

1 A bill to be entitled
2 An act relating to insurance; amending s.
3 626.916, F.S.; providing requirements for
4 insurance coverage eligible for export for
5 residential property risks; requiring that the
6 insured be notified that coverage may be
7 available from Citizens Property Insurance
8 Corporation; amending s. 626.914, F.S.;
9 revising the definition of the term "diligent
10 effort"; amending s. 215.555, F.S.; revising
11 the dates regarding an exemption from emergency
12 assessments for medical malpractice insurance
13 premiums; amending s. 627.351, F.S.; revising
14 legislative findings to provide a finding that
15 the lack of affordable property insurance
16 threatens the public health, safety, and
17 welfare and threatens the economic health of
18 the state; revising provisions for determining
19 eligibility for coverage under Citizens
20 Property Insurance Corporation; amending s.
21 627.062, F.S.; providing that certain interest
22 paid by an insurer may not be included in rate
23 base or used to justify a rate or rate change;
24 amending s. 626.9541, F.S.; providing
25 additional unfair claim settlement practices;
26 amending s. 627.70131, F.S.; deleting the
27 definition of the term "insurer"; defining the
28 term "claim"; revising provisions relating to
29 when an insurer must pay a claim; providing
30 conditions under which interest must be paid;
31 extending the date for increasing rates;

1 prohibiting issuance of new certificates of
2 authority to certain insurers; requiring rate
3 filings of certain insurers to include certain
4 parent company profits information;
5 establishing a pilot program to offer optional
6 sinkhole coverage; amending s. 626.9201, F.S.;
7 revising requirements concerning cancellation
8 for nonpayment of premium of policies providing
9 coverage for property, casualty, surety, or
10 marine insurance; defining the term "nonpayment
11 of premium"; providing that certain contracts
12 or contractual obligations concerning such
13 coverage are void under specified conditions;
14 requiring the refund of certain premiums
15 received by an insurer; providing effective
16 dates.

17
18 Be It Enacted by the Legislature of the State of Florida:

19
20 Section 1. Paragraph (e) is added to subsection (1) of
21 section 626.916, Florida Statutes, to read:

22 626.916 Eligibility for export.--

23 (1) No insurance coverage shall be eligible for export
24 unless it meets all of the following conditions:

25 (e) For personal residential property risks, the
26 retail or producing agent must advise the insured in writing
27 that coverage may be available and may be less expensive from
28 Citizens Property Insurance Corporation. The notice must
29 include other information that states that Citizens'
30 assessments are higher and the coverage provided by Citizens
31 may be less than the property's existing coverage. If the

1 notice is signed by the insured, it is presumed that the
2 insured has been informed and knows that policies from
3 Citizens Property Insurance Corporation may be less expensive,
4 may provide less coverage, and will be accompanied by higher
5 assessments.

6 Section 2. Subsection (4) of section 626.914, Florida
7 Statutes, is amended to read:

8 626.914 Definitions.--As used in this Surplus Lines
9 Law, the term:

10 (4) "Diligent effort" means seeking coverage from and
11 having been rejected by at least three authorized insurers
12 currently writing this type of coverage and documenting these
13 rejections. However, if the residential structure has a
14 dwelling replacement cost of \$1 million or more, the term
15 means seeking coverage from and having been rejected by at
16 least one authorized insurer currently writing this type of
17 coverage and documenting this rejection.

18 Section 3. Paragraph (b) of subsection (6) of section
19 215.555, Florida Statutes, as amended by chapter 2007-1, Laws
20 of Florida, is amended to read:

21 215.555 Florida Hurricane Catastrophe Fund.--

22 (6) REVENUE BONDS.--

23 (b) Emergency assessments.--

24 1. If the board determines that the amount of revenue
25 produced under subsection (5) is insufficient to fund the
26 obligations, costs, and expenses of the fund and the
27 corporation, including repayment of revenue bonds and that
28 portion of the debt service coverage not met by reimbursement
29 premiums, the board shall direct the Office of Insurance
30 Regulation to levy, by order, an emergency assessment on
31 direct premiums for all property and casualty lines of

1 business in this state, including property and casualty
2 business of surplus lines insurers regulated under part VIII
3 of chapter 626, but not including any workers' compensation
4 premiums or medical malpractice premiums. As used in this
5 subsection, the term "property and casualty business" includes
6 all lines of business identified on Form 2, Exhibit of
7 Premiums and Losses, in the annual statement required of
8 authorized insurers by s. 624.424 and any rule adopted under
9 this section, except for those lines identified as accident
10 and health insurance and except for policies written under the
11 National Flood Insurance Program. The assessment shall be
12 specified as a percentage of direct written premium and is
13 subject to annual adjustments by the board in order to meet
14 debt obligations. The same percentage shall apply to all
15 policies in lines of business subject to the assessment issued
16 or renewed during the 12-month period beginning on the
17 effective date of the assessment.

18 2. A premium is not subject to an annual assessment
19 under this paragraph in excess of 6 percent of premium with
20 respect to obligations arising out of losses attributable to
21 any one contract year, and a premium is not subject to an
22 aggregate annual assessment under this paragraph in excess of
23 10 percent of premium. An annual assessment under this
24 paragraph shall continue as long as the revenue bonds issued
25 with respect to which the assessment was imposed are
26 outstanding, including any bonds the proceeds of which were
27 used to refund the revenue bonds, unless adequate provision
28 has been made for the payment of the bonds under the documents
29 authorizing issuance of the bonds.

30 3. Emergency assessments shall be collected from
31 policyholders. Emergency assessments shall be remitted by

1 insurers as a percentage of direct written premium for the
2 preceding calendar quarter as specified in the order from the
3 Office of Insurance Regulation. The office shall verify the
4 accurate and timely collection and remittance of emergency
5 assessments and shall report the information to the board in a
6 form and at a time specified by the board. Each insurer
7 collecting assessments shall provide the information with
8 respect to premiums and collections as may be required by the
9 office to enable the office to monitor and verify compliance
10 with this paragraph.

