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1
2 An act relating to insurance; amending s. 320.27,
3 F.S.; exempting salvage motor vehicle dealers from
4 having to carry certain types of insurance coverage
5 under certain circumstances; amending s. 624.4625,
6 F.S.; authorizing corporation not for profit self-
7 insurance funds that are required to maintain a
8 continuing program of excess insurance coverage and
9 reserve evaluation to purchase excess insurance from
10 eligible surplus lines insurers or reinsurers;
11 authorizing certain corporation not for profit self-
12 insurance funds to purchase certain group insurance
13 coverage for its members; providing requirements and
14 conditions relating to such purchases; amending s.
15 624.501, F.S.; conforming a cross-reference; amending
16 s. 624.402, F.S.; revising provisions relating to
17 determining whether the domicile of an insurer is
18 outside the United States for certain purposes;
19 providing that life insurance policies or annuity
20 contracts may be solicited, sold, or issued in this
21 state by insurers domiciled outside the United States
22 in certain circumstances; amending s. 624.610, F.S.;
23 revising provisions specifying which insurers are not
24 subject to certain filing requirements relating to
25 reinsurance; amending s. 626.261, F.S.; authorizing
26 the Department of Financial Services to provide
27 examinations in Spanish; providing for costs to be
28 paid by applicants who request examinations in

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

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

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

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

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141 may be incorporated or organized as a business;
142 amending s. 628.911, F.S.; providing reporting
143 requirements for specified captive insurance companies
144 and captive reinsurance companies; creating s.
145 628.912, F.S.; authorizing a captive reinsurance
146 company to discount specified losses subject to
147 certain conditions; amending s. 628.913, F.S.;
148 authorizing a captive reinsurance company to apply to
149 the office for licensure to write reinsurance covering
150 property and casualty insurance or reinsurance
151 contracts; authorizing the office to allow a captive
152 reinsurance company to write reinsurance contracts
153 covering risks in any state; specifying that a captive
154 reinsurance company is subject to specified
155 requirements and must meet specified conditions in
156 order to conduct business in this state; creating s.
157 628.914, F.S.; specifying requirements and conditions
158 relating to the capitalization or maintenance of
159 reserves by a captive reinsurance company; creating s.
160 628.9141, F.S.; specifying requirements and conditions
161 relating to the incorporation of a captive reinsurance
162 company; creating s. 628.9142, F.S.; providing for the
163 effect on reserves of certain actions taken by a
164 captive insurance company relating to providing
165 reinsurance for specified risks; creating s. 628.918,
166 F.S.; requiring a specified percentage of a captive
167 reinsurance company's assets to be managed by an asset
168 manager domiciled in this state; creating s. 628.919,

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169 F.S.; authorizing the Financial Services Commission to
 170 adopt rules establishing certain standards for control
 171 of an unaffiliated business by a parent or affiliated
 172 company relating to coverage by a pure captive
 173 insurance company; creating s. 628.920, F.S.;
 174 requiring that a licensed captive insurance company
 175 must be considered for issuance of a certificate of
 176 authority as an insurer under certain circumstances;
 177 amending s. 626.7491, F.S.; conforming a cross-
 178 reference; repealing s. 628.903, F.S., relating to the
 179 definition of the term "industrial insured captive
 180 insurer," to conform to changes made by the act;
 181 amending s. 631.271, F.S.; providing for priority of
 182 interest on allowed claims; providing that if this act
 183 and certain legislation become law in the same
 184 legislative session or an extension thereof, a surplus
 185 lines insurer removing policies from the Citizens
 186 Property Insurance Corporation must maintain a
 187 specified financial rating; providing effective dates.

188

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

190

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

193 320.27 Motor vehicle dealers.—

194 (3) APPLICATION AND FEE.—The application for the license
 195 shall be in such form as may be prescribed by the department and
 196 shall be subject to such rules with respect thereto as may be so

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

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225 manufacturer of motor vehicles, in which case the name of each
226 motor vehicle that the applicant is franchised to sell shall be
227 included, or an independent (nonfranchised) motor vehicle
228 dealer. Such application shall contain such other relevant
229 information as may be required by the department, including
230 evidence that the applicant is insured under a garage liability
231 insurance policy or a general liability insurance policy coupled
232 with a business automobile policy, which shall include, at a
233 minimum, \$25,000 combined single-limit liability coverage
234 including bodily injury and property damage protection and
235 \$10,000 personal injury protection. However, a salvage motor
236 vehicle dealer as defined in subparagraph (1)(c)5. is exempt
237 from the requirements for garage liability insurance and
238 personal injury protection insurance on those vehicles that
239 cannot be legally operated on roads, highways, or streets in
240 this state. Franchise dealers must submit a garage liability
241 insurance policy, and all other dealers must submit a garage
242 liability insurance policy or a general liability insurance
243 policy coupled with a business automobile policy. Such policy
244 shall be for the license period, and evidence of a new or
245 continued policy shall be delivered to the department at the
246 beginning of each license period. Upon making initial
247 application, the applicant shall pay to the department a fee of
248 \$300 in addition to any other fees now required by law; upon
249 making a subsequent renewal application, the applicant shall pay
250 to the department a fee of \$75 in addition to any other fees now
251 required by law. Upon making an application for a change of
252 location, the person shall pay a fee of \$50 in addition to any

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

270 Section 2. Paragraph (e) of subsection (1) of section
271 624.4625, Florida Statutes, is amended, subsection (5) of that
272 section is renumbered as subsection (6), and a new subsection
273 (5) is added to that section, to read:

274 624.4625 Corporation not for profit self-insurance funds.—

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

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280 provided the corporation not for profit self-insurance fund that
 281 is created:

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

286 1. Purchase excess insurance from authorized insurance
 287 carriers or eligible surplus lines insurers or reinsurers.

288 2. Retain a per-loss occurrence that does not exceed
 289 \$350,000.

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

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

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

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

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

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

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

319 624.402 Exceptions, certificate of authority required.—A
 320 certificate of authority shall not be required of an insurer
 321 with respect to:

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

325 1. ~~The insurer or any affiliated person as defined in s.~~
 326 ~~624.04 under common ownership or control with the insurer does~~
 327 not solicit, sell, or accept application for any insurance
 328 policy or contract to be delivered or issued for delivery to any
 329 person in any state;

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

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

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

341 b. The lines of insurance and types of products offered by
 342 the insurer;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

434 7. The insurer notifies the applicant in clear and
 435 conspicuous language:

436 a. The date of organization of the insurer.

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

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

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

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

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

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

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

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

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

479
480 This policy is primarily governed by the laws of a
481 foreign country. As a result, all of the rating and
482 underwriting laws applicable to policies filed in this
483 state do not apply to this coverage, which may result
484 in your premiums being higher than would be
485 permissible under a Florida-approved policy. A
486 purchase of individual life insurance should be
487 considered carefully, as future medical conditions may
488 make it impossible to qualify for another individual
489 life policy. If the insurer issuing your policy
490 becomes insolvent, this policy is not covered by the
491 Florida Life and Health Insurance Guaranty
492 Association. For information concerning individual
493 life coverage under a Florida-approved policy, consult
494 your agent or the Florida Department of Financial
495 Services.

496
497 (g) All life insurance policies and annuity contracts
498 issued pursuant to this subsection must contain on the first

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

501
 502 The benefits of the policy providing your coverage are
 503 governed primarily by the law of a country other than
 504 the United States.

505
 506 (h) All single-premium life insurance policies and single-
 507 premium annuity contracts issued to persons who are not
 508 residents of the United States and are not nonresidents
 509 illegally residing in the United States pursuant to this
 510 subsection are subject to chapter 896.

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

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

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,
 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)

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

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

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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
 581 medical, surgical, and hospital expenses related to an illness
 582 or emergency of a traveler. Any Such policy or certificate may

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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
 599 | of 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 a business entity that offers travel planning
 609 | services if insurance sales activities authorized by the license
 610 | are in connection with, and incidental to, travel.

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611 a. A license issued to a business entity that offers
 612 travel planning services must encompass each office, branch
 613 office, or place of business making use of the entity's business
 614 name in order to offer, solicit, and sell insurance pursuant to
 615 this 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 ~~this~~ subparagraph 2. or
 635 subparagraph 3. to receive initial training from a general lines
 636 agent or an insurer authorized under chapter 624 to transact
 637 insurance within this state. For an entity applying for a
 638 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 January 1, 2013, section 626.8685,
 644 Florida Statutes, is created to read:

645 626.8685 Portable electronics insurance claims; exemption;
 646 licensure restriction.-

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

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

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

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

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

673 Section 9. Section 626.9201, Florida Statutes, is amended
 674 to read:

675 626.9201 Notice of cancellation or nonrenewal.—

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

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

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

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

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692 the written notice the ~~reason or~~ reasons for the cancellation or
693 termination, except that:

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

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

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

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

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

736 626.9541 Unfair methods of competition and unfair or
 737 deceptive acts or practices defined.—

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

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

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

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748 terms of any insurance policy.

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

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

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

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

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

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

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

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

774 (h) Unlawful rebates.—

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

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776 applicable filing with the office, knowingly:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

859 627.351 Insurance risk apportionment plans.—

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860 (2) WINDSTORM INSURANCE RISK APPORTIONMENT.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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1000 regular assessments on member insurers, pursuant to sub-sub-
1001 subparagraph (I) or sub-sub-subparagraph (II), the board shall
1002 levy, after verification by the department, emergency
1003 assessments to be collected by member insurers and by
1004 underwriting associations created pursuant to this section which
1005 write property insurance, upon issuance or renewal of property
1006 insurance policies other than National Flood Insurance policies
1007 in the year or years following levy of the regular assessments.
1008 The amount of the emergency assessment collected in a particular
1009 year shall be a uniform percentage of that year's direct written
1010 premium for property insurance for all member insurers and
1011 underwriting associations, excluding National Flood Insurance
1012 policy premiums, as annually determined by the board and
1013 verified by the department. The department shall verify the
1014 arithmetic calculations involved in the board's determination
1015 within 30 days after receipt of the information on which the
1016 determination was based. Notwithstanding any other provision of
1017 law, each member insurer and each underwriting association
1018 created pursuant to this section shall collect emergency
1019 assessments from its policyholders without such obligation being
1020 affected by any credit, limitation, exemption, or deferment. The
1021 emergency assessments so collected shall be transferred directly
1022 to the association on a periodic basis as determined by the
1023 association. The aggregate amount of emergency assessments
1024 levied under this sub-sub-subparagraph in any calendar year may
1025 not exceed the greater of 10 percent of the amount needed to
1026 cover the original deficit, plus interest, fees, commissions,
1027 required reserves, and other costs associated with financing of

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1028 the original deficit, or 10 percent of the aggregate statewide
 1029 direct written premium for property insurance written by member
 1030 insurers and underwriting associations for the prior year, plus
 1031 interest, fees, commissions, required reserves, and other costs
 1032 associated with financing the original deficit. The board may
 1033 pledge the proceeds of the emergency assessments under this sub-
 1034 sub-subparagraph as the source of revenue for bonds, to retire
 1035 any other debt incurred as a result of the deficit or events
 1036 giving rise to the deficit, or in any other way that the board
 1037 determines will efficiently recover the deficit. The emergency
 1038 assessments under this sub-sub-subparagraph shall continue as
 1039 long as any bonds issued or other indebtedness incurred with
 1040 respect to a deficit for which the assessment was imposed remain
 1041 outstanding, unless adequate provision has been made for the
 1042 payment of such bonds or other indebtedness pursuant to the
 1043 document governing such bonds or other indebtedness. Emergency
 1044 assessments collected under this sub-sub-subparagraph are not
 1045 part of an insurer's rates, are not premium, and are not subject
 1046 to premium tax, fees, or commissions; however, failure to pay
 1047 the emergency assessment shall be treated as failure to pay
 1048 premium.

1049 (IV) Each member insurer's share of the total regular
 1050 assessments under sub-sub-subparagraph (I) or sub-sub-
 1051 subparagraph (II) shall be in the proportion that the insurer's
 1052 net direct premium for property insurance in this state, for the
 1053 year preceding the assessment bears to the aggregate statewide
 1054 net direct premium for property insurance of all member
 1055 insurers, as reduced by any credits for voluntary writings for

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1056 that year.

1057 (V) If regular deficit assessments are made under sub-sub-
 1058 subparagraph (I) or sub-sub-subparagraph (II), or by the
 1059 Residential Property and Casualty Joint Underwriting Association
 1060 under sub-subparagraph (6) (b)3.a. or sub-subparagraph
 1061 (6) (b)3.b., the association shall levy upon the association's
 1062 policyholders, as part of its next rate filing, or by a separate
 1063 rate filing solely for this purpose, a market equalization
 1064 surcharge in a percentage equal to the total amount of such
 1065 regular assessments divided by the aggregate statewide direct
 1066 written premium for property insurance for member insurers for
 1067 the prior calendar year. Market equalization surcharges under
 1068 this sub-sub-subparagraph are not considered premium and are not
 1069 subject to commissions, fees, or premium taxes; however, failure
 1070 to pay a market equalization surcharge shall be treated as
 1071 failure to pay premium.

