue a captive  
115 | insurance company license conditioned upon certain  
116 | evidence relating to possession of specified capital;  
117 | authorizing revocation of a conditional license under  
118 | certain circumstances; authorizing the office to  
119 | prescribe certain additional capital and net asset  
120 | requirements; requiring such additional requirements  
121 | relating to capital and net assets to be held in  
122 | specified forms; requiring dividends or distributions  
123 | of capital or surplus to meet certain conditions and  
124 | be approved by the office; requiring certain  
125 | irrevocable letters of credit to meet certain  
126 | standards; creating s. 628.908, F.S.; prohibiting the  
127 | issuance of a license to specified captive insurance  
128 | companies unless such companies possess and maintain  
129 | certain levels of unimpaired surplus; authorizing the  
130 | office to condition issuance of a captive insurance  
131 | company license upon the provision of certain evidence  
132 | relating to the possession of a minimum amount of  
133 | unimpaired surplus; authorizing revocation of a  
134 | conditional license under certain circumstances;  
135 | requiring dividends or distributions of capital or  
136 | surplus to meet certain conditions and be approved by  
137 | the office; requiring certain irrevocable letters of  
138 | credit to meet certain standards; amending s. 628.909,  
139 | F.S.; providing for applicability of certain statutory  
140 | provisions to specified captive insurers; creating s.

141 628.910, F.S.; providing requirements, options, and  
142 conditions relating to how a captive insurance company  
143 may be incorporated or organized as a business;  
144 amending s. 628.911, F.S.; providing reporting  
145 requirements for specified captive insurance companies  
146 and captive reinsurance companies; creating s.  
147 628.912, F.S.; authorizing a captive reinsurance  
148 company to discount specified losses subject to  
149 certain conditions; amending s. 628.913, F.S.;  
150 authorizing a captive reinsurance company to apply to  
151 the office for licensure to write reinsurance covering  
152 property and casualty insurance or reinsurance  
153 contracts; authorizing the office to allow a captive  
154 reinsurance company to write reinsurance contracts  
155 covering risks in any state; specifying that a captive  
156 reinsurance company is subject to specified  
157 requirements and must meet specified conditions in  
158 order to conduct business in this state; creating s.  
159 628.914, F.S.; specifying requirements and conditions  
160 relating to the capitalization or maintenance of  
161 reserves by a captive reinsurance company; creating s.  
162 628.9141, F.S.; specifying requirements and conditions  
163 relating to the incorporation of a captive reinsurance  
164 company; creating s. 628.9142, F.S.; providing for the  
165 effect on reserves of certain actions taken by a  
166 captive insurance company relating to providing  
167 reinsurance for specified risks; creating s. 628.918,  
168 F.S.; requiring a specified percentage of a captive

169 reinsurance company's assets to be managed by an asset  
 170 manager domiciled in this state; creating s. 628.919,  
 171 F.S.; authorizing the Financial Services Commission to  
 172 adopt rules establishing certain standards for control  
 173 of an unaffiliated business by a parent or affiliated  
 174 company relating to coverage by a pure captive  
 175 insurance company; creating s. 628.920, F.S.;

176 requiring that a licensed captive insurance company  
 177 must be considered for issuance of a certificate of  
 178 authority as an insurer under certain circumstances;

179 amending s. 626.7491, F.S.; conforming a cross-  
 180 reference; repealing s. 628.903, F.S., relating to the  
 181 definition of the term "industrial insured captive  
 182 insurer," to conform to changes made by the act;

183 amending s. 631.271, F.S.; providing for priority of  
 184 interest on allowed claims; providing that if this act  
 185 and certain legislation become law in the same  
 186 legislative session or an extension thereof, a surplus  
 187 lines insurer removing policies from the Citizens  
 188 Property Insurance Corporation must maintain a  
 189 specified financial rating; providing effective dates.

190  
 191 Be It Enacted by the Legislature of the State of Florida:

192  
 193 Section 1. Subsection (3) of section 320.27, Florida  
 194 Statutes, is amended to read:

195 320.27 Motor vehicle dealers.—

196 (3) APPLICATION AND FEE.—The application for the license

197 shall be in such form as may be prescribed by the department and  
198 shall be subject to such rules with respect thereto as may be so  
199 prescribed by it. Such application shall be verified by oath or  
200 affirmation and shall contain a full statement of the name and  
201 birth date of the person or persons applying therefor; the name  
202 of the firm or copartnership, with the names and places of  
203 residence of all members thereof, if such applicant is a firm or  
204 copartnership; the names and places of residence of the  
205 principal officers, if the applicant is a body corporate or  
206 other artificial body; the name of the state under whose laws  
207 the corporation is organized; the present and former place or  
208 places of residence of the applicant; and prior business in  
209 which the applicant has been engaged and the location thereof.  
210 Such application shall describe the exact location of the place  
211 of business and shall state whether the place of business is  
212 owned by the applicant and when acquired, or, if leased, a true  
213 copy of the lease shall be attached to the application. The  
214 applicant shall certify that the location provides an adequately  
215 equipped office and is not a residence; that the location  
216 affords sufficient unoccupied space upon and within which  
217 adequately to store all motor vehicles offered and displayed for  
218 sale; and that the location is a suitable place where the  
219 applicant can in good faith carry on such business and keep and  
220 maintain books, records, and files necessary to conduct such  
221 business, which will be available at all reasonable hours to  
222 inspection by the department or any of its inspectors or other  
223 employees. The applicant shall certify that the business of a  
224 motor vehicle dealer is the principal business which shall be



225 | conducted at that location. Such application shall contain a  
226 | statement that the applicant is either franchised by a  
227 | manufacturer of motor vehicles, in which case the name of each  
228 | motor vehicle that the applicant is franchised to sell shall be  
229 | included, or an independent (nonfranchised) motor vehicle  
230 | dealer. Such application shall contain such other relevant  
231 | information as may be required by the department, including  
232 | evidence that the applicant is insured under a garage liability  
233 | insurance policy or a general liability insurance policy coupled  
234 | with a business automobile policy, which shall include, at a  
235 | minimum, \$25,000 combined single-limit liability coverage  
236 | including bodily injury and property damage protection and  
237 | \$10,000 personal injury protection. However, a salvage motor  
238 | vehicle dealer as defined in subparagraph (1)(c)5. is exempt  
239 | from the requirements for garage liability insurance and  
240 | personal injury protection insurance on those vehicles that  
241 | cannot be legally operated on roads, highways, or streets in  
242 | this state. Franchise dealers must submit a garage liability  
243 | insurance policy, and all other dealers must submit a garage  
244 | liability insurance policy or a general liability insurance  
245 | policy coupled with a business automobile policy. Such policy  
246 | shall be for the license period, and evidence of a new or  
247 | continued policy shall be delivered to the department at the  
248 | beginning of each license period. Upon making initial  
249 | application, the applicant shall pay to the department a fee of  
250 | \$300 in addition to any other fees now required by law; upon  
251 | making a subsequent renewal application, the applicant shall pay  
252 | to the department a fee of \$75 in addition to any other fees now

253 required by law. Upon making an application for a change of  
254 location, the person shall pay a fee of \$50 in addition to any  
255 other fees now required by law. The department shall, in the  
256 case of every application for initial licensure, verify whether  
257 certain facts set forth in the application are true. Each  
258 applicant, general partner in the case of a partnership, or  
259 corporate officer and director in the case of a corporate  
260 applicant, must file a set of fingerprints with the department  
261 for the purpose of determining any prior criminal record or any  
262 outstanding warrants. The department shall submit the  
263 fingerprints to the Department of Law Enforcement for state  
264 processing and forwarding to the Federal Bureau of Investigation  
265 for federal processing. The actual cost of state and federal  
266 processing shall be borne by the applicant and is in addition to  
267 the fee for licensure. The department may issue a license to an  
268 applicant pending the results of the fingerprint investigation,  
269 which license is fully revocable if the department subsequently  
270 determines that any facts set forth in the application are not  
271 true or correctly represented.

272 Section 2. Paragraph (e) of subsection (1) of section  
273 624.4625, Florida Statutes, is amended, subsection (5) of that  
274 section is renumbered as subsection (6), and a new subsection  
275 (5) is added to that section, to read:

276 624.4625 Corporation not for profit self-insurance funds.—

277 (1) Notwithstanding any other provision of law, any two or  
278 more corporations not for profit located in and organized under  
279 the laws of this state may form a self-insurance fund for the  
280 purpose of pooling and spreading liabilities of its group

281 members in any one or combination of property or casualty risk,  
282 provided the corporation not for profit self-insurance fund that  
283 is created:

284 (e) Maintains a continuing program of excess insurance  
285 coverage and reserve evaluation to protect the financial  
286 stability of the fund in an amount and manner determined by a  
287 qualified actuary. At a minimum, this program must:

288 1. Purchase excess insurance from authorized insurance  
289 carriers or eligible surplus lines insurers or reinsurers.

290 2. Retain a per-loss occurrence that does not exceed  
291 \$350,000.

292 (5) A corporation not for profit self-insurance fund  
293 formed under this section, which is hereby deemed to be an  
294 association in compliance with s. 627.654, may purchase for its  
295 members, on a group basis, any one or more policies of health,  
296 accident, or hospitalization coverage, provided:

297 (a) Insurance policies purchased to provide coverage under  
298 this subsection are purchased only from authorized insurance  
299 companies that participate in the Florida Life and Health  
300 Insurance Guaranty Association and such policy forms have been  
301 filed with and approved by the office;

302 (b) The corporation not for profit self-insurance fund  
303 retains no risk related to coverage provided under this  
304 subsection;

305 (c) An insurance policy purchased to provide coverage  
306 under this subsection shall not be subject to the restrictions  
307 relating to the premium rates for small employer groups under  
308 chapter 627;

309        (d) The premiums paid for insurance policies purchased  
 310 pursuant to paragraph (a) shall not count toward the \$5 million  
 311 requirement in paragraph (1) (a); and

312        (e) Any individual not-for-profit entity participating as  
 313 a member of the association for the purchase of a master health,  
 314 accident, or hospitalization policy by the association under  
 315 this subsection may retain its individual insurance agent and  
 316 such agent shall be deemed an additional agent of record for the  
 317 master policy issued to the association.

318        Section 3. Subsection (8) of section 624.402, Florida  
 319 Statutes, is amended, and subsection (9) is added to that  
 320 section, to read:

321        624.402 Exceptions, certificate of authority required.—A  
 322 certificate of authority shall not be required of an insurer  
 323 with respect to:

324        (8) (a) An insurer domiciled outside the United States  
 325 covering only persons who, at the time of issuance or renewal,  
 326 are nonresidents of the United States if:

327        1. ~~The insurer or any affiliated person as defined in s.~~  
 328 ~~624.04 under common ownership or control with the insurer does~~  
 329 not solicit, sell, or accept application for any insurance  
 330 policy or contract to be delivered or issued for delivery to any  
 331 person in any state;

332        2. The insurer registers with the office via a letter of  
 333 notification upon commencing business from this state;

334        3. The insurer provides the following information, in  
 335 English, to the office annually by March 1:

336 a. The name of the insurer; the country of domicile; the  
337 address of the insurer's principal office and office in this  
338 state; the names of the owners of the insurer and their  
339 percentage of ownership; the names of the officers and directors  
340 of the insurer; the name, e-mail, and telephone number of a  
341 contact person for the insurer; and the number of individuals  
342 who are employed by the insurer or its affiliates in this state;

343 b. The lines of insurance and types of products offered by  
344 the insurer;

345 c. A statement from the applicable regulatory body of the  
346 insurer's domicile certifying that the insurer is licensed or  
347 registered for those lines of insurance and types of products in  
348 that domicile; and

349 d. A copy of the filings required by the applicable  
350 regulatory body of the insurer's country of domicile in that  
351 country's official language or in English, if available;

352 4. All certificates, policies, or contracts issued in this  
353 state showing coverage under the insurer's policy include the  
354 following statement in a contrasting color and at least 10-point  
355 type: "The policy providing your coverage and the insurer  
356 providing this policy have not been approved by the Florida  
357 Office of Insurance Regulation"; and

358 5. If ~~In the event~~ the insurer ceases to do business from  
359 this state, the insurer will provide written notification to the  
360 office within 30 days after cessation.

361 (b) For purposes of this subsection, "nonresident" means a  
362 trust or other entity organized and domiciled under the laws of  
363 a country other than the United States or a person who resides

364 in and maintains a physical place of domicile in a country other  
 365 than the United States, which he or she recognizes as and  
 366 intends to maintain as his or her permanent home. A nonresident  
 367 does not include an unauthorized immigrant present in the United  
 368 States. Notwithstanding any other provision of law, it is  
 369 conclusively presumed, for purposes of this subsection, that a  
 370 person is a resident of the United States if such person has:

- 371 1. Had his or her principal place of domicile in the
- 372 United States for 180 days or more in the 365 days prior to
- 373 issuance or renewal of the policy;
- 374 2. Registered to vote in any state;
- 375 3. Made a statement of domicile in any state; or
- 376 4. Filed for homestead tax exemption on property in any
- 377 state.

378 (c) Subject to the limitations provided in this  
 379 subsection, services, including those listed in s. 624.10, may  
 380 be provided by the insurer or an affiliated person as defined in  
 381 s. 624.04 under common ownership or control with the insurer.

382 (d) An alien insurer transacting insurance in this state  
 383 without complying with this subsection shall be in violation of  
 384 this chapter and subject to the penalties provided in s. 624.15.

385 (9) (a) Life insurance policies or annuity contracts may be  
 386 solicited, sold, or issued in this state by an insurer domiciled  
 387 outside the United States, covering only persons who, at the  
 388 time of issuance are nonresidents of the United States, provided  
 389 that:

- 390 1. The insurer is currently an authorized insurer in his
- 391 or her country of domicile as to the kind or kinds of insurance

392 proposed to be offered and must have been such an insurer for  
393 not fewer than the immediately preceding 3 years, or must be the  
394 wholly owned subsidiary of such authorized insurer or must be  
395 the wholly owned subsidiary of an already eligible authorized  
396 insurer as to the kind or kinds of insurance proposed for a  
397 period of not fewer than the immediately preceding 3 years.  
398 However, the office may waive the 3-year requirement if the  
399 insurer has operated successfully for a period of at least the  
400 immediately preceding year and has capital and surplus of not  
401 less than \$25 million.

402 2. Before the office may grant eligibility, the requesting  
403 insurer furnishes the office with a duly authenticated copy of  
404 its current annual financial statement, in English, and with all  
405 monetary values therein expressed in United States dollars, at  
406 an exchange rate then-current and shown in the statement, in the  
407 case of statements originally made in the currencies of other  
408 countries, and with such additional information relative to the  
409 insurer as the office may request.

410 3. The insurer has and maintains surplus as to  
411 policyholders of not less than \$15 million. Any such surplus as  
412 to policyholders shall be represented by investments consisting  
413 of eligible investments for like funds of like domestic insurers  
414 under part II of chapter 625; however, any such surplus as to  
415 policyholders may be represented by investments permitted by the  
416 domestic regulator of such alien insurance company if such  
417 investments are substantially similar in terms of quality,  
418 liquidity, and security to eligible investments for like funds  
419 of like domestic insurers under part II of chapter 625.

420       4. The insurer has of good reputation as to providing  
421 service to its policyholders and the payment of losses and  
422 claims.

423       5. To maintain eligibility, the insurer furnishes the  
424 office within the time period specified in s. 624.424(1), a duly  
425 authenticated copy of its current annual and quarterly financial  
426 statements, in English, and with all monetary values therein  
427 expressed in United States dollars, at an exchange rate then-  
428 current and shown in the statement, in the case of statements  
429 originally made in the currencies of other countries, and with  
430 such additional information relative to the insurer as the  
431 office may request.

432       6. An insurer receiving eligibility under this subsection  
433 agrees to make its books and records pertaining to its  
434 operations in this state available for inspection during normal  
435 business hours upon request of the office.

436       7. The insurer notifies the applicant in clear and  
437 conspicuous language:

438       a. The date of organization of the insurer.

439       b. The identity of and rating assigned by each recognized  
440 insurance company rating organization that has rated the insurer  
441 or, if applicable, that the insurer is unrated.

442       c. That the insurer does not hold a certificate of  
443 authority issued in this state and that the office does not  
444 exercise regulatory oversight over the insurer.

445       d. The identity and address of the regulatory authority  
446 exercising oversight of the insurer. This paragraph does not  
447 impose upon the office any duty or responsibility to determine



448 the actual financial condition or claims practices of any  
449 unauthorized insurer, and the status of eligibility, if granted  
450 by the office, indicates only that the insurer appears to be  
451 financially sound and to have satisfactory claims practices and  
452 that the office has no credible evidence to the contrary.

453 (b) If the office has reason to believe that an insurer  
454 issuing policies or contracts pursuant to this subsection is  
455 insolvent or is in unsound financial condition, does not make  
456 reasonable prompt payment of benefits, or is no longer eligible  
457 under the conditions specified in this subsection, the office  
458 may conduct an examination or investigation in accordance with  
459 s. 624.316, s. 624.3161, or s. 624.320 and, if the findings of  
460 the examination or investigation warrant, may withdraw the  
461 eligibility of the insurer to issue policies or contracts  
462 pursuant to this subsection without having a certificate of  
463 authority issued by the office.

464 (c) This subsection does not provide an exception to the  
465 agent licensure requirements of chapter 626. A insurer issuing  
466 policies or contracts pursuant to this subsection shall appoint  
467 the agents that the insurer uses to sell such policies or  
468 contracts as provided in chapter 626.

469 (d) An insurer issuing policies or contracts pursuant to  
470 this subsection is subject to part IX of chapter 626, the Unfair  
471 Insurance Trade Practices Act, and the office may take such  
472 actions against the insurer for a violation as are provided in  
473 that part.

474 (e) Policies and contracts issued pursuant to this  
475 subsection are not subject to the premium tax specified in s.  
476 624.509.

