

By the Committees on Budget Subcommittee on General Government Appropriations; and Banking and Insurance; and Senator Richter

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1 A bill to be entitled
2 An act relating to insurance; amending s. 320.27,
3 F.S.; providing that a salvage motor vehicle dealer is
4 not required to carry certain insurance on vehicles
5 that cannot be legally operated on roads, highways, or
6 streets; amending s. 624.402, F.S.; revising a
7 provision exempting alien insurers from the
8 requirement to obtain a certificate of authority;
9 revising the definition of the term "nonresident";
10 providing that a life insurance policy or annuity
11 contract may be issued by an insurer domiciled outside
12 the United States under certain conditions; specifying
13 the terms and conditions that must be satisfied before
14 an alien insured may issue a policy or contract;
15 authorizing the Office of Insurance Regulation to
16 conduct an examination of an alien insurer if the
17 office has reason to believe that the insurer is
18 insolvent or is in unsound financial condition;
19 providing that an alien insurer issuing policies or
20 contracts in this state is subject to the Unfair
21 Insurance Trade Practices Act; providing that policies
22 and contracts issued pursuant to the act are not
23 subject to the premium tax; requiring that an
24 application for a life insurance policy or an annuity
25 contract contain certain specified statements to
26 protect consumers; amending s. 624.4625, F.S.;
27 authorizing corporation not for profit self-insurance
28 funds that are required to maintain a continuing
29 program of excess insurance coverage and reserve

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30 evaluation to purchase excess insurance from eligible
31 surplus lines insurers or reinsurers; authorizing
32 certain corporation not for profit self-insurance
33 funds to purchase certain group insurance coverage for
34 its members; providing requirements and conditions
35 relating to such purchases; amending s. 624.501, F.S.;
36 conforming a cross-reference; amending s. 624.610,
37 F.S.; revising provisions specifying which insurers
38 are not subject to certain filing requirements
39 relating to reinsurance; amending s. 626.261, F.S.;
40 authorizing the Department of Financial Services to
41 provide examinations in Spanish; amending s. 626.321,
42 F.S.; revising provisions relating to limited licenses
43 for travel insurance; providing that a full-time
44 salaried employee of a licensed general lines agent or
45 a business entity that offers travel planning services
46 may be issued such license under certain
47 circumstances; amending s. 626.7491, F.S.; clarifying
48 the definition of the term "licensed insurer" or
49 "insurer"; creating s. 626.8675, F.S.; providing that
50 provisions relating to insurance adjusters do not
51 apply to individuals who conduct data entry into an
52 automated claims adjustment system for portable
53 electronics insurance claims; amending s. 626.9201,
54 F.S.; providing certain exceptions to the notice of
55 cancellation or nonrenewal requirements; amending s.
56 626.9541, F.S.; adding the practice of knowingly
57 altering property and casualty certificates of
58 insurance to the list of unfair or deceptive acts or

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59 practices; amending s. 627.351, F.S.; increasing the
60 amount of surplus required for an association to
61 qualify as a limited apportionment company; requiring
62 the corporation to offer certain types of basic
63 personal lines policies; providing valuation criteria
64 for establishing replacement costs for coverage on a
65 dwelling issued by the corporation; creating s.
66 627.6011, F.S.; providing that mandatory health
67 benefits apply only to certain health benefit plans;
68 amending s. 627.6699, F.S.; revising the definition of
69 "carrier"; amending s. 627.7015, F.S.; revising
70 provisions relating to alternative procedures for the
71 resolution of disputed property insurance claims;
72 amending s. 627.707, F.S.; defining the term "rebate";
73 amending s. 627.7295, F.S.; revising provisions
74 relating to cancellation for nonpayment of premiums
75 for motor vehicle insurance; amending s. 627.736,
76 F.S.; clarifying provisions relating to the amount of
77 interest on overdue payments for personal injury
78 protection benefits; amending s. 627.7405, F.S.;
79 providing that certain owners or registrants are not
80 liable for an insurers' right of reimbursement;
81 amending s. 628.901, F.S.; providing definitions;
82 repealing s. 628.903, F.S., relating to the definition
83 of the term "industrial insured captive insurer";
84 amending s. 628.905, F.S.; expanding the kinds of
85 insurance for which a captive insurer may seek
86 licensure; limiting the risks that certain captive
87 insurers may insure; specifying requirements and

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

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117 that are stock insurer corporations to be in a certain
118 form; authorizing the office to issue a captive
119 insurance company license conditioned upon certain
120 evidence relating to possession of specified capital;
121 authorizing revocation of a conditional license under
122 certain circumstances; authorizing the office to
123 prescribe certain additional capital and net asset
124 requirements; requiring such additional requirements
125 relating to capital and net assets to be held in
126 specified forms; requiring dividends or distributions
127 of capital or surplus to meet certain conditions and
128 be approved by the office; requiring certain
129 irrevocable letters of credit to meet certain
130 standards; creating s. 628.908, F.S.; prohibiting the
131 issuance of a license to specified captive insurance
132 companies unless such companies possess and maintain
133 certain levels of unimpaired surplus; authorizing the
134 office to condition issuance of a captive insurance
135 company license upon the provision of certain evidence
136 relating to the possession of a minimum amount of
137 unimpaired surplus; authorizing revocation of a
138 conditional license under certain circumstances;
139 requiring dividends or distributions of capital or
140 surplus to meet certain conditions and be approved by
141 the office; requiring certain irrevocable letters of
142 credit to meet certain standards; amending s. 628.909,
143 F.S.; providing for applicability of certain statutory
144 provisions to specified captive insurers; creating s.
145 628.910, F.S.; providing requirements, options, and

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146 conditions relating to how a captive insurance company
147 may be incorporated or organized as a business;
148 amending s. 628.911, F.S.; providing reporting
149 requirements for specified captive insurance companies
150 and captive reinsurance companies; creating s.
151 628.912, F.S.; authorizing a captive reinsurance
152 company to discount specified losses subject to
153 certain conditions; amending s. 628.913, F.S.;

154 authorizing a captive reinsurance company to apply to
155 the office for licensure to write reinsurance covering
156 property and casualty insurance or reinsurance
157 contracts; authorizing the office to allow a captive
158 reinsurance company to write reinsurance contracts
159 covering risks in any state; specifying that a captive
160 reinsurance company is subject to specified
161 requirements and must meet specified conditions in
162 order to conduct business in this state; creating s.
163 628.914, F.S.; specifying requirements and conditions
164 relating to the capitalization or maintenance of
165 reserves by a captive reinsurance company; creating s.
166 628.9141, F.S.; specifying requirements and conditions
167 relating to the incorporation of a captive reinsurance
168 company; creating s. 628.9142, F.S.; providing for the
169 effect on reserves of certain actions taken by a
170 captive insurance company relating to providing
171 reinsurance for specified risks; creating s. 628.918,
172 F.S.; requiring a specified percentage of a captive
173 reinsurance company's assets to be managed by an asset
174 manager domiciled in this state; creating s. 628.919,

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175 F.S.; authorizing the Financial Services Commission to
176 adopt rules establishing certain standards for control
177 of an unaffiliated business by a parent or affiliated
178 company relating to coverage by a pure captive
179 insurance company; creating s. 628.920, F.S.;
180 requiring that a licensed captive insurance company
181 must be considered for issuance of a certificate of
182 authority as an insurer under certain circumstances;
183 amending s. 631.271, F.S.; providing for the order of
184 distribution for interest on allowed claims; providing
185 that if CS for SB 578 or similar legislation becomes
186 law, a surplus lines insurer removing policies from
187 the Citizens Property Insurance Corporation must
188 maintain a certain financial rating; providing
189 effective dates.

190

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

192

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

195 320.27 Motor vehicle dealers.—

196 (3) APPLICATION AND FEE.—The application for the license
197 shall be in such form as may be prescribed by the department and
198 shall be subject to such rules with respect thereto as may be so
199 prescribed by it. Such application shall be verified by oath or
200 affirmation and shall contain a full statement of the name and
201 birth date of the person or persons applying therefor; the name
202 of the firm or copartnership, with the names and places of
203 residence of all members thereof, if such applicant is a firm or

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204 copartnership; the names and places of residence of the
205 principal officers, if the applicant is a body corporate or
206 other artificial body; the name of the state under whose laws
207 the corporation is organized; the present and former place or
208 places of residence of the applicant; and prior business in
209 which the applicant has been engaged and the location thereof.
210 Such application shall describe the exact location of the place
211 of business and shall state whether the place of business is
212 owned by the applicant and when acquired, or, if leased, a true
213 copy of the lease shall be attached to the application. The
214 applicant shall certify that the location provides an adequately
215 equipped office and is not a residence; that the location
216 affords sufficient unoccupied space upon and within which
217 adequately to store all motor vehicles offered and displayed for
218 sale; and that the location is a suitable place where the
219 applicant can in good faith carry on such business and keep and
220 maintain books, records, and files necessary to conduct such
221 business, which will be available at all reasonable hours to
222 inspection by the department or any of its inspectors or other
223 employees. The applicant shall certify that the business of a
224 motor vehicle dealer is the principal business which shall be
225 conducted at that location. Such application shall contain a
226 statement that the applicant is either franchised by a
227 manufacturer of motor vehicles, in which case the name of each
228 motor vehicle that the applicant is franchised to sell shall be
229 included, or an independent (nonfranchised) motor vehicle
230 dealer. Such application shall contain such other relevant
231 information as may be required by the department, including
232 evidence that the applicant is insured under a garage liability

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233 insurance policy or a general liability insurance policy coupled
234 with a business automobile policy, which shall include, at a
235 minimum, \$25,000 combined single-limit liability coverage
236 including bodily injury and property damage protection and
237 \$10,000 personal injury protection. However, a salvage motor
238 vehicle dealer as defined in subparagraph (1)(c)5. is exempt
239 from the requirements for garage liability insurance and
240 personal injury protection insurance on those vehicles that
241 cannot be legally operated on roads, highways, or streets in
242 this state. Franchise dealers must submit a garage liability
243 insurance policy, and all other dealers must submit a garage
244 liability insurance policy or a general liability insurance
245 policy coupled with a business automobile policy. Such policy
246 shall be for the license period, and evidence of a new or
247 continued policy shall be delivered to the department at the
248 beginning of each license period. Upon making initial
249 application, the applicant shall pay to the department a fee of
250 \$300 in addition to any other fees now required by law; upon
251 making a subsequent renewal application, the applicant shall pay
252 to the department a fee of \$75 in addition to any other fees now
253 required by law. Upon making an application for a change of
254 location, the person shall pay a fee of \$50 in addition to any
255 other fees now required by law. The department shall, in the
256 case of every application for initial licensure, verify whether
257 certain facts set forth in the application are true. Each
258 applicant, general partner in the case of a partnership, or
259 corporate officer and director in the case of a corporate
260 applicant, must file a set of fingerprints with the department
261 for the purpose of determining any prior criminal record or any

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262 outstanding warrants. The department shall submit the
263 fingerprints to the Department of Law Enforcement for state
264 processing and forwarding to the Federal Bureau of Investigation
265 for federal processing. The actual cost of state and federal
266 processing shall be borne by the applicant and is in addition to
267 the fee for licensure. The department may issue a license to an
268 applicant pending the results of the fingerprint investigation,
269 which license is fully revocable if the department subsequently
270 determines that any facts set forth in the application are not
271 true or correctly represented.

272 Section 2. Subsection (8) of section 624.402, Florida
273 Statutes, is amended, and subsection (9) is added to that
274 section, to read:

275 624.402 Exceptions, certificate of authority required.—A
276 certificate of authority shall not be required of an insurer
277 with respect to:

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

281 1. The insurer ~~or any affiliated person as defined in s.~~
282 ~~624.04 under common ownership or control with the insurer~~ does
283 not solicit, sell, or accept application for any insurance
284 policy or contract to be delivered or issued for delivery to any
285 person in any state;

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

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

290 a. The name of the insurer; the country of domicile; the

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291 address of the insurer's principal office and office in this
292 state; the names of the owners of the insurer and their
293 percentage of ownership; the names of the officers and directors
294 of the insurer; the name, e-mail, and telephone number of a
295 contact person for the insurer; and the number of individuals
296 who are employed by the insurer or its affiliates in this state;

297 b. The lines of insurance and types of products offered by
298 the insurer;

299 c. A statement from the applicable regulatory body of the
300 insurer's domicile certifying that the insurer is licensed or
301 registered for those lines of insurance and types of products in
302 that domicile; and

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

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

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

315 (b) As used in ~~For purposes of~~ this subsection, the term
316 "nonresident" means a trust or other entity organized and
317 domiciled under the laws of a country other than the United
318 States or a person who resides in and maintains a physical place
319 of domicile in a country other than the United States, which he

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320 or she recognizes as and intends to maintain as his or her
321 permanent home. A nonresident does not include an unauthorized
322 immigrant present in the United States. Notwithstanding any
323 other provision of law, it is conclusively presumed, for
324 purposes of this subsection, that a person is a resident of the
325 United States if such person has:

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

329 2. Registered to vote in any state;

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

331 4. Filed for homestead tax exemption on property in any
332 state.

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

337 (d) An alien insurer transacting insurance in this state
338 without complying with this subsection is ~~shall~~ be in violation
339 of this chapter and subject to the penalties provided in s.
340 624.15.

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

345 1. The insurer is an authorized insurer in the insurer's
346 country of domicile of the kinds of insurance proposed to be
347 offered and has been an authorized insurer for at least the
348 immediately preceding 3 years, or is the wholly owned subsidiary

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349 of an authorized insurer or the wholly owned subsidiary of an
350 already eligible authorized insurer for the kinds of insurance
351 proposed for at least the immediately preceding 3 years. The
352 office may waive the 3-year requirement if the insurer has
353 operated successfully for at least the immediately preceding
354 year and has capital and surplus of at least \$25 million.

355 2. The insurer furnishes the office with an authenticated
356 copy of its current annual financial statement, in English, with
357 all monetary values therein expressed in United States dollars,
358 at an exchange rate that is current at the time and shown in the
359 statement, in the case of statements originally made in the
360 currencies of other countries, and with such additional
361 information relative to the insurer as the office may request.

362 3. The insurer has and maintains surplus as to
363 policyholders of at least \$15 million. Such surplus must be
364 represented by investments consisting of eligible investments
365 for like funds of like domestic insurers under part II of
366 chapter 625. However, such surplus may be represented by
367 investments permitted by the domestic regulator of an alien
368 insurance company if the investments are substantially similar
369 in terms of quality, liquidity, and security to eligible
370 investments for like funds of like domestic insurers under part
371 II of chapter 625.

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

374 5. To maintain eligibility, the insurer furnishes the
375 office within the time period specified in s. 624.424(1) an
376 authenticated copy of its current annual and quarterly financial
377 statements, in English, with all monetary values therein

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378 expressed in United States dollars, at an exchange rate that is
379 current at the time and shown in the statement, in the case of
380 statements originally made in the currencies of other countries,
381 and with such additional information relative to the insurer as
382 the office may request.

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

387 7. The insurer notifies the applicant in clear and
388 conspicuous language:

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

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

393 c. That the insurer does not hold a certificate of
394 authority issued in this state and that the office does not
395 exercise regulatory oversight over the insurer.

396 d. Of the identity and address of the regulatory authority
397 exercising oversight of the insurer. This sub-subparagraph does
398 not impose upon the office any duty or responsibility to
399 determine the actual financial condition or claims practices of
400 any unauthorized insurer, and the status of eligibility, if
401 granted by the office, indicates only that the insurer appears
402 to be financially sound and to have satisfactory claims
403 practices and that the office has no credible evidence to the
404 contrary.

405 (b) If the office has reason to believe that an insurer
406 issuing policies or contracts pursuant to this subsection is

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407 insolvent or is in unsound financial condition, does not make
408 reasonable prompt payment of benefits, or is no longer eligible
409 under the conditions specified in this subsection, the office
410 may conduct an examination or investigation in accordance with
411 s. 624.316, s. 624.3161, or s. 624.320 and, if the findings of
412 the examination or investigation warrant, may withdraw the
413 eligibility of the insurer to issue policies or contracts
414 pursuant to this subsection without having a certificate of
415 authority issued by the office.