1072 e. The governing body of any unit of local government, any
 1073 residents of which are insured under the plan, may issue bonds
 1074 as defined in s. 125.013 or s. 166.101 to fund an assistance
 1075 program, in conjunction with the association, for the purpose of
 1076 defraying deficits of the association. In order to avoid
 1077 needless and indiscriminate proliferation, duplication, and
 1078 fragmentation of such assistance programs, any unit of local
 1079 government, any residents of which are insured by the
 1080 association, may provide for the payment of losses, regardless
 1081 of whether or not the losses occurred within or outside of the
 1082 territorial jurisdiction of the local government. Revenue bonds
 1083 may not be issued until validated pursuant to chapter 75, unless

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1084 a state of emergency is declared by executive order or
1085 proclamation of the Governor pursuant to s. 252.36 making such
1086 findings as are necessary to determine that it is in the best
1087 interests of, and necessary for, the protection of the public
1088 health, safety, and general welfare of residents of this state
1089 and the protection and preservation of the economic stability of
1090 insurers operating in this state, and declaring it an essential
1091 public purpose to permit certain municipalities or counties to
1092 issue bonds as will provide relief to claimants and
1093 policyholders of the association and insurers responsible for
1094 apportionment of plan losses. Any such unit of local government
1095 may enter into such contracts with the association and with any
1096 other entity created pursuant to this subsection as are
1097 necessary to carry out this paragraph. Any bonds issued under
1098 this sub-subparagraph shall be payable from and secured by
1099 moneys received by the association from assessments under this
1100 subparagraph, and assigned and pledged to or on behalf of the
1101 unit of local government for the benefit of the holders of such
1102 bonds. The funds, credit, property, and taxing power of the
1103 state or of the unit of local government shall not be pledged
1104 for the payment of such bonds. If any of the bonds remain unsold
1105 60 days after issuance, the department shall require all
1106 insurers subject to assessment to purchase the bonds, which
1107 shall be treated as admitted assets; each insurer shall be
1108 required to purchase that percentage of the unsold portion of
1109 the bond issue that equals the insurer's relative share of
1110 assessment liability under this subsection. An insurer shall not
1111 be required to purchase the bonds to the extent that the

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1112 department determines that the purchase would endanger or impair
 1113 the solvency of the insurer. The authority granted by this sub-
 1114 subparagraph is additional to any bonding authority granted by
 1115 subparagraph 6.

1116 3. The plan shall also provide that any member with a
 1117 surplus as to policyholders of \$25 ~~\$20~~ million or less writing
 1118 25 percent or more of its total countrywide property insurance
 1119 premiums in this state may petition the department, within the
 1120 first 90 days of each calendar year, to qualify as a limited
 1121 apportionment company. The apportionment of such a member
 1122 company in any calendar year for which it is qualified shall not
 1123 exceed its gross participation, which shall not be affected by
 1124 the formula for voluntary writings. In no event shall a limited
 1125 apportionment company be required to participate in any
 1126 apportionment of losses pursuant to sub-sub-subparagraph 2.d.(I)
 1127 or sub-sub-subparagraph 2.d.(II) in the aggregate which exceeds
 1128 \$50 million after payment of available plan funds in any
 1129 calendar year. However, a limited apportionment company shall
 1130 collect from its policyholders any emergency assessment imposed
 1131 under sub-sub-subparagraph 2.d.(III). The plan shall provide
 1132 that, if the department determines that any regular assessment
 1133 will result in an impairment of the surplus of a limited
 1134 apportionment company, the department may direct that all or
 1135 part of such assessment be deferred. However, there shall be no
 1136 limitation or deferment of an emergency assessment to be
 1137 collected from policyholders under sub-sub-subparagraph
 1138 2.d.(III).

1139 4. The plan shall provide for the deferment, in whole or

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1140 in part, of a regular assessment of a member insurer under sub-
1141 sub-subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II), but
1142 not for an emergency assessment collected from policyholders
1143 under sub-sub-subparagraph 2.d.(III), if, in the opinion of the
1144 commissioner, payment of such regular assessment would endanger
1145 or impair the solvency of the member insurer. In the event a
1146 regular assessment against a member insurer is deferred in whole
1147 or in part, the amount by which such assessment is deferred may
1148 be assessed against the other member insurers in a manner
1149 consistent with the basis for assessments set forth in sub-sub-
1150 subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II).

1151 5.a. The plan of operation may include deductibles and
1152 rules for classification of risks and rate modifications
1153 consistent with the objective of providing and maintaining funds
1154 sufficient to pay catastrophe losses.

1155 b. It is the intent of the Legislature that the rates for
1156 coverage provided by the association be actuarially sound and
1157 not competitive with approved rates charged in the admitted
1158 voluntary market such that the association functions as a
1159 residual market mechanism to provide insurance only when the
1160 insurance cannot be procured in the voluntary market. The plan
1161 of operation shall provide a mechanism to assure that, beginning
1162 no later than January 1, 1999, the rates charged by the
1163 association for each line of business are reflective of approved
1164 rates in the voluntary market for hurricane coverage for each
1165 line of business in the various areas eligible for association
1166 coverage.

1167 c. The association shall provide for windstorm coverage on

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1168 residential properties in limits up to \$10 million for
 1169 commercial lines residential risks and up to \$1 million for
 1170 personal lines residential risks. If coverage with the
 1171 association is sought for a residential risk valued in excess of
 1172 these limits, coverage shall be available to the risk up to the
 1173 replacement cost or actual cash value of the property, at the
 1174 option of the insured, if coverage for the risk cannot be
 1175 located in the authorized market. The association must accept a
 1176 commercial lines residential risk with limits above \$10 million
 1177 or a personal lines residential risk with limits above \$1
 1178 million if coverage is not available in the authorized market.
 1179 The association may write coverage above the limits specified in
 1180 this subparagraph with or without facultative or other
 1181 reinsurance coverage, as the association determines appropriate.

1182 d. The plan of operation must provide objective criteria
 1183 and procedures, approved by the department, to be uniformly
 1184 applied for all applicants in determining whether an individual
 1185 risk is so hazardous as to be uninsurable. In making this
 1186 determination and in establishing the criteria and procedures,
 1187 the following shall be considered:

1188 (I) Whether the likelihood of a loss for the individual
 1189 risk is substantially higher than for other risks of the same
 1190 class; and

1191 (II) Whether the uncertainty associated with the
 1192 individual risk is such that an appropriate premium cannot be
 1193 determined.

1194

1195 The acceptance or rejection of a risk by the association

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1196 | pursuant to such criteria and procedures must be construed as
 1197 | the private placement of insurance, and the provisions of
 1198 | chapter 120 do not apply.

1199 | e. If the risk accepts an offer of coverage through the
 1200 | market assistance program or through a mechanism established by
 1201 | the association, either before the policy is issued by the
 1202 | association or during the first 30 days of coverage by the
 1203 | association, and the producing agent who submitted the
 1204 | application to the association is not currently appointed by the
 1205 | insurer, the insurer shall:

1206 | (I) Pay to the producing agent of record of the policy,
 1207 | for the first year, an amount that is the greater of the
 1208 | insurer's usual and customary commission for the type of policy
 1209 | written or a fee equal to the usual and customary commission of
 1210 | the association; or

1211 | (II) Offer to allow the producing agent of record of the
 1212 | policy to continue servicing the policy for a period of not less
 1213 | than 1 year and offer to pay the agent the greater of the
 1214 | insurer's or the association's usual and customary commission
 1215 | for the type of policy written.

1216 |
 1217 | If the producing agent is unwilling or unable to accept
 1218 | appointment, the new insurer shall pay the agent in accordance
 1219 | with sub-sub-subparagraph (I). Subject to the provisions of s.
 1220 | 627.3517, the policies issued by the association must provide
 1221 | that if the association obtains an offer from an authorized
 1222 | insurer to cover the risk at its approved rates under either a
 1223 | standard policy including wind coverage or, if consistent with

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1224 the insurer's underwriting rules as filed with the department, a
1225 basic policy including wind coverage, the risk is no longer
1226 eligible for coverage through the association. Upon termination
1227 of eligibility, the association shall provide written notice to
1228 the policyholder and agent of record stating that the
1229 association policy must be canceled as of 60 days after the date
1230 of the notice because of the offer of coverage from an
1231 authorized insurer. Other provisions of the insurance code
1232 relating to cancellation and notice of cancellation do not apply
1233 to actions under this sub-subparagraph.

1234 f. When the association enters into a contractual
1235 agreement for a take-out plan, the producing agent of record of
1236 the association policy is entitled to retain any unearned
1237 commission on the policy, and the insurer shall:

1238 (I) Pay to the producing agent of record of the
1239 association policy, for the first year, an amount that is the
1240 greater of the insurer's usual and customary commission for the
1241 type of policy written or a fee equal to the usual and customary
1242 commission of the association; or

1243 (II) Offer to allow the producing agent of record of the
1244 association policy to continue servicing the policy for a period
1245 of not less than 1 year and offer to pay the agent the greater
1246 of the insurer's or the association's usual and customary
1247 commission for the type of policy written.

1248
1249 If the producing agent is unwilling or unable to accept
1250 appointment, the new insurer shall pay the agent in accordance
1251 with sub-sub-subparagraph (I).

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1252 6.a. The plan of operation may authorize the formation of
1253 a private nonprofit corporation, a private nonprofit
1254 unincorporated association, a partnership, a trust, a limited
1255 liability company, or a nonprofit mutual company which may be
1256 empowered, among other things, to borrow money by issuing bonds
1257 or by incurring other indebtedness and to accumulate reserves or
1258 funds to be used for the payment of insured catastrophe losses.
1259 The plan may authorize all actions necessary to facilitate the
1260 issuance of bonds, including the pledging of assessments or
1261 other revenues.

1262 b. Any entity created under this subsection, or any entity
1263 formed for the purposes of this subsection, may sue and be sued,
1264 may borrow money; issue bonds, notes, or debt instruments;
1265 pledge or sell assessments, market equalization surcharges and
1266 other surcharges, rights, premiums, contractual rights,
1267 projected recoveries from the Florida Hurricane Catastrophe
1268 Fund, other reinsurance recoverables, and other assets as
1269 security for such bonds, notes, or debt instruments; enter into
1270 any contracts or agreements necessary or proper to accomplish
1271 such borrowings; and take other actions necessary to carry out
1272 the purposes of this subsection. The association may issue bonds
1273 or incur other indebtedness, or have bonds issued on its behalf
1274 by a unit of local government pursuant to subparagraph (6)(q)2.,
1275 in the absence of a hurricane or other weather-related event,
1276 upon a determination by the association subject to approval by
1277 the department that such action would enable it to efficiently
1278 meet the financial obligations of the association and that such
1279 financings are reasonably necessary to effectuate the

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1280 requirements of this subsection. Any such entity may accumulate
 1281 reserves and retain surpluses as of the end of any association
 1282 year to provide for the payment of losses incurred by the
 1283 association during that year or any future year. The association
 1284 shall incorporate and continue the plan of operation and
 1285 articles of agreement in effect on the effective date of chapter
 1286 76-96, Laws of Florida, to the extent that it is not
 1287 inconsistent with chapter 76-96, and as subsequently modified
 1288 consistent with chapter 76-96. The board of directors and
 1289 officers currently serving shall continue to serve until their
 1290 successors are duly qualified as provided under the plan. The
 1291 assets and obligations of the plan in effect immediately prior
 1292 to the effective date of chapter 76-96 shall be construed to be
 1293 the assets and obligations of the successor plan created herein.

1294 c. In recognition of s. 10, Art. I of the State
 1295 Constitution, prohibiting the impairment of obligations of
 1296 contracts, it is the intent of the Legislature that no action be
 1297 taken whose purpose is to impair any bond indenture or financing
 1298 agreement or any revenue source committed by contract to such
 1299 bond or other indebtedness issued or incurred by the association
 1300 or any other entity created under this subsection.

1301 7. On such coverage, an agent's remuneration shall be that
 1302 amount of money payable to the agent by the terms of his or her
 1303 contract with the company with which the business is placed.
 1304 However, no commission will be paid on that portion of the
 1305 premium which is in excess of the standard premium of that
 1306 company.

1307 8. Subject to approval by the department, the association

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1308 | may establish different eligibility requirements and operational
1309 | procedures for any line or type of coverage for any specified
1310 | eligible area or portion of an eligible area if the board
1311 | determines that such changes to the eligibility requirements and
1312 | operational procedures are justified due to the voluntary market
1313 | being sufficiently stable and competitive in such area or for
1314 | such line or type of coverage and that consumers who, in good
1315 | faith, are unable to obtain insurance through the voluntary
1316 | market through ordinary methods would continue to have access to
1317 | coverage from the association. When coverage is sought in
1318 | connection with a real property transfer, such requirements and
1319 | procedures shall not provide for an effective date of coverage
1320 | later than the date of the closing of the transfer as
1321 | established by the transferor, the transferee, and, if
1322 | applicable, the lender.

1323 | 9. Notwithstanding any other provision of law:

1324 | a. The pledge or sale of, the lien upon, and the security
1325 | interest in any rights, revenues, or other assets of the
1326 | association created or purported to be created pursuant to any
1327 | financing documents to secure any bonds or other indebtedness of
1328 | the association shall be and remain valid and enforceable,
1329 | notwithstanding the commencement of and during the continuation
1330 | of, and after, any rehabilitation, insolvency, liquidation,
1331 | bankruptcy, receivership, conservatorship, reorganization, or
1332 | similar proceeding against the association under the laws of
1333 | this state or any other applicable laws.

