

1 A bill to be entitled
2 An act relating to 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; specifying the
7 percentage amount of emergency assessments; revising
8 provisions relating to policyholder surcharges;
9 prohibiting the corporation from levying certain
10 assessments with respect to a year's deficit until the
11 corporation has first levied a specified surcharge;
12 deleting obsolete provisions relating to the corporation's
13 plan of operation; requiring the corporation to commission
14 a consultant to prepare a report on outsourcing various
15 functions and to submit such report to the Financial
16 Services Commission by a certain date; revising provisions
17 relating to wind coverage; specifying that the
18 corporation's insurance policies must provide that a
19 surplus lines insurer's offer to cover risks at approved
20 rates makes the policy ineligible for renewal through the
21 corporation under certain circumstances; requiring the
22 policyholders to sign a statement acknowledging that they
23 may be assessed surcharges to cover corporate deficits;
24 providing for termination of an agent for violation of
25 provisions relating to unlawful rebates; providing that
26 policies do not include coverage for screen enclosures and
27 limiting coverage for damage from sinkholes after a
28 certain date; requiring members of the board of governors

29 | to abstain from voting on issues on which they have a
 30 | personal interest; requiring such members to disclose the
 31 | nature of their interest as a public record; providing
 32 | that the corporation operates as a residual market
 33 | mechanism; revising provisions relating to corporation
 34 | rates; providing that surplus lines insurers may
 35 | participate in depopulation, take-out, or keep-out
 36 | programs relating to the corporation under certain
 37 | circumstances; providing requirements that a surplus lines
 38 | insurer must meet in order to participate in such
 39 | programs; clarifying that the corporation is immune from
 40 | certain liabilities; authorizing the release of
 41 | confidential claims files to an insurer who removes a risk
 42 | from the corporation under certain circumstances; deleting
 43 | a requirement for an annual report to the Legislature on
 44 | losses attributable to wind-only coverages; requiring
 45 | owners of properties in Special Flood Hazard Areas to
 46 | maintain a separate flood insurance policy after a certain
 47 | date; providing exceptions; deleting a provision relating
 48 | to a pilot program for optional sinkhole coverage;
 49 | amending s. 627.712, F.S.; conforming cross-references;
 50 | providing an effective date.

51 |
 52 | Be It Enacted by the Legislature of the State of Florida:

53 |
 54 | Section 1. Paragraphs (a), (b), (c), (d), (n), (o), (q),
 55 | (s), (w), (x), (y), (aa), and (ee) of subsection (6) of section
 56 | 627.351, Florida Statutes, are amended to read:

57 | 627.351 Insurance risk apportionment plans.—

58 | (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

59 | (a)~~1.~~ ~~It is~~ The public purpose of this subsection is to
 60 | ensure that there is ~~the existence of~~ an orderly market for
 61 | property insurance for residents ~~Floridians~~ and ~~Florida~~
 62 | businesses of this state.

63 | 1. The Legislature finds that actual and threatened
 64 | catastrophic losses to property from hurricanes in this state
 65 | have caused insurers to be unwilling or unable to provide
 66 | property insurance coverage to the extent sought and needed. The
 67 | Legislature declares that it is in the public interest and
 68 | serves a public purpose that property in this state be
 69 | adequately insured in order to facilitate the remediation,
 70 | reconstruction, and replacement of damaged or destroyed
 71 | property. Such efforts are necessary in order to avoid or reduce
 72 | negative effects to the public health, safety, and welfare; the
 73 | economy of the state; and the revenues of state and local
 74 | governments. It is necessary, therefore, to provide property
 75 | insurance to applicants who are entitled to procure insurance
 76 | through the voluntary market but who, in good faith, are unable
 77 | to do so. ~~The Legislature finds that private insurers are~~
 78 | ~~unwilling or unable to provide affordable property insurance~~
 79 | ~~coverage in this state to the extent sought and needed. The~~
 80 | ~~absence of affordable property insurance threatens the public~~
 81 | ~~health, safety, and welfare and likewise threatens the economic~~
 82 | ~~health of the state. The state therefore has a compelling public~~
 83 | ~~interest and a public purpose to assist in assuring that~~
 84 | ~~property in the state is insured and that it is insured at~~