416 (c) This subsection does not provide an exception to the
417 agent licensure requirements of chapter 626. An insurer issuing
418 policies or contracts pursuant to this subsection shall appoint
419 the agents that the insurer uses to sell such policies or
420 contracts as provided in chapter 626.

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

426 (e) Policies and contracts issued pursuant to this
427 subsection are not subject to the premium tax specified in s.
428 624.509.

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

433
434 This policy is primarily governed by the laws of a
435 foreign country. As a result, all of the rating and

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436 underwriting laws applicable to policies filed in this
437 state do not apply to this coverage, which may result
438 in your premiums being higher than would be
439 permissible under a Florida-approved policy. A
440 purchase of individual life insurance should be
441 considered carefully, as future medical conditions may
442 make it impossible to qualify for another individual
443 life policy. If the insurer issuing your policy
444 becomes insolvent, this policy is not covered by the
445 Florida Life and Health Insurance Guaranty
446 Association. For information concerning individual
447 life coverage under a Florida-approved policy, consult
448 your agent or the Florida Department of Financial
449 Services.

450
451 (g) All life insurance policies and annuity contracts
452 issued pursuant to this subsection must contain on the first
453 page of the policy or contract the following statement, in
454 contrasting color and at least 10-point type:

455
456 The benefits of the policy providing your coverage are
457 governed primarily by the law of a country other than
458 the United States.

459
460 (h) All single-premium life insurance policies and single-
461 premium annuity contracts issued to persons who are not
462 residents of the United States and are not nonresidents
463 illegally residing in the United States are subject to chapter
464 896.

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

467 (j) An alien insurer transacting insurance in this state
468 without complying with this subsection is in violation of this
469 chapter and subject to the penalties provided in s. 624.15 and
470 must pay the fine required for each violation as prescribed by
471 s. 626.910.

472 Section 3. Paragraph (e) of subsection (1) of section
473 624.4625, Florida Statutes, is amended, present subsection (5)
474 of that section is renumbered as subsection (6), and a new
475 subsection (5) is added to that section, to read:

476 624.4625 Corporation not for profit self-insurance funds.-

477 (1) Notwithstanding any other provision of law, any two or
478 more corporations not for profit located in and organized under
479 the laws of this state may form a self-insurance fund for the
480 purpose of pooling and spreading liabilities of its group
481 members in any one or combination of property or casualty risk,
482 provided the corporation not for profit self-insurance fund that
483 is created:

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

488 1. Purchase excess insurance from authorized insurance
489 carriers or eligible surplus lines insurers or reinsurers.

490 2. Retain a per-loss occurrence that does not exceed
491 \$350,000.

492 (5) A corporation not for profit self-insurance fund formed
493 under this section, which is hereby deemed to be an association

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494 in compliance with s. 627.654, may purchase for its members, on
495 a group basis, any one or more policies of health, accident, or
496 hospitalization coverage, if:

497 (a) An insurance policy purchased to provide coverage under
498 this subsection is purchased only from an authorized insurance
499 company that participates in the Florida Life and Health
500 Insurance Guaranty Association and the policy forms have been
501 filed with and approved by the office;

502 (b) The corporation not for profit self-insurance fund
503 retains no risk related to coverage provided under this
504 subsection;

505 (c) An insurance policy purchased to provide coverage under
506 this subsection is not subject to the restrictions relating to
507 the premium rates for small employer groups under chapter 627;
508 and

509 (d) The premium paid for an insurance policy purchased
510 pursuant to paragraph (a) does not count toward the \$5 million
511 requirement in paragraph (1)(a).

512
513 An individual not-for-profit entity participating as a member of
514 the association for the purchase of a master health, accident,
515 or hospitalization policy by the association under this
516 subsection may retain its individual insurance agent and the
517 agent shall be deemed an additional agent of record for the
518 master policy issued to the association.

519 Section 4. Paragraph (b) of subsection (9) of section
520 624.501, Florida Statutes, is amended to read:

521 624.501 Filing, license, appointment, and miscellaneous
522 fees.—The department, commission, or office, as appropriate,

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523 shall collect in advance, and persons so served shall pay to it
524 in advance, fees, licenses, and miscellaneous charges as
525 follows:

526 (9)

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

533 Section 5. Paragraph (c) of subsection (11) of section
534 624.610, Florida Statutes, is amended to read:

535 624.610 Reinsurance.—

536 (11)

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

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552 ~~of this subsection.~~

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

555 626.261 Conduct of examination.—

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

564 Section 7. Paragraph (c) of subsection (1) of section
565 626.321, Florida Statutes, is amended to read:

566 626.321 Limited licenses.—

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

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

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581 medical, surgical, and hospital expenses related to an illness
582 or emergency of a traveler. ~~Any~~ Such policy or certificate may
583 be issued for terms longer than 90 ~~60~~ days, but ~~each policy or~~
584 ~~certificate~~, other than a policy or certificate providing
585 coverage for air ambulatory services only, each policy or
586 certificate must be limited to coverage for travel or use of
587 accommodations of no longer than 90 ~~60~~ days. The license may be
588 issued only:

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

597 2. To an entity or individual that is:

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

600 b. An exchange company operating an exchange program
601 approved under chapter 721;

602 c. A managing entity operating a timeshare plan approved
603 under chapter 721;

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

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

607 3. To a full-time salaried employee of a licensed general
608 lines agent or to a business entity that offers travel planning
609 services if insurance sales activities authorized by the license

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

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

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

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

632
633 A licensee shall require each individual ~~employee~~ who offers
634 policies or certificates under subparagraph 2. or subparagraph
635 3. ~~this subparagraph~~ to receive initial training from a general
636 lines agent or an insurer authorized under chapter 624 to
637 transact insurance within this state. For an entity applying for
638 a license as a travel insurance agent, the fingerprinting

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

643 Section 8. Effective upon this act becoming a law,
644 paragraph (e) of subsection (2) of section 626.7491, Florida
645 Statutes, is amended to read:

646 626.7491 Business transacted with producer controlled
647 property and casualty insurer.—

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

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

653 1. Any risk retention group as defined in:

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

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

658 c. Section 627.942(9).

659 2. Any residual market pool or joint underwriting authority
660 or association; and

661 3. Any captive insurance company ~~insurer~~ as defined in s.
662 628.901.

663 Section 9. Effective January 1, 2013, section 626.8675,
664 Florida Statutes, is created to read:

665 626.8675 Portable electronics insurance claims employee
666 exemption.—

667 (1) This part does not apply to individuals who collect

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668 claims information from, or furnish claims information to,
669 insureds or claimants, and who conduct data entry, including
670 entering data into an automated claims adjudication system, if
671 such individuals are employees of a business entity licensed
672 under this chapter, or its affiliate, where up to 25 such
673 individuals are under the supervision of a licensed independent
674 adjuster or licensed agent who is exempt from licensure pursuant
675 to s. 626.862. For purposes of this section, "automated claims
676 adjudication system" means a preprogrammed computer system
677 designed for the collection, data entry, calculation, and final
678 resolution of portable electronics insurance claims that:

679 (a) May be used only by a licensed independent adjuster,
680 licensed agent, or supervised individual operating pursuant to
681 this section;

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

684 (c) Must be certified as compliant with this section by a
685 licensed independent adjuster who is an officer of a licensed
686 business entity under this chapter.

687 (2) Notwithstanding any other provision of law, a resident
688 of Canada may not be licensed as a nonresident independent
689 adjuster for purposes of adjusting portable electronics
690 insurance claims unless that person has successfully obtained an
691 adjuster license in another state.

692 Section 10. Section 626.9201, Florida Statutes, is amended
693 to read:

694 626.9201 Notice of cancellation or nonrenewal.—

695 (1) An insurer issuing a policy providing coverage for
696 property, casualty, surety, or marine insurance must ~~shall~~ give

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697 the named insured at least 45 days' advance written notice of
698 nonrenewal. If the policy is not to be renewed, the written
699 notice shall state the reason ~~or reasons~~ as to why the policy is
700 not to be renewed. This subsection does not apply if:

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

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

706 (2) An insurer issuing a policy providing coverage for
707 property, casualty, surety, or marine insurance must ~~shall~~ give
708 the named insured written notice of cancellation or termination
709 other than nonrenewal at least 45 days before ~~prior to~~ the
710 effective date of the cancellation or termination, including in
711 the written notice the reason ~~or reasons~~ for the cancellation or
712 termination, except that:

713 (a) ~~If~~ When cancellation is for nonpayment of premium, ~~at~~
714 ~~least 10 days'~~ written notice of cancellation accompanied by the
715 reason for cancellation must ~~therefor shall~~ be given at least 10
716 days before the cancellation. As used in this paragraph, the
717 term "nonpayment of premium" means the failure of the named
718 insured to discharge when due any of his or her obligations in
719 connection with the payment of premiums on a policy or an
720 installment of such a premium, whether the premium or
721 installment is payable directly to the insurer or its agent or
722 indirectly under a ~~any~~ plan for financing premiums or extension
723 of credit or the failure of the named insured to maintain
724 membership in an organization if such membership is a condition
725 precedent to insurance coverage. The term also includes the

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726 failure of a financial institution to honor the check of an
727 applicant for insurance which was delivered to a licensed agent
728 for payment of a premium, even if the agent previously delivered
729 or transferred the premium to the insurer. If a correctly
730 dishonored check represents payment of the initial premium, the
731 contract and all contractual obligations are void ab initio
732 unless the nonpayment is cured within the earlier of 5 days
733 after actual notice by certified mail is received by the
734 applicant or 15 days after notice is sent to the applicant by
735 certified mail or registered mail, and, if the contract is void,
736 any premium received by the insurer from a third party shall be
737 refunded to that party in full; and

738 (b) If ~~When such~~ cancellation or termination occurs during
739 the first 90 days during which the insurance is in force and if
740 the insurance is canceled or terminated for reasons other than
741 nonpayment, ~~at least 20 days'~~ written notice of cancellation or
742 termination accompanied by the reason for cancellation or
743 termination must ~~therefor shall~~ be given at least 20 days before
744 cancellation or termination, except if ~~where~~ there has been a
745 material misstatement or misrepresentation or failure to comply
746 with the underwriting requirements established by the insurer.

747 (3) If an insurer fails to provide the ~~45-day or 20-day~~
748 written notice required under this section, the coverage
749 provided to the named insured remains ~~shall remain~~ in effect
750 until 45 days after the notice is given or until the effective
751 date of replacement coverage obtained by the named insured,
752 whichever occurs first. The premium for the coverage remains
753 ~~shall remain~~ the same during any such extension period.

754 Section 11. Paragraph (a) of subsection (1) of section

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755 626.9541, Florida Statutes, is amended to read:

756 626.9541 Unfair methods of competition and unfair or
757 deceptive acts or practices defined.—

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

761 (a) *Misrepresentations and false advertising of insurance*
762 *policies.*—*Knowingly making, issuing, circulating, or causing to*
763 *be made, issued, or circulated, any estimate, illustration,*
764 *circular, statement, sales presentation, omission, ~~or~~*
765 *comparison, or property and casualty certificate of insurance*
766 *altered after being issued which:*

767 1. Misrepresents the benefits, advantages, conditions, or
768 terms of any insurance policy.

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

771 3. Makes any false or misleading statements as to the
772 dividends or share of surplus previously paid on any insurance
773 policy.

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

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

779 6. Is a misrepresentation for the purpose of inducing, or
780 tending to induce, the lapse, forfeiture, exchange, conversion,
781 or surrender of any insurance policy.

782 7. Is a misrepresentation for the purpose of effecting a
783 pledge or assignment of, or effecting a loan against, any

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784 insurance policy.

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

787 9. Uses any advertisement that would mislead or otherwise
788 cause a reasonable person to believe mistakenly that the state
789 or the Federal Government is responsible for the insurance sales
790 activities of any person or stands behind any person's credit or
791 that any person, the state, or the Federal Government guarantees
792 any returns on insurance products or is a source of payment of
793 any insurance obligation of or sold by any person.

794 Section 12. Paragraph (b) of subsection (2) and paragraph
795 (c) of subsection (6) of section 627.351, Florida Statutes, are
796 amended, and paragraph (ff) is added to subsection (6) of that
797 section, to read:

798 627.351 Insurance risk apportionment plans.—

799 (2) WINDSTORM INSURANCE RISK APPORTIONMENT.—

800 (b) The department shall require all insurers holding a
801 certificate of authority to transact property insurance on a
802 direct basis in this state, other than joint underwriting
803 associations and other entities formed pursuant to this section,
804 to provide windstorm coverage to applicants from areas
805 determined to be eligible pursuant to paragraph (c) who in good
806 faith are entitled to, but are unable to procure, such coverage
807 through ordinary means; or it shall adopt a reasonable plan or
808 plans for the equitable apportionment or sharing among such
809 insurers of windstorm coverage, which may include formation of
810 an association for this purpose. As used in this subsection, the
811 term "property insurance" means insurance on real or personal
812 property, as defined in s. 624.604, including insurance for

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813 fire, industrial fire, allied lines, farmowners multiperil,
814 homeowners' multiperil, commercial multiperil, and mobile homes,
815 and including liability coverages on all such insurance, but
816 excluding inland marine as defined in s. 624.607(3) and
817 excluding vehicle insurance as defined in s. 624.605(1)(a) other
818 than insurance on mobile homes used as permanent dwellings. The
819 department shall adopt rules that provide a formula for the
820 recovery and repayment of any deferred assessments.

821 1. For the purpose of this section, properties eligible for
822 such windstorm coverage are defined as dwellings, buildings, and
823 other structures, including mobile homes which are used as
824 dwellings and which are tied down in compliance with mobile home
825 tie-down requirements prescribed by the Department of Highway
826 Safety and Motor Vehicles pursuant to s. 320.8325, and the
827 contents of all such properties. An applicant or policyholder is
828 eligible for coverage only if an offer of coverage cannot be
829 obtained by or for the applicant or policyholder from an
830 admitted insurer at approved rates.

831 2.a.(I) All insurers required to be members of such
832 association shall participate in its writings, expenses, and
833 losses. Surplus of the association shall be retained for the
834 payment of claims and shall not be distributed to the member
835 insurers. Such participation by member insurers shall be in the
836 proportion that the net direct premiums of each member insurer
837 written for property insurance in this state during the
838 preceding calendar year bear to the aggregate net direct
839 premiums for property insurance of all member insurers, as
840 reduced by any credits for voluntary writings, in this state
841 during the preceding calendar year. For the purposes of this

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842 subsection, the term "net direct premiums" means direct written
843 premiums for property insurance, reduced by premium for
844 liability coverage and for the following if included in allied
845 lines: rain and hail on growing crops; livestock; association
846 direct premiums booked; National Flood Insurance Program direct
847 premiums; and similar deductions specifically authorized by the
848 plan of operation and approved by the department. A member's
849 participation shall begin on the first day of the calendar year
850 following the year in which it is issued a certificate of
851 authority to transact property insurance in the state and shall
852 terminate 1 year after the end of the calendar year during which
853 it no longer holds a certificate of authority to transact
854 property insurance in the state. The commissioner, after review
855 of annual statements, other reports, and any other statistics
856 that the commissioner deems necessary, shall certify to the
857 association the aggregate direct premiums written for property
858 insurance in this state by all member insurers.

859 (II) Effective July 1, 2002, the association shall operate
860 subject to the supervision and approval of a board of governors
861 who are the same individuals that have been appointed by the
862 Treasurer to serve on the board of governors of the Citizens
863 Property Insurance Corporation.

864 (III) The plan of operation shall provide a formula whereby
865 a company voluntarily providing windstorm coverage in affected
866 areas will be relieved wholly or partially from apportionment of
867 a regular assessment pursuant to sub-sub-subparagraph d.(I) or
868 sub-sub-subparagraph d.(II).

