



148180

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/01/2012	.	
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The Committee on Budget Subcommittee on General Government Appropriations (Latvala) recommended the following:

Senate Amendment (with title amendment)

Delete lines 88 - 90
and insert:
personal injury protection insurance on those vehicles that cannot be legally operated on roads, highways, or streets in this state. Franchise dealers

Between lines 119 and 120
insert:
Section 2. Subsection (8) of section 624.402, Florida Statutes, is amended, and subsection (9) is added to that



148180

13 section, to read:

14 624.402 Exceptions, certificate of authority required.—A
15 certificate of authority shall not be required of an insurer
16 with respect to:

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

20 1. The insurer ~~or any affiliated person as defined in s.~~
21 ~~624.04 under common ownership or control with the insurer~~ does
22 not solicit, sell, or accept application for any insurance
23 policy or contract to be delivered or issued for delivery to any
24 person in any state;

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

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

29 a. The name of the insurer; the country of domicile; the
30 address of the insurer's principal office and office in this
31 state; the names of the owners of the insurer and their
32 percentage of ownership; the names of the officers and directors
33 of the insurer; the name, e-mail, and telephone number of a
34 contact person for the insurer; and the number of individuals
35 who are employed by the insurer or its affiliates in this state;

36 b. The lines of insurance and types of products offered by
37 the insurer;

38 c. A statement from the applicable regulatory body of the
39 insurer's domicile certifying that the insurer is licensed or
40 registered for those lines of insurance and types of products in
41 that domicile; and



148180

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

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

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

54 (b) As used in ~~For purposes of~~ this subsection, the term
55 "nonresident" means a trust or other entity organized and
56 domiciled under the laws of a country other than the United
57 States or a person who resides in and maintains a physical place
58 of domicile in a country other than the United States, which he
59 or she recognizes as and intends to maintain as his or her
60 permanent home. A nonresident does not include an unauthorized
61 immigrant present in the United States. Notwithstanding any
62 other provision of law, it is conclusively presumed, for
63 purposes of this subsection, that a person is a resident of the
64 United States if such person has:

65 1. Had his or her principal place of domicile in the United
66 States for 180 days or more in the 365 days before ~~prior to~~
67 issuance or renewal of the policy;

68 2. Registered to vote in any state;

69 3. Made a statement of domicile in any state; or

70 4. Filed for homestead tax exemption on property in any



148180

71 state.

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

76 (d) An alien insurer transacting insurance in this state
77 without complying with this subsection is shall be in violation
78 of this chapter and subject to the penalties provided in s.
79 624.15.

80 (9) (a) Life insurance policies or annuity contracts may be
81 solicited, sold, or issued in this state by an insurer domiciled
82 outside the United States covering only persons who, at the time
83 of issuance, are nonresidents of the United States if:

84 1. The insurer is an authorized insurer in the insurer's
85 country of domicile of the kinds of insurance proposed to be
86 offered and has been an authorized insurer for at least the
87 immediately preceding 3 years, or is the wholly owned subsidiary
88 of an authorized insurer or the wholly owned subsidiary of an
89 already eligible authorized insurer for the kinds of insurance
90 proposed for at least the immediately preceding 3 years. The
91 office may waive the 3-year requirement if the insurer has
92 operated successfully for at least the immediately preceding
93 year and has capital and surplus of at least \$25 million.

94 2. The insurer furnishes the office with an authenticated
95 copy of its current annual financial statement, in English, with
96 all monetary values therein expressed in United States dollars,
97 at an exchange rate that is current at the time and shown in the
98 statement, in the case of statements originally made in the
99 currencies of other countries, and with such additional



148180

100 information relative to the insurer as the office may request.

101 3. The insurer has and maintains surplus as to
102 policyholders of at least \$15 million. Such surplus must be
103 represented by investments consisting of eligible investments
104 for like funds of like domestic insurers under part II of
105 chapter 625. However, such surplus may be represented by
106 investments permitted by the domestic regulator of an alien
107 insurance company if the investments are substantially similar
108 in terms of quality, liquidity, and security to eligible
109 investments for like funds of like domestic insurers under part
110 II of chapter 625.

111 4. The insurer has a good reputation for providing service
112 to its policyholders and for the payment of losses and claims.

113 5. To maintain eligibility, the insurer furnishes the
114 office within the time period specified in s. 624.424(1) an
115 authenticated copy of its current annual and quarterly financial
116 statements, in English, with all monetary values therein
117 expressed in United States dollars, at an exchange rate that is
118 current at the time and shown in the statement, in the case of
119 statements originally made in the currencies of other countries,
120 and with such additional information relative to the insurer as
121 the office may request.

122 6. An insurer determined eligible under this subsection
123 agrees to make its books and records pertaining to its
124 operations in this state available for inspection during normal
125 business hours upon request of the office.

126 7. The insurer notifies the applicant in clear and
127 conspicuous language:

128 a. Of the date of the insurer's organization.



148180

129 b. Of the identity of and rating assigned by each
130 recognized insurance company rating organization that has rated
131 the insurer or, if applicable, that the insurer is unrated.

132 c. That the insurer does not hold a certificate of
133 authority issued in this state and that the office does not
134 exercise regulatory oversight over the insurer.

135 d. Of the identity and address of the regulatory authority
136 exercising oversight of the insurer. This sub-subparagraph does
137 not impose upon the office any duty or responsibility to
138 determine the actual financial condition or claims practices of
139 any unauthorized insurer, and the status of eligibility, if
140 granted by the office, indicates only that the insurer appears
141 to be financially sound and to have satisfactory claims
142 practices and that the office has no credible evidence to the
143 contrary.

144 (b) If the office has reason to believe that an insurer
145 issuing policies or contracts pursuant to this subsection is
146 insolvent or is in unsound financial condition, does not make
147 reasonable prompt payment of benefits, or is no longer eligible
148 under the conditions specified in this subsection, the office
149 may conduct an examination or investigation in accordance with
150 s. 624.316, s. 624.3161, or s. 624.320 and, if the findings of
151 the examination or investigation warrant, may withdraw the
152 eligibility of the insurer to issue policies or contracts
153 pursuant to this subsection without having a certificate of
154 authority issued by the office.

155 (c) This subsection does not provide an exception to the
156 agent licensure requirements of chapter 626. An insurer issuing
157 policies or contracts pursuant to this subsection shall appoint



148180

158 the agents that the insurer uses to sell such policies or
159 contracts as provided in chapter 626.

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

165 (e) Policies and contracts issued pursuant to this
166 subsection are not subject to the premium tax specified in s.
167 624.509.

168 (f) Applications for life insurance coverage offered under
169 this subsection must contain the following statement, in
170 contrasting color and at least 12-point type, on the same page
171 as the applicant's signature:

172
173 This policy is primarily governed by the laws of a
174 foreign country. As a result, all of the rating and
175 underwriting laws applicable to policies filed in this
176 state do not apply to this coverage, which may result
177 in your premiums being higher than would be
178 permissible under a Florida-approved policy. A
179 purchase of individual life insurance should be
180 considered carefully, as future medical conditions may
181 make it impossible to qualify for another individual
182 life policy. If the insurer issuing your policy
183 becomes insolvent, this policy is not covered by the
184 Florida Life and Health Insurance Guaranty
185 Association. For information concerning individual
186 life coverage under a Florida-approved policy, consult



148180

187 your agent or the Florida Department of Financial
188 Services.

189
190 (g) All life insurance policies and annuity contracts
191 issued pursuant to this subsection must contain on the first
192 page of the policy or contract the following statement, in
193 contrasting color and at least 10-point type:

194
195 The benefits of the policy providing your coverage are
196 governed primarily by the law of a country other than
197 the United States.

198
199 (h) All single-premium life insurance policies and single-
200 premium annuity contracts issued to persons who are not
201 residents of the United States and are not nonresidents
202 illegally residing in the United States are subject to chapter
203 896.

204 (i) As used in this subsection, the term "nonresident" has
205 the same meaning as provided in subsection (8).

206 (j) An alien insurer transacting insurance in this state
207 without complying with this subsection is in violation of this
208 chapter and subject to the penalties provided in s. 624.15 and
209 must pay the fine required for each violation as prescribed by
210 s. 626.910.

211
212 Delete line 147
213 and insert:
214 calendar quarter, and which had fewer ~~or with less~~ than 1,000
215



148180

216 Delete lines 244 - 260
217 and insert:
218 Section 6. Effective January 1, 2013, section 626.8675,
219 Florida Statutes, is created
220
221 Delete lines 289 - 290
222 and insert:
223 Section 8. Effective upon this act becoming a law,
224 paragraph (e) of subsection (2) of section 626.7491, Florida
225 Statutes, is amended to read:
226 626.7491 Business transacted with producer controlled
227 property and casualty insurer.—
228 (2) DEFINITIONS.—As used in this section:
229 (e) "Licensed insurer" or "insurer" means any person, firm,
230 association, or corporation licensed to transact a property or
231 casualty insurance business in this state. The following are not
232 licensed insurers for the purposes of this section:
233 1. Any risk retention group as defined in:
234 a. The Superfund Amendments Reauthorization Act of 1986,
235 Pub. L. No. 99-499, 100 Stat. 1613 (1986);
236 b. The Risk Retention Act, 15 U.S.C. ss. 3901 et seq. (1982
237 and Supp. 1986); or
238 c. Section 627.942(9).
239 2. Any residual market pool or joint underwriting authority
240 or association; and
241 3. Any captive insurance company insurer as defined in s.
242 628.901.
243 Section 9. Section 626.9201, Florida Statutes, is amended
244 to read:



148180

245 626.9201 Notice of cancellation or nonrenewal.-

246 (1) An insurer issuing a policy providing coverage for
247 property, casualty, surety, or marine insurance must ~~shall~~ give
248 the named insured at least 45 days' advance written notice of
249 nonrenewal. If the policy is not to be renewed, the written
250 notice shall state the reason ~~or reasons~~ as to why the policy is
251 not to be renewed. This subsection does not apply if:

252 (a) If the insurer has manifested its willingness to renew,
253 and the offer is not rescinded before the expiration of the
254 policy; or

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

257 (2) An insurer issuing a policy providing coverage for
258 property, casualty, surety, or marine insurance must ~~shall~~ give
259 the named insured written notice of cancellation or termination
260 other than nonrenewal at least 45 days before ~~prior to~~ the
261 effective date of the cancellation or termination, including in
262 the written notice the reason ~~or reasons~~ for the cancellation or
263 termination, except that:

264 (a) If ~~When~~ cancellation is for nonpayment of premium, ~~at~~
265 ~~least 10 days'~~ written notice of cancellation accompanied by the
266 reason for cancellation must ~~therefor shall~~ be given at least 10
267 days before the cancellation. As used in this paragraph, the
268 term "nonpayment of premium" means the failure of the named
269 insured to discharge when due any of his or her obligations in
270 connection with the payment of premiums on a policy or an
271 installment of such a premium, whether the premium or
272 installment is payable directly to the insurer or its agent or
273 indirectly under a ~~any~~ plan for financing premiums or extension



148180

274 of credit or the failure of the named insured to maintain
275 membership in an organization if such membership is a condition
276 precedent to insurance coverage. The term also includes the
277 failure of a financial institution to honor the check of an
278 applicant for insurance which was delivered to a licensed agent
279 for payment of a premium, even if the agent previously delivered
280 or transferred the premium to the insurer. If a correctly
281 dishonored check represents payment of the initial premium, the
282 contract and all contractual obligations are void ab initio
283 unless the nonpayment is cured within the earlier of 5 days
284 after actual notice by certified mail is received by the
285 applicant or 15 days after notice is sent to the applicant by
286 certified mail or registered mail, and, if the contract is void,
287 any premium received by the insurer from a third party shall be
288 refunded to that party in full; and

289 (b) If ~~When such~~ cancellation or termination occurs during
290 the first 90 days during which the insurance is in force and if
291 the insurance is canceled or terminated for reasons other than
292 nonpayment, ~~at least 20 days'~~ written notice of cancellation or
293 termination accompanied by the reason for cancellation or
294 termination must therefor shall be given at least 20 days before
295 cancellation or termination, except if ~~where~~ there has been a
296 material misstatement or misrepresentation or failure to comply
297 with the underwriting requirements established by the insurer.