85 ~~affordable rates so as to facilitate the remediation,~~
 86 ~~reconstruction, and replacement of damaged or destroyed property~~
 87 ~~in order to reduce or avoid the negative effects otherwise~~
 88 ~~resulting to the public health, safety, and welfare, to the~~
 89 ~~economy of the state, and to the revenues of the state and local~~
 90 ~~governments which are needed to provide for the public welfare.~~
 91 ~~It is necessary, therefore, to provide affordable property~~
 92 ~~insurance to applicants who are in good faith entitled to~~
 93 ~~procure insurance through the voluntary market but are unable to~~
 94 ~~do so.~~ The Legislature intends, therefore, by this subsection
 95 that ~~affordable~~ property insurance be provided and that it
 96 continue to be provided, as long as necessary, through Citizens
 97 Property Insurance Corporation, a government entity that is an
 98 integral part of the state, and that is not a private insurance
 99 company. ~~To that end, Citizens Property Insurance Corporation~~
 100 ~~shall strive to increase the availability of affordable property~~
 101 ~~insurance in this state, while achieving efficiencies and~~
 102 ~~economies, and while providing service to policyholders,~~
 103 ~~applicants, and agents which is no less than the quality~~
 104 ~~generally provided in the voluntary market, for the achievement~~
 105 ~~of the foregoing public purposes. Because it is essential for~~
 106 ~~this government entity to have the maximum financial resources~~
 107 ~~to pay claims following a catastrophic hurricane, it is the~~
 108 ~~intent of the Legislature that Citizens Property Insurance~~
 109 ~~Corporation continue to be an integral part of the state and~~
 110 ~~that the income of the corporation be exempt from federal income~~
 111 ~~taxation and that interest on the debt obligations issued by the~~
 112 ~~corporation be exempt from federal income taxation.~~

113 a. It is also the intent of the Legislature that
114 policyholders, applicants, and agents of the corporation receive
115 service and treatment of the highest possible level and never
116 less than that generally provided in the voluntary market. The
117 corporation must be held to service standards no less than those
118 applied to insurers in the voluntary market by the office with
119 respect to responsiveness, timeliness, customer courtesy, and
120 overall dealings with policyholders, applicants, or agents of
121 the corporation. It is also the intent of the Legislature that
122 the corporation operate efficiently and economically.

123 b. Because it is essential that the corporation have the
124 maximum financial resources necessary to pay claims following a
125 catastrophic hurricane, the Legislature also intends that the
126 income of the corporation and interest on the debt obligations
127 issued by the corporation be exempt from federal income
128 taxation.

129 2. The Residential Property and Casualty Joint
130 Underwriting Association originally created by this statute
131 shall be known~~, as of July 1, 2002,~~ as the Citizens Property
132 Insurance Corporation. The corporation shall provide insurance
133 for residential and commercial property, for applicants who are
134 ~~in good faith~~ entitled, but, in good faith, are unable~~,~~ to
135 procure insurance through the voluntary market. The corporation
136 shall operate pursuant to a plan of operation approved by order
137 of the Financial Services Commission. The plan is subject to
138 continuous review by the commission. The commission may, by
139 order, withdraw approval of all or part of a plan if the
140 commission determines that conditions have changed since

141 approval was granted and that the purposes of the plan require
142 changes in the plan. ~~The corporation shall continue to operate~~
143 ~~pursuant to the plan of operation approved by the Office of~~
144 ~~Insurance Regulation until October 1, 2006.~~ For the purposes of
145 this subsection, residential coverage includes both personal
146 lines residential coverage, which consists of the type of
147 coverage provided by homeowner's, mobile home owner's, dwelling,
148 tenant's, condominium unit owner's, and similar policies;; and
149 commercial lines residential coverage, which consists of the
150 type of coverage provided by condominium association, apartment
151 building, and similar policies.