477 (f) Applications for life insurance coverage offered under  
478 this subsection must contain, in contrasting color and not less  
479 than 12-point type, the following statement on the same page as  
480 the applicant's signature:

481  
482 This policy is primarily governed by the laws of a  
483 foreign country. As a result, all of the rating and  
484 underwriting laws applicable to policies filed in this  
485 state do not apply to this coverage, which may result  
486 in your premiums being higher than would be  
487 permissible under a Florida-approved policy. A  
488 purchase of individual life insurance should be  
489 considered carefully, as future medical conditions may  
490 make it impossible to qualify for another individual  
491 life policy. If the insurer issuing your policy  
492 becomes insolvent, this policy is not covered by the  
493 Florida Life and Health Insurance Guaranty  
494 Association. For information concerning individual  
495 life coverage under a Florida-approved policy, consult  
496 your agent or the Florida Department of Financial  
497 Services.

498  
499 (g) All life insurance policies and annuity contracts  
500 issued pursuant to this subsection must contain on the first

501 page of the policy or contract, in contrasting color and not  
502 less than 10-point type, the following statement:

503  
504 The benefits of the policy providing your coverage are  
505 governed primarily by the law of a country other than  
506 the United States.

507  
508 (h) All single-premium life insurance policies and single-  
509 premium annuity contracts issued to persons who are not  
510 residents of the United States and are not nonresidents  
511 illegally residing in the United States pursuant to this  
512 subsection are subject to chapter 896.

513 (i) For purposes of this subsection, the term  
514 "nonresident" means a trust or other entity or person as defined  
515 in subsection 624.402(8).

516 (j) An alien insurer transacting insurance in this state  
517 without complying with this subsection is in violation of this  
518 chapter and subject to the penalties provided in s. 624.15, and  
519 must also pay the fine required for each violation as prescribed  
520 by s. 626.910.

521 Section 4. Paragraph (b) of subsection (9) of section  
522 624.501, Florida Statutes, is amended to read:

523 624.501 Filing, license, appointment, and miscellaneous  
524 fees.—The department, commission, or office, as appropriate,  
525 shall collect in advance, and persons so served shall pay to it  
526 in advance, fees, licenses, and miscellaneous charges as  
527 follows:

528 (9)

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

535 Section 5. Paragraph (c) of subsection (11) of section  
 536 624.610, Florida Statutes, is amended to read:

537 624.610 Reinsurance.—

538 (11)

539 (c) This subsection applies to cessions of directly  
 540 written risk or loss. This subsection does not apply to  
 541 contracts of facultative reinsurance or to any ceding insurer  
 542 that has a with surplus as to policyholders which ~~that~~ exceeds  
 543 \$100 million as of the immediately preceding December 31. A  
 544 ~~Additionally, any~~ ceding insurer otherwise subject to this  
 545 section which had with less than \$500,000 in direct premiums  
 546 written in this state during the preceding calendar year and no  
 547 more than \$250,000 in direct premiums written in this state  
 548 during the preceding calendar quarter, and which had fewer or  
 549 ~~with less~~ than 1,000 policyholders at the end of the preceding  
 550 calendar year, is exempt from the requirements of this  
 551 ~~subsection. However, any ceding insurer otherwise subject to~~  
 552 ~~this section with more than \$250,000 in direct premiums written~~  
 553 ~~in this state during the preceding calendar quarter is not~~  
 554 ~~exempt from the requirements of this subsection.~~

555 Section 6. Subsection (5) is added to section 626.261,  
 556 Florida Statutes, to read:

557 626.261 Conduct of examination.—

558 (5) The department may provide licensure examinations in  
 559 Spanish. Applicants requesting examination or reexamination in  
 560 Spanish must bear the full cost of the department's development,  
 561 preparation, administration, grading, and evaluation of the  
 562 Spanish-language examination. When determining whether it is in  
 563 the public interest to allow the examination to be translated  
 564 into and administered in Spanish, the department shall consider  
 565 the percentage of the population who speak Spanish.

566 Section 7. Paragraph (c) of subsection (1) of section  
 567 626.321, Florida Statutes, is amended to read:

568 626.321 Limited licenses.—

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

573 (c) Travel insurance.—License covering only policies and  
 574 certificates of travel insurance, which are subject to review by  
 575 the office ~~under s. 624.605(1)(g)~~. Policies and certificates of  
 576 travel insurance may provide coverage for risks incidental to  
 577 travel, planned travel, or accommodations while traveling,  
 578 including, but not limited to, accidental death and  
 579 dismemberment of a traveler; trip or event cancellation,  
 580 interruption, or delay; loss of or damage to personal effects or  
 581 travel documents; damages to travel accommodations; baggage  
 582 delay; emergency medical travel or evacuation of a traveler; or  
 583 medical, surgical, and hospital expenses related to an illness  
 584 or emergency of a traveler. ~~Any~~ Such policy or certificate may

585 be issued for terms longer than 90 ~~60~~ days, but ~~each policy or~~  
 586 ~~certificate~~, other than a policy or certificate providing  
 587 coverage for air ambulatory services only, each policy or  
 588 certificate must be limited to coverage for travel or use of  
 589 accommodations of no longer than 90 ~~60~~ days. The license may be  
 590 issued only:

591 1. To a full-time salaried employee of a common carrier or  
 592 a full-time salaried employee or owner of a transportation  
 593 ticket agency and may authorize the sale of such ticket policies  
 594 only in connection with the sale of transportation tickets, or  
 595 to the full-time salaried employee of such an agent. ~~No~~ Such  
 596 policy may not ~~shall~~ be for a ~~duration of~~ more than 48 hours or  
 597 more than ~~for~~ the duration of a specified one-way trip or round  
 598 trip.

599 2. To an entity or individual that is:

600 a. The developer of a timeshare plan that is the subject  
 601 of an approved public offering statement under chapter 721;

602 b. An exchange company operating an exchange program  
 603 approved under chapter 721;

604 c. A managing entity operating a timeshare plan approved  
 605 under chapter 721;

606 d. A seller of travel as defined in chapter 559; or

607 e. A subsidiary or affiliate of any of the entities  
 608 described in sub-subparagraphs a.-d.

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

613 a. A license issued to a business entity that offers  
614 travel planning services must encompass each office, branch  
615 office, or place of business making use of the entity's business  
616 name in order to offer, solicit, and sell insurance pursuant to  
617 this paragraph.

618 b. The application for licensure must list the name,  
619 address, and phone number for each office, branch office, or  
620 place of business that is to be covered by the license. The  
621 licensee shall notify the department of the name, address, and  
622 phone number of any new location that is to be covered by the  
623 license before the new office, branch office, or place of  
624 business engages in the sale of insurance pursuant to this  
625 paragraph. The licensee shall notify the department within 30  
626 days after the closing or terminating of an office, branch  
627 office, or place of business. Upon receipt of the notice, the  
628 department shall delete the office, branch office, or place of  
629 business from the license.

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

634  
635 A licensee shall require each individual ~~employee~~ who offers  
636 policies or certificates under ~~this~~ subparagraph 2. or  
637 subparagraph 3. to receive initial training from a general lines  
638 agent or an insurer authorized under chapter 624 to transact  
639 insurance within this state. For an entity applying for a  
640 license as a travel insurance agent, the fingerprinting

641 requirement of this section applies only to the president,  
642 secretary, and treasurer and to any other officer or person who  
643 directs or controls the travel insurance operations of the  
644 entity.

645 Section 8. Effective January 1, 2013, section 626.8685,  
646 Florida Statutes, is created to read:

647 626.8685 Portable electronics insurance claims; exemption;  
648 licensure restriction.-

649 (1) This part does not apply to any individual who  
650 collects claims information from, or furnishes claims  
651 information to, insureds or claimants, and who conducts data  
652 entry, including entering data into an automated claims  
653 adjudication system, provided that the individual is an employee  
654 of a business entity licensed under this chapter, or its  
655 affiliate, and no more than 25 such persons are under the  
656 supervision of one licensed independent adjuster or licensed  
657 agent who is exempt from licensure pursuant to s. 626.862. For  
658 purposes of this subsection, the term "automated claims  
659 adjudication system" means a preprogrammed computer system  
660 designed for the collection, data entry, calculation, and final  
661 resolution of portable electronics insurance claims that:

662 (a) May be used only by a licensed independent adjuster,  
663 licensed agent, or supervised individual operating pursuant to  
664 this subsection;

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



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

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

675        Section 9. Section 626.9201, Florida Statutes, is amended  
 676 to read:

677        626.9201 Notice of cancellation or nonrenewal.—

678        (1) An insurer issuing a policy providing coverage for  
 679 property, casualty, surety, or marine insurance must ~~shall~~ give  
 680 the first named insured at least 45 days' advance written notice  
 681 of nonrenewal. If the policy is not to be renewed, the written  
 682 notice shall state the ~~reason or~~ reasons as to why the policy is  
 683 not to be renewed. This subsection does not apply:

684        (a) If the insurer has manifested its willingness to  
 685 renew, and the offer is not rescinded prior to expiration of the  
 686 policy; or

687        (b) If a notice of cancellation for nonpayment of premium  
 688 is provided under subsection (2).

689        (2) An insurer issuing a policy providing coverage for  
 690 property, casualty, surety, or marine insurance must ~~shall~~ give  
 691 the named insured written notice of cancellation or termination  
 692 other than nonrenewal at least 45 days before ~~prior to~~ the  
 693 effective date of the cancellation or termination, including in

694 the written notice the ~~reason or~~ reasons for the cancellation or  
695 termination, except that:

696 (a) If ~~When~~ cancellation is for nonpayment of premium, at  
697 least 10 days' written notice of cancellation accompanied by the  
698 reason for cancellation must ~~therefor shall~~ be given. As used in  
699 this paragraph, the term "nonpayment of premium" means the  
700 failure of the named insured to discharge when due any of his or  
701 her obligations in connection with the payment of premiums on a  
702 policy or an installment of such a premium, whether the premium  
703 or installment is payable directly to the insurer or its agent  
704 or indirectly under any plan for financing premiums or extension  
705 of credit or the failure of the named insured to maintain  
706 membership in an organization if such membership is a condition  
707 precedent to insurance coverage. The term also includes the  
708 failure of a financial institution to honor the check of an  
709 applicant for insurance which was delivered to a licensed agent  
710 for payment of a premium, even if the agent previously delivered  
711 or transferred the premium to the insurer. If a correctly  
712 dishonored check represents payment of the initial premium, the  
713 contract and all contractual obligations are void ab initio  
714 unless the nonpayment is cured within the earlier of 5 days  
715 after actual notice by certified mail is received by the  
716 applicant or 15 days after notice is sent to the applicant by  
717 certified mail or registered mail, and, if the contract is void,  
718 any premium received by the insurer from a third party shall be  
719 refunded to that party in full; and

720 (b) If ~~When such~~ cancellation or termination occurs during  
721 the first 90 days during which the insurance is in force and if

722 the insurance is canceled or terminated for reasons other than  
 723 nonpayment, at least 20 days' written notice of cancellation or  
 724 termination accompanied by the reason for cancellation or  
 725 termination must ~~therefor shall~~ be given, except if ~~where~~ there  
 726 has been a material misstatement or misrepresentation or failure  
 727 to comply with the underwriting requirements established by the  
 728 insurer.

729 (3) If an insurer fails to provide the ~~45-day or 20-day~~  
 730 written notice as required under this section, the coverage  
 731 provided to the named insured remains ~~shall remain~~ in effect  
 732 until 45 days after the notice is given or until the effective  
 733 date of replacement coverage obtained by the named insured,  
 734 whichever occurs first. The premium for the coverage remains  
 735 ~~shall remain~~ the same during any such extension period.

736 Section 10. Paragraphs (a) and (h) of subsection (1) of  
 737 section 626.9541, Florida Statutes, are amended to read:

738 626.9541 Unfair methods of competition and unfair or  
 739 deceptive acts or practices defined.—

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

743 (a) Misrepresentations and false advertising of insurance  
 744 policies.—Knowingly making, issuing, circulating, or causing to  
 745 be made, issued, or circulated, any estimate, illustration,  
 746 circular, statement, sales presentation, omission, ~~or~~  
 747 comparison, or property and casualty certificate of insurance  
 748 altered after being issued, which:

749 1. Misrepresents the benefits, advantages, conditions, or

750 terms of any insurance policy.

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

753 3. Makes any false or misleading statements as to the  
754 dividends or share of surplus previously paid on any insurance  
755 policy.

756 4. Is misleading, or is a misrepresentation, as to the  
757 financial condition of any person or as to the legal reserve  
758 system upon which any life insurer operates.

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

761 6. Is a misrepresentation for the purpose of inducing, or  
762 tending to induce, the lapse, forfeiture, exchange, conversion,  
763 or surrender of any insurance policy.

764 7. Is a misrepresentation for the purpose of effecting a  
765 pledge or assignment of, or effecting a loan against, any  
766 insurance policy.

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

769 9. Uses any advertisement that would mislead or otherwise  
770 cause a reasonable person to believe mistakenly that the state  
771 or the Federal Government is responsible for the insurance sales  
772 activities of any person or stands behind any person's credit or  
773 that any person, the state, or the Federal Government guarantees  
774 any returns on insurance products or is a source of payment of  
775 any insurance obligation of or sold by any person.

776 (h) Unlawful rebates.—

777 1. Except as otherwise expressly provided by law, or in an

778 applicable filing with the office, knowingly:

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

782 b. Paying, allowing, or giving, or offering to pay, allow,  
783 or give, directly or indirectly, as inducement to such insurance  
784 contract, any unlawful rebate of premiums payable on the  
785 contract, any special favor or advantage in the dividends or  
786 other benefits thereon, or any valuable consideration or  
787 inducement whatever not specified in the contract;

788 c. Giving, selling, or purchasing, or offering to give,  
789 sell, or purchase, as inducement to such insurance contract or  
790 in connection therewith, any stocks, bonds, or other securities  
791 of any insurance company or other corporation, association, or  
792 partnership, or any dividends or profits accrued thereon, or  
793 anything of value whatsoever not specified in the insurance  
794 contract.

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

798 a. In the case of any contract of life insurance or life  
799 annuity, paying bonuses to all policyholders or otherwise  
800 abating their premiums in whole or in part out of surplus  
801 accumulated from nonparticipating insurance; provided that any  
802 such bonuses or abatement of premiums is fair and equitable to  
803 all policyholders and for the best interests of the company and  
804 its policyholders.

805 b. In the case of life insurance policies issued on the

806 industrial debit plan, making allowance to policyholders who  
807 have continuously for a specified period made premium payments  
808 directly to an office of the insurer in an amount which fairly  
809 represents the saving in collection expenses.

810 c. Readjustment of the rate of premium for a group  
811 insurance policy based on the loss or expense thereunder, at the  
812 end of the first or any subsequent policy year of insurance  
813 thereunder, which may be made retroactive only for such policy  
814 year.

815 d. Issuance of life insurance policies or annuity  
816 contracts at rates less than the usual rates of premiums for  
817 such policies or contracts, as group insurance or employee  
818 insurance as defined in this code.

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

823 3.a. No title insurer, or any member, employee, attorney,  
824 agent, or agency thereof, shall pay, allow, or give, or offer to  
825 pay, allow, or give, directly or indirectly, as inducement to  
826 title insurance, or after such insurance has been effected, any  
827 rebate or abatement of the premium or any other charge or fee,  
828 or provide any special favor or advantage, or any monetary  
829 consideration or inducement whatever.

830 b. Nothing in this subparagraph shall be construed as  
831 prohibiting the payment of fees to attorneys at law duly  
832 licensed to practice law in the courts of this state, for  
833 professional services, or as prohibiting the payment of earned

834 portions of the premium to duly appointed agents or agencies who  
835 actually perform services for the title insurer. Nothing in this  
836 subparagraph shall be construed as prohibiting a rebate or  
837 abatement of an attorney ~~attorney's~~ fee charged for professional  
838 services, or that portion of the premium that is not required to  
839 be retained by the insurer pursuant to s. 627.782(1), or any  
840 other agent charge or fee to the person responsible for paying  
841 the premium, charge, or fee.

842 c. No insured named in a policy, or any other person  
843 directly or indirectly connected with the transaction involving  
844 the issuance of such policy, including, but not limited to, any  
845 mortgage broker, real estate broker, builder, or attorney, any  
846 employee, agent, agency, or representative thereof, or any other  
847 person whatsoever, shall knowingly receive or accept, directly  
848 or indirectly, any rebate or abatement of any portion of the  
849 title insurance premium or of any other charge or fee or any  
850 monetary consideration or inducement whatsoever, except as set  
851 forth in sub-subparagraph b.; provided, in no event shall any  
852 portion of the attorney ~~attorney's~~ fee, any portion of the  
853 premium that is not required to be retained by the insurer  
854 pursuant to s. 627.782(1), any agent charge or fee, or any other  
855 monetary consideration or inducement be paid directly or  
856 indirectly for the referral of title insurance business.

857 Section 11. Paragraph (b) of subsection (2) and paragraph  
858 (c) of subsection (6) of section 627.351, Florida Statutes, are  
859 amended, and paragraph (ff) is added to subsection (6) of that  
860 section, to read:

861 627.351 Insurance risk apportionment plans.—

862 (2) WINDSTORM INSURANCE RISK APPORTIONMENT.—

863 (b) The department shall require all insurers holding a  
 864 certificate of authority to transact property insurance on a  
 865 direct basis in this state, other than joint underwriting  
 866 associations and other entities formed pursuant to this section,  
 867 to provide windstorm coverage to applicants from areas  
 868 determined to be eligible pursuant to paragraph (c) who in good  
 869 faith are entitled to, but are unable to procure, such coverage  
 870 through ordinary means; or it shall adopt a reasonable plan or  
 871 plans for the equitable apportionment or sharing among such  
 872 insurers of windstorm coverage, which may include formation of  
 873 an association for this purpose. As used in this subsection, the  
 874 term "property insurance" means insurance on real or personal  
 875 property, as defined in s. 624.604, including insurance for  
 876 fire, industrial fire, allied lines, farmowners multiperil,  
 877 homeowners' multiperil, commercial multiperil, and mobile homes,  
 878 and including liability coverages on all such insurance, but  
 879 excluding inland marine as defined in s. 624.607(3) and  
 880 excluding vehicle insurance as defined in s. 624.605(1)(a) other  
 881 than insurance on mobile homes used as permanent dwellings. The  
 882 department shall adopt rules that provide a formula for the  
 883 recovery and repayment of any deferred assessments.

