

HB 1243

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1                   A bill to be entitled  
2           An act relating to the Citizens Property Insurance  
3           Corporation; amending s. 627.351, F.S.; revising  
4           legislative intent; providing that certain residential  
5           structures are not eligible for coverage by the  
6           corporation after a certain date; requiring policies  
7           issued by the corporation to include a provision that  
8           prohibits policyholders from engaging the services of a  
9           public adjuster; specifying the percentage amount of  
10          emergency assessments; revising provisions relating to  
11          policyholder surcharges; prohibiting the corporation from  
12          levying certain assessments with respect to a year's  
13          deficit until the corporation has first levied a specified  
14          surcharge; deleting obsolete provisions relating to the  
15          corporation's plan of operation; requiring the corporation  
16          to commission a consultant to prepare a report on  
17          outsourcing various functions and submit such report to  
18          the Financial Services Commission by a certain date;  
19          revising provisions relating to wind coverage; prohibiting  
20          the corporation from accepting applications for commercial  
21          nonresidential risks; requiring the policyholders to sign  
22          a statement acknowledging that they may be assessed  
23          surcharges to cover corporate deficits; providing that  
24          policies do not include coverage for screen enclosures and  
25          limiting coverage for damage from sinkholes after a  
26          certain date; requiring members of the board of governors  
27          to abstain from voting on issues on which they have a  
28          personal interest; requiring such members to disclose the

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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29 nature of their interest as a public record; providing  
 30 that the corporation operates as a residual market  
 31 mechanism; revising provisions relating to corporation  
 32 rates; clarifying that the corporation is immune from  
 33 certain liabilities; deleting a requirement for an annual  
 34 report to the Legislature on losses attributable to wind-  
 35 only coverages; requiring owners of properties in Special  
 36 Flood Hazard Areas to maintain a separate flood insurance  
 37 policy after a certain date; providing exceptions;  
 38 amending ss. 627.3511 and 627.712, F.S.; conforming cross-  
 39 references; providing an effective date.

40

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

42

43 Section 1. Paragraphs (a), (b), (c), (d), (n), (o), (s),  
 44 (w), (y), (aa), and (ee) of subsection (6) of section 627.351,  
 45 Florida Statutes, are amended to read:

46 627.351 Insurance risk apportionment plans.—

47 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

48 (a)~~1.~~ ~~It is~~ The public purpose of this subsection is to  
 49 ensure that there is ~~the existence of~~ an orderly market for  
 50 property insurance for residents ~~Floridians~~ and ~~Florida~~  
 51 businesses of this state.

52 1. The Legislature finds that actual and threatened  
 53 catastrophic losses to property from hurricanes in this state  
 54 have caused insurers to be unwilling or unable to provide  
 55 property insurance coverage to the extent sought and needed. The  
 56 Legislature declares that it is in the public interest and

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57 serves a public purpose that property in this state be  
58 adequately insured in order to facilitate the remediation,  
59 reconstruction, and replacement of damaged or destroyed  
60 property. Such efforts are necessary in order to avoid or reduce  
61 negative effects to the public health, safety, and welfare; the  
62 economy of the state; and the revenues of state and local  
63 governments. It is necessary, therefore, to provide property  
64 insurance to applicants who are entitled to procure insurance  
65 through the voluntary market but who, in good faith, are unable  
66 to do so. ~~The Legislature finds that private insurers are~~  
67 ~~unwilling or unable to provide affordable property insurance~~  
68 ~~coverage in this state to the extent sought and needed. The~~  
69 ~~absence of affordable property insurance threatens the public~~  
70 ~~health, safety, and welfare and likewise threatens the economic~~  
71 ~~health of the state. The state therefore has a compelling public~~  
72 ~~interest and a public purpose to assist in assuring that~~  
73 ~~property in the state is insured and that it is insured at~~  
74 ~~affordable rates so as to facilitate the remediation,~~  
75 ~~reconstruction, and replacement of damaged or destroyed property~~  
76 ~~in order to reduce or avoid the negative effects otherwise~~  
77 ~~resulting to the public health, safety, and welfare, to the~~  
78 ~~economy of the state, and to the revenues of the state and local~~  
79 ~~governments which are needed to provide for the public welfare.~~  
80 ~~It is necessary, therefore, to provide affordable property~~  
81 ~~insurance to applicants who are in good faith entitled to~~  
82 ~~procure insurance through the voluntary market but are unable to~~  
83 ~~do so.~~ The Legislature intends, therefore, by this subsection  
84 that affordable property insurance be provided and that it

85 continue to be provided, as long as necessary, through Citizens  
 86 Property Insurance Corporation, a government entity that is an  
 87 integral part of the state, and that is not a private insurance  
 88 company. ~~To that end, Citizens Property Insurance Corporation~~  
 89 ~~shall strive to increase the availability of affordable property~~  
 90 ~~insurance in this state, while achieving efficiencies and~~  
 91 ~~economies, and while providing service to policyholders,~~  
 92 ~~applicants, and agents which is no less than the quality~~  
 93 ~~generally provided in the voluntary market, for the achievement~~  
 94 ~~of the foregoing public purposes. Because it is essential for~~  
 95 ~~this government entity to have the maximum financial resources~~  
 96 ~~to pay claims following a catastrophic hurricane, it is the~~  
 97 ~~intent of the Legislature that Citizens Property Insurance~~  
 98 ~~Corporation continue to be an integral part of the state and~~  
 99 ~~that the income of the corporation be exempt from federal income~~  
 100 ~~taxation and that interest on the debt obligations issued by the~~  
 101 ~~corporation be exempt from federal income taxation.~~

102 a. It is also the intent of the Legislature that  
 103 policyholders, applicants, and agents of the corporation receive  
 104 service and treatment of the highest possible level and never  
 105 less than that generally provided in the voluntary market. The  
 106 corporation must be held to service standards no less than those  
 107 applied to insurers in the voluntary market by the office with  
 108 respect to responsiveness, timeliness, customer courtesy, and  
 109 overall dealings with policyholders, applicants, or agents of  
 110 the corporation. It is also the intent of the Legislature that  
 111 the corporation operate efficiently and economically.

112 b. Because it is essential that the corporation have the

113 maximum financial resources necessary to pay claims following a  
 114 catastrophic hurricane, the Legislature also intends that the  
 115 income of the corporation and interest on the debt obligations  
 116 issued by the corporation be exempt from federal income  
 117 taxation.

118         2. The Residential Property and Casualty Joint  
 119 Underwriting Association originally created by this statute  
 120 shall be known, ~~as of July 1, 2002,~~ as the Citizens Property  
 121 Insurance Corporation. The corporation shall provide insurance  
 122 for residential and commercial property, for applicants who are  
 123 ~~in good faith~~ entitled, but, in good faith, are unable, ~~to~~  
 124 procure insurance through the voluntary market. ~~The corporation~~  
 125 ~~shall operate pursuant to a plan of operation approved by order~~  
 126 ~~of the Financial Services Commission. The plan is subject to~~  
 127 ~~continuous review by the commission. The commission may, by~~  
 128 ~~order, withdraw approval of all or part of a plan if the~~  
 129 ~~commission determines that conditions have changed since~~  
 130 ~~approval was granted and that the purposes of the plan require~~  
 131 ~~changes in the plan. The corporation shall continue to operate~~  
 132 ~~pursuant to the plan of operation approved by the Office of~~  
 133 ~~Insurance Regulation until October 1, 2006.~~ For the purposes of  
 134 this subsection, residential coverage includes both personal  
 135 lines residential coverage, which consists of the type of  
 136 coverage provided by homeowner's, mobile home owner's, dwelling,  
 137 tenant's, condominium unit owner's, and similar policies; i ~~r~~ and  
 138 commercial lines residential coverage, which consists of the  
 139 type of coverage provided by condominium association, apartment  
 140 building, and similar policies.

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141           3. With respect to coverage for personal lines residential  
142 structures:

143           a. Effective January 1, 2009, a ~~personal lines residential~~  
144 structure that has a dwelling replacement cost of \$2 million or  
145 more, or a single condominium unit that has a combined dwelling  
146 and contents ~~content~~ replacement cost of \$2 million or more is  
147 not eligible for coverage by the corporation. Such dwellings  
148 insured by the corporation on December 31, 2008, may continue to  
149 be covered by the corporation until the end of the policy term.  
150 However, such dwellings ~~that are insured by the corporation and~~  
151 ~~become ineligible for coverage due to the provisions of this~~  
152 ~~subparagraph~~ may reapply and obtain coverage if the property  
153 owner provides the corporation with a sworn affidavit from one  
154 or more insurance agents, on a form provided by the corporation,  
155 stating that the agents have made their best efforts to obtain  
156 coverage and that the property has been rejected for coverage by  
157 at least one authorized insurer and at least three surplus lines  
158 insurers. If such conditions are met, the dwelling may be  
159 insured by the corporation for up to 3 years, after which time  
160 the dwelling is ineligible for coverage. ~~The office shall~~  
161 ~~approve the method used by the corporation for valuing the~~  
162 ~~dwelling replacement cost for the purposes of this subparagraph.~~  
163 ~~If a policyholder is insured by the corporation prior to being~~  
164 ~~determined to be ineligible pursuant to this subparagraph and~~  
165 ~~such policyholder files a lawsuit challenging the determination,~~  
166 ~~the policyholder may remain insured by the corporation until the~~  
167 ~~conclusion of the litigation.~~

168           b. Effective January 1, 2012, a structure that has a

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169 dwelling replacement cost of \$1 million or more, or a single  
170 condominium unit that has a combined dwelling and contents  
171 replacement cost of \$1 million or more is not eligible for  
172 coverage by the corporation. Such dwellings insured by the  
173 corporation on December 31, 2011, may continue to be covered by  
174 the corporation only until the end of the policy term.

175 c. Effective January 1, 2014, a structure insured in the  
176 personal lines account of the corporation that has a dwelling  
177 replacement cost of \$750,000 or more, or a single condominium  
178 unit that has a combined dwelling and contents replacement cost  
179 of \$750,000 or more is not eligible for coverage by the  
180 corporation. Such dwellings insured by the corporation on  
181 December 31, 2013, may continue to be covered by the corporation  
182 until the end of the policy term.

183 d. Effective January 1, 2016, a structure insured in the  
184 personal lines account of the corporation that has a dwelling  
185 replacement cost of \$500,000 or more, or a single condominium  
186 unit that has a combined dwelling and contents replacement cost  
187 of \$500,000 or more is not eligible for coverage by the  
188 corporation. Such dwellings insured by the corporation on  
189 December 31, 2015, may continue to be covered by the corporation  
190 until the end of the policy term.