152 3. With respect to coverage for personal lines residential
153 structures:

154 a. Effective January 1, 2009, a ~~personal lines residential~~
155 structure that has a dwelling replacement cost of \$2 million or
156 more, or a single condominium unit that has a combined dwelling
157 and contents ~~content~~ replacement cost of \$2 million or more is
158 not eligible for coverage by the corporation. Such dwellings
159 insured by the corporation on December 31, 2008, may continue to
160 be covered by the corporation until the end of the policy term.
161 However, such dwellings ~~that are insured by the corporation and~~
162 ~~become ineligible for coverage due to the provisions of this~~
163 ~~subparagraph~~ may reapply and obtain coverage if the property
164 owner provides the corporation with a sworn affidavit from one
165 or more insurance agents, on a form provided by the corporation,
166 stating that the agents have made their best efforts to obtain
167 coverage and that the property has been rejected for coverage by
168 at least one authorized insurer and at least three surplus lines

169 insurers. If such conditions are met, the dwelling may be
170 insured by the corporation for up to 3 years, after which time
171 the dwelling is ineligible for coverage. ~~The office shall~~
172 ~~approve the method used by the corporation for valuing the~~
173 ~~dwelling replacement cost for the purposes of this subparagraph.~~
174 ~~If a policyholder is insured by the corporation prior to being~~
175 ~~determined to be ineligible pursuant to this subparagraph and~~
176 ~~such policyholder files a lawsuit challenging the determination,~~
177 ~~the policyholder may remain insured by the corporation until the~~
178 ~~conclusion of the litigation.~~

179 b. Effective January 1, 2012, a structure that has a
180 dwelling replacement cost of \$1 million or more, or a single
181 condominium unit that has a combined dwelling and contents
182 replacement cost of \$1 million or more, is not eligible for
183 coverage by the corporation. Such dwellings insured by the
184 corporation on December 31, 2011, may continue to be covered by
185 the corporation only until the end of the policy term.

186 c. Effective January 1, 2014, a structure that has a
187 dwelling replacement cost of \$750,000 or more, or a single
188 condominium unit that has a combined dwelling and contents
189 replacement cost of \$750,000 or more, is not eligible for
190 coverage by the corporation. Such dwellings insured by the
191 corporation on December 31, 2013, may continue to be covered by
192 the corporation until the end of the policy term.

193 d. Effective January 1, 2016, a structure that has a
194 dwelling replacement cost of \$500,000 or more, or a single
195 condominium unit that has a combined dwelling and contents
196 replacement cost of \$500,000 or more, is not eligible for

197 coverage by the corporation. Such dwellings insured by the
198 corporation on December 31, 2015, may continue to be covered by
199 the corporation until the end of the policy term.

200 ~~4. It is the intent of the Legislature that policyholders,~~
201 ~~applicants, and agents of the corporation receive service and~~
202 ~~treatment of the highest possible level but never less than that~~
203 ~~generally provided in the voluntary market. It also is intended~~
204 ~~that the corporation be held to service standards no less than~~
205 ~~those applied to insurers in the voluntary market by the office~~
206 ~~with respect to responsiveness, timeliness, customer courtesy,~~
207 ~~and overall dealings with policyholders, applicants, or agents~~
208 ~~of the corporation.~~

209 4.5. Effective January 1, 2009, a personal lines
210 residential structure that is located in the "wind-borne debris
211 region," as defined in s. 1609.2, International Building Code
212 (2006), and that has an insured value on the structure of
213 \$750,000 or more is not eligible for coverage by the corporation
214 unless the structure has opening protections as required under
215 the Florida Building Code for a newly constructed residential
216 structure in that area. A residential structure shall be deemed
217 to comply with ~~the requirements of~~ this subparagraph if it has
218 shutters or opening protections on all openings and if such
219 opening protections complied with the Florida Building Code at
220 the time they were installed.

221 (b)1. All insurers authorized to write one or more subject
222 lines of business in this state are subject to assessment by the
223 corporation and, for the purposes of this subsection, are
224 referred to collectively as "assessable insurers." Insurers

225 writing one or more subject lines of business in this state
 226 pursuant to part VIII of chapter 626 are not assessable
 227 insurers, but insureds who procure one or more subject lines of
 228 business in this state pursuant to part VIII of chapter 626 are
 229 subject to assessment by the corporation and are referred to
 230 collectively as "assessable insureds." An ~~authorized~~ insurer's
 231 assessment liability begins ~~shall begin~~ on the first day of the
 232 calendar year following the year in which the insurer was issued
 233 a certificate of authority to transact insurance for subject
 234 lines of business in this state and terminates ~~shall terminate~~ 1
 235 year after the end of the first calendar year during which the
 236 insurer no longer holds a certificate of authority to transact
 237 insurance for subject lines of business in this state.