884 1. For the purpose of this section, properties eligible  
 885 for such windstorm coverage are defined as dwellings, buildings,  
 886 and other structures, including mobile homes which are used as  
 887 dwellings and which are tied down in compliance with mobile home  
 888 tie-down requirements prescribed by the Department of Highway  
 889 Safety and Motor Vehicles pursuant to s. 320.8325, and the



890 contents of all such properties. An applicant or policyholder is  
891 eligible for coverage only if an offer of coverage cannot be  
892 obtained by or for the applicant or policyholder from an  
893 admitted insurer at approved rates.

894 2.a.(I) All insurers required to be members of such  
895 association shall participate in its writings, expenses, and  
896 losses. Surplus of the association shall be retained for the  
897 payment of claims and shall not be distributed to the member  
898 insurers. Such participation by member insurers shall be in the  
899 proportion that the net direct premiums of each member insurer  
900 written for property insurance in this state during the  
901 preceding calendar year bear to the aggregate net direct  
902 premiums for property insurance of all member insurers, as  
903 reduced by any credits for voluntary writings, in this state  
904 during the preceding calendar year. For the purposes of this  
905 subsection, the term "net direct premiums" means direct written  
906 premiums for property insurance, reduced by premium for  
907 liability coverage and for the following if included in allied  
908 lines: rain and hail on growing crops; livestock; association  
909 direct premiums booked; National Flood Insurance Program direct  
910 premiums; and similar deductions specifically authorized by the  
911 plan of operation and approved by the department. A member's  
912 participation shall begin on the first day of the calendar year  
913 following the year in which it is issued a certificate of  
914 authority to transact property insurance in the state and shall  
915 terminate 1 year after the end of the calendar year during which  
916 it no longer holds a certificate of authority to transact  
917 property insurance in the state. The commissioner, after review

918 of annual statements, other reports, and any other statistics  
919 that the commissioner deems necessary, shall certify to the  
920 association the aggregate direct premiums written for property  
921 insurance in this state by all member insurers.

922 (II) Effective July 1, 2002, the association shall operate  
923 subject to the supervision and approval of a board of governors  
924 who are the same individuals that have been appointed by the  
925 Treasurer to serve on the board of governors of the Citizens  
926 Property Insurance Corporation.

927 (III) The plan of operation shall provide a formula  
928 whereby a company voluntarily providing windstorm coverage in  
929 affected areas will be relieved wholly or partially from  
930 apportionment of a regular assessment pursuant to sub-sub-  
931 subparagraph d.(I) or sub-sub-subparagraph d.(II).

932 (IV) A company which is a member of a group of companies  
933 under common management may elect to have its credits applied on  
934 a group basis, and any company or group may elect to have its  
935 credits applied to any other company or group.

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

939 (VI) The plan of operation may also provide for the award  
940 of credits, for a period not to exceed 3 years, from a regular  
941 assessment pursuant to sub-sub-subparagraph d.(I) or sub-sub-  
942 subparagraph d.(II) as an incentive for taking policies out of  
943 the Residential Property and Casualty Joint Underwriting  
944 Association. In order to qualify for the exemption under this  
945 sub-sub-subparagraph, the take-out plan must provide that at

946 | least 40 percent of the policies removed from the Residential  
947 | Property and Casualty Joint Underwriting Association cover risks  
948 | located in Miami-Dade, Broward, and Palm Beach Counties or at  
949 | least 30 percent of the policies so removed cover risks located  
950 | in Miami-Dade, Broward, and Palm Beach Counties and an  
951 | additional 50 percent of the policies so removed cover risks  
952 | located in other coastal counties, and must also provide that no  
953 | more than 15 percent of the policies so removed may exclude  
954 | windstorm coverage. With the approval of the department, the  
955 | association may waive these geographic criteria for a take-out  
956 | plan that removes at least the lesser of 100,000 Residential  
957 | Property and Casualty Joint Underwriting Association policies or  
958 | 15 percent of the total number of Residential Property and  
959 | Casualty Joint Underwriting Association policies, provided the  
960 | governing board of the Residential Property and Casualty Joint  
961 | Underwriting Association certifies that the take-out plan will  
962 | materially reduce the Residential Property and Casualty Joint  
963 | Underwriting Association's 100-year probable maximum loss from  
964 | hurricanes. With the approval of the department, the board may  
965 | extend such credits for an additional year if the insurer  
966 | guarantees an additional year of renewability for all policies  
967 | removed from the Residential Property and Casualty Joint  
968 | Underwriting Association, or for 2 additional years if the  
969 | insurer guarantees 2 additional years of renewability for all  
970 | policies removed from the Residential Property and Casualty  
971 | Joint Underwriting Association.

972 |       b. Assessments to pay deficits in the association under  
973 | this subparagraph shall be included as an appropriate factor in

974 the making of rates as provided in s. 627.3512.

975 c. The Legislature finds that the potential for unlimited  
976 deficit assessments under this subparagraph may induce insurers  
977 to attempt to reduce their writings in the voluntary market, and  
978 that such actions would worsen the availability problems that  
979 the association was created to remedy. It is the intent of the  
980 Legislature that insurers remain fully responsible for paying  
981 regular assessments and collecting emergency assessments for any  
982 deficits of the association; however, it is also the intent of  
983 the Legislature to provide a means by which assessment  
984 liabilities may be amortized over a period of years.

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

990 (II) When the deficit incurred in a particular calendar  
991 year exceeds 10 percent of the aggregate statewide direct  
992 written premium for property insurance for the prior calendar  
993 year for all member insurers, the association shall levy an  
994 assessment on member insurers in an amount equal to the greater  
995 of 10 percent of the deficit or 10 percent of the aggregate  
996 statewide direct written premium for property insurance for the  
997 prior calendar year for member insurers. Any remaining deficit  
998 shall be recovered through emergency assessments under sub-sub-  
999 subparagraph (III).

1000 (III) Upon a determination by the board of directors that  
1001 a deficit exceeds the amount that will be recovered through

1002 regular assessments on member insurers, pursuant to sub-sub-  
 1003 subparagraph (I) or sub-sub-subparagraph (II), the board shall  
 1004 levy, after verification by the department, emergency  
 1005 assessments to be collected by member insurers and by  
 1006 underwriting associations created pursuant to this section which  
 1007 write property insurance, upon issuance or renewal of property  
 1008 insurance policies other than National Flood Insurance policies  
 1009 in the year or years following levy of the regular assessments.  
 1010 The amount of the emergency assessment collected in a particular  
 1011 year shall be a uniform percentage of that year's direct written  
 1012 premium for property insurance for all member insurers and  
 1013 underwriting associations, excluding National Flood Insurance  
 1014 policy premiums, as annually determined by the board and  
 1015 verified by the department. The department shall verify the  
 1016 arithmetic calculations involved in the board's determination  
 1017 within 30 days after receipt of the information on which the  
 1018 determination was based. Notwithstanding any other provision of  
 1019 law, each member insurer and each underwriting association  
 1020 created pursuant to this section shall collect emergency  
 1021 assessments from its policyholders without such obligation being  
 1022 affected by any credit, limitation, exemption, or deferment. The  
 1023 emergency assessments so collected shall be transferred directly  
 1024 to the association on a periodic basis as determined by the  
 1025 association. The aggregate amount of emergency assessments  
 1026 levied under this sub-sub-subparagraph in any calendar year may  
 1027 not exceed the greater of 10 percent of the amount needed to  
 1028 cover the original deficit, plus interest, fees, commissions,  
 1029 required reserves, and other costs associated with financing of

1030 the original deficit, or 10 percent of the aggregate statewide  
1031 direct written premium for property insurance written by member  
1032 insurers and underwriting associations for the prior year, plus  
1033 interest, fees, commissions, required reserves, and other costs  
1034 associated with financing the original deficit. The board may  
1035 pledge the proceeds of the emergency assessments under this sub-  
1036 sub-subparagraph as the source of revenue for bonds, to retire  
1037 any other debt incurred as a result of the deficit or events  
1038 giving rise to the deficit, or in any other way that the board  
1039 determines will efficiently recover the deficit. The emergency  
1040 assessments under this sub-sub-subparagraph shall continue as  
1041 long as any bonds issued or other indebtedness incurred with  
1042 respect to a deficit for which the assessment was imposed remain  
1043 outstanding, unless adequate provision has been made for the  
1044 payment of such bonds or other indebtedness pursuant to the  
1045 document governing such bonds or other indebtedness. Emergency  
1046 assessments collected under this sub-sub-subparagraph are not  
1047 part of an insurer's rates, are not premium, and are not subject  
1048 to premium tax, fees, or commissions; however, failure to pay  
1049 the emergency assessment shall be treated as failure to pay  
1050 premium.

1051 (IV) Each member insurer's share of the total regular  
1052 assessments under sub-sub-subparagraph (I) or sub-sub-  
1053 subparagraph (II) shall be in the proportion that the insurer's  
1054 net direct premium for property insurance in this state, for the  
1055 year preceding the assessment bears to the aggregate statewide  
1056 net direct premium for property insurance of all member  
1057 insurers, as reduced by any credits for voluntary writings for

1058 | that year.

1059 |       (V) If regular deficit assessments are made under sub-sub-  
1060 | subparagraph (I) or sub-sub-subparagraph (II), or by the  
1061 | Residential Property and Casualty Joint Underwriting Association  
1062 | under sub-subparagraph (6) (b)3.a. or sub-subparagraph  
1063 | (6) (b)3.b., the association shall levy upon the association's  
1064 | policyholders, as part of its next rate filing, or by a separate  
1065 | rate filing solely for this purpose, a market equalization  
1066 | surcharge in a percentage equal to the total amount of such  
1067 | regular assessments divided by the aggregate statewide direct  
1068 | written premium for property insurance for member insurers for  
1069 | the prior calendar year. Market equalization surcharges under  
1070 | this sub-sub-subparagraph are not considered premium and are not  
1071 | subject to commissions, fees, or premium taxes; however, failure  
1072 | to pay a market equalization surcharge shall be treated as  
1073 | failure to pay premium.

1074 |       e. The governing body of any unit of local government, any  
1075 | residents of which are insured under the plan, may issue bonds  
1076 | as defined in s. 125.013 or s. 166.101 to fund an assistance  
1077 | program, in conjunction with the association, for the purpose of  
1078 | defraying deficits of the association. In order to avoid  
1079 | needless and indiscriminate proliferation, duplication, and  
1080 | fragmentation of such assistance programs, any unit of local  
1081 | government, any residents of which are insured by the  
1082 | association, may provide for the payment of losses, regardless  
1083 | of whether or not the losses occurred within or outside of the  
1084 | territorial jurisdiction of the local government. Revenue bonds  
1085 | may not be issued until validated pursuant to chapter 75, unless

1086 a state of emergency is declared by executive order or  
1087 proclamation of the Governor pursuant to s. 252.36 making such  
1088 findings as are necessary to determine that it is in the best  
1089 interests of, and necessary for, the protection of the public  
1090 health, safety, and general welfare of residents of this state  
1091 and the protection and preservation of the economic stability of  
1092 insurers operating in this state, and declaring it an essential  
1093 public purpose to permit certain municipalities or counties to  
1094 issue bonds as will provide relief to claimants and  
1095 policyholders of the association and insurers responsible for  
1096 apportionment of plan losses. Any such unit of local government  
1097 may enter into such contracts with the association and with any  
1098 other entity created pursuant to this subsection as are  
1099 necessary to carry out this paragraph. Any bonds issued under  
1100 this sub-subparagraph shall be payable from and secured by  
1101 moneys received by the association from assessments under this  
1102 subparagraph, and assigned and pledged to or on behalf of the  
1103 unit of local government for the benefit of the holders of such  
1104 bonds. The funds, credit, property, and taxing power of the  
1105 state or of the unit of local government shall not be pledged  
1106 for the payment of such bonds. If any of the bonds remain unsold  
1107 60 days after issuance, the department shall require all  
1108 insurers subject to assessment to purchase the bonds, which  
1109 shall be treated as admitted assets; each insurer shall be  
1110 required to purchase that percentage of the unsold portion of  
1111 the bond issue that equals the insurer's relative share of  
1112 assessment liability under this subsection. An insurer shall not  
1113 be required to purchase the bonds to the extent that the



1114 department determines that the purchase would endanger or impair  
1115 the solvency of the insurer. The authority granted by this sub-  
1116 subparagraph is additional to any bonding authority granted by  
1117 subparagraph 6.

1118 3. The plan shall also provide that any member with a  
1119 surplus as to policyholders of \$25 ~~\$20~~ million or less writing  
1120 25 percent or more of its total countrywide property insurance  
1121 premiums in this state may petition the department, within the  
1122 first 90 days of each calendar year, to qualify as a limited  
1123 apportionment company. The apportionment of such a member  
1124 company in any calendar year for which it is qualified shall not  
1125 exceed its gross participation, which shall not be affected by  
1126 the formula for voluntary writings. In no event shall a limited  
1127 apportionment company be required to participate in any  
1128 apportionment of losses pursuant to sub-sub-subparagraph 2.d.(I)  
1129 or sub-sub-subparagraph 2.d.(II) in the aggregate which exceeds  
1130 \$50 million after payment of available plan funds in any  
1131 calendar year. However, a limited apportionment company shall  
1132 collect from its policyholders any emergency assessment imposed  
1133 under sub-sub-subparagraph 2.d.(III). The plan shall provide  
1134 that, if the department determines that any regular assessment  
1135 will result in an impairment of the surplus of a limited  
1136 apportionment company, the department may direct that all or  
1137 part of such assessment be deferred. However, there shall be no  
1138 limitation or deferment of an emergency assessment to be  
1139 collected from policyholders under sub-sub-subparagraph  
1140 2.d.(III).

1141 4. The plan shall provide for the deferment, in whole or

1142 in part, of a regular assessment of a member insurer under sub-  
1143 sub-subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II), but  
1144 not for an emergency assessment collected from policyholders  
1145 under sub-sub-subparagraph 2.d.(III), if, in the opinion of the  
1146 commissioner, payment of such regular assessment would endanger  
1147 or impair the solvency of the member insurer. In the event a  
1148 regular assessment against a member insurer is deferred in whole  
1149 or in part, the amount by which such assessment is deferred may  
1150 be assessed against the other member insurers in a manner  
1151 consistent with the basis for assessments set forth in sub-sub-  
1152 subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II).

1153 5.a. The plan of operation may include deductibles and  
1154 rules for classification of risks and rate modifications  
1155 consistent with the objective of providing and maintaining funds  
1156 sufficient to pay catastrophe losses.

1157 b. It is the intent of the Legislature that the rates for  
1158 coverage provided by the association be actuarially sound and  
1159 not competitive with approved rates charged in the admitted  
1160 voluntary market such that the association functions as a  
1161 residual market mechanism to provide insurance only when the  
1162 insurance cannot be procured in the voluntary market. The plan  
1163 of operation shall provide a mechanism to assure that, beginning  
1164 no later than January 1, 1999, the rates charged by the  
1165 association for each line of business are reflective of approved  
1166 rates in the voluntary market for hurricane coverage for each  
1167 line of business in the various areas eligible for association  
1168 coverage.

1169 c. The association shall provide for windstorm coverage on

1170 residential properties in limits up to \$10 million for  
 1171 commercial lines residential risks and up to \$1 million for  
 1172 personal lines residential risks. If coverage with the  
 1173 association is sought for a residential risk valued in excess of  
 1174 these limits, coverage shall be available to the risk up to the  
 1175 replacement cost or actual cash value of the property, at the  
 1176 option of the insured, if coverage for the risk cannot be  
 1177 located in the authorized market. The association must accept a  
 1178 commercial lines residential risk with limits above \$10 million  
 1179 or a personal lines residential risk with limits above \$1  
 1180 million if coverage is not available in the authorized market.  
 1181 The association may write coverage above the limits specified in  
 1182 this subparagraph with or without facultative or other  
 1183 reinsurance coverage, as the association determines appropriate.

1184 d. The plan of operation must provide objective criteria  
 1185 and procedures, approved by the department, to be uniformly  
 1186 applied for all applicants in determining whether an individual  
 1187 risk is so hazardous as to be uninsurable. In making this  
 1188 determination and in establishing the criteria and procedures,  
 1189 the following shall be considered:

1190 (I) Whether the likelihood of a loss for the individual  
 1191 risk is substantially higher than for other risks of the same  
 1192 class; and

1193 (II) Whether the uncertainty associated with the  
 1194 individual risk is such that an appropriate premium cannot be  
 1195 determined.

1196

1197 The acceptance or rejection of a risk by the association

1198 | pursuant to such criteria and procedures must be construed as  
1199 | the private placement of insurance, and the provisions of  
1200 | chapter 120 do not apply.

1201 |       e. If the risk accepts an offer of coverage through the  
1202 | market assistance program or through a mechanism established by  
1203 | the association, either before the policy is issued by the  
1204 | association or during the first 30 days of coverage by the  
1205 | association, and the producing agent who submitted the  
1206 | application to the association is not currently appointed by the  
1207 | insurer, the insurer shall:

1208 |       (I) Pay to the producing agent of record of the policy,  
1209 | for the first year, an amount that is the greater of the  
1210 | insurer's usual and customary commission for the type of policy  
1211 | written or a fee equal to the usual and customary commission of  
1212 | the association; or

1213 |       (II) Offer to allow the producing agent of record of the  
1214 | policy to continue servicing the policy for a period of not less  
1215 | than 1 year and offer to pay the agent the greater of the  
1216 | insurer's or the association's usual and customary commission  
1217 | for the type of policy written.