191 ~~4. It is the intent of the Legislature that policyholders,~~  
192 ~~applicants, and agents of the corporation receive service and~~  
193 ~~treatment of the highest possible level but never less than that~~  
194 ~~generally provided in the voluntary market. It also is intended~~  
195 ~~that the corporation be held to service standards no less than~~  
196 ~~those applied to insurers in the voluntary market by the office~~

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197 ~~with respect to responsiveness, timeliness, customer courtesy,~~  
198 ~~and overall dealings with policyholders, applicants, or agents~~  
199 ~~of the corporation.~~

200 4.5. Effective January 1, 2009, a personal lines  
201 residential structure that is located in the "wind-borne debris  
202 region," as defined in s. 1609.2, International Building Code  
203 (2006), and that has an insured value on the structure of  
204 \$750,000 or more is not eligible for coverage by the corporation  
205 unless the structure has opening protections as required under  
206 the Florida Building Code for a newly constructed residential  
207 structure in that area. A residential structure shall be deemed  
208 to comply with ~~the requirements of~~ this subparagraph if it has  
209 shutters or opening protections on all openings and if such  
210 opening protections complied with the Florida Building Code at  
211 the time they were installed.

212 5. In recognition of the corporation's status as a  
213 government entity, policies issued by the corporation must  
214 include a provision stating that as a condition of coverage with  
215 the corporation, policyholders may not engage the services of a  
216 public adjuster to represent the policyholder with respect to  
217 any claim incurred under a policy issued by the corporation.

218 (b)1. All insurers authorized to write one or more subject  
219 lines of business in this state are subject to assessment by the  
220 corporation and, for the purposes of this subsection, are  
221 referred to collectively as "assessable insurers." Insurers  
222 writing one or more subject lines of business in this state  
223 pursuant to part VIII of chapter 626 are not assessable  
224 insurers, but insureds who procure one or more subject lines of



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225 business in this state pursuant to part VIII of chapter 626 are  
226 subject to assessment by the corporation and are referred to  
227 collectively as "assessable insureds." An ~~authorized~~ insurer's  
228 assessment liability begins ~~shall begin~~ on the first day of the  
229 calendar year following the year in which the insurer was issued  
230 a certificate of authority to transact insurance for subject  
231 lines of business in this state and terminates ~~shall terminate~~ 1  
232 year after the end of the first calendar year during which the  
233 insurer no longer holds a certificate of authority to transact  
234 insurance for subject lines of business in this state.

235 2.a. All revenues, assets, liabilities, losses, and  
236 expenses of the corporation shall be divided into three separate  
237 accounts as follows:

238 (I) A personal lines account for personal residential  
239 policies issued by the corporation, or issued by the Residential  
240 Property and Casualty Joint Underwriting Association and renewed  
241 by the corporation, which provides basic ~~that provide~~  
242 ~~comprehensive~~, multiperil coverage on risks that are not located  
243 in areas eligible for coverage by ~~in~~ the Florida Windstorm  
244 Underwriting Association as those areas were defined on January  
245 1, 2002, and for ~~such~~ policies that do not provide coverage for  
246 the peril of wind on risks that are located in such areas;

247 (II) A commercial lines account for commercial residential  
248 and commercial nonresidential policies issued by the  
249 corporation, or issued by the Residential Property and Casualty  
250 Joint Underwriting Association and renewed by the corporation, or  
251 which provides ~~that provide~~ coverage for basic property perils  
252 on risks that are not located in areas eligible for coverage by

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253 | ~~in~~ the Florida Windstorm Underwriting Association as those areas  
 254 | were defined on January 1, 2002, and for ~~such~~ policies that do  
 255 | not provide coverage for the peril of wind on risks that are  
 256 | located in such areas; and

257 |       (III) A high-risk account for personal residential  
 258 | policies and commercial residential and commercial  
 259 | nonresidential property policies issued by the corporation or  
 260 | transferred to the corporation, which provides ~~that provide~~  
 261 | coverage for the peril of wind on risks that are located in  
 262 | areas eligible for coverage by ~~in~~ the Florida Windstorm  
 263 | Underwriting Association as those areas were defined on January  
 264 | 1, 2002. The corporation may offer policies that provide  
 265 | multiperil coverage and the corporation shall continue to offer  
 266 | policies that provide coverage only for the peril of wind for  
 267 | risks located in areas eligible for coverage in the high-risk  
 268 | account. In issuing multiperil coverage, the corporation may use  
 269 | its approved policy forms and rates for the personal lines  
 270 | account. An applicant or insured who is eligible to purchase a  
 271 | multiperil policy from the corporation may purchase a multiperil  
 272 | policy from an authorized insurer without prejudice to the  
 273 | applicant's or insured's eligibility to prospectively purchase a  
 274 | policy that provides coverage only for the peril of wind from  
 275 | the corporation. An applicant or insured who is eligible for a  
 276 | corporation policy that provides coverage only for the peril of  
 277 | wind may elect to purchase or retain such policy and also  
 278 | purchase or retain coverage excluding wind from an authorized  
 279 | insurer without prejudice to the applicant's or insured's  
 280 | eligibility to prospectively purchase a policy that provides

281 multiperil coverage from the corporation. ~~It is the goal of the~~  
 282 ~~Legislature that there would be an overall average savings of 10~~  
 283 ~~percent or more for a policyholder who currently has a wind-only~~  
 284 ~~policy with the corporation, and an ex-wind policy with a~~  
 285 ~~voluntary insurer or the corporation, and who then obtains a~~  
 286 ~~multiperil policy from the corporation.~~ It is the intent of the  
 287 Legislature that the offer of multiperil coverage in the high-  
 288 risk account be made and implemented in a manner that does not  
 289 adversely affect the tax-exempt status of the corporation or  
 290 creditworthiness of or security for currently outstanding  
 291 financing obligations or credit facilities of the high-risk  
 292 account, the personal lines account, or the commercial lines  
 293 account. ~~The high-risk account must also include quota share~~  
 294 ~~primary insurance under subparagraph (c)2.~~ The area eligible for  
 295 coverage under the high-risk account also includes the area  
 296 within Port Canaveral, which is bordered on the south by the  
 297 City of Cape Canaveral, bordered on the west by the Banana  
 298 River, and bordered on the north by Federal Government property.  
 299       b. The three separate accounts must be maintained as long  
 300 as financing obligations entered into by the Florida Windstorm  
 301 Underwriting Association or Residential Property and Casualty  
 302 Joint Underwriting Association are outstanding, in accordance  
 303 with the terms of the corresponding financing documents. If ~~When~~  
 304 the financing obligations are no longer outstanding, ~~in~~  
 305 ~~accordance with the terms of the corresponding financing~~  
 306 ~~documents,~~ the corporation may use a single account for all  
 307 revenues, assets, liabilities, losses, and expenses of the  
 308 corporation. Consistent with ~~the requirement of this~~

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309 | subparagraph and prudent investment policies that minimize the  
 310 | cost of carrying debt, the board shall exercise its best efforts  
 311 | to retire existing debt or ~~to~~ obtain the approval of necessary  
 312 | parties to amend the terms of existing debt, so as to structure  
 313 | the most efficient plan to consolidate the three separate  
 314 | accounts into a single account.

315 |         c. Creditors of the Residential Property and Casualty  
 316 | Joint Underwriting Association and of the accounts specified in  
 317 | sub-sub-subparagraphs a.(I) and (II) may have a claim against,  
 318 | and recourse to, those ~~the~~ accounts ~~referred to in sub-sub-~~  
 319 | ~~subparagraphs a.(I) and (II) and shall have~~ no claim against, or  
 320 | recourse to, the account referred to in sub-sub-subparagraph  
 321 | a.(III). Creditors of the Florida Windstorm Underwriting  
 322 | Association ~~shall~~ have a claim against, and recourse to, the  
 323 | account referred to in sub-sub-subparagraph a.(III) and ~~shall~~  
 324 | ~~have~~ no claim against, or recourse to, the accounts referred to  
 325 | in sub-sub-subparagraphs a.(I) and (II).

326 |         d. Revenues, assets, liabilities, losses, and expenses not  
 327 | attributable to particular accounts shall be prorated among the  
 328 | accounts.

329 |         e. The Legislature finds that the revenues of the  
 330 | corporation are revenues that are necessary to meet the  
 331 | requirements set forth in documents authorizing the issuance of  
 332 | bonds under this subsection.

333 |         f. No part of the income of the corporation may inure to  
 334 | the benefit of any private person.

335 |         3. With respect to a deficit in an account:

336 |             a. After accounting for the ~~Citizens~~ policyholder

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337 surcharge imposed under sub-subparagraph i., if ~~when~~ the  
338 remaining projected deficit incurred in a particular calendar  
339 year is not greater than 6 percent of the aggregate statewide  
340 direct written premium for the subject lines of business for the  
341 prior calendar year, the entire deficit shall be recovered  
342 through regular assessments of assessable insurers under  
343 paragraph (q) and assessable insureds.

344 b. After accounting for the Citizens policyholder  
345 surcharge imposed under sub-subparagraph i., when the remaining  
346 projected deficit incurred in a particular calendar year exceeds  
347 6 percent of the aggregate statewide direct written premium for  
348 the subject lines of business for the prior calendar year, the  
349 corporation shall levy regular assessments on assessable  
350 insurers under paragraph (q) and on assessable insureds in an  
351 amount equal to the greater of 6 percent of the deficit or 6  
352 percent of the aggregate statewide direct written premium for  
353 the subject lines of business for the prior calendar year. Any  
354 remaining deficit shall be recovered through emergency  
355 assessments under sub-subparagraph d.

356 c. Each assessable insurer's share of the amount being  
357 assessed under sub-subparagraph a. or sub-subparagraph b. must  
358 ~~shall~~ be in the proportion that the assessable insurer's direct  
359 written premium for the subject lines of business for the year  
360 preceding the assessment bears to the aggregate statewide direct  
361 written premium for the subject lines of business for that year.  
362 The applicable assessment percentage ~~applicable to each~~  
363 ~~assessable insured~~ is the ratio of the amount being assessed  
364 under sub-subparagraph a. or sub-subparagraph b. to the

365 aggregate statewide direct written premium for the subject lines  
 366 of business for the prior year. Assessments levied by the  
 367 corporation on assessable insurers under sub-subparagraphs a.  
 368 and b. must ~~shall~~ be paid as required by the corporation's plan  
 369 of operation and paragraph (q) ,. ~~Assessments levied by the~~  
 370 ~~corporation on assessable insureds under sub-subparagraphs a.~~  
 371 ~~and b. shall be~~ collected by the surplus lines agent at the time  
 372 the surplus lines agent collects the surplus lines tax required  
 373 by s. 626.932, and ~~shall be~~ paid to the Florida Surplus Lines  
 374 Service Office at the time the surplus lines agent pays the  
 375 surplus lines tax to that ~~the Florida Surplus Lines Service~~  
 376 office. Upon receipt of regular assessments from surplus lines  
 377 agents, the Florida Surplus Lines Service Office shall transfer  
 378 the assessments directly to the corporation as determined by the  
 379 corporation.