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

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

250 (II) A commercial lines account for commercial residential
 251 and commercial nonresidential policies issued by the
 252 corporation, or issued by the Residential Property and Casualty

253 Joint Underwriting Association and renewed by the corporation,
 254 which provides ~~that provide~~ coverage for basic property perils
 255 on risks that are not located in areas eligible for coverage by
 256 ~~in~~ the Florida Windstorm Underwriting Association as those areas
 257 were defined on January 1, 2002, and for ~~such~~ policies that do
 258 not provide coverage for the peril of wind on risks that are
 259 located in such areas; and

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

281 purchase or retain coverage excluding wind from an authorized
 282 insurer without prejudice to the applicant's or insured's
 283 eligibility to prospectively purchase a policy that provides
 284 multiperil coverage from the corporation. ~~It is the goal of the~~
 285 ~~Legislature that there would be an overall average savings of 10~~
 286 ~~percent or more for a policyholder who currently has a wind only~~
 287 ~~policy with the corporation, and an ex-wind policy with a~~
 288 ~~voluntary insurer or the corporation, and who then obtains a~~
 289 ~~multiperil policy from the corporation.~~ It is the intent of the
 290 Legislature that the offer of multiperil coverage in the high-
 291 risk account be made and implemented in a manner that does not
 292 adversely affect the tax-exempt status of the corporation or
 293 creditworthiness of or security for currently outstanding
 294 financing obligations or credit facilities of the high-risk
 295 account, the personal lines account, or the commercial lines
 296 account. ~~The high-risk account must also include quota share~~
 297 ~~primary insurance under subparagraph (c)2.~~ The area eligible for
 298 coverage under the high-risk account also includes the area
 299 within Port Canaveral, which is bordered on the south by the
 300 City of Cape Canaveral, bordered on the west by the Banana
 301 River, and bordered on the north by Federal Government property.

302 b. The three separate accounts must be maintained as long
 303 as financing obligations entered into by the Florida Windstorm
 304 Underwriting Association or Residential Property and Casualty
 305 Joint Underwriting Association are outstanding, in accordance
 306 with the terms of the corresponding financing documents. If ~~When~~
 307 the financing obligations are no longer outstanding, ~~in~~
 308 ~~accordance with the terms of the corresponding financing~~

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309 ~~documents,~~ the corporation may use a single account for all
310 revenues, assets, liabilities, losses, and expenses of the
311 corporation. Consistent with ~~the requirement of~~ this
312 subparagraph and prudent investment policies that minimize the
313 cost of carrying debt, the board shall exercise its best efforts
314 to retire existing debt or ~~to~~ obtain the approval of necessary
315 parties to amend the terms of existing debt, so as to structure
316 the most efficient plan to consolidate the three separate
317 accounts into a single account.

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

329 d. Revenues, assets, liabilities, losses, and expenses not
330 attributable to particular accounts shall be prorated among the
331 accounts.

332 e. The Legislature finds that the revenues of the
333 corporation are revenues that are necessary to meet the
334 requirements set forth in documents authorizing the issuance of
335 bonds under this subsection.

336 f. No part of the income of the corporation may inure to

337 the benefit of any private person.

338 3. With respect to a deficit in an account:

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

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

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

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

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

393 policies for subject lines of business, excluding National Flood
 394 Insurance policies. The amount of the emergency assessment
 395 collected in a particular year must ~~shall~~ be a uniform
 396 percentage of that year's direct written premium for subject
 397 lines of business ~~and all accounts of the corporation~~, excluding
 398 National Flood Insurance Program policy premiums, as annually
 399 determined by the board and verified by the office. For all
 400 accounts of the corporation, the amount of the emergency
 401 assessment levied in a particular year must be a uniform
 402 percentage equal to 1 1/2 times the uniform percentage emergency
 403 assessment levied on subject lines of business. The office shall
 404 verify the arithmetic calculations involved in the board's
 405 determination within 30 days after receipt of the information on
 406 which the determination was based. Notwithstanding any other
 407 provision of law, the corporation and each assessable insurer
 408 that writes subject lines of business shall collect emergency
 409 assessments from its policyholders without such obligation being
 410 affected by any credit, limitation, exemption, or deferment.
 411 Emergency assessments levied by the corporation on assessable
 412 insureds shall be collected by the surplus lines agent at the
 413 time the surplus lines agent collects the surplus lines tax
 414 required by s. 626.932 and ~~shall be~~ paid to the Florida Surplus
 415 Lines Service Office at the time the surplus lines agent pays
 416 the surplus lines tax to that ~~the Florida Surplus Lines Service~~
 417 office. The emergency assessments ~~so~~ collected shall be
 418 transferred directly to the corporation on a periodic basis as
 419 determined by the corporation and ~~shall be~~ held by the
 420 corporation solely in the applicable account. The aggregate