1218 |  
1219 | If the producing agent is unwilling or unable to accept  
1220 | appointment, the new insurer shall pay the agent in accordance  
1221 | with sub-sub-subparagraph (I). Subject to the provisions of s.  
1222 | 627.3517, the policies issued by the association must provide  
1223 | that if the association obtains an offer from an authorized  
1224 | insurer to cover the risk at its approved rates under either a  
1225 | standard policy including wind coverage or, if consistent with

1226 the insurer's underwriting rules as filed with the department, a  
1227 basic policy including wind coverage, the risk is no longer  
1228 eligible for coverage through the association. Upon termination  
1229 of eligibility, the association shall provide written notice to  
1230 the policyholder and agent of record stating that the  
1231 association policy must be canceled as of 60 days after the date  
1232 of the notice because of the offer of coverage from an  
1233 authorized insurer. Other provisions of the insurance code  
1234 relating to cancellation and notice of cancellation do not apply  
1235 to actions under this sub-subparagraph.

1236 f. When the association enters into a contractual  
1237 agreement for a take-out plan, the producing agent of record of  
1238 the association policy is entitled to retain any unearned  
1239 commission on the policy, and the insurer shall:

1240 (I) Pay to the producing agent of record of the  
1241 association policy, for the first year, an amount that is the  
1242 greater of the insurer's usual and customary commission for the  
1243 type of policy written or a fee equal to the usual and customary  
1244 commission of the association; or

1245 (II) Offer to allow the producing agent of record of the  
1246 association policy to continue servicing the policy for a period  
1247 of not less than 1 year and offer to pay the agent the greater  
1248 of the insurer's or the association's usual and customary  
1249 commission for the type of policy written.

1250  
1251 If the producing agent is unwilling or unable to accept  
1252 appointment, the new insurer shall pay the agent in accordance  
1253 with sub-sub-subparagraph (I).

1254           6.a. The plan of operation may authorize the formation of  
1255 a private nonprofit corporation, a private nonprofit  
1256 unincorporated association, a partnership, a trust, a limited  
1257 liability company, or a nonprofit mutual company which may be  
1258 empowered, among other things, to borrow money by issuing bonds  
1259 or by incurring other indebtedness and to accumulate reserves or  
1260 funds to be used for the payment of insured catastrophe losses.  
1261 The plan may authorize all actions necessary to facilitate the  
1262 issuance of bonds, including the pledging of assessments or  
1263 other revenues.

1264           b. Any entity created under this subsection, or any entity  
1265 formed for the purposes of this subsection, may sue and be sued,  
1266 may borrow money; issue bonds, notes, or debt instruments;  
1267 pledge or sell assessments, market equalization surcharges and  
1268 other surcharges, rights, premiums, contractual rights,  
1269 projected recoveries from the Florida Hurricane Catastrophe  
1270 Fund, other reinsurance recoverables, and other assets as  
1271 security for such bonds, notes, or debt instruments; enter into  
1272 any contracts or agreements necessary or proper to accomplish  
1273 such borrowings; and take other actions necessary to carry out  
1274 the purposes of this subsection. The association may issue bonds  
1275 or incur other indebtedness, or have bonds issued on its behalf  
1276 by a unit of local government pursuant to subparagraph (6)(q)2.,  
1277 in the absence of a hurricane or other weather-related event,  
1278 upon a determination by the association subject to approval by  
1279 the department that such action would enable it to efficiently  
1280 meet the financial obligations of the association and that such  
1281 financings are reasonably necessary to effectuate the

1282 requirements of this subsection. Any such entity may accumulate  
1283 reserves and retain surpluses as of the end of any association  
1284 year to provide for the payment of losses incurred by the  
1285 association during that year or any future year. The association  
1286 shall incorporate and continue the plan of operation and  
1287 articles of agreement in effect on the effective date of chapter  
1288 76-96, Laws of Florida, to the extent that it is not  
1289 inconsistent with chapter 76-96, and as subsequently modified  
1290 consistent with chapter 76-96. The board of directors and  
1291 officers currently serving shall continue to serve until their  
1292 successors are duly qualified as provided under the plan. The  
1293 assets and obligations of the plan in effect immediately prior  
1294 to the effective date of chapter 76-96 shall be construed to be  
1295 the assets and obligations of the successor plan created herein.

1296 c. In recognition of s. 10, Art. I of the State  
1297 Constitution, prohibiting the impairment of obligations of  
1298 contracts, it is the intent of the Legislature that no action be  
1299 taken whose purpose is to impair any bond indenture or financing  
1300 agreement or any revenue source committed by contract to such  
1301 bond or other indebtedness issued or incurred by the association  
1302 or any other entity created under this subsection.

1303 7. On such coverage, an agent's remuneration shall be that  
1304 amount of money payable to the agent by the terms of his or her  
1305 contract with the company with which the business is placed.  
1306 However, no commission will be paid on that portion of the  
1307 premium which is in excess of the standard premium of that  
1308 company.

1309 8. Subject to approval by the department, the association

1310 may establish different eligibility requirements and operational  
1311 procedures for any line or type of coverage for any specified  
1312 eligible area or portion of an eligible area if the board  
1313 determines that such changes to the eligibility requirements and  
1314 operational procedures are justified due to the voluntary market  
1315 being sufficiently stable and competitive in such area or for  
1316 such line or type of coverage and that consumers who, in good  
1317 faith, are unable to obtain insurance through the voluntary  
1318 market through ordinary methods would continue to have access to  
1319 coverage from the association. When coverage is sought in  
1320 connection with a real property transfer, such requirements and  
1321 procedures shall not provide for an effective date of coverage  
1322 later than the date of the closing of the transfer as  
1323 established by the transferor, the transferee, and, if  
1324 applicable, the lender.

1325 9. Notwithstanding any other provision of law:

1326 a. The pledge or sale of, the lien upon, and the security  
1327 interest in any rights, revenues, or other assets of the  
1328 association created or purported to be created pursuant to any  
1329 financing documents to secure any bonds or other indebtedness of  
1330 the association shall be and remain valid and enforceable,  
1331 notwithstanding the commencement of and during the continuation  
1332 of, and after, any rehabilitation, insolvency, liquidation,  
1333 bankruptcy, receivership, conservatorship, reorganization, or  
1334 similar proceeding against the association under the laws of  
1335 this state or any other applicable laws.

1336 b. No such proceeding shall relieve the association of its  
1337 obligation, or otherwise affect its ability to perform its



1338 obligation, to continue to collect, or levy and collect,  
1339 assessments, market equalization or other surcharges, projected  
1340 recoveries from the Florida Hurricane Catastrophe Fund,  
1341 reinsurance recoverables, or any other rights, revenues, or  
1342 other assets of the association pledged.

1343 c. Each such pledge or sale of, lien upon, and security  
1344 interest in, including the priority of such pledge, lien, or  
1345 security interest, any such assessments, emergency assessments,  
1346 market equalization or renewal surcharges, projected recoveries  
1347 from the Florida Hurricane Catastrophe Fund, reinsurance  
1348 recoverables, or other rights, revenues, or other assets which  
1349 are collected, or levied and collected, after the commencement  
1350 of and during the pendency of or after any such proceeding shall  
1351 continue unaffected by such proceeding.

1352 d. As used in this subsection, the term "financing  
1353 documents" means any agreement, instrument, or other document  
1354 now existing or hereafter created evidencing any bonds or other  
1355 indebtedness of the association or pursuant to which any such  
1356 bonds or other indebtedness has been or may be issued and  
1357 pursuant to which any rights, revenues, or other assets of the  
1358 association are pledged or sold to secure the repayment of such  
1359 bonds or indebtedness, together with the payment of interest on  
1360 such bonds or such indebtedness, or the payment of any other  
1361 obligation of the association related to such bonds or  
1362 indebtedness.

1363 e. Any such pledge or sale of assessments, revenues,  
1364 contract rights or other rights or assets of the association  
1365 shall constitute a lien and security interest, or sale, as the

1366 case may be, that is immediately effective and attaches to such  
 1367 assessments, revenues, contract, or other rights or assets,  
 1368 whether or not imposed or collected at the time the pledge or  
 1369 sale is made. Any such pledge or sale is effective, valid,  
 1370 binding, and enforceable against the association or other entity  
 1371 making such pledge or sale, and valid and binding against and  
 1372 superior to any competing claims or obligations owed to any  
 1373 other person or entity, including policyholders in this state,  
 1374 asserting rights in any such assessments, revenues, contract, or  
 1375 other rights or assets to the extent set forth in and in  
 1376 accordance with the terms of the pledge or sale contained in the  
 1377 applicable financing documents, whether or not any such person  
 1378 or entity has notice of such pledge or sale and without the need  
 1379 for any physical delivery, recordation, filing, or other action.

1380 f. There shall be no liability on the part of, and no  
 1381 cause of action of any nature shall arise against, any member  
 1382 insurer or its agents or employees, agents or employees of the  
 1383 association, members of the board of directors of the  
 1384 association, or the department or its representatives, for any  
 1385 action taken by them in the performance of their duties or  
 1386 responsibilities under this subsection. Such immunity does not  
 1387 apply to actions for breach of any contract or agreement  
 1388 pertaining to insurance, or any willful tort.

1389 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

1390 (c) The corporation's plan of operation:

1391 1. Must provide for adoption of residential property and  
 1392 casualty insurance policy forms and commercial residential and  
 1393 nonresidential property insurance forms, which must be approved

1394 by the office before use. The corporation shall adopt the  
1395 following policy forms:

1396 a. Standard personal lines policy forms that are  
1397 comprehensive multiperil policies providing full coverage of a  
1398 residential property equivalent to the coverage provided in the  
1399 private insurance market under an HO-3, HO-4, or HO-6 policy.

1400 b. Basic personal lines policy forms that are policies  
1401 similar to an HO-8 policy or a dwelling fire policy that provide  
1402 coverage meeting the requirements of the secondary mortgage  
1403 market, but which is more limited than the coverage under a  
1404 standard policy.

1405 c. Commercial lines residential and nonresidential policy  
1406 forms that are generally similar to the basic perils of full  
1407 coverage obtainable for commercial residential structures and  
1408 commercial nonresidential structures in the admitted voluntary  
1409 market.

1410 d. Personal lines and commercial lines residential  
1411 property insurance forms that cover the peril of wind only. The  
1412 forms are applicable only to residential properties located in  
1413 areas eligible for coverage under the coastal account referred  
1414 to in sub-subparagraph (b)2.a.

1415 e. Commercial lines nonresidential property insurance  
1416 forms that cover the peril of wind only. The forms are  
1417 applicable only to nonresidential properties located in areas  
1418 eligible for coverage under the coastal account referred to in  
1419 sub-subparagraph (b)2.a.

1420 f. The corporation may adopt variations of the policy  
1421 forms listed in sub-subparagraphs a.-e. which contain more

1422 restrictive coverage.

1423 g. Effective January 1, 2013, the corporation shall offer  
1424 a basic personal lines policy similar to an HO-8 policy with  
1425 dwelling repair based on common construction materials and  
1426 methods.

1427 2. Must provide that the corporation adopt a program in  
1428 which the corporation and authorized insurers enter into quota  
1429 share primary insurance agreements for hurricane coverage, as  
1430 defined in s. 627.4025(2)(a), for eligible risks, and adopt  
1431 property insurance forms for eligible risks which cover the  
1432 peril of wind only.

1433 a. As used in this subsection, the term:

1434 (I) "Quota share primary insurance" means an arrangement  
1435 in which the primary hurricane coverage of an eligible risk is  
1436 provided in specified percentages by the corporation and an  
1437 authorized insurer. The corporation and authorized insurer are  
1438 each solely responsible for a specified percentage of hurricane  
1439 coverage of an eligible risk as set forth in a quota share  
1440 primary insurance agreement between the corporation and an  
1441 authorized insurer and the insurance contract. The  
1442 responsibility of the corporation or authorized insurer to pay  
1443 its specified percentage of hurricane losses of an eligible  
1444 risk, as set forth in the agreement, may not be altered by the  
1445 inability of the other party to pay its specified percentage of  
1446 losses. Eligible risks that are provided hurricane coverage  
1447 through a quota share primary insurance arrangement must be  
1448 provided policy forms that set forth the obligations of the  
1449 corporation and authorized insurer under the arrangement,

1450 clearly specify the percentages of quota share primary insurance  
1451 provided by the corporation and authorized insurer, and  
1452 conspicuously and clearly state that the authorized insurer and  
1453 the corporation may not be held responsible beyond their  
1454 specified percentage of coverage of hurricane losses.

1455 (II) "Eligible risks" means personal lines residential and  
1456 commercial lines residential risks that meet the underwriting  
1457 criteria of the corporation and are located in areas that were  
1458 eligible for coverage by the Florida Windstorm Underwriting  
1459 Association on January 1, 2002.

1460 b. The corporation may enter into quota share primary  
1461 insurance agreements with authorized insurers at corporation  
1462 coverage levels of 90 percent and 50 percent.

1463 c. If the corporation determines that additional coverage  
1464 levels are necessary to maximize participation in quota share  
1465 primary insurance agreements by authorized insurers, the  
1466 corporation may establish additional coverage levels. However,  
1467 the corporation's quota share primary insurance coverage level  
1468 may not exceed 90 percent.

1469 d. Any quota share primary insurance agreement entered  
1470 into between an authorized insurer and the corporation must  
1471 provide for a uniform specified percentage of coverage of  
1472 hurricane losses, by county or territory as set forth by the  
1473 corporation board, for all eligible risks of the authorized  
1474 insurer covered under the agreement.

1475 e. Any quota share primary insurance agreement entered  
1476 into between an authorized insurer and the corporation is  
1477 subject to review and approval by the office. However, such

1478 agreement shall be authorized only as to insurance contracts  
1479 entered into between an authorized insurer and an insured who is  
1480 already insured by the corporation for wind coverage.

1481 f. For all eligible risks covered under quota share  
1482 primary insurance agreements, the exposure and coverage levels  
1483 for both the corporation and authorized insurers shall be  
1484 reported by the corporation to the Florida Hurricane Catastrophe  
1485 Fund. For all policies of eligible risks covered under such  
1486 agreements, the corporation and the authorized insurer must  
1487 maintain complete and accurate records for the purpose of  
1488 exposure and loss reimbursement audits as required by fund  
1489 rules. The corporation and the authorized insurer shall each  
1490 maintain duplicate copies of policy declaration pages and  
1491 supporting claims documents.

1492 g. The corporation board shall establish in its plan of  
1493 operation standards for quota share agreements which ensure that  
1494 there is no discriminatory application among insurers as to the  
1495 terms of the agreements, pricing of the agreements, incentive  
1496 provisions if any, and consideration paid for servicing policies  
1497 or adjusting claims.

1498 h. The quota share primary insurance agreement between the  
1499 corporation and an authorized insurer must set forth the  
1500 specific terms under which coverage is provided, including, but  
1501 not limited to, the sale and servicing of policies issued under  
1502 the agreement by the insurance agent of the authorized insurer  
1503 producing the business, the reporting of information concerning  
1504 eligible risks, the payment of premium to the corporation, and  
1505 arrangements for the adjustment and payment of hurricane claims

1506 incurred on eligible risks by the claims adjuster and personnel  
1507 of the authorized insurer. Entering into a quota sharing  
1508 insurance agreement between the corporation and an authorized  
1509 insurer is voluntary and at the discretion of the authorized  
1510 insurer.

1511 3.a. May provide that the corporation may employ or  
1512 otherwise contract with individuals or other entities to provide  
1513 administrative or professional services that may be appropriate  
1514 to effectuate the plan. The corporation may borrow funds by  
1515 issuing bonds or by incurring other indebtedness, and shall have  
1516 other powers reasonably necessary to effectuate the requirements  
1517 of this subsection, including, without limitation, the power to  
1518 issue bonds and incur other indebtedness in order to refinance  
1519 outstanding bonds or other indebtedness. The corporation may  
1520 seek judicial validation of its bonds or other indebtedness  
1521 under chapter 75. The corporation may issue bonds or incur other  
1522 indebtedness, or have bonds issued on its behalf by a unit of  
1523 local government pursuant to subparagraph (q)2. in the absence  
1524 of a hurricane or other weather-related event, upon a  
1525 determination by the corporation, subject to approval by the  
1526 office, that such action would enable it to efficiently meet the  
1527 financial obligations of the corporation and that such  
1528 financings are reasonably necessary to effectuate the  
1529 requirements of this subsection. The corporation may take all  
1530 actions needed to facilitate tax-free status for such bonds or  
1531 indebtedness, including formation of trusts or other affiliated  
1532 entities. The corporation may pledge assessments, projected  
1533 recoveries from the Florida Hurricane Catastrophe Fund, other

1534 reinsurance recoverables, market equalization and other  
1535 surcharges, and other funds available to the corporation as  
1536 security for bonds or other indebtedness. In recognition of s.  
1537 10, Art. I of the State Constitution, prohibiting the impairment  
1538 of obligations of contracts, it is the intent of the Legislature  
1539 that no action be taken whose purpose is to impair any bond  
1540 indenture or financing agreement or any revenue source committed  
1541 by contract to such bond or other indebtedness.

1542       b. To ensure that the corporation is operating in an  
1543 efficient and economic manner while providing quality service to  
1544 policyholders, applicants, and agents, the board shall  
1545 commission an independent third-party consultant having  
1546 expertise in insurance company management or insurance company  
1547 management consulting to prepare a report and make  
1548 recommendations on the relative costs and benefits of  
1549 outsourcing various policy issuance and service functions to  
1550 private servicing carriers or entities performing similar  
1551 functions in the private market for a fee, rather than  
1552 performing such functions in-house. In making such  
1553 recommendations, the consultant shall consider how other  
1554 residual markets, both in this state and around the country,  
1555 outsource appropriate functions or use servicing carriers to  
1556 better match expenses with revenues that fluctuate based on a  
1557 widely varying policy count. The report must be completed by  
1558 July 1, 2012. Upon receiving the report, the board shall develop  
1559 a plan to implement the report and submit the plan for review,  
1560 modification, and approval to the Financial Services Commission.  
1561 Upon the commission's approval of the plan, the board shall



1562 begin implementing the plan by January 1, 2013.