380 d. Upon a determination by the board of governors that a  
 381 deficit in an account exceeds the amount that will be recovered  
 382 through regular assessments under sub-subparagraph a. or sub-  
 383 subparagraph b., plus the amount that is expected to be  
 384 recovered through surcharges under sub-subparagraph i., ~~as to~~  
 385 ~~the remaining projected deficit~~ the board ~~shall levy~~, after  
 386 verification by the office, shall levy emergency assessments,  
 387 for as many years as necessary to cover the deficits, to be  
 388 collected by assessable insurers and the corporation and  
 389 collected from assessable insureds upon issuance or renewal of  
 390 policies for subject lines of business, excluding National Flood  
 391 Insurance policies. The amount of the emergency assessment  
 392 collected in a particular year must ~~shall~~ be a uniform

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393 percentage of that year's direct written premium for subject  
394 lines of business ~~and all accounts of the corporation~~, excluding  
395 National Flood Insurance Program policy premiums, as annually  
396 determined by the board and verified by the office. For all  
397 accounts of the corporation, the amount of the emergency  
398 assessment levied in a particular year must be a uniform  
399 percentage equal to 1 1/2 times the uniform percentage emergency  
400 assessment levied on subject lines of business. The office shall  
401 verify the arithmetic calculations involved in the board's  
402 determination within 30 days after receipt of the information on  
403 which the determination was based. Notwithstanding any other  
404 provision of law, the corporation and each assessable insurer  
405 that writes subject lines of business shall collect emergency  
406 assessments from its policyholders without such obligation being  
407 affected by any credit, limitation, exemption, or deferment.  
408 Emergency assessments levied by the corporation on assessable  
409 insureds shall be collected by the surplus lines agent at the  
410 time the surplus lines agent collects the surplus lines tax  
411 required by s. 626.932 and ~~shall be~~ paid to the Florida Surplus  
412 Lines Service Office at the time the surplus lines agent pays  
413 the surplus lines tax to that ~~the Florida Surplus Lines Service~~  
414 office. The emergency assessments ~~so~~ collected shall be  
415 transferred directly to the corporation on a periodic basis as  
416 determined by the corporation and ~~shall be~~ held by the  
417 corporation solely in the applicable account. The aggregate  
418 amount of emergency assessments levied for an account under this  
419 sub-subparagraph in any calendar year may, ~~at the discretion of~~  
420 ~~the board of governors,~~ be less than but may not exceed the

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421 greater of 10 percent of the amount needed to cover the deficit,  
422 plus interest, fees, commissions, required reserves, and other  
423 costs associated with financing ~~of~~ the original deficit, or 10  
424 percent of the aggregate statewide direct written premium for  
425 subject lines of business and ~~for~~ all accounts of the  
426 corporation for the prior year, plus interest, fees,  
427 commissions, required reserves, and other costs associated with  
428 financing the deficit.

429 e. The corporation may pledge the proceeds of assessments,  
430 projected recoveries from the Florida Hurricane Catastrophe  
431 Fund, other insurance and reinsurance recoverables, policyholder  
432 surcharges and other surcharges, and other funds available to  
433 the corporation as the source of revenue for and to secure bonds  
434 issued under paragraph (q), bonds or other indebtedness issued  
435 under subparagraph (c)2.3, or lines of credit or other  
436 financing mechanisms issued or created under this subsection, or  
437 to retire any other debt incurred as a result of deficits or  
438 events giving rise to deficits, or in any other way that the  
439 board determines will efficiently recover such deficits. The  
440 purpose of the lines of credit or other financing mechanisms is  
441 to provide additional resources to assist the corporation in  
442 covering claims and expenses attributable to a catastrophe. As  
443 used in this subsection, the term "assessments" includes regular  
444 assessments under sub-subparagraph a., sub-subparagraph b., or  
445 subparagraph (q)1. and emergency assessments under sub-  
446 subparagraph d. Emergency assessments collected under sub-  
447 subparagraph d. are not part of an insurer's rates, are not  
448 premium, and are not subject to premium tax, fees, or



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449 commissions; however, failure to pay the emergency assessment  
450 shall be treated as failure to pay premium. The emergency  
451 assessments under sub-subparagraph d. shall continue as long as  
452 any bonds issued or other indebtedness incurred with respect to  
453 a deficit for which the assessment was imposed remain  
454 outstanding, unless adequate provision has been made for the  
455 payment of such bonds or other indebtedness pursuant to the  
456 documents governing such bonds or ~~other~~ indebtedness.

457 f. As used in this subsection for purposes of any deficit  
458 incurred on or after January 25, 2007, the term "subject lines  
459 of business" means insurance written by assessable insurers or  
460 procured by assessable insureds for all property and casualty  
461 lines of business in this state, but not including workers'  
462 compensation or medical malpractice. As used in this ~~the~~ sub-  
463 subparagraph, the term "property and casualty lines of business"  
464 includes all lines of business identified on Form 2, Exhibit of  
465 Premiums and Losses, in the annual statement required of  
466 authorized insurers under ~~by~~ s. 624.424 and any rule adopted  
467 under this section, except for those lines identified as  
468 accident and health insurance and except for policies written  
469 under the National Flood Insurance Program or the Federal Crop  
470 Insurance Program. For purposes of this sub-subparagraph, the  
471 term "workers' compensation" includes both workers' compensation  
472 insurance and excess workers' compensation insurance.

473 g. The Florida Surplus Lines Service Office shall  
474 determine annually the aggregate statewide written premium in  
475 subject lines of business procured by assessable insureds and  
476 ~~shall~~ report that information to the corporation in a form and

477 | at a time the corporation specifies to ensure that the  
 478 | corporation can meet the requirements of this subsection and the  
 479 | corporation's financing obligations.

480 |       h. The Florida Surplus Lines Service Office shall verify  
 481 | the proper application by surplus lines agents of assessment  
 482 | percentages for regular assessments and emergency assessments  
 483 | levied under this subparagraph on assessable insureds and ~~shall~~  
 484 | assist the corporation in ensuring the accurate, timely  
 485 | collection and payment of assessments by surplus lines agents as  
 486 | required by the corporation.

487 |       i. If a deficit is incurred in any account in 2011 ~~2008~~ or  
 488 | thereafter, the board of governors shall levy a ~~Citizens~~  
 489 | policyholder surcharge against all policyholders of the  
 490 | corporation. ~~for a 12-month period, which~~

491 |       (I) The surcharge shall be levied ~~collected at the time of~~  
 492 | ~~issuance or renewal of a policy,~~ as a uniform percentage of the  
 493 | premium for the policy of up to 15 percent of such premium,  
 494 | which funds shall be used to offset the deficit.

495 |       (II) It is the intent of the Legislature that the  
 496 | policyholder's liability for the surcharge attach on the date of  
 497 | the order levying the surcharge. The surcharge is payable upon  
 498 | cancellation or termination of the policy, upon renewal of the  
 499 | policy, or upon issuance of a new policy by the corporation  
 500 | within the first 12 months after the date of the levy or the  
 501 | period of time necessary to fully collect the surcharge amount.

502 |       (III) The corporation may not levy any regular assessments  
 503 | under paragraph (q) pursuant to sub-subparagraph a. or sub-  
 504 | subparagraph b. with respect to a particular year's deficit

505 until the corporation has first levied a surcharge under this  
 506 sub-subparagraph in the full amount authorized by this sub-  
 507 subparagraph.

508 (IV) The surcharge is ~~Citizens policyholder surcharges~~  
 509 ~~under this sub-subparagraph~~ are not considered premium and is  
 510 ~~are~~ not subject to commissions, fees, or premium taxes. However,  
 511 failure to pay the surcharge ~~such surcharges~~ shall be treated as  
 512 failure to pay premium.

513 j. If the amount of any assessments or surcharges  
 514 collected from corporation policyholders, assessable insurers or  
 515 their policyholders, or assessable insureds exceeds the amount  
 516 of the deficits, such excess amounts shall be remitted to and  
 517 retained by the corporation in a reserve to be used by the  
 518 corporation, as determined by the board of governors and  
 519 approved by the office, to pay claims or reduce any past,  
 520 present, or future plan-year deficits or to reduce outstanding  
 521 debt.

522 (c) ~~The plan of operation of the corporation:~~

523 1. Must provide ~~for adoption of~~ residential property and  
 524 casualty insurance policy forms and commercial residential and  
 525 nonresidential property insurance forms, which ~~forms~~ must be  
 526 approved by the office before ~~prior to~~ use. The corporation  
 527 shall adopt and offer only the following policy forms:

528 a. Standard personal lines policy forms that are similar  
 529 ~~comprehensive multiperil policies providing full coverage of a~~  
 530 ~~residential property equivalent~~ to the coverage provided in the  
 531 private insurance market under an HO-3, HO-4, or HO-6 policy.  
 532 The corporation shall cease to offer or renew HO-3 policy forms

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533 on December 31, 2012.

534 b. Basic personal lines policy forms that are policies  
535 similar to an HO-8 policy or a dwelling fire policy that provide  
536 coverage meeting the requirements of the secondary mortgage  
537 market, but which ~~coverage~~ is more limited than the coverage  
538 under a standard policy.

539 c. Commercial lines residential and nonresidential policy  
540 forms that are generally similar to the basic perils of full  
541 coverage obtainable for commercial residential structures and  
542 commercial nonresidential structures in the admitted voluntary  
543 market.

544 d. Personal lines and commercial lines residential  
545 property insurance forms that cover the peril of wind only. The  
546 forms are applicable only to residential properties located in  
547 areas eligible for coverage under the high-risk account referred  
548 to in sub-subparagraph (b)2.a.

549 e. Commercial lines nonresidential property insurance  
550 forms that cover the peril of wind only. The forms are  
551 applicable only to nonresidential properties located in areas  
552 eligible for coverage under the high-risk account referred to in  
553 sub-subparagraph (b)2.a.

554 f. The corporation may adopt variations of the policy  
555 forms listed in sub-subparagraphs a.-e. which ~~that~~ contain more  
556 restrictive coverage.