1334 | b. No such proceeding shall relieve the association of its
1335 | obligation, or otherwise affect its ability to perform its

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1336 obligation, to continue to collect, or levy and collect,
 1337 assessments, market equalization or other surcharges, projected
 1338 recoveries from the Florida Hurricane Catastrophe Fund,
 1339 reinsurance recoverables, or any other rights, revenues, or
 1340 other assets of the association pledged.

1341 c. Each such pledge or sale of, lien upon, and security
 1342 interest in, including the priority of such pledge, lien, or
 1343 security interest, any such assessments, emergency assessments,
 1344 market equalization or renewal surcharges, projected recoveries
 1345 from the Florida Hurricane Catastrophe Fund, reinsurance
 1346 recoverables, or other rights, revenues, or other assets which
 1347 are collected, or levied and collected, after the commencement
 1348 of and during the pendency of or after any such proceeding shall
 1349 continue unaffected by such proceeding.

1350 d. As used in this subsection, the term "financing
 1351 documents" means any agreement, instrument, or other document
 1352 now existing or hereafter created evidencing any bonds or other
 1353 indebtedness of the association or pursuant to which any such
 1354 bonds or other indebtedness has been or may be issued and
 1355 pursuant to which any rights, revenues, or other assets of the
 1356 association are pledged or sold to secure the repayment of such
 1357 bonds or indebtedness, together with the payment of interest on
 1358 such bonds or such indebtedness, or the payment of any other
 1359 obligation of the association related to such bonds or
 1360 indebtedness.

1361 e. Any such pledge or sale of assessments, revenues,
 1362 contract rights or other rights or assets of the association
 1363 shall constitute a lien and security interest, or sale, as the

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1364 case may be, that is immediately effective and attaches to such
 1365 assessments, revenues, contract, or other rights or assets,
 1366 whether or not imposed or collected at the time the pledge or
 1367 sale is made. Any such pledge or sale is effective, valid,
 1368 binding, and enforceable against the association or other entity
 1369 making such pledge or sale, and valid and binding against and
 1370 superior to any competing claims or obligations owed to any
 1371 other person or entity, including policyholders in this state,
 1372 asserting rights in any such assessments, revenues, contract, or
 1373 other rights or assets to the extent set forth in and in
 1374 accordance with the terms of the pledge or sale contained in the
 1375 applicable financing documents, whether or not any such person
 1376 or entity has notice of such pledge or sale and without the need
 1377 for any physical delivery, recordation, filing, or other action.

1378 f. There shall be no liability on the part of, and no
 1379 cause of action of any nature shall arise against, any member
 1380 insurer or its agents or employees, agents or employees of the
 1381 association, members of the board of directors of the
 1382 association, or the department or its representatives, for any
 1383 action taken by them in the performance of their duties or
 1384 responsibilities under this subsection. Such immunity does not
 1385 apply to actions for breach of any contract or agreement
 1386 pertaining to insurance, or any willful tort.

1387 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

1388 (c) The corporation's plan of operation:

1389 1. Must provide for adoption of residential property and
 1390 casualty insurance policy forms and commercial residential and
 1391 nonresidential property insurance forms, which must be approved

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1392 by the office before use. The corporation shall adopt the
 1393 following policy forms:

1394 a. Standard personal lines policy forms that are
 1395 comprehensive multiperil policies providing full coverage of a
 1396 residential property equivalent to the coverage provided in the
 1397 private insurance market under an HO-3, HO-4, or HO-6 policy.

1398 b. Basic personal lines policy forms that are policies
 1399 similar to an HO-8 policy or a dwelling fire policy that provide
 1400 coverage meeting the requirements of the secondary mortgage
 1401 market, but which is more limited than the coverage under a
 1402 standard policy.

1403 c. Commercial lines residential and nonresidential policy
 1404 forms that are generally similar to the basic perils of full
 1405 coverage obtainable for commercial residential structures and
 1406 commercial nonresidential structures in the admitted voluntary
 1407 market.

1408 d. Personal lines and commercial lines residential
 1409 property insurance forms that cover the peril of wind only. The
 1410 forms are applicable only to residential properties located in
 1411 areas eligible for coverage under the coastal account referred
 1412 to in sub-subparagraph (b)2.a.

1413 e. Commercial lines nonresidential property insurance
 1414 forms that cover the peril of wind only. The forms are
 1415 applicable only to nonresidential properties located in areas
 1416 eligible for coverage under the coastal account referred to in
 1417 sub-subparagraph (b)2.a.

1418 f. The corporation may adopt variations of the policy
 1419 forms listed in sub-subparagraphs a.-e. which contain more

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1420 restrictive coverage.

1421 g. Effective January 1, 2013, the corporation shall offer
 1422 a basic personal lines policy similar to an HO-8 policy with
 1423 dwelling repair based on common construction materials and
 1424 methods.

1425 2. Must provide that the corporation adopt a program in
 1426 which the corporation and authorized insurers enter into quota
 1427 share primary insurance agreements for hurricane coverage, as
 1428 defined in s. 627.4025(2)(a), for eligible risks, and adopt
 1429 property insurance forms for eligible risks which cover the
 1430 peril of wind only.

1431 a. As used in this subsection, the term:

1432 (I) "Quota share primary insurance" means an arrangement
 1433 in which the primary hurricane coverage of an eligible risk is
 1434 provided in specified percentages by the corporation and an
 1435 authorized insurer. The corporation and authorized insurer are
 1436 each solely responsible for a specified percentage of hurricane
 1437 coverage of an eligible risk as set forth in a quota share
 1438 primary insurance agreement between the corporation and an
 1439 authorized insurer and the insurance contract. The
 1440 responsibility of the corporation or authorized insurer to pay
 1441 its specified percentage of hurricane losses of an eligible
 1442 risk, as set forth in the agreement, may not be altered by the
 1443 inability of the other party to pay its specified percentage of
 1444 losses. Eligible risks that are provided hurricane coverage
 1445 through a quota share primary insurance arrangement must be
 1446 provided policy forms that set forth the obligations of the
 1447 corporation and authorized insurer under the arrangement,

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1448 clearly specify the percentages of quota share primary insurance
1449 provided by the corporation and authorized insurer, and
1450 conspicuously and clearly state that the authorized insurer and
1451 the corporation may not be held responsible beyond their
1452 specified percentage of coverage of hurricane losses.

1453 (II) "Eligible risks" means personal lines residential and
1454 commercial lines residential risks that meet the underwriting
1455 criteria of the corporation and are located in areas that were
1456 eligible for coverage by the Florida Windstorm Underwriting
1457 Association on January 1, 2002.

1458 b. The corporation may enter into quota share primary
1459 insurance agreements with authorized insurers at corporation
1460 coverage levels of 90 percent and 50 percent.

1461 c. If the corporation determines that additional coverage
1462 levels are necessary to maximize participation in quota share
1463 primary insurance agreements by authorized insurers, the
1464 corporation may establish additional coverage levels. However,
1465 the corporation's quota share primary insurance coverage level
1466 may not exceed 90 percent.

1467 d. Any quota share primary insurance agreement entered
1468 into between an authorized insurer and the corporation must
1469 provide for a uniform specified percentage of coverage of
1470 hurricane losses, by county or territory as set forth by the
1471 corporation board, for all eligible risks of the authorized
1472 insurer covered under the agreement.

1473 e. Any quota share primary insurance agreement entered
1474 into between an authorized insurer and the corporation is
1475 subject to review and approval by the office. However, such

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1476 agreement shall be authorized only as to insurance contracts
1477 entered into between an authorized insurer and an insured who is
1478 already insured by the corporation for wind coverage.

1479 f. For all eligible risks covered under quota share
1480 primary insurance agreements, the exposure and coverage levels
1481 for both the corporation and authorized insurers shall be
1482 reported by the corporation to the Florida Hurricane Catastrophe
1483 Fund. For all policies of eligible risks covered under such
1484 agreements, the corporation and the authorized insurer must
1485 maintain complete and accurate records for the purpose of
1486 exposure and loss reimbursement audits as required by fund
1487 rules. The corporation and the authorized insurer shall each
1488 maintain duplicate copies of policy declaration pages and
1489 supporting claims documents.

1490 g. The corporation board shall establish in its plan of
1491 operation standards for quota share agreements which ensure that
1492 there is no discriminatory application among insurers as to the
1493 terms of the agreements, pricing of the agreements, incentive
1494 provisions if any, and consideration paid for servicing policies
1495 or adjusting claims.

1496 h. The quota share primary insurance agreement between the
1497 corporation and an authorized insurer must set forth the
1498 specific terms under which coverage is provided, including, but
1499 not limited to, the sale and servicing of policies issued under
1500 the agreement by the insurance agent of the authorized insurer
1501 producing the business, the reporting of information concerning
1502 eligible risks, the payment of premium to the corporation, and
1503 arrangements for the adjustment and payment of hurricane claims

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1504 incurred on eligible risks by the claims adjuster and personnel
1505 of the authorized insurer. Entering into a quota sharing
1506 insurance agreement between the corporation and an authorized
1507 insurer is voluntary and at the discretion of the authorized
1508 insurer.

1509 3.a. May provide that the corporation may employ or
1510 otherwise contract with individuals or other entities to provide
1511 administrative or professional services that may be appropriate
1512 to effectuate the plan. The corporation may borrow funds by
1513 issuing bonds or by incurring other indebtedness, and shall have
1514 other powers reasonably necessary to effectuate the requirements
1515 of this subsection, including, without limitation, the power to
1516 issue bonds and incur other indebtedness in order to refinance
1517 outstanding bonds or other indebtedness. The corporation may
1518 seek judicial validation of its bonds or other indebtedness
1519 under chapter 75. The corporation may issue bonds or incur other
1520 indebtedness, or have bonds issued on its behalf by a unit of
1521 local government pursuant to subparagraph (q)2. in the absence
1522 of a hurricane or other weather-related event, upon a
1523 determination by the corporation, subject to approval by the
1524 office, that such action would enable it to efficiently meet the
1525 financial obligations of the corporation and that such
1526 financings are reasonably necessary to effectuate the
1527 requirements of this subsection. The corporation may take all
1528 actions needed to facilitate tax-free status for such bonds or
1529 indebtedness, including formation of trusts or other affiliated
1530 entities. The corporation may pledge assessments, projected
1531 recoveries from the Florida Hurricane Catastrophe Fund, other

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1532 reinsurance recoverables, market equalization and other
 1533 surcharges, and other funds available to the corporation as
 1534 security for bonds or other indebtedness. In recognition of s.
 1535 10, Art. I of the State Constitution, prohibiting the impairment
 1536 of obligations of contracts, it is the intent of the Legislature
 1537 that no action be taken whose purpose is to impair any bond
 1538 indenture or financing agreement or any revenue source committed
 1539 by contract to such bond or other indebtedness.

1540 b. To ensure that the corporation is operating in an
 1541 efficient and economic manner while providing quality service to
 1542 policyholders, applicants, and agents, the board shall
 1543 commission an independent third-party consultant having
 1544 expertise in insurance company management or insurance company
 1545 management consulting to prepare a report and make
 1546 recommendations on the relative costs and benefits of
 1547 outsourcing various policy issuance and service functions to
 1548 private servicing carriers or entities performing similar
 1549 functions in the private market for a fee, rather than
 1550 performing such functions in-house. In making such
 1551 recommendations, the consultant shall consider how other
 1552 residual markets, both in this state and around the country,
 1553 outsource appropriate functions or use servicing carriers to
 1554 better match expenses with revenues that fluctuate based on a
 1555 widely varying policy count. The report must be completed by
 1556 July 1, 2012. Upon receiving the report, the board shall develop
 1557 a plan to implement the report and submit the plan for review,
 1558 modification, and approval to the Financial Services Commission.
 1559 Upon the commission's approval of the plan, the board shall

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1560 begin implementing the plan by January 1, 2013.

1561 4. Must require that the corporation operate subject to
 1562 the supervision and approval of a board of governors consisting
 1563 of eight individuals who are residents of this state, from
 1564 different geographical areas of this state.

1565 a. The Governor, the Chief Financial Officer, the
 1566 President of the Senate, and the Speaker of the House of
 1567 Representatives shall each appoint two members of the board. At
 1568 least one of the two members appointed by each appointing
 1569 officer must have demonstrated expertise in insurance and is
 1570 deemed to be within the scope of the exemption provided in s.
 1571 112.313(7)(b). The Chief Financial Officer shall designate one
 1572 of the appointees as chair. All board members serve at the
 1573 pleasure of the appointing officer. All members of the board are
 1574 subject to removal at will by the officers who appointed them.
 1575 All board members, including the chair, must be appointed to
 1576 serve for 3-year terms beginning annually on a date designated
 1577 by the plan. However, for the first term beginning on or after
 1578 July 1, 2009, each appointing officer shall appoint one member
 1579 of the board for a 2-year term and one member for a 3-year term.
 1580 A board vacancy shall be filled for the unexpired term by the
 1581 appointing officer. The Chief Financial Officer shall appoint a
 1582 technical advisory group to provide information and advice to
 1583 the board in connection with the board's duties under this
 1584 subsection. The executive director and senior managers of the
 1585 corporation shall be engaged by the board and serve at the
 1586 pleasure of the board. Any executive director appointed on or
 1587 after July 1, 2006, is subject to confirmation by the Senate.

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1588 The executive director is responsible for employing other staff
1589 as the corporation may require, subject to review and
1590 concurrence by the board.