1563 4. Must require that the corporation operate subject to  
1564 the supervision and approval of a board of governors consisting  
1565 of eight individuals who are residents of this state, from  
1566 different geographical areas of this state.

1567 a. The Governor, the Chief Financial Officer, the  
1568 President of the Senate, and the Speaker of the House of  
1569 Representatives shall each appoint two members of the board. At  
1570 least one of the two members appointed by each appointing  
1571 officer must have demonstrated expertise in insurance and is  
1572 deemed to be within the scope of the exemption provided in s.  
1573 112.313(7)(b). The Chief Financial Officer shall designate one  
1574 of the appointees as chair. All board members serve at the  
1575 pleasure of the appointing officer. All members of the board are  
1576 subject to removal at will by the officers who appointed them.  
1577 All board members, including the chair, must be appointed to  
1578 serve for 3-year terms beginning annually on a date designated  
1579 by the plan. However, for the first term beginning on or after  
1580 July 1, 2009, each appointing officer shall appoint one member  
1581 of the board for a 2-year term and one member for a 3-year term.  
1582 A board vacancy shall be filled for the unexpired term by the  
1583 appointing officer. The Chief Financial Officer shall appoint a  
1584 technical advisory group to provide information and advice to  
1585 the board in connection with the board's duties under this  
1586 subsection. The executive director and senior managers of the  
1587 corporation shall be engaged by the board and serve at the  
1588 pleasure of the board. Any executive director appointed on or  
1589 after July 1, 2006, is subject to confirmation by the Senate.

1590 The executive director is responsible for employing other staff  
1591 as the corporation may require, subject to review and  
1592 concurrence by the board.

1593 b. The board shall create a Market Accountability Advisory  
1594 Committee to assist the corporation in developing awareness of  
1595 its rates and its customer and agent service levels in  
1596 relationship to the voluntary market insurers writing similar  
1597 coverage.

1598 (I) The members of the advisory committee consist of the  
1599 following 11 persons, one of whom must be elected chair by the  
1600 members of the committee: four representatives, one appointed by  
1601 the Florida Association of Insurance Agents, one by the Florida  
1602 Association of Insurance and Financial Advisors, one by the  
1603 Professional Insurance Agents of Florida, and one by the Latin  
1604 American Association of Insurance Agencies; three  
1605 representatives appointed by the insurers with the three highest  
1606 voluntary market share of residential property insurance  
1607 business in the state; one representative from the Office of  
1608 Insurance Regulation; one consumer appointed by the board who is  
1609 insured by the corporation at the time of appointment to the  
1610 committee; one representative appointed by the Florida  
1611 Association of Realtors; and one representative appointed by the  
1612 Florida Bankers Association. All members shall be appointed to  
1613 3-year terms and may serve for consecutive terms.

1614 (II) The committee shall report to the corporation at each  
1615 board meeting on insurance market issues which may include rates  
1616 and rate competition with the voluntary market; service,  
1617 including policy issuance, claims processing, and general

1618 | responsiveness to policyholders, applicants, and agents; and  
1619 | matters relating to depopulation.

1620 |         5. Must provide a procedure for determining the  
1621 | eligibility of a risk for coverage, as follows:

1622 |             a. Subject to s. 627.3517, with respect to personal lines  
1623 | residential risks, if the risk is offered coverage from an  
1624 | authorized insurer at the insurer's approved rate under a  
1625 | standard policy including wind coverage or, if consistent with  
1626 | the insurer's underwriting rules as filed with the office, a  
1627 | basic policy including wind coverage, for a new application to  
1628 | the corporation for coverage, the risk is not eligible for any  
1629 | policy issued by the corporation unless the premium for coverage  
1630 | from the authorized insurer is more than 15 percent greater than  
1631 | the premium for comparable coverage from the corporation. If the  
1632 | risk is not able to obtain such offer, the risk is eligible for  
1633 | a standard policy including wind coverage or a basic policy  
1634 | including wind coverage issued by the corporation; however, if  
1635 | the risk could not be insured under a standard policy including  
1636 | wind coverage regardless of market conditions, the risk is  
1637 | eligible for a basic policy including wind coverage unless  
1638 | rejected under subparagraph 8. However, a policyholder of the  
1639 | corporation or a policyholder removed from the corporation  
1640 | through an assumption agreement until the end of the assumption  
1641 | period remains eligible for coverage from the corporation  
1642 | regardless of any offer of coverage from an authorized insurer  
1643 | or surplus lines insurer. The corporation shall determine the  
1644 | type of policy to be provided on the basis of objective  
1645 | standards specified in the underwriting manual and based on

1646 generally accepted underwriting practices.

1647 (I) If the risk accepts an offer of coverage through the  
 1648 market assistance plan or through a mechanism established by the  
 1649 corporation before a policy is issued to the risk by the  
 1650 corporation or during the first 30 days of coverage by the  
 1651 corporation, and the producing agent who submitted the  
 1652 application to the plan or to the corporation is not currently  
 1653 appointed by the insurer, the insurer shall:

1654 (A) Pay to the producing agent of record of the policy for  
 1655 the first year, an amount that is the greater of the insurer's  
 1656 usual and customary commission for the type of policy written or  
 1657 a fee equal to the usual and customary commission of the  
 1658 corporation; or

1659 (B) Offer to allow the producing agent of record of the  
 1660 policy to continue servicing the policy for at least 1 year and  
 1661 offer to pay the agent the greater of the insurer's or the  
 1662 corporation's usual and customary commission for the type of  
 1663 policy written.

1664  
 1665 If the producing agent is unwilling or unable to accept  
 1666 appointment, the new insurer shall pay the agent in accordance  
 1667 with sub-sub-sub-subparagraph (A).

1668 (II) If the corporation enters into a contractual  
 1669 agreement for a take-out plan, the producing agent of record of  
 1670 the corporation policy is entitled to retain any unearned  
 1671 commission on the policy, and the insurer shall:

1672 (A) Pay to the producing agent of record, for the first  
 1673 year, an amount that is the greater of the insurer's usual and

1674 customary commission for the type of policy written or a fee  
1675 equal to the usual and customary commission of the corporation;  
1676 or

1677 (B) Offer to allow the producing agent of record to  
1678 continue servicing the policy for at least 1 year and offer to  
1679 pay the agent the greater of the insurer's or the corporation's  
1680 usual and customary commission for the type of policy written.

1681  
1682 If the producing agent is unwilling or unable to accept  
1683 appointment, the new insurer shall pay the agent in accordance  
1684 with sub-sub-sub-subparagraph (A).

1685 b. With respect to commercial lines residential risks, for  
1686 a new application to the corporation for coverage, if the risk  
1687 is offered coverage under a policy including wind coverage from  
1688 an authorized insurer at its approved rate, the risk is not  
1689 eligible for a policy issued by the corporation unless the  
1690 premium for coverage from the authorized insurer is more than 15  
1691 percent greater than the premium for comparable coverage from  
1692 the corporation. If the risk is not able to obtain any such  
1693 offer, the risk is eligible for a policy including wind coverage  
1694 issued by the corporation. However, a policyholder of the  
1695 corporation or a policyholder removed from the corporation  
1696 through an assumption agreement until the end of the assumption  
1697 period remains eligible for coverage from the corporation  
1698 regardless of an offer of coverage from an authorized insurer or  
1699 surplus lines insurer.

1700 (I) If the risk accepts an offer of coverage through the  
1701 market assistance plan or through a mechanism established by the

1702 corporation before a policy is issued to the risk by the  
 1703 corporation or during the first 30 days of coverage by the  
 1704 corporation, and the producing agent who submitted the  
 1705 application to the plan or the corporation is not currently  
 1706 appointed by the insurer, the insurer shall:

1707 (A) Pay to the producing agent of record of the policy,  
 1708 for the first year, an amount that is the greater of the  
 1709 insurer's usual and customary commission for the type of policy  
 1710 written or a fee equal to the usual and customary commission of  
 1711 the corporation; or

1712 (B) Offer to allow the producing agent of record of the  
 1713 policy to continue servicing the policy for at least 1 year and  
 1714 offer to pay the agent the greater of the insurer's or the  
 1715 corporation's usual and customary commission for the type of  
 1716 policy written.

1717  
 1718 If the producing agent is unwilling or unable to accept  
 1719 appointment, the new insurer shall pay the agent in accordance  
 1720 with sub-sub-sub-subparagraph (A).

1721 (II) If the corporation enters into a contractual  
 1722 agreement for a take-out plan, the producing agent of record of  
 1723 the corporation policy is entitled to retain any unearned  
 1724 commission on the policy, and the insurer shall:

1725 (A) Pay to the producing agent of record, for the first  
 1726 year, an amount that is the greater of the insurer's usual and  
 1727 customary commission for the type of policy written or a fee  
 1728 equal to the usual and customary commission of the corporation;  
 1729 or

1730 (B) Offer to allow the producing agent of record to  
 1731 continue servicing the policy for at least 1 year and offer to  
 1732 pay the agent the greater of the insurer's or the corporation's  
 1733 usual and customary commission for the type of policy written.

1734  
 1735 If the producing agent is unwilling or unable to accept  
 1736 appointment, the new insurer shall pay the agent in accordance  
 1737 with sub-sub-sub-subparagraph (A).

1738 c. For purposes of determining comparable coverage under  
 1739 sub-subparagraphs a. and b., the comparison must be based on  
 1740 those forms and coverages that are reasonably comparable. The  
 1741 corporation may rely on a determination of comparable coverage  
 1742 and premium made by the producing agent who submits the  
 1743 application to the corporation, made in the agent's capacity as  
 1744 the corporation's agent. A comparison may be made solely of the  
 1745 premium with respect to the main building or structure only on  
 1746 the following basis: the same coverage A or other building  
 1747 limits; the same percentage hurricane deductible that applies on  
 1748 an annual basis or that applies to each hurricane for commercial  
 1749 residential property; the same percentage of ordinance and law  
 1750 coverage, if the same limit is offered by both the corporation  
 1751 and the authorized insurer; the same mitigation credits, to the  
 1752 extent the same types of credits are offered both by the  
 1753 corporation and the authorized insurer; the same method for loss  
 1754 payment, such as replacement cost or actual cash value, if the  
 1755 same method is offered both by the corporation and the  
 1756 authorized insurer in accordance with underwriting rules; and  
 1757 any other form or coverage that is reasonably comparable as

1758 determined by the board. If an application is submitted to the  
1759 corporation for wind-only coverage in the coastal account, the  
1760 premium for the corporation's wind-only policy plus the premium  
1761 for the ex-wind policy that is offered by an authorized insurer  
1762 to the applicant must be compared to the premium for multiperil  
1763 coverage offered by an authorized insurer, subject to the  
1764 standards for comparison specified in this subparagraph. If the  
1765 corporation or the applicant requests from the authorized  
1766 insurer a breakdown of the premium of the offer by types of  
1767 coverage so that a comparison may be made by the corporation or  
1768 its agent and the authorized insurer refuses or is unable to  
1769 provide such information, the corporation may treat the offer as  
1770 not being an offer of coverage from an authorized insurer at the  
1771 insurer's approved rate.

1772         6. Must include rules for classifications of risks and  
1773 rates.

1774         7. Must provide that if premium and investment income for  
1775 an account attributable to a particular calendar year are in  
1776 excess of projected losses and expenses for the account  
1777 attributable to that year, such excess shall be held in surplus  
1778 in the account. Such surplus must be available to defray  
1779 deficits in that account as to future years and used for that  
1780 purpose before assessing assessable insurers and assessable  
1781 insureds as to any calendar year.

1782         8. Must provide objective criteria and procedures to be  
1783 uniformly applied to all applicants in determining whether an  
1784 individual risk is so hazardous as to be uninsurable. In making  
1785 this determination and in establishing the criteria and



1786 | procedures, the following must be considered:

1787 |       a. Whether the likelihood of a loss for the individual  
1788 | risk is substantially higher than for other risks of the same  
1789 | class; and

1790 |       b. Whether the uncertainty associated with the individual  
1791 | risk is such that an appropriate premium cannot be determined.

1792 |  
1793 | The acceptance or rejection of a risk by the corporation shall  
1794 | be construed as the private placement of insurance, and the  
1795 | provisions of chapter 120 do not apply.

1796 |       9. Must provide that the corporation make its best efforts  
1797 | to procure catastrophe reinsurance at reasonable rates, to cover  
1798 | its projected 100-year probable maximum loss as determined by  
1799 | the board of governors.

1800 |       10. The policies issued by the corporation must provide  
1801 | that if the corporation or the market assistance plan obtains an  
1802 | offer from an authorized insurer to cover the risk at its  
1803 | approved rates, the risk is no longer eligible for renewal  
1804 | through the corporation, except as otherwise provided in this  
1805 | subsection.

1806 |       11. Corporation policies and applications must include a  
1807 | notice that the corporation policy could, under this section, be  
1808 | replaced with a policy issued by an authorized insurer which  
1809 | does not provide coverage identical to the coverage provided by  
1810 | the corporation. The notice must also specify that acceptance of  
1811 | corporation coverage creates a conclusive presumption that the  
1812 | applicant or policyholder is aware of this potential.

1813 |       12. May establish, subject to approval by the office,

1814 different eligibility requirements and operational procedures  
1815 for any line or type of coverage for any specified county or  
1816 area if the board determines that such changes are justified due  
1817 to the voluntary market being sufficiently stable and  
1818 competitive in such area or for such line or type of coverage  
1819 and that consumers who, in good faith, are unable to obtain  
1820 insurance through the voluntary market through ordinary methods  
1821 continue to have access to coverage from the corporation. If  
1822 coverage is sought in connection with a real property transfer,  
1823 the requirements and procedures may not provide an effective  
1824 date of coverage later than the date of the closing of the  
1825 transfer as established by the transferor, the transferee, and,  
1826 if applicable, the lender.

1827       13. Must provide that, with respect to the coastal  
1828 account, any assessable insurer with a surplus as to  
1829 policyholders of \$25 million or less writing 25 percent or more  
1830 of its total countrywide property insurance premiums in this  
1831 state may petition the office, within the first 90 days of each  
1832 calendar year, to qualify as a limited apportionment company. A  
1833 regular assessment levied by the corporation on a limited  
1834 apportionment company for a deficit incurred by the corporation  
1835 for the coastal account may be paid to the corporation on a  
1836 monthly basis as the assessments are collected by the limited  
1837 apportionment company from its insureds pursuant to s. 627.3512,  
1838 but the regular assessment must be paid in full within 12 months  
1839 after being levied by the corporation. A limited apportionment  
1840 company shall collect from its policyholders any emergency  
1841 assessment imposed under sub-subparagraph (b)3.d. The plan must

1842 provide that, if the office determines that any regular  
1843 assessment will result in an impairment of the surplus of a  
1844 limited apportionment company, the office may direct that all or  
1845 part of such assessment be deferred as provided in subparagraph  
1846 (q)4. However, an emergency assessment to be collected from  
1847 policyholders under sub-subparagraph (b)3.d. may not be limited  
1848 or deferred.

1849 14. Must provide that the corporation appoint as its  
1850 licensed agents only those agents who also hold an appointment  
1851 as defined in s. 626.015(3) with an insurer who at the time of  
1852 the agent's initial appointment by the corporation is authorized  
1853 to write and is actually writing personal lines residential  
1854 property coverage, commercial residential property coverage, or  
1855 commercial nonresidential property coverage within the state.

1856 15. Must provide a premium payment plan option to its  
1857 policyholders which, at a minimum, allows for quarterly and  
1858 semiannual payment of premiums. A monthly payment plan may, but  
1859 is not required to, be offered.

1860 16. Must limit coverage on mobile homes or manufactured  
1861 homes built before 1994 to actual cash value of the dwelling  
1862 rather than replacement costs of the dwelling.

1863 17. May provide such limits of coverage as the board  
1864 determines, consistent with the requirements of this subsection.

1865 18. May require commercial property to meet specified  
1866 hurricane mitigation construction features as a condition of  
1867 eligibility for coverage.

1868 19. Must provide that new or renewal policies issued by  
1869 the corporation on or after January 1, 2012, which cover

1870 sinkhole loss do not include coverage for any loss to  
 1871 appurtenant structures, driveways, sidewalks, decks, or patios  
 1872 that are directly or indirectly caused by sinkhole activity. The  
 1873 corporation shall exclude such coverage using a notice of  
 1874 coverage change, which may be included with the policy renewal,  
 1875 and not by issuance of a notice of nonrenewal of the excluded  
 1876 coverage upon renewal of the current policy.

1877 20. As of January 1, 2012, must require that the agent  
 1878 obtain from an applicant for coverage from the corporation an  
 1879 acknowledgement signed by the applicant, which includes, at a  
 1880 minimum, the following statement:

1881 ACKNOWLEDGEMENT OF POTENTIAL SURCHARGE

1882 AND ASSESSMENT LIABILITY:

1883 1. AS A POLICYHOLDER OF CITIZENS PROPERTY INSURANCE  
 1884 CORPORATION, I UNDERSTAND THAT IF THE CORPORATION SUSTAINS A  
 1885 DEFICIT AS A RESULT OF HURRICANE LOSSES OR FOR ANY OTHER REASON,  
 1886 MY POLICY COULD BE SUBJECT TO SURCHARGES, WHICH WILL BE DUE AND  
 1887 PAYABLE UPON RENEWAL, CANCELLATION, OR TERMINATION OF THE  
 1888 POLICY, AND THAT THE SURCHARGES COULD BE AS HIGH AS 45 PERCENT  
 1889 OF MY PREMIUM, OR A DIFFERENT AMOUNT AS IMPOSED BY THE FLORIDA  
 1890 LEGISLATURE.

1891 2. I ALSO UNDERSTAND THAT I MAY BE SUBJECT TO EMERGENCY  
 1892 ASSESSMENTS TO THE SAME EXTENT AS POLICYHOLDERS OF OTHER  
 1893 INSURANCE COMPANIES, OR A DIFFERENT AMOUNT AS IMPOSED BY THE  
 1894 FLORIDA LEGISLATURE.