557 ~~2.a. Must provide that the corporation adopt a program in~~  
558 ~~which the corporation and authorized insurers enter into quota~~  
559 ~~share primary insurance agreements for hurricane coverage, as~~  
560 ~~defined in s. 627.4025(2) (a), for eligible risks, and adopt~~

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561 ~~property insurance forms for eligible risks which cover the~~  
562 ~~peril of wind only. As used in this subsection, the term:~~

563 ~~(I) "Quota share primary insurance" means an arrangement~~  
564 ~~in which the primary hurricane coverage of an eligible risk is~~  
565 ~~provided in specified percentages by the corporation and an~~  
566 ~~authorized insurer. The corporation and authorized insurer are~~  
567 ~~each solely responsible for a specified percentage of hurricane~~  
568 ~~coverage of an eligible risk as set forth in a quota share~~  
569 ~~primary insurance agreement between the corporation and an~~  
570 ~~authorized insurer and the insurance contract. The~~  
571 ~~responsibility of the corporation or authorized insurer to pay~~  
572 ~~its specified percentage of hurricane losses of an eligible~~  
573 ~~risk, as set forth in the quota share primary insurance~~  
574 ~~agreement, may not be altered by the inability of the other~~  
575 ~~party to the agreement to pay its specified percentage of~~  
576 ~~hurricane losses. Eligible risks that are provided hurricane~~  
577 ~~coverage through a quota share primary insurance arrangement~~  
578 ~~must be provided policy forms that set forth the obligations of~~  
579 ~~the corporation and authorized insurer under the arrangement,~~  
580 ~~clearly specify the percentages of quota share primary insurance~~  
581 ~~provided by the corporation and authorized insurer, and~~  
582 ~~conspicuously and clearly state that neither the authorized~~  
583 ~~insurer nor the corporation may be held responsible beyond its~~  
584 ~~specified percentage of coverage of hurricane losses.~~

585 ~~(II) "Eligible risks" means personal lines residential and~~  
586 ~~commercial lines residential risks that meet the underwriting~~  
587 ~~criteria of the corporation and are located in areas that were~~  
588 ~~eligible for coverage by the Florida Windstorm Underwriting~~

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589 ~~Association on January 1, 2002.~~

590 ~~b. The corporation may enter into quota share primary~~  
591 ~~insurance agreements with authorized insurers at corporation~~  
592 ~~coverage levels of 90 percent and 50 percent.~~

593 ~~e. If the corporation determines that additional coverage~~  
594 ~~levels are necessary to maximize participation in quota share~~  
595 ~~primary insurance agreements by authorized insurers, the~~  
596 ~~corporation may establish additional coverage levels. However,~~  
597 ~~the corporation's quota share primary insurance coverage level~~  
598 ~~may not exceed 90 percent.~~

599 ~~d. Any quota share primary insurance agreement entered~~  
600 ~~into between an authorized insurer and the corporation must~~  
601 ~~provide for a uniform specified percentage of coverage of~~  
602 ~~hurricane losses, by county or territory as set forth by the~~  
603 ~~corporation board, for all eligible risks of the authorized~~  
604 ~~insurer covered under the quota share primary insurance~~  
605 ~~agreement.~~

606 ~~e. Any quota share primary insurance agreement entered~~  
607 ~~into between an authorized insurer and the corporation is~~  
608 ~~subject to review and approval by the office. However, such~~  
609 ~~agreement shall be authorized only as to insurance contracts~~  
610 ~~entered into between an authorized insurer and an insured who is~~  
611 ~~already insured by the corporation for wind coverage.~~

612 ~~f. For all eligible risks covered under quota share~~  
613 ~~primary insurance agreements, the exposure and coverage levels~~  
614 ~~for both the corporation and authorized insurers shall be~~  
615 ~~reported by the corporation to the Florida Hurricane Catastrophe~~  
616 ~~Fund. For all policies of eligible risks covered under quota~~

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617 ~~share primary insurance agreements, the corporation and the~~  
618 ~~authorized insurer shall maintain complete and accurate records~~  
619 ~~for the purpose of exposure and loss reimbursement audits as~~  
620 ~~required by Florida Hurricane Catastrophe Fund rules. The~~  
621 ~~corporation and the authorized insurer shall each maintain~~  
622 ~~duplicate copies of policy declaration pages and supporting~~  
623 ~~claims documents.~~

624 ~~g. The corporation board shall establish in its plan of~~  
625 ~~operation standards for quota share agreements which ensure that~~  
626 ~~there is no discriminatory application among insurers as to the~~  
627 ~~terms of quota share agreements, pricing of quota share~~  
628 ~~agreements, incentive provisions if any, and consideration paid~~  
629 ~~for servicing policies or adjusting claims.~~

630 ~~h. The quota share primary insurance agreement between the~~  
631 ~~corporation and an authorized insurer must set forth the~~  
632 ~~specific terms under which coverage is provided, including, but~~  
633 ~~not limited to, the sale and servicing of policies issued under~~  
634 ~~the agreement by the insurance agent of the authorized insurer~~  
635 ~~producing the business, the reporting of information concerning~~  
636 ~~eligible risks, the payment of premium to the corporation, and~~  
637 ~~arrangements for the adjustment and payment of hurricane claims~~  
638 ~~incurred on eligible risks by the claims adjuster and personnel~~  
639 ~~of the authorized insurer. Entering into a quota sharing~~  
640 ~~insurance agreement between the corporation and an authorized~~  
641 ~~insurer shall be voluntary and at the discretion of the~~  
642 ~~authorized insurer.~~

643 ~~2.3. May provide that the corporation may employ or~~  
644 ~~otherwise contract with individuals or other entities to provide~~

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645 administrative or professional services ~~that may be appropriate~~  
646 ~~to effectuate the plan.~~

647 a. The corporation may ~~shall have the power to~~ borrow  
648 funds, by issuing bonds or by incurring other indebtedness, and  
649 shall have other powers reasonably necessary to effectuate the  
650 requirements of this subsection, including, without limitation,  
651 the power to issue bonds and incur other indebtedness in order  
652 to refinance outstanding bonds or other indebtedness. The  
653 corporation ~~may, but is not required to,~~ seek judicial  
654 validation of its bonds or other indebtedness under chapter 75.  
655 The corporation may issue bonds or incur other indebtedness, or  
656 have bonds issued on its behalf by a unit of local government  
657 pursuant to subparagraph (q)2., in the absence of a hurricane or  
658 other weather-related event, upon a determination by the  
659 corporation, subject to approval by the office, that such action  
660 would enable it to efficiently meet the financial obligations of  
661 the corporation and that such financings are reasonably  
662 necessary to effectuate the requirements of this subsection. The  
663 corporation may ~~is authorized to~~ take all actions needed to  
664 facilitate tax-free status for ~~any~~ such bonds or indebtedness,  
665 including formation of trusts or other affiliated entities. The  
666 corporation may ~~shall have the authority to~~ pledge assessments,  
667 projected recoveries from the Florida Hurricane Catastrophe  
668 Fund, other reinsurance recoverables, market equalization and  
669 other surcharges, and other funds available to the corporation  
670 as security for bonds or other indebtedness. In recognition of  
671 s. 10, Art. I of the State Constitution, prohibiting the  
672 impairment of obligations of contracts, it is the intent of the



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673 Legislature that no action be taken whose purpose is to impair  
674 any bond indenture or financing agreement or any revenue source  
675 committed by contract to such bond or other indebtedness.

676 b. To ensure that the corporation is operating in an  
677 efficient and economic manner while providing quality service to  
678 policyholders, applicants, and agents, the board shall  
679 commission an independent third-party consultant having  
680 expertise in insurance company management or insurance company  
681 management consulting to prepare a report and make  
682 recommendations on the relative costs and benefits of  
683 outsourcing various policy issuance and service functions to  
684 private servicing carriers or entities performing similar  
685 functions in the private market for a fee, rather than  
686 performing such functions in-house. In making such  
687 recommendations, the consultant shall consider how other  
688 residual markets, both in this state and around the country,  
689 outsource appropriate functions or use servicing carriers to  
690 better match expenses with revenues that fluctuate based on a  
691 widely varying policy count. The report must be completed by  
692 February 1, 2012. Upon receiving the report, the board shall  
693 develop a plan to implement the report and submit the plan to  
694 the Financial Services Commission. The commission has 30 days  
695 after receiving the plan to review and make additions or  
696 corrections, if any. Upon the commission's approval of the plan,  
697 the board shall begin implementing the plan by January 1, 2013.

698 3.4.a. Must ~~require that the corporation~~ operate subject  
699 to the supervision and approval of a board of governors  
700 consisting of eight individuals who are residents of this state,

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701 from different geographical areas of this state.

702 a. The Governor, the Chief Financial Officer, the  
703 President of the Senate, and the Speaker of the House of  
704 Representatives shall each appoint two members of the board. At  
705 least one of the two members appointed by each appointing  
706 officer must have demonstrated expertise in insurance, and be  
707 within the scope of the exemption provided in s. 112.313(7)(b).  
708 The Chief Financial Officer shall designate one of the  
709 appointees as chair. All board members serve at the pleasure of  
710 the appointing officer. All members of the board ~~of governors~~  
711 are subject to removal at will by the officers who appointed  
712 them. All board members, including the chair, must be appointed  
713 to serve for 3-year terms beginning annually on a date  
714 designated by the plan. However, for the first term beginning on  
715 or after July 1, 2009, each appointing officer shall appoint one  
716 member of the board for a 2-year term and one member for a 3-  
717 year term. A ~~Any~~ board vacancy shall be filled for the unexpired  
718 term by the appointing officer. The Chief Financial Officer  
719 shall appoint a technical advisory group to provide information  
720 and advice to the board ~~of governors~~ in connection with the  
721 board's duties under this subsection. The executive director and  
722 senior managers of the corporation shall be engaged by the board  
723 and serve at the pleasure of the board. Any executive director  
724 appointed on or after July 1, 2006, is subject to confirmation  
725 by the Senate. The executive director is responsible for  
726 employing other staff as the corporation may require, subject to  
727 review and concurrence by the board.

728 b. The board shall create a Market Accountability Advisory

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729 Committee to assist the corporation in developing awareness of  
 730 its rates and its customer and agent service levels in  
 731 relationship to the voluntary market insurers writing similar  
 732 coverage, and to provide advice on issues regarding agent  
 733 appointments and compensation.

734 (I) The members of the advisory committee shall consist of  
 735 the following 11 persons, one of whom must be elected chair by  
 736 the members of the committee: four representatives, one  
 737 appointed by the Florida Association of Insurance Agents, one by  
 738 the National Florida Association of Insurance and Financial  
 739 Advisors-Florida Advisors, one by the Professional Insurance  
 740 Agents of Florida, and one by the Latin American Association of  
 741 Insurance Agencies; three representatives appointed by the  
 742 insurers with the three highest voluntary market share of  
 743 residential property insurance business in the state; one  
 744 representative from the Office of Insurance Regulation; one  
 745 consumer appointed by the board who is insured by the  
 746 corporation at the time of appointment to the committee; one  
 747 representative appointed by the Florida Association of Realtors;  
 748 and one representative appointed by the Florida Bankers  
 749 Association. All members shall be appointed to ~~must serve for~~ 3-  
 750 year terms and may serve for consecutive terms.

751 (II) The committee shall report to the corporation at each  
 752 board meeting on insurance market issues which may include rates  
 753 and rate competition with the voluntary market; service,  
 754 including policy issuance, claims processing, and general  
 755 responsiveness to policyholders, applicants, and agents; and  
 756 matters relating to depopulation, producer compensation, or

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757 agency agreements.