1591 b. The board shall create a Market Accountability Advisory
1592 Committee to assist the corporation in developing awareness of
1593 its rates and its customer and agent service levels in
1594 relationship to the voluntary market insurers writing similar
1595 coverage.

1596 (I) The members of the advisory committee consist of the
1597 following 11 persons, one of whom must be elected chair by the
1598 members of the committee: four representatives, one appointed by
1599 the Florida Association of Insurance Agents, one by the Florida
1600 Association of Insurance and Financial Advisors, one by the
1601 Professional Insurance Agents of Florida, and one by the Latin
1602 American Association of Insurance Agencies; three
1603 representatives appointed by the insurers with the three highest
1604 voluntary market share of residential property insurance
1605 business in the state; one representative from the Office of
1606 Insurance Regulation; one consumer appointed by the board who is
1607 insured by the corporation at the time of appointment to the
1608 committee; one representative appointed by the Florida
1609 Association of Realtors; and one representative appointed by the
1610 Florida Bankers Association. All members shall be appointed to
1611 3-year terms and may serve for consecutive terms.

1612 (II) The committee shall report to the corporation at each
1613 board meeting on insurance market issues which may include rates
1614 and rate competition with the voluntary market; service,
1615 including policy issuance, claims processing, and general

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1616 | responsiveness to policyholders, applicants, and agents; and
 1617 | matters relating to depopulation.

1618 | 5. Must provide a procedure for determining the
 1619 | eligibility of a risk for coverage, as follows:

1620 | a. Subject to s. 627.3517, with respect to personal lines
 1621 | residential risks, if the risk is offered coverage from an
 1622 | authorized insurer at the insurer's approved rate under a
 1623 | standard policy including wind coverage or, if consistent with
 1624 | the insurer's underwriting rules as filed with the office, a
 1625 | basic policy including wind coverage, for a new application to
 1626 | the corporation for coverage, the risk is not eligible for any
 1627 | policy issued by the corporation unless the premium for coverage
 1628 | from the authorized insurer is more than 15 percent greater than
 1629 | the premium for comparable coverage from the corporation. If the
 1630 | risk is not able to obtain such offer, the risk is eligible for
 1631 | a standard policy including wind coverage or a basic policy
 1632 | including wind coverage issued by the corporation; however, if
 1633 | the risk could not be insured under a standard policy including
 1634 | wind coverage regardless of market conditions, the risk is
 1635 | eligible for a basic policy including wind coverage unless
 1636 | rejected under subparagraph 8. However, a policyholder of the
 1637 | corporation or a policyholder removed from the corporation
 1638 | through an assumption agreement until the end of the assumption
 1639 | period remains eligible for coverage from the corporation
 1640 | regardless of any offer of coverage from an authorized insurer
 1641 | or surplus lines insurer. The corporation shall determine the
 1642 | type of policy to be provided on the basis of objective
 1643 | standards specified in the underwriting manual and based on

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1644 generally accepted underwriting practices.

1645 (I) If the risk accepts an offer of coverage through the
 1646 market assistance plan or through a mechanism established by the
 1647 corporation before a policy is issued to the risk by the
 1648 corporation or during the first 30 days of coverage by the
 1649 corporation, and the producing agent who submitted the
 1650 application to the plan or to the corporation is not currently
 1651 appointed by the insurer, the insurer shall:

1652 (A) Pay to the producing agent of record of the policy for
 1653 the first year, an amount that is the greater of the insurer's
 1654 usual and customary commission for the type of policy written or
 1655 a fee equal to the usual and customary commission of the
 1656 corporation; or

1657 (B) Offer to allow the producing agent of record of the
 1658 policy to continue servicing the policy for at least 1 year and
 1659 offer to pay the agent the greater of the insurer's or the
 1660 corporation's usual and customary commission for the type of
 1661 policy written.

1662
 1663 If the producing agent is unwilling or unable to accept
 1664 appointment, the new insurer shall pay the agent in accordance
 1665 with sub-sub-sub-subparagraph (A).

1666 (II) If the corporation enters into a contractual
 1667 agreement for a take-out plan, the producing agent of record of
 1668 the corporation policy is entitled to retain any unearned
 1669 commission on the policy, and the insurer shall:

1670 (A) Pay to the producing agent of record, for the first
 1671 year, an amount that is the greater of the insurer's usual and

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1672 customary commission for the type of policy written or a fee
 1673 equal to the usual and customary commission of the corporation;
 1674 or

1675 (B) Offer to allow the producing agent of record to
 1676 continue servicing the policy for at least 1 year and offer to
 1677 pay the agent the greater of the insurer's or the corporation's
 1678 usual and customary commission for the type of policy written.

1679
 1680 If the producing agent is unwilling or unable to accept
 1681 appointment, the new insurer shall pay the agent in accordance
 1682 with sub-sub-sub-subparagraph (A).

1683 b. With respect to commercial lines residential risks, for
 1684 a new application to the corporation for coverage, if the risk
 1685 is offered coverage under a policy including wind coverage from
 1686 an authorized insurer at its approved rate, the risk is not
 1687 eligible for a policy issued by the corporation unless the
 1688 premium for coverage from the authorized insurer is more than 15
 1689 percent greater than the premium for comparable coverage from
 1690 the corporation. If the risk is not able to obtain any such
 1691 offer, the risk is eligible for a policy including wind coverage
 1692 issued by the corporation. However, a policyholder of the
 1693 corporation or a policyholder removed from the corporation
 1694 through an assumption agreement until the end of the assumption
 1695 period remains eligible for coverage from the corporation
 1696 regardless of an offer of coverage from an authorized insurer or
 1697 surplus lines insurer.

1698 (I) If the risk accepts an offer of coverage through the
 1699 market assistance plan or through a mechanism established by the

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1700 corporation before a policy is issued to the risk by the
 1701 corporation or during the first 30 days of coverage by the
 1702 corporation, and the producing agent who submitted the
 1703 application to the plan or the corporation is not currently
 1704 appointed by the insurer, the insurer shall:

1705 (A) Pay to the producing agent of record of the policy,
 1706 for the first year, an amount that is the greater of the
 1707 insurer's usual and customary commission for the type of policy
 1708 written or a fee equal to the usual and customary commission of
 1709 the corporation; or

1710 (B) Offer to allow the producing agent of record of the
 1711 policy to continue servicing the policy for at least 1 year and
 1712 offer to pay the agent the greater of the insurer's or the
 1713 corporation's usual and customary commission for the type of
 1714 policy written.

1715
 1716 If the producing agent is unwilling or unable to accept
 1717 appointment, the new insurer shall pay the agent in accordance
 1718 with sub-sub-sub-subparagraph (A).

1719 (II) If the corporation enters into a contractual
 1720 agreement for a take-out plan, the producing agent of record of
 1721 the corporation policy is entitled to retain any unearned
 1722 commission on the policy, and the insurer shall:

1723 (A) Pay to the producing agent of record, for the first
 1724 year, an amount that is the greater of the insurer's usual and
 1725 customary commission for the type of policy written or a fee
 1726 equal to the usual and customary commission of the corporation;
 1727 or

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1728 (B) Offer to allow the producing agent of record to
1729 continue servicing the policy for at least 1 year and offer to
1730 pay the agent the greater of the insurer's or the corporation's
1731 usual and customary commission for the type of policy written.

1732
1733 If the producing agent is unwilling or unable to accept
1734 appointment, the new insurer shall pay the agent in accordance
1735 with sub-sub-sub-subparagraph (A).

1736 c. For purposes of determining comparable coverage under
1737 sub-subparagraphs a. and b., the comparison must be based on
1738 those forms and coverages that are reasonably comparable. The
1739 corporation may rely on a determination of comparable coverage
1740 and premium made by the producing agent who submits the
1741 application to the corporation, made in the agent's capacity as
1742 the corporation's agent. A comparison may be made solely of the
1743 premium with respect to the main building or structure only on
1744 the following basis: the same coverage A or other building
1745 limits; the same percentage hurricane deductible that applies on
1746 an annual basis or that applies to each hurricane for commercial
1747 residential property; the same percentage of ordinance and law
1748 coverage, if the same limit is offered by both the corporation
1749 and the authorized insurer; the same mitigation credits, to the
1750 extent the same types of credits are offered both by the
1751 corporation and the authorized insurer; the same method for loss
1752 payment, such as replacement cost or actual cash value, if the
1753 same method is offered both by the corporation and the
1754 authorized insurer in accordance with underwriting rules; and
1755 any other form or coverage that is reasonably comparable as

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1756 determined by the board. If an application is submitted to the
 1757 corporation for wind-only coverage in the coastal account, the
 1758 premium for the corporation's wind-only policy plus the premium
 1759 for the ex-wind policy that is offered by an authorized insurer
 1760 to the applicant must be compared to the premium for multiperil
 1761 coverage offered by an authorized insurer, subject to the
 1762 standards for comparison specified in this subparagraph. If the
 1763 corporation or the applicant requests from the authorized
 1764 insurer a breakdown of the premium of the offer by types of
 1765 coverage so that a comparison may be made by the corporation or
 1766 its agent and the authorized insurer refuses or is unable to
 1767 provide such information, the corporation may treat the offer as
 1768 not being an offer of coverage from an authorized insurer at the
 1769 insurer's approved rate.

1770 6. Must include rules for classifications of risks and
 1771 rates.

1772 7. Must provide that if premium and investment income for
 1773 an account attributable to a particular calendar year are in
 1774 excess of projected losses and expenses for the account
 1775 attributable to that year, such excess shall be held in surplus
 1776 in the account. Such surplus must be available to defray
 1777 deficits in that account as to future years and used for that
 1778 purpose before assessing assessable insurers and assessable
 1779 insureds as to any calendar year.

1780 8. Must provide objective criteria and procedures to be
 1781 uniformly applied to all applicants in determining whether an
 1782 individual risk is so hazardous as to be uninsurable. In making
 1783 this determination and in establishing the criteria and

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1784 procedures, the following must be considered:

1785 a. Whether the likelihood of a loss for the individual
 1786 risk is substantially higher than for other risks of the same
 1787 class; and

1788 b. Whether the uncertainty associated with the individual
 1789 risk is such that an appropriate premium cannot be determined.

1790
 1791 The acceptance or rejection of a risk by the corporation shall
 1792 be construed as the private placement of insurance, and the
 1793 provisions of chapter 120 do not apply.

1794 9. Must provide that the corporation make its best efforts
 1795 to procure catastrophe reinsurance at reasonable rates, to cover
 1796 its projected 100-year probable maximum loss as determined by
 1797 the board of governors.

1798 10. The policies issued by the corporation must provide
 1799 that if the corporation or the market assistance plan obtains an
 1800 offer from an authorized insurer to cover the risk at its
 1801 approved rates, the risk is no longer eligible for renewal
 1802 through the corporation, except as otherwise provided in this
 1803 subsection.

1804 11. Corporation policies and applications must include a
 1805 notice that the corporation policy could, under this section, be
 1806 replaced with a policy issued by an authorized insurer which
 1807 does not provide coverage identical to the coverage provided by
 1808 the corporation. The notice must also specify that acceptance of
 1809 corporation coverage creates a conclusive presumption that the
 1810 applicant or policyholder is aware of this potential.

1811 12. May establish, subject to approval by the office,

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1812 different eligibility requirements and operational procedures
 1813 for any line or type of coverage for any specified county or
 1814 area if the board determines that such changes are justified due
 1815 to the voluntary market being sufficiently stable and
 1816 competitive in such area or for such line or type of coverage
 1817 and that consumers who, in good faith, are unable to obtain
 1818 insurance through the voluntary market through ordinary methods
 1819 continue to have access to coverage from the corporation. If
 1820 coverage is sought in connection with a real property transfer,
 1821 the requirements and procedures may not provide an effective
 1822 date of coverage later than the date of the closing of the
 1823 transfer as established by the transferor, the transferee, and,
 1824 if applicable, the lender.

1825 13. Must provide that, with respect to the coastal
 1826 account, any assessable insurer with a surplus as to
 1827 policyholders of \$25 million or less writing 25 percent or more
 1828 of its total countrywide property insurance premiums in this
 1829 state may petition the office, within the first 90 days of each
 1830 calendar year, to qualify as a limited apportionment company. A
 1831 regular assessment levied by the corporation on a limited
 1832 apportionment company for a deficit incurred by the corporation
 1833 for the coastal account may be paid to the corporation on a
 1834 monthly basis as the assessments are collected by the limited
 1835 apportionment company from its insureds pursuant to s. 627.3512,
 1836 but the regular assessment must be paid in full within 12 months
 1837 after being levied by the corporation. A limited apportionment
 1838 company shall collect from its policyholders any emergency
 1839 assessment imposed under sub-subparagraph (b)3.d. The plan must

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1840 provide that, if the office determines that any regular
 1841 assessment will result in an impairment of the surplus of a
 1842 limited apportionment company, the office may direct that all or
 1843 part of such assessment be deferred as provided in subparagraph
 1844 (q)4. However, an emergency assessment to be collected from
 1845 policyholders under sub-subparagraph (b)3.d. may not be limited
 1846 or deferred.

1847 14. Must provide that the corporation appoint as its
 1848 licensed agents only those agents who also hold an appointment
 1849 as defined in s. 626.015(3) with an insurer who at the time of
 1850 the agent's initial appointment by the corporation is authorized
 1851 to write and is actually writing personal lines residential
 1852 property coverage, commercial residential property coverage, or
 1853 commercial nonresidential property coverage within the state.