1895 3. I ALSO UNDERSTAND THAT CITIZENS PROPERTY INSURANCE  
 1896 CORPORATION IS NOT SUPPORTED BY THE FULL FAITH AND CREDIT OF THE  
 1897 STATE OF FLORIDA.

1898 a. The corporation shall maintain, in electronic format or  
 1899 otherwise, a copy of the applicant's signed acknowledgement and  
 1900 provide a copy of the statement to the policyholder as part of  
 1901 the first renewal after the effective date of this subparagraph.

1902 b. The signed acknowledgement form creates a conclusive  
 1903 presumption that the policyholder understood and accepted his or  
 1904 her potential surcharge and assessment liability as a  
 1905 policyholder of the corporation.

1906 (ff) In establishing replacement costs for coverage on a  
 1907 dwelling insured by the corporation, the corporation must accept  
 1908 a valuation from any of the following sources and must use the  
 1909 lowest valuation as the insured value of the dwelling, excluding  
 1910 land value, provided the valuation was completed within the 12  
 1911 months before the application or renewal date of coverage:

1912 1. A replacement cost valuation software that is  
 1913 specifically designed for use in establishing insurance  
 1914 replacement costs and that includes an itemized calculation of  
 1915 the cost of reconstruction;

1916 2. A replacement cost valuation prepared by a certified or  
 1917 licensed real estate appraiser under part II of chapter 475 that  
 1918 is specifically formulated to establish insurance replacement  
 1919 cost, rather than market value, and which includes an itemized  
 1920 calculation of the cost of reconstruction; or

1921 3. A replacement cost valuation prepared by a general,  
 1922 building, or residential contractor licensed under s. 489.113,  
 1923 or a professional engineer licensed under s. 471.015, which  
 1924 includes an itemized calculation of the total price of  
 1925 reconstruction.

1926 Section 12. Section 627.6011, Florida Statutes, is created  
 1927 to read:

1928 627.6011 Mandated coverages.—Mandatory health benefits  
 1929 regulated under this chapter are not intended to apply to the  
 1930 types of health benefit plans listed in s. 627.6561(5)(b)-(e),  
 1931 issued in any market, unless specifically designated otherwise.  
 1932 For purposes of this section, the term "mandatory health  
 1933 benefits" means those benefits set forth in ss. 627.6401-  
 1934 627.64193, and any other mandatory treatment or health coverages  
 1935 or benefits enacted on or after July 1, 2012.

1936 Section 13. Paragraph (d) of subsection (3) of section  
 1937 627.6699, Florida Statutes, is amended to read:

1938 627.6699 Employee Health Care Access Act.—

1939 (3) DEFINITIONS.—As used in this section, the term:

1940 (d) "Carrier" means a person who provides health benefit  
 1941 plans in this state, including an authorized insurer, a health  
 1942 maintenance organization, a multiple-employer welfare  
 1943 arrangement, or any other person providing a health benefit plan  
 1944 that is subject to insurance regulation in this state. However,  
 1945 the term does not include a multiple-employer welfare  
 1946 arrangement or voluntary employees' beneficiary association, as  
 1947 defined under 26 U.S.C. s. 501(c)(9), which multiple-employer  
 1948 welfare arrangement or voluntary employees' beneficiary  
 1949 association operates solely for the benefit of the members or  
 1950 the members and the employees of such members, is located in  
 1951 this state, and was in existence on January 1, 1992. The term  
 1952 also does not include any authorized insurer or health  
 1953 maintenance organization to the extent that it insures the

1954 members or the members and the employees of such members of such  
 1955 multiple-employer welfare arrangement or voluntary employees'  
 1956 beneficiary association in existence on January 1, 1992.

1957 Section 14. Subsections (1), (2), (7), and (9) of section  
 1958 627.7015, Florida Statutes, are amended to read:

1959 627.7015 Alternative procedure for resolution of disputed  
 1960 property insurance claims.—

1961 (1) ~~PURPOSE AND SCOPE.~~—This section sets forth a  
 1962 nonadversarial alternative dispute resolution procedure for a  
 1963 mediated claim resolution conference prompted by the need for  
 1964 effective, fair, and timely handling of property insurance  
 1965 claims. There is a particular need for an informal,  
 1966 nonthreatening forum for helping parties who elect this  
 1967 procedure to resolve their claims disputes because most  
 1968 homeowner's and commercial residential insurance policies  
 1969 obligate policyholders ~~insureds~~ to participate in a potentially  
 1970 expensive and time-consuming adversarial appraisal process  
 1971 before ~~prior to~~ litigation. The procedure set forth in this  
 1972 section is designed to bring the parties together for a mediated  
 1973 claims settlement conference without any of the trappings or  
 1974 drawbacks of an adversarial process. Before resorting to these  
 1975 procedures, policyholders ~~insureds~~ and insurers are encouraged  
 1976 to resolve claims as quickly and fairly as possible. This  
 1977 section is available with respect to claims under personal lines  
 1978 and commercial residential policies before ~~for all claimants and~~  
 1979 ~~insurers prior to~~ commencing the appraisal process, or before  
 1980 commencing litigation. Mediation may be requested only by the  
 1981 policyholder, as a first-party claimant, or the insurer. If

1982 requested by the policyholder ~~insured~~, participation by legal  
 1983 counsel is ~~shall be~~ permitted. Mediation under this section is  
 1984 also available to litigants referred to the department by a  
 1985 county court or circuit court. This section does not apply to  
 1986 commercial coverages, to private passenger motor vehicle  
 1987 insurance coverages, or to disputes relating to liability  
 1988 coverages in policies of property insurance.

1989 (2) At the time a first-party claim within the scope of  
 1990 this section is filed by the policyholder, the insurer shall  
 1991 notify the policyholder ~~all first-party claimants~~ of its ~~their~~  
 1992 right to participate in the mediation program under this  
 1993 section. The department shall prepare a consumer information  
 1994 pamphlet for distribution to persons participating in mediation  
 1995 ~~under this section.~~

1996 (7) If the insurer fails to comply with subsection (2) by  
 1997 failing to notify a policyholder ~~first-party claimant~~ of its  
 1998 right to participate in the mediation program under this section  
 1999 or if the insurer requests the mediation, and the mediation  
 2000 results are rejected by either party, the policyholder is  
 2001 ~~insured shall~~ not be required to submit to or participate in any  
 2002 contractual loss appraisal process of the property loss damage  
 2003 as a precondition to legal action for breach of contract against  
 2004 the insurer for its failure to pay the policyholder's claims  
 2005 covered by the policy.

2006 (9) For purposes of this section, the term "claim" refers  
 2007 to any dispute between an insurer and a policyholder ~~an insured~~  
 2008 relating to a material issue of fact other than a dispute:

2009 (a) With respect to which the insurer has a reasonable



2010 basis to suspect fraud;

2011 (b) Where, based on agreed-upon facts as to the cause of  
 2012 loss, there is no coverage under the policy;

2013 (c) With respect to which the insurer has a reasonable  
 2014 basis to believe that the policyholder ~~claimant~~ has  
 2015 intentionally made a material misrepresentation of fact which is  
 2016 relevant to the claim, and the entire request for payment of a  
 2017 loss has been denied on the basis of the material  
 2018 misrepresentation; ~~or~~

2019 (d) With respect to which the amount in controversy is  
 2020 less than \$500, unless the parties agree to mediate a dispute  
 2021 involving a lesser amount; or.

2022 (e) With respect to a windstorm or hurricane loss that  
 2023 does not comply with s. 627.70132.

2024 Section 15. Subsection (4) of section 627.706, Florida  
 2025 Statutes, is amended to read:

2026 627.706 Sinkhole insurance; catastrophic ground cover  
 2027 collapse; definitions.—

2028 (4) An insurer offering sinkhole coverage to policyholders  
 2029 before or after the adoption of s. 30, chapter 2007-1, Laws of  
 2030 Florida, may renew pursuant to s. 627.43141 or nonrenew the  
 2031 policies of policyholders maintaining sinkhole coverage, at the  
 2032 option of the insurer, and provide an offer of coverage or  
 2033 renewal that includes catastrophic ground cover collapse and  
 2034 excludes sinkhole coverage. Insurers acting in accordance with  
 2035 this subsection are subject to the following requirements:

2036 (a) Policyholders must be notified that the renewal or a  
 2037 nonrenewal is for purposes of removing sinkhole coverage, and

2038 that the policyholder is being offered a policy that provides  
 2039 coverage for catastrophic ground cover collapse.

2040 (b) Policyholders must be provided an actuarially  
 2041 reasonable premium credit or discount for the removal of  
 2042 sinkhole coverage and provision of only catastrophic ground  
 2043 cover collapse.

2044 (c) Subject to the provisions of this subsection and the  
 2045 insurer's approved underwriting or insurability guidelines, the  
 2046 insurer shall provide each policyholder with the opportunity to  
 2047 purchase an endorsement to his or her policy providing sinkhole  
 2048 coverage and may require an inspection of the property before  
 2049 issuance of a sinkhole coverage endorsement.

2050 (d) Section 624.4305 does not apply to nonrenewal notices  
 2051 issued pursuant to this subsection.

2052 Section 16. Paragraph (e) of subsection (5) of section  
 2053 627.707, Florida Statutes, is amended, and paragraph (f) is  
 2054 added to that subsection, to read:

2055 627.707 Investigation of sinkhole claims; insurer payment;  
 2056 nonrenewals.—Upon receipt of a claim for a sinkhole loss to a  
 2057 covered building, an insurer must meet the following standards  
 2058 in investigating a claim:

2059 (5) If a sinkhole loss is verified, the insurer shall pay  
 2060 to stabilize the land and building and repair the foundation in  
 2061 accordance with the recommendations of the professional engineer  
 2062 retained pursuant to subsection (2), with notice to the  
 2063 policyholder, subject to the coverage and terms of the policy.  
 2064 The insurer shall pay for other repairs to the structure and  
 2065 contents in accordance with the terms of the policy. If a

2066 covered building suffers a sinkhole loss or a catastrophic  
 2067 ground cover collapse, the insured must repair such damage or  
 2068 loss in accordance with the insurer's professional engineer's  
 2069 recommended repairs. However, if the insurer's professional  
 2070 engineer determines that the repair cannot be completed within  
 2071 policy limits, the insurer must pay to complete the repairs  
 2072 recommended by the insurer's professional engineer or tender the  
 2073 policy limits to the policyholder.

2074 (e) Upon the insurer's obtaining the written approval of  
 2075 any lienholder, the insurer may make payment directly to the  
 2076 persons selected by the policyholder to perform the land and  
 2077 building stabilization and foundation repairs. The decision by  
 2078 the insurer to make payment to such persons does not hold the  
 2079 insurer liable for the work performed. ~~The policyholder may not~~  
 2080 ~~accept a rebate from any person performing the repairs specified~~  
 2081 ~~in this section. If a policyholder does receive a rebate,~~  
 2082 ~~coverage is void and the policyholder must refund the amount of~~  
 2083 ~~the rebate to the insurer. Any person making the repairs~~  
 2084 ~~specified in this section who offers a rebate commits insurance~~  
 2085 ~~fraud punishable as a third degree felony as provided in s.~~  
 2086 ~~775.082, s. 775.083, or s. 775.084.~~

2087 (f) The policyholder may not accept a rebate from any  
 2088 person performing the repairs specified in this section. If a  
 2089 policyholder receives a rebate, coverage is void and the  
 2090 policyholder must refund the amount of the rebate to the  
 2091 insurer. Any person performing the repairs specified in this  
 2092 section who offers a rebate commits insurance fraud punishable  
 2093 as a third degree felony as provided in s. 775.082, s. 775.083,

2094 or s. 775.084. As used in this paragraph, the term "rebate"  
 2095 means a remuneration, payment, gift, discount, or transfer of  
 2096 any item of value to the policyholder by or on behalf of a  
 2097 person performing the repairs specified in this section as an  
 2098 incentive or inducement to obtain repairs performed by that  
 2099 person.

2100 Section 17. Effective upon this act becoming a law,  
 2101 subsection (4) of section 627.7295, Florida Statutes, is amended  
 2102 to read:

2103 627.7295 Motor vehicle insurance contracts.—

2104 (4) ~~If subsection (7) does not apply,~~ The insurer may  
 2105 cancel the policy in accordance with this code except that,  
 2106 notwithstanding s. 627.728, an insurer may not cancel a new  
 2107 policy or binder during the first 60 days immediately following  
 2108 the effective date of the policy or binder ~~except~~ for nonpayment  
 2109 of premium unless the reason for the cancellation is the  
 2110 issuance of a check for the premium that is dishonored for any  
 2111 reason or any other type of premium payment that was  
 2112 subsequently determined to be rejected or invalid.

2113 Section 18. Effective upon this act becoming a law,  
 2114 paragraph (d) of subsection (4) of section 627.736, Florida  
 2115 Statutes, is amended to read:

2116 627.736 Required personal injury protection benefits;  
 2117 exclusions; priority; claims.—

2118 (4) BENEFITS; WHEN DUE.—Benefits due from an insurer under  
 2119 ss. 627.730-627.7405 shall be primary, except that benefits  
 2120 received under any workers' compensation law shall be credited  
 2121 against the benefits provided by subsection (1) and shall be due

2122 and payable as loss accrues, upon receipt of reasonable proof of  
 2123 such loss and the amount of expenses and loss incurred which are  
 2124 covered by the policy issued under ss. 627.730-627.7405. When  
 2125 the Agency for Health Care Administration provides, pays, or  
 2126 becomes liable for medical assistance under the Medicaid program  
 2127 related to injury, sickness, disease, or death arising out of  
 2128 the ownership, maintenance, or use of a motor vehicle, benefits  
 2129 under ss. 627.730-627.7405 shall be subject to the provisions of  
 2130 the Medicaid program.

2131 (d) All overdue payments shall bear simple interest at the  
 2132 rate established under s. 55.03 or the rate established in the  
 2133 insurance contract, whichever is greater, for the quarter ~~year~~  
 2134 in which the payment became overdue, calculated from the date  
 2135 the insurer was furnished with written notice of the amount of  
 2136 covered loss. Interest shall be due at the time payment of the  
 2137 overdue claim is made.

2138 Section 19. Section 627.7405, Florida Statutes, is amended  
 2139 to read:

2140 627.7405 Insurers' right of reimbursement.—

2141 (1) Notwithstanding any other provisions of ss. 627.730-  
 2142 627.7405, any insurer providing personal injury protection  
 2143 benefits on a private passenger motor vehicle shall have, to the  
 2144 extent of any personal injury protection benefits paid to any  
 2145 person as a benefit arising out of such private passenger motor  
 2146 vehicle insurance, a right of reimbursement against the owner or  
 2147 the insurer of the owner of a commercial motor vehicle, if the  
 2148 benefits paid result from such person having been an occupant of  
 2149 the commercial motor vehicle or having been struck by the

2150 commercial motor vehicle while not an occupant of any self-  
 2151 propelled vehicle.

2152 (2) For purposes of this section, no owner or registrant  
 2153 identified in s. 627.733(1)(b) shall be liable for right of  
 2154 reimbursement.

2155 Section 20. Effective upon this act becoming a law,  
 2156 section 628.901, Florida Statutes, is amended to read:

2157 628.901 Definitions ~~"Captive insurer" defined.~~ As used in  
 2158 ~~For the purposes of this part, the term: except as provided in~~  
 2159 ~~s. 628.903, a "captive insurer" is a domestic insurer~~  
 2160 ~~established under part I to insure the risks of a specific~~  
 2161 ~~corporation or group of corporations under common ownership~~  
 2162 ~~owned by the corporation or corporations from which it accepts~~  
 2163 ~~risk under a contract of insurance.~~

2164 (1) "Affiliated company" means a company in the same  
 2165 corporate system as a parent, an industrial insured, or a member  
 2166 organization by virtue of common ownership, control, operation,  
 2167 or management.

2168 (2) "Captive insurance company" means a domestic insurer  
 2169 established under this part. A captive insurance company  
 2170 includes a pure captive insurance company, special purpose  
 2171 captive insurance company, or industrial insured captive  
 2172 insurance company formed and licensed under this part.

2173 (3) "Captive reinsurance company" means a reinsurance  
 2174 company that is formed and licensed under this part and is  
 2175 wholly owned by a qualifying reinsurance parent company. A  
 2176 captive reinsurance company is a stock corporation and may not  
 2177 directly insure risks. A captive reinsurance company may

2178 reinsure only risks.

2179 (4) "Consolidated debt to total capital ratio" means the  
2180 ratio of the sum of all debts and hybrid capital instruments as  
2181 described in paragraph (a) to total capital as described in  
2182 paragraph (b).

2183 (a) Debts and hybrid capital instruments include, but are  
2184 not limited to, all borrowings from banks, all senior debt, all  
2185 subordinated debts, all trust preferred shares, and all other  
2186 hybrid capital instruments that are not included in the  
2187 determination of consolidated GAAP net worth issued and  
2188 outstanding.

2189 (b) Total capital consists of all debts and hybrid capital  
2190 instruments as described in paragraph (a) plus owners' equity  
2191 determined in accordance with GAAP for reporting to the United  
2192 States Securities and Exchange Commission.

2193 (5) "Consolidated GAAP net worth" means the consolidated  
2194 owners' equity determined in accordance with generally accepted  
2195 accounting principles for reporting to the United States  
2196 Securities and Exchange Commission.

2197 (6) "Controlled unaffiliated business" means a company:

2198 (a) That is not in the corporate system of a parent and  
2199 affiliated companies;

2200 (b) That has an existing contractual relationship with a  
2201 parent or affiliated company; and

2202 (c) Whose risks are managed by a captive insurance company  
2203 in accordance with s. 628.919.

2204 (7) "GAAP" means generally accepted accounting principles.