298 (3) If an insurer fails to provide the ~~45-day or 20-day~~
299 written notice required under this section, the coverage
300 provided to the named insured remains ~~shall remain~~ in effect
301 until 45 days after the notice is given or until the effective
302 date of replacement coverage obtained by the named insured,



148180

303 whichever occurs first. The premium for the coverage remains
304 ~~shall remain~~ the same during any such extension period.

305 Section 10. Paragraph (a) of subsection (1) of section
306 626.9541, Florida Statutes, is amended to read:

307 626.9541 Unfair methods of competition and unfair or
308 deceptive acts or practices defined.—

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

312 (a) *Misrepresentations and false advertising of insurance*
313 *policies.*—Knowingly making, issuing, circulating, or causing to
314 be made, issued, or circulated, any estimate, illustration,
315 circular, statement, sales presentation, omission, ~~or~~
316 comparison, or property and casualty certificate of insurance
317 altered after being issued which:

318 1. Misrepresents the benefits, advantages, conditions, or
319 terms of any insurance policy.

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

322 3. Makes any false or misleading statements as to the
323 dividends or share of surplus previously paid on any insurance
324 policy.

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

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

330 6. Is a misrepresentation for the purpose of inducing, or
331 tending to induce, the lapse, forfeiture, exchange, conversion,



148180

332 or surrender of any insurance policy.

333 7. Is a misrepresentation for the purpose of effecting a
334 pledge or assignment of, or effecting a loan against, any
335 insurance policy.

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

338 9. Uses any advertisement that would mislead or otherwise cause
339 a reasonable person to believe mistakenly that the state or the
340 Federal Government is responsible for the insurance sales
341 activities of any person or stands behind any person's credit or
342 that any person, the state, or the Federal Government guarantees
343 any returns on insurance products or is a source of payment of
344 any insurance obligation of or sold by any person.

345 Section 11. Paragraph (b) of subsection (2) and paragraph
346 (c) of subsection (6) of section 627.351, Florida Statutes, are
347 amended, and paragraph (ff) is added to subsection (6) of that
348 section, to read:

349
350 Delete lines 818 - 898

351 and insert:

352 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

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

354 1. Must provide for adoption of residential property and
355 casualty insurance policy forms and commercial residential and
356 nonresidential property insurance forms, which must be approved
357 by the office before use. The corporation shall adopt the
358 following policy forms:

359 a. Standard personal lines policy forms that are
360 comprehensive multiperil policies providing full coverage of a



148180

361 residential property equivalent to the coverage provided in the
362 private insurance market under an HO-3, HO-4, or HO-6 policy.

363 b. Basic personal lines policy forms that are policies
364 similar to an HO-8 policy or a dwelling fire policy that provide
365 coverage meeting the requirements of the secondary mortgage
366 market, but which is more limited than the coverage under a
367 standard policy.

368 c. Commercial lines residential and nonresidential policy
369 forms that are generally similar to the basic perils of full
370 coverage obtainable for commercial residential structures and
371 commercial nonresidential structures in the admitted voluntary
372 market.

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

378 e. Commercial lines nonresidential property insurance forms
379 that cover the peril of wind only. The forms are applicable only
380 to nonresidential properties located in areas eligible for
381 coverage under the coastal account referred to in sub-
382 subparagraph (b)2.a.

383 f. The corporation may adopt variations of the policy forms
384 listed in sub-subparagraphs a.-e. which contain more restrictive
385 coverage.

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



148180

390 2. Must provide that the corporation adopt a program in
391 which the corporation and authorized insurers enter into quota
392 share primary insurance agreements for hurricane coverage, as
393 defined in s. 627.4025(2) (a), for eligible risks, and adopt
394 property insurance forms for eligible risks which cover the
395 peril of wind only.

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

397 (I) "Quota share primary insurance" means an arrangement in
398 which the primary hurricane coverage of an eligible risk is
399 provided in specified percentages by the corporation and an
400 authorized insurer. The corporation and authorized insurer are
401 each solely responsible for a specified percentage of hurricane
402 coverage of an eligible risk as set forth in a quota share
403 primary insurance agreement between the corporation and an
404 authorized insurer and the insurance contract. The
405 responsibility of the corporation or authorized insurer to pay
406 its specified percentage of hurricane losses of an eligible
407 risk, as set forth in the agreement, may not be altered by the
408 inability of the other party to pay its specified percentage of
409 losses. Eligible risks that are provided hurricane coverage
410 through a quota share primary insurance arrangement must be
411 provided policy forms that set forth the obligations of the
412 corporation and authorized insurer under the arrangement,
413 clearly specify the percentages of quota share primary insurance
414 provided by the corporation and authorized insurer, and
415 conspicuously and clearly state that the authorized insurer and
416 the corporation may not be held responsible beyond their
417 specified percentage of coverage of hurricane losses.

418 (II) "Eligible risks" means personal lines residential and



148180

419 commercial lines residential risks that meet the underwriting
420 criteria of the corporation and are located in areas that were
421 eligible for coverage by the Florida Windstorm Underwriting
422 Association on January 1, 2002.

423 b. The corporation may enter into quota share primary
424 insurance agreements with authorized insurers at corporation
425 coverage levels of 90 percent and 50 percent.

426 c. If the corporation determines that additional coverage
427 levels are necessary to maximize participation in quota share
428 primary insurance agreements by authorized insurers, the
429 corporation may establish additional coverage levels. However,
430 the corporation's quota share primary insurance coverage level
431 may not exceed 90 percent.

432 d. Any quota share primary insurance agreement entered into
433 between an authorized insurer and the corporation must provide
434 for a uniform specified percentage of coverage of hurricane
435 losses, by county or territory as set forth by the corporation
436 board, for all eligible risks of the authorized insurer covered
437 under the agreement.

438 e. Any quota share primary insurance agreement entered into
439 between an authorized insurer and the corporation is subject to
440 review and approval by the office. However, such agreement shall
441 be authorized only as to insurance contracts entered into
442 between an authorized insurer and an insured who is already
443 insured by the corporation for wind coverage.

444 f. For all eligible risks covered under quota share primary
445 insurance agreements, the exposure and coverage levels for both
446 the corporation and authorized insurers shall be reported by the
447 corporation to the Florida Hurricane Catastrophe Fund. For all



148180

448 policies of eligible risks covered under such agreements, the
449 corporation and the authorized insurer must maintain complete
450 and accurate records for the purpose of exposure and loss
451 reimbursement audits as required by fund rules. The corporation
452 and the authorized insurer shall each maintain duplicate copies
453 of policy declaration pages and supporting claims documents.

454 g. The corporation board shall establish in its plan of
455 operation standards for quota share agreements which ensure that
456 there is no discriminatory application among insurers as to the
457 terms of the agreements, pricing of the agreements, incentive
458 provisions if any, and consideration paid for servicing policies
459 or adjusting claims.

460 h. The quota share primary insurance agreement between the
461 corporation and an authorized insurer must set forth the
462 specific terms under which coverage is provided, including, but
463 not limited to, the sale and servicing of policies issued under
464 the agreement by the insurance agent of the authorized insurer
465 producing the business, the reporting of information concerning
466 eligible risks, the payment of premium to the corporation, and
467 arrangements for the adjustment and payment of hurricane claims
468 incurred on eligible risks by the claims adjuster and personnel
469 of the authorized insurer. Entering into a quota sharing
470 insurance agreement between the corporation and an authorized
471 insurer is voluntary and at the discretion of the authorized
472 insurer.

473 3.a. May provide that the corporation may employ or
474 otherwise contract with individuals or other entities to provide
475 administrative or professional services that may be appropriate
476 to effectuate the plan. The corporation may borrow funds by



477 issuing bonds or by incurring other indebtedness, and shall have
478 other powers reasonably necessary to effectuate the requirements
479 of this subsection, including, without limitation, the power to
480 issue bonds and incur other indebtedness in order to refinance
481 outstanding bonds or other indebtedness. The corporation may
482 seek judicial validation of its bonds or other indebtedness
483 under chapter 75. The corporation may issue bonds or incur other
484 indebtedness, or have bonds issued on its behalf by a unit of
485 local government pursuant to subparagraph (q)2. in the absence
486 of a hurricane or other weather-related event, upon a
487 determination by the corporation, subject to approval by the
488 office, that such action would enable it to efficiently meet the
489 financial obligations of the corporation and that such
490 financings are reasonably necessary to effectuate the
491 requirements of this subsection. The corporation may take all
492 actions needed to facilitate tax-free status for such bonds or
493 indebtedness, including formation of trusts or other affiliated
494 entities. The corporation may pledge assessments, projected
495 recoveries from the Florida Hurricane Catastrophe Fund, other
496 reinsurance recoverables, market equalization and other
497 surcharges, and other funds available to the corporation as
498 security for bonds or other indebtedness. In recognition of s.
499 10, Art. I of the State Constitution, prohibiting the impairment
500 of obligations of contracts, it is the intent of the Legislature
501 that no action be taken whose purpose is to impair any bond
502 indenture or financing agreement or any revenue source committed
503 by contract to such bond or other indebtedness.

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



148180

506 policyholders, applicants, and agents, the board shall
507 commission an independent third-party consultant having
508 expertise in insurance company management or insurance company
509 management consulting to prepare a report and make
510 recommendations on the relative costs and benefits of
511 outsourcing various policy issuance and service functions to
512 private servicing carriers or entities performing similar
513 functions in the private market for a fee, rather than
514 performing such functions in-house. In making such
515 recommendations, the consultant shall consider how other
516 residual markets, both in this state and around the country,
517 outsource appropriate functions or use servicing carriers to
518 better match expenses with revenues that fluctuate based on a
519 widely varying policy count. The report must be completed by
520 July 1, 2012. Upon receiving the report, the board shall develop
521 a plan to implement the report and submit the plan for review,
522 modification, and approval to the Financial Services Commission.
523 Upon the commission's approval of the plan, the board shall
524 begin implementing the plan by January 1, 2013.

525 4. Must require that the corporation operate subject to the
526 supervision and approval of a board of governors consisting of
527 eight individuals who are residents of this state, from
528 different geographical areas of this state.