1854 15. Must provide a premium payment plan option to its
 1855 policyholders which, at a minimum, allows for quarterly and
 1856 semiannual payment of premiums. A monthly payment plan may, but
 1857 is not required to, be offered.

1858 16. Must limit coverage on mobile homes or manufactured
 1859 homes built before 1994 to actual cash value of the dwelling
 1860 rather than replacement costs of the dwelling.

1861 17. May provide such limits of coverage as the board
 1862 determines, consistent with the requirements of this subsection.

1863 18. May require commercial property to meet specified
 1864 hurricane mitigation construction features as a condition of
 1865 eligibility for coverage.

1866 19. Must provide that new or renewal policies issued by
 1867 the corporation on or after January 1, 2012, which cover

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1868 | sinkhole loss do not include coverage for any loss to
 1869 | appurtenant structures, driveways, sidewalks, decks, or patios
 1870 | that are directly or indirectly caused by sinkhole activity. The
 1871 | corporation shall exclude such coverage using a notice of
 1872 | coverage change, which may be included with the policy renewal,
 1873 | and not by issuance of a notice of nonrenewal of the excluded
 1874 | coverage upon renewal of the current policy.

1875 | 20. As of January 1, 2012, must require that the agent
 1876 | obtain from an applicant for coverage from the corporation an
 1877 | acknowledgement signed by the applicant, which includes, at a
 1878 | minimum, the following statement:

1879 | ACKNOWLEDGEMENT OF POTENTIAL SURCHARGE

1880 | AND ASSESSMENT LIABILITY:

1881 | 1. AS A POLICYHOLDER OF CITIZENS PROPERTY INSURANCE
 1882 | CORPORATION, I UNDERSTAND THAT IF THE CORPORATION SUSTAINS A
 1883 | DEFICIT AS A RESULT OF HURRICANE LOSSES OR FOR ANY OTHER REASON,
 1884 | MY POLICY COULD BE SUBJECT TO SURCHARGES, WHICH WILL BE DUE AND
 1885 | PAYABLE UPON RENEWAL, CANCELLATION, OR TERMINATION OF THE
 1886 | POLICY, AND THAT THE SURCHARGES COULD BE AS HIGH AS 45 PERCENT
 1887 | OF MY PREMIUM, OR A DIFFERENT AMOUNT AS IMPOSED BY THE FLORIDA
 1888 | LEGISLATURE.

1889 | 2. I ALSO UNDERSTAND THAT I MAY BE SUBJECT TO EMERGENCY
 1890 | ASSESSMENTS TO THE SAME EXTENT AS POLICYHOLDERS OF OTHER
 1891 | INSURANCE COMPANIES, OR A DIFFERENT AMOUNT AS IMPOSED BY THE
 1892 | FLORIDA LEGISLATURE.

1893 | 3. I ALSO UNDERSTAND THAT CITIZENS PROPERTY INSURANCE
 1894 | CORPORATION IS NOT SUPPORTED BY THE FULL FAITH AND CREDIT OF THE
 1895 | STATE OF FLORIDA.

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1896 a. The corporation shall maintain, in electronic format or
 1897 otherwise, a copy of the applicant's signed acknowledgement and
 1898 provide a copy of the statement to the policyholder as part of
 1899 the first renewal after the effective date of this subparagraph.

1900 b. The signed acknowledgement form creates a conclusive
 1901 presumption that the policyholder understood and accepted his or
 1902 her potential surcharge and assessment liability as a
 1903 policyholder of the corporation.

1904 (ff) In establishing replacement costs for coverage on a
 1905 dwelling insured by the corporation, the corporation must accept
 1906 a valuation from any of the following sources and must use the
 1907 lowest valuation as the insured value of the dwelling, excluding
 1908 land value, provided the valuation was completed within the 12
 1909 months before the application or renewal date of coverage:

1910 1. A replacement cost valuation software that is
 1911 specifically designed for use in establishing insurance
 1912 replacement costs and that includes an itemized calculation of
 1913 the cost of reconstruction;

1914 2. A replacement cost valuation prepared by a certified or
 1915 licensed real estate appraiser under part II of chapter 475 that
 1916 is specifically formulated to establish insurance replacement
 1917 cost, rather than market value, and which includes an itemized
 1918 calculation of the cost of reconstruction; or

1919 3. A replacement cost valuation prepared by a general,
 1920 building, or residential contractor licensed under s. 489.113,
 1921 or a professional engineer licensed under s. 471.015, which
 1922 includes an itemized calculation of the total price of
 1923 reconstruction.

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1924 Section 12. Section 627.6011, Florida Statutes, is created
 1925 to read:

1926 627.6011 Mandated coverages.—Mandatory health benefits
 1927 regulated under this chapter are not intended to apply to the
 1928 types of health benefit plans listed in s. 627.6561(5)(b)-(e),
 1929 issued in any market, unless specifically designated otherwise.
 1930 For purposes of this section, the term "mandatory health
 1931 benefits" means those benefits set forth in ss. 627.6401-
 1932 627.64193, and any other mandatory treatment or health coverages
 1933 or benefits enacted on or after July 1, 2012.

1934 Section 13. Paragraph (d) of subsection (3) of section
 1935 627.6699, Florida Statutes, is amended to read:

1936 627.6699 Employee Health Care Access Act.—

1937 (3) DEFINITIONS.—As used in this section, the term:

1938 (d) "Carrier" means a person who provides health benefit
 1939 plans in this state, including an authorized insurer, a health
 1940 maintenance organization, a multiple-employer welfare
 1941 arrangement, or any other person providing a health benefit plan
 1942 that is subject to insurance regulation in this state. However,
 1943 the term does not include a multiple-employer welfare
 1944 arrangement or voluntary employees' beneficiary association, as
 1945 defined under 26 U.S.C. s. 501(c)(9), which multiple-employer
 1946 welfare arrangement or voluntary employees' beneficiary
 1947 association operates solely for the benefit of the members or
 1948 the members and the employees of such members, is located in
 1949 this state, and was in existence on January 1, 1992. The term
 1950 also does not include any authorized insurer or health
 1951 maintenance organization to the extent that it insures the

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1952 members or the members and the employees of such members of such
 1953 multiple-employer welfare arrangement or voluntary employees'
 1954 beneficiary association in existence on January 1, 1992.

1955 Section 14. Subsections (1), (2), (7), and (9) of section
 1956 627.7015, Florida Statutes, are amended to read:

1957 627.7015 Alternative procedure for resolution of disputed
 1958 property insurance claims.—

1959 (1) ~~PURPOSE AND SCOPE.~~—This section sets forth a
 1960 nonadversarial alternative dispute resolution procedure for a
 1961 mediated claim resolution conference prompted by the need for
 1962 effective, fair, and timely handling of property insurance
 1963 claims. There is a particular need for an informal,
 1964 nonthreatening forum for helping parties who elect this
 1965 procedure to resolve their claims disputes because most
 1966 homeowner's and commercial residential insurance policies
 1967 obligate policyholders ~~insureds~~ to participate in a potentially
 1968 expensive and time-consuming adversarial appraisal process
 1969 before ~~prior to~~ litigation. The procedure set forth in this
 1970 section is designed to bring the parties together for a mediated
 1971 claims settlement conference without any of the trappings or
 1972 drawbacks of an adversarial process. Before resorting to these
 1973 procedures, policyholders ~~insureds~~ and insurers are encouraged
 1974 to resolve claims as quickly and fairly as possible. This
 1975 section is available with respect to claims under personal lines
 1976 and commercial residential policies before ~~for all claimants and~~
 1977 ~~insurers prior to~~ commencing the appraisal process, or before
 1978 commencing litigation. Mediation may be requested only by the
 1979 policyholder, as a first-party claimant, or the insurer. If

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1980 requested by the policyholder ~~insured~~, participation by legal
 1981 counsel is ~~shall be~~ permitted. Mediation under this section is
 1982 also available to litigants referred to the department by a
 1983 county court or circuit court. This section does not apply to
 1984 commercial coverages, to private passenger motor vehicle
 1985 insurance coverages, or to disputes relating to liability
 1986 coverages in policies of property insurance.

1987 (2) At the time a first-party claim within the scope of
 1988 this section is filed by the policyholder, the insurer shall
 1989 notify the policyholder ~~all first-party claimants~~ of its ~~their~~
 1990 right to participate in the mediation program under this
 1991 section. The department shall prepare a consumer information
 1992 pamphlet for distribution to persons participating in mediation
 1993 ~~under this section.~~

1994 (7) If the insurer fails to comply with subsection (2) by
 1995 failing to notify a policyholder ~~first-party claimant~~ of its
 1996 right to participate in the mediation program under this section
 1997 or if the insurer requests the mediation, and the mediation
 1998 results are rejected by either party, the policyholder is
 1999 ~~insured shall~~ not be required to submit to or participate in any
 2000 contractual loss appraisal process of the property loss damage
 2001 as a precondition to legal action for breach of contract against
 2002 the insurer for its failure to pay the policyholder's claims
 2003 covered by the policy.

2004 (9) For purposes of this section, the term "claim" refers
 2005 to any dispute between an insurer and a policyholder ~~an insured~~
 2006 relating to a material issue of fact other than a dispute:

2007 (a) With respect to which the insurer has a reasonable

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2008 basis to suspect fraud;

2009 (b) Where, based on agreed-upon facts as to the cause of

2010 loss, there is no coverage under the policy;

2011 (c) With respect to which the insurer has a reasonable

2012 basis to believe that the policyholder ~~claimant~~ has

2013 intentionally made a material misrepresentation of fact which is

2014 relevant to the claim, and the entire request for payment of a

2015 loss has been denied on the basis of the material

2016 misrepresentation; ~~or~~

2017 (d) With respect to which the amount in controversy is

2018 less than \$500, unless the parties agree to mediate a dispute

2019 involving a lesser amount; or

2020 (e) With respect to a windstorm or hurricane loss that

2021 does not comply with s. 627.70132.

2022 Section 15. Paragraph (e) of subsection (5) of section

2023 627.707, Florida Statutes, is amended, and paragraph (f) is

2024 added to that subsection, to read:

2025 627.707 Investigation of sinkhole claims; insurer payment;

2026 nonrenewals.—Upon receipt of a claim for a sinkhole loss to a

2027 covered building, an insurer must meet the following standards

2028 in investigating a claim:

2029 (5) If a sinkhole loss is verified, the insurer shall pay

2030 to stabilize the land and building and repair the foundation in

2031 accordance with the recommendations of the professional engineer

2032 retained pursuant to subsection (2), with notice to the

2033 policyholder, subject to the coverage and terms of the policy.

2034 The insurer shall pay for other repairs to the structure and

2035 contents in accordance with the terms of the policy. If a

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2036 covered building suffers a sinkhole loss or a catastrophic
 2037 ground cover collapse, the insured must repair such damage or
 2038 loss in accordance with the insurer's professional engineer's
 2039 recommended repairs. However, if the insurer's professional
 2040 engineer determines that the repair cannot be completed within
 2041 policy limits, the insurer must pay to complete the repairs
 2042 recommended by the insurer's professional engineer or tender the
 2043 policy limits to the policyholder.

2044 (e) Upon the insurer's obtaining the written approval of
 2045 any lienholder, the insurer may make payment directly to the
 2046 persons selected by the policyholder to perform the land and
 2047 building stabilization and foundation repairs. The decision by
 2048 the insurer to make payment to such persons does not hold the
 2049 insurer liable for the work performed. ~~The policyholder may not~~
 2050 ~~accept a rebate from any person performing the repairs specified~~
 2051 ~~in this section. If a policyholder does receive a rebate,~~
 2052 ~~coverage is void and the policyholder must refund the amount of~~
 2053 ~~the rebate to the insurer. Any person making the repairs~~
 2054 ~~specified in this section who offers a rebate commits insurance~~
 2055 ~~fraud punishable as a third degree felony as provided in s.~~
 2056 ~~775.082, s. 775.083, or s. 775.084.~~

2057 (f) The policyholder may not accept a rebate from any
 2058 person performing the repairs specified in this section. If a
 2059 policyholder receives a rebate, coverage is void and the
 2060 policyholder must refund the amount of the rebate to the
 2061 insurer. Any person performing the repairs specified in this
 2062 section who offers a rebate commits insurance fraud punishable
 2063 as a third degree felony as provided in s. 775.082, s. 775.083,

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2064 or s. 775.084. As used in this paragraph, the term "rebate"
 2065 means a remuneration, payment, gift, discount, or transfer of
 2066 any item of value to the policyholder by or on behalf of a
 2067 person performing the repairs specified in this section as an
 2068 incentive or inducement to obtain repairs performed by that
 2069 person.

2070 Section 16. Effective upon this act becoming a law,
 2071 subsection (4) of section 627.7295, Florida Statutes, is amended
 2072 to read:

2073 627.7295 Motor vehicle insurance contracts.—

2074 (4) ~~If subsection (7) does not apply,~~ The insurer may
 2075 cancel the policy in accordance with this code except that,
 2076 notwithstanding s. 627.728, an insurer may not cancel a new
 2077 policy or binder during the first 60 days immediately following
 2078 the effective date of the policy or binder ~~except~~ for nonpayment
 2079 of premium unless the reason for the cancellation is the
 2080 issuance of a check for the premium that is dishonored for any
 2081 reason or any other type of premium payment that was
 2082 subsequently determined to be rejected or invalid.