11 4. With respect to assessments of surplus lines
12 premiums, each surplus lines agent shall collect the
13 assessment at the same time as the agent collects the surplus
14 lines tax required by s. 626.932, and the surplus lines agent
15 shall remit the assessment to the Florida Surplus Lines
16 Service Office created by s. 626.921 at the same time as the
17 agent remits the surplus lines tax to the Florida Surplus
18 Lines Service Office. The emergency assessment on each insured
19 procuring coverage and filing under s. 626.938 shall be
20 remitted by the insured to the Florida Surplus Lines Service
21 Office at the time the insured pays the surplus lines tax to
22 the Florida Surplus Lines Service Office. The Florida Surplus
23 Lines Service Office shall remit the collected assessments to
24 the fund or corporation as provided in the order levied by the
25 Office of Insurance Regulation. The Florida Surplus Lines
26 Service Office shall verify the proper application of such
27 emergency assessments and shall assist the board in ensuring
28 the accurate and timely collection and remittance of
29 assessments as required by the board. The Florida Surplus
30 Lines Service Office shall annually calculate the aggregate
31 written premium on property and casualty business, other than

1 workers' compensation and medical malpractice, procured
2 through surplus lines agents and insureds procuring coverage
3 and filing under s. 626.938 and shall report the information
4 to the board in a form and at a time specified by the board.

5 5. Any assessment authority not used for a particular
6 contract year may be used for a subsequent contract year. If,
7 for a subsequent contract year, the board determines that the
8 amount of revenue produced under subsection (5) is
9 insufficient to fund the obligations, costs, and expenses of
10 the fund and the corporation, including repayment of revenue
11 bonds and that portion of the debt service coverage not met by
12 reimbursement premiums, the board shall direct the Office of
13 Insurance Regulation to levy an emergency assessment up to an
14 amount not exceeding the amount of unused assessment authority
15 from a previous contract year or years, plus an additional 4
16 percent provided that the assessments in the aggregate do not
17 exceed the limits specified in subparagraph 2.

18 6. The assessments otherwise payable to the
19 corporation under this paragraph shall be paid to the fund
20 unless and until the Office of Insurance Regulation and the
21 Florida Surplus Lines Service Office have received from the
22 corporation and the fund a notice, which shall be conclusive
23 and upon which they may rely without further inquiry, that the
24 corporation has issued bonds and the fund has no agreements in
25 effect with local governments under paragraph (c). On or after
26 the date of the notice and until the date the corporation has
27 no bonds outstanding, the fund shall have no right, title, or
28 interest in or to the assessments, except as provided in the
29 fund's agreement with the corporation.

30 7. Emergency assessments are not premium and are not
31 subject to the premium tax, to the surplus lines tax, to any

1 fees, or to any commissions. An insurer is liable for all
2 assessments that it collects and must treat the failure of an
3 insured to pay an assessment as a failure to pay the premium.
4 An insurer is not liable for uncollectible assessments.

5 8. When an insurer is required to return an unearned
6 premium, it shall also return any collected assessment
7 attributable to the unearned premium. A credit adjustment to
8 the collected assessment may be made by the insurer with
9 regard to future remittances that are payable to the fund or
10 corporation, but the insurer is not entitled to a refund.

11 9. When a surplus lines insured or an insured who has
12 procured coverage and filed under s. 626.938 is entitled to
13 the return of an unearned premium, the Florida Surplus Lines
14 Service Office shall provide a credit or refund to the agent
15 or such insured for the collected assessment attributable to
16 the unearned premium prior to remitting the emergency
17 assessment collected to the fund or corporation.

18 10. The exemption of medical malpractice insurance
19 premiums from emergency assessments under this paragraph is
20 repealed May 31, 2010 ~~May 31, 2007~~, and medical malpractice
21 insurance premiums shall be subject to emergency assessments
22 attributable to loss events occurring in the contract years
23 commencing on June 1, 2010 ~~June 1, 2007~~.

24 Section 4. Paragraphs (a), (c), (m) and (r) of
25 subsection (6) of section 627.351, Florida Statutes, as
26 amended by section 21 of chapter 2007-1, Laws of Florida, are
27 amended, and paragraph (ff) is added to that subsection, to
28 read:

29 627.351 Insurance risk apportionment plans.--

30 (6) CITIZENS PROPERTY INSURANCE CORPORATION.--

31

1 (a)1. It is the public purpose of this subsection to
2 ensure the existence of an orderly market for property
3 insurance for Floridians and Florida businesses. The
4 Legislature finds that private insurers are unwilling or
5 unable to provide affordable property insurance coverage in
6 this state to the extent sought and needed. The absence of
7 affordable property insurance threatens the public health,
8 safety, and welfare and likewise threatens the economic health
9 of the state. The state therefore has a compelling public
10 interest and a public purpose to assist in assuring that
11 property in the state is insured and that it is insured at
12 affordable rates so as to facilitate the remediation,
13 reconstruction, and replacement of damaged or destroyed
14 property in order to reduce or avoid the negative effects
15 otherwise resulting to the public health, safety, and welfare;
16 to the economy of the state; and to the revenues of the state
17 and local governments which are needed to provide for the
18 public welfare. It is necessary, therefore, to provide
19 affordable property insurance to applicants who are in good
20 faith entitled to procure insurance through the voluntary
21 market but are unable to do so. The Legislature intends by
22 this subsection that affordable property insurance be provided
23 and that it continue to be provided, as long as necessary,
24 through Citizens Property Insurance Corporation, a government
25 entity that is an integral part of the state, and that is not
26 a private insurance company. To that end, Citizens Property
27 Insurance Company shall strive to increase the availability of
28 affordable property insurance in this state, while achieving
29 efficiencies and economies, and while providing service to
30 policyholders, applicants, and agents which is no less than
31 the quality generally provided in the voluntary market, for

1 the achievement of the foregoing public purposes. Because it
2 is essential for this government entity to have the maximum
3 financial resources to pay claims following a catastrophic
4 hurricane, it is the intent of the Legislature that Citizens
5 Property Insurance Corporation continue to be an integral part
6 of the state and that the income of the corporation be exempt
7 from federal income taxation and that interest on the debt
8 obligations issued by the corporation be exempt from federal
9 income taxation. The Legislature finds that actual and
10 ~~threatened catastrophic losses to property in this state from~~
11 ~~hurricanes have caused insurers to be unwilling or unable to~~
12 ~~provide property insurance coverage to the extent sought and~~
13 ~~needed. It is in the public interest and a public purpose to~~
14 ~~assist in assuring that property in the state is insured so as~~
15 ~~to facilitate the remediation, reconstruction, and replacement~~
16 ~~of damaged or destroyed property in order to reduce or avoid~~
17 ~~the negative effects otherwise resulting to the public health,~~
18 ~~safety, and welfare; to the economy of the state; and to the~~
19 ~~revenues of the state and local governments needed to provide~~
20 ~~for the public welfare. It is necessary, therefore, to provide~~
21 ~~property insurance to applicants who are in good faith~~
22 ~~entitled to procure insurance through the voluntary market but~~
23 ~~are unable to do so. The Legislature intends by this~~
24 ~~subsection that property insurance be provided and that it~~
25 ~~continues, as long as necessary, through an entity organized~~
26 ~~to achieve efficiencies and economies, while providing service~~
27 ~~to policyholders, applicants, and agents that is no less than~~
28 ~~the quality generally provided in the voluntary market, all~~
29 ~~toward the achievement of the foregoing public purposes.~~
30 ~~Because it is essential for the corporation to have the~~
31 ~~maximum financial resources to pay claims following a~~