529 a. The Governor, the Chief Financial Officer, the President
530 of the Senate, and the Speaker of the House of Representatives
531 shall each appoint two members of the board. At least one of the
532 two members appointed by each appointing officer must have
533 demonstrated expertise in insurance and is deemed to be within
534 the scope of the exemption provided in s. 112.313(7)(b). The



148180

535 Chief Financial Officer shall designate one of the appointees as
536 chair. All board members serve at the pleasure of the appointing
537 officer. All members of the board are subject to removal at will
538 by the officers who appointed them. All board members, including
539 the chair, must be appointed to serve for 3-year terms beginning
540 annually on a date designated by the plan. However, for the
541 first term beginning on or after July 1, 2009, each appointing
542 officer shall appoint one member of the board for a 2-year term
543 and one member for a 3-year term. A board vacancy shall be
544 filled for the unexpired term by the appointing officer. The
545 Chief Financial Officer shall appoint a technical advisory group
546 to provide information and advice to the board in connection
547 with the board's duties under this subsection. The executive
548 director and senior managers of the corporation shall be engaged
549 by the board and serve at the pleasure of the board. Any
550 executive director appointed on or after July 1, 2006, is
551 subject to confirmation by the Senate. The executive director is
552 responsible for employing other staff as the corporation may
553 require, subject to review and concurrence by the board.

554 b. The board shall create a Market Accountability Advisory
555 Committee to assist the corporation in developing awareness of
556 its rates and its customer and agent service levels in
557 relationship to the voluntary market insurers writing similar
558 coverage.

559 (I) The members of the advisory committee consist of the
560 following 11 persons, one of whom must be elected chair by the
561 members of the committee: four representatives, one appointed by
562 the Florida Association of Insurance Agents, one by the Florida
563 Association of Insurance and Financial Advisors, one by the



564 Professional Insurance Agents of Florida, and one by the Latin
565 American Association of Insurance Agencies; three
566 representatives appointed by the insurers with the three highest
567 voluntary market share of residential property insurance
568 business in the state; one representative from the Office of
569 Insurance Regulation; one consumer appointed by the board who is
570 insured by the corporation at the time of appointment to the
571 committee; one representative appointed by the Florida
572 Association of Realtors; and one representative appointed by the
573 Florida Bankers Association. All members shall be appointed to
574 3-year terms and may serve for consecutive terms.

575 (II) The committee shall report to the corporation at each
576 board meeting on insurance market issues which may include rates
577 and rate competition with the voluntary market; service,
578 including policy issuance, claims processing, and general
579 responsiveness to policyholders, applicants, and agents; and
580 matters relating to depopulation.

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

583 a. Subject to s. 627.3517, with respect to personal lines
584 residential risks, if the risk is offered coverage from an
585 authorized insurer at the insurer's approved rate under a
586 standard policy including wind coverage or, if consistent with
587 the insurer's underwriting rules as filed with the office, a
588 basic policy including wind coverage, for a new application to
589 the corporation for coverage, the risk is not eligible for any
590 policy issued by the corporation unless the premium for coverage
591 from the authorized insurer is more than 15 percent greater than
592 the premium for comparable coverage from the corporation. If the



148180

593 risk is not able to obtain such offer, the risk is eligible for
594 a standard policy including wind coverage or a basic policy
595 including wind coverage issued by the corporation; however, if
596 the risk could not be insured under a standard policy including
597 wind coverage regardless of market conditions, the risk is
598 eligible for a basic policy including wind coverage unless
599 rejected under subparagraph 8. However, a policyholder of the
600 corporation or a policyholder removed from the corporation
601 through an assumption agreement until the end of the assumption
602 period remains eligible for coverage from the corporation
603 regardless of any offer of coverage from an authorized insurer
604 or surplus lines insurer. The corporation shall determine the
605 type of policy to be provided on the basis of objective
606 standards specified in the underwriting manual and based on
607 generally accepted underwriting practices.

608 (I) If the risk accepts an offer of coverage through the
609 market assistance plan or through a mechanism established by the
610 corporation before a policy is issued to the risk by the
611 corporation or during the first 30 days of coverage by the
612 corporation, and the producing agent who submitted the
613 application to the plan or to the corporation is not currently
614 appointed by the insurer, the insurer shall:

615 (A) Pay to the producing agent of record of the policy for
616 the first year, an amount that is the greater of the insurer's
617 usual and customary commission for the type of policy written or
618 a fee equal to the usual and customary commission of the
619 corporation; or

620 (B) Offer to allow the producing agent of record of the
621 policy to continue servicing the policy for at least 1 year and



148180

622 offer to pay the agent the greater of the insurer's or the
623 corporation's usual and customary commission for the type of
624 policy written.

625
626 If the producing agent is unwilling or unable to accept
627 appointment, the new insurer shall pay the agent in accordance
628 with sub-sub-sub-subparagraph (A).

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

633 (A) Pay to the producing agent of record, for the first
634 year, an amount that is the greater of the insurer's usual and
635 customary commission for the type of policy written or a fee
636 equal to the usual and customary commission of the corporation;
637 or

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

642
643 If the producing agent is unwilling or unable to accept
644 appointment, the new insurer shall pay the agent in accordance
645 with sub-sub-sub-subparagraph (A).

646 b. With respect to commercial lines residential risks, for
647 a new application to the corporation for coverage, if the risk
648 is offered coverage under a policy including wind coverage from
649 an authorized insurer at its approved rate, the risk is not
650 eligible for a policy issued by the corporation unless the



148180

651 premium for coverage from the authorized insurer is more than 15
652 percent greater than the premium for comparable coverage from
653 the corporation. If the risk is not able to obtain any such
654 offer, the risk is eligible for a policy including wind coverage
655 issued by the corporation. However, a policyholder of the
656 corporation or a policyholder removed from the corporation
657 through an assumption agreement until the end of the assumption
658 period remains eligible for coverage from the corporation
659 regardless of an offer of coverage from an authorized insurer or
660 surplus lines insurer.

661 (I) If the risk accepts an offer of coverage through the
662 market assistance plan or through a mechanism established by the
663 corporation before a policy is issued to the risk by the
664 corporation or during the first 30 days of coverage by the
665 corporation, and the producing agent who submitted the
666 application to the plan or the corporation is not currently
667 appointed by the insurer, the insurer shall:

668 (A) Pay to the producing agent of record of the policy, for
669 the first year, an amount that is the greater of the insurer's
670 usual and customary commission for the type of policy written or
671 a fee equal to the usual and customary commission of the
672 corporation; or

673 (B) Offer to allow the producing agent of record of the
674 policy to continue servicing the policy for at least 1 year and
675 offer to pay the agent the greater of the insurer's or the
676 corporation's usual and customary commission for the type of
677 policy written.

678
679 If the producing agent is unwilling or unable to accept



148180

680 appointment, the new insurer shall pay the agent in accordance
681 with sub-sub-sub-subparagraph (A).

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

686 (A) Pay to the producing agent of record, for the first
687 year, an amount that is the greater of the insurer's usual and
688 customary commission for the type of policy written or a fee
689 equal to the usual and customary commission of the corporation;
690 or

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

695
696 If the producing agent is unwilling or unable to accept
697 appointment, the new insurer shall pay the agent in accordance
698 with sub-sub-sub-subparagraph (A).

699 c. For purposes of determining comparable coverage under
700 sub-subparagraphs a. and b., the comparison must be based on
701 those forms and coverages that are reasonably comparable. The
702 corporation may rely on a determination of comparable coverage
703 and premium made by the producing agent who submits the
704 application to the corporation, made in the agent's capacity as
705 the corporation's agent. A comparison may be made solely of the
706 premium with respect to the main building or structure only on
707 the following basis: the same coverage A or other building
708 limits; the same percentage hurricane deductible that applies on



148180

709 an annual basis or that applies to each hurricane for commercial
710 residential property; the same percentage of ordinance and law
711 coverage, if the same limit is offered by both the corporation
712 and the authorized insurer; the same mitigation credits, to the
713 extent the same types of credits are offered both by the
714 corporation and the authorized insurer; the same method for loss
715 payment, such as replacement cost or actual cash value, if the
716 same method is offered both by the corporation and the
717 authorized insurer in accordance with underwriting rules; and
718 any other form or coverage that is reasonably comparable as
719 determined by the board. If an application is submitted to the
720 corporation for wind-only coverage in the coastal account, the
721 premium for the corporation's wind-only policy plus the premium
722 for the ex-wind policy that is offered by an authorized insurer
723 to the applicant must be compared to the premium for multiperil
724 coverage offered by an authorized insurer, subject to the
725 standards for comparison specified in this subparagraph. If the
726 corporation or the applicant requests from the authorized
727 insurer a breakdown of the premium of the offer by types of
728 coverage so that a comparison may be made by the corporation or
729 its agent and the authorized insurer refuses or is unable to
730 provide such information, the corporation may treat the offer as
731 not being an offer of coverage from an authorized insurer at the
732 insurer's approved rate.

733 6. Must include rules for classifications of risks and
734 rates.

735 7. Must provide that if premium and investment income for
736 an account attributable to a particular calendar year are in
737 excess of projected losses and expenses for the account



148180

738 attributable to that year, such excess shall be held in surplus
739 in the account. Such surplus must be available to defray
740 deficits in that account as to future years and used for that
741 purpose before assessing assessable insurers and assessable
742 insureds as to any calendar year.

743 8. Must provide objective criteria and procedures to be
744 uniformly applied to all applicants in determining whether an
745 individual risk is so hazardous as to be uninsurable. In making
746 this determination and in establishing the criteria and
747 procedures, the following must be considered:

748 a. Whether the likelihood of a loss for the individual risk
749 is substantially higher than for other risks of the same class;
750 and

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

753
754 The acceptance or rejection of a risk by the corporation shall
755 be construed as the private placement of insurance, and the
756 provisions of chapter 120 do not apply.

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

761 10. The policies issued by the corporation must provide
762 that if the corporation or the market assistance plan obtains an
763 offer from an authorized insurer to cover the risk at its
764 approved rates, the risk is no longer eligible for renewal
765 through the corporation, except as otherwise provided in this
766 subsection.



148180

767 11. Corporation policies and applications must include a
768 notice that the corporation policy could, under this section, be
769 replaced with a policy issued by an authorized insurer which
770 does not provide coverage identical to the coverage provided by
771 the corporation. The notice must also specify that acceptance of
772 corporation coverage creates a conclusive presumption that the
773 applicant or policyholder is aware of this potential.

774 12. May establish, subject to approval by the office,
775 different eligibility requirements and operational procedures
776 for any line or type of coverage for any specified county or
777 area if the board determines that such changes are justified due
778 to the voluntary market being sufficiently stable and
779 competitive in such area or for such line or type of coverage
780 and that consumers who, in good faith, are unable to obtain
781 insurance through the voluntary market through ordinary methods
782 continue to have access to coverage from the corporation. If
783 coverage is sought in connection with a real property transfer,
784 the requirements and procedures may not provide an effective
785 date of coverage later than the date of the closing of the
786 transfer as established by the transferor, the transferee, and,
787 if applicable, the lender.

788 13. Must provide that, with respect to the coastal account,
789 any assessable insurer with a surplus as to policyholders of \$25
790 million or less writing 25 percent or more of its total
791 countrywide property insurance premiums in this state may
792 petition the office, within the first 90 days of each calendar
793 year, to qualify as a limited apportionment company. A regular
794 assessment levied by the corporation on a limited apportionment
795 company for a deficit incurred by the corporation for the



148180

796 coastal account may be paid to the corporation on a monthly
797 basis as the assessments are collected by the limited
798 apportionment company from its insureds pursuant to s. 627.3512,
799 but the regular assessment must be paid in full within 12 months
800 after being levied by the corporation. A limited apportionment
801 company shall collect from its policyholders any emergency
802 assessment imposed under sub-subparagraph (b)3.d. The plan must
803 provide that, if the office determines that any regular
804 assessment will result in an impairment of the surplus of a
805 limited apportionment company, the office may direct that all or
806 part of such assessment be deferred as provided in subparagraph
807 (q)4. However, an emergency assessment to be collected from
808 policyholders under sub-subparagraph (b)3.d. may not be limited
809 or deferred.