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

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

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

876 (VI) The plan of operation may also provide for the award
877 of credits, for a period not to exceed 3 years, from a regular
878 assessment pursuant to sub-sub-subparagraph d.(I) or sub-sub-
879 subparagraph d.(II) as an incentive for taking policies out of
880 the Residential Property and Casualty Joint Underwriting
881 Association. In order to qualify for the exemption under this
882 sub-sub-subparagraph, the take-out plan must provide that at
883 least 40 percent of the policies removed from the Residential
884 Property and Casualty Joint Underwriting Association cover risks
885 located in Miami-Dade, Broward, and Palm Beach Counties or at
886 least 30 percent of the policies so removed cover risks located
887 in Miami-Dade, Broward, and Palm Beach Counties and an
888 additional 50 percent of the policies so removed cover risks
889 located in other coastal counties, and must also provide that no
890 more than 15 percent of the policies so removed may exclude
891 windstorm coverage. With the approval of the department, the
892 association may waive these geographic criteria for a take-out
893 plan that removes at least the lesser of 100,000 Residential
894 Property and Casualty Joint Underwriting Association policies or
895 15 percent of the total number of Residential Property and
896 Casualty Joint Underwriting Association policies, provided the
897 governing board of the Residential Property and Casualty Joint
898 Underwriting Association certifies that the take-out plan will
899 materially reduce the Residential Property and Casualty Joint

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900 Underwriting Association's 100-year probable maximum loss from
901 hurricanes. With the approval of the department, the board may
902 extend such credits for an additional year if the insurer
903 guarantees an additional year of renewability for all policies
904 removed from the Residential Property and Casualty Joint
905 Underwriting Association, or for 2 additional years if the
906 insurer guarantees 2 additional years of renewability for all
907 policies removed from the Residential Property and Casualty
908 Joint Underwriting Association.

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

912 c. The Legislature finds that the potential for unlimited
913 deficit assessments under this subparagraph may induce insurers
914 to attempt to reduce their writings in the voluntary market, and
915 that such actions would worsen the availability problems that
916 the association was created to remedy. It is the intent of the
917 Legislature that insurers remain fully responsible for paying
918 regular assessments and collecting emergency assessments for any
919 deficits of the association; however, it is also the intent of
920 the Legislature to provide a means by which assessment
921 liabilities may be amortized over a period of years.

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

927 (II) When the deficit incurred in a particular calendar
928 year exceeds 10 percent of the aggregate statewide direct

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929 written premium for property insurance for the prior calendar
930 year for all member insurers, the association shall levy an
931 assessment on member insurers in an amount equal to the greater
932 of 10 percent of the deficit or 10 percent of the aggregate
933 statewide direct written premium for property insurance for the
934 prior calendar year for member insurers. Any remaining deficit
935 shall be recovered through emergency assessments under sub-sub-
936 subparagraph (III).

937 (III) Upon a determination by the board of directors that a
938 deficit exceeds the amount that will be recovered through
939 regular assessments on member insurers, pursuant to sub-sub-
940 subparagraph (I) or sub-sub-subparagraph (II), the board shall
941 levy, after verification by the department, emergency
942 assessments to be collected by member insurers and by
943 underwriting associations created pursuant to this section which
944 write property insurance, upon issuance or renewal of property
945 insurance policies other than National Flood Insurance policies
946 in the year or years following levy of the regular assessments.
947 The amount of the emergency assessment collected in a particular
948 year shall be a uniform percentage of that year's direct written
949 premium for property insurance for all member insurers and
950 underwriting associations, excluding National Flood Insurance
951 policy premiums, as annually determined by the board and
952 verified by the department. The department shall verify the
953 arithmetic calculations involved in the board's determination
954 within 30 days after receipt of the information on which the
955 determination was based. Notwithstanding any other provision of
956 law, each member insurer and each underwriting association
957 created pursuant to this section shall collect emergency

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958 assessments from its policyholders without such obligation being
959 affected by any credit, limitation, exemption, or deferment. The
960 emergency assessments so collected shall be transferred directly
961 to the association on a periodic basis as determined by the
962 association. The aggregate amount of emergency assessments
963 levied under this sub-sub-subparagraph in any calendar year may
964 not exceed the greater of 10 percent of the amount needed to
965 cover the original deficit, plus interest, fees, commissions,
966 required reserves, and other costs associated with financing of
967 the original deficit, or 10 percent of the aggregate statewide
968 direct written premium for property insurance written by member
969 insurers and underwriting associations for the prior year, plus
970 interest, fees, commissions, required reserves, and other costs
971 associated with financing the original deficit. The board may
972 pledge the proceeds of the emergency assessments under this sub-
973 sub-subparagraph as the source of revenue for bonds, to retire
974 any other debt incurred as a result of the deficit or events
975 giving rise to the deficit, or in any other way that the board
976 determines will efficiently recover the deficit. The emergency
977 assessments under this sub-sub-subparagraph shall continue as
978 long as any bonds issued or other indebtedness incurred with
979 respect to a deficit for which the assessment was imposed remain
980 outstanding, unless adequate provision has been made for the
981 payment of such bonds or other indebtedness pursuant to the
982 document governing such bonds or other indebtedness. Emergency
983 assessments collected under this sub-sub-subparagraph are not
984 part of an insurer's rates, are not premium, and are not subject
985 to premium tax, fees, or commissions; however, failure to pay
986 the emergency assessment shall be treated as failure to pay

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987 premium.

988 (IV) Each member insurer's share of the total regular
989 assessments under sub-sub-subparagraph (I) or sub-sub-
990 subparagraph (II) shall be in the proportion that the insurer's
991 net direct premium for property insurance in this state, for the
992 year preceding the assessment bears to the aggregate statewide
993 net direct premium for property insurance of all member
994 insurers, as reduced by any credits for voluntary writings for
995 that year.

996 (V) If regular deficit assessments are made under sub-sub-
997 subparagraph (I) or sub-sub-subparagraph (II), or by the
998 Residential Property and Casualty Joint Underwriting Association
999 under sub-subparagraph (6) (b) 3.a. ~~or sub-subparagraph~~
1000 ~~(6) (b) 3.b.~~, the association shall levy upon the association's
1001 policyholders, as part of its next rate filing, or by a separate
1002 rate filing solely for this purpose, a market equalization
1003 surcharge in a percentage equal to the total amount of such
1004 regular assessments divided by the aggregate statewide direct
1005 written premium for property insurance for member insurers for
1006 the prior calendar year. Market equalization surcharges under
1007 this sub-sub-subparagraph are not considered premium and are not
1008 subject to commissions, fees, or premium taxes; however, failure
1009 to pay a market equalization surcharge shall be treated as
1010 failure to pay premium.

1011 e. The governing body of any unit of local government, any
1012 residents of which are insured under the plan, may issue bonds
1013 as defined in s. 125.013 or s. 166.101 to fund an assistance
1014 program, in conjunction with the association, for the purpose of
1015 defraying deficits of the association. In order to avoid

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1016 needless and indiscriminate proliferation, duplication, and
1017 fragmentation of such assistance programs, any unit of local
1018 government, any residents of which are insured by the
1019 association, may provide for the payment of losses, regardless
1020 of whether or not the losses occurred within or outside of the
1021 territorial jurisdiction of the local government. Revenue bonds
1022 may not be issued until validated pursuant to chapter 75, unless
1023 a state of emergency is declared by executive order or
1024 proclamation of the Governor pursuant to s. 252.36 making such
1025 findings as are necessary to determine that it is in the best
1026 interests of, and necessary for, the protection of the public
1027 health, safety, and general welfare of residents of this state
1028 and the protection and preservation of the economic stability of
1029 insurers operating in this state, and declaring it an essential
1030 public purpose to permit certain municipalities or counties to
1031 issue bonds as will provide relief to claimants and
1032 policyholders of the association and insurers responsible for
1033 apportionment of plan losses. Any such unit of local government
1034 may enter into such contracts with the association and with any
1035 other entity created pursuant to this subsection as are
1036 necessary to carry out this paragraph. Any bonds issued under
1037 this sub-subparagraph shall be payable from and secured by
1038 moneys received by the association from assessments under this
1039 subparagraph, and assigned and pledged to or on behalf of the
1040 unit of local government for the benefit of the holders of such
1041 bonds. The funds, credit, property, and taxing power of the
1042 state or of the unit of local government shall not be pledged
1043 for the payment of such bonds. If any of the bonds remain unsold
1044 60 days after issuance, the department shall require all

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1045 insurers subject to assessment to purchase the bonds, which
1046 shall be treated as admitted assets; each insurer shall be
1047 required to purchase that percentage of the unsold portion of
1048 the bond issue that equals the insurer's relative share of
1049 assessment liability under this subsection. An insurer shall not
1050 be required to purchase the bonds to the extent that the
1051 department determines that the purchase would endanger or impair
1052 the solvency of the insurer. The authority granted by this sub-
1053 subparagraph is additional to any bonding authority granted by
1054 subparagraph 6.

1055 3. The plan shall also provide that any member with a
1056 surplus as to policyholders of \$25 ~~\$20~~ million or less writing
1057 25 percent or more of its total countrywide property insurance
1058 premiums in this state may petition the department, within the
1059 first 90 days of each calendar year, to qualify as a limited
1060 apportionment company. The apportionment of such a member
1061 company in any calendar year for which it is qualified shall not
1062 exceed its gross participation, which shall not be affected by
1063 the formula for voluntary writings. In no event shall a limited
1064 apportionment company be required to participate in any
1065 apportionment of losses pursuant to sub-sub-subparagraph 2.d.(I)
1066 or sub-sub-subparagraph 2.d.(II) in the aggregate which exceeds
1067 \$50 million after payment of available plan funds in any
1068 calendar year. However, a limited apportionment company shall
1069 collect from its policyholders any emergency assessment imposed
1070 under sub-sub-subparagraph 2.d.(III). The plan shall provide
1071 that, if the department determines that any regular assessment
1072 will result in an impairment of the surplus of a limited
1073 apportionment company, the department may direct that all or

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1074 part of such assessment be deferred. However, there shall be no
1075 limitation or deferment of an emergency assessment to be
1076 collected from policyholders under sub-sub-subparagraph
1077 2.d.(III).

1078 4. The plan shall provide for the deferment, in whole or in
1079 part, of a regular assessment of a member insurer under sub-sub-
1080 subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II), but not
1081 for an emergency assessment collected from policyholders under
1082 sub-sub-subparagraph 2.d.(III), if, in the opinion of the
1083 commissioner, payment of such regular assessment would endanger
1084 or impair the solvency of the member insurer. In the event a
1085 regular assessment against a member insurer is deferred in whole
1086 or in part, the amount by which such assessment is deferred may
1087 be assessed against the other member insurers in a manner
1088 consistent with the basis for assessments set forth in sub-sub-
1089 subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II).

1090 5.a. The plan of operation may include deductibles and
1091 rules for classification of risks and rate modifications
1092 consistent with the objective of providing and maintaining funds
1093 sufficient to pay catastrophe losses.

1094 b. It is the intent of the Legislature that the rates for
1095 coverage provided by the association be actuarially sound and
1096 not competitive with approved rates charged in the admitted
1097 voluntary market such that the association functions as a
1098 residual market mechanism to provide insurance only when the
1099 insurance cannot be procured in the voluntary market. The plan
1100 of operation shall provide a mechanism to assure that, beginning
1101 no later than January 1, 1999, the rates charged by the
1102 association for each line of business are reflective of approved

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1103 rates in the voluntary market for hurricane coverage for each
1104 line of business in the various areas eligible for association
1105 coverage.

1106 c. The association shall provide for windstorm coverage on
1107 residential properties in limits up to \$10 million for
1108 commercial lines residential risks and up to \$1 million for
1109 personal lines residential risks. If coverage with the
1110 association is sought for a residential risk valued in excess of
1111 these limits, coverage shall be available to the risk up to the
1112 replacement cost or actual cash value of the property, at the
1113 option of the insured, if coverage for the risk cannot be
1114 located in the authorized market. The association must accept a
1115 commercial lines residential risk with limits above \$10 million
1116 or a personal lines residential risk with limits above \$1
1117 million if coverage is not available in the authorized market.
1118 The association may write coverage above the limits specified in
1119 this subparagraph with or without facultative or other
1120 reinsurance coverage, as the association determines appropriate.

1121 d. The plan of operation must provide objective criteria
1122 and procedures, approved by the department, to be uniformly
1123 applied for all applicants in determining whether an individual
1124 risk is so hazardous as to be uninsurable. In making this
1125 determination and in establishing the criteria and procedures,
1126 the following shall be considered:

1127 (I) Whether the likelihood of a loss for the individual
1128 risk is substantially higher than for other risks of the same
1129 class; and

1130 (II) Whether the uncertainty associated with the individual
1131 risk is such that an appropriate premium cannot be determined.

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1132

1133 The acceptance or rejection of a risk by the association
1134 pursuant to such criteria and procedures must be construed as
1135 the private placement of insurance, and the provisions of
1136 chapter 120 do not apply.

1137 e. If the risk accepts an offer of coverage through the
1138 market assistance program or through a mechanism established by
1139 the association, either before the policy is issued by the
1140 association or during the first 30 days of coverage by the
1141 association, and the producing agent who submitted the
1142 application to the association is not currently appointed by the
1143 insurer, the insurer shall:

1144 (I) Pay to the producing agent of record of the policy, for
1145 the first year, an amount that is the greater of the insurer's
1146 usual and customary commission for the type of policy written or
1147 a fee equal to the usual and customary commission of the
1148 association; or

1149 (II) Offer to allow the producing agent of record of the
1150 policy to continue servicing the policy for a period of not less
1151 than 1 year and offer to pay the agent the greater of the
1152 insurer's or the association's usual and customary commission
1153 for the type of policy written.

1154

1155 If the producing agent is unwilling or unable to accept
1156 appointment, the new insurer shall pay the agent in accordance
1157 with sub-sub-subparagraph (I). Subject to the provisions of s.
1158 627.3517, the policies issued by the association must provide
1159 that if the association obtains an offer from an authorized
1160 insurer to cover the risk at its approved rates under either a

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1161 standard policy including wind coverage or, if consistent with
1162 the insurer's underwriting rules as filed with the department, a
1163 basic policy including wind coverage, the risk is no longer
1164 eligible for coverage through the association. Upon termination
1165 of eligibility, the association shall provide written notice to
1166 the policyholder and agent of record stating that the
1167 association policy must be canceled as of 60 days after the date
1168 of the notice because of the offer of coverage from an
1169 authorized insurer. Other provisions of the insurance code
1170 relating to cancellation and notice of cancellation do not apply
1171 to actions under this sub-subparagraph.

1172 f. When the association enters into a contractual agreement
1173 for a take-out plan, the producing agent of record of the
1174 association policy is entitled to retain any unearned commission
1175 on the policy, and the insurer shall:

1176 (I) Pay to the producing agent of record of the association
1177 policy, for the first year, an amount that is the greater of the
1178 insurer's usual and customary commission for the type of policy
1179 written or a fee equal to the usual and customary commission of
1180 the association; or

1181 (II) Offer to allow the producing agent of record of the
1182 association policy to continue servicing the policy for a period
1183 of not less than 1 year and offer to pay the agent the greater
1184 of the insurer's or the association's usual and customary
1185 commission for the type of policy written.

1186
1187 If the producing agent is unwilling or unable to accept
1188 appointment, the new insurer shall pay the agent in accordance
1189 with sub-sub-subparagraph (I).

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1190 6.a. The plan of operation may authorize the formation of a
1191 private nonprofit corporation, a private nonprofit
1192 unincorporated association, a partnership, a trust, a limited
1193 liability company, or a nonprofit mutual company which may be
1194 empowered, among other things, to borrow money by issuing bonds
1195 or by incurring other indebtedness and to accumulate reserves or
1196 funds to be used for the payment of insured catastrophe losses.
1197 The plan may authorize all actions necessary to facilitate the
1198 issuance of bonds, including the pledging of assessments or
1199 other revenues.