2083 Section 17. Effective upon this act becoming a law,
 2084 paragraph (d) of subsection (4) of section 627.736, Florida
 2085 Statutes, is amended to read:

2086 627.736 Required personal injury protection benefits;
 2087 exclusions; priority; claims.—

2088 (4) BENEFITS; WHEN DUE.—Benefits due from an insurer under
 2089 ss. 627.730-627.7405 shall be primary, except that benefits
 2090 received under any workers' compensation law shall be credited
 2091 against the benefits provided by subsection (1) and shall be due

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2092 and payable as loss accrues, upon receipt of reasonable proof of
 2093 such loss and the amount of expenses and loss incurred which are
 2094 covered by the policy issued under ss. 627.730-627.7405. When
 2095 the Agency for Health Care Administration provides, pays, or
 2096 becomes liable for medical assistance under the Medicaid program
 2097 related to injury, sickness, disease, or death arising out of
 2098 the ownership, maintenance, or use of a motor vehicle, benefits
 2099 under ss. 627.730-627.7405 shall be subject to the provisions of
 2100 the Medicaid program.

2101 (d) All overdue payments shall bear simple interest at the
 2102 rate established under s. 55.03 or the rate established in the
 2103 insurance contract, whichever is greater, for the quarter year
 2104 in which the payment became overdue, calculated from the date
 2105 the insurer was furnished with written notice of the amount of
 2106 covered loss. Interest shall be due at the time payment of the
 2107 overdue claim is made.

2108 Section 18. Section 627.7405, Florida Statutes, is amended
 2109 to read:

2110 627.7405 Insurers' right of reimbursement.—

2111 (1) Notwithstanding any other provisions of ss. 627.730-
 2112 627.7405, any insurer providing personal injury protection
 2113 benefits on a private passenger motor vehicle shall have, to the
 2114 extent of any personal injury protection benefits paid to any
 2115 person as a benefit arising out of such private passenger motor
 2116 vehicle insurance, a right of reimbursement against the owner or
 2117 the insurer of the owner of a commercial motor vehicle, if the
 2118 benefits paid result from such person having been an occupant of
 2119 the commercial motor vehicle or having been struck by the

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2120 commercial motor vehicle while not an occupant of any self-
 2121 propelled vehicle.

2122 (2) For purposes of this section, no owner or registrant
 2123 identified in s. 627.733(1)(b) shall be liable for right of
 2124 reimbursement.

2125 Section 19. Effective upon this act becoming a law,
 2126 section 628.901, Florida Statutes, is amended to read:

2127 628.901 Definitions ~~"Captive insurer" defined.~~ As used in
 2128 ~~For the purposes of this part, the term: except as provided in~~
 2129 ~~s. 628.903, a "captive insurer" is a domestic insurer~~
 2130 ~~established under part I to insure the risks of a specific~~
 2131 ~~corporation or group of corporations under common ownership~~
 2132 ~~owned by the corporation or corporations from which it accepts~~
 2133 ~~risk under a contract of insurance.~~

2134 (1) "Affiliated company" means a company in the same
 2135 corporate system as a parent, an industrial insured, or a member
 2136 organization by virtue of common ownership, control, operation,
 2137 or management.

2138 (2) "Captive insurance company" means a domestic insurer
 2139 established under this part. A captive insurance company
 2140 includes a pure captive insurance company, special purpose
 2141 captive insurance company, or industrial insured captive
 2142 insurance company formed and licensed under this part.

2143 (3) "Captive reinsurance company" means a reinsurance
 2144 company that is formed and licensed under this part and is
 2145 wholly owned by a qualifying reinsurance parent company. A
 2146 captive reinsurance company is a stock corporation and may not
 2147 directly insure risks. A captive reinsurance company may

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2148 reinsure only risks.

2149 (4) "Consolidated debt to total capital ratio" means the
 2150 ratio of the sum of all debts and hybrid capital instruments as
 2151 described in paragraph (a) to total capital as described in
 2152 paragraph (b).

2153 (a) Debts and hybrid capital instruments include, but are
 2154 not limited to, all borrowings from banks, all senior debt, all
 2155 subordinated debts, all trust preferred shares, and all other
 2156 hybrid capital instruments that are not included in the
 2157 determination of consolidated GAAP net worth issued and
 2158 outstanding.

2159 (b) Total capital consists of all debts and hybrid capital
 2160 instruments as described in paragraph (a) plus owners' equity
 2161 determined in accordance with GAAP for reporting to the United
 2162 States Securities and Exchange Commission.

2163 (5) "Consolidated GAAP net worth" means the consolidated
 2164 owners' equity determined in accordance with generally accepted
 2165 accounting principles for reporting to the United States
 2166 Securities and Exchange Commission.

2167 (6) "Controlled unaffiliated business" means a company:

2168 (a) That is not in the corporate system of a parent and
 2169 affiliated companies;

2170 (b) That has an existing contractual relationship with a
 2171 parent or affiliated company; and

2172 (c) Whose risks are managed by a captive insurance company
 2173 in accordance with s. 628.919.

2174 (7) "GAAP" means generally accepted accounting principles.

2175 (8) "Industrial insured" means an insured that:

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2176 (a) Has gross assets in excess of \$50 million;
 2177 (b) Procures insurance through the use of a full-time
 2178 employee of the insured who acts as an insurance manager or
 2179 buyer or through the services of a person licensed as a property
 2180 and casualty insurance agent, broker, or consultant in such
 2181 person's state of domicile;
 2182 (c) Has at least 100 full-time employees; and
 2183 (d) Pays annual premiums of at least \$200,000 for each
 2184 line of insurance purchased from the industrial insured captive
 2185 insurer or at least \$75,000 for any line of coverage in excess
 2186 of at least \$25 million in the annual aggregate. The purchase of
 2187 umbrella or general liability coverage in excess of \$25 million
 2188 in the annual aggregate shall be deemed to be the purchase of a
 2189 single line of insurance.
 2190 (9) "Industrial insured captive insurance company" means a
 2191 captive insurance company that provides insurance only to the
 2192 industrial insureds that are its stockholders or members, and
 2193 affiliates thereof, or to the stockholders, and affiliates
 2194 thereof, of its parent corporation. An industrial insured
 2195 captive insurance company can also provide reinsurance to
 2196 insurers only on risks written by such insurers for the
 2197 industrial insureds that are the stockholders or members, and
 2198 affiliates thereof, of the industrial insured captive insurer,
 2199 or the stockholders, and affiliates thereof, of the parent
 2200 corporation of the industrial insured captive insurer.
 2201 (10) "Office" means the Office of Insurance Regulation.
 2202 (11) "Parent" means any corporation, limited liability
 2203 company, partnership, or individual that directly or indirectly

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2204 owns, controls, or holds with power to vote more than 50 percent
 2205 of the outstanding voting interests of a captive insurance
 2206 company.

2207 (12) "Pure captive insurance company" means a company that
 2208 insures risks of its parent, affiliated companies, controlled
 2209 unaffiliated businesses, or a combination thereof.

2210 (13) "Qualifying reinsurer parent company" means a
 2211 reinsurer which currently holds a certificate of authority,
 2212 letter of eligibility or is an accredited or a satisfactory non-
 2213 approved reinsurer in this state possessing a consolidated GAAP
 2214 net worth of at least \$500 million and a consolidated debt to
 2215 total capital ratio of not greater than 0.50.

2216 (14) "Special purpose captive insurance company" means a
 2217 captive insurance company that is formed or licensed under this
 2218 chapter that does not meet the definition of any other type of
 2219 captive insurance company defined in this section.

2220 (15) "Treasury rates" means the United States Treasury
 2221 STRIPS asked yield as published in the Wall Street Journal as of
 2222 a balance sheet date.

2223 Section 20. Effective upon this act becoming a law,
 2224 section 628.905, Florida Statutes, is amended to read:

2225 628.905 Licensing; authority.—

2226 (1) A ~~Any~~ captive insurer, if ~~when~~ permitted by its
 2227 charter or articles of incorporation, may apply to the office
 2228 for a license to do any and all insurance authorized under the
 2229 insurance code, provide commercial property, commercial
 2230 casualty, and commercial marine insurance coverage other than
 2231 workers' compensation and employer's liability, life, health,

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2232 personal motor vehicle, and personal residential property
 2233 insurance coverage, except that: ~~an industrial insured captive~~
 2234 ~~insurer may apply for a license to provide workers' compensation~~
 2235 ~~and employer's liability insurance as set forth in subsection~~
 2236 ~~(6).~~

2237 (a) A pure captive insurance company may not insure any
 2238 risks other than those of its parent, affiliated companies,
 2239 controlled unaffiliated businesses, or a combination thereof.

2240 (b) An industrial insured captive insurance company may
 2241 not insure any risks other than those of the industrial insureds
 2242 that comprise the industrial insured group and their affiliated
 2243 companies.

2244 (c) A special purpose captive insurance company may insure
 2245 only the risks of its parent.

2246 (d) A captive insurance company may not accept or cede
 2247 reinsurance except as provided in this part.

2248 (2) To conduct insurance business in this state, a ~~No~~
 2249 ~~captive insurer, other than an industrial insured captive~~
 2250 ~~insurer must:~~ shall insure or accept reinsurance on any risks
 2251 ~~other than those of its parent and affiliated companies.~~

2252 (a) Obtain from the office a license authorizing it to
 2253 conduct insurance business in this state;

2254 (b) Hold at least one board of directors' meeting each
 2255 year in this state;

2256 (c) Maintain its principal place of business in this
 2257 state; and

2258 (d) Appoint a resident registered agent to accept service
 2259 of process and to otherwise act on its behalf in this state. In

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2260 the case of a captive insurance company formed as a corporation
 2261 or a nonprofit corporation, if the registered agent cannot with
 2262 reasonable diligence be found at the registered office of the
 2263 captive insurance company, the Chief Financial Officer of this
 2264 state must be an agent of the captive insurance company upon
 2265 whom any process, notice, or demand may be served.

2266 (3) Before receiving a license, a captive insurance
 2267 company formed as a corporation or a nonprofit corporation must
 2268 file with the office a certified copy of its articles of
 2269 incorporation and bylaws, a statement under oath of its
 2270 president and secretary showing its financial condition, and any
 2271 other statements or documents required by the office. In
 2272 addition, an applicant captive insurance company must file with
 2273 the office evidence of:

2274 (a) The amount and liquidity of the proposed captive
 2275 insurance company's assets relative to the risks to be assumed;

2276 (b) The adequacy of the expertise, experience, and
 2277 character of the person or persons who will manage the company;

2278 (c) The overall soundness of the company's plan of
 2279 operation;

2280 (d) The adequacy of the loss prevention programs of the
 2281 company's parent, member organizations, or industrial insureds,
 2282 as applicable; and

2283 (e) Any other factors considered relevant by the office in
 2284 ascertaining whether the company will be able to meet its policy
 2285 obligations. In addition to information otherwise required by
 2286 this code, each applicant captive insurer shall file with the
 2287 office evidence of the adequacy of the loss prevention program

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2288 ~~of its insureds.~~

2289 (4) A captive insurance company or captive reinsurance

2290 company must pay to the office a nonrefundable fee of \$1,500 for

2291 processing its application for license.

2292 (a) A captive insurance company or captive reinsurance

2293 company must also pay an annual renewal fee of \$1,000.

2294 (b) The office may charge a fee of \$5 for any document

2295 requiring certification of authenticity or the signature of the

2296 commissioner or his or her designee. ~~An industrial insured~~

2297 ~~captive insurer need not be incorporated in this state if it has~~

2298 ~~been validly incorporated under the laws of another~~

2299 ~~jurisdiction.~~

2300 (5) If the commissioner is satisfied that the documents

2301 and statements filed by the captive insurance company comply

2302 with this chapter, the commissioner may grant a license

2303 authorizing the company to conduct insurance business in this

2304 state until the next succeeding March 1, at which time the

2305 license may be renewed. ~~An industrial insured captive insurer is~~

2306 ~~subject to all provisions of this part except as otherwise~~

2307 ~~indicated.~~

2308 (6) Upon approval of the office, a foreign or alien

2309 captive insurance company may become a domestic captive

2310 insurance company by complying with all of the requirements of

2311 law relative to the organization and licensing of a domestic

2312 captive insurance company of the same or equivalent type in this

2313 state and by filing with the Secretary of State its charter or

2314 other organizational documents, together with any appropriate

2315 amendments that have been adopted in accordance with the laws of

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2316 this state to bring the charter or other organizational
 2317 documents into compliance with the laws of this state, along
 2318 with a certificate of good standing issued by the office. The
 2319 captive insurance company is then entitled to the necessary or
 2320 appropriate certificates and licenses to continue transacting
 2321 business in this state and is subject to the authority and
 2322 jurisdiction of this state. In connection with this
 2323 redomestication, the office may waive any requirements for
 2324 public hearings. It is not necessary for a captive insurance
 2325 company redomesticating into this state to merge, consolidate,
 2326 transfer assets, or otherwise engage in any other
 2327 reorganization, other than as specified in this section. An
 2328 ~~industrial insured captive insurer may not provide workers'~~
 2329 ~~compensation and employer's liability insurance except in excess~~
 2330 ~~of at least \$25 million in the annual aggregate.~~

2331 (7) An industrial insured captive insurance company need
 2332 not be incorporated in this state if it has been validly
 2333 incorporated under the laws of another jurisdiction.