810 14. Must provide that the corporation appoint as its
811 licensed agents only those agents who also hold an appointment
812 as defined in s. 626.015(3) with an insurer who at the time of
813 the agent's initial appointment by the corporation is authorized
814 to write and is actually writing personal lines residential
815 property coverage, commercial residential property coverage, or
816 commercial nonresidential property coverage within the state.

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

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

824 17. May provide such limits of coverage as the board



148180

825 determines, consistent with the requirements of this subsection.

826 18. May require commercial property to meet specified
827 hurricane mitigation construction features as a condition of
828 eligibility for coverage.

829 19. Must provide that new or renewal policies issued by the
830 corporation on or after January 1, 2012, which cover sinkhole
831 loss do not include coverage for any loss to appurtenant
832 structures, driveways, sidewalks, decks, or patios that are
833 directly or indirectly caused by sinkhole activity. The
834 corporation shall exclude such coverage using a notice of
835 coverage change, which may be included with the policy renewal,
836 and not by issuance of a notice of nonrenewal of the excluded
837 coverage upon renewal of the current policy.

838 20. As of January 1, 2012, must require that the agent
839 obtain from an applicant for coverage from the corporation an
840 acknowledgement signed by the applicant, which includes, at a
841 minimum, the following statement:

842
843 ACKNOWLEDGEMENT OF POTENTIAL SURCHARGE

844 AND ASSESSMENT LIABILITY:

845
846 1. AS A POLICYHOLDER OF CITIZENS PROPERTY INSURANCE
847 CORPORATION, I UNDERSTAND THAT IF THE CORPORATION SUSTAINS A
848 DEFICIT AS A RESULT OF HURRICANE LOSSES OR FOR ANY OTHER REASON,
849 MY POLICY COULD BE SUBJECT TO SURCHARGES, WHICH WILL BE DUE AND
850 PAYABLE UPON RENEWAL, CANCELLATION, OR TERMINATION OF THE
851 POLICY, AND THAT THE SURCHARGES COULD BE AS HIGH AS 45 PERCENT
852 OF MY PREMIUM, OR A DIFFERENT AMOUNT AS IMPOSED BY THE FLORIDA
853 LEGISLATURE.



148180

854 2. I ALSO UNDERSTAND THAT I MAY BE SUBJECT TO EMERGENCY
855 ASSESSMENTS TO THE SAME EXTENT AS POLICYHOLDERS OF OTHER
856 INSURANCE COMPANIES, OR A DIFFERENT AMOUNT AS IMPOSED BY THE
857 FLORIDA LEGISLATURE.

858 3. I ALSO UNDERSTAND THAT CITIZENS PROPERTY INSURANCE
859 CORPORATION IS NOT SUPPORTED BY THE FULL FAITH AND CREDIT OF THE
860 STATE OF FLORIDA.

861
862 a. The corporation shall maintain, in electronic format or
863 otherwise, a copy of the applicant's signed acknowledgement and
864 provide a copy of the statement to the policyholder as part of
865 the first renewal after the effective date of this subparagraph.

866 b. The signed acknowledgement form creates a conclusive
867 presumption that the policyholder understood and accepted his or
868 her potential surcharge and assessment liability as a
869 policyholder of the corporation.

870 (ff) In establishing replacement costs for coverage on a
871 dwelling insured by the corporation, the corporation must accept
872 a valuation from any of the following sources and must use the
873 lowest valuation as the insured value of the dwelling, excluding
874 land value, if the valuation was completed within the 12 months
875 before the application or renewal date of coverage:

876 1. A replacement cost valuation software that is
877 specifically designed for use in establishing insurance
878 replacement costs and that includes an itemized calculation of
879 the cost of reconstruction;

880 2. A replacement cost valuation prepared by a real estate
881 appraiser certified or licensed under part II of chapter 475
882 which is specifically formulated to establish insurance



148180

883 replacement cost, rather than market value, and which includes
884 an itemized calculation of the cost of reconstruction; or
885 3. A replacement cost valuation prepared by a general,
886 building, or residential contractor licensed under s. 489.113,
887 or a professional engineer licensed under s. 471.015, which
888 includes an itemized calculation of the total price of
889 reconstruction.

890 Section 12. Section 627.6011, Florida Statutes, is created
891 to read:

892 627.6011 Mandated coverages.—Mandatory health benefits
893 regulated under this chapter which must be covered by an insurer
894 are not intended to apply to the types of health benefit plan
895 listed in s. 627.6561(5)(b)-(e), issued in any market, unless
896 specifically designated otherwise. For purposes of this section,
897 the term "mandatory health benefits" means those benefits set
898 forth in ss. 627.6401-627.64193 and any cross-references to
899 these sections, and any other mandatory treatment or health
900 coverages or benefits enacted on or after July 1, 2012.

901 Section 13. Paragraph (d) of subsection (3) of section
902 627.6699, Florida Statutes, is amended to read:

903 627.6699 Employee Health Care Access Act.—

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

905 (d) "Carrier" means a person who provides health benefit
906 plans in this state, including an authorized insurer, a health
907 maintenance organization, a multiple-employer welfare
908 arrangement, or any other person providing a health benefit plan
909 that is subject to insurance regulation in this state. However,
910 the term does not include a multiple-employer welfare
911 arrangement or voluntary employees' beneficiary association, as



148180

912 defined under 26 U.S.C. s. 501(c)(9), which ~~multiple-employer~~
913 ~~welfare arrangement~~ operates solely for the benefit of the
914 members or the members and the employees of such members, is
915 located in this state, and was in existence on January 1, 1992;
916 or an authorized insurer or health maintenance organization that
917 insures the members or the members and the employees of such
918 members of a multiple-employer welfare arrangement or voluntary
919 employees' beneficiary association in existence on January 1,
920 1992.

921 Section 14. Subsections (1), (2), (7), and (9) of section
922 627.7015, Florida Statutes, are amended to read:

923 627.7015 Alternative procedure for resolution of disputed
924 property insurance claims.-

925 (1) ~~PURPOSE AND SCOPE.~~ This section sets forth a
926 nonadversarial alternative dispute resolution procedure for a
927 mediated claim resolution conference prompted by the need for
928 effective, fair, and timely handling of property insurance
929 claims. There is a particular need for an informal,
930 nonthreatening forum for helping parties who elect this
931 procedure to resolve their claims disputes because most
932 homeowner's and commercial residential insurance policies
933 obligate policyholders insureds to participate in a potentially
934 expensive and time-consuming adversarial appraisal process
935 before ~~prior to~~ litigation. The procedure set forth in this
936 section is designed to bring the parties together for a mediated
937 claims settlement conference without any of the trappings or
938 drawbacks of an adversarial process. Before resorting to these
939 procedures, policyholders insureds and insurers are encouraged
940 to resolve claims as quickly and fairly as possible. This



148180

941 section is available with respect to claims under personal lines
942 and commercial residential policies before ~~for all claimants and~~
943 ~~insurers prior to~~ commencing the appraisal process, or before
944 commencing litigation. Mediation may be requested only by the
945 policyholder, as a first-party claimant, or the insurer. If
946 requested by the policyholder insured, participation by legal
947 counsel or any other person having relevant information is shall
948 ~~be~~ permitted. Mediation under this section is also available to
949 litigants referred to the department by a county court or
950 circuit court. This section does not apply to commercial
951 coverages, to private passenger motor vehicle insurance
952 coverages, or to disputes relating to liability coverages in
953 policies of property insurance.

954 (2) At the time a first-party claim within the scope of
955 this section is filed by the policyholder, the insurer shall
956 notify the policyholder ~~all first-party claimants~~ of the
957 policyholder's ~~their~~ right to participate in the mediation
958 program under this section. The department shall prepare a
959 consumer information pamphlet for distribution to persons
960 participating in mediation ~~under this section~~.

961 (7) If the insurer fails to comply with subsection (2) by
962 failing to notify a policyholder ~~first-party claimant~~ of the
963 policyholder's ~~its~~ right to participate in the mediation program
964 under this section or if the insurer requests the mediation, and
965 the mediation results are rejected by either party, the
966 policyholder is insured ~~shall~~ not ~~be~~ required to submit to or
967 participate in any contractual loss appraisal process of the
968 property loss damage as a precondition to legal action for
969 breach of contract against the insurer for its failure to pay



148180

970 the policyholder's claims covered by the policy.

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

974 (a) With respect to which the insurer has a reasonable
975 basis to suspect fraud;

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

978 (c) With respect to which the insurer has a reasonable
979 basis to believe that the policyholder ~~claimant~~ has
980 intentionally made a material misrepresentation of fact which is
981 relevant to the claim, and the entire request for payment of a
982 loss has been denied on the basis of the material
983 misrepresentation; ~~or~~

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

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

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

991 627.706 Sinkhole insurance; catastrophic ground cover
992 collapse; definitions.—

993 (4) An insurer offering sinkhole coverage to policyholders
994 before or after the adoption of s. 30, chapter 2007-1, Laws of
995 Florida, may renew pursuant to s. 627.43141 or nonrenew the
996 policies of policyholders maintaining sinkhole coverage, at the
997 option of the insurer, and provide an offer of coverage or
998 renewal that includes catastrophic ground cover collapse and



148180

999 excludes sinkhole coverage. Insurers acting in accordance with
1000 this subsection are subject to the following requirements:

1001 (a) Policyholders must be notified that the renewal or a
1002 nonrenewal is for purposes of removing sinkhole coverage, and
1003 that the policyholder is being offered a policy that provides
1004 coverage for catastrophic ground cover collapse.

1005 (b) Policyholders must be provided an actuarially
1006 reasonable premium credit or discount for the removal of
1007 sinkhole coverage and provision of only catastrophic ground
1008 cover collapse.

1009 (c) Subject to the provisions of this subsection and the
1010 insurer's approved underwriting or insurability guidelines, the
1011 insurer shall provide each policyholder with the opportunity to
1012 purchase an endorsement to his or her policy providing sinkhole
1013 coverage and may require an inspection of the property before
1014 issuance of a sinkhole coverage endorsement.

1015 (d) Section 624.4305 does not apply to nonrenewal notices
1016 issued pursuant to this subsection.

1017 Section 16. Paragraph (e) of subsection (5) of section
1018 627.707, Florida Statutes, is amended, and paragraph (f) is
1019 added to that subsection, to read:

1020 627.707 Investigation of sinkhole claims; insurer payment;
1021 nonrenewals.—Upon receipt of a claim for a sinkhole loss to a
1022 covered building, an insurer must meet the following standards
1023 in investigating a claim:

1024 (5) If a sinkhole loss is verified, the insurer shall pay
1025 to stabilize the land and building and repair the foundation in
1026 accordance with the recommendations of the professional engineer
1027 retained pursuant to subsection (2), with notice to the



148180

1028 policyholder, subject to the coverage and terms of the policy.
1029 The insurer shall pay for other repairs to the structure and
1030 contents in accordance with the terms of the policy. If a
1031 covered building suffers a sinkhole loss or a catastrophic
1032 ground cover collapse, the insured must repair such damage or
1033 loss in accordance with the insurer's professional engineer's
1034 recommended repairs. However, if the insurer's professional
1035 engineer determines that the repair cannot be completed within
1036 policy limits, the insurer must pay to complete the repairs
1037 recommended by the insurer's professional engineer or tender the
1038 policy limits to the policyholder.