1200 b. Any entity created under this subsection, or any entity
1201 formed for the purposes of this subsection, may sue and be sued,
1202 may borrow money; issue bonds, notes, or debt instruments;
1203 pledge or sell assessments, market equalization surcharges and
1204 other surcharges, rights, premiums, contractual rights,
1205 projected recoveries from the Florida Hurricane Catastrophe
1206 Fund, other reinsurance recoverables, and other assets as
1207 security for such bonds, notes, or debt instruments; enter into
1208 any contracts or agreements necessary or proper to accomplish
1209 such borrowings; and take other actions necessary to carry out
1210 the purposes of this subsection. The association may issue bonds
1211 or incur other indebtedness, or have bonds issued on its behalf
1212 by a unit of local government pursuant to subparagraph (6)(q)2.,
1213 in the absence of a hurricane or other weather-related event,
1214 upon a determination by the association subject to approval by
1215 the department that such action would enable it to efficiently
1216 meet the financial obligations of the association and that such
1217 financings are reasonably necessary to effectuate the
1218 requirements of this subsection. Any such entity may accumulate

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1219 reserves and retain surpluses as of the end of any association
1220 year to provide for the payment of losses incurred by the
1221 association during that year or any future year. The association
1222 shall incorporate and continue the plan of operation and
1223 articles of agreement in effect on the effective date of chapter
1224 76-96, Laws of Florida, to the extent that it is not
1225 inconsistent with chapter 76-96, and as subsequently modified
1226 consistent with chapter 76-96. The board of directors and
1227 officers currently serving shall continue to serve until their
1228 successors are duly qualified as provided under the plan. The
1229 assets and obligations of the plan in effect immediately prior
1230 to the effective date of chapter 76-96 shall be construed to be
1231 the assets and obligations of the successor plan created herein.

1232 c. In recognition of s. 10, Art. I of the State
1233 Constitution, prohibiting the impairment of obligations of
1234 contracts, it is the intent of the Legislature that no action be
1235 taken whose purpose is to impair any bond indenture or financing
1236 agreement or any revenue source committed by contract to such
1237 bond or other indebtedness issued or incurred by the association
1238 or any other entity created under this subsection.

1239 7. On such coverage, an agent's remuneration shall be that
1240 amount of money payable to the agent by the terms of his or her
1241 contract with the company with which the business is placed.
1242 However, no commission will be paid on that portion of the
1243 premium which is in excess of the standard premium of that
1244 company.

1245 8. Subject to approval by the department, the association
1246 may establish different eligibility requirements and operational
1247 procedures for any line or type of coverage for any specified

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1248 eligible area or portion of an eligible area if the board
1249 determines that such changes to the eligibility requirements and
1250 operational procedures are justified due to the voluntary market
1251 being sufficiently stable and competitive in such area or for
1252 such line or type of coverage and that consumers who, in good
1253 faith, are unable to obtain insurance through the voluntary
1254 market through ordinary methods would continue to have access to
1255 coverage from the association. When coverage is sought in
1256 connection with a real property transfer, such requirements and
1257 procedures shall not provide for an effective date of coverage
1258 later than the date of the closing of the transfer as
1259 established by the transferor, the transferee, and, if
1260 applicable, the lender.

1261 9. Notwithstanding any other provision of law:

1262 a. The pledge or sale of, the lien upon, and the security
1263 interest in any rights, revenues, or other assets of the
1264 association created or purported to be created pursuant to any
1265 financing documents to secure any bonds or other indebtedness of
1266 the association shall be and remain valid and enforceable,
1267 notwithstanding the commencement of and during the continuation
1268 of, and after, any rehabilitation, insolvency, liquidation,
1269 bankruptcy, receivership, conservatorship, reorganization, or
1270 similar proceeding against the association under the laws of
1271 this state or any other applicable laws.

1272 b. No such proceeding shall relieve the association of its
1273 obligation, or otherwise affect its ability to perform its
1274 obligation, to continue to collect, or levy and collect,
1275 assessments, market equalization or other surcharges, projected
1276 recoveries from the Florida Hurricane Catastrophe Fund,

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1277 reinsurance recoverables, or any other rights, revenues, or
1278 other assets of the association pledged.

1279 c. Each such pledge or sale of, lien upon, and security
1280 interest in, including the priority of such pledge, lien, or
1281 security interest, any such assessments, emergency assessments,
1282 market equalization or renewal surcharges, projected recoveries
1283 from the Florida Hurricane Catastrophe Fund, reinsurance
1284 recoverables, or other rights, revenues, or other assets which
1285 are collected, or levied and collected, after the commencement
1286 of and during the pendency of or after any such proceeding shall
1287 continue unaffected by such proceeding.

1288 d. As used in this subsection, the term "financing
1289 documents" means any agreement, instrument, or other document
1290 now existing or hereafter created evidencing any bonds or other
1291 indebtedness of the association or pursuant to which any such
1292 bonds or other indebtedness has been or may be issued and
1293 pursuant to which any rights, revenues, or other assets of the
1294 association are pledged or sold to secure the repayment of such
1295 bonds or indebtedness, together with the payment of interest on
1296 such bonds or such indebtedness, or the payment of any other
1297 obligation of the association related to such bonds or
1298 indebtedness.

1299 e. Any such pledge or sale of assessments, revenues,
1300 contract rights or other rights or assets of the association
1301 shall constitute a lien and security interest, or sale, as the
1302 case may be, that is immediately effective and attaches to such
1303 assessments, revenues, contract, or other rights or assets,
1304 whether or not imposed or collected at the time the pledge or
1305 sale is made. Any such pledge or sale is effective, valid,

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1306 binding, and enforceable against the association or other entity
1307 making such pledge or sale, and valid and binding against and
1308 superior to any competing claims or obligations owed to any
1309 other person or entity, including policyholders in this state,
1310 asserting rights in any such assessments, revenues, contract, or
1311 other rights or assets to the extent set forth in and in
1312 accordance with the terms of the pledge or sale contained in the
1313 applicable financing documents, whether or not any such person
1314 or entity has notice of such pledge or sale and without the need
1315 for any physical delivery, recordation, filing, or other action.

1316 f. There shall be no liability on the part of, and no cause
1317 of action of any nature shall arise against, any member insurer
1318 or its agents or employees, agents or employees of the
1319 association, members of the board of directors of the
1320 association, or the department or its representatives, for any
1321 action taken by them in the performance of their duties or
1322 responsibilities under this subsection. Such immunity does not
1323 apply to actions for breach of any contract or agreement
1324 pertaining to insurance, or any willful tort.

1325 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

1326 (c) The corporation's plan of operation:

1327 1. Must provide for adoption of residential property and
1328 casualty insurance policy forms and commercial residential and
1329 nonresidential property insurance forms, which must be approved
1330 by the office before use. The corporation shall adopt the
1331 following policy forms:

1332 a. Standard personal lines policy forms that are
1333 comprehensive multiperil policies providing full coverage of a
1334 residential property equivalent to the coverage provided in the

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1335 private insurance market under an HO-3, HO-4, or HO-6 policy.

1336 b. Basic personal lines policy forms that are policies
1337 similar to an HO-8 policy or a dwelling fire policy that provide
1338 coverage meeting the requirements of the secondary mortgage
1339 market, but which is more limited than the coverage under a
1340 standard policy.

1341 c. Commercial lines residential and nonresidential policy
1342 forms that are generally similar to the basic perils of full
1343 coverage obtainable for commercial residential structures and
1344 commercial nonresidential structures in the admitted voluntary
1345 market.

1346 d. Personal lines and commercial lines residential property
1347 insurance forms that cover the peril of wind only. The forms are
1348 applicable only to residential properties located in areas
1349 eligible for coverage under the coastal account referred to in
1350 sub-subparagraph (b)2.a.

1351 e. Commercial lines nonresidential property insurance forms
1352 that cover the peril of wind only. The forms are applicable only
1353 to nonresidential properties located in areas eligible for
1354 coverage under the coastal account referred to in sub-
1355 subparagraph (b)2.a.

1356 f. The corporation may adopt variations of the policy forms
1357 listed in sub-subparagraphs a.-e. which contain more restrictive
1358 coverage.

1359 g. Effective January 1, 2013, the corporation shall offer a
1360 basic personal lines policy similar to an HO-8 policy with
1361 dwelling repair based on common construction materials and
1362 methods.

1363 2. Must provide that the corporation adopt a program in

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1364 which the corporation and authorized insurers enter into quota
1365 share primary insurance agreements for hurricane coverage, as
1366 defined in s. 627.4025(2)(a), for eligible risks, and adopt
1367 property insurance forms for eligible risks which cover the
1368 peril of wind only.

1369 a. As used in this subsection, the term:

1370 (I) "Quota share primary insurance" means an arrangement in
1371 which the primary hurricane coverage of an eligible risk is
1372 provided in specified percentages by the corporation and an
1373 authorized insurer. The corporation and authorized insurer are
1374 each solely responsible for a specified percentage of hurricane
1375 coverage of an eligible risk as set forth in a quota share
1376 primary insurance agreement between the corporation and an
1377 authorized insurer and the insurance contract. The
1378 responsibility of the corporation or authorized insurer to pay
1379 its specified percentage of hurricane losses of an eligible
1380 risk, as set forth in the agreement, may not be altered by the
1381 inability of the other party to pay its specified percentage of
1382 losses. Eligible risks that are provided hurricane coverage
1383 through a quota share primary insurance arrangement must be
1384 provided policy forms that set forth the obligations of the
1385 corporation and authorized insurer under the arrangement,
1386 clearly specify the percentages of quota share primary insurance
1387 provided by the corporation and authorized insurer, and
1388 conspicuously and clearly state that the authorized insurer and
1389 the corporation may not be held responsible beyond their
1390 specified percentage of coverage of hurricane losses.

1391 (II) "Eligible risks" means personal lines residential and
1392 commercial lines residential risks that meet the underwriting

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1393 criteria of the corporation and are located in areas that were
1394 eligible for coverage by the Florida Windstorm Underwriting
1395 Association on January 1, 2002.

1396 b. The corporation may enter into quota share primary
1397 insurance agreements with authorized insurers at corporation
1398 coverage levels of 90 percent and 50 percent.

1399 c. If the corporation determines that additional coverage
1400 levels are necessary to maximize participation in quota share
1401 primary insurance agreements by authorized insurers, the
1402 corporation may establish additional coverage levels. However,
1403 the corporation's quota share primary insurance coverage level
1404 may not exceed 90 percent.

1405 d. Any quota share primary insurance agreement entered into
1406 between an authorized insurer and the corporation must provide
1407 for a uniform specified percentage of coverage of hurricane
1408 losses, by county or territory as set forth by the corporation
1409 board, for all eligible risks of the authorized insurer covered
1410 under the agreement.

1411 e. Any quota share primary insurance agreement entered into
1412 between an authorized insurer and the corporation is subject to
1413 review and approval by the office. However, such agreement shall
1414 be authorized only as to insurance contracts entered into
1415 between an authorized insurer and an insured who is already
1416 insured by the corporation for wind coverage.

1417 f. For all eligible risks covered under quota share primary
1418 insurance agreements, the exposure and coverage levels for both
1419 the corporation and authorized insurers shall be reported by the
1420 corporation to the Florida Hurricane Catastrophe Fund. For all
1421 policies of eligible risks covered under such agreements, the

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1422 corporation and the authorized insurer must maintain complete
1423 and accurate records for the purpose of exposure and loss
1424 reimbursement audits as required by fund rules. The corporation
1425 and the authorized insurer shall each maintain duplicate copies
1426 of policy declaration pages and supporting claims documents.

1427 g. The corporation board shall establish in its plan of
1428 operation standards for quota share agreements which ensure that
1429 there is no discriminatory application among insurers as to the
1430 terms of the agreements, pricing of the agreements, incentive
1431 provisions if any, and consideration paid for servicing policies
1432 or adjusting claims.

1433 h. The quota share primary insurance agreement between the
1434 corporation and an authorized insurer must set forth the
1435 specific terms under which coverage is provided, including, but
1436 not limited to, the sale and servicing of policies issued under
1437 the agreement by the insurance agent of the authorized insurer
1438 producing the business, the reporting of information concerning
1439 eligible risks, the payment of premium to the corporation, and
1440 arrangements for the adjustment and payment of hurricane claims
1441 incurred on eligible risks by the claims adjuster and personnel
1442 of the authorized insurer. Entering into a quota sharing
1443 insurance agreement between the corporation and an authorized
1444 insurer is voluntary and at the discretion of the authorized
1445 insurer.

1446 3.a. May provide that the corporation may employ or
1447 otherwise contract with individuals or other entities to provide
1448 administrative or professional services that may be appropriate
1449 to effectuate the plan. The corporation may borrow funds by
1450 issuing bonds or by incurring other indebtedness, and shall have

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1451 other powers reasonably necessary to effectuate the requirements
1452 of this subsection, including, without limitation, the power to
1453 issue bonds and incur other indebtedness in order to refinance
1454 outstanding bonds or other indebtedness. The corporation may
1455 seek judicial validation of its bonds or other indebtedness
1456 under chapter 75. The corporation may issue bonds or incur other
1457 indebtedness, or have bonds issued on its behalf by a unit of
1458 local government pursuant to subparagraph (q)2. in the absence
1459 of a hurricane or other weather-related event, upon a
1460 determination by the corporation, subject to approval by the
1461 office, that such action would enable it to efficiently meet the
1462 financial obligations of the corporation and that such
1463 financings are reasonably necessary to effectuate the
1464 requirements of this subsection. The corporation may take all
1465 actions needed to facilitate tax-free status for such bonds or
1466 indebtedness, including formation of trusts or other affiliated
1467 entities. The corporation may pledge assessments, projected
1468 recoveries from the Florida Hurricane Catastrophe Fund, other
1469 reinsurance recoverables, market equalization and other
1470 surcharges, and other funds available to the corporation as
1471 security for bonds or other indebtedness. In recognition of s.
1472 10, Art. I of the State Constitution, prohibiting the impairment
1473 of obligations of contracts, it is the intent of the Legislature
1474 that no action be taken whose purpose is to impair any bond
1475 indenture or financing agreement or any revenue source committed
1476 by contract to such bond or other indebtedness.

1477 b. To ensure that the corporation is operating in an
1478 efficient and economic manner while providing quality service to
1479 policyholders, applicants, and agents, the board shall

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1480 commission an independent third-party consultant having
1481 expertise in insurance company management or insurance company
1482 management consulting to prepare a report and make
1483 recommendations on the relative costs and benefits of
1484 outsourcing various policy issuance and service functions to
1485 private servicing carriers or entities performing similar
1486 functions in the private market for a fee, rather than
1487 performing such functions in-house. In making such
1488 recommendations, the consultant shall consider how other
1489 residual markets, both in this state and around the country,
1490 outsource appropriate functions or use servicing carriers to
1491 better match expenses with revenues that fluctuate based on a
1492 widely varying policy count. The report must be completed by
1493 July 1, 2012. Upon receiving the report, the board shall develop
1494 a plan to implement the report and submit the plan for review,
1495 modification, and approval to the Financial Services Commission.
1496 Upon the commission's approval of the plan, the board shall
1497 begin implementing the plan by January 1, 2013.

1498 4. Must require that the corporation operate subject to the
1499 supervision and approval of a board of governors consisting of
1500 eight individuals who are residents of this state, from
1501 different geographical areas of this state.

1502 a. The Governor, the Chief Financial Officer, the President
1503 of the Senate, and the Speaker of the House of Representatives
1504 shall each appoint two members of the board. At least one of the
1505 two members appointed by each appointing officer must have
1506 demonstrated expertise in insurance and is deemed to be within
1507 the scope of the exemption provided in s. 112.313(7)(b). The
1508 Chief Financial Officer shall designate one of the appointees as

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1509 chair. All board members serve at the pleasure of the appointing
1510 officer. All members of the board are subject to removal at will
1511 by the officers who appointed them. All board members, including
1512 the chair, must be appointed to serve for 3-year terms beginning
1513 annually on a date designated by the plan. However, for the
1514 first term beginning on or after July 1, 2009, each appointing
1515 officer shall appoint one member of the board for a 2-year term
1516 and one member for a 3-year term. A board vacancy shall be
1517 filled for the unexpired term by the appointing officer. The
1518 Chief Financial Officer shall appoint a technical advisory group
1519 to provide information and advice to the board in connection
1520 with the board's duties under this subsection. The executive
1521 director and senior managers of the corporation shall be engaged
1522 by the board and serve at the pleasure of the board. Any
1523 executive director appointed on or after July 1, 2006, is
1524 subject to confirmation by the Senate. The executive director is
1525 responsible for employing other staff as the corporation may
1526 require, subject to review and concurrence by the board.