758 ~~4.5.~~ Must provide a procedure for determining the  
759 eligibility of a risk for coverage, as follows:

760 a. Subject to ~~the provisions of~~ s. 627.3517, with respect  
761 to personal lines residential risks, if the risk is offered  
762 coverage from an authorized insurer at the insurer's approved  
763 rate under ~~either~~ a standard policy including wind coverage or,  
764 if consistent with the insurer's underwriting rules as filed  
765 with the office, a basic policy including wind coverage, for a  
766 new application to the corporation for coverage, the risk is not  
767 eligible for any policy issued by the corporation ~~unless the~~  
768 ~~premium for coverage from the authorized insurer is more than 15~~  
769 ~~percent greater than the premium for comparable coverage from~~  
770 ~~the corporation.~~ If the risk is not able to obtain ~~any~~ such  
771 offer, the risk is eligible for ~~either~~ a standard policy  
772 including wind coverage or a basic policy including wind  
773 coverage issued by the corporation; however, if the risk could  
774 not be insured under a standard policy including wind coverage  
775 regardless of market conditions, the risk is ~~shall be~~ eligible  
776 for a basic policy including wind coverage unless rejected under  
777 subparagraph 9. ~~8.~~ Notwithstanding these limitations, an  
778 application for coverage having an effective date before January  
779 1, 2015, is eligible for coverage by the corporation if the  
780 premium for coverage from an authorized insurer exceeds the  
781 premium from the corporation by more than 25 percent. ~~However,~~  
782 ~~with regard to a policyholder of the corporation or a~~  
783 ~~policyholder removed from the corporation through an assumption~~  
784 ~~agreement until the end of the assumption period, the~~

785 ~~policyholder remains eligible for coverage from the corporation~~  
 786 ~~regardless of any offer of coverage from an authorized insurer~~  
 787 ~~or surplus lines insurer.~~ The corporation shall determine the  
 788 type of policy to be provided on the basis of objective  
 789 standards specified in the underwriting manual and based on  
 790 generally accepted underwriting practices.

791 (I) If the risk accepts an offer of coverage through the  
 792 market assistance plan or ~~an offer of coverage~~ through a  
 793 mechanism established by the corporation before a policy is  
 794 issued to the risk by the corporation or during the first 30  
 795 days of coverage by the corporation, and the producing agent who  
 796 submitted the application to the plan or to the corporation is  
 797 not currently appointed by the insurer, the insurer shall:

798 (A) Pay to the producing agent of record of the policy,  
 799 for the first year, an amount that is the greater of the  
 800 insurer's usual and customary commission for the type of policy  
 801 written or a fee equal to the usual and customary commission of  
 802 the corporation; or

803 (B) Offer to allow the producing agent of record of the  
 804 policy to continue servicing the policy for at least ~~a period of~~  
 805 ~~not less than~~ 1 year and offer to pay the agent the greater of  
 806 the insurer's or the corporation's usual and customary  
 807 commission for the type of policy written.

808  
 809 If the producing agent is unwilling or unable to accept  
 810 appointment, the new insurer shall pay the agent in accordance  
 811 with sub-sub-sub-subparagraph (A).

812 (II) If ~~when~~ the corporation enters into a contractual

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813 agreement for a take-out plan, the producing agent of record of  
 814 the corporation policy is entitled to retain any unearned  
 815 commission on the policy, and the insurer shall:

816 (A) Pay to the producing agent ~~of record of the~~  
 817 ~~corporation policy~~, for the first year, an amount that is the  
 818 greater of the insurer's usual and customary commission for the  
 819 type of policy written or a fee equal to the usual and customary  
 820 commission of the corporation; or

821 (B) Offer to allow the producing agent ~~of record of the~~  
 822 ~~corporation policy~~ to continue servicing the policy for at least  
 823 ~~a period of not less than~~ 1 year and offer to pay the agent the  
 824 greater of the insurer's or the corporation's usual and  
 825 customary commission for the type of policy written.

826  
 827 If the producing agent is unwilling or unable to accept  
 828 appointment, the new insurer shall pay the agent in accordance  
 829 with sub-sub-sub-subparagraph (A).

830 b. Subject to s. 627.3517, with respect to commercial  
 831 lines residential risks, ~~for a new application to the~~  
 832 ~~corporation for coverage~~, if the risk is offered coverage under  
 833 a policy including wind coverage from an authorized insurer at  
 834 its approved rate, the risk is not eligible for a ~~any~~ policy  
 835 issued by the corporation ~~unless the premium for coverage from~~  
 836 ~~the authorized insurer is more than 15 percent greater than the~~  
 837 ~~premium for comparable coverage from the corporation~~. If the  
 838 risk is not able to obtain any such offer, the risk is eligible  
 839 for a policy including wind coverage issued by the corporation.  
 840 Notwithstanding these limitations, an application for coverage

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841 having an effective date before January 1, 2015, is eligible for  
842 coverage by the corporation if the premium for coverage from an  
843 authorized insurer exceeds the premium from the corporation by  
844 more than 25 percent. ~~However, with regard to a policyholder of~~  
845 ~~the corporation or a policyholder removed from the corporation~~  
846 ~~through an assumption agreement until the end of the assumption~~  
847 ~~period, the policyholder remains eligible for coverage from the~~  
848 ~~corporation regardless of any offer of coverage from an~~  
849 ~~authorized insurer or surplus lines insurer.~~

850 (I) If the risk accepts an offer of coverage through the  
851 market assistance plan or ~~an offer of coverage~~ through a  
852 mechanism established by the corporation before a policy is  
853 issued to the risk by the corporation or during the first 30  
854 days of coverage by the corporation, and the producing agent who  
855 submitted the application to the plan or the corporation is not  
856 currently appointed by the insurer, the insurer shall:

857 (A) Pay to the producing agent ~~of record of the policy,~~  
858 for the first year, an amount that is the greater of the  
859 insurer's usual and customary commission for the type of policy  
860 written or a fee equal to the usual and customary commission of  
861 the corporation; or

862 (B) Offer to allow the producing agent ~~of record of the~~  
863 ~~policy~~ to continue servicing the policy for at least a period of  
864 ~~not less than~~ 1 year and offer to pay the agent the greater of  
865 the insurer's or the corporation's usual and customary  
866 commission for the type of policy written.

867

868 If the producing agent is unwilling or unable to accept

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

871 (II) If ~~When~~ the corporation enters into a contractual  
 872 agreement for a take-out plan, the producing agent of record of  
 873 the corporation policy is entitled to retain any unearned  
 874 commission on the policy, and the insurer shall:

875 (A) Pay to the producing agent ~~of record of the~~  
 876 ~~corporation policy~~, for the first year, an amount that is the  
 877 greater of the insurer's usual and customary commission for the  
 878 type of policy written or a fee equal to the usual and customary  
 879 commission of the corporation; or

880 (B) Offer to allow the producing agent ~~of record of the~~  
 881 ~~corporation policy~~ to continue servicing the policy for at least  
 882 ~~a period of not less than~~ 1 year and offer to pay the agent the  
 883 greater of the insurer's or the corporation's usual and  
 884 customary commission for the type of policy written.

885  
 886 If the producing agent is unwilling or unable to accept  
 887 appointment, the new insurer shall pay the agent in accordance  
 888 with sub-sub-sub-subparagraph (A).

889 c. Effective upon this act becoming a law, the corporation  
 890 shall cease to accept applications for or issue new policies  
 891 covering commercial nonresidential risks. ~~For purposes of~~  
 892 ~~determining comparable coverage under sub-subparagraphs a. and~~  
 893 ~~b., the comparison shall be based on those forms and coverages~~  
 894 ~~that are reasonably comparable. The corporation may rely on a~~  
 895 ~~determination of comparable coverage and premium made by the~~  
 896 ~~producing agent who submits the application to the corporation,~~



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897 ~~made in the agent's capacity as the corporation's agent. A~~  
898 ~~comparison may be made solely of the premium with respect to the~~  
899 ~~main building or structure only on the following basis: the same~~  
900 ~~coverage A or other building limits; the same percentage~~  
901 ~~hurricane deductible that applies on an annual basis or that~~  
902 ~~applies to each hurricane for commercial residential property;~~  
903 ~~the same percentage of ordinance and law coverage, if the same~~  
904 ~~limit is offered by both the corporation and the authorized~~  
905 ~~insurer; the same mitigation credits, to the extent the same~~  
906 ~~types of credits are offered both by the corporation and the~~  
907 ~~authorized insurer; the same method for loss payment, such as~~  
908 ~~replacement cost or actual cash value, if the same method is~~  
909 ~~offered both by the corporation and the authorized insurer in~~  
910 ~~accordance with underwriting rules; and any other form or~~  
911 ~~coverage that is reasonably comparable as determined by the~~  
912 ~~board. If an application is submitted to the corporation for~~  
913 ~~wind only coverage in the high risk account, the premium for the~~  
914 ~~corporation's wind only policy plus the premium for the ex-wind~~  
915 ~~policy that is offered by an authorized insurer to the applicant~~  
916 ~~shall be compared to the premium for multiperil coverage offered~~  
917 ~~by an authorized insurer, subject to the standards for~~  
918 ~~comparison specified in this subparagraph. If the corporation or~~  
919 ~~the applicant requests from the authorized insurer a breakdown~~  
920 ~~of the premium of the offer by types of coverage so that a~~  
921 ~~comparison may be made by the corporation or its agent and the~~  
922 ~~authorized insurer refuses or is unable to provide such~~  
923 ~~information, the corporation may treat the offer as not being an~~  
924 ~~offer of coverage from an authorized insurer at the insurer's~~

925 ~~approved rate.~~

926 ~~5.6.~~ Must include rules for classifications of risks and  
 927 rates ~~therefor.~~

928 ~~6.7.~~ Must provide that if premium and investment income  
 929 for an account attributable to a particular calendar year are in  
 930 excess of projected losses and expenses for the account  
 931 attributable to that year, such excess shall be held in surplus  
 932 in the account. Such surplus must ~~shall~~ be available to defray  
 933 deficits in that account as to future years and ~~shall be~~ used  
 934 for that purpose before ~~prior to~~ assessing assessable insurers  
 935 and assessable insureds as to any calendar year.

936 ~~7.8.~~ Must provide objective criteria and procedures to be  
 937 uniformly applied to ~~for~~ all applicants in determining whether  
 938 an individual risk is so hazardous as to be uninsurable. In  
 939 making this determination and in establishing the criteria and  
 940 procedures, the following must ~~shall~~ be considered:

941 a. Whether the likelihood of a loss for the individual  
 942 risk is substantially higher than for other risks of the same  
 943 class; and

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

946  
 947 The acceptance or rejection of a risk by the corporation shall  
 948 be construed as the private placement of insurance, and the  
 949 provisions of chapter 120 do ~~shall~~ not apply.