1039 (e) Upon the insurer's obtaining the written approval of
1040 any lienholder, the insurer may make payment directly to the
1041 persons selected by the policyholder to perform the land and
1042 building stabilization and foundation repairs. The decision by
1043 the insurer to make payment to such persons does not hold the
1044 insurer liable for the work performed.

1045 (f) The policyholder may not accept a rebate from any
1046 person performing the repairs specified in this section. If a
1047 policyholder does receive a rebate, coverage is void and the
1048 policyholder must refund the amount of the rebate to the
1049 insurer. Any person making the repairs specified in this section
1050 who offers a rebate commits insurance fraud punishable as a
1051 third-degree ~~third-degree~~ felony as provided in s. 775.082, s.
1052 775.083, or s. 775.084. As used in this paragraph, the term
1053 "rebate" means a remuneration, payment, gift, discount, or
1054 transfer of any item of value to the policyholder by or on
1055 behalf of a person performing the repairs specified in this
1056 section as an incentive or inducement to obtain repairs



148180

1057 performed by that person.

1058 Section 17. Section 627.7405, Florida Statutes, is amended
1059 to read:

1060 627.7405 Insurers' right of reimbursement.-

1061 (1) Notwithstanding any other provisions of ss. 627.730-
1062 627.7405, any insurer providing personal injury protection
1063 benefits on a private passenger motor vehicle shall have, to the
1064 extent of any personal injury protection benefits paid to any
1065 person as a benefit arising out of such private passenger motor
1066 vehicle insurance, a right of reimbursement against the owner or
1067 the insurer of the owner of a commercial motor vehicle, if the
1068 benefits paid result from such person having been an occupant of
1069 the commercial motor vehicle or having been struck by the
1070 commercial motor vehicle while not an occupant of any self-
1071 propelled vehicle.

1072 (2) For purposes of this section, an owner or registrant
1073 identified in s. 627.733(1)(b) is not liable for a right of
1074 reimbursement.

1075 Section 18. Effective upon this act becoming a law, section
1076 628.901, Florida Statutes, is amended to read:

1077 628.901 Definitions ~~"Captive insurer" defined.-As used in~~
1078 ~~For the purposes of this part, the term: except as provided in~~
1079 ~~s. 628.903, a "captive insurer" is a domestic insurer~~
1080 ~~established under part I to insure the risks of a specific~~
1081 ~~corporation or group of corporations under common ownership~~
1082 ~~owned by the corporation or corporations from which it accepts~~
1083 ~~risk under a contract of insurance.~~

1084 (1) "Affiliated company" means a company in the same
1085 corporate system as a parent, an industrial insured, or a member



148180

1086 organization by virtue of common ownership, control, operation,
1087 or management.

1088 (2) "Captive insurance company" means a domestic insurer
1089 established under this part. A captive insurance company
1090 includes a pure captive insurance company, special purpose
1091 captive insurance company, or industrial insured captive
1092 insurance company formed and licensed under this part.

1093 (3) "Captive reinsurance company" means a reinsurance
1094 company that is formed and licensed under this part and is
1095 wholly owned by a qualifying reinsurance parent company. A
1096 captive reinsurance company is a stock corporation and may not
1097 directly insure risks. A captive reinsurance company may
1098 reinsure only risks.

1099 (4) "Consolidated debt to total capital ratio" means the
1100 ratio of the sum of all debts and hybrid capital instruments as
1101 described in paragraph (a) to total capital as described in
1102 paragraph (b).

1103 (a) Debts and hybrid capital instruments include, but are
1104 not limited to, all borrowings from banks, all senior debt, all
1105 subordinated debts, all trust preferred shares, and all other
1106 hybrid capital instruments that are not included in the
1107 determination of consolidated GAAP net worth issued and
1108 outstanding.

1109 (b) Total capital consists of all debts and hybrid capital
1110 instruments as described in paragraph (a) plus owners' equity
1111 determined in accordance with GAAP for reporting to the United
1112 States Securities and Exchange Commission.

1113 (5) "Consolidated GAAP net worth" means the consolidated
1114 owners' equity determined in accordance with generally accepted



148180

1115 accounting principles for reporting to the United States
1116 Securities and Exchange Commission.
1117 (6) "Controlled unaffiliated business" means a company:
1118 (a) That is not in the corporate system of a parent and
1119 affiliated companies;
1120 (b) That has an existing contractual relationship with a
1121 parent or affiliated company; and
1122 (c) Whose risks are managed by a captive insurance company
1123 in accordance with s. 628.919.
1124 (7) "GAAP" means generally accepted accounting principles.
1125 (8) "Industrial insured" means an insured that:
1126 (a) Has gross assets in excess of \$50 million;
1127 (b) Procures insurance through the use of a full-time
1128 employee of the insured who acts as an insurance manager or
1129 buyer or through the services of a person licensed as a property
1130 and casualty insurance agent, broker, or consultant in such
1131 person's state of domicile;
1132 (c) Has at least 100 full-time employees; and
1133 (d) Pays annual premiums of at least \$200,000 for each line
1134 of insurance purchased from the industrial insured captive
1135 insurer or at least \$75,000 for any line of coverage in excess
1136 of at least \$25 million in the annual aggregate. The purchase of
1137 umbrella or general liability coverage in excess of \$25 million
1138 in the annual aggregate shall be deemed to be the purchase of a
1139 single line of insurance.
1140 (9) "Industrial insured captive insurance company" means a
1141 captive insurance company that provides insurance only to the
1142 industrial insureds that are its stockholders or members, and
1143 affiliates thereof, or to the stockholders, and affiliates



148180

1144 thereof, of its parent corporation. An industrial insured
1145 captive insurance company can also provide reinsurance to
1146 insurers only on risks written by such insurers for the
1147 industrial insureds that are the stockholders or members, and
1148 affiliates thereof, of the industrial insured captive insurer,
1149 or the stockholders, and affiliates thereof, of the parent
1150 corporation of the industrial insured captive insurer.

1151 (10) "Office" means the Office of Insurance Regulation.

1152 (11) "Parent" means any corporation, limited liability
1153 company, partnership, or individual that directly or indirectly
1154 owns, controls, or holds with power to vote more than 50 percent
1155 of the outstanding voting interests of a captive insurance
1156 company.

1157 (12) "Pure captive insurance company" means a company that
1158 insures risks of its parent, affiliated companies, controlled
1159 unaffiliated businesses, or a combination thereof.

1160 (13) "Qualifying reinsurer parent company" means a
1161 reinsurer which currently holds a certificate of authority,
1162 letter of eligibility or is an accredited or a satisfactory non-
1163 approved reinsurer in this state possessing a consolidated GAAP
1164 net worth of at least \$500 million and a consolidated debt to
1165 total capital ratio of not greater than 0.50.

1166 (14) "Special purpose captive insurance company" means a
1167 captive insurance company that is formed or licensed under this
1168 chapter that does not meet the definition of any other type of
1169 captive insurance company defined in this section.

1170 (15) "Treasury rates" means the United States Treasury
1171 STRIPS asked yield as published in the Wall Street Journal as of
1172 a balance sheet date.



148180

1173 Section 19. Effective upon this act becoming a law, section
1174 628.903, Florida Statutes, is repealed.

1175 Section 20. Effective upon this act becoming a law, section
1176 628.905, Florida Statutes, is amended to read:

1177 628.905 Licensing; authority.-

1178 (1) A ~~Any~~ captive insurer, if ~~when~~ permitted by its charter
1179 or articles of incorporation, may apply to the office for a
1180 license to do any and all insurance authorized under the
1181 insurance code, ~~provide commercial property, commercial~~
1182 ~~casualty, and commercial marine insurance coverage other than~~
1183 workers' compensation and employer's liability, life, health,
1184 personal motor vehicle, and personal residential property
1185 insurance coverage, except that: ~~an industrial insured captive~~
1186 ~~insurer may apply for a license to provide workers' compensation~~
1187 ~~and employer's liability insurance as set forth in subsection~~
1188 ~~(6).~~

1189 (a) A pure captive insurance company may not insure any
1190 risks other than those of its parent, affiliated companies,
1191 controlled unaffiliated businesses, or a combination thereof.

1192 (b) An industrial insured captive insurance company may not
1193 insure any risks other than those of the industrial insureds
1194 that comprise the industrial insured group and their affiliated
1195 companies.

1196 (c) A special purpose captive insurance company may insure
1197 only the risks of its parent.

1198 (d) A captive insurance company may not accept or cede
1199 reinsurance except as provided in this part.

1200 (2) To conduct insurance business in this state, a ~~No~~
1201 ~~captive insurer, other than an industrial insured captive~~



148180

1202 insurer ~~must;~~ ~~shall insure or accept reinsurance on any risks~~
1203 ~~other than those of its parent and affiliated companies.~~

1204 (a) Obtain from the office a license authorizing it to
1205 conduct insurance business in this state;

1206 (b) Hold at least one board of directors' meeting each year
1207 in this state;

1208 (c) Maintain its principal place of business in this state;
1209 and

1210 (d) Appoint a resident registered agent to accept service
1211 of process and to otherwise act on its behalf in this state. In
1212 the case of a captive insurance company formed as a corporation
1213 or a nonprofit corporation, if the registered agent cannot with
1214 reasonable diligence be found at the registered office of the
1215 captive insurance company, the Chief Financial Officer of this
1216 state must be an agent of the captive insurance company upon
1217 whom any process, notice, or demand may be served.

1218 (3) Before receiving a license, a captive insurance company
1219 formed as a corporation or a nonprofit corporation must file
1220 with the office a certified copy of its articles of
1221 incorporation and bylaws, a statement under oath of its
1222 president and secretary showing its financial condition, and any
1223 other statements or documents required by the office. In
1224 addition, an applicant captive insurance company must file with
1225 the office evidence of:

1226 (a) The amount and liquidity of the proposed captive
1227 insurance company's assets relative to the risks to be assumed;

1228 (b) The adequacy of the expertise, experience, and
1229 character of the person or persons who will manage the company;

1230 (c) The overall soundness of the company's plan of



148180

1231 operation;

1232 (d) The adequacy of the loss prevention programs of the
1233 company's parent, member organizations, or industrial insureds,
1234 as applicable; and

1235 (e) Any other factors considered relevant by the office in
1236 ascertaining whether the company will be able to meet its policy
1237 obligations. In addition to information otherwise required by
1238 this code, each applicant captive insurer shall file with the
1239 office evidence of the adequacy of the loss prevention program
1240 of its insureds.

1241 (4) A captive insurance company or captive reinsurance
1242 company must pay to the office a nonrefundable fee of \$1,500 for
1243 processing its application for license.

1244 (a) A captive insurance company or captive reinsurance
1245 company must also pay an annual renewal fee of \$1,000.

1246 (b) The office may charge a fee of \$5 for any document
1247 requiring certification of authenticity or the signature of the
1248 commissioner or his or her designee. An industrial insured
1249 captive insurer need not be incorporated in this state if it has
1250 been validly incorporated under the laws of another
1251 jurisdiction.

1252 (5) If the commissioner is satisfied that the documents and
1253 statements filed by the captive insurance company comply with
1254 this chapter, the commissioner may grant a license authorizing
1255 the company to conduct insurance business in this state until
1256 the next succeeding March 1, at which time the license may be
1257 renewed. An industrial insured captive insurer is subject to all
1258 provisions of this part except as otherwise indicated.