1527 b. The board shall create a Market Accountability Advisory
1528 Committee to assist the corporation in developing awareness of
1529 its rates and its customer and agent service levels in
1530 relationship to the voluntary market insurers writing similar
1531 coverage.

1532 (I) The members of the advisory committee consist of the
1533 following 11 persons, one of whom must be elected chair by the
1534 members of the committee: four representatives, one appointed by
1535 the Florida Association of Insurance Agents, one by the Florida
1536 Association of Insurance and Financial Advisors, one by the
1537 Professional Insurance Agents of Florida, and one by the Latin

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1538 American Association of Insurance Agencies; three
1539 representatives appointed by the insurers with the three highest
1540 voluntary market share of residential property insurance
1541 business in the state; one representative from the Office of
1542 Insurance Regulation; one consumer appointed by the board who is
1543 insured by the corporation at the time of appointment to the
1544 committee; one representative appointed by the Florida
1545 Association of Realtors; and one representative appointed by the
1546 Florida Bankers Association. All members shall be appointed to
1547 3-year terms and may serve for consecutive terms.

1548 (II) The committee shall report to the corporation at each
1549 board meeting on insurance market issues which may include rates
1550 and rate competition with the voluntary market; service,
1551 including policy issuance, claims processing, and general
1552 responsiveness to policyholders, applicants, and agents; and
1553 matters relating to depopulation.

1554 5. Must provide a procedure for determining the eligibility
1555 of a risk for coverage, as follows:

1556 a. Subject to s. 627.3517, with respect to personal lines
1557 residential risks, if the risk is offered coverage from an
1558 authorized insurer at the insurer's approved rate under a
1559 standard policy including wind coverage or, if consistent with
1560 the insurer's underwriting rules as filed with the office, a
1561 basic policy including wind coverage, for a new application to
1562 the corporation for coverage, the risk is not eligible for any
1563 policy issued by the corporation unless the premium for coverage
1564 from the authorized insurer is more than 15 percent greater than
1565 the premium for comparable coverage from the corporation. If the
1566 risk is not able to obtain such offer, the risk is eligible for

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1567 a standard policy including wind coverage or a basic policy
1568 including wind coverage issued by the corporation; however, if
1569 the risk could not be insured under a standard policy including
1570 wind coverage regardless of market conditions, the risk is
1571 eligible for a basic policy including wind coverage unless
1572 rejected under subparagraph 8. However, a policyholder of the
1573 corporation or a policyholder removed from the corporation
1574 through an assumption agreement until the end of the assumption
1575 period remains eligible for coverage from the corporation
1576 regardless of any offer of coverage from an authorized insurer
1577 or surplus lines insurer. The corporation shall determine the
1578 type of policy to be provided on the basis of objective
1579 standards specified in the underwriting manual and based on
1580 generally accepted underwriting practices.

1581 (I) If the risk accepts an offer of coverage through the
1582 market assistance plan or through a mechanism established by the
1583 corporation before a policy is issued to the risk by the
1584 corporation or during the first 30 days of coverage by the
1585 corporation, and the producing agent who submitted the
1586 application to the plan or to the corporation is not currently
1587 appointed by the insurer, the insurer shall:

1588 (A) Pay to the producing agent of record of the policy for
1589 the first year, an amount that is the greater of the insurer's
1590 usual and customary commission for the type of policy written or
1591 a fee equal to the usual and customary commission of the
1592 corporation; or

1593 (B) Offer to allow the producing agent of record of the
1594 policy to continue servicing the policy for at least 1 year and
1595 offer to pay the agent the greater of the insurer's or the

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1596 corporation's usual and customary commission for the type of
1597 policy written.

1598
1599 If the producing agent is unwilling or unable to accept
1600 appointment, the new insurer shall pay the agent in accordance
1601 with sub-sub-sub-subparagraph (A).

1602 (II) If the corporation enters into a contractual agreement
1603 for a take-out plan, the producing agent of record of the
1604 corporation policy is entitled to retain any unearned commission
1605 on the policy, and the insurer shall:

1606 (A) Pay to the producing agent of record, for the first
1607 year, an amount that is the greater of the insurer's usual and
1608 customary commission for the type of policy written or a fee
1609 equal to the usual and customary commission of the corporation;
1610 or

1611 (B) Offer to allow the producing agent of record to
1612 continue servicing the policy for at least 1 year and offer to
1613 pay the agent the greater of the insurer's or the corporation's
1614 usual and customary commission for the type of policy written.

1615
1616 If the producing agent is unwilling or unable to accept
1617 appointment, the new insurer shall pay the agent in accordance
1618 with sub-sub-sub-subparagraph (A).

1619 b. With respect to commercial lines residential risks, for
1620 a new application to the corporation for coverage, if the risk
1621 is offered coverage under a policy including wind coverage from
1622 an authorized insurer at its approved rate, the risk is not
1623 eligible for a policy issued by the corporation unless the
1624 premium for coverage from the authorized insurer is more than 15

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1625 percent greater than the premium for comparable coverage from
1626 the corporation. If the risk is not able to obtain any such
1627 offer, the risk is eligible for a policy including wind coverage
1628 issued by the corporation. However, a policyholder of the
1629 corporation or a policyholder removed from the corporation
1630 through an assumption agreement until the end of the assumption
1631 period remains eligible for coverage from the corporation
1632 regardless of an offer of coverage from an authorized insurer or
1633 surplus lines insurer.

1634 (I) If the risk accepts an offer of coverage through the
1635 market assistance plan or through a mechanism established by the
1636 corporation before a policy is issued to the risk by the
1637 corporation or during the first 30 days of coverage by the
1638 corporation, and the producing agent who submitted the
1639 application to the plan or the corporation is not currently
1640 appointed by the insurer, the insurer shall:

1641 (A) Pay to the producing agent of record of the policy, for
1642 the first year, an amount that is the greater of the insurer's
1643 usual and customary commission for the type of policy written or
1644 a fee equal to the usual and customary commission of the
1645 corporation; or

1646 (B) Offer to allow the producing agent of record of the
1647 policy to continue servicing the policy for at least 1 year and
1648 offer to pay the agent the greater of the insurer's or the
1649 corporation's usual and customary commission for the type of
1650 policy written.

1651
1652 If the producing agent is unwilling or unable to accept
1653 appointment, the new insurer shall pay the agent in accordance

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1654 with sub-sub-sub-subparagraph (A).

1655 (II) If the corporation enters into a contractual agreement
1656 for a take-out plan, the producing agent of record of the
1657 corporation policy is entitled to retain any unearned commission
1658 on the policy, and the insurer shall:

1659 (A) Pay to the producing agent of record, for the first
1660 year, an amount that is the greater of the insurer's usual and
1661 customary commission for the type of policy written or a fee
1662 equal to the usual and customary commission of the corporation;
1663 or

1664 (B) Offer to allow the producing agent of record to
1665 continue servicing the policy for at least 1 year and offer to
1666 pay the agent the greater of the insurer's or the corporation's
1667 usual and customary commission for the type of policy written.
1668

1669 If the producing agent is unwilling or unable to accept
1670 appointment, the new insurer shall pay the agent in accordance
1671 with sub-sub-sub-subparagraph (A).

1672 c. For purposes of determining comparable coverage under
1673 sub-subparagraphs a. and b., the comparison must be based on
1674 those forms and coverages that are reasonably comparable. The
1675 corporation may rely on a determination of comparable coverage
1676 and premium made by the producing agent who submits the
1677 application to the corporation, made in the agent's capacity as
1678 the corporation's agent. A comparison may be made solely of the
1679 premium with respect to the main building or structure only on
1680 the following basis: the same coverage A or other building
1681 limits; the same percentage hurricane deductible that applies on
1682 an annual basis or that applies to each hurricane for commercial

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1683 residential property; the same percentage of ordinance and law
1684 coverage, if the same limit is offered by both the corporation
1685 and the authorized insurer; the same mitigation credits, to the
1686 extent the same types of credits are offered both by the
1687 corporation and the authorized insurer; the same method for loss
1688 payment, such as replacement cost or actual cash value, if the
1689 same method is offered both by the corporation and the
1690 authorized insurer in accordance with underwriting rules; and
1691 any other form or coverage that is reasonably comparable as
1692 determined by the board. If an application is submitted to the
1693 corporation for wind-only coverage in the coastal account, the
1694 premium for the corporation's wind-only policy plus the premium
1695 for the ex-wind policy that is offered by an authorized insurer
1696 to the applicant must be compared to the premium for multiperil
1697 coverage offered by an authorized insurer, subject to the
1698 standards for comparison specified in this subparagraph. If the
1699 corporation or the applicant requests from the authorized
1700 insurer a breakdown of the premium of the offer by types of
1701 coverage so that a comparison may be made by the corporation or
1702 its agent and the authorized insurer refuses or is unable to
1703 provide such information, the corporation may treat the offer as
1704 not being an offer of coverage from an authorized insurer at the
1705 insurer's approved rate.

1706 6. Must include rules for classifications of risks and
1707 rates.

1708 7. Must provide that if premium and investment income for
1709 an account attributable to a particular calendar year are in
1710 excess of projected losses and expenses for the account
1711 attributable to that year, such excess shall be held in surplus

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1712 in the account. Such surplus must be available to defray
1713 deficits in that account as to future years and used for that
1714 purpose before assessing assessable insurers and assessable
1715 insureds as to any calendar year.

1716 8. Must provide objective criteria and procedures to be
1717 uniformly applied to all applicants in determining whether an
1718 individual risk is so hazardous as to be uninsurable. In making
1719 this determination and in establishing the criteria and
1720 procedures, the following must be considered:

1721 a. Whether the likelihood of a loss for the individual risk
1722 is substantially higher than for other risks of the same class;
1723 and

1724 b. Whether the uncertainty associated with the individual
1725 risk is such that an appropriate premium cannot be determined.

1726
1727 The acceptance or rejection of a risk by the corporation shall
1728 be construed as the private placement of insurance, and the
1729 provisions of chapter 120 do not apply.

1730 9. Must provide that the corporation make its best efforts
1731 to procure catastrophe reinsurance at reasonable rates, to cover
1732 its projected 100-year probable maximum loss as determined by
1733 the board of governors.

1734 10. The policies issued by the corporation must provide
1735 that if the corporation or the market assistance plan obtains an
1736 offer from an authorized insurer to cover the risk at its
1737 approved rates, the risk is no longer eligible for renewal
1738 through the corporation, except as otherwise provided in this
1739 subsection.

1740 11. Corporation policies and applications must include a

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1741 notice that the corporation policy could, under this section, be
1742 replaced with a policy issued by an authorized insurer which
1743 does not provide coverage identical to the coverage provided by
1744 the corporation. The notice must also specify that acceptance of
1745 corporation coverage creates a conclusive presumption that the
1746 applicant or policyholder is aware of this potential.

1747 12. May establish, subject to approval by the office,
1748 different eligibility requirements and operational procedures
1749 for any line or type of coverage for any specified county or
1750 area if the board determines that such changes are justified due
1751 to the voluntary market being sufficiently stable and
1752 competitive in such area or for such line or type of coverage
1753 and that consumers who, in good faith, are unable to obtain
1754 insurance through the voluntary market through ordinary methods
1755 continue to have access to coverage from the corporation. If
1756 coverage is sought in connection with a real property transfer,
1757 the requirements and procedures may not provide an effective
1758 date of coverage later than the date of the closing of the
1759 transfer as established by the transferor, the transferee, and,
1760 if applicable, the lender.

1761 13. Must provide that, with respect to the coastal account,
1762 any assessable insurer with a surplus as to policyholders of \$25
1763 million or less writing 25 percent or more of its total
1764 countrywide property insurance premiums in this state may
1765 petition the office, within the first 90 days of each calendar
1766 year, to qualify as a limited apportionment company. A regular
1767 assessment levied by the corporation on a limited apportionment
1768 company for a deficit incurred by the corporation for the
1769 coastal account may be paid to the corporation on a monthly

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1770 basis as the assessments are collected by the limited
1771 apportionment company from its insureds pursuant to s. 627.3512,
1772 but the regular assessment must be paid in full within 12 months
1773 after being levied by the corporation. A limited apportionment
1774 company shall collect from its policyholders any emergency
1775 assessment imposed under sub-subparagraph (b)3.d. The plan must
1776 provide that, if the office determines that any regular
1777 assessment will result in an impairment of the surplus of a
1778 limited apportionment company, the office may direct that all or
1779 part of such assessment be deferred as provided in subparagraph
1780 (q)4. However, an emergency assessment to be collected from
1781 policyholders under sub-subparagraph (b)3.d. may not be limited
1782 or deferred.

1783 14. Must provide that the corporation appoint as its
1784 licensed agents only those agents who also hold an appointment
1785 as defined in s. 626.015(3) with an insurer who at the time of
1786 the agent's initial appointment by the corporation is authorized
1787 to write and is actually writing personal lines residential
1788 property coverage, commercial residential property coverage, or
1789 commercial nonresidential property coverage within the state.

1790 15. Must provide a premium payment plan option to its
1791 policyholders which, at a minimum, allows for quarterly and
1792 semiannual payment of premiums. A monthly payment plan may, but
1793 is not required to, be offered.

1794 16. Must limit coverage on mobile homes or manufactured
1795 homes built before 1994 to actual cash value of the dwelling
1796 rather than replacement costs of the dwelling.

1797 17. May provide such limits of coverage as the board
1798 determines, consistent with the requirements of this subsection.

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1799 18. May require commercial property to meet specified
1800 hurricane mitigation construction features as a condition of
1801 eligibility for coverage.

1802 19. Must provide that new or renewal policies issued by the
1803 corporation on or after January 1, 2012, which cover sinkhole
1804 loss do not include coverage for any loss to appurtenant
1805 structures, driveways, sidewalks, decks, or patios that are
1806 directly or indirectly caused by sinkhole activity. The
1807 corporation shall exclude such coverage using a notice of
1808 coverage change, which may be included with the policy renewal,
1809 and not by issuance of a notice of nonrenewal of the excluded
1810 coverage upon renewal of the current policy.

1811 20. As of January 1, 2012, must require that the agent
1812 obtain from an applicant for coverage from the corporation an
1813 acknowledgement signed by the applicant, which includes, at a
1814 minimum, the following statement:

1815
1816 ACKNOWLEDGEMENT OF POTENTIAL SURCHARGE
1817 AND ASSESSMENT LIABILITY:

1818
1819 1. AS A POLICYHOLDER OF CITIZENS PROPERTY INSURANCE
1820 CORPORATION, I UNDERSTAND THAT IF THE CORPORATION SUSTAINS A
1821 DEFICIT AS A RESULT OF HURRICANE LOSSES OR FOR ANY OTHER REASON,
1822 MY POLICY COULD BE SUBJECT TO SURCHARGES, WHICH WILL BE DUE AND
1823 PAYABLE UPON RENEWAL, CANCELLATION, OR TERMINATION OF THE
1824 POLICY, AND THAT THE SURCHARGES COULD BE AS HIGH AS 45 PERCENT
1825 OF MY PREMIUM, OR A DIFFERENT AMOUNT AS IMPOSED BY THE FLORIDA
1826 LEGISLATURE.

1827 2. I ALSO UNDERSTAND THAT I MAY BE SUBJECT TO EMERGENCY

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1828 ASSESSMENTS TO THE SAME EXTENT AS POLICYHOLDERS OF OTHER
1829 INSURANCE COMPANIES, OR A DIFFERENT AMOUNT AS IMPOSED BY THE
1830 FLORIDA LEGISLATURE.