421 amount of emergency assessments levied for an account under this
 422 sub-subparagraph in any calendar year may, ~~at the discretion of~~
 423 ~~the board of governors,~~ be less than but may not exceed the
 424 greater of 10 percent of the amount needed to cover the deficit,
 425 plus interest, fees, commissions, required reserves, and other
 426 costs associated with financing ~~of~~ the original deficit, or 10
 427 percent of the aggregate statewide direct written premium for
 428 subject lines of business and 15 percent for all accounts of the
 429 corporation for the prior year, plus interest, fees,
 430 commissions, required reserves, and other costs associated with
 431 financing the deficit.

432 e. The corporation may pledge the proceeds of assessments,
 433 projected recoveries from the Florida Hurricane Catastrophe
 434 Fund, other insurance and reinsurance recoverables, policyholder
 435 surcharges and other surcharges, and other funds available to
 436 the corporation as the source of revenue for and to secure bonds
 437 issued under paragraph (q), bonds or other indebtedness issued
 438 under subparagraph (c)~~2.3.~~, or lines of credit or other
 439 financing mechanisms issued or created under this subsection, or
 440 to retire any other debt incurred as a result of deficits or
 441 events giving rise to deficits, or in any other way that the
 442 board determines will efficiently recover such deficits. The
 443 purpose of the lines of credit or other financing mechanisms is
 444 to provide additional resources to assist the corporation in
 445 covering claims and expenses attributable to a catastrophe. As
 446 used in this subsection, the term "assessments" includes regular
 447 assessments under sub-subparagraph a., sub-subparagraph b., or
 448 subparagraph (q)1. and emergency assessments under sub-

449 | subparagraph d. Emergency assessments collected under sub-
 450 | subparagraph d. are not part of an insurer's rates, are not
 451 | premium, and are not subject to premium tax, fees, or
 452 | commissions; however, failure to pay the emergency assessment
 453 | shall be treated as failure to pay premium. The emergency
 454 | assessments under sub-subparagraph d. shall continue as long as
 455 | any bonds issued or other indebtedness incurred with respect to
 456 | a deficit for which the assessment was imposed remain
 457 | outstanding, unless adequate provision has been made for the
 458 | payment of such bonds or other indebtedness pursuant to the
 459 | documents governing such bonds or ~~other~~ indebtedness.

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

476 | g. The Florida Surplus Lines Service Office shall

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477 determine annually the aggregate statewide written premium in
478 subject lines of business procured by assessable insureds and
479 ~~shall~~ report that information to the corporation in a form and
480 at a time the corporation specifies to ensure that the
481 corporation can meet the requirements of this subsection and the
482 corporation's financing obligations.

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

490 i. If a deficit is incurred in any account in 2011 ~~2008~~ or
491 thereafter, the board of governors shall levy a Citizens
492 policyholder surcharge against all policyholders of the
493 corporation.

494 (I) The surcharge for a 12-month period, which shall be
495 levied collected at the time of issuance or renewal of a policy,
496 as a uniform percentage of the premium for the policy of up to
497 15 percent of such premium, which funds shall be used to offset
498 the deficit.

499 (II) It is the intent of the Legislature that the
500 policyholder's liability for the surcharge attach on the date of
501 the order levying the surcharge. The surcharge is payable upon
502 cancellation or termination of the policy, upon renewal of the
503 policy, or upon issuance of a new policy by the corporation
504 within the first 12 months after the date of the levy or the

505 period of time necessary to fully collect the surcharge amount.

506 (III) The corporation may not levy any regular assessments
 507 under paragraph (q) pursuant to sub-subparagraph a. or sub-
 508 subparagraph b. with respect to a particular year's deficit
 509 until the corporation has first levied a surcharge under this
 510 sub-subparagraph in the full amount authorized by this sub-
 511 subparagraph.