1259 (6) Upon approval of the office, a foreign or alien captive



148180

1260 insurance company may become a domestic captive insurance
1261 company by complying with all of the requirements of law
1262 relative to the organization and licensing of a domestic captive
1263 insurance company of the same or equivalent type in this state
1264 and by filing with the Secretary of State its charter or other
1265 organizational documents, together with any appropriate
1266 amendments that have been adopted in accordance with the laws of
1267 this state to bring the charter or other organizational
1268 documents into compliance with the laws of this state, along
1269 with a certificate of good standing issued by the office. The
1270 captive insurance company is then entitled to the necessary or
1271 appropriate certificates and licenses to continue transacting
1272 business in this state and is subject to the authority and
1273 jurisdiction of this state. In connection with this
1274 redomestication, the office may waive any requirements for
1275 public hearings. It is not necessary for a captive insurance
1276 company redomesticating into this state to merge, consolidate,
1277 transfer assets, or otherwise engage in any other
1278 reorganization, other than as specified in this section. An
1279 ~~industrial insured captive insurer may not provide workers'~~
1280 ~~compensation and employer's liability insurance except in excess~~
1281 ~~of at least \$25 million in the annual aggregate.~~

1282 (7) An industrial insured captive insurance company need
1283 not be incorporated in this state if it has been validly
1284 incorporated under the laws of another jurisdiction.

1285 Section 21. Effective upon this act becoming a law, section
1286 628.906, Florida Statutes, is created to read:

1287 628.906 Application requirements; restrictions on
1288 eligibility of officers and directors.-



148180

1289 (1) To evidence competence and trustworthiness of its
1290 officers and directors, the application for a license to act as
1291 a captive insurance company or captive reinsurance company shall
1292 include, but not be limited to, background investigations,
1293 biographical affidavits, and fingerprint cards for all officers
1294 and directors. Fingerprints must be taken by a law enforcement
1295 agency or other entity approved by the office, be accompanied by
1296 the fingerprint processing fee specified in s. 624.501, and
1297 processed in accordance with s. 624.34.

1298 (2) The office may deny, suspend, or revoke the license to
1299 transact captive insurance or captive reinsurance in this state
1300 if any person who was an officer or director of an insurer,
1301 reinsurer, captive insurance company, captive reinsurance
1302 company, financial institution, or financial services business
1303 doing business in the United States, any state, or under the law
1304 of any other country and who served in that capacity within the
1305 2-year period prior to the date the insurer, reinsurer, captive
1306 insurance company, captive reinsurance company, financial
1307 institution, or financial services business became insolvent,
1308 serves as an officer or director of a captive insurance company
1309 or officer or director of a captive reinsurance company licensed
1310 in this state unless the officer or director demonstrates that
1311 his or her personal actions or omissions were not a contributing
1312 cause to the insolvency or unless the officer or director is
1313 immediately removed from the captive insurance company or
1314 captive reinsurance company.

1315 (3) The office may deny, suspend, or revoke the license to
1316 transact insurance or reinsurance in this state of a captive
1317 insurance company or captive reinsurance company if any officer



148180

1318 or director, any stockholder that owns 10 percent or more of the
1319 outstanding voting securities of the captive insurance company
1320 or captive reinsurance company, or incorporator has been found
1321 guilty of, or has pleaded guilty or nolo contendere to, any
1322 felony or crime involving moral turpitude, including a crime of
1323 dishonesty or breach of trust, punishable by imprisonment of 1
1324 year or more under the law of the United States or any state
1325 thereof or under the law of any other country without regard to
1326 whether a judgment of conviction has been entered by the court
1327 having jurisdiction in such case. However, in the case of a
1328 captive insurance company or captive reinsurance company
1329 operating under a subsisting license, the captive insurance
1330 company or captive reinsurance company shall remove any such
1331 person immediately upon discovery of the conditions set forth in
1332 this subsection when applicable to such person or upon the order
1333 of the office, and the failure to so act shall be grounds for
1334 revocation or suspension of the captive insurance company's or
1335 captive reinsurance company's license.

1336 Section 22. Effective upon this act becoming a law, section
1337 628.907, Florida Statutes, is amended to read:

1338 628.907 Minimum capital and net assets requirements;
1339 restriction on payment of dividends ~~surplus.~~

1340 (1) A ~~Ne~~ captive insurer may not shall be issued a license
1341 unless it possesses and thereafter maintains:

1342 ~~(1)~~ unimpaired paid-in capital of:

1343 (a) In the case of a pure captive insurance company, at
1344 least \$100,000. ~~\$500,000;~~ and

1345 (b) In the case of an industrial insured captive insurance
1346 company incorporated as a stock insurer, at least \$200,000.



148180

1347 (c) In the case of a special purpose captive insurance
1348 company, an amount determined by the office after giving due
1349 consideration to the company's business plan, feasibility study,
1350 and pro forma financial statements and projections, including
1351 the nature of the risks to be insured.

1352 (2) The office may not issue a license to a captive
1353 insurance company incorporated as a nonprofit corporation unless
1354 the company possesses and maintains unrestricted net assets of:

1355 (a) In the case of a pure captive insurance company,
1356 Unimpaired surplus of at least \$250,000.

1357 (b) In the case of a special purpose captive insurance
1358 company, an amount determined by the office after giving due
1359 consideration to the company's business plan, feasibility study,
1360 and pro forma financial statements and projections, including
1361 the nature of the risks to be insured.

1362 (3) Contributions to a captive insurance company
1363 incorporated as a nonprofit corporation must be in the form of
1364 cash, cash equivalent, or an irrevocable letter of credit issued
1365 by a bank chartered by this state or a member bank of the
1366 Federal Reserve System with a branch office in this state, or as
1367 approved by the office.

1368 (4) For purposes of this section, the office may issue a
1369 license expressly conditioned upon the captive insurance company
1370 providing to the office satisfactory evidence of possession of
1371 the minimum required unimpaired paid-in capital. Until this
1372 evidence is provided, the captive insurance company may not
1373 issue any policy, assume any liability, or otherwise provide
1374 coverage. The office may revoke the conditional license if
1375 satisfactory evidence of the required capital is not provided



148180

1376 within a maximum period of time, not to exceed 1 year, to be
1377 established by the office at the time the conditional license is
1378 issued.

1379 (5) The office may prescribe additional capital or net
1380 assets based upon the type, volume, and nature of insurance
1381 business transacted. Contributions in connection with these
1382 prescribed additional net assets or capital must be in the form
1383 of:

1384 (a) Cash;

1385 (b) Cash equivalent;

1386 (c) An irrevocable letter of credit issued by a bank
1387 chartered by this state or a member bank of the Federal Reserve
1388 System with a branch office in this state, or as approved by the
1389 office; or

1390 (d) Securities invested as provided in part II of chapter
1391 625.

1392 (6) A captive insurance company may not pay a dividend out
1393 of, or other distribution with respect to, capital or surplus in
1394 excess of the limitations set forth in this chapter without the
1395 prior approval of the office. Approval of an ongoing plan for
1396 the payment of dividends or other distributions must be
1397 conditioned upon the retention, at the time of each payment, of
1398 capital or surplus in excess of amounts specified by, or
1399 determined in accordance with formulas approved by, the office.

1400 (7) An irrevocable letter of credit that is issued by a
1401 financial institution other than a bank chartered by this state
1402 or a member bank of the Federal Reserve System must meet the
1403 same standards as an irrevocable letter of credit that has been
1404 issued by a bank chartered by this state or a member bank of the



148180

1405 Federal Reserve System.

1406 Section 23. Effective upon this act becoming a law, section
1407 628.908, Florida Statutes, is created to read:

1408 628.908 Surplus requirements; restriction on payment of
1409 dividends.—

1410 (1) The office may not issue a license to a captive
1411 insurance company unless the company possesses and maintains
1412 unimpaired surplus of:

1413 (a) In the case of a pure captive insurance company, at
1414 least \$150,000.

1415 (b) In the case of an industrial insured captive insurance
1416 company incorporated as a stock insurer, at least \$300,000.

1417 (c) In the case of an industrial insured captive insurance
1418 company incorporated as a mutual insurer, at least \$500,000.

1419 (d) In the case of a special purpose captive insurance
1420 company, an amount determined by the office after giving due
1421 consideration to the company's business plan, feasibility study,
1422 and pro forma financial statements and projections, including
1423 the nature of the risks to be insured.

1424 (2) For purposes of this section, the office may issue a
1425 license expressly conditioned upon the captive insurance company
1426 providing to the office satisfactory evidence of possession of
1427 the minimum required unimpaired surplus. Until this evidence is
1428 provided, the captive insurance company may not issue any
1429 policy, assume any liability, or otherwise provide coverage. The
1430 office may revoke the conditional license if satisfactory
1431 evidence of the required surplus is not provided within a
1432 maximum period of time, not to exceed 1 year, to be established
1433 by the office at the time the conditional license is issued.



148180

1434 (3) A captive insurance company may not pay a dividend out
1435 of, or other distribution with respect to, capital or surplus in
1436 excess of the limitations set forth in this chapter without the
1437 prior approval of the office. Approval of an ongoing plan for
1438 the payment of dividends or other distribution must be
1439 conditioned upon the retention, at the time of each payment, of
1440 capital or surplus in excess of amounts specified by, or
1441 determined in accordance with formulas approved by, the office.

1442 (4) An irrevocable letter of credit that is issued by a
1443 financial institution other than a bank chartered by this state
1444 or a member bank of the Federal Reserve System must meet the
1445 same standards as an irrevocable letter of credit that has been
1446 issued by a bank chartered by this state or a member bank of the
1447 Federal Reserve System.

1448 Section 24. Effective upon this act becoming a law, section
1449 628.909, Florida Statutes, is amended to read:

1450 628.909 Applicability of other laws.—

1451 (1) The Florida Insurance Code does ~~shall~~ not apply to
1452 captive insurers or industrial insured captive insurers except
1453 as provided in this part and subsections (2) and (3).

1454 (2) The following provisions of the Florida Insurance Code
1455 ~~shall~~ apply to captive insurers who are not industrial insured
1456 captive insurers to the extent that such provisions are not
1457 inconsistent with this part:

1458 (a) Chapter 624, except for ss. 624.407, 624.408, 624.4085,
1459 624.40851, 624.4095, 624.425, and 624.426.

1460 (b) Chapter 625, part II.

1461 (c) Chapter 626, part IX.

1462 (d) Sections 627.730-627.7405, when no-fault coverage is



148180

1463 provided.

1464 (e) Chapter 628.

1465 (3) The following provisions of the Florida Insurance Code
1466 ~~shall~~ apply to industrial insured captive insurers to the extent
1467 that such provisions are not inconsistent with this part:

1468 (a) Chapter 624, except for ss. 624.407, 624.408, 624.4085,
1469 624.40851, 624.4095, 624.425, 624.426, and 624.609(1).

1470 (b) Chapter 625, part II, if the industrial insured captive
1471 insurer is incorporated in this state.

1472 (c) Chapter 626, part IX.

1473 (d) Sections 627.730-627.7405 when no-fault coverage is
1474 provided.

1475 (e) Chapter 628, except for ss. 628.341, 628.351, and
1476 628.6018.