1 ~~catastrophic hurricane, it is the intent of the Legislature~~
2 ~~that the income of the corporation be exempt from federal~~
3 ~~income taxation and that interest on the debt obligations~~
4 ~~issued by the corporation be exempt from federal income~~
5 ~~taxation.~~

6 2. The Residential Property and Casualty Joint
7 Underwriting Association originally created by this statute
8 shall be known, as of July 1, 2002, as the Citizens Property
9 Insurance Corporation. The corporation shall provide insurance
10 for residential and commercial property, for applicants who
11 are in good faith entitled, but are unable, to procure
12 insurance through the voluntary market. The corporation shall
13 operate pursuant to a plan of operation approved by order of
14 the Financial Services Commission. The plan is subject to
15 continuous review by the commission. The commission may, by
16 order, withdraw approval of all or part of a plan if the
17 commission determines that conditions have changed since
18 approval was granted and that the purposes of the plan require
19 changes in the plan. The corporation shall continue to operate
20 pursuant to the plan of operation approved by the Office of
21 Insurance Regulation until October 1, 2006. For the purposes
22 of this subsection, residential coverage includes both
23 personal lines residential coverage, which consists of the
24 type of coverage provided by homeowner's, mobile home owner's,
25 dwelling, tenant's, condominium unit owner's, and similar
26 policies, and commercial lines residential coverage, which
27 consists of the type of coverage provided by condominium
28 association, apartment building, and similar policies.

29 3. For the purposes of this subsection, the term
30 "homestead property" means:
31

1 a. Property that has been granted a homestead
2 exemption under chapter 196;

3 b. Property for which the owner has a current, written
4 lease with a renter for a term of at least 7 months and for
5 which the dwelling is insured by the corporation for \$200,000
6 or less;

7 c. An owner-occupied mobile home or manufactured home,
8 as defined in s. 320.01, which is permanently affixed to real
9 property, is owned by a Florida resident, and has been granted
10 a homestead exemption under chapter 196 or, if the owner does
11 not own the real property, the owner certifies that the mobile
12 home or manufactured home is his or her principal place of
13 residence;

14 d. Tenant's coverage;

15 e. Commercial lines residential property; or

16 f. Any county, district, or municipal hospital; a
17 hospital licensed by any not-for-profit corporation qualified
18 under s. 501(c)(3) of the United States Internal Revenue Code;
19 or a continuing care retirement community that is certified
20 under chapter 651 and that receives an exemption from ad
21 valorem taxes under chapter 196.

22 4. For the purposes of this subsection, the term
23 "nonhomestead property" means property that is not homestead
24 property.

25 5. Effective January 1, 2009 ~~July 1, 2008~~, a personal
26 lines residential structure that has a dwelling replacement
27 cost of \$1 million or more, or a single condominium unit that
28 has a combined dwelling and content replacement cost of \$1
29 million or more is not eligible for coverage by the
30 corporation. Such dwellings insured by the corporation on
31 December 31, 2008 ~~June 30, 2008~~, may continue to be covered by

1 the corporation until the end of the policy term. However,
2 such dwellings that are insured by the corporation and become
3 ineligible for coverage due to the provisions of this
4 subparagraph may reapply and obtain coverage in the high-risk
5 account and be considered "nonhomestead property" if the
6 property owner provides the corporation with a sworn affidavit
7 from one or more insurance agents, on a form provided by the
8 corporation, stating that the agents have made their best
9 efforts to obtain coverage and that the property has been
10 rejected for coverage by at least one authorized insurer and
11 at least three surplus lines insurers. If such conditions are
12 met, the dwelling may be insured by the corporation for up to
13 3 years, after which time the dwelling is ineligible for
14 coverage. The office shall approve the method used by the
15 corporation for valuing the dwelling replacement cost for the
16 purposes of this subparagraph. If a policyholder is insured by
17 the corporation prior to being determined to be ineligible
18 pursuant to this subparagraph and such policyholder files a
19 lawsuit challenging the determination, the policyholder may
20 remain insured by the corporation until the conclusion of the
21 litigation.

22 6. For properties constructed on or after January 1,
23 2009, the corporation may not insure any property located
24 within 2,500 feet landward of the coastal construction control
25 line created pursuant to s. 161.053 unless the property meets
26 the requirements of the code-plus building standards developed
27 by the Florida Building Commission.

28 7. It is the intent of the Legislature that
29 policyholders, applicants, and agents of the corporation
30 receive service and treatment of the highest possible level
31 but never less than that generally provided in the voluntary

1 market. It also is intended that the corporation be held to
2 service standards no less than those applied to insurers in
3 the voluntary market by the office with respect to
4 responsiveness, timeliness, customer courtesy, and overall
5 dealings with policyholders, applicants, or agents of the
6 corporation.

7 (c) The plan of operation of the corporation:

8 1. Must provide for adoption of residential property
9 and casualty insurance policy forms and commercial residential
10 and nonresidential property insurance forms, which forms must
11 be approved by the office prior to use. The corporation shall
12 adopt the following policy forms:

13 a. Standard personal lines policy forms that are
14 comprehensive multiperil policies providing full coverage of a
15 residential property equivalent to the coverage provided in
16 the private insurance market under an HO-3, HO-4, or HO-6
17 policy.

18 b. Basic personal lines policy forms that are policies
19 similar to an HO-8 policy or a dwelling fire policy that
20 provide coverage meeting the requirements of the secondary
21 mortgage market, but which coverage is more limited than the
22 coverage under a standard policy.

23 c. Commercial lines residential and nonresidential
24 policy forms that are generally similar to the basic perils of
25 full coverage obtainable for commercial residential structures
26 and commercial nonresidential structures in the admitted
27 voluntary market.

28 d. Personal lines and commercial lines residential
29 property insurance forms that cover the peril of wind only.
30 The forms are applicable only to residential properties
31

1 located in areas eligible for coverage under the high-risk
2 account referred to in sub-subparagraph (b)2.a.

3 e. Commercial lines nonresidential property insurance
4 forms that cover the peril of wind only. The forms are
5 applicable only to nonresidential properties located in areas
6 eligible for coverage under the high-risk account referred to
7 in sub-subparagraph (b)2.a.