1831 3. I ALSO UNDERSTAND THAT CITIZENS PROPERTY INSURANCE
1832 CORPORATION IS NOT SUPPORTED BY THE FULL FAITH AND CREDIT OF THE
1833 STATE OF FLORIDA.

1834
1835 a. The corporation shall maintain, in electronic format or
1836 otherwise, a copy of the applicant's signed acknowledgement and
1837 provide a copy of the statement to the policyholder as part of
1838 the first renewal after the effective date of this subparagraph.

1839 b. The signed acknowledgement form creates a conclusive
1840 presumption that the policyholder understood and accepted his or
1841 her potential surcharge and assessment liability as a
1842 policyholder of the corporation.

1843 (ff) In establishing replacement costs for coverage on a
1844 dwelling insured by the corporation, the corporation must accept
1845 a valuation from any of the following sources and must use the
1846 lowest valuation as the insured value of the dwelling, excluding
1847 land value, if the valuation was completed within the 12 months
1848 before the application or renewal date of coverage:

1849 1. A replacement cost valuation software that is
1850 specifically designed for use in establishing insurance
1851 replacement costs and that includes an itemized calculation of
1852 the cost of reconstruction;

1853 2. A replacement cost valuation prepared by a real estate
1854 appraiser certified or licensed under part II of chapter 475
1855 which is specifically formulated to establish insurance
1856 replacement cost, rather than market value, and which includes

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1857 an itemized calculation of the cost of reconstruction; or

1858 3. A replacement cost valuation prepared by a general,
1859 building, or residential contractor licensed under s. 489.113,
1860 or a professional engineer licensed under s. 471.015, which
1861 includes an itemized calculation of the total price of
1862 reconstruction.

1863 Section 13. Section 627.6011, Florida Statutes, is created
1864 to read:

1865 627.6011 Mandated coverages.—Mandatory health benefits
1866 regulated under this chapter which must be covered by an insurer
1867 are not intended to apply to the types of health benefit plan
1868 listed in s. 627.6561(5)(b)-(e), issued in any market, unless
1869 specifically designated otherwise. For purposes of this section,
1870 the term "mandatory health benefits" means those benefits set
1871 forth in ss. 627.6401-627.64193 and any cross-references to
1872 these sections, and any other mandatory treatment or health
1873 coverages or benefits enacted on or after July 1, 2012.

1874 Section 14. Paragraph (d) of subsection (3) of section
1875 627.6699, Florida Statutes, is amended to read:

1876 627.6699 Employee Health Care Access Act.—

1877 (3) DEFINITIONS.—As used in this section, the term:

1878 (d) "Carrier" means a person who provides health benefit
1879 plans in this state, including an authorized insurer, a health
1880 maintenance organization, a multiple-employer welfare
1881 arrangement, or any other person providing a health benefit plan
1882 that is subject to insurance regulation in this state. However,
1883 the term does not include a multiple-employer welfare
1884 arrangement or voluntary employees' beneficiary association, as
1885 defined under 26 U.S.C. s. 501(c)(9), which ~~multiple-employer~~

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1886 ~~welfare arrangement~~ operates solely for the benefit of the
 1887 members or the members and the employees of such members, is
 1888 located in this state, and was in existence on January 1, 1992;
 1889 or an authorized insurer or health maintenance organization that
 1890 insures the members or the members and the employees of such
 1891 members of a multiple-employer welfare arrangement or voluntary
 1892 employees' beneficiary association in existence on January 1,
 1893 1992.

1894 Section 15. Subsections (1), (2), (7), and (9) of section
 1895 627.7015, Florida Statutes, are amended to read:

1896 627.7015 Alternative procedure for resolution of disputed
 1897 property insurance claims.—

1898 (1) ~~PURPOSE AND SCOPE.~~ This section sets forth a
 1899 nonadversarial alternative dispute resolution procedure for a
 1900 mediated claim resolution conference prompted by the need for
 1901 effective, fair, and timely handling of property insurance
 1902 claims. There is a particular need for an informal,
 1903 nonthreatening forum for helping parties who elect this
 1904 procedure to resolve their claims disputes because most
 1905 homeowner's and commercial residential insurance policies
 1906 obligate policyholders ~~insureds~~ to participate in a potentially
 1907 expensive and time-consuming adversarial appraisal process
 1908 before ~~prior to~~ litigation. The procedure set forth in this
 1909 section is designed to bring the parties together for a mediated
 1910 claims settlement conference without any of the trappings or
 1911 drawbacks of an adversarial process. Before resorting to these
 1912 procedures, policyholders ~~insureds~~ and insurers are encouraged
 1913 to resolve claims as quickly and fairly as possible. This
 1914 section is available with respect to claims under personal lines

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1915 and commercial residential policies before ~~for all claimants and~~
1916 ~~insurers prior to~~ commencing the appraisal process, or before
1917 commencing litigation. Mediation may be requested only by the
1918 policyholder, as a first-party claimant, or the insurer. If
1919 requested by the policyholder insured, participation by legal
1920 counsel or any other person having relevant information is shall
1921 ~~be~~ permitted. Mediation under this section is also available to
1922 litigants referred to the department by a county court or
1923 circuit court. This section does not apply to commercial
1924 coverages, to private passenger motor vehicle insurance
1925 coverages, or to disputes relating to liability coverages in
1926 policies of property insurance.

1927 (2) At the time a first-party claim within the scope of
1928 this section is filed by the policyholder, the insurer shall
1929 notify the policyholder ~~all first-party claimants~~ of the
1930 policyholder's ~~their~~ right to participate in the mediation
1931 program under this section. The department shall prepare a
1932 consumer information pamphlet for distribution to persons
1933 participating in mediation ~~under this section~~.

1934 (7) If the insurer fails to comply with subsection (2) by
1935 failing to notify a policyholder ~~first-party claimant~~ of the
1936 policyholder's ~~its~~ right to participate in the mediation program
1937 under this section or if the insurer requests the mediation, and
1938 the mediation results are rejected by either party, the
1939 policyholder is insured ~~shall~~ not ~~be~~ required to submit to or
1940 participate in any contractual loss appraisal process of the
1941 property loss damage as a precondition to legal action for
1942 breach of contract against the insurer for its failure to pay
1943 the policyholder's claims covered by the policy.

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1944 (9) For purposes of this section, the term "claim" refers
1945 to any dispute between an insurer and a policyholder ~~an insured~~
1946 relating to a material issue of fact other than a dispute:

1947 (a) With respect to which the insurer has a reasonable
1948 basis to suspect fraud;

1949 (b) Where, based on agreed-upon facts as to the cause of
1950 loss, there is no coverage under the policy;

1951 (c) With respect to which the insurer has a reasonable
1952 basis to believe that the policyholder ~~claimant~~ has
1953 intentionally made a material misrepresentation of fact which is
1954 relevant to the claim, and the entire request for payment of a
1955 loss has been denied on the basis of the material
1956 misrepresentation; ~~or~~

1957 (d) With respect to which the amount in controversy is less
1958 than \$500, unless the parties agree to mediate a dispute
1959 involving a lesser amount; or

1960 (e) With respect to a windstorm or hurricane loss that does
1961 not comply with s. 627.70132.

1962 Section 16. Paragraph (e) of subsection (5) of section
1963 627.707, Florida Statutes, is amended, and paragraph (f) is
1964 added to that subsection, to read:

1965 627.707 Investigation of sinkhole claims; insurer payment;
1966 nonrenewals.—Upon receipt of a claim for a sinkhole loss to a
1967 covered building, an insurer must meet the following standards
1968 in investigating a claim:

1969 (5) If a sinkhole loss is verified, the insurer shall pay
1970 to stabilize the land and building and repair the foundation in
1971 accordance with the recommendations of the professional engineer
1972 retained pursuant to subsection (2), with notice to the

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1973 policyholder, subject to the coverage and terms of the policy.
1974 The insurer shall pay for other repairs to the structure and
1975 contents in accordance with the terms of the policy. If a
1976 covered building suffers a sinkhole loss or a catastrophic
1977 ground cover collapse, the insured must repair such damage or
1978 loss in accordance with the insurer's professional engineer's
1979 recommended repairs. However, if the insurer's professional
1980 engineer determines that the repair cannot be completed within
1981 policy limits, the insurer must pay to complete the repairs
1982 recommended by the insurer's professional engineer or tender the
1983 policy limits to the policyholder.

1984 (e) Upon the insurer's obtaining the written approval of
1985 any lienholder, the insurer may make payment directly to the
1986 persons selected by the policyholder to perform the land and
1987 building stabilization and foundation repairs. The decision by
1988 the insurer to make payment to such persons does not hold the
1989 insurer liable for the work performed.

1990 (f) The policyholder may not accept a rebate from any
1991 person performing the repairs specified in this section. If a
1992 policyholder does receive a rebate, coverage is void and the
1993 policyholder must refund the amount of the rebate to the
1994 insurer. Any person making the repairs specified in this section
1995 who offers a rebate commits insurance fraud punishable as a
1996 third-degree ~~third-degree~~ felony as provided in s. 775.082, s.
1997 775.083, or s. 775.084. As used in this paragraph, the term
1998 "rebate" means a remuneration, payment, gift, discount, or
1999 transfer of any item of value to the policyholder by or on
2000 behalf of a person performing the repairs specified in this
2001 section as an incentive or inducement to obtain repairs

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2002 performed by that person.

2003 Section 17. Effective upon this act becoming a law,
2004 subsection (4) of section 627.7295, Florida Statutes, is amended
2005 to read:

2006 627.7295 Motor vehicle insurance contracts.—

2007 (4) ~~If subsection (7) does not apply,~~ The insurer may
2008 cancel the policy in accordance with this code except that,
2009 notwithstanding s. 627.728, an insurer may not cancel a new
2010 policy or binder during the first 60 days immediately following
2011 the effective date of the policy or binder ~~except~~ for nonpayment
2012 of premium unless the reason for the cancellation is the
2013 issuance of a check for the premium that is dishonored for any
2014 reason or any other type of premium payment that was
2015 subsequently determined to be rejected or invalid.

2016 Section 18. Effective upon this act becoming a law,
2017 paragraph (d) of subsection (4) of section 627.736, Florida
2018 Statutes, is amended to read:

2019 627.736 Required personal injury protection benefits;
2020 exclusions; priority; claims.—

2021 (4) BENEFITS; WHEN DUE.—Benefits due from an insurer under
2022 ss. 627.730-627.7405 shall be primary, except that benefits
2023 received under any workers' compensation law shall be credited
2024 against the benefits provided by subsection (1) and shall be due
2025 and payable as loss accrues, upon receipt of reasonable proof of
2026 such loss and the amount of expenses and loss incurred which are
2027 covered by the policy issued under ss. 627.730-627.7405. When
2028 the Agency for Health Care Administration provides, pays, or
2029 becomes liable for medical assistance under the Medicaid program
2030 related to injury, sickness, disease, or death arising out of

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2031 the ownership, maintenance, or use of a motor vehicle, benefits
2032 under ss. 627.730-627.7405 shall be subject to the provisions of
2033 the Medicaid program.

2034 (d) All overdue payments ~~shall~~ bear simple interest fixed
2035 at the rate established under s. 55.03 or the rate established
2036 in the insurance contract, whichever is greater, in effect on
2037 the date for the year in which the payment became overdue,
2038 calculated from the date the insurer was furnished with written
2039 notice of the amount of covered loss. Interest is ~~shall be~~ due
2040 at the time payment of the overdue claim is made.

2041 Section 19. Section 627.7405, Florida Statutes, is amended
2042 to read:

2043 627.7405 Insurers' right of reimbursement.-

2044 (1) Notwithstanding any other provisions of ss. 627.730-
2045 627.7405, any insurer providing personal injury protection
2046 benefits on a private passenger motor vehicle shall have, to the
2047 extent of any personal injury protection benefits paid to any
2048 person as a benefit arising out of such private passenger motor
2049 vehicle insurance, a right of reimbursement against the owner or
2050 the insurer of the owner of a commercial motor vehicle, if the
2051 benefits paid result from such person having been an occupant of
2052 the commercial motor vehicle or having been struck by the
2053 commercial motor vehicle while not an occupant of any self-
2054 propelled vehicle.

2055 (2) For purposes of this section, an owner or registrant
2056 identified in s. 627.733(1)(b) is not liable for a right of
2057 reimbursement.

2058 Section 20. Effective upon this act becoming a law, section
2059 628.901, Florida Statutes, is amended to read:

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2060 628.901 Definitions ~~"Captive insurer" defined.~~ As used in
2061 ~~For the purposes of this part, the term: except as provided in~~
2062 ~~s. 628.903, a "captive insurer" is a domestic insurer~~
2063 ~~established under part I to insure the risks of a specific~~
2064 ~~corporation or group of corporations under common ownership~~
2065 ~~owned by the corporation or corporations from which it accepts~~
2066 ~~risk under a contract of insurance.~~

2067 (1) "Affiliated company" means a company in the same
2068 corporate system as a parent, an industrial insured, or a member
2069 organization by virtue of common ownership, control, operation,
2070 or management.

2071 (2) "Captive insurance company" means a domestic insurer
2072 established under this part. A captive insurance company
2073 includes a pure captive insurance company, special purpose
2074 captive insurance company, or industrial insured captive
2075 insurance company formed and licensed under this part.

2076 (3) "Captive reinsurance company" means a reinsurance
2077 company that is formed and licensed under this part and is
2078 wholly owned by a qualifying reinsurance parent company. A
2079 captive reinsurance company is a stock corporation and may not
2080 directly insure risks. A captive reinsurance company may
2081 reinsure only risks.

2082 (4) "Consolidated debt to total capital ratio" means the
2083 ratio of the sum of all debts and hybrid capital instruments as
2084 described in paragraph (a) to total capital as described in
2085 paragraph (b).

2086 (a) Debts and hybrid capital instruments include, but are
2087 not limited to, all borrowings from banks, all senior debt, all
2088 subordinated debts, all trust preferred shares, and all other

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2089 hybrid capital instruments that are not included in the
2090 determination of consolidated GAAP net worth issued and
2091 outstanding.

2092 (b) Total capital consists of all debts and hybrid capital
2093 instruments as described in paragraph (a) plus owners' equity
2094 determined in accordance with GAAP for reporting to the United
2095 States Securities and Exchange Commission.

2096 (5) "Consolidated GAAP net worth" means the consolidated
2097 owners' equity determined in accordance with generally accepted
2098 accounting principles for reporting to the United States
2099 Securities and Exchange Commission.

2100 (6) "Controlled unaffiliated business" means a company:

2101 (a) That is not in the corporate system of a parent and
2102 affiliated companies;

2103 (b) That has an existing contractual relationship with a
2104 parent or affiliated company; and

2105 (c) Whose risks are managed by a captive insurance company
2106 in accordance with s. 628.919.

2107 (7) "GAAP" means generally accepted accounting principles.

2108 (8) "Industrial insured" means an insured that:

2109 (a) Has gross assets in excess of \$50 million;

2110 (b) Procures insurance through the use of a full-time
2111 employee of the insured who acts as an insurance manager or
2112 buyer or through the services of a person licensed as a property
2113 and casualty insurance agent, broker, or consultant in such
2114 person's state of domicile;

2115 (c) Has at least 100 full-time employees; and

2116 (d) Pays annual premiums of at least \$200,000 for each line
2117 of insurance purchased from the industrial insured captive

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2118 insurer or at least \$75,000 for any line of coverage in excess
2119 of at least \$25 million in the annual aggregate. The purchase of
2120 umbrella or general liability coverage in excess of \$25 million
2121 in the annual aggregate shall be deemed to be the purchase of a
2122 single line of insurance.

2123 (9) "Industrial insured captive insurance company" means a
2124 captive insurance company that provides insurance only to the
2125 industrial insureds that are its stockholders or members, and
2126 affiliates thereof, or to the stockholders, and affiliates
2127 thereof, of its parent corporation. An industrial insured
2128 captive insurance company can also provide reinsurance to
2129 insurers only on risks written by such insurers for the
2130 industrial insureds that are the stockholders or members, and
2131 affiliates thereof, of the industrial insured captive insurer,
2132 or the stockholders, and affiliates thereof, of the parent
2133 corporation of the industrial insured captive insurer.