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

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

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

527 1. Must provide ~~for adoption of~~ residential property and
 528 casualty insurance policy forms and commercial residential and
 529 nonresidential property insurance forms, which ~~forms~~ must be
 530 approved by the office before ~~prior to~~ use. The corporation
 531 shall adopt the following policy forms:

532 a. Standard personal lines policy forms that are

533 comprehensive multiperil policies providing full coverage of a
534 residential property equivalent to the coverage provided in the
535 private insurance market under an HO-3, HO-4, or HO-6 policy.

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

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

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

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

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

559 ~~2.a. Must provide that the corporation adopt a program in~~
560 ~~which the corporation and authorized insurers enter into quota~~

561 ~~share primary insurance agreements for hurricane coverage, as~~
562 ~~defined in s. 627.4025(2) (a), for eligible risks, and adopt~~
563 ~~property insurance forms for eligible risks which cover the~~
564 ~~peril of wind only. As used in this subsection, the term:~~

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

587 ~~(II) "Eligible risks" means personal lines residential and~~
588 ~~commercial lines residential risks that meet the underwriting~~

589 ~~criteria of the corporation and are located in areas that were~~
590 ~~eligible for coverage by the Florida Windstorm Underwriting~~
591 ~~Association on January 1, 2002.~~

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

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

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

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

614 ~~f. For all eligible risks covered under quota share~~
615 ~~primary insurance agreements, the exposure and coverage levels~~
616 ~~for both the corporation and authorized insurers shall be~~

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

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

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

645 ~~2.3.~~ May ~~provide that the corporation may~~ employ or
646 otherwise contract with individuals or other entities to provide
647 administrative or professional services ~~that may be appropriate~~
648 ~~to effectuate the plan.~~

649 a. The corporation may ~~shall have the power to~~ borrow
650 funds~~7~~ by issuing bonds or by incurring other indebtedness~~7~~ and
651 shall have other powers reasonably necessary to effectuate the
652 requirements of this subsection, including, without limitation,
653 the power to issue bonds and incur other indebtedness in order
654 to refinance outstanding bonds or other indebtedness. The
655 corporation ~~may, but is not required to,~~ seek judicial
656 validation of its bonds or other indebtedness under chapter 75.
657 The corporation may issue bonds or incur other indebtedness, or
658 have bonds issued on its behalf by a unit of local government
659 pursuant to subparagraph (q)2., in the absence of a hurricane or
660 other weather-related event, upon a determination by the
661 corporation, subject to approval by the office, that such action
662 would enable it to efficiently meet the financial obligations of
663 the corporation and that such financings are reasonably
664 necessary to effectuate the requirements of this subsection. The
665 corporation may ~~is authorized to~~ take all actions needed to
666 facilitate tax-free status for ~~any~~ such bonds or indebtedness,
667 including formation of trusts or other affiliated entities. The
668 corporation may ~~shall have the authority to~~ pledge assessments,
669 projected recoveries from the Florida Hurricane Catastrophe
670 Fund, other reinsurance recoverables, market equalization and
671 other surcharges, and other funds available to the corporation
672 as security for bonds or other indebtedness. In recognition of

673 s. 10, Art. I of the State Constitution, prohibiting the
674 impairment of obligations of contracts, it is the intent of the
675 Legislature that no action be taken whose purpose is to impair
676 any bond indenture or financing agreement or any revenue source
677 committed by contract to such bond or other indebtedness.

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

699 ~~3.4.a. Must require that the corporation operate subject~~
700 ~~to the supervision and approval of a board of governors~~

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701 consisting of eight individuals who are residents of this state,
702 from different geographical areas of this state.

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

729 b. The board shall create a Market Accountability Advisory
 730 Committee to assist the corporation in developing awareness of
 731 its rates and its customer and agent service levels in
 732 relationship to the voluntary market insurers writing similar
 733 coverage and to provide advice on issues regarding agent
 734 appointments and compensation.

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

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

757 matters relating to depopulation, producer compensation, or
 758 agency agreements.