8 f. The corporation may adopt variations of the policy
9 forms listed in sub-subparagraphs a.-e. that contain more
10 restrictive coverage.

11 2.a. Must provide that the corporation adopt a program
12 in which the corporation and authorized insurers enter into
13 quota share primary insurance agreements for hurricane
14 coverage, as defined in s. 627.4025(2)(a), for eligible risks,
15 and adopt property insurance forms for eligible risks which
16 cover the peril of wind only. As used in this subsection, the
17 term:

18 (I) "Quota share primary insurance" means an
19 arrangement in which the primary hurricane coverage of an
20 eligible risk is provided in specified percentages by the
21 corporation and an authorized insurer. The corporation and
22 authorized insurer are each solely responsible for a specified
23 percentage of hurricane coverage of an eligible risk as set
24 forth in a quota share primary insurance agreement between the
25 corporation and an authorized insurer and the insurance
26 contract. The responsibility of the corporation or authorized
27 insurer to pay its specified percentage of hurricane losses of
28 an eligible risk, as set forth in the quota share primary
29 insurance agreement, may not be altered by the inability of
30 the other party to the agreement to pay its specified
31 percentage of hurricane losses. Eligible risks that are

1 provided hurricane coverage through a quota share primary
2 insurance arrangement must be provided policy forms that set
3 forth the obligations of the corporation and authorized
4 insurer under the arrangement, clearly specify the percentages
5 of quota share primary insurance provided by the corporation
6 and authorized insurer, and conspicuously and clearly state
7 that neither the authorized insurer nor the corporation may be
8 held responsible beyond its specified percentage of coverage
9 of hurricane losses.

10 (II) "Eligible risks" means personal lines residential
11 and commercial lines residential risks that meet the
12 underwriting criteria of the corporation and are located in
13 areas that were eligible for coverage by the Florida Windstorm
14 Underwriting Association on January 1, 2002.

15 b. The corporation may enter into quota share primary
16 insurance agreements with authorized insurers at corporation
17 coverage levels of 90 percent and 50 percent.

18 c. If the corporation determines that additional
19 coverage levels are necessary to maximize participation in
20 quota share primary insurance agreements by authorized
21 insurers, the corporation may establish additional coverage
22 levels. However, the corporation's quota share primary
23 insurance coverage level may not exceed 90 percent.

24 d. Any quota share primary insurance agreement entered
25 into between an authorized insurer and the corporation must
26 provide for a uniform specified percentage of coverage of
27 hurricane losses, by county or territory as set forth by the
28 corporation board, for all eligible risks of the authorized
29 insurer covered under the quota share primary insurance
30 agreement.

31

1 e. Any quota share primary insurance agreement entered
2 into between an authorized insurer and the corporation is
3 subject to review and approval by the office. However, such
4 agreement shall be authorized only as to insurance contracts
5 entered into between an authorized insurer and an insured who
6 is already insured by the corporation for wind coverage.

7 f. For all eligible risks covered under quota share
8 primary insurance agreements, the exposure and coverage levels
9 for both the corporation and authorized insurers shall be
10 reported by the corporation to the Florida Hurricane
11 Catastrophe Fund. For all policies of eligible risks covered
12 under quota share primary insurance agreements, the
13 corporation and the authorized insurer shall maintain complete
14 and accurate records for the purpose of exposure and loss
15 reimbursement audits as required by Florida Hurricane
16 Catastrophe Fund rules. The corporation and the authorized
17 insurer shall each maintain duplicate copies of policy
18 declaration pages and supporting claims documents.

19 g. The corporation board shall establish in its plan
20 of operation standards for quota share agreements which ensure
21 that there is no discriminatory application among insurers as
22 to the terms of quota share agreements, pricing of quota share
23 agreements, incentive provisions if any, and consideration
24 paid for servicing policies or adjusting claims.

25 h. The quota share primary insurance agreement between
26 the corporation and an authorized insurer must set forth the
27 specific terms under which coverage is provided, including,
28 but not limited to, the sale and servicing of policies issued
29 under the agreement by the insurance agent of the authorized
30 insurer producing the business, the reporting of information
31 concerning eligible risks, the payment of premium to the

1 corporation, and arrangements for the adjustment and payment
2 of hurricane claims incurred on eligible risks by the claims
3 adjuster and personnel of the authorized insurer. Entering
4 into a quota sharing insurance agreement between the
5 corporation and an authorized insurer shall be voluntary and
6 at the discretion of the authorized insurer.

7 3. May provide that the corporation may employ or
8 otherwise contract with individuals or other entities to
9 provide administrative or professional services that may be
10 appropriate to effectuate the plan. The corporation shall have
11 the power to borrow funds, by issuing bonds or by incurring
12 other indebtedness, and shall have other powers reasonably
13 necessary to effectuate the requirements of this subsection,
14 including, without limitation, the power to issue bonds and
15 incur other indebtedness in order to refinance outstanding
16 bonds or other indebtedness. The corporation may, but is not
17 required to, seek judicial validation of its bonds or other
18 indebtedness under chapter 75. The corporation may issue bonds
19 or incur other indebtedness, or have bonds issued on its
20 behalf by a unit of local government pursuant to subparagraph
21 (g)2., in the absence of a hurricane or other weather-related
22 event, upon a determination by the corporation, subject to
23 approval by the office, that such action would enable it to
24 efficiently meet the financial obligations of the corporation
25 and that such financings are reasonably necessary to
26 effectuate the requirements of this subsection. The
27 corporation is authorized to take all actions needed to
28 facilitate tax-free status for any such bonds or indebtedness,
29 including formation of trusts or other affiliated entities.
30 The corporation shall have the authority to pledge
31 assessments, projected recoveries from the Florida Hurricane

1 Catastrophe Fund, other reinsurance recoverables, market
2 equalization and other surcharges, and other funds available
3 to the corporation as security for bonds or other
4 indebtedness. In recognition of s. 10, Art. I of the State
5 Constitution, prohibiting the impairment of obligations of
6 contracts, it is the intent of the Legislature that no action
7 be taken whose purpose is to impair any bond indenture or
8 financing agreement or any revenue source committed by
9 contract to such bond or other indebtedness.