2334 Section 21. Effective upon this act becoming a law,
 2335 section 628.906, Florida Statutes, is created to read:

2336 628.906 Application requirements; restrictions on
 2337 eligibility of officers and directors.—

2338 (1) To evidence competence and trustworthiness of its
 2339 officers and directors, the application for a license to act as
 2340 a captive insurance company or captive reinsurance company shall
 2341 include, but not be limited to, background investigations,
 2342 biographical affidavits, and fingerprint cards for all officers
 2343 and directors. Fingerprints must be taken by a law enforcement

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2344 agency or other entity approved by the office, be accompanied by
 2345 the fingerprint processing fee specified in s. 624.501, and
 2346 processed in accordance with s. 624.34.

2347 (2) The office may deny, suspend, or revoke the license to
 2348 transact captive insurance or captive reinsurance in this state
 2349 if any person who was an officer or director of an insurer,
 2350 reinsurer, captive insurance company, captive reinsurance
 2351 company, financial institution, or financial services business
 2352 doing business in the United States, any state, or under the law
 2353 of any other country and who served in that capacity within the
 2354 2-year period prior to the date the insurer, reinsurer, captive
 2355 insurance company, captive reinsurance company, financial
 2356 institution, or financial services business became insolvent,
 2357 serves as an officer or director of a captive insurance company
 2358 or officer or director of a captive reinsurance company licensed
 2359 in this state unless the officer or director demonstrates that
 2360 his or her personal actions or omissions were not a contributing
 2361 cause to the insolvency or unless the officer or director is
 2362 immediately removed from the captive insurance company or
 2363 captive reinsurance company.

2364 (3) The office may deny, suspend, or revoke the license to
 2365 transact insurance or reinsurance in this state of a captive
 2366 insurance company or captive reinsurance company if any officer
 2367 or director, any stockholder that owns 10 percent or more of the
 2368 outstanding voting securities of the captive insurance company
 2369 or captive reinsurance company, or incorporator has been found
 2370 guilty of, or has pleaded guilty or nolo contendere to, any
 2371 felony or crime involving moral turpitude, including a crime of

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2372 dishonesty or breach of trust, punishable by imprisonment of 1
 2373 year or more under the law of the United States or any state
 2374 thereof or under the law of any other country without regard to
 2375 whether a judgment of conviction has been entered by the court
 2376 having jurisdiction in such case. However, in the case of a
 2377 captive insurance company or captive reinsurance company
 2378 operating under a subsisting license, the captive insurance
 2379 company or captive reinsurance company shall remove any such
 2380 person immediately upon discovery of the conditions set forth in
 2381 this subsection when applicable to such person or upon the order
 2382 of the office, and the failure to so act shall be grounds for
 2383 revocation or suspension of the captive insurance company's or
 2384 captive reinsurance company's license.

2385 Section 22. Effective upon this act becoming a law,
 2386 section 628.907, Florida Statutes, is amended to read:

2387 628.907 Minimum capital and net assets requirements;
 2388 restriction on payment of dividends ~~surplus.~~

2389 (1) A ~~No~~ captive insurer may not ~~shall~~ be issued a license
 2390 unless it possesses and thereafter maintains:

2391 (1) unimpaired paid-in capital of:

2392 (a) In the case of a pure captive insurance company, at
 2393 least \$100,000. ~~\$500,000;~~ and

2394 (b) In the case of an industrial insured captive insurance
 2395 company incorporated as a stock insurer, at least \$200,000.

2396 (c) In the case of a special purpose captive insurance
 2397 company, an amount determined by the office after giving due
 2398 consideration to the company's business plan, feasibility study,
 2399 and pro forma financial statements and projections, including

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2400 the nature of the risks to be insured.

2401 (2) The office may not issue a license to a captive

2402 insurance company incorporated as a nonprofit corporation unless

2403 the company possesses and maintains unrestricted net assets of:

2404 (a) In the case of a pure captive insurance company,

2405 ~~Unimpaired surplus of~~ at least \$250,000.

2406 (b) In the case of a special purpose captive insurance

2407 company, an amount determined by the office after giving due

2408 consideration to the company's business plan, feasibility study,

2409 and pro forma financial statements and projections, including

2410 the nature of the risks to be insured.

2411 (3) Contributions to a captive insurance company

2412 incorporated as a nonprofit corporation must be in the form of

2413 cash, cash equivalent, or an irrevocable letter of credit issued

2414 by a bank chartered by this state or a member bank of the

2415 Federal Reserve System with a branch office in this state, or as

2416 approved by the office.

2417 (4) For purposes of this section, the office may issue a

2418 license expressly conditioned upon the captive insurance company

2419 providing to the office satisfactory evidence of possession of

2420 the minimum required unimpaired paid-in capital. Until this

2421 evidence is provided, the captive insurance company may not

2422 issue any policy, assume any liability, or otherwise provide

2423 coverage. The office may revoke the conditional license if

2424 satisfactory evidence of the required capital is not provided

2425 within a maximum period of time, not to exceed 1 year, to be

2426 established by the office at the time the conditional license is

2427 issued.

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2428 (5) The office may prescribe additional capital or net
 2429 assets based upon the type, volume, and nature of insurance
 2430 business transacted. Contributions in connection with these
 2431 prescribed additional net assets or capital must be in the form
 2432 of:

2433 (a) Cash;
 2434 (b) Cash equivalent;
 2435 (c) An irrevocable letter of credit issued by a bank
 2436 chartered by this state or a member bank of the Federal Reserve
 2437 System with a branch office in this state, or as approved by the
 2438 office; or

2439 (d) Securities invested as provided in part II of chapter
 2440 625.

2441 (6) A captive insurance company may not pay a dividend out
 2442 of, or other distribution with respect to, capital or surplus in
 2443 excess of the limitations set forth in this chapter without the
 2444 prior approval of the office. Approval of an ongoing plan for
 2445 the payment of dividends or other distributions must be
 2446 conditioned upon the retention, at the time of each payment, of
 2447 capital or surplus in excess of amounts specified by, or
 2448 determined in accordance with formulas approved by, the office.

2449 (7) An irrevocable letter of credit that is issued by a
 2450 financial institution other than a bank chartered by this state
 2451 or a member bank of the Federal Reserve System must meet the
 2452 same standards as an irrevocable letter of credit that has been
 2453 issued by a bank chartered by this state or a member bank of the
 2454 Federal Reserve System.

2455 Section 23. Effective upon this act becoming a law,

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2456 section 628.908, Florida Statutes, is created to read:
 2457 628.908 Surplus requirements; restriction on payment of
 2458 dividends.—
 2459 (1) The office may not issue a license to a captive
 2460 insurance company unless the company possesses and maintains
 2461 unimpaired surplus of:
 2462 (a) In the case of a pure captive insurance company, at
 2463 least \$150,000.
 2464 (b) In the case of an industrial insured captive insurance
 2465 company incorporated as a stock insurer, at least \$300,000.
 2466 (c) In the case of an industrial insured captive insurance
 2467 company incorporated as a mutual insurer, at least \$500,000.
 2468 (d) In the case of a special purpose captive insurance
 2469 company, an amount determined by the office after giving due
 2470 consideration to the company's business plan, feasibility study,
 2471 and pro forma financial statements and projections, including
 2472 the nature of the risks to be insured.
 2473 (2) For purposes of this section, the office may issue a
 2474 license expressly conditioned upon the captive insurance company
 2475 providing to the office satisfactory evidence of possession of
 2476 the minimum required unimpaired surplus. Until this evidence is
 2477 provided, the captive insurance company may not issue any
 2478 policy, assume any liability, or otherwise provide coverage. The
 2479 office may revoke the conditional license if satisfactory
 2480 evidence of the required surplus is not provided within a
 2481 maximum period of time, not to exceed 1 year, to be established
 2482 by the office at the time the conditional license is issued.
 2483 (3) A captive insurance company may not pay a dividend out

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2484 of, or other distribution with respect to, capital or surplus in
 2485 excess of the limitations set forth in this chapter without the
 2486 prior approval of the office. Approval of an ongoing plan for
 2487 the payment of dividends or other distribution must be
 2488 conditioned upon the retention, at the time of each payment, of
 2489 capital or surplus in excess of amounts specified by, or
 2490 determined in accordance with formulas approved by, the office.

2491 (4) An irrevocable letter of credit that is issued by a
 2492 financial institution other than a bank chartered by this state
 2493 or a member bank of the Federal Reserve System must meet the
 2494 same standards as an irrevocable letter of credit that has been
 2495 issued by a bank chartered by this state or a member bank of the
 2496 Federal Reserve System.

2497 Section 24. Effective upon this act becoming a law,
 2498 section 628.909, Florida Statutes, is amended to read:

2499 628.909 Applicability of other laws.—

2500 (1) The Florida Insurance Code does ~~shall~~ not apply to
 2501 captive insurers or industrial insured captive insurers except
 2502 as provided in this part and subsections (2) and (3).

2503 (2) The following provisions of the Florida Insurance Code
 2504 ~~shall~~ apply to captive insurers who are not industrial insured
 2505 captive insurers to the extent that such provisions are not
 2506 inconsistent with this part:

2507 (a) Chapter 624, except for ss. 624.407, 624.408,
 2508 624.4085, 624.40851, 624.4095, 624.425, and 624.426.

2509 (b) Chapter 625, part II.

2510 (c) Chapter 626, part IX.

2511 (d) Sections 627.730–627.7405, when no-fault coverage is

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2512 provided.

2513 (e) Chapter 628.

2514 (3) The following provisions of the Florida Insurance Code

2515 ~~shall~~ apply to industrial insured captive insurers to the extent

2516 that such provisions are not inconsistent with this part:

2517 (a) Chapter 624, except for ss. 624.407, 624.408,

2518 624.4085, 624.40851, 624.4095, 624.425, 624.426, and 624.609(1).

2519 (b) Chapter 625, part II, if the industrial insured

2520 captive insurer is incorporated in this state.

2521 (c) Chapter 626, part IX.

2522 (d) Sections 627.730-627.7405 when no-fault coverage is

2523 provided.

2524 (e) Chapter 628, except for ss. 628.341, 628.351, and

2525 628.6018.

2526 Section 25. Effective upon this act becoming a law,

2527 section 628.910, Florida Statutes, is created to read:

2528 628.910 Incorporation options and requirements.-

2529 (1) A pure captive insurance company may be:

2530 (a) Incorporated as a stock insurer with its capital

2531 divided into shares and held by the stockholders; or

2532 (b) Incorporated as a public benefit, mutual benefit, or

2533 religious nonprofit corporation with members in accordance with

2534 the Florida Not For Profit Corporation Act.

2535 (2) An industrial insured captive insurance company may

2536 be:

2537 (a) Incorporated as a stock insurer with its capital

2538 divided into shares and held by the stockholders; or

2539 (b) Incorporated as a mutual insurer without capital

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2540 stock, the governing body of which is elected by its members.

2541 (3) A captive insurance company may not have fewer than
 2542 three incorporators of whom not fewer than two must be residents
 2543 of this state.

2544 (4) In the case of a captive insurance company formed as a
 2545 corporation or a nonprofit corporation, before the articles of
 2546 incorporation are transmitted to the Secretary of State, the
 2547 incorporators shall file the articles of incorporation in
 2548 triplicate with the office. The office shall promptly examine
 2549 the articles of incorporation. If it finds that the articles of
 2550 incorporation conform to law, it shall endorse its approval on
 2551 each of the triplicate originals of the articles of
 2552 incorporation, retain one copy for its files, and return the
 2553 remaining copies to the incorporators for filing with the
 2554 Department of State.

2555 (5) The articles of incorporation, the certificate issued
 2556 pursuant to this section, and the organization fees required by
 2557 the Florida Business Corporation Act or the Florida Not For
 2558 Profit Corporation Act, as applicable, must be transmitted to
 2559 the Secretary of State, who must record the articles of
 2560 incorporation and the certificate.

2561 (6) The capital stock of a captive insurance company
 2562 incorporated as a stock insurer must be issued at par value of
 2563 not less than \$1 or more than \$100 per share.

2564 (7) In the case of a captive insurance company formed as a
 2565 corporation or a nonprofit corporation, at least one of the
 2566 members of the board of directors of a captive insurance company
 2567 incorporated in this state must be a resident of this state.

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2568 (8) A captive insurance company formed as a corporation or
 2569 a nonprofit corporation, pursuant to the provisions of this
 2570 chapter, has the privileges and is subject to the provisions of
 2571 the general corporation law, including the Florida Not For
 2572 Profit Corporation Act for nonprofit corporations, as
 2573 applicable, as well as the applicable provisions contained in
 2574 this chapter. If a conflict occurs between a provision of the
 2575 general corporation law, including the Florida Not For Profit
 2576 Corporation Act for nonprofit corporations, as applicable, and a
 2577 provision of this chapter, the latter controls. The provisions
 2578 of this title pertaining to mergers, consolidations,
 2579 conversions, mutualizations, and redomestications apply in
 2580 determining the procedures to be followed by a captive insurance
 2581 company in carrying out any of the transactions described in
 2582 such provisions, except that the office may waive or modify the
 2583 requirements for public notice and hearing in accordance with
 2584 rules the office may adopt addressing categories of
 2585 transactions. If a notice of public hearing is required, but no
 2586 one requests a hearing, the office may cancel the hearing.