950 ~~8.9.~~ ~~Must provide that the corporation~~ Shall make its best  
 951 efforts to procure catastrophe reinsurance at reasonable rates,  
 952 to cover its projected 100-year probable maximum loss as

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953 determined by the board of governors.

954 ~~9.10. Must issue~~ The policies that issued by the  
 955 ~~corporation must~~ provide that, if the corporation or the market  
 956 assistance plan obtains an offer from an authorized insurer to  
 957 cover the risk at its approved rates, the risk is no longer  
 958 eligible for renewal through the corporation, except as  
 959 otherwise provided in this subsection.

960 ~~10.11. Must Corporation Policies and applications must~~  
 961 include a notice in the corporation policies and applications  
 962 that the corporation policy could, under this section, be  
 963 replaced with a policy issued by an authorized insurer which  
 964 ~~that~~ does not provide coverage identical to the coverage  
 965 provided by the corporation. The notice must ~~shall~~ also specify  
 966 that acceptance of corporation coverage creates a conclusive  
 967 presumption that the applicant or policyholder is aware of this  
 968 potential.

969 ~~11.12. May establish, subject to approval by the office,~~  
 970 different eligibility requirements and operational procedures  
 971 for any line or type of coverage for any specified county or  
 972 area if the board determines that such changes ~~to the~~  
 973 ~~eligibility requirements and operational procedures~~ are  
 974 justified due to the voluntary market being sufficiently stable  
 975 and competitive in such area or for such line or type of  
 976 coverage and that consumers who, in good faith, are unable to  
 977 obtain insurance through the voluntary market through ordinary  
 978 methods ~~would~~ continue to have access to coverage from the  
 979 corporation. If ~~When~~ coverage is sought in connection with a  
 980 real property transfer, the ~~such~~ requirements and procedures may

981 ~~shall~~ not provide ~~for~~ an effective date of coverage later than  
 982 the date of the closing of the transfer as established by the  
 983 transferor, the transferee, and, if applicable, the lender.

984 12.13. Must provide that, with respect to the high-risk  
 985 account, any assessable insurer with a surplus as to  
 986 policyholders of \$25 million or less writing 25 percent or more  
 987 of its total countrywide property insurance premiums in this  
 988 state may petition the office, within the first 90 days of each  
 989 calendar year, to qualify as a limited apportionment company. A  
 990 regular assessment levied by the corporation on a limited  
 991 apportionment company for a deficit incurred by the corporation  
 992 for the high-risk account ~~in 2006 or thereafter~~ may be paid to  
 993 the corporation on a monthly basis as the assessments are  
 994 collected by the limited apportionment company from its insureds  
 995 pursuant to s. 627.3512, but the regular assessment must be paid  
 996 in full within 12 months after being levied by the corporation.  
 997 A limited apportionment company shall collect from its  
 998 policyholders any emergency assessment imposed under sub-  
 999 subparagraph (b)3.d. ~~The plan shall provide that,~~ If the office  
 1000 determines that any regular assessment will result in an  
 1001 impairment of the surplus of a limited apportionment company,  
 1002 the office may direct that all or part of such assessment be  
 1003 deferred as provided in subparagraph (q)4. However, ~~there shall~~  
 1004 ~~be no limitation or deferment of~~ an emergency assessment to be  
 1005 collected from policyholders under sub-subparagraph (b)3.d. may  
 1006 not be limited or deferred.

1007 13.14. Effective January 1, 2012, ~~must provide that the~~  
 1008 ~~corporation~~ appoint as its licensed agents only those agents who

1009 also hold an appointment as defined in s. 626.015(3) with an  
 1010 insurer who ~~at the time of the agent's initial appointment by~~  
 1011 ~~the corporation~~ is authorized to write and is actually writing  
 1012 personal lines residential property coverage, commercial  
 1013 residential property coverage, or commercial nonresidential  
 1014 property coverage within the state.

1015 ~~14.15.~~ Must provide, ~~by July 1, 2007,~~ a premium payment  
 1016 plan option to its policyholders which, ~~allows~~ at a minimum,  
 1017 allows for quarterly and semiannual payment of premiums. A  
 1018 monthly payment plan may, ~~but is not required to,~~ be offered.

1019 ~~15.16.~~ Must limit coverage on mobile homes or manufactured  
 1020 homes built before ~~prior to~~ 1994 to actual cash value of the  
 1021 dwelling rather than replacement costs of the dwelling.

1022 ~~16.17.~~ May provide such limits of coverage as the board  
 1023 determines, consistent with the requirements of this subsection.

1024 ~~17.18.~~ May require commercial property to meet specified  
 1025 hurricane mitigation construction features as a condition of  
 1026 eligibility for coverage.

1027 18. As of January 1, 2012, must require that the agent  
 1028 obtain from an applicant for coverage from the corporation an  
 1029 acknowledgement signed by the applicant, which includes, at a  
 1030 minimum, the following statement:

1031  
 1032 ACKNOWLEDGEMENT OF POTENTIAL SURCHARGE AND ASSESSMENT LIABILITY:

1033  
 1034 1. AS A POLICYHOLDER OF CITIZENS PROPERTY INSURANCE  
 1035 CORPORATION, I UNDERSTAND THAT IF THE CORPORATION SUSTAINS A  
 1036 DEFICIT AS A RESULT OF HURRICANE LOSSES OR FOR ANY OTHER REASON,

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1037 MY POLICY COULD BE SUBJECT TO SURCHARGES, WHICH WILL BE DUE AND  
 1038 PAYABLE UPON RENEWAL, CANCELLATION, OR TERMINATION OF THE  
 1039 POLICY, AND THAT THE SURCHARGES COULD BE AS HIGH AS 45 PERCENT  
 1040 OF MY PREMIUM, OR A DIFFERENT AMOUNT AS IMPOSED BY THE FLORIDA  
 1041 LEGISLATURE.

1042 2. I ALSO UNDERSTAND THAT I MAY BE SUBJECT TO EMERGENCY  
 1043 ASSESSMENTS TO THE SAME EXTENT AS POLICYHOLDERS OF OTHER  
 1044 INSURANCE COMPANIES, OR A DIFFERENT AMOUNT AS IMPOSED BY THE  
 1045 FLORIDA LEGISLATURE.

1046 3. I ALSO UNDERSTAND THAT CITIZENS PROPERTY INSURANCE  
 1047 CORPORATION IS NOT SUPPORTED BY THE FULL FAITH AND CREDIT OF THE  
 1048 STATE OF FLORIDA.

1049  
 1050 a. The corporation shall maintain, in electronic format or  
 1051 otherwise, a copy of the applicant's signed acknowledgement and  
 1052 provide a copy of the statement to the policyholder as part of  
 1053 the first renewal after the effective date of this sub-  
 1054 subparagraph.

1055 b. The signed acknowledgement form creates a conclusive  
 1056 presumption that the policyholder understood and accepted his or  
 1057 her potential surcharge and assessment liability as a  
 1058 policyholder of the corporation.

1059 19. Upon notice and determination by the Department of  
 1060 Financial Services that an agent appointed by the corporation  
 1061 has violated s. 626.9541(1)(h), immediately terminate the  
 1062 agent's appointment to represent the corporation.

1063 20. Must provide that new or renewal policies issued by  
 1064 the corporation on or after January 1, 2012, do not include

1065 coverage for attached or detached screen enclosures. The  
 1066 corporation is not required to issue a notice of nonrenewal to  
 1067 exclude this coverage upon the renewal of current policies, but  
 1068 shall exclude such coverage using a notice of coverage change.

1069 21. Must provide that new or renewal policies issued by the  
 1070 corporation on or after January 1, 2012, which cover the peril  
 1071 of sinkhole do not include coverage for any loss to appurtenant  
 1072 structures, driveways, sidewalks, decks, or patios which is  
 1073 caused directly or indirectly by sinkhole activity. The  
 1074 corporation is not required to issue a notice of nonrenewal to  
 1075 exclude this coverage upon the renewal of current policies, but  
 1076 shall exclude such coverage using a notice of coverage change  
 1077 which may be included with the policy renewal.

1078 (d)1. All prospective employees for senior management  
 1079 positions, as defined by the plan of operation, are subject to  
 1080 background checks as a prerequisite for employment. The office  
 1081 shall conduct the background checks ~~on such prospective~~  
 1082 ~~employees~~ pursuant to ss. 624.34, 624.404(3), and 628.261.

1083 2. On or before July 1 of each year, employees of the  
 1084 corporation must ~~are required to~~ sign and submit a statement  
 1085 attesting that they do not have a conflict of interest, as  
 1086 defined in part III of chapter 112. As a condition of  
 1087 employment, all prospective employees must ~~are required to~~ sign  
 1088 and submit to the corporation a conflict-of-interest statement.

1089 3. Senior managers and members of the board of governors  
 1090 are subject to ~~the provisions of~~ part III of chapter 112,  
 1091 including, but not limited to, the code of ethics and public  
 1092 disclosure and reporting of financial interests, pursuant to s.

1093 | 112.3145.

1094 |       a. Senior managers and board members are also required to  
 1095 | file such disclosures with the Commission on Ethics and the  
 1096 | Office of Insurance Regulation. The executive director of the  
 1097 | corporation or his or her designee shall notify each existing  
 1098 | and newly appointed ~~and existing appointed~~ member of the board  
 1099 | of governors and senior managers of their duty to comply with  
 1100 | the reporting requirements of part III of chapter 112. At least  
 1101 | quarterly, the executive director or his or her designee shall  
 1102 | submit to the Commission on Ethics a list of names of the senior  
 1103 | managers and members of the board of governors who are subject  
 1104 | to the public disclosure requirements under s. 112.3145.

1105 |       b. Notwithstanding s. 112.3143(2), a board member may not  
 1106 | vote on any measure that would inure to his or her special  
 1107 | private gain or loss; that he or she knows would inure to the  
 1108 | special private gain or loss of any principal by whom he or she  
 1109 | is retained or to the parent organization or subsidiary of a  
 1110 | corporate principal by which he or she is retained, other than  
 1111 | an agency as defined in s. 112.312; or that he or she knows  
 1112 | would inure to the special private gain or loss of a relative or  
 1113 | business associate of the public officer. Before the vote is  
 1114 | taken, such member must publicly state to the assembly the  
 1115 | nature of his or her interest in the matter from which he or she  
 1116 | is abstaining and, within 15 days after the vote occurs,  
 1117 | disclose the nature of his or her interest as a public record in  
 1118 | a memorandum filed with the person responsible for recording the  
 1119 | minutes of the meeting, who shall incorporate the memorandum in  
 1120 | the minutes.