10 4.a. Must require that the corporation operate subject
11 to the supervision and approval of a board of governors
12 consisting of eight individuals who are residents of this
13 state, from different geographical areas of this state. The
14 Governor, the Chief Financial Officer, the President of the
15 Senate, and the Speaker of the House of Representatives shall
16 each appoint two members of the board. At least one of the two
17 members appointed by each appointing officer must have
18 demonstrated expertise in insurance. The Chief Financial
19 Officer shall designate one of the appointees as chair. All
20 board members serve at the pleasure of the appointing officer.
21 All members of the board of governors are subject to removal
22 at will by the officers who appointed them. All board members,
23 including the chair, must be appointed to serve for 3-year
24 terms beginning annually on a date designated by the plan. Any
25 board vacancy shall be filled for the unexpired term by the
26 appointing officer. The Chief Financial Officer shall appoint
27 a technical advisory group to provide information and advice
28 to the board of governors in connection with the board's
29 duties under this subsection. The executive director and
30 senior managers of the corporation shall be engaged by the
31 board and serve at the pleasure of the board. Any executive

1 | director appointed on or after July 1, 2006, is subject to
2 | confirmation by the Senate. The executive director is
3 | responsible for employing other staff as the corporation may
4 | require, subject to review and concurrence by the board.

5 | b. The board shall create a Market Accountability
6 | Advisory Committee to assist the corporation in developing
7 | awareness of its rates and its customer and agent service
8 | levels in relationship to the voluntary market insurers
9 | writing similar coverage. The members of the advisory
10 | committee shall consist of the following 11 persons, one of
11 | whom must be elected chair by the members of the committee:
12 | four representatives, one appointed by the Florida Association
13 | of Insurance Agents, one by the Florida Association of
14 | Insurance and Financial Advisors, one by the Professional
15 | Insurance Agents of Florida, and one by the Latin American
16 | Association of Insurance Agencies; three representatives
17 | appointed by the insurers with the three highest voluntary
18 | market share of residential property insurance business in the
19 | state; one representative from the Office of Insurance
20 | Regulation; one consumer appointed by the board who is insured
21 | by the corporation at the time of appointment to the
22 | committee; one representative appointed by the Florida
23 | Association of Realtors; and one representative appointed by
24 | the Florida Bankers Association. All members must serve for
25 | 3-year terms and may serve for consecutive terms. The
26 | committee shall report to the corporation at each board
27 | meeting on insurance market issues which may include rates and
28 | rate competition with the voluntary market; service, including
29 | policy issuance, claims processing, and general responsiveness
30 | to policyholders, applicants, and agents; and matters relating
31 | to depopulation.

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

3 a. Subject to the provisions of s. 627.3517, with
4 respect to personal lines residential risks, if the risk is
5 offered coverage from an authorized insurer at the insurer's
6 approved rate under either a standard policy including wind
7 coverage or, if consistent with the insurer's underwriting
8 rules as filed with the office, a basic policy including wind
9 coverage, for a new application to the corporation for
10 coverage, the risk is not eligible for any policy issued by
11 the corporation unless the premium for coverage from the
12 authorized insurer is more than 15 ~~25~~ percent greater than the
13 premium for comparable coverage from the corporation. If the
14 risk is not able to obtain any such offer, the risk is
15 eligible for either a standard policy including wind coverage
16 or a basic policy including wind coverage issued by the
17 corporation; however, if the risk could not be insured under a
18 standard policy including wind coverage regardless of market
19 conditions, the risk shall be eligible for a basic policy
20 including wind coverage unless rejected under subparagraph 8.
21 However, with regard to a policyholder of the corporation, the
22 policyholder remains eligible for coverage from the
23 corporation regardless of any offer of coverage from an
24 authorized insurer or surplus lines insurer. The corporation
25 shall determine the type of policy to be provided on the basis
26 of objective standards specified in the underwriting manual
27 and based on generally accepted underwriting practices.

28 (I) If the risk accepts an offer of coverage through
29 the market assistance plan or an offer of coverage through a
30 mechanism established by the corporation before a policy is
31 issued to the risk by the corporation or during the first 30

1 days of coverage by the corporation, and the producing agent
2 who submitted the application to the plan or to the
3 corporation is not currently appointed by the insurer, the
4 insurer shall:

5 (A) Pay to the producing agent of record of the
6 policy, for the first year, an amount that is the greater of
7 the insurer's usual and customary commission for the type of
8 policy written or a fee equal to the usual and customary
9 commission of the corporation; or

10 (B) Offer to allow the producing agent of record of
11 the policy to continue servicing the policy for a period of
12 not less than 1 year and offer to pay the agent the greater of
13 the insurer's or the corporation's usual and customary
14 commission for the type of policy written.

15
16 If the producing agent is unwilling or unable to accept
17 appointment, the new insurer shall pay the agent in accordance
18 with sub-sub-sub-subparagraph (A).

19 (II) When the corporation enters into a contractual
20 agreement for a take-out plan, the producing agent of record
21 of the corporation policy is entitled to retain any unearned
22 commission on the policy, and the insurer shall:

23 (A) Pay to the producing agent of record of the
24 corporation policy, for the first year, an amount that is the
25 greater of the insurer's usual and customary commission for
26 the type of policy written or a fee equal to the usual and
27 customary commission of the corporation; or

28 (B) Offer to allow the producing agent of record of
29 the corporation policy to continue servicing the policy for a
30 period of not less than 1 year and offer to pay the agent the
31

1 greater of the insurer's or the corporation's usual and
2 customary commission for the type of policy written.

3
4 If the producing agent is unwilling or unable to accept
5 appointment, the new insurer shall pay the agent in accordance
6 with sub-sub-sub-subparagraph (A).

7 b. With respect to commercial lines residential risks,
8 for a new application to the corporation for coverage, if the
9 risk is offered coverage under a policy including wind
10 coverage from an authorized insurer at its approved rate, the
11 risk is not eligible for any policy issued by the corporation
12 unless the premium for coverage from the authorized insurer is
13 more than 15 ~~25~~ percent greater than the premium for
14 comparable coverage from the corporation. If the risk is not
15 able to obtain any such offer, the risk is eligible for a
16 policy including wind coverage issued by the corporation.
17 However, with regard to a policyholder of the corporation, the
18 policyholder remains eligible for coverage from the
19 corporation regardless of any offer of coverage from an
20 authorized insurer or surplus lines insurer.

21 (I) If the risk accepts an offer of coverage through
22 the market assistance plan or an offer of coverage through a
23 mechanism established by the corporation before a policy is
24 issued to the risk by the corporation or during the first 30
25 days of coverage by the corporation, and the producing agent
26 who submitted the application to the plan or the corporation
27 is not currently appointed by the insurer, the insurer shall:

28 (A) Pay to the producing agent of record of the
29 policy, for the first year, an amount that is the greater of
30 the insurer's usual and customary commission for the type of
31

1 policy written or a fee equal to the usual and customary
2 commission of the corporation; or

3 (B) Offer to allow the producing agent of record of
4 the policy to continue servicing the policy for a period of
5 not less than 1 year and offer to pay the agent the greater of
6 the insurer's or the corporation's usual and customary
7 commission for the type of policy written.