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

761 a. Subject to ~~the provisions of~~ s. 627.3517, with respect
 762 to personal lines residential risks, if the risk is offered
 763 coverage from an authorized insurer at the insurer's approved
 764 rate under ~~either~~ a standard policy including wind coverage or,
 765 if consistent with the insurer's underwriting rules as filed
 766 with the office, a basic policy including wind coverage, for a
 767 new application to the corporation for coverage, the risk is not
 768 eligible for any policy issued by the corporation ~~unless the~~
 769 ~~premium for coverage from the authorized insurer is more than 15~~
 770 ~~percent greater than the premium for comparable coverage from~~
 771 ~~the corporation.~~ If the risk is not able to obtain any such
 772 offer, the risk is eligible for ~~either~~ a standard policy
 773 including wind coverage or a basic policy including wind
 774 coverage issued by the corporation; however, if the risk could
 775 not be insured under a standard policy including wind coverage
 776 regardless of market conditions, the risk is ~~shall be~~ eligible
 777 for a basic policy including wind coverage unless rejected under
 778 subparagraph ~~7. 8.~~ Notwithstanding these limitations, an
 779 application for coverage having an effective date before January
 780 1, 2015, is eligible for coverage by the corporation if the
 781 premium for coverage from an authorized insurer exceeds the
 782 premium for comparable coverage from the corporation by more
 783 than 25 percent. ~~However, with regard to a policyholder of the~~
 784 ~~corporation or a policyholder removed from the corporation~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

869
 870 If the producing agent is unwilling or unable to accept
 871 appointment, the new insurer shall pay the agent in accordance
 872 with sub-sub-sub-subparagraph (A).

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

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

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

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

891 c. For purposes of determining comparable coverage under
 892 sub-subparagraphs a. and b., the comparison shall be based on
 893 those forms and coverages that are reasonably comparable. The
 894 corporation may rely on a determination of comparable coverage
 895 and premium made by the producing agent who submits the
 896 application to the corporation, made in the agent's capacity as

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

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

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925 ~~5.6.~~ Must include rules for classifications of risks and
 926 rates ~~therefor~~.

927 ~~6.7.~~ Must provide that if premium and investment income
 928 for an account attributable to a particular calendar year are in
 929 excess of projected losses and expenses for the account
 930 attributable to that year, such excess shall be held in surplus
 931 in the account. Such surplus must ~~shall~~ be available to defray
 932 deficits in that account as to future years and ~~shall be~~ used
 933 for that purpose before ~~prior to~~ assessing assessable insurers
 934 and assessable insureds as to any calendar year.

935 ~~7.8.~~ Must provide objective criteria and procedures to be
 936 uniformly applied to ~~for~~ all applicants in determining whether
 937 an individual risk is so hazardous as to be uninsurable. In
 938 making this determination and in establishing the criteria and
 939 procedures, the following must ~~shall~~ be considered:

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

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

945
 946 The acceptance or rejection of a risk by the corporation shall
 947 be construed as the private placement of insurance, and the
 948 provisions of chapter 120 do ~~shall~~ not apply.

949 ~~8.9.~~ ~~Must provide that the corporation~~ Shall make its best
 950 efforts to procure catastrophe reinsurance at reasonable rates,
 951 to cover its projected 100-year probable maximum loss as
 952 determined by the board of governors.

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953 9.10. Must issue ~~The policies that issued by the~~
954 ~~corporation must~~ provide that, if the corporation or the market
955 assistance plan obtains an offer from an authorized insurer to
956 cover the risk at its approved rates or from a surplus lines
957 insurer, the risk is no longer eligible for renewal through the
958 corporation, except as otherwise provided in this subsection.

959 10.11. Must ~~Corporation Policies and applications must~~
960 include a notice in the corporation policies and applications
961 that the corporation policy could, under this section, be
962 replaced with a policy issued by an authorized insurer which
963 ~~that~~ does not provide coverage identical to the coverage
964 provided by the corporation. The notice must ~~shall~~ also specify
965 that acceptance of corporation coverage creates a conclusive
966 presumption that the applicant or policyholder is aware of this
967 potential.