1121 4. Notwithstanding s. 112.3148 or s. 112.3149, or any  
 1122 other provision of law, an employee or board member may not  
 1123 knowingly accept, directly or indirectly, any gift or  
 1124 expenditure from a person or entity, or an employee or  
 1125 representative of such person or entity, which ~~that~~ has a  
 1126 contractual relationship with the corporation or who is under  
 1127 consideration for a contract. An employee or board member who  
 1128 fails to comply with subparagraph 3. or this subparagraph is  
 1129 subject to penalties provided under ss. 112.317 and 112.3173.

1130 5. Any senior manager of the corporation who is employed  
 1131 on or after January 1, 2007, regardless of the date of hire, who  
 1132 subsequently retires or terminates employment is prohibited from  
 1133 representing another person or entity before the corporation for  
 1134 2 years after retirement or termination of employment from the  
 1135 corporation.

1136 6. Any senior manager of the corporation who is employed  
 1137 on or after January 1, 2007, regardless of the date of hire, who  
 1138 subsequently retires or terminates employment is prohibited from  
 1139 having any employment or contractual relationship for 2 years  
 1140 with an insurer that has entered into a take-out bonus agreement  
 1141 with the corporation.

1142 (n)~~1~~. It is the intent of the Legislature that the rates  
 1143 for coverage provided by the corporation be actuarially  
 1144 determined and not be competitive with rates charged in the  
 1145 admitted voluntary market such that the corporation functions as  
 1146 a residual market mechanism that provides insurance only if such  
 1147 insurance cannot be procured in the voluntary market. To achieve  
 1148 this goal, for any rate filing made by the corporation on or

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1149 ~~after July 1, 2011: Rates for coverage provided by the~~  
1150 ~~corporation shall be actuarially sound and subject to the~~  
1151 ~~requirements of s. 627.062, except as otherwise provided in this~~  
1152 ~~paragraph. The corporation shall file its recommended rates with~~  
1153 ~~the office at least annually. The corporation shall provide any~~  
1154 ~~additional information regarding the rates which the office~~  
1155 ~~requires. The office shall consider the recommendations of the~~  
1156 ~~board and issue a final order establishing the rates for the~~  
1157 ~~corporation within 45 days after the recommended rates are~~  
1158 ~~filed. The corporation may not pursue an administrative~~  
1159 ~~challenge or judicial review of the final order of the office.~~

1160 1. The corporation shall file its recommended rates with  
1161 the office at least annually. The office shall consider the  
1162 recommended rates and issue a final order establishing the rates  
1163 within 45 days after the recommended rates are filed. The  
1164 corporation may not pursue an administrative challenge or  
1165 judicial review of the office's final order.

1166 2. In developing its rates, the corporation shall use an  
1167 appropriate industry expense equalization factor to ensure that  
1168 its rates include standard industry ratemaking expense  
1169 provisions. The industry expense equalization factor must  
1170 include a catastrophe risk load, a provision for taxes, a market  
1171 provision for reinsurance costs, and an industry expense  
1172 provision for general expenses, acquisition expenses, and  
1173 commissions.

1174 3. The corporation shall implement a rate increase each  
1175 year for each residential line of business it writes, which may  
1176 not exceed 20 percent by territory and 25 percent for any single

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1177 policy, excluding coverage changes and surcharges. This  
 1178 subparagraph expires January 1, 2015, and does not apply to  
 1179 rates for sinkhole coverage or costs for the purchase of private  
 1180 reinsurance, if any.

1181 4.2. In addition to the rates otherwise determined  
 1182 pursuant to this paragraph, the corporation shall impose and  
 1183 collect an amount equal to the premium tax provided for in s.  
 1184 624.509 to augment the financial resources of the corporation.

1185 ~~3. After the public hurricane loss projection model under~~  
 1186 ~~s. 627.06281 has been found to be accurate and reliable by the~~  
 1187 ~~Florida Commission on Hurricane Loss Projection Methodology,~~  
 1188 ~~that model shall serve as the minimum benchmark for determining~~  
 1189 ~~the windstorm portion of the corporation's rates. This~~  
 1190 ~~subparagraph does not require or allow the corporation to adopt~~  
 1191 ~~rates lower than the rates otherwise required or allowed by this~~  
 1192 ~~paragraph.~~

1193 ~~4. The rate filings for the corporation which were~~  
 1194 ~~approved by the office and which took effect January 1, 2007,~~  
 1195 ~~are rescinded, except for those rates that were lowered. As soon~~  
 1196 ~~as possible, the corporation shall begin using the lower rates~~  
 1197 ~~that were in effect on December 31, 2006, and shall provide~~  
 1198 ~~refunds to policyholders who have paid higher rates as a result~~  
 1199 ~~of that rate filing. The rates in effect on December 31, 2006,~~  
 1200 ~~shall remain in effect for the 2007 and 2008 calendar years~~  
 1201 ~~except for any rate change that results in a lower rate. The~~  
 1202 ~~next rate change that may increase rates shall take effect~~  
 1203 ~~pursuant to a new rate filing recommended by the corporation and~~  
 1204 ~~established by the office, subject to the requirements of this~~

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1205 ~~paragraph.~~

1206 ~~5. Beginning on July 15, 2009, and each year thereafter,~~  
 1207 ~~the corporation must make a recommended actuarially sound rate~~  
 1208 ~~filing for each personal and commercial line of business it~~  
 1209 ~~writes, to be effective no earlier than January 1, 2010.~~

1210 ~~6. Beginning on or after January 1, 2010, and~~  
 1211 ~~notwithstanding the board's recommended rates and the office's~~  
 1212 ~~final order regarding the corporation's filed rates under~~  
 1213 ~~subparagraph 1., the corporation shall implement a rate increase~~  
 1214 ~~each year which does not exceed 10 percent for any single policy~~  
 1215 ~~issued by the corporation, excluding coverage changes and~~  
 1216 ~~surcharges.~~

1217 5.7. The corporation may also implement an increase to  
 1218 reflect the effect on the corporation of the cash buildup factor  
 1219 pursuant to s. 215.555(5) (b).

1220 6. This paragraph does not require or allow the  
 1221 corporation to reduce rates.

1222 ~~8. The corporation's implementation of rates as prescribed~~  
 1223 ~~in subparagraph 6. shall cease for any line of business written~~  
 1224 ~~by the corporation upon the corporation's implementation of~~  
 1225 ~~actuarially sound rates. Thereafter, the corporation shall~~  
 1226 ~~annually make a recommended actuarially sound rate filing for~~  
 1227 ~~each commercial and personal line of business the corporation~~  
 1228 ~~writes.~~

1229 (o) If coverage in an account is deactivated pursuant to  
 1230 paragraph (p), coverage through the corporation shall be  
 1231 reactivated by order of the office only under one of the  
 1232 following circumstances:

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1233 1. If the market assistance plan receives a minimum of 100  
 1234 applications for coverage within a 3-month period, or 200  
 1235 applications for coverage within a 1-year period or less for  
 1236 residential coverage, unless the market assistance plan provides  
 1237 a quotation from admitted carriers at their filed rates for at  
 1238 least 90 percent of such applicants. A ~~Any~~ market assistance  
 1239 plan application that is rejected because an individual risk is  
 1240 so hazardous as to be uninsurable using the criteria specified  
 1241 in subparagraph (c)7. ~~may (e)8. shall~~ not be included in the  
 1242 minimum percentage calculation ~~provided herein.~~ If ~~In the event~~  
 1243 ~~that~~ there is a legal or administrative challenge to a  
 1244 determination by the office that the conditions of this  
 1245 subparagraph have been met for eligibility for coverage by ~~in~~  
 1246 the corporation, an ~~any~~ eligible risk may obtain coverage during  
 1247 the pendency of such challenge.

1248 2. In response to a state of emergency declared by the  
 1249 Governor under s. 252.36, the office may activate coverage by  
 1250 order during ~~for the period of~~ the emergency upon a finding by  
 1251 the office that the emergency significantly affects the  
 1252 availability of residential property insurance.

1253 (s)1. There is ~~shall be~~ no liability on the part of, and  
 1254 no cause of action ~~of any nature~~ shall arise against, any  
 1255 assessable insurer or its agents or employees, the corporation  
 1256 or its agents or employees, members of the board of governors or  
 1257 their respective designees at a board meeting, corporation  
 1258 committee members, or the office or its representatives, for any  
 1259 action taken by them in the performance of their duties or  
 1260 responsibilities under this subsection.

1261        a. As part of the immunity, the corporation, as a  
 1262 governmental entity serving a public purpose, is not liable for  
 1263 any claim for bad faith whether or not brought pursuant to s.  
 1264 624.155, and this subsection or any other provision of law does  
 1265 not create liability or a cause of action for bad faith or a  
 1266 claim for extracontractual damages.

1267        b. Such immunity does not apply to:

1268        (I)~~a.~~ Any of the foregoing persons or entities for any  
 1269 willful tort;

1270        (II)~~b.~~ The corporation or its producing agents for breach  
 1271 of any contract or agreement pertaining to insurance coverage;

1272        (III)~~c.~~ The corporation with respect to issuance or  
 1273 payment of debt;

1274        (IV)~~d.~~ An ~~Any~~ assessable insurer with respect to any  
 1275 action to enforce an assessable insurer's obligations to the  
 1276 corporation under this subsection; or

1277        (V)~~e.~~ The corporation in any pending or future action for  
 1278 breach of contract or for benefits under a policy issued by the  
 1279 corporation. ‡ In any such action, the corporation is ~~shall be~~  
 1280 liable to the policyholders and beneficiaries for attorney's  
 1281 fees under s. 627.428.

1282        2. The corporation shall manage its claim employees,  
 1283 independent adjusters, and others who handle claims to ensure  
 1284 they carry out the corporation's duty to its policyholders to  
 1285 handle claims carefully, timely, diligently, and in good faith,  
 1286 balanced against the corporation's duty to the state to manage  
 1287 its assets responsibly in order to minimize its assessment  
 1288 potential.

1289           (w) Notwithstanding any other provision of law:  
 1290           1. The pledge or sale of, the lien upon, and the security  
 1291 interest in any rights, revenues, or other assets of the  
 1292 corporation created or purported to be created pursuant to any  
 1293 financing documents to secure any bonds or other indebtedness of  
 1294 the corporation shall be and remain valid and enforceable,  
 1295 notwithstanding the commencement of and during the continuation  
 1296 of, and after, any rehabilitation, insolvency, liquidation,  
 1297 bankruptcy, receivership, conservatorship, reorganization, or  
 1298 similar proceeding against the corporation under the laws of  
 1299 this state.

1300           2. ~~No~~ Such proceeding does not shall relieve the  
 1301 corporation of its obligation, or otherwise affect its ability  
 1302 to perform its obligation, to continue to collect, or levy and  
 1303 collect, assessments, market equalization or other surcharges  
 1304 ~~under subparagraph (c)10.~~, or any other rights, revenues, or  
 1305 other assets of the corporation pledged pursuant to any  
 1306 financing documents.