8
9 If the producing agent is unwilling or unable to accept
10 appointment, the new insurer shall pay the agent in accordance
11 with sub-sub-sub-subparagraph (A).

12 (II) When the corporation enters into a contractual
13 agreement for a take-out plan, the producing agent of record
14 of the corporation policy is entitled to retain any unearned
15 commission on the policy, and the insurer shall:

16 (A) Pay to the producing agent of record of the
17 corporation policy, for the first year, an amount that is the
18 greater of the insurer's usual and customary commission for
19 the type of policy written or a fee equal to the usual and
20 customary commission of the corporation; or

21 (B) Offer to allow the producing agent of record of
22 the corporation policy to continue servicing the policy for a
23 period of not less than 1 year and offer to pay the agent the
24 greater of the insurer's or the corporation's usual and
25 customary commission for the type of policy written.

26
27 If the producing agent is unwilling or unable to accept
28 appointment, the new insurer shall pay the agent in accordance
29 with sub-sub-sub-subparagraph (A).

30 6. Must provide by July 1, 2007, that an application
31 for coverage for a new policy is subject to a waiting period

1 of 10 days before coverage is effective, during which time the
2 corporation shall make such application available for review
3 by general lines agents and authorized property and casualty
4 insurers. The board shall approve an exception that allows for
5 coverage to be effective before the end of the 10-day waiting
6 period, for coverage issued in conjunction with a real estate
7 closing. The board may approve such other exceptions as the
8 board determines are necessary to prevent lapses in coverage.

9 7. Must include rules for classifications of risks and
10 rates therefor.

11 8. Must provide that if premium and investment income
12 for an account attributable to a particular calendar year are
13 in excess of projected losses and expenses for the account
14 attributable to that year, such excess shall be held in
15 surplus in the account. Such surplus shall be available to
16 defray deficits in that account as to future years and shall
17 be used for that purpose prior to assessing assessable
18 insurers and assessable insureds as to any calendar year.

19 9. Must provide objective criteria and procedures to
20 be uniformly applied for all applicants in determining whether
21 an individual risk is so hazardous as to be uninsurable. In
22 making this determination and in establishing the criteria and
23 procedures, the following shall be considered:

24 a. Whether the likelihood of a loss for the individual
25 risk is substantially higher than for other risks of the same
26 class; and

27 b. Whether the uncertainty associated with the
28 individual risk is such that an appropriate premium cannot be
29 determined.

30
31

1 The acceptance or rejection of a risk by the corporation shall
2 be construed as the private placement of insurance, and the
3 provisions of chapter 120 shall not apply.

4 10. Must provide that the corporation shall make its
5 best efforts to procure catastrophe reinsurance at reasonable
6 rates, to cover its projected 100-year probable maximum loss
7 as determined by the board of governors.

8 11. Must provide that in the event of regular deficit
9 assessments under sub-subparagraph (b)3.a. or sub-subparagraph
10 (b)3.b., in the personal lines account, the commercial lines
11 residential account, or the high-risk account, the corporation
12 shall levy upon corporation policyholders in its next rate
13 filing, or by a separate rate filing solely for this purpose,
14 a Citizens policyholder surcharge arising from a regular
15 assessment in such account in a percentage equal to the total
16 amount of such regular assessments divided by the aggregate
17 statewide direct written premium for subject lines of business
18 for the prior calendar year. For purposes of calculating the
19 Citizens policyholder surcharge to be levied under this
20 subparagraph, the total amount of the regular assessment to
21 which this surcharge is related shall be determined as set
22 forth in subparagraph (b)3., without deducting the estimated
23 Citizens policyholder surcharge. Citizens policyholder
24 surcharges under this subparagraph are not considered premium
25 and are not subject to commissions, fees, or premium taxes;
26 however, failure to pay a market equalization surcharge shall
27 be treated as failure to pay premium.

28 12. The policies issued by the corporation must
29 provide that, if the corporation or the market assistance plan
30 obtains an offer from an authorized insurer to cover the risk
31 at its approved rates, the risk is no longer eligible for

1 renewal through the corporation, except as otherwise provided
2 in this subsection.

3 13. Corporation policies and applications must include
4 a notice that the corporation policy could, under this
5 section, be replaced with a policy issued by an authorized
6 insurer that does not provide coverage identical to the
7 coverage provided by the corporation. The notice shall also
8 specify that acceptance of corporation coverage creates a
9 conclusive presumption that the applicant or policyholder is
10 aware of this potential.

11 14. May establish, subject to approval by the office,
12 different eligibility requirements and operational procedures
13 for any line or type of coverage for any specified county or
14 area if the board determines that such changes to the
15 eligibility requirements and operational procedures are
16 justified due to the voluntary market being sufficiently
17 stable and competitive in such area or for such line or type
18 of coverage and that consumers who, in good faith, are unable
19 to obtain insurance through the voluntary market through
20 ordinary methods would continue to have access to coverage
21 from the corporation. When coverage is sought in connection
22 with a real property transfer, such requirements and
23 procedures shall not provide for an effective date of coverage
24 later than the date of the closing of the transfer as
25 established by the transferor, the transferee, and, if
26 applicable, the lender.

27 15. Must provide that, with respect to the high-risk
28 account, any assessable insurer with a surplus as to
29 policyholders of \$25 million or less writing 25 percent or
30 more of its total countrywide property insurance premiums in
31 this state may petition the office, within the first 90 days

1 of each calendar year, to qualify as a limited apportionment
2 company. A regular assessment levied by the corporation on a
3 limited apportionment company for a deficit incurred by the
4 corporation for the high-risk account in 2006 or thereafter
5 may be paid to the corporation on a monthly basis as the
6 assessments are collected by the limited apportionment company
7 from its insureds pursuant to s. 627.3512, but the regular
8 assessment must be paid in full within 12 months after being
9 levied by the corporation. A limited apportionment company
10 shall collect from its policyholders any emergency assessment
11 imposed under sub-subparagraph (b)3.d. The plan shall provide
12 that, if the office determines that any regular assessment
13 will result in an impairment of the surplus of a limited
14 apportionment company, the office may direct that all or part
15 of such assessment be deferred as provided in subparagraph
16 (g)4. However, there shall be no limitation or deferment of an
17 emergency assessment to be collected from policyholders under
18 sub-subparagraph (b)3.d.