2587 (9) The articles of incorporation or bylaws of a captive
 2588 insurance company may authorize a quorum of a board of directors
 2589 to consist of no fewer than one-third of the fixed or prescribed
 2590 number of directors as provided for by the Florida Business
 2591 Corporation Act or the Florida Not For Profit Corporation Act.

2592 Section 26. Effective upon this act becoming a law,
 2593 section 628.911, Florida Statutes, is amended to read:

2594 628.911 Reports and statements.—

2595 (1) A captive insurance company may ~~insurer shall~~ not be

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2596 required to make any annual report except as provided in this
 2597 part section.

2598 (2) Annually no later than March 1, a captive insurance
 2599 company or a captive reinsurance company insurer shall, within
 2600 60 days after the end of its fiscal year and as often as the
 2601 office may deem necessary, submit to the office a report of its
 2602 financial condition verified by oath of two of its executive
 2603 officers. Except as provided in this part, a captive insurance
 2604 company or a captive reinsurance company must report using
 2605 generally accepted accounting principles, unless the office
 2606 approves the use of statutory accounting principles, with useful
 2607 or necessary modifications or adaptations required or approved
 2608 or accepted by the office for the type of insurance and kinds of
 2609 insurers to be reported upon, and as supplemented by additional
 2610 information required by the office. The Financial Services
 2611 Commission may adopt by rule the form in which captive insurance
 2612 companies insurers shall report.

2613 (3) A captive insurance company may make written
 2614 application for filing the required report on a fiscal year end
 2615 that is consistent with the parent company's fiscal year. If an
 2616 alternative reporting date is granted, the annual report is due
 2617 60 days after the fiscal year end.

2618 Section 27. Effective upon this act becoming a law,
 2619 section 628.912, Florida Statutes, is created to read:

2620 628.912 Discounting of loss and loss adjustment expense
 2621 reserves.—

2622 (1) A captive reinsurance company may discount its loss
 2623 and loss adjustment expense reserves at treasury rates applied

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2624 to the applicable payments projected through the use of the
 2625 expected payment pattern associated with the reserves.

2626 (2) A captive reinsurance company must file annually an
 2627 actuarial opinion on loss and loss adjustment expense reserves
 2628 provided by an independent actuary. The actuary may not be an
 2629 employee of the captive reinsurance company or its affiliates.

2630 (3) The office may disallow the discounting of reserves if
 2631 a captive reinsurance company violates a provision of this part.

2632 Section 28. Effective upon this act becoming a law,
 2633 section 628.913, Florida Statutes, is amended to read:

2634 (Substantial rewording of section. See
 2635 s. 628.913, F.S., for present text.)

2636 628.913 Captive reinsurance companies.—

2637 (1) A captive reinsurance company, if permitted by its
 2638 articles of incorporation or charter, may apply to the office
 2639 for a license to write reinsurance covering property and
 2640 casualty insurance or reinsurance contracts. A captive
 2641 reinsurance company authorized by the office may write
 2642 reinsurance contracts covering risks in any state; however, a
 2643 captive reinsurance company authorized by the office may not
 2644 directly insure risks.

2645 (2) To conduct business in this state, a captive
 2646 reinsurance company must:

2647 (a) Obtain from the office a license authorizing it to
 2648 conduct business as a captive reinsurance company in this state;

2649 (b) Hold at least one board of directors' meeting each
 2650 year in this state;

2651 (c) Maintain its principal place of business in this

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2652 state; and

2653 (d) Appoint a registered agent to accept service of

2654 process and act otherwise on its behalf in this state.

2655 (3) Before receiving a license, a captive reinsurance

2656 company must file with the office:

2657 (a) A certified copy of its charter and bylaws;

2658 (b) A statement under oath of its president and secretary

2659 showing its financial condition; and

2660 (c) Other documents required by the office.

2661 (4) In addition to the information required by this

2662 section, the captive reinsurance company must file with the

2663 office evidence of:

2664 (a) The amount and liquidity of the captive reinsurance

2665 company's assets relative to the risks to be assumed;

2666 (b) The adequacy of the expertise, experience, and

2667 character of the person who manages the company;

2668 (c) The overall soundness of the company's plan of

2669 operation; and

2670 (d) Other overall factors considered relevant by the

2671 office in ascertaining if the company would be able to meet its

2672 policy obligations.

2673 Section 29. Effective upon this act becoming a law,

2674 section 628.914, Florida Statutes, is created to read:

2675 628.914 Minimum capitalization or reserves for captive

2676 reinsurance companies.—

2677 (1) The office may not issue a license to a captive

2678 reinsurance company unless the company possesses and maintains

2679 capital or unimpaired surplus of at least the greater of \$300

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2680 million or 10 percent of reserves. The surplus may be in the
 2681 form of cash or securities as permitted by part II of chapter
 2682 625.

2683 (2) The office may prescribe additional capital or surplus
 2684 based upon the type, volume, and nature of the insurance
 2685 business transacted.

2686 (3) A captive reinsurance company may not pay a dividend
 2687 out of, or other distribution with respect to, capital or
 2688 surplus in excess of the limitations without the prior approval
 2689 of the office. Approval of an ongoing plan for the payment of
 2690 dividends or other distributions must be conditioned upon the
 2691 retention, at the time of each payment, of capital or surplus in
 2692 excess of amounts specified by, or determined in accordance with
 2693 formulas approved by, the office.

2694 Section 30. Effective upon this act becoming a law,
 2695 section 628.9141, Florida Statutes, is created to read:

2696 628.9141 Incorporation of a captive reinsurance company.-

2697 (1) A captive reinsurance company must be incorporated as
 2698 a stock insurer with its capital divided into shares and held by
 2699 its shareholders.

2700 (2) A captive reinsurance company may not have fewer than
 2701 three incorporators of whom at least two must be residents of
 2702 this state.

2703 (3) Before the articles of incorporation are transmitted
 2704 to the Secretary of State, the incorporators must comply with
 2705 all the requirements of s. 628.091.

2706 (4) The capital stock of a captive reinsurance company
 2707 must be issued at par value of not less than \$1 or more than

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2708 \$100 per share.
 2709 (5) At least one of the members of the board of directors
 2710 of a captive reinsurance company incorporated in this state must
 2711 be a resident of this state.

2712 Section 31. Effective upon this act becoming a law,
 2713 section 628.9142, Florida Statutes, is created to read:

2714 628.9142 Reinsurance; effect on reserves.-

2715 (1) A captive insurance company may provide reinsurance,
 2716 as authorized in this part, on risks ceded by any other insurer.

2717 (2) A captive insurance company may take credit for
 2718 reserves on risks or portions of risks ceded to authorized
 2719 insurers or reinsurers and unauthorized insurers or reinsurers
 2720 complying with s. 624.610. A captive insurer may not take credit
 2721 for reserves on risks or portions of risks ceded to an
 2722 unauthorized insurer or reinsurer if the insurer or reinsurer is
 2723 not in compliance with s. 624.610.

2724 Section 32. Effective upon this act becoming a law,
 2725 section 628.918, Florida Statutes, is created to read:

2726 628.918 Management of assets of captive reinsurance
 2727 company.-At least 35 percent of the assets of a captive
 2728 reinsurance company must be managed by an asset manager
 2729 domiciled in this state.

2730 Section 33. Effective upon this act becoming a law,
 2731 section 628.919, Florida Statutes, is created to read:

2732 628.919 Standards to ensure risk management control by
 2733 parent company.-The Financial Services Commission shall adopt
 2734 rules establishing standards to ensure that a parent or
 2735 affiliated company is able to exercise control of the risk

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2736 management function of any controlled unaffiliated business to
 2737 be insured by the pure captive insurance company.

2738 Section 34. Effective upon this act becoming a law,
 2739 section 628.920, Florida Statutes, is created to read:

2740 628.920 Eligibility of licensed captive insurance company
 2741 for certificate of authority to act as insurer.—A licensed
 2742 captive insurance company that meets the necessary requirements
 2743 of this part imposed upon an insurer must be considered for
 2744 issuance of a certificate of authority to act as an insurer in
 2745 this state.

2746 Section 35. Effective upon this act becoming a law,
 2747 paragraph (e) of subsection (2) of section 626.7491, Florida
 2748 Statutes, is amended to read:

2749 626.7491 Business transacted with producer controlled
 2750 property and casualty insurer.—

2751 (2) DEFINITIONS.—As used in this section:

2752 (e) "Licensed insurer" or "insurer" means any person,
 2753 firm, association, or corporation licensed to transact a
 2754 property or casualty insurance business in this state. The
 2755 following are not licensed insurers for the purposes of this
 2756 section:

- 2757 1. Any risk retention group as defined in:
 - 2758 a. The Superfund Amendments Reauthorization Act of 1986,
 - 2759 Pub. L. No. 99-499, 100 Stat. 1613 (1986);
 - 2760 b. The Risk Retention Act, 15 U.S.C. ss. 3901 et seq.
 - 2761 (1982 and Supp. 1986); or
 - 2762 c. Section 627.942(9).
- 2763 2. Any residual market pool or joint underwriting

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2764 authority or association; and
 2765 3. Any captive insurance company ~~insurer~~ as defined in s.
 2766 628.901.

2767 Section 36. Effective upon this act becoming a law,
 2768 section 628.903, Florida Statutes, is repealed.

2769 Section 37. Section 631.271, Florida Statutes, is amended
 2770 to read:

2771 631.271 Priority of claims.—

2772 (1) The priority of distribution of claims from the
 2773 insurer's estate shall be in accordance with the order in which
 2774 each class of claims is set forth in this subsection. Every
 2775 claim in each class shall be paid in full or adequate funds
 2776 shall be retained for such payment before the members of the
 2777 next class may receive any payment. No subclasses may be
 2778 established within any class. The order of distribution of
 2779 claims shall be:

2780 (a) Class 1.—

2781 1. All of the receiver's costs and expenses of
 2782 administration.

2783 2. All of the expenses of a guaranty association or
 2784 foreign guaranty association in handling claims.

2785 (b) Class 2.—All claims under policies for losses
 2786 incurred, including third-party claims, all claims against the
 2787 insurer for liability for bodily injury or for injury to or
 2788 destruction of tangible property which claims are not under
 2789 policies, and all claims of a guaranty association or foreign
 2790 guaranty association. All claims under life insurance and
 2791 annuity policies, whether for death proceeds, annuity proceeds,

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2792 or investment values, shall be treated as loss claims. That
 2793 portion of any loss, indemnification for which is provided by
 2794 other benefits or advantages recovered by the claimant, may not
 2795 be included in this class, other than benefits or advantages
 2796 recovered or recoverable in discharge of familial obligations of
 2797 support or by way of succession at death or as proceeds of life
 2798 insurance, or as gratuities. No payment by an employer to her or
 2799 his employee may be treated as a gratuity.

2800 (c) Class 3.—Claims under nonassessable policies for
 2801 unearned premiums or premium refunds.

2802 (d) Class 4.—Claims of the Federal Government.

2803 (e) Class 5.—Debts due to employees for services
 2804 performed, to the extent that the debts do not exceed \$2,000 for
 2805 each employee and represent payment for services performed
 2806 within 6 months before the filing of the petition for
 2807 liquidation. Officers and directors are not entitled to the
 2808 benefit of this priority. This priority is in lieu of any other
 2809 similar priority that is authorized by law as to wages or
 2810 compensation of employees.

2811 (f) Class 6.—Claims of general creditors.

2812 (g) Class 7.—Claims of any state or local government.
 2813 Claims, including those of any state or local government for a
 2814 penalty or forfeiture, shall be allowed in this class, but only
 2815 to the extent of the pecuniary loss sustained from the act,
 2816 transaction, or proceeding out of which the penalty or
 2817 forfeiture arose, with reasonable and actual costs occasioned
 2818 thereby. The remainder of such claims shall be postponed to the
 2819 class of claims under paragraph (k) ~~(j)~~.

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2820 (h) Class 8.—Claims filed after the time specified in s.
 2821 631.181(3), except when ordered otherwise by the court to
 2822 prevent manifest injustice, or any claims other than claims
 2823 under paragraph (i) or under paragraph (k)~~(j)~~.

2824 (i) Class 9.—Surplus or contribution notes, or similar
 2825 obligations, and premium refunds on assessable policies.
 2826 Payments to members of domestic mutual insurance companies shall
 2827 be limited in accordance with law.

2828 (j) Class 10.—Interest on allowed claims of Classes 1
 2829 through 9, according to the terms of a plan to pay interest on
 2830 allowed claims proposed by the liquidator and approved by the
 2831 receivership court.

2832 (k) Class 11.—The claims of shareholders or other owners.

2833 (2) In a liquidation proceeding involving one or more
 2834 reciprocal states, the order of distribution of the domiciliary
 2835 state shall control as to all claims of residents of this and
 2836 reciprocal states. All claims of residents of reciprocal states
 2837 shall be given equal priority of payment from general assets
 2838 regardless of where such assets are located.

2839 Section 38. If this act and CS for CS for HB 245 or
 2840 similar legislation are adopted in the same legislative session
 2841 or an extension thereof and become law, a surplus lines insurer
 2842 removing policies from the Citizens Property Insurance
 2843 Corporation must, pursuant to s. 627.351(6)(q)3.d.(II)(B),
 2844 Florida Statutes, maintain an A.M. Best Financial Strength
 2845 Rating of A- or better or, in the alternative, a Demotech
 2846 Financial Stability Rating of A or better.

2847 Section 39. Except as otherwise expressly provided in this

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2848 | act, this act shall take effect July 1, 2012.