2134 (10) "Office" means the Office of Insurance Regulation.

2135 (11) "Parent" means any corporation, limited liability
2136 company, partnership, or individual that directly or indirectly
2137 owns, controls, or holds with power to vote more than 50 percent
2138 of the outstanding voting interests of a captive insurance
2139 company.

2140 (12) "Pure captive insurance company" means a company that
2141 insures risks of its parent, affiliated companies, controlled
2142 unaffiliated businesses, or a combination thereof.

2143 (13) "Qualifying reinsurer parent company" means a
2144 reinsurer which currently holds a certificate of authority,
2145 letter of eligibility or is an accredited or a satisfactory non-
2146 approved reinsurer in this state possessing a consolidated GAAP

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2147 net worth of at least \$500 million and a consolidated debt to
2148 total capital ratio of not greater than 0.50.

2149 (14) "Special purpose captive insurance company" means a
2150 captive insurance company that is formed or licensed under this
2151 chapter that does not meet the definition of any other type of
2152 captive insurance company defined in this section.

2153 (15) "Treasury rates" means the United States Treasury
2154 STRIPS asked yield as published in the Wall Street Journal as of
2155 a balance sheet date.

2156 Section 21. Effective upon this act becoming a law, section
2157 628.903, Florida Statutes, is repealed.

2158 Section 22. Effective upon this act becoming a law, section
2159 628.905, Florida Statutes, is amended to read:

2160 628.905 Licensing; authority.—

2161 (1) A ~~Any~~ captive insurer, ~~if when~~ permitted by its charter
2162 or articles of incorporation, may apply to the office for a
2163 license to do any and all insurance authorized under the
2164 ~~insurance code, provide commercial property, commercial~~
2165 ~~easualty, and commercial marine insurance coverage other than~~
2166 ~~workers' compensation and employer's liability, life, health,~~
2167 ~~personal motor vehicle, and personal residential property~~
2168 ~~insurance coverage, except that: an industrial insured captive~~
2169 ~~insurer may apply for a license to provide workers' compensation~~
2170 ~~and employer's liability insurance as set forth in subsection~~
2171 ~~(6).~~

2172 (a) A pure captive insurance company may not insure any
2173 risks other than those of its parent, affiliated companies,
2174 controlled unaffiliated businesses, or a combination thereof.

2175 (b) An industrial insured captive insurance company may not

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2176 insure any risks other than those of the industrial insureds
2177 that comprise the industrial insured group and their affiliated
2178 companies.

2179 (c) A special purpose captive insurance company may insure
2180 only the risks of its parent.

2181 (d) A captive insurance company may not accept or cede
2182 reinsurance except as provided in this part.

2183 (2) To conduct insurance business in this state, a ~~No~~
2184 ~~captive insurer, other than an industrial insured captive~~
2185 ~~insurer must:, shall insure or accept reinsurance on any risks~~
2186 ~~other than those of its parent and affiliated companies.~~

2187 (a) Obtain from the office a license authorizing it to
2188 conduct insurance business in this state;

2189 (b) Hold at least one board of directors' meeting each year
2190 in this state;

2191 (c) Maintain its principal place of business in this state;
2192 and

2193 (d) Appoint a resident registered agent to accept service
2194 of process and to otherwise act on its behalf in this state. In
2195 the case of a captive insurance company formed as a corporation
2196 or a nonprofit corporation, if the registered agent cannot with
2197 reasonable diligence be found at the registered office of the
2198 captive insurance company, the Chief Financial Officer of this
2199 state must be an agent of the captive insurance company upon
2200 whom any process, notice, or demand may be served.

2201 (3) Before receiving a license, a captive insurance company
2202 formed as a corporation or a nonprofit corporation must file
2203 with the office a certified copy of its articles of
2204 incorporation and bylaws, a statement under oath of its

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2205 president and secretary showing its financial condition, and any
2206 other statements or documents required by the office. In
2207 addition, an applicant captive insurance company must file with
2208 the office evidence of:

2209 (a) The amount and liquidity of the proposed captive
2210 insurance company's assets relative to the risks to be assumed;

2211 (b) The adequacy of the expertise, experience, and
2212 character of the person or persons who will manage the company;

2213 (c) The overall soundness of the company's plan of
2214 operation;

2215 (d) The adequacy of the loss prevention programs of the
2216 company's parent, member organizations, or industrial insureds,
2217 as applicable; and

2218 (e) Any other factors considered relevant by the office in
2219 ascertaining whether the company will be able to meet its policy
2220 obligations. ~~In addition to information otherwise required by~~
2221 ~~this code, each applicant captive insurer shall file with the~~
2222 ~~office evidence of the adequacy of the loss prevention program~~
2223 ~~of its insureds.~~

2224 (4) A captive insurance company or captive reinsurance
2225 company must pay to the office a nonrefundable fee of \$1,500 for
2226 processing its application for license.

2227 (a) A captive insurance company or captive reinsurance
2228 company must also pay an annual renewal fee of \$1,000.

2229 (b) The office may charge a fee of \$5 for any document
2230 requiring certification of authenticity or the signature of the
2231 commissioner or his or her designee. ~~An industrial insured~~
2232 ~~captive insurer need not be incorporated in this state if it has~~
2233 ~~been validly incorporated under the laws of another~~

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2234 ~~jurisdiction.~~

2235 (5) If the commissioner is satisfied that the documents and
2236 statements filed by the captive insurance company comply with
2237 this chapter, the commissioner may grant a license authorizing
2238 the company to conduct insurance business in this state until
2239 the next succeeding March 1, at which time the license may be
2240 renewed. ~~An industrial insured captive insurer is subject to all~~
2241 ~~provisions of this part except as otherwise indicated.~~

2242 (6) Upon approval of the office, a foreign or alien captive
2243 insurance company may become a domestic captive insurance
2244 company by complying with all of the requirements of law
2245 relative to the organization and licensing of a domestic captive
2246 insurance company of the same or equivalent type in this state
2247 and by filing with the Secretary of State its charter or other
2248 organizational documents, together with any appropriate
2249 amendments that have been adopted in accordance with the laws of
2250 this state to bring the charter or other organizational
2251 documents into compliance with the laws of this state, along
2252 with a certificate of good standing issued by the office. The
2253 captive insurance company is then entitled to the necessary or
2254 appropriate certificates and licenses to continue transacting
2255 business in this state and is subject to the authority and
2256 jurisdiction of this state. In connection with this
2257 redomestication, the office may waive any requirements for
2258 public hearings. It is not necessary for a captive insurance
2259 company redomesticating into this state to merge, consolidate,
2260 transfer assets, or otherwise engage in any other
2261 reorganization, other than as specified in this section. ~~An~~
2262 ~~industrial insured captive insurer may not provide workers'~~

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2263 ~~compensation and employer's liability insurance except in excess~~
2264 ~~of at least \$25 million in the annual aggregate.~~

2265 (7) An industrial insured captive insurance company need
2266 not be incorporated in this state if it has been validly
2267 incorporated under the laws of another jurisdiction.

2268 Section 23. Effective upon this act becoming a law, section
2269 628.906, Florida Statutes, is created to read:

2270 628.906 Application requirements; restrictions on
2271 eligibility of officers and directors.-

2272 (1) To evidence competence and trustworthiness of its
2273 officers and directors, the application for a license to act as
2274 a captive insurance company or captive reinsurance company shall
2275 include, but not be limited to, background investigations,
2276 biographical affidavits, and fingerprint cards for all officers
2277 and directors. Fingerprints must be taken by a law enforcement
2278 agency or other entity approved by the office, be accompanied by
2279 the fingerprint processing fee specified in s. 624.501, and
2280 processed in accordance with s. 624.34.

2281 (2) The office may deny, suspend, or revoke the license to
2282 transact captive insurance or captive reinsurance in this state
2283 if any person who was an officer or director of an insurer,
2284 reinsurer, captive insurance company, captive reinsurance
2285 company, financial institution, or financial services business
2286 doing business in the United States, any state, or under the law
2287 of any other country and who served in that capacity within the
2288 2-year period prior to the date the insurer, reinsurer, captive
2289 insurance company, captive reinsurance company, financial
2290 institution, or financial services business became insolvent,
2291 serves as an officer or director of a captive insurance company

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2292 or officer or director of a captive reinsurance company licensed
2293 in this state unless the officer or director demonstrates that
2294 his or her personal actions or omissions were not a contributing
2295 cause to the insolvency or unless the officer or director is
2296 immediately removed from the captive insurance company or
2297 captive reinsurance company.

2298 (3) The office may deny, suspend, or revoke the license to
2299 transact insurance or reinsurance in this state of a captive
2300 insurance company or captive reinsurance company if any officer
2301 or director, any stockholder that owns 10 percent or more of the
2302 outstanding voting securities of the captive insurance company
2303 or captive reinsurance company, or incorporator has been found
2304 guilty of, or has pleaded guilty or nolo contendere to, any
2305 felony or crime involving moral turpitude, including a crime of
2306 dishonesty or breach of trust, punishable by imprisonment of 1
2307 year or more under the law of the United States or any state
2308 thereof or under the law of any other country without regard to
2309 whether a judgment of conviction has been entered by the court
2310 having jurisdiction in such case. However, in the case of a
2311 captive insurance company or captive reinsurance company
2312 operating under a subsisting license, the captive insurance
2313 company or captive reinsurance company shall remove any such
2314 person immediately upon discovery of the conditions set forth in
2315 this subsection when applicable to such person or upon the order
2316 of the office, and the failure to so act shall be grounds for
2317 revocation or suspension of the captive insurance company's or
2318 captive reinsurance company's license.

2319 Section 24. Effective upon this act becoming a law, section
2320 628.907, Florida Statutes, is amended to read:

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2321 628.907 Minimum capital and net assets requirements;
2322 restriction on payment of dividends surplus.-

2323 (1) A ~~Ne~~ captive insurer may not shall be issued a license

2324 unless it possesses and thereafter maintains:

2325 ~~(1)~~ unimpaired paid-in capital of:

2326 (a) In the case of a pure captive insurance company, at
2327 least \$100,000. ~~\$500,000;~~ and

2328 (b) In the case of an industrial insured captive insurance
2329 company incorporated as a stock insurer, at least \$200,000.

2330 (c) In the case of a special purpose captive insurance
2331 company, an amount determined by the office after giving due
2332 consideration to the company's business plan, feasibility study,
2333 and pro forma financial statements and projections, including
2334 the nature of the risks to be insured.

2335 (2) The office may not issue a license to a captive
2336 insurance company incorporated as a nonprofit corporation unless
2337 the company possesses and maintains unrestricted net assets of:

2338 (a) In the case of a pure captive insurance company,
2339 Unimpaired surplus of at least \$250,000.

2340 (b) In the case of a special purpose captive insurance
2341 company, an amount determined by the office after giving due
2342 consideration to the company's business plan, feasibility study,
2343 and pro forma financial statements and projections, including
2344 the nature of the risks to be insured.

2345 (3) Contributions to a captive insurance company
2346 incorporated as a nonprofit corporation must be in the form of
2347 cash, cash equivalent, or an irrevocable letter of credit issued
2348 by a bank chartered by this state or a member bank of the
2349 Federal Reserve System with a branch office in this state, or as

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2350 approved by the office.

2351 (4) For purposes of this section, the office may issue a
2352 license expressly conditioned upon the captive insurance company
2353 providing to the office satisfactory evidence of possession of
2354 the minimum required unimpaired paid-in capital. Until this
2355 evidence is provided, the captive insurance company may not
2356 issue any policy, assume any liability, or otherwise provide
2357 coverage. The office may revoke the conditional license if
2358 satisfactory evidence of the required capital is not provided
2359 within a maximum period of time, not to exceed 1 year, to be
2360 established by the office at the time the conditional license is
2361 issued.

2362 (5) The office may prescribe additional capital or net
2363 assets based upon the type, volume, and nature of insurance
2364 business transacted. Contributions in connection with these
2365 prescribed additional net assets or capital must be in the form
2366 of:

2367 (a) Cash;

2368 (b) Cash equivalent;

2369 (c) An irrevocable letter of credit issued by a bank
2370 chartered by this state or a member bank of the Federal Reserve
2371 System with a branch office in this state, or as approved by the
2372 office; or

2373 (d) Securities invested as provided in part II of chapter
2374 625.

2375 (6) A captive insurance company may not pay a dividend out
2376 of, or other distribution with respect to, capital or surplus in
2377 excess of the limitations set forth in this chapter without the
2378 prior approval of the office. Approval of an ongoing plan for

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2379 the payment of dividends or other distributions must be
2380 conditioned upon the retention, at the time of each payment, of
2381 capital or surplus in excess of amounts specified by, or
2382 determined in accordance with formulas approved by, the office.

2383 (7) An irrevocable letter of credit that is issued by a
2384 financial institution other than a bank chartered by this state
2385 or a member bank of the Federal Reserve System must meet the
2386 same standards as an irrevocable letter of credit that has been
2387 issued by a bank chartered by this state or a member bank of the
2388 Federal Reserve System.

2389 Section 25. Effective upon this act becoming a law, section
2390 628.908, Florida Statutes, is created to read:

2391 628.908 Surplus requirements; restriction on payment of
2392 dividends.—

2393 (1) The office may not issue a license to a captive
2394 insurance company unless the company possesses and maintains
2395 unimpaired surplus of:

2396 (a) In the case of a pure captive insurance company, at
2397 least \$150,000.

2398 (b) In the case of an industrial insured captive insurance
2399 company incorporated as a stock insurer, at least \$300,000.

2400 (c) In the case of an industrial insured captive insurance
2401 company incorporated as a mutual insurer, at least \$500,000.

2402 (d) In the case of a special purpose captive insurance
2403 company, an amount determined by the office after giving due
2404 consideration to the company's business plan, feasibility study,
2405 and pro forma financial statements and projections, including
2406 the nature of the risks to be insured.

2407 (2) For purposes of this section, the office may issue a

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2408 license expressly conditioned upon the captive insurance company
2409 providing to the office satisfactory evidence of possession of
2410 the minimum required unimpaired surplus. Until this evidence is
2411 provided, the captive insurance company may not issue any
2412 policy, assume any liability, or otherwise provide coverage. The
2413 office may revoke the conditional license if satisfactory
2414 evidence of the required surplus is not provided within a
2415 maximum period of time, not to exceed 1 year, to be established
2416 by the office at the time the conditional license is issued.

2417 (3) A captive insurance company may not pay a dividend out
2418 of, or other distribution with respect to, capital or surplus in
2419 excess of the limitations set forth in this chapter without the
2420 prior approval of the office. Approval of an ongoing plan for
2421 the payment of dividends or other distribution must be
2422 conditioned upon the retention, at the time of each payment, of
2423 capital or surplus in excess of amounts specified by, or
2424 determined in accordance with formulas approved by, the office.

2425 (4) An irrevocable letter of credit that is issued by a
2426 financial institution other than a bank chartered by this state
2427 or a member bank of the Federal Reserve System must meet the
2428 same standards as an irrevocable letter of credit that has been
2429 issued by a bank chartered by this state or a member bank of the
2430 Federal Reserve System.

2431 Section 26. Effective upon this act becoming a law, section
2432 628.909, Florida Statutes, is amended to read:

2433 628.909 Applicability of other laws.—

2434 (1) The Florida Insurance Code does ~~shall~~ not apply to
2435 captive insurers or industrial insured captive insurers except
2436 as provided in this part and subsections (2) and (3).

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2437 (2) The following provisions of the Florida Insurance Code
2438 ~~shall~~ apply to captive insurers who are not industrial insured
2439 captive insurers to the extent that such provisions are not
2440 inconsistent with this part:

2441 (a) Chapter 624, except for ss. 624.407, 624.408, 624.4085,
2442 624.40851, 624.4095, 624.425, and 624.426.