19 16. Must provide that the corporation appoint as its
20 licensed agents only those agents who also hold an appointment
21 as defined in s. 626.015(3) with an insurer who at the time of
22 the agent's initial appointment by the corporation is
23 authorized to write and is actually writing personal lines
24 residential property coverage, commercial residential property
25 coverage, or commercial nonresidential property coverage
26 within the state.

27 17. Must provide, by July 1, 2007, a premium payment
28 plan option to its policyholders which allows for quarterly
29 and semiannual payment of premiums.

30 ~~18. Must provide, effective June 1, 2007, that the~~
31 ~~corporation contract with each insurer providing the non wind~~

1 ~~coverage for risks insured by the corporation in the high risk~~
2 ~~account, requiring that the insurer provide claims adjusting~~
3 ~~services for the wind coverage provided by the corporation for~~
4 ~~such risks. An insurer is required to enter into this contract~~
5 ~~as a condition of providing non wind coverage for a risk that~~
6 ~~is insured by the corporation in the high risk account unless~~
7 ~~the board finds, after a hearing, that the insurer is not~~
8 ~~capable of providing adjusting services at an acceptable level~~
9 ~~of quality to corporation policyholders. The terms and~~
10 ~~conditions of such contracts must be substantially the same as~~
11 ~~the contracts that the corporation executed with insurers~~
12 ~~under the "adjust your own" program in 2006, except as may be~~
13 ~~mutually agreed to by the parties and except for such changes~~
14 ~~that the board determines are necessary to ensure that claims~~
15 ~~are adjusted appropriately. The corporation shall provide a~~
16 ~~process for neutral arbitration of any dispute between the~~
17 ~~corporation and the insurer regarding the terms of the~~
18 ~~contract. The corporation shall review and monitor the~~
19 ~~performance of insurers under these contracts.~~

20 18.19. Must limit coverage on mobile homes or
21 manufactured homes built prior to 1994 to actual cash value of
22 the dwelling rather than replacement costs of the dwelling.

23 19.20. May provide such limits of coverage as the
24 board determines, consistent with the requirements of this
25 subsection.

26 20.21. May require commercial property to meet
27 specified hurricane mitigation construction features as a
28 condition of eligibility for coverage.

29 (m)1. Rates for coverage provided by the corporation
30 shall be actuarially sound and subject to the requirements of
31 s. 627.062, except as otherwise provided in this paragraph.

1 The corporation shall file its recommended rates with the
2 office at least annually. The corporation shall provide any
3 additional information regarding the rates which the office
4 requires. The office shall consider the recommendations of the
5 board and issue a final order establishing the rates for the
6 corporation within 45 days after the recommended rates are
7 filed. The corporation may not pursue an administrative
8 challenge or judicial review of the final order of the office.

9 2. In addition to the rates otherwise determined
10 pursuant to this paragraph, the corporation shall impose and
11 collect an amount equal to the premium tax provided for in s.
12 624.509 to augment the financial resources of the corporation.

13 3. After the public hurricane loss-projection model
14 under s. 627.06281 has been found to be accurate and reliable
15 by the Florida Commission on Hurricane Loss Projection
16 Methodology, that model shall serve as the minimum benchmark
17 for determining the windstorm portion of the corporation's
18 rates. This subparagraph does not require or allow the
19 corporation to adopt rates lower than the rates otherwise
20 required or allowed by this paragraph.

21 4. The rate filings for the corporation which were
22 approved by the office and which took effect January 1, 2007,
23 are rescinded, except for those rates that were lowered. As
24 soon as possible, the corporation shall begin using the lower
25 rates that were in effect on December 31, 2006, and shall
26 provide refunds to policyholders who have paid higher rates as
27 a result of that rate filing. The rates in effect on December
28 31, 2006, shall remain in effect for the 2007 and 2008
29 calendar years ~~year~~ except for any rate change that results in
30 a lower rate. The next rate change that may increase rates
31 shall take effect January 1, 2009 ~~2008~~, pursuant to a new rate

1 filing recommended by the corporation and established by the
2 office, subject to the requirements of this paragraph.

3 (r)~~1.~~ There shall be no liability on the part of, and
4 no cause of action of any nature shall arise against, any
5 assessable insurer or its agents or employees, the corporation
6 or its agents or employees, members of the board of governors
7 or their respective designees at a board meeting, corporation
8 committee members, or the office or its representatives, for
9 any action taken by them in the performance of their duties or
10 responsibilities under this subsection. Such immunity does not
11 apply to:

12 ~~a.1.~~ Any of the foregoing persons or entities for any
13 willful tort;

14 ~~b.2.~~ The corporation or its producing agents for
15 breach of any contract or agreement pertaining to insurance
16 coverage;

17 ~~c.3.~~ The corporation with respect to issuance or
18 payment of debt; ~~or~~

19 ~~d.4.~~ Any assessable insurer with respect to any action
20 to enforce an assessable insurer's obligations to the
21 corporation under this subsection; ~~or~~

22 e. The corporation in any pending or future action for
23 breach of contract or for benefits under a policy issued by
24 the corporation; in any such action, the corporation shall be
25 liable to the policyholders and beneficiaries for attorney's
26 fees under s. 627.428; or

27 2. The corporation shall manage its claim employees,
28 independent adjusters, and others who handle claims to ensure
29 they carry out the corporation's duty to its policyholders to
30 handle claims carefully, timely, diligently, and in good
31 faith, balanced against the corporation's duty to the state to

1 manage its assets responsibly to minimize its assessment
2 potential.

3 (ff) The office may establish a pilot program to offer
4 optional sinkhole coverage in one or more counties or other
5 territories of the corporation for the purpose of implementing
6 s. 627.706, as amended by s. 30 of chapter 2007-1, Laws of
7 Florida. Under the pilot program, the corporation is not
8 required to issue a notice of nonrenewal to exclude sinkhole
9 coverage upon the renewal of existing policies, but may
10 exclude such coverage using a notice of coverage change.

11 Section 5. Subsection (11) is added to section
12 627.062, Florida Statutes, as amended by section 18 of chapter
13 2007-1, Laws of Florida, to read:

14 627.062 Rate standards.--

15 (11) Any interest paid pursuant to s. 627.70131(5) may
16 not be included in the insurer's rate base and may not be used
17 to justify a rate or rate change.