2205 (8) "Industrial insured" means an insured that:

2206           (a) Has gross assets in excess of \$50 million;  
 2207           (b) Procures insurance through the use of a full-time  
 2208 employee of the insured who acts as an insurance manager or  
 2209 buyer or through the services of a person licensed as a property  
 2210 and casualty insurance agent, broker, or consultant in such  
 2211 person's state of domicile;  
 2212           (c) Has at least 100 full-time employees; and  
 2213           (d) Pays annual premiums of at least \$200,000 for each  
 2214 line of insurance purchased from the industrial insured captive  
 2215 insurer or at least \$75,000 for any line of coverage in excess  
 2216 of at least \$25 million in the annual aggregate. The purchase of  
 2217 umbrella or general liability coverage in excess of \$25 million  
 2218 in the annual aggregate shall be deemed to be the purchase of a  
 2219 single line of insurance.  
 2220           (9) "Industrial insured captive insurance company" means a  
 2221 captive insurance company that provides insurance only to the  
 2222 industrial insureds that are its stockholders or members, and  
 2223 affiliates thereof, or to the stockholders, and affiliates  
 2224 thereof, of its parent corporation. An industrial insured  
 2225 captive insurance company can also provide reinsurance to  
 2226 insurers only on risks written by such insurers for the  
 2227 industrial insureds that are the stockholders or members, and  
 2228 affiliates thereof, of the industrial insured captive insurer,  
 2229 or the stockholders, and affiliates thereof, of the parent  
 2230 corporation of the industrial insured captive insurer.  
 2231           (10) "Office" means the Office of Insurance Regulation.  
 2232           (11) "Parent" means any corporation, limited liability  
 2233 company, partnership, or individual that directly or indirectly



2234 owns, controls, or holds with power to vote more than 50 percent  
 2235 of the outstanding voting interests of a captive insurance  
 2236 company.

2237 (12) "Pure captive insurance company" means a company that  
 2238 insures risks of its parent, affiliated companies, controlled  
 2239 unaffiliated businesses, or a combination thereof.

2240 (13) "Qualifying reinsurer parent company" means a  
 2241 reinsurer which currently holds a certificate of authority,  
 2242 letter of eligibility or is an accredited or a satisfactory non-  
 2243 approved reinsurer in this state possessing a consolidated GAAP  
 2244 net worth of at least \$500 million and a consolidated debt to  
 2245 total capital ratio of not greater than 0.50.

2246 (14) "Special purpose captive insurance company" means a  
 2247 captive insurance company that is formed or licensed under this  
 2248 chapter that does not meet the definition of any other type of  
 2249 captive insurance company defined in this section.

2250 (15) "Treasury rates" means the United States Treasury  
 2251 STRIPS asked yield as published in the Wall Street Journal as of  
 2252 a balance sheet date.

2253 Section 21. Effective upon this act becoming a law,  
 2254 section 628.905, Florida Statutes, is amended to read:

2255 628.905 Licensing; authority.—

2256 (1) A ~~Any~~ captive insurer, if ~~when~~ permitted by its  
 2257 charter or articles of incorporation, may apply to the office  
 2258 for a license to do any and all insurance authorized under the  
 2259 insurance code, provide commercial property, commercial  
 2260 casualty, and commercial marine insurance coverage other than  
 2261 workers' compensation and employer's liability, life, health,

2262 personal motor vehicle, and personal residential property  
 2263 insurance coverage, except that: ~~an industrial insured captive~~  
 2264 ~~insurer may apply for a license to provide workers' compensation~~  
 2265 ~~and employer's liability insurance as set forth in subsection~~  
 2266 ~~(6).~~

2267 (a) A pure captive insurance company may not insure any  
 2268 risks other than those of its parent, affiliated companies,  
 2269 controlled unaffiliated businesses, or a combination thereof.

2270 (b) An industrial insured captive insurance company may  
 2271 not insure any risks other than those of the industrial insureds  
 2272 that comprise the industrial insured group and their affiliated  
 2273 companies.

2274 (c) A special purpose captive insurance company may insure  
 2275 only the risks of its parent.

2276 (d) A captive insurance company may not accept or cede  
 2277 reinsurance except as provided in this part.

2278 (2) To conduct insurance business in this state, a ~~No~~  
 2279 ~~captive insurer, other than an industrial insured captive~~  
 2280 ~~insurer must:~~ shall insure or accept reinsurance on any risks  
 2281 ~~other than those of its parent and affiliated companies.~~

2282 (a) Obtain from the office a license authorizing it to  
 2283 conduct insurance business in this state;

2284 (b) Hold at least one board of directors' meeting each  
 2285 year in this state;

2286 (c) Maintain its principal place of business in this  
 2287 state; and

2288 (d) Appoint a resident registered agent to accept service  
 2289 of process and to otherwise act on its behalf in this state. In

2290 the case of a captive insurance company formed as a corporation  
 2291 or a nonprofit corporation, if the registered agent cannot with  
 2292 reasonable diligence be found at the registered office of the  
 2293 captive insurance company, the Chief Financial Officer of this  
 2294 state must be an agent of the captive insurance company upon  
 2295 whom any process, notice, or demand may be served.

2296 (3) Before receiving a license, a captive insurance  
 2297 company formed as a corporation or a nonprofit corporation must  
 2298 file with the office a certified copy of its articles of  
 2299 incorporation and bylaws, a statement under oath of its  
 2300 president and secretary showing its financial condition, and any  
 2301 other statements or documents required by the office. In  
 2302 addition, an applicant captive insurance company must file with  
 2303 the office evidence of:

2304 (a) The amount and liquidity of the proposed captive  
 2305 insurance company's assets relative to the risks to be assumed;

2306 (b) The adequacy of the expertise, experience, and  
 2307 character of the person or persons who will manage the company;

2308 (c) The overall soundness of the company's plan of  
 2309 operation;

2310 (d) The adequacy of the loss prevention programs of the  
 2311 company's parent, member organizations, or industrial insureds,  
 2312 as applicable; and

2313 (e) Any other factors considered relevant by the office in  
 2314 ascertaining whether the company will be able to meet its policy  
 2315 obligations. ~~In addition to information otherwise required by~~  
 2316 this code, each applicant captive insurer shall file with the  
 2317 office evidence of the adequacy of the loss prevention program

2318 ~~of its insureds.~~

2319       (4) A captive insurance company or captive reinsurance  
 2320 company must pay to the office a nonrefundable fee of \$1,500 for  
 2321 processing its application for license.

2322       (a) A captive insurance company or captive reinsurance  
 2323 company must also pay an annual renewal fee of \$1,000.

2324       (b) The office may charge a fee of \$5 for any document  
 2325 requiring certification of authenticity or the signature of the  
 2326 commissioner or his or her designee. ~~An industrial insured~~  
 2327 ~~captive insurer need not be incorporated in this state if it has~~  
 2328 ~~been validly incorporated under the laws of another~~  
 2329 ~~jurisdiction.~~

2330       (5) If the commissioner is satisfied that the documents  
 2331 and statements filed by the captive insurance company comply  
 2332 with this chapter, the commissioner may grant a license  
 2333 authorizing the company to conduct insurance business in this  
 2334 state until the next succeeding March 1, at which time the  
 2335 license may be renewed. ~~An industrial insured captive insurer is~~  
 2336 ~~subject to all provisions of this part except as otherwise~~  
 2337 ~~indicated.~~

2338       (6) Upon approval of the office, a foreign or alien  
 2339 captive insurance company may become a domestic captive  
 2340 insurance company by complying with all of the requirements of  
 2341 law relative to the organization and licensing of a domestic  
 2342 captive insurance company of the same or equivalent type in this  
 2343 state and by filing with the Secretary of State its charter or  
 2344 other organizational documents, together with any appropriate  
 2345 amendments that have been adopted in accordance with the laws of

2346 this state to bring the charter or other organizational  
 2347 documents into compliance with the laws of this state, along  
 2348 with a certificate of good standing issued by the office. The  
 2349 captive insurance company is then entitled to the necessary or  
 2350 appropriate certificates and licenses to continue transacting  
 2351 business in this state and is subject to the authority and  
 2352 jurisdiction of this state. In connection with this  
 2353 redomestication, the office may waive any requirements for  
 2354 public hearings. It is not necessary for a captive insurance  
 2355 company redomesticating into this state to merge, consolidate,  
 2356 transfer assets, or otherwise engage in any other  
 2357 reorganization, other than as specified in this section. An  
 2358 ~~industrial insured captive insurer may not provide workers'~~  
 2359 ~~compensation and employer's liability insurance except in excess~~  
 2360 ~~of at least \$25 million in the annual aggregate.~~

2361 (7) An industrial insured captive insurance company need  
 2362 not be incorporated in this state if it has been validly  
 2363 incorporated under the laws of another jurisdiction.

2364 Section 22. Effective upon this act becoming a law,  
 2365 section 628.906, Florida Statutes, is created to read:

2366 628.906 Application requirements; restrictions on  
 2367 eligibility of officers and directors.—

2368 (1) To evidence competence and trustworthiness of its  
 2369 officers and directors, the application for a license to act as  
 2370 a captive insurance company or captive reinsurance company shall  
 2371 include, but not be limited to, background investigations,  
 2372 biographical affidavits, and fingerprint cards for all officers  
 2373 and directors. Fingerprints must be taken by a law enforcement

2374 agency or other entity approved by the office, be accompanied by  
 2375 the fingerprint processing fee specified in s. 624.501, and  
 2376 processed in accordance with s. 624.34.

2377 (2) The office may deny, suspend, or revoke the license to  
 2378 transact captive insurance or captive reinsurance in this state  
 2379 if any person who was an officer or director of an insurer,  
 2380 reinsurer, captive insurance company, captive reinsurance  
 2381 company, financial institution, or financial services business  
 2382 doing business in the United States, any state, or under the law  
 2383 of any other country and who served in that capacity within the  
 2384 2-year period prior to the date the insurer, reinsurer, captive  
 2385 insurance company, captive reinsurance company, financial  
 2386 institution, or financial services business became insolvent,  
 2387 serves as an officer or director of a captive insurance company  
 2388 or officer or director of a captive reinsurance company licensed  
 2389 in this state unless the officer or director demonstrates that  
 2390 his or her personal actions or omissions were not a contributing  
 2391 cause to the insolvency or unless the officer or director is  
 2392 immediately removed from the captive insurance company or  
 2393 captive reinsurance company.

2394 (3) The office may deny, suspend, or revoke the license to  
 2395 transact insurance or reinsurance in this state of a captive  
 2396 insurance company or captive reinsurance company if any officer  
 2397 or director, any stockholder that owns 10 percent or more of the  
 2398 outstanding voting securities of the captive insurance company  
 2399 or captive reinsurance company, or incorporator has been found  
 2400 guilty of, or has pleaded guilty or nolo contendere to, any  
 2401 felony or crime involving moral turpitude, including a crime of

2402 dishonesty or breach of trust, punishable by imprisonment of 1  
 2403 year or more under the law of the United States or any state  
 2404 thereof or under the law of any other country without regard to  
 2405 whether a judgment of conviction has been entered by the court  
 2406 having jurisdiction in such case. However, in the case of a  
 2407 captive insurance company or captive reinsurance company  
 2408 operating under a subsisting license, the captive insurance  
 2409 company or captive reinsurance company shall remove any such  
 2410 person immediately upon discovery of the conditions set forth in  
 2411 this subsection when applicable to such person or upon the order  
 2412 of the office, and the failure to so act shall be grounds for  
 2413 revocation or suspension of the captive insurance company's or  
 2414 captive reinsurance company's license.

2415 Section 23. Effective upon this act becoming a law,  
 2416 section 628.907, Florida Statutes, is amended to read:

2417 628.907 Minimum capital and net assets requirements;  
 2418 restriction on payment of dividends ~~surplus.~~

2419 (1) A ~~No~~ captive insurer may not ~~shall~~ be issued a license  
 2420 unless it possesses and thereafter maintains:

2421 ~~(1)~~ unimpaired paid-in capital of:

2422 (a) In the case of a pure captive insurance company, at  
 2423 least \$100,000. ~~\$500,000; and~~

2424 (b) In the case of an industrial insured captive insurance  
 2425 company incorporated as a stock insurer, at least \$200,000.

2426 (c) In the case of a special purpose captive insurance  
 2427 company, an amount determined by the office after giving due  
 2428 consideration to the company's business plan, feasibility study,  
 2429 and pro forma financial statements and projections, including

2430 the nature of the risks to be insured.

2431 (2) The office may not issue a license to a captive  
 2432 insurance company incorporated as a nonprofit corporation unless  
 2433 the company possesses and maintains unrestricted net assets of:

2434 (a) In the case of a pure captive insurance company,  
 2435 ~~Unimpaired surplus of~~ at least \$250,000.

2436 (b) In the case of a special purpose captive insurance  
 2437 company, an amount determined by the office after giving due  
 2438 consideration to the company's business plan, feasibility study,  
 2439 and pro forma financial statements and projections, including  
 2440 the nature of the risks to be insured.

2441 (3) Contributions to a captive insurance company  
 2442 incorporated as a nonprofit corporation must be in the form of  
 2443 cash, cash equivalent, or an irrevocable letter of credit issued  
 2444 by a bank chartered by this state or a member bank of the  
 2445 Federal Reserve System with a branch office in this state, or as  
 2446 approved by the office.

2447 (4) For purposes of this section, the office may issue a  
 2448 license expressly conditioned upon the captive insurance company  
 2449 providing to the office satisfactory evidence of possession of  
 2450 the minimum required unimpaired paid-in capital. Until this  
 2451 evidence is provided, the captive insurance company may not  
 2452 issue any policy, assume any liability, or otherwise provide  
 2453 coverage. The office may revoke the conditional license if  
 2454 satisfactory evidence of the required capital is not provided  
 2455 within a maximum period of time, not to exceed 1 year, to be  
 2456 established by the office at the time the conditional license is  
 2457 issued.



2458           (5) The office may prescribe additional capital or net  
2459 assets based upon the type, volume, and nature of insurance  
2460 business transacted. Contributions in connection with these  
2461 prescribed additional net assets or capital must be in the form  
2462 of:

2463           (a) Cash;  
2464           (b) Cash equivalent;  
2465           (c) An irrevocable letter of credit issued by a bank  
2466 chartered by this state or a member bank of the Federal Reserve  
2467 System with a branch office in this state, or as approved by the  
2468 office; or

2469           (d) Securities invested as provided in part II of chapter  
2470 625.

2471           (6) A captive insurance company may not pay a dividend out  
2472 of, or other distribution with respect to, capital or surplus in  
2473 excess of the limitations set forth in this chapter without the  
2474 prior approval of the office. Approval of an ongoing plan for  
2475 the payment of dividends or other distributions must be  
2476 conditioned upon the retention, at the time of each payment, of  
2477 capital or surplus in excess of amounts specified by, or  
2478 determined in accordance with formulas approved by, the office.

2479           (7) An irrevocable letter of credit that is issued by a  
2480 financial institution other than a bank chartered by this state  
2481 or a member bank of the Federal Reserve System must meet the  
2482 same standards as an irrevocable letter of credit that has been  
2483 issued by a bank chartered by this state or a member bank of the  
2484 Federal Reserve System.

2485           Section 24. Effective upon this act becoming a law,

2486 section 628.908, Florida Statutes, is created to read:

2487 628.908 Surplus requirements; restriction on payment of  
 2488 dividends.—

2489 (1) The office may not issue a license to a captive  
 2490 insurance company unless the company possesses and maintains  
 2491 unimpaired surplus of:

2492 (a) In the case of a pure captive insurance company, at  
 2493 least \$150,000.

2494 (b) In the case of an industrial insured captive insurance  
 2495 company incorporated as a stock insurer, at least \$300,000.

2496 (c) In the case of an industrial insured captive insurance  
 2497 company incorporated as a mutual insurer, at least \$500,000.

2498 (d) In the case of a special purpose captive insurance  
 2499 company, an amount determined by the office after giving due  
 2500 consideration to the company's business plan, feasibility study,  
 2501 and pro forma financial statements and projections, including  
 2502 the nature of the risks to be insured.

2503 (2) For purposes of this section, the office may issue a  
 2504 license expressly conditioned upon the captive insurance company  
 2505 providing to the office satisfactory evidence of possession of  
 2506 the minimum required unimpaired surplus. Until this evidence is  
 2507 provided, the captive insurance company may not issue any  
 2508 policy, assume any liability, or otherwise provide coverage. The  
 2509 office may revoke the conditional license if satisfactory  
 2510 evidence of the required surplus is not provided within a  
 2511 maximum period of time, not to exceed 1 year, to be established  
 2512 by the office at the time the conditional license is issued.

2513 (3) A captive insurance company may not pay a dividend out

2514 of, or other distribution with respect to, capital or surplus in  
 2515 excess of the limitations set forth in this chapter without the  
 2516 prior approval of the office. Approval of an ongoing plan for  
 2517 the payment of dividends or other distribution must be  
 2518 conditioned upon the retention, at the time of each payment, of  
 2519 capital or surplus in excess of amounts specified by, or  
 2520 determined in accordance with formulas approved by, the office.

2521 (4) An irrevocable letter of credit that is issued by a  
 2522 financial institution other than a bank chartered by this state  
 2523 or a member bank of the Federal Reserve System must meet the  
 2524 same standards as an irrevocable letter of credit that has been  
 2525 issued by a bank chartered by this state or a member bank of the  
 2526 Federal Reserve System.

2527 Section 25. Effective upon this act becoming a law,  
 2528 section 628.909, Florida Statutes, is amended to read:

2529 628.909 Applicability of other laws.—

2530 (1) The Florida Insurance Code does ~~shall~~ not apply to  
 2531 captive insurers or industrial insured captive insurers except  
 2532 as provided in this part and subsections (2) and (3).

2533 (2) The following provisions of the Florida Insurance Code  
 2534 ~~shall~~ apply to captive insurers who are not industrial insured  
 2535 captive insurers to the extent that such provisions are not  
 2536 inconsistent with this part:

2537 (a) Chapter 624, except for ss. 624.407, 624.408,  
 2538 624.4085, 624.40851, 624.4095, 624.425, and 624.426.

2539 (b) Chapter 625, part II.