2443 (b) Chapter 625, part II.

2444 (c) Chapter 626, part IX.

2445 (d) Sections 627.730-627.7405, when no-fault coverage is
2446 provided.

2447 (e) Chapter 628.

2448 (3) The following provisions of the Florida Insurance Code
2449 ~~shall~~ apply to industrial insured captive insurers to the extent
2450 that such provisions are not inconsistent with this part:

2451 (a) Chapter 624, except for ss. 624.407, 624.408, 624.4085,
2452 624.40851, 624.4095, 624.425, 624.426, and 624.609(1).

2453 (b) Chapter 625, part II, if the industrial insured captive
2454 insurer is incorporated in this state.

2455 (c) Chapter 626, part IX.

2456 (d) Sections 627.730-627.7405 when no-fault coverage is
2457 provided.

2458 (e) Chapter 628, except for ss. 628.341, 628.351, and
2459 628.6018.

2460 Section 27. Effective upon this act becoming a law, section
2461 628.910, Florida Statutes, is created to read:

2462 628.910 Incorporation options and requirements.-

2463 (1) A pure captive insurance company may be:

2464 (a) Incorporated as a stock insurer with its capital
2465 divided into shares and held by the stockholders; or

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2466 (b) Incorporated as a public benefit, mutual benefit, or
2467 religious nonprofit corporation with members in accordance with
2468 the Florida Not For Profit Corporation Act.

2469 (2) An industrial insured captive insurance company may be:

2470 (a) Incorporated as a stock insurer with its capital
2471 divided into shares and held by the stockholders; or

2472 (b) Incorporated as a mutual insurer without capital stock,
2473 the governing body of which is elected by its members.

2474 (3) A captive insurance company may not have fewer than
2475 three incorporators of whom not fewer than two must be residents
2476 of this state.

2477 (4) In the case of a captive insurance company formed as a
2478 corporation or a nonprofit corporation, before the articles of
2479 incorporation are transmitted to the Secretary of State, the
2480 incorporators shall file the articles of incorporation in
2481 triplicate with the office. The office shall promptly examine
2482 the articles of incorporation. If it finds that the articles of
2483 incorporation conform to law, it shall endorse its approval on
2484 each of the triplicate originals of the articles of
2485 incorporation, retain one copy for its files, and return the
2486 remaining copies to the incorporators for filing with the
2487 Department of State.

2488 (5) The articles of incorporation, the certificate issued
2489 pursuant to this section, and the organization fees required by
2490 the Florida Business Corporation Act or the Florida Not For
2491 Profit Corporation Act, as applicable, must be transmitted to
2492 the Secretary of State, who must record the articles of
2493 incorporation and the certificate.

2494 (6) The capital stock of a captive insurance company

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2495 incorporated as a stock insurer must be issued at par value of
2496 not less than \$1 or more than \$100 per share.

2497 (7) In the case of a captive insurance company formed as a
2498 corporation or a nonprofit corporation, at least one of the
2499 members of the board of directors of a captive insurance company
2500 incorporated in this state must be a resident of this state.

2501 (8) A captive insurance company formed as a corporation or
2502 a nonprofit corporation, pursuant to the provisions of this
2503 chapter, has the privileges and is subject to the provisions of
2504 the general corporation law, including the Florida Not For
2505 Profit Corporation Act for nonprofit corporations, as
2506 applicable, as well as the applicable provisions contained in
2507 this chapter. If a conflict occurs between a provision of the
2508 general corporation law, including the Florida Not For Profit
2509 Corporation Act for nonprofit corporations, as applicable, and a
2510 provision of this chapter, the latter controls. The provisions
2511 of this title pertaining to mergers, consolidations,
2512 conversions, mutualizations, and redomestications apply in
2513 determining the procedures to be followed by a captive insurance
2514 company in carrying out any of the transactions described in
2515 such provisions, except that the office may waive or modify the
2516 requirements for public notice and hearing in accordance with
2517 rules the office may adopt addressing categories of
2518 transactions. If a notice of public hearing is required, but no
2519 one requests a hearing, the office may cancel the hearing.

2520 (9) The articles of incorporation or bylaws of a captive
2521 insurance company may authorize a quorum of a board of directors
2522 to consist of no fewer than one-third of the fixed or prescribed
2523 number of directors as provided for by the Florida Business

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2524 Corporation Act or the Florida Not For Profit Corporation Act.

2525 Section 28. Effective upon this act becoming a law, section
2526 628.911, Florida Statutes, is amended to read:

2527 628.911 Reports and statements.—

2528 (1) A captive insurance company may ~~insurer shall~~ not be
2529 required to make any annual report except as provided in this
2530 part section.

2531 (2) Annually no later than March 1, a captive insurance
2532 company or a captive reinsurance company ~~insurer shall, within~~
2533 ~~60 days after the end of its fiscal year and as often as the~~
2534 ~~office may deem necessary,~~ submit to the office a report of its
2535 financial condition verified by oath of two of its executive
2536 officers. Except as provided in this part, a captive insurance
2537 company or a captive reinsurance company must report using
2538 generally accepted accounting principles, unless the office
2539 approves the use of statutory accounting principles, with useful
2540 or necessary modifications or adaptations required or approved
2541 or accepted by the office for the type of insurance and kinds of
2542 insurers to be reported upon, and as supplemented by additional
2543 information required by the office. The Financial Services
2544 Commission may adopt by rule the form in which captive insurance
2545 companies ~~insurers~~ shall report.

2546 (3) A captive insurance company may make written
2547 application for filing the required report on a fiscal year end
2548 that is consistent with the parent company's fiscal year. If an
2549 alternative reporting date is granted, the annual report is due
2550 60 days after the fiscal year end.

2551 Section 29. Effective upon this act becoming a law, section
2552 628.912, Florida Statutes, is created to read:

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2553 628.912 Discounting of loss and loss adjustment expense
2554 reserves.—

2555 (1) A captive reinsurance company may discount its loss and
2556 loss adjustment expense reserves at treasury rates applied to
2557 the applicable payments projected through the use of the
2558 expected payment pattern associated with the reserves.

2559 (2) A captive reinsurance company must file annually an
2560 actuarial opinion on loss and loss adjustment expense reserves
2561 provided by an independent actuary. The actuary may not be an
2562 employee of the captive reinsurance company or its affiliates.

2563 (3) The office may disallow the discounting of reserves if
2564 a captive reinsurance company violates a provision of this part.

2565 Section 30. Effective upon this act becoming a law, section
2566 628.913, Florida Statutes, is amended to read:

2567 (Substantial rewording of section. See
2568 s. 628.913, F.S., for present text.)

2569 628.913 Captive reinsurance companies.—

2570 (1) A captive reinsurance company, if permitted by its
2571 articles of incorporation or charter, may apply to the office
2572 for a license to write reinsurance covering property and
2573 casualty insurance or reinsurance contracts. A captive
2574 reinsurance company authorized by the office may write
2575 reinsurance contracts covering risks in any state; however, a
2576 captive reinsurance company authorized by the office may not
2577 directly insure risks.

2578 (2) To conduct business in this state, a captive
2579 reinsurance company must:

2580 (a) Obtain from the office a license authorizing it to
2581 conduct business as a captive reinsurance company in this state;

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2582 (b) Hold at least one board of directors' meeting each year
2583 in this state;

2584 (c) Maintain its principal place of business in this state;
2585 and

2586 (d) Appoint a registered agent to accept service of process
2587 and act otherwise on its behalf in this state.

2588 (3) Before receiving a license, a captive reinsurance
2589 company must file with the office:

2590 (a) A certified copy of its charter and bylaws;

2591 (b) A statement under oath of its president and secretary
2592 showing its financial condition; and

2593 (c) Other documents required by the office.

2594 (4) In addition to the information required by this
2595 section, the captive reinsurance company must file with the
2596 office evidence of:

2597 (a) The amount and liquidity of the captive reinsurance
2598 company's assets relative to the risks to be assumed;

2599 (b) The adequacy of the expertise, experience, and
2600 character of the person who manages the company;

2601 (c) The overall soundness of the company's plan of
2602 operation; and

2603 (d) Other overall factors considered relevant by the office
2604 in ascertaining if the company would be able to meet its policy
2605 obligations.

2606 Section 31. Effective upon this act becoming a law, section
2607 628.914, Florida Statutes, is created to read:

2608 628.914 Minimum capitalization or reserves for captive
2609 reinsurance companies.-

2610 (1) The office may not issue a license to a captive

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2611 reinsurance company unless the company possesses and maintains
2612 capital or unimpaired surplus of at least the greater of \$300
2613 million or 10 percent of reserves. The surplus may be in the
2614 form of cash or securities as permitted by part II of chapter
2615 625.

2616 (2) The office may prescribe additional capital or surplus
2617 based upon the type, volume, and nature of the insurance
2618 business transacted.

2619 (3) A captive reinsurance company may not pay a dividend
2620 out of, or other distribution with respect to, capital or
2621 surplus in excess of the limitations without the prior approval
2622 of the office. Approval of an ongoing plan for the payment of
2623 dividends or other distributions must be conditioned upon the
2624 retention, at the time of each payment, of capital or surplus in
2625 excess of amounts specified by, or determined in accordance with
2626 formulas approved by, the office.

2627 Section 32. Effective upon this act becoming a law, section
2628 628.9141, Florida Statutes, is created to read:

2629 628.9141 Incorporation of a captive reinsurance company.-

2630 (1) A captive reinsurance company must be incorporated as a
2631 stock insurer with its capital divided into shares and held by
2632 its shareholders.

2633 (2) A captive reinsurance company may not have fewer than
2634 three incorporators of whom at least two must be residents of
2635 this state.

2636 (3) Before the articles of incorporation are transmitted to
2637 the Secretary of State, the incorporators must comply with all
2638 the requirements of s. 628.091.

2639 (4) The capital stock of a captive reinsurance company must

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2640 be issued at par value of not less than \$1 or more than \$100 per
2641 share.

2642 (5) At least one of the members of the board of directors
2643 of a captive reinsurance company incorporated in this state must
2644 be a resident of this state.

2645 Section 33. Effective upon this act becoming a law, section
2646 628.9142, Florida Statutes, is created to read:

2647 628.9142 Reinsurance; effect on reserves.—

2648 (1) A captive insurance company may provide reinsurance, as
2649 authorized in this part, on risks ceded by any other insurer.

2650 (2) A captive insurance company may take credit for
2651 reserves on risks or portions of risks ceded to authorized
2652 insurers or reinsurers and unauthorized insurers or reinsurers
2653 complying with s. 624.610. A captive insurer may not take credit
2654 for reserves on risks or portions of risks ceded to an
2655 unauthorized insurer or reinsurer if the insurer or reinsurer is
2656 not in compliance with s. 624.610.

2657 Section 34. Effective upon this act becoming a law, section
2658 628.918, Florida Statutes, is created to read:

2659 628.918 Management of assets of captive reinsurance
2660 company.—At least 35 percent of the assets of a captive
2661 reinsurance company must be managed by an asset manager
2662 domiciled in this state.

2663 Section 35. Effective upon this act becoming a law, section
2664 628.919, Florida Statutes, is created to read:

2665 628.919 Standards to ensure risk management control by
2666 parent company.—The Financial Services Commission shall adopt
2667 rules establishing standards to ensure that a parent or
2668 affiliated company is able to exercise control of the risk

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2669 management function of any controlled unaffiliated business to
2670 be insured by the pure captive insurance company.

2671 Section 36. Effective upon this act becoming a law, section
2672 628.920, Florida Statutes, is created to read:

2673 628.920 Eligibility of licensed captive insurance company
2674 for certificate of authority to act as insurer.—A licensed
2675 captive insurance company that meets the necessary requirements
2676 of this part imposed upon an insurer must be considered for
2677 issuance of a certificate of authority to act as an insurer in
2678 this state.

2679 Section 37. Section 631.271, Florida Statutes, is amended
2680 to read:

2681 631.271 Priority of claims.—

2682 (1) The priority of distribution of claims from the
2683 insurer's estate shall be in accordance with the order in which
2684 each class of claims is set forth in this subsection. Every
2685 claim in each class shall be paid in full or adequate funds
2686 shall be retained for such payment before the members of the
2687 next class may receive any payment. No subclasses may be
2688 established within any class. The order of distribution of
2689 claims shall be:

2690 (a) *Class 1.*—

2691 1. All of the receiver's costs and expenses of
2692 administration.

2693 2. All of the expenses of a guaranty association or foreign
2694 guaranty association in handling claims.

2695 (b) *Class 2.*—All claims under policies for losses incurred,
2696 including third-party claims, all claims against the insurer for
2697 liability for bodily injury or for injury to or destruction of

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2698 tangible property which claims are not under policies, and all
2699 claims of a guaranty association or foreign guaranty
2700 association. All claims under life insurance and annuity
2701 policies, whether for death proceeds, annuity proceeds, or
2702 investment values, shall be treated as loss claims. That portion
2703 of any loss, indemnification for which is provided by other
2704 benefits or advantages recovered by the claimant, may not be
2705 included in this class, other than benefits or advantages
2706 recovered or recoverable in discharge of familial obligations of
2707 support or by way of succession at death or as proceeds of life
2708 insurance, or as gratuities. No payment by an employer to her or
2709 his employee may be treated as a gratuity.

2710 (c) *Class 3.*—Claims under nonassessable policies for
2711 unearned premiums or premium refunds.

2712 (d) *Class 4.*—Claims of the Federal Government.

2713 (e) *Class 5.*—Debts due to employees for services performed,
2714 to the extent that the debts do not exceed \$2,000 for each
2715 employee and represent payment for services performed within 6
2716 months before the filing of the petition for liquidation.
2717 Officers and directors are not entitled to the benefit of this
2718 priority. This priority is in lieu of any other similar priority
2719 that is authorized by law as to wages or compensation of
2720 employees.

2721 (f) *Class 6.*—Claims of general creditors.

2722 (g) *Class 7.*—Claims of any state or local government.
2723 Claims, including those of any state or local government for a
2724 penalty or forfeiture, shall be allowed in this class, but only
2725 to the extent of the pecuniary loss sustained from the act,
2726 transaction, or proceeding out of which the penalty or

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2727 forfeiture arose, with reasonable and actual costs occasioned
2728 thereby. The remainder of such claims shall be postponed to the
2729 class of claims under paragraph (k) ~~(j)~~.

2730 (h) *Class 8.*—Claims filed after the time specified in s.
2731 631.181(3), except when ordered otherwise by the court to
2732 prevent manifest injustice, or any claims other than claims
2733 under paragraph (i) or under paragraph (k) ~~(j)~~.

2734 (i) *Class 9.*—Surplus or contribution notes, or similar
2735 obligations, and premium refunds on assessable policies.
2736 Payments to members of domestic mutual insurance companies shall
2737 be limited in accordance with law.

2738 (j) *Class 10.*—Interest on allowed claims of Classes 1
2739 through 9, according to the terms of a plan to pay interest on
2740 allowed claims proposed by the liquidator and approved by the
2741 receivership court.

2742 (k) Class 11.—The claims of shareholders or other owners.

2743 (2) In a liquidation proceeding involving one or more
2744 reciprocal states, the order of distribution of the domiciliary
2745 state shall control as to all claims of residents of this and
2746 reciprocal states. All claims of residents of reciprocal states
2747 shall be given equal priority of payment from general assets
2748 regardless of where such assets are located.

2749 Section 38. If CS for SB 578 or similar legislation is
2750 adopted in the same legislative session or an extension thereof
2751 and becomes law, a surplus lines insurer removing policies from
2752 the Citizens Property Insurance Corporation must, pursuant to s.
2753 627.351(6)(g)3.d.(II)(B), Florida Statutes, maintain an A.M.
2754 Best Financial Strength Rating of A- or better or, in the
2755 alternative, a Demotech Financial Stability Rating of A or

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2756 better.

2757 Section 39. Except as otherwise expressly provided in this
2758 act and except for this section, which shall take effect upon
2759 this act becoming a law, this act shall take effect July 1,
2760 2012.