18 Section 6. Paragraph (i) of subsection (1) of section
19 626.9541, Florida Statutes, is amended to read:

20 626.9541 Unfair methods of competition and unfair or
21 deceptive acts or practices defined.--

22 (1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR
23 DECEPTIVE ACTS.--The following are defined as unfair methods
24 of competition and unfair or deceptive acts or practices:

25 (i) Unfair claim settlement practices.--

26 1. Attempting to settle claims on the basis of an
27 application, when serving as a binder or intended to become a
28 part of the policy, or any other material document which was
29 altered without notice to, or knowledge or consent of, the
30 insured;

31

1 2. A material misrepresentation made to an insured or
2 any other person having an interest in the proceeds payable
3 under such contract or policy, for the purpose and with the
4 intent of effecting settlement of such claims, loss, or damage
5 under such contract or policy on less favorable terms than
6 those provided in, and contemplated by, such contract or
7 policy; ~~or~~

8 3. A violation of s. 627.70131(5), if the insurer's
9 handling of the claim is found to be dishonest or in reckless
10 disregard for the rights of any insured;

11 4. Failing to pay undisputed amounts of partial or
12 full benefits under first-party property insurance policies
13 within 30 days after determining the amounts of partial or
14 full benefits and agreeing to coverage; or

15 ~~5.3-~~ Committing or performing with such frequency as
16 to indicate a general business practice any of the following:

- 17 a. Failing to adopt and implement standards for the
18 proper investigation of claims;
- 19 b. Misrepresenting pertinent facts or insurance policy
20 provisions relating to coverages at issue;
- 21 c. Failing to acknowledge and act promptly upon
22 communications with respect to claims;
- 23 d. Denying claims without conducting reasonable
24 investigations based upon available information;
- 25 e. Failing to affirm or deny full or partial coverage
26 of claims, and, as to partial coverage, the dollar amount or
27 extent of coverage, or failing to provide a written statement
28 that the claim is being investigated, upon the written request
29 of the insured within 30 days after proof-of-loss statements
30 have been completed;
- 31

1 f. Failing to promptly provide a reasonable
 2 explanation in writing to the insured of the basis in the
 3 insurance policy, in relation to the facts or applicable law,
 4 for denial of a claim or for the offer of a compromise
 5 settlement;

6 g. Failing to promptly notify the insured of any
 7 additional information necessary for the processing of a
 8 claim; or

9 h. Failing to clearly explain the nature of the
 10 requested information and the reasons why such information is
 11 necessary.

12 Section 7. Subsections (4) and (5) of section
 13 627.70131, Florida Statutes, as amended by section 27 of
 14 chapter 2007-1, Laws of Florida, are amended to read:

15 627.70131 Insurer's duty to acknowledge communications
 16 regarding claims; investigation.--

17 (4) For purposes of this section, the term "claim"
 18 means any of the following:

19 (a) A claim under an insurance policy providing
 20 residential coverage as defined in s. 627.4025(1);

21 (b) A claim for structural or contents coverage under
 22 a commercial property insurance policy if the insured
 23 structure is 10,000 square feet or less; or

24 (c) A claim for contents coverage under a commercial
 25 tenants policy if the insured premises is 10,000 square feet
 26 or less. ~~"insurer" means any residential property insurer.~~

27 (5) Within 90 days after an insurer receives notice of
 28 a property insurance claim from a policyholder under a policy
 29 providing residential coverage as defined in s. 627.4025, the
 30 insurer shall pay or deny such claim or a portion of the claim
 31 unless the failure to pay such claim or a portion of the claim

1 is caused by factors beyond the control of the insurer which
2 reasonably prevent such payment. Any payment of a claim or
3 portion of a claim paid 90 days after the insurer receives
4 notice of the claim, or paid more than 15 days after there are
5 no longer factors beyond the control of the insurer which
6 reasonably prevented such payment, whichever is later, shall
7 bear interest at the rate set forth in s. 55.03. Interest
8 begins to accrue from the date the insurer receives notice of
9 the claim. The provisions of this subsection may not be
10 waived, voided, or nullified by the terms of the insurance
11 policy. If there is a right to prejudgment interest, the
12 insured shall select whether to receive prejudgment interest
13 or interest under this subsection. Interest is payable when
14 the claim or portion of the claim is paid. Failure to comply
15 with this subsection constitutes a violation of this code.

16 Section 8. Effective January 1, 2008, and
17 notwithstanding any other provision of law:

18 (1) A new certificate of authority for the transaction
19 of residential property insurance may not be issued to any
20 insurer domiciled in this state which is a wholly owned
21 subsidiary of an insurer authorized to do business in any
22 other state.

23 (2) The rate filings of any insurer domiciled in this
24 state that is a wholly owned subsidiary of an insurer
25 authorized to do business in any other state shall include
26 information relating to the profits of the parent company of
27 the insurer domiciled in this state.

28 Section 9. Subsection (2) of section 626.9201, Florida
29 Statutes, is amended to read:

30 626.9201 Notice of cancellation or nonrenewal.--

31

1 (2) An insurer issuing a policy providing coverage for
2 property, casualty, surety, or marine insurance shall give the
3 named insured written notice of cancellation or termination
4 other than nonrenewal at least 45 days prior to the effective
5 date of the cancellation or termination, including in the
6 written notice the reason or reasons for the cancellation or
7 termination, except that:

8 (a) When cancellation is for nonpayment of premium, at
9 least 10 days' written notice of cancellation accompanied by
10 the reason therefor shall be given. As used in this paragraph,
11 the term "nonpayment of premium" means the failure of the
12 named insured to discharge when due any of his or her
13 obligations in connection with the payment of premiums on a
14 policy or an installment of such a premium, whether the
15 premium or installment is payable directly to the insurer or
16 its agent or indirectly under any plan for financing premiums
17 or extension of credit or the failure of the named insured to
18 maintain membership in an organization if such membership is a
19 condition precedent to insurance coverage. The term also
20 includes the failure of a financial institution to honor the
21 check of an applicant for insurance which was delivered to a
22 licensed agent for payment of a premium, even if the agent
23 previously delivered or transferred the premium to the
24 insurer. If a dishonored check represents payment of the
25 initial premium, the contract, and all contractual obligations
26 are void ab initio unless the nonpayment is cured within the
27 earlier of 5 days after actual notice by certified mail is
28 received by the applicant or 15 days after notice is sent to
29 the applicant by certified mail or registered mail, and, if
30 the contract is void, any premium received by the insurer from
31 a third party shall be refunded to that party in full; and

1 (b) When such cancellation or termination occurs
2 during the first 90 days during which the insurance is in
3 force and the insurance is canceled or terminated for reasons
4 other than nonpayment, at least 20 days' written notice of
5 cancellation or termination accompanied by the reason therefor
6 shall be given except where there has been a material
7 misstatement or misrepresentation or failure to comply with
8 the underwriting requirements established by the insurer.

9 Section 10. Except as otherwise expressly provided in
10 this act, this act shall take effect upon becoming a law.

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