2540 (c) Chapter 626, part IX.

2541 (d) Sections 627.730-627.7405, when no-fault coverage is

2542 provided.

2543 (e) Chapter 628.

2544 (3) The following provisions of the Florida Insurance Code  
 2545 ~~shall~~ apply to industrial insured captive insurers to the extent  
 2546 that such provisions are not inconsistent with this part:

2547 (a) Chapter 624, except for ss. 624.407, 624.408,  
 2548 624.4085, 624.40851, 624.4095, 624.425, 624.426, and 624.609(1).

2549 (b) Chapter 625, part II, if the industrial insured  
 2550 captive insurer is incorporated in this state.

2551 (c) Chapter 626, part IX.

2552 (d) Sections 627.730-627.7405 when no-fault coverage is  
 2553 provided.

2554 (e) Chapter 628, except for ss. 628.341, 628.351, and  
 2555 628.6018.

2556 Section 26. Effective upon this act becoming a law,  
 2557 section 628.910, Florida Statutes, is created to read:

2558 628.910 Incorporation options and requirements.-

2559 (1) A pure captive insurance company may be:

2560 (a) Incorporated as a stock insurer with its capital  
 2561 divided into shares and held by the stockholders; or

2562 (b) Incorporated as a public benefit, mutual benefit, or  
 2563 religious nonprofit corporation with members in accordance with  
 2564 the Florida Not For Profit Corporation Act.

2565 (2) An industrial insured captive insurance company may  
 2566 be:

2567 (a) Incorporated as a stock insurer with its capital  
 2568 divided into shares and held by the stockholders; or

2569 (b) Incorporated as a mutual insurer without capital

2570 stock, the governing body of which is elected by its members.

2571 (3) A captive insurance company may not have fewer than  
2572 three incorporators of whom not fewer than two must be residents  
2573 of this state.

2574 (4) In the case of a captive insurance company formed as a  
2575 corporation or a nonprofit corporation, before the articles of  
2576 incorporation are transmitted to the Secretary of State, the  
2577 incorporators shall file the articles of incorporation in  
2578 triplicate with the office. The office shall promptly examine  
2579 the articles of incorporation. If it finds that the articles of  
2580 incorporation conform to law, it shall endorse its approval on  
2581 each of the triplicate originals of the articles of  
2582 incorporation, retain one copy for its files, and return the  
2583 remaining copies to the incorporators for filing with the  
2584 Department of State.

2585 (5) The articles of incorporation, the certificate issued  
2586 pursuant to this section, and the organization fees required by  
2587 the Florida Business Corporation Act or the Florida Not For  
2588 Profit Corporation Act, as applicable, must be transmitted to  
2589 the Secretary of State, who must record the articles of  
2590 incorporation and the certificate.

2591 (6) The capital stock of a captive insurance company  
2592 incorporated as a stock insurer must be issued at par value of  
2593 not less than \$1 or more than \$100 per share.

2594 (7) In the case of a captive insurance company formed as a  
2595 corporation or a nonprofit corporation, at least one of the  
2596 members of the board of directors of a captive insurance company  
2597 incorporated in this state must be a resident of this state.

2598       (8) A captive insurance company formed as a corporation or  
 2599 a nonprofit corporation, pursuant to the provisions of this  
 2600 chapter, has the privileges and is subject to the provisions of  
 2601 the general corporation law, including the Florida Not For  
 2602 Profit Corporation Act for nonprofit corporations, as  
 2603 applicable, as well as the applicable provisions contained in  
 2604 this chapter. If a conflict occurs between a provision of the  
 2605 general corporation law, including the Florida Not For Profit  
 2606 Corporation Act for nonprofit corporations, as applicable, and a  
 2607 provision of this chapter, the latter controls. The provisions  
 2608 of this title pertaining to mergers, consolidations,  
 2609 conversions, mutualizations, and redomestications apply in  
 2610 determining the procedures to be followed by a captive insurance  
 2611 company in carrying out any of the transactions described in  
 2612 such provisions, except that the office may waive or modify the  
 2613 requirements for public notice and hearing in accordance with  
 2614 rules the office may adopt addressing categories of  
 2615 transactions. If a notice of public hearing is required, but no  
 2616 one requests a hearing, the office may cancel the hearing.

2617       (9) The articles of incorporation or bylaws of a captive  
 2618 insurance company may authorize a quorum of a board of directors  
 2619 to consist of no fewer than one-third of the fixed or prescribed  
 2620 number of directors as provided for by the Florida Business  
 2621 Corporation Act or the Florida Not For Profit Corporation Act.

2622       Section 27. Effective upon this act becoming a law,  
 2623 section 628.911, Florida Statutes, is amended to read:

2624       628.911 Reports and statements.—

2625       (1) A captive insurance company may ~~insurer shall~~ not be

2626 required to make any annual report except as provided in this  
 2627 part section.

2628 (2) Annually no later than March 1, a captive insurance  
 2629 company or a captive reinsurance company insurer shall, within  
 2630 60 days after the end of its fiscal year and as often as the  
 2631 office may deem necessary, submit to the office a report of its  
 2632 financial condition verified by oath of two of its executive  
 2633 officers. Except as provided in this part, a captive insurance  
 2634 company or a captive reinsurance company must report using  
 2635 generally accepted accounting principles, unless the office  
 2636 approves the use of statutory accounting principles, with useful  
 2637 or necessary modifications or adaptations required or approved  
 2638 or accepted by the office for the type of insurance and kinds of  
 2639 insurers to be reported upon, and as supplemented by additional  
 2640 information required by the office. The Financial Services  
 2641 Commission may adopt by rule the form in which captive insurance  
 2642 companies insurers shall report.

2643 (3) A captive insurance company may make written  
 2644 application for filing the required report on a fiscal year end  
 2645 that is consistent with the parent company's fiscal year. If an  
 2646 alternative reporting date is granted, the annual report is due  
 2647 60 days after the fiscal year end.

2648 Section 28. Effective upon this act becoming a law,  
 2649 section 628.912, Florida Statutes, is created to read:

2650 628.912 Discounting of loss and loss adjustment expense  
 2651 reserves.—

2652 (1) A captive reinsurance company may discount its loss  
 2653 and loss adjustment expense reserves at treasury rates applied

2654 to the applicable payments projected through the use of the  
 2655 expected payment pattern associated with the reserves.

2656 (2) A captive reinsurance company must file annually an  
 2657 actuarial opinion on loss and loss adjustment expense reserves  
 2658 provided by an independent actuary. The actuary may not be an  
 2659 employee of the captive reinsurance company or its affiliates.

2660 (3) The office may disallow the discounting of reserves if  
 2661 a captive reinsurance company violates a provision of this part.

2662 Section 29. Effective upon this act becoming a law,  
 2663 section 628.913, Florida Statutes, is amended to read:

2664 (Substantial rewording of section. See  
 2665 s. 628.913, F.S., for present text.)

2666 628.913 Captive reinsurance companies.—

2667 (1) A captive reinsurance company, if permitted by its  
 2668 articles of incorporation or charter, may apply to the office  
 2669 for a license to write reinsurance covering property and  
 2670 casualty insurance or reinsurance contracts. A captive  
 2671 reinsurance company authorized by the office may write  
 2672 reinsurance contracts covering risks in any state; however, a  
 2673 captive reinsurance company authorized by the office may not  
 2674 directly insure risks.

2675 (2) To conduct business in this state, a captive  
 2676 reinsurance company must:

2677 (a) Obtain from the office a license authorizing it to  
 2678 conduct business as a captive reinsurance company in this state;

2679 (b) Hold at least one board of directors' meeting each  
 2680 year in this state;

2681 (c) Maintain its principal place of business in this



2682 state; and

2683 (d) Appoint a registered agent to accept service of  
 2684 process and act otherwise on its behalf in this state.

2685 (3) Before receiving a license, a captive reinsurance  
 2686 company must file with the office:

2687 (a) A certified copy of its charter and bylaws;  
 2688 (b) A statement under oath of its president and secretary  
 2689 showing its financial condition; and

2690 (c) Other documents required by the office.

2691 (4) In addition to the information required by this  
 2692 section, the captive reinsurance company must file with the  
 2693 office evidence of:

2694 (a) The amount and liquidity of the captive reinsurance  
 2695 company's assets relative to the risks to be assumed;

2696 (b) The adequacy of the expertise, experience, and  
 2697 character of the person who manages the company;

2698 (c) The overall soundness of the company's plan of  
 2699 operation; and

2700 (d) Other overall factors considered relevant by the  
 2701 office in ascertaining if the company would be able to meet its  
 2702 policy obligations.

2703 Section 30. Effective upon this act becoming a law,  
 2704 section 628.914, Florida Statutes, is created to read:

2705 628.914 Minimum capitalization or reserves for captive  
 2706 reinsurance companies.—

2707 (1) The office may not issue a license to a captive  
 2708 reinsurance company unless the company possesses and maintains  
 2709 capital or unimpaired surplus of at least the greater of \$300

2710 million or 10 percent of reserves. The surplus may be in the  
 2711 form of cash or securities as permitted by part II of chapter  
 2712 625.

2713 (2) The office may prescribe additional capital or surplus  
 2714 based upon the type, volume, and nature of the insurance  
 2715 business transacted.

2716 (3) A captive reinsurance company may not pay a dividend  
 2717 out of, or other distribution with respect to, capital or  
 2718 surplus in excess of the limitations without the prior approval  
 2719 of the office. Approval of an ongoing plan for the payment of  
 2720 dividends or other distributions must be conditioned upon the  
 2721 retention, at the time of each payment, of capital or surplus in  
 2722 excess of amounts specified by, or determined in accordance with  
 2723 formulas approved by, the office.

2724 Section 31. Effective upon this act becoming a law,  
 2725 section 628.9141, Florida Statutes, is created to read:

2726 628.9141 Incorporation of a captive reinsurance company.-

2727 (1) A captive reinsurance company must be incorporated as  
 2728 a stock insurer with its capital divided into shares and held by  
 2729 its shareholders.

2730 (2) A captive reinsurance company may not have fewer than  
 2731 three incorporators of whom at least two must be residents of  
 2732 this state.

2733 (3) Before the articles of incorporation are transmitted  
 2734 to the Secretary of State, the incorporators must comply with  
 2735 all the requirements of s. 628.091.

2736 (4) The capital stock of a captive reinsurance company  
 2737 must be issued at par value of not less than \$1 or more than

2738 \$100 per share.

2739 (5) At least one of the members of the board of directors  
 2740 of a captive reinsurance company incorporated in this state must  
 2741 be a resident of this state.

2742 Section 32. Effective upon this act becoming a law,  
 2743 section 628.9142, Florida Statutes, is created to read:

2744 628.9142 Reinsurance; effect on reserves.-

2745 (1) A captive insurance company may provide reinsurance,  
 2746 as authorized in this part, on risks ceded by any other insurer.

2747 (2) A captive insurance company may take credit for  
 2748 reserves on risks or portions of risks ceded to authorized  
 2749 insurers or reinsurers and unauthorized insurers or reinsurers  
 2750 complying with s. 624.610. A captive insurer may not take credit  
 2751 for reserves on risks or portions of risks ceded to an  
 2752 unauthorized insurer or reinsurer if the insurer or reinsurer is  
 2753 not in compliance with s. 624.610.

2754 Section 33. Effective upon this act becoming a law,  
 2755 section 628.918, Florida Statutes, is created to read:

2756 628.918 Management of assets of captive reinsurance  
 2757 company.-At least 35 percent of the assets of a captive  
 2758 reinsurance company must be managed by an asset manager  
 2759 domiciled in this state.

2760 Section 34. Effective upon this act becoming a law,  
 2761 section 628.919, Florida Statutes, is created to read:

2762 628.919 Standards to ensure risk management control by  
 2763 parent company.-The Financial Services Commission shall adopt  
 2764 rules establishing standards to ensure that a parent or  
 2765 affiliated company is able to exercise control of the risk

2766 management function of any controlled unaffiliated business to  
 2767 be insured by the pure captive insurance company.

2768 Section 35. Effective upon this act becoming a law,  
 2769 section 628.920, Florida Statutes, is created to read:

2770 628.920 Eligibility of licensed captive insurance company  
 2771 for certificate of authority to act as insurer.—A licensed  
 2772 captive insurance company that meets the necessary requirements  
 2773 of this part imposed upon an insurer must be considered for  
 2774 issuance of a certificate of authority to act as an insurer in  
 2775 this state.

2776 Section 36. Effective upon this act becoming a law,  
 2777 paragraph (e) of subsection (2) of section 626.7491, Florida  
 2778 Statutes, is amended to read:

2779 626.7491 Business transacted with producer controlled  
 2780 property and casualty insurer.—

2781 (2) DEFINITIONS.—As used in this section:

2782 (e) "Licensed insurer" or "insurer" means any person,  
 2783 firm, association, or corporation licensed to transact a  
 2784 property or casualty insurance business in this state. The  
 2785 following are not licensed insurers for the purposes of this  
 2786 section:

- 2787 1. Any risk retention group as defined in:
  - 2788 a. The Superfund Amendments Reauthorization Act of 1986,  
 2789 Pub. L. No. 99-499, 100 Stat. 1613 (1986);
  - 2790 b. The Risk Retention Act, 15 U.S.C. ss. 3901 et seq.  
 2791 (1982 and Supp. 1986); or
  - 2792 c. Section 627.942(9).
- 2793 2. Any residual market pool or joint underwriting

2794 authority or association; and

2795 3. Any captive insurance company ~~insurer~~ as defined in s.  
2796 628.901.

2797 Section 37. Effective upon this act becoming a law,  
2798 section 628.903, Florida Statutes, is repealed.

2799 Section 38. Section 631.271, Florida Statutes, is amended  
2800 to read:

2801 631.271 Priority of claims.—

2802 (1) The priority of distribution of claims from the  
2803 insurer's estate shall be in accordance with the order in which  
2804 each class of claims is set forth in this subsection. Every  
2805 claim in each class shall be paid in full or adequate funds  
2806 shall be retained for such payment before the members of the  
2807 next class may receive any payment. No subclasses may be  
2808 established within any class. The order of distribution of  
2809 claims shall be:

2810 (a) Class 1.—

2811 1. All of the receiver's costs and expenses of  
2812 administration.

2813 2. All of the expenses of a guaranty association or  
2814 foreign guaranty association in handling claims.

2815 (b) Class 2.—All claims under policies for losses  
2816 incurred, including third-party claims, all claims against the  
2817 insurer for liability for bodily injury or for injury to or  
2818 destruction of tangible property which claims are not under  
2819 policies, and all claims of a guaranty association or foreign  
2820 guaranty association. All claims under life insurance and  
2821 annuity policies, whether for death proceeds, annuity proceeds,

2822 or investment values, shall be treated as loss claims. That  
 2823 portion of any loss, indemnification for which is provided by  
 2824 other benefits or advantages recovered by the claimant, may not  
 2825 be included in this class, other than benefits or advantages  
 2826 recovered or recoverable in discharge of familial obligations of  
 2827 support or by way of succession at death or as proceeds of life  
 2828 insurance, or as gratuities. No payment by an employer to her or  
 2829 his employee may be treated as a gratuity.

2830 (c) Class 3.—Claims under nonassessable policies for  
 2831 unearned premiums or premium refunds.

2832 (d) Class 4.—Claims of the Federal Government.

2833 (e) Class 5.—Debts due to employees for services  
 2834 performed, to the extent that the debts do not exceed \$2,000 for  
 2835 each employee and represent payment for services performed  
 2836 within 6 months before the filing of the petition for  
 2837 liquidation. Officers and directors are not entitled to the  
 2838 benefit of this priority. This priority is in lieu of any other  
 2839 similar priority that is authorized by law as to wages or  
 2840 compensation of employees.

2841 (f) Class 6.—Claims of general creditors.

2842 (g) Class 7.—Claims of any state or local government.  
 2843 Claims, including those of any state or local government for a  
 2844 penalty or forfeiture, shall be allowed in this class, but only  
 2845 to the extent of the pecuniary loss sustained from the act,  
 2846 transaction, or proceeding out of which the penalty or  
 2847 forfeiture arose, with reasonable and actual costs occasioned  
 2848 thereby. The remainder of such claims shall be postponed to the  
 2849 class of claims under paragraph (k) ~~(j)~~.

2850 (h) Class 8.—Claims filed after the time specified in s.  
 2851 631.181(3), except when ordered otherwise by the court to  
 2852 prevent manifest injustice, or any claims other than claims  
 2853 under paragraph (i) or under paragraph (k)~~(j)~~.

2854 (i) Class 9.—Surplus or contribution notes, or similar  
 2855 obligations, and premium refunds on assessable policies.  
 2856 Payments to members of domestic mutual insurance companies shall  
 2857 be limited in accordance with law.

2858 (j) Class 10.—Interest on allowed claims of Classes 1  
 2859 through 9, according to the terms of a plan to pay interest on  
 2860 allowed claims proposed by the liquidator and approved by the  
 2861 receivership court.

2862 (k) Class 11.—The claims of shareholders or other owners.

2863 (2) In a liquidation proceeding involving one or more  
 2864 reciprocal states, the order of distribution of the domiciliary  
 2865 state shall control as to all claims of residents of this and  
 2866 reciprocal states. All claims of residents of reciprocal states  
 2867 shall be given equal priority of payment from general assets  
 2868 regardless of where such assets are located.

2869 Section 39. If this act and CS for CS for HB 245 or  
 2870 similar legislation are adopted in the same legislative session  
 2871 or an extension thereof and become law, a surplus lines insurer  
 2872 removing policies from the Citizens Property Insurance  
 2873 Corporation must, pursuant to s. 627.351(6)(q)3.d.(II)(B),  
 2874 Florida Statutes, maintain an A.M. Best Financial Strength  
 2875 Rating of A- or better or, in the alternative, a Demotech  
 2876 Financial Stability Rating of A or better.

2877 Section 40. Except as otherwise expressly provided in this

CS/CS/HB 1101, Engrossed 1

2012

2878 | act, this act shall take effect July 1, 2012. |