1477 Section 25. Effective upon this act becoming a law, section
1478 628.910, Florida Statutes, is created to read:

1479 628.910 Incorporation options and requirements.-

1480 (1) A pure captive insurance company may be:

1481 (a) Incorporated as a stock insurer with its capital
1482 divided into shares and held by the stockholders; or

1483 (b) Incorporated as a public benefit, mutual benefit, or
1484 religious nonprofit corporation with members in accordance with
1485 the Florida Not For Profit Corporation Act.

1486 (2) An industrial insured captive insurance company may be:

1487 (a) Incorporated as a stock insurer with its capital
1488 divided into shares and held by the stockholders; or

1489 (b) Incorporated as a mutual insurer without capital stock,
1490 the governing body of which is elected by its members.

1491 (3) A captive insurance company may not have fewer than



148180

1492 three incorporators of whom not fewer than two must be residents
1493 of this state.

1494 (4) In the case of a captive insurance company formed as a
1495 corporation or a nonprofit corporation, before the articles of
1496 incorporation are transmitted to the Secretary of State, the
1497 incorporators shall file the articles of incorporation in
1498 triplicate with the office. The office shall promptly examine
1499 the articles of incorporation. If it finds that the articles of
1500 incorporation conform to law, it shall endorse its approval on
1501 each of the triplicate originals of the articles of
1502 incorporation, retain one copy for its files, and return the
1503 remaining copies to the incorporators for filing with the
1504 Department of State.

1505 (5) The articles of incorporation, the certificate issued
1506 pursuant to this section, and the organization fees required by
1507 the Florida Business Corporation Act or the Florida Not For
1508 Profit Corporation Act, as applicable, must be transmitted to
1509 the Secretary of State, who must record the articles of
1510 incorporation and the certificate.

1511 (6) The capital stock of a captive insurance company
1512 incorporated as a stock insurer must be issued at par value of
1513 not less than \$1 or more than \$100 per share.

1514 (7) In the case of a captive insurance company formed as a
1515 corporation or a nonprofit corporation, at least one of the
1516 members of the board of directors of a captive insurance company
1517 incorporated in this state must be a resident of this state.

1518 (8) A captive insurance company formed as a corporation or
1519 a nonprofit corporation, pursuant to the provisions of this
1520 chapter, has the privileges and is subject to the provisions of



148180

1521 the general corporation law, including the Florida Not For
1522 Profit Corporation Act for nonprofit corporations, as
1523 applicable, as well as the applicable provisions contained in
1524 this chapter. If a conflict occurs between a provision of the
1525 general corporation law, including the Florida Not For Profit
1526 Corporation Act for nonprofit corporations, as applicable, and a
1527 provision of this chapter, the latter controls. The provisions
1528 of this title pertaining to mergers, consolidations,
1529 conversions, mutualizations, and redomestications apply in
1530 determining the procedures to be followed by a captive insurance
1531 company in carrying out any of the transactions described in
1532 such provisions, except that the office may waive or modify the
1533 requirements for public notice and hearing in accordance with
1534 rules the office may adopt addressing categories of
1535 transactions. If a notice of public hearing is required, but no
1536 one requests a hearing, the office may cancel the hearing.

1537 (9) The articles of incorporation or bylaws of a captive
1538 insurance company may authorize a quorum of a board of directors
1539 to consist of no fewer than one-third of the fixed or prescribed
1540 number of directors as provided for by the Florida Business
1541 Corporation Act or the Florida Not For Profit Corporation Act.

1542 Section 26. Effective upon this act becoming a law, section
1543 628.911, Florida Statutes, is amended to read:

1544 628.911 Reports and statements.—

1545 (1) A captive insurance company may ~~insurer shall~~ not be
1546 required to make any annual report except as provided in this
1547 part section.

1548 (2) Annually no later than March 1, a captive insurance
1549 company or a captive reinsurance company ~~insurer shall, within~~



148180

1550 ~~60 days after the end of its fiscal year and as often as the~~
1551 ~~office may deem necessary,~~ submit to the office a report of its
1552 financial condition verified by oath of two of its executive
1553 officers. Except as provided in this part, a captive insurance
1554 company or a captive reinsurance company must report using
1555 generally accepted accounting principles, unless the office
1556 approves the use of statutory accounting principles, with useful
1557 or necessary modifications or adaptations required or approved
1558 or accepted by the office for the type of insurance and kinds of
1559 insurers to be reported upon, and as supplemented by additional
1560 information required by the office. The Financial Services
1561 Commission may adopt by rule the form in which captive insurance
1562 companies insurers shall report.

1563 (3) A captive insurance company may make written
1564 application for filing the required report on a fiscal year end
1565 that is consistent with the parent company's fiscal year. If an
1566 alternative reporting date is granted, the annual report is due
1567 60 days after the fiscal year end.

1568 Section 27. Effective upon this act becoming a law, section
1569 628.912, Florida Statutes, is created to read:

1570 628.912 Discounting of loss and loss adjustment expense
1571 reserves.—

1572 (1) A captive reinsurance company may discount its loss and
1573 loss adjustment expense reserves at treasury rates applied to
1574 the applicable payments projected through the use of the
1575 expected payment pattern associated with the reserves.

1576 (2) A captive reinsurance company must file annually an
1577 actuarial opinion on loss and loss adjustment expense reserves
1578 provided by an independent actuary. The actuary may not be an



148180

1579 employee of the captive reinsurance company or its affiliates.

1580 (3) The office may disallow the discounting of reserves if
1581 a captive reinsurance company violates a provision of this part.

1582 Section 28. Effective upon this act becoming a law, section
1583 628.913, Florida Statutes, is amended to read:

1584 (Substantial rewording of section. See
1585 s. 628.913, F.S., for present text.)

1586 628.913 Captive reinsurance companies.—

1587 (1) A captive reinsurance company, if permitted by its
1588 articles of incorporation or charter, may apply to the office
1589 for a license to write reinsurance covering property and
1590 casualty insurance or reinsurance contracts. A captive
1591 reinsurance company authorized by the office may write
1592 reinsurance contracts covering risks in any state; however, a
1593 captive reinsurance company authorized by the office may not
1594 directly insure risks.

1595 (2) To conduct business in this state, a captive
1596 reinsurance company must:

1597 (a) Obtain from the office a license authorizing it to
1598 conduct business as a captive reinsurance company in this state;

1599 (b) Hold at least one board of directors' meeting each year
1600 in this state;

1601 (c) Maintain its principal place of business in this state;
1602 and

1603 (d) Appoint a registered agent to accept service of process
1604 and act otherwise on its behalf in this state.

1605 (3) Before receiving a license, a captive reinsurance
1606 company must file with the office:

1607 (a) A certified copy of its charter and bylaws;



148180

1608 (b) A statement under oath of its president and secretary
1609 showing its financial condition; and

1610 (c) Other documents required by the office.

1611 (4) In addition to the information required by this
1612 section, the captive reinsurance company must file with the
1613 office evidence of:

1614 (a) The amount and liquidity of the captive reinsurance
1615 company's assets relative to the risks to be assumed;

1616 (b) The adequacy of the expertise, experience, and
1617 character of the person who manages the company;

1618 (c) The overall soundness of the company's plan of
1619 operation; and

1620 (d) Other overall factors considered relevant by the office
1621 in ascertaining if the company would be able to meet its policy
1622 obligations.

1623 Section 29. Effective upon this act becoming a law, section
1624 628.914, Florida Statutes, is created to read:

1625 628.914 Minimum capitalization or reserves for captive
1626 reinsurance companies.-

1627 (1) The office may not issue a license to a captive
1628 reinsurance company unless the company possesses and maintains
1629 capital or unimpaired surplus of at least the greater of \$300
1630 million or 10 percent of reserves. The surplus may be in the
1631 form of cash or securities as permitted by part II of chapter
1632 625.

1633 (2) The office may prescribe additional capital or surplus
1634 based upon the type, volume, and nature of the insurance
1635 business transacted.

1636 (3) A captive reinsurance company may not pay a dividend



148180

1637 out of, or other distribution with respect to, capital or
1638 surplus in excess of the limitations without the prior approval
1639 of the office. Approval of an ongoing plan for the payment of
1640 dividends or other distributions must be conditioned upon the
1641 retention, at the time of each payment, of capital or surplus in
1642 excess of amounts specified by, or determined in accordance with
1643 formulas approved by, the office.

1644 Section 30. Effective upon this act becoming a law, section
1645 628.9141, Florida Statutes, is created to read:

1646 628.9141 Incorporation of a captive reinsurance company.-

1647 (1) A captive reinsurance company must be incorporated as a
1648 stock insurer with its capital divided into shares and held by
1649 its shareholders.

1650 (2) A captive reinsurance company may not have fewer than
1651 three incorporators of whom at least two must be residents of
1652 this state.

1653 (3) Before the articles of incorporation are transmitted to
1654 the Secretary of State, the incorporators must comply with all
1655 the requirements of s. 628.091.

1656 (4) The capital stock of a captive reinsurance company must
1657 be issued at par value of not less than \$1 or more than \$100 per
1658 share.

1659 (5) At least one of the members of the board of directors
1660 of a captive reinsurance company incorporated in this state must
1661 be a resident of this state.

1662 Section 31. Effective upon this act becoming a law, section
1663 628.9142, Florida Statutes, is created to read:

1664 628.9142 Reinsurance; effect on reserves.-

1665 (1) A captive insurance company may provide reinsurance, as



148180

1666 authorized in this part, on risks ceded by any other insurer.

1667 (2) A captive insurance company may take credit for
1668 reserves on risks or portions of risks ceded to authorized
1669 insurers or reinsurers and unauthorized insurers or reinsurers
1670 complying with s. 624.610. A captive insurer may not take credit
1671 for reserves on risks or portions of risks ceded to an
1672 unauthorized insurer or reinsurer if the insurer or reinsurer is
1673 not in compliance with s. 624.610.

1674 Section 32. Effective upon this act becoming a law, section
1675 628.918, Florida Statutes, is created to read:

1676 628.918 Management of assets of captive reinsurance
1677 company.—At least 35 percent of the assets of a captive
1678 reinsurance company must be managed by an asset manager
1679 domiciled in this state.

1680 Section 33. Effective upon this act becoming a law, section
1681 628.919, Florida Statutes, is created to read:

1682 628.919 Standards to ensure risk management control by
1683 parent company.—The Financial Services Commission shall adopt
1684 rules establishing standards to ensure that a parent or
1685 affiliated company is able to exercise control of the risk
1686 management function of any controlled unaffiliated business to
1687 be insured by the pure captive insurance company.

1688 Section 34. Effective upon this act becoming a law, section
1689 628.920, Florida Statutes, is created to read:

1690 628.920 Eligibility of licensed captive insurance company
1691 for certificate of authority to act as insurer.—A licensed
1692 captive insurance company that meets the necessary requirements
1693 of this part imposed upon an insurer must be considered for
1694 issuance of a certificate of authority to act as an insurer in



148180

1695 this state.

1696 Section 35. Section 631.271, Florida Statutes, is amended
1697 to read:

1698 631.271 Priority of claims.—

1699 (1) The priority of distribution of claims from the
1700 insurer's estate shall be in accordance with the order in which
1701 each class of claims is set forth in this subsection. Every
1702 claim in each class shall be paid in full or adequate funds
1703 shall be retained for such payment before the members of the
1704 next class may receive any payment. No subclasses may be
1705 established within any class. The order of distribution of
1706 claims shall be:

1707 (a) *Class 1.*—

1708 1. All of the receiver's costs and expenses of
1709 administration.

1710 2. All of the expenses of a guaranty association or foreign
1711 guaranty association in handling claims.