1307           3. Each such pledge or sale of, lien upon, and security  
 1308 interest in, including the priority of such pledge, lien, or  
 1309 security interest, any such assessments, market equalization or  
 1310 other surcharges, or other rights, revenues, or other assets  
 1311 which are collected, or levied and collected, after the  
 1312 commencement of and during the pendency of, or after, any such  
 1313 proceeding continues shall ~~continue~~ unaffected by such  
 1314 proceeding. As used in this subsection, the term "financing  
 1315 documents" means any agreement or agreements, instrument or  
 1316 instruments, or other document or documents now existing or

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1317 hereafter created evidencing any bonds or other indebtedness of  
 1318 the corporation or pursuant to which any such bonds or other  
 1319 indebtedness has been or may be issued and pursuant to which any  
 1320 rights, revenues, or other assets of the corporation are pledged  
 1321 or sold to secure the repayment of such bonds or indebtedness,  
 1322 together with the payment of interest on such bonds or such  
 1323 indebtedness, or the payment of any other obligation or  
 1324 financial product, as defined in the plan of operation of the  
 1325 corporation related to such bonds or indebtedness.

1326 4. Any such pledge or sale of assessments, revenues,  
 1327 contract rights, or other rights or assets of the corporation  
 1328 constitutes ~~shall constitute~~ a lien and security interest, or  
 1329 sale, as the case may be, that is immediately effective and  
 1330 attaches to such assessments, revenues, or contract rights or  
 1331 other rights or assets, whether or not imposed or collected at  
 1332 the time the pledge or sale is made. ~~Any~~ Such pledge or sale is  
 1333 effective, valid, binding, and enforceable against the  
 1334 corporation or other entity making such pledge or sale, and  
 1335 valid and binding against and superior to any competing claims  
 1336 or obligations owed to any other person or entity, including  
 1337 policyholders in this state, asserting rights in any such  
 1338 assessments, revenues, or contract rights or other rights or  
 1339 assets to the extent set forth in and in accordance with the  
 1340 terms of the pledge or sale contained in the applicable  
 1341 financing documents, whether or not any such person or entity  
 1342 has notice of such pledge or sale and without the need for any  
 1343 physical delivery, recordation, filing, or other action.

1344 5. If ~~As long as~~ the corporation has any bonds



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1345 outstanding, the corporation may not file a voluntary petition  
 1346 under chapter 9 of the federal Bankruptcy Code or such  
 1347 corresponding chapter or sections as may be in effect, ~~from time~~  
 1348 ~~to time~~, and a public officer or any organization, entity, or  
 1349 other person may not authorize the corporation to be or become a  
 1350 debtor under chapter 9 of the federal Bankruptcy Code or such  
 1351 corresponding chapter or sections as may be in effect, ~~from time~~  
 1352 ~~to time~~, during any such period.

1353 6. If ordered by a court ~~of competent jurisdiction~~, the  
 1354 corporation may assume policies or otherwise provide coverage  
 1355 for policyholders of an insurer placed in liquidation under  
 1356 chapter 631, under such forms, rates, terms, and conditions as  
 1357 the corporation deems appropriate, subject to approval by the  
 1358 office.

1359 (y) It is the intent of the Legislature that the  
 1360 amendments to this subsection enacted in 2002 should, over time,  
 1361 reduce the probable maximum windstorm losses in the residual  
 1362 markets and ~~should~~ reduce the potential assessments to be levied  
 1363 on property insurers and policyholders statewide. ~~In furtherance~~  
 1364 ~~of this intent:~~

1365 ~~1. The board shall, on or before February 1 of each year,~~  
 1366 ~~provide a report to the President of the Senate and the Speaker~~  
 1367 ~~of the House of Representatives showing the reduction or~~  
 1368 ~~increase in the 100-year probable maximum loss attributable to~~  
 1369 ~~wind-only coverages and the quota share program under this~~  
 1370 ~~subsection combined, as compared to the benchmark 100-year~~  
 1371 ~~probable maximum loss of the Florida Windstorm Underwriting~~  
 1372 ~~Association. For purposes of this paragraph, the benchmark 100-~~

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1373 ~~year probable maximum loss of the Florida Windstorm Underwriting~~  
1374 ~~Association shall be the calculation dated February 2001 and~~  
1375 ~~based on November 30, 2000, exposures. In order to ensure~~  
1376 ~~comparability of data, the board shall use the same methods for~~  
1377 ~~calculating its probable maximum loss as were used to calculate~~  
1378 ~~the benchmark probable maximum loss.~~

1379 ~~2. Beginning December 1, 2010, if the report under~~  
1380 ~~subparagraph 1. for any year indicates that the 100-year~~  
1381 ~~probable maximum loss attributable to wind-only coverages and~~  
1382 ~~the quota share program combined does not reflect a reduction of~~  
1383 ~~at least 25 percent from the benchmark, the board shall reduce~~  
1384 ~~the boundaries of the high-risk area eligible for wind-only~~  
1385 ~~coverages under this subsection in a manner calculated to reduce~~  
1386 ~~such probable maximum loss to an amount at least 25 percent~~  
1387 ~~below the benchmark.~~

1388 ~~3. Beginning February 1, 2015, if the report under~~  
1389 ~~subparagraph 1. for any year indicates that the 100-year~~  
1390 ~~probable maximum loss attributable to wind-only coverages and~~  
1391 ~~the quota share program combined does not reflect a reduction of~~  
1392 ~~at least 50 percent from the benchmark, the boundaries of the~~  
1393 ~~high-risk area eligible for wind-only coverages under this~~  
1394 ~~subsection shall be reduced by the elimination of any area that~~  
1395 ~~is not seaward of a line 1,000 feet inland from the Intracoastal~~  
1396 ~~Waterway.~~

1397 ~~(aa) As a condition of eligibility for coverage by the~~  
1398 ~~corporation, an applicant or insured of a property located in~~  
1399 ~~Special Flood Hazard Area, as defined by the National Flood~~  
1400 ~~Insurance Program, must maintain in effect a separate flood~~

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1401 insurance policy having coverage limits for building and  
 1402 contents at least equal to those provided under the  
 1403 corporation's policy, subject to the maximum limits available  
 1404 under the National Flood Insurance Program policy. This  
 1405 requirement does not apply to an insured who is a tenant or a  
 1406 condominium unit owner above the ground floor; a policy issued  
 1407 by the corporation which excludes wind and hail coverage; a risk  
 1408 that is not eligible for flood coverage under the National Flood  
 1409 Insurance Program; or a mobile home that is located more than 2  
 1410 miles from open water, including the ocean, the gulf, a bay, a  
 1411 river, or the intracoastal waterway. This paragraph applies to  
 1412 new policies issued by the corporation on or after January 1,  
 1413 2012, and to policies renewed by the corporation on or after  
 1414 January 1, 2013. ~~The corporation shall not require the securing~~  
 1415 ~~of flood insurance as a condition of coverage if the insured or~~  
 1416 ~~applicant executes a form approved by the office affirming that~~  
 1417 ~~flood insurance is not provided by the corporation and that if~~  
 1418 ~~flood insurance is not secured by the applicant or insured in~~  
 1419 ~~addition to coverage by the corporation, the risk will not be~~  
 1420 ~~covered for flood damage. A corporation policyholder electing~~  
 1421 ~~not to secure flood insurance and executing a form as provided~~  
 1422 ~~herein making a claim for water damage against the corporation~~  
 1423 ~~shall have the burden of proving the damage was not caused by~~  
 1424 ~~flooding. Notwithstanding other provisions of this subsection,~~  
 1425 ~~the corporation may deny coverage to an applicant or insured who~~  
 1426 ~~refuses to execute the form described herein.~~

1427 ~~(cc) The office may establish a pilot program to offer~~  
 1428 ~~optional sinkhole coverage in one or more counties or other~~

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1429 ~~territories of the corporation for the purpose of implementing~~  
 1430 ~~s. 627.706, as amended by s. 30, chapter 2007-1, Laws of~~  
 1431 ~~Florida. Under the pilot program, the corporation is not~~  
 1432 ~~required to issue a notice of nonrenewal to exclude sinkhole~~  
 1433 ~~coverage upon the renewal of existing policies, but may exclude~~  
 1434 ~~such coverage using a notice of coverage change.~~

1435 Section 2. Subsection (4) of section 627.3511, Florida  
 1436 Statutes, is amended to read:

1437 627.3511 Depopulation of Citizens Property Insurance  
 1438 Corporation.—

1439 (4) AGENT BONUS.—~~If~~ When the corporation enters into a  
 1440 contractual agreement for a take-out plan that provides a bonus  
 1441 to the insurer, the producing agent of record of the corporation  
 1442 policy is entitled to retain any unearned commission on such  
 1443 policy, and the insurer shall either:

1444 (a) Pay to the producing agent ~~of record of the~~  
 1445 ~~association policy~~, for the first year, an amount that is the  
 1446 greater of the insurer's usual and customary commission for the  
 1447 type of policy written or a fee equal to the usual and customary  
 1448 commission of the corporation; or

1449 (b) Offer to allow the producing agent ~~of record of the~~  
 1450 ~~corporation policy~~ to continue servicing the policy for at least  
 1451 ~~a period of not less than~~ 1 year and offer to pay the agent the  
 1452 greater of the insurer's or the corporation's usual and  
 1453 customary commission for the type of policy written.

1454  
 1455 If the producing agent is unwilling or unable to accept  
 1456 appointment, the new insurer shall pay the agent in accordance

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1457 with paragraph (a). The requirement ~~of this subsection~~ that the  
 1458 producing agent of record is entitled to retain the unearned  
 1459 commission on an association policy does not apply to a policy  
 1460 for which coverage has been provided in the association for 30  
 1461 days or less ~~or for which a cancellation notice has been issued~~  
 1462 ~~pursuant to s. 627.351(6)(c)10. during the first 30 days of~~  
 1463 ~~coverage.~~

1464 Section 3. Subsection (1) of section 627.712, Florida  
 1465 Statutes, is amended to read:

1466 627.712 Residential windstorm coverage required;  
 1467 availability of exclusions for windstorm or contents.—

1468 (1) An insurer issuing a residential property insurance  
 1469 policy must provide windstorm coverage. Except as provided in  
 1470 paragraph (2)(c), this section does not apply ~~with respect~~ to  
 1471 risks that are eligible for wind-only coverage from Citizens  
 1472 Property Insurance Corporation under s. 627.351(6), and ~~with~~  
 1473 ~~respect~~ to risks that are not eligible for coverage from  
 1474 Citizens Property Insurance Corporation under s. 627.351(6)(a)3.  
 1475 or 4. 5. A risk ineligible for ~~Citizens~~ coverage under s.  
 1476 627.351(6)(a)3. or 4. 5. is exempt from the requirements of this  
 1477 section only if the risk is located within the boundaries of the  
 1478 high-risk account of the corporation.

1479 Section 4. This act shall take effect upon becoming a law.