1712 (b) *Class 2.*—All claims under policies for losses incurred,
1713 including third-party claims, all claims against the insurer for
1714 liability for bodily injury or for injury to or destruction of
1715 tangible property which claims are not under policies, and all
1716 claims of a guaranty association or foreign guaranty
1717 association. All claims under life insurance and annuity
1718 policies, whether for death proceeds, annuity proceeds, or
1719 investment values, shall be treated as loss claims. That portion
1720 of any loss, indemnification for which is provided by other
1721 benefits or advantages recovered by the claimant, may not be
1722 included in this class, other than benefits or advantages
1723 recovered or recoverable in discharge of familial obligations of



148180

1724 support or by way of succession at death or as proceeds of life
1725 insurance, or as gratuities. No payment by an employer to her or
1726 his employee may be treated as a gratuity.

1727 (c) *Class 3.*—Claims under nonassessable policies for
1728 unearned premiums or premium refunds.

1729 (d) *Class 4.*—Claims of the Federal Government.

1730 (e) *Class 5.*—Debts due to employees for services performed,
1731 to the extent that the debts do not exceed \$2,000 for each
1732 employee and represent payment for services performed within 6
1733 months before the filing of the petition for liquidation.
1734 Officers and directors are not entitled to the benefit of this
1735 priority. This priority is in lieu of any other similar priority
1736 that is authorized by law as to wages or compensation of
1737 employees.

1738 (f) *Class 6.*—Claims of general creditors.

1739 (g) *Class 7.*—Claims of any state or local government.
1740 Claims, including those of any state or local government for a
1741 penalty or forfeiture, shall be allowed in this class, but only
1742 to the extent of the pecuniary loss sustained from the act,
1743 transaction, or proceeding out of which the penalty or
1744 forfeiture arose, with reasonable and actual costs occasioned
1745 thereby. The remainder of such claims shall be postponed to the
1746 class of claims under paragraph (k) ~~(j)~~.

1747 (h) *Class 8.*—Claims filed after the time specified in s.
1748 631.181(3), except when ordered otherwise by the court to
1749 prevent manifest injustice, or any claims other than claims
1750 under paragraph (i) or under paragraph (k) ~~(j)~~.

1751 (i) *Class 9.*—Surplus or contribution notes, or similar
1752 obligations, and premium refunds on assessable policies.



148180

1753 Payments to members of domestic mutual insurance companies shall
1754 be limited in accordance with law.

1755 (j) Class 10.—Interest on allowed claims of Classes 1
1756 through 9, according to the terms of a plan to pay interest on
1757 allowed claims proposed by the liquidator and approved by the
1758 receivership court.

1759 (k) Class 11.—The claims of shareholders or other owners.

1760 (2) In a liquidation proceeding involving one or more
1761 reciprocal states, the order of distribution of the domiciliary
1762 state shall control as to all claims of residents of this and
1763 reciprocal states. All claims of residents of reciprocal states
1764 shall be given equal priority of payment from general assets
1765 regardless of where such assets are located.

1766
1767 Between lines 936 and 937
1768 insert:

1769 Section 16. If CS for SB 578 or similar legislation is
1770 adopted in the same legislative session or an extension thereof
1771 and becomes law, a surplus lines insurer removing policies from
1772 the Citizens Property Insurance Corporation must, pursuant to s.
1773 627.351(6)(q)3.d.(II)(B), Florida Statutes, maintain an A.M.
1774 Best Financial Strength Rating of A- or better or, in the
1775 alternative, a Demotech Financial Stability Rating of A or
1776 better.

1777
1778 ===== T I T L E A M E N D M E N T =====

1779 And the title is amended as follows:

1780 Delete line 5

1781 and insert:



148180

1782 that cannot be legally operated on roads, highways, or
1783 streets; amending s. 624.402, F.S.; revising a
1784 provision exempting alien insurers from the
1785 requirement to obtain a certificate of authority;
1786 revising the definition of the term "nonresident";
1787 providing that a life insurance policy or annuity
1788 contract may be issued by an insurer domiciled outside
1789 the United States under certain conditions; specifying
1790 the terms and conditions that must be satisfied before
1791 an alien insured may issue a policy or contract;
1792 authorizing the Office of Insurance Regulation to
1793 conduct an examination of an alien insurer if the
1794 office has reason to believe that the insurer is
1795 insolvent or is in unsound financial condition;
1796 providing that an alien insurer issuing policies or
1797 contracts in this state is subject to the Unfair
1798 Insurance Trade Practices Act; providing that policies
1799 and contracts issued pursuant to the act are not
1800 subject to the premium tax; requiring that an
1801 application for a life insurance policy or an annuity
1802 contract contain certain specified statements to
1803 protect consumers;

1804
1805 Delete lines 18 - 20

1806 and insert:

1807 circumstances; creating s. 626.8675, F.S.; providing
1808 that

1809
1810 Delete line 24



148180

1811 and insert:
1812 electronics insurance claims; amending s. 626.9201,
1813 F.S.; clarifying the definition of the term "licensed
1814 insurer" or "insurer"; amending s. 626.9201, F.S.;
1815 providing certain exceptions to the notice of
1816 cancellation or nonrenewal requirements; amending s.
1817 626.9541, F.S.; including knowingly altered property
1818 and casualty certificates of insurance to the list of
1819 unfair or deceptive acts or practices; amending s.
1820 627.351,

1821
1822 Delete line 27

1823 and insert:
1824 company; requiring the corporation to offer certain
1825 types of basic personal lines policy; providing
1826 valuation criteria for establishing replacement costs
1827 for coverage on a dwelling issued by the corporation;
1828 creating s. 627.6011, F.S.; providing that

1829
1830 Delete line 29

1831 and insert:
1832 benefit plans; amending s. 627.6699, F.S.; revising
1833 the definition of "carrier"; amending s. 627.7015,
1834 F.S.; revising

1835
1836 Between lines 31 and 32

1837 insert:
1838 amending s. 627.706, F.S.; providing criteria for the
1839 renewal of sinkhole insurance; amending s. 627.707,



1840 F.S.; defining the term "rebate";
1841
1842 Delete line 37
1843 and insert:
1844 protection benefits; amending s. 627.7405, F.S.;
1845 providing that certain owners or registrants are not
1846 liable for an insurers' right of reimbursement;
1847 amending s. 628.901, F.S.; providing definitions;
1848 repealing s. 628.903, F.S., relating to the definition
1849 of the term "industrial insured captive insurer";
1850 amending s. 628.905, F.S.; expanding the kinds of
1851 insurance for which a captive insurer may seek
1852 licensure; limiting the risks that certain captive
1853 insurers may insure; specifying requirements and
1854 conditions relating to a captive insurer's authority
1855 to conduct business; requiring that before licensure
1856 certain captive insurers must file or submit to the
1857 Office of Insurance Regulation specified information,
1858 documents, and statements; requiring a captive
1859 insurance company to file specific evidence with the
1860 office relating to the financial condition and quality
1861 of management and operations of the company;
1862 specifying certain fees to be paid by captive
1863 insurance companies; authorizing a foreign or alien
1864 captive insurance company to become a domestic captive
1865 insurance company by complying with specified
1866 requirements; authorizing the office to waive any
1867 requirements for public hearings relating to the
1868 redomestication of an alien captive insurance company;



1869 creating s. 628.906, F.S.; requiring biographical
1870 affidavits, background investigations, and fingerprint
1871 cards for all officers and directors; providing
1872 restrictions on officers and directors involved with
1873 insolvent insurers under certain conditions; providing
1874 restrictions on officers and directors that are found
1875 guilty of, or have pleaded guilty or nolo contendere
1876 to, any felony or crime involving moral turpitude,
1877 including a crime of dishonesty or breach of trust;
1878 amending s. 628.907, F.S.; revising capitalization
1879 requirements for specified captive insurance
1880 companies; requiring capital of specified captive
1881 insurance companies to be held in certain forms;
1882 requiring contributions to captive insurance companies
1883 that are stock insurer corporations to be in a certain
1884 form; authorizing the office to issue a captive
1885 insurance company license conditioned upon certain
1886 evidence relating to possession of specified capital;
1887 authorizing revocation of a conditional license under
1888 certain circumstances; authorizing the office to
1889 prescribe certain additional capital and net asset
1890 requirements; requiring such additional requirements
1891 relating to capital and net assets to be held in
1892 specified forms; requiring dividends or distributions
1893 of capital or surplus to meet certain conditions and
1894 be approved by the office; requiring certain
1895 irrevocable letters of credit to meet certain
1896 standards; creating s. 628.908, F.S.; prohibiting the
1897 issuance of a license to specified captive insurance



148180

1898 companies unless such companies possess and maintain
1899 certain levels of unimpaired surplus; authorizing the
1900 office to condition issuance of a captive insurance
1901 company license upon the provision of certain evidence
1902 relating to the possession of a minimum amount of
1903 unimpaired surplus; authorizing revocation of a
1904 conditional license under certain circumstances;
1905 requiring dividends or distributions of capital or
1906 surplus to meet certain conditions and be approved by
1907 the office; requiring certain irrevocable letters of
1908 credit to meet certain standards; amending s. 628.909,
1909 F.S.; providing for applicability of certain statutory
1910 provisions to specified captive insurers; creating s.
1911 628.910, F.S.; providing requirements, options, and
1912 conditions relating to how a captive insurance company
1913 may be incorporated or organized as a business;
1914 amending s. 628.911, F.S.; providing reporting
1915 requirements for specified captive insurance companies
1916 and captive reinsurance companies; creating s.
1917 628.912, F.S.; authorizing a captive reinsurance
1918 company to discount specified losses subject to
1919 certain conditions; amending s. 628.913, F.S.;

1920 authorizing a captive reinsurance company to apply to
1921 the office for licensure to write reinsurance covering
1922 property and casualty insurance or reinsurance
1923 contracts; authorizing the office to allow a captive
1924 reinsurance company to write reinsurance contracts
1925 covering risks in any state; specifying that a captive
1926 reinsurance company is subject to specified



1927 requirements and must meet specified conditions in
1928 order to conduct business in this state; creating s.
1929 628.914, F.S.; specifying requirements and conditions
1930 relating to the capitalization or maintenance of
1931 reserves by a captive reinsurance company; creating s.
1932 628.9141, F.S.; specifying requirements and conditions
1933 relating to the incorporation of a captive reinsurance
1934 company; creating s. 628.9142, F.S.; providing for the
1935 effect on reserves of certain actions taken by a
1936 captive insurance company relating to providing
1937 reinsurance for specified risks; creating s. 628.918,
1938 F.S.; requiring a specified percentage of a captive
1939 reinsurance company's assets to be managed by an asset
1940 manager domiciled in this state; creating s. 628.919,
1941 F.S.; authorizing the Financial Services Commission to
1942 adopt rules establishing certain standards for control
1943 of an unaffiliated business by a parent or affiliated
1944 company relating to coverage by a pure captive
1945 insurance company; creating s. 628.920, F.S.;
1946 requiring that a licensed captive insurance company
1947 must be considered for issuance of a certificate of
1948 authority as an insurer under certain circumstances;
1949 amending s. 631.271, F.S.; providing for the order of
1950 distribution for interest on allowed claims; providing
1951 that if CS for SB 578 or similar legislation becomes
1952 law, a surplus lines insurer removing policies from
1953 the Citizens Property Insurance Corporation must
1954 maintain a certain financial rating; providing
1955 effective dates.