968 11.12. May establish, subject to approval by the office,
969 different eligibility requirements and operational procedures
970 for any line or type of coverage for any specified county or
971 area if the board determines that such changes ~~to the~~
972 ~~eligibility requirements and operational procedures~~ are
973 justified due to the voluntary market being sufficiently stable
974 and competitive in such area or for such line or type of
975 coverage and that consumers who, in good faith, are unable to
976 obtain insurance through the voluntary market through ordinary
977 methods ~~would~~ continue to have access to coverage from the
978 corporation. If ~~When~~ coverage is sought in connection with a
979 real property transfer, the ~~such~~ requirements and procedures may
980 ~~shall~~ not provide ~~for~~ an effective date of coverage later than

981 the date of the closing of the transfer as established by the
 982 transferor, the transferee, and, if applicable, the lender.
 983 12.13. Must provide that, with respect to the high-risk
 984 account, any assessable insurer with a surplus as to
 985 policyholders of \$25 million or less writing 25 percent or more
 986 of its total countrywide property insurance premiums in this
 987 state may petition the office, within the first 90 days of each
 988 calendar year, to qualify as a limited apportionment company. A
 989 regular assessment levied by the corporation on a limited
 990 apportionment company for a deficit incurred by the corporation
 991 for the high-risk account ~~in 2006 or thereafter~~ may be paid to
 992 the corporation on a monthly basis as the assessments are
 993 collected by the limited apportionment company from its insureds
 994 pursuant to s. 627.3512, but the regular assessment must be paid
 995 in full within 12 months after being levied by the corporation.
 996 A limited apportionment company shall collect from its
 997 policyholders any emergency assessment imposed under sub-
 998 subparagraph (b)3.d. ~~The plan shall provide that,~~ If the office
 999 determines that any regular assessment will result in an
 1000 impairment of the surplus of a limited apportionment company,
 1001 the office may direct that all or part of such assessment be
 1002 deferred as provided in subparagraph (q)4. However, ~~there shall~~
 1003 ~~be no limitation or deferment of~~ an emergency assessment to be
 1004 collected from policyholders under sub-subparagraph (b)3.d. may
 1005 not be limited or deferred.
 1006 13.14. Effective January 1, 2012, ~~must provide that the~~
 1007 ~~corporation~~ appoint as its licensed agents only those agents who
 1008 also hold an appointment as defined in s. 626.015(3) with an

1009 insurer who ~~at the time of the agent's initial appointment by~~
 1010 ~~the corporation~~ is authorized to write and is actually writing
 1011 personal lines residential property coverage, commercial
 1012 residential property coverage, or commercial nonresidential
 1013 property coverage within the state.

1014 14.15. Must provide, ~~by July 1, 2007,~~ a premium payment
 1015 plan option to its policyholders which, ~~allows~~ at a minimum,
 1016 allows for quarterly and semiannual payment of premiums. A
 1017 monthly payment plan may, ~~but is not required to,~~ be offered.

1018 15.16. Must limit coverage on mobile homes or manufactured
 1019 homes built before ~~prior to~~ 1994 to actual cash value of the
 1020 dwelling rather than replacement costs of the dwelling.

1021 16.17. May provide such limits of coverage as the board
 1022 determines, consistent with the requirements of this subsection.

1023 17.18. May require commercial property to meet specified
 1024 hurricane mitigation construction features as a condition of
 1025 eligibility for coverage.

1026 18. As of January 1, 2012, must require that the agent
 1027 obtain from an applicant for coverage from the corporation an
 1028 acknowledgement signed by the applicant, which includes, at a
 1029 minimum, the following statement:

1030
 1031 ACKNOWLEDGEMENT OF POTENTIAL SURCHARGE AND ASSESSMENT LIABILITY:

1032
 1033 1. AS A POLICYHOLDER OF CITIZENS PROPERTY INSURANCE
 1034 CORPORATION, I UNDERSTAND THAT IF THE CORPORATION SUSTAINS A
 1035 DEFICIT AS A RESULT OF HURRICANE LOSSES OR FOR ANY OTHER REASON,
 1036 MY POLICY COULD BE SUBJECT TO SURCHARGES, WHICH WILL BE DUE AND

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

1041 2. I ALSO UNDERSTAND THAT I MAY BE SUBJECT TO EMERGENCY
 1042 ASSESSMENTS TO THE SAME EXTENT AS POLICYHOLDERS OF OTHER
 1043 INSURANCE COMPANIES, OR A DIFFERENT AMOUNT AS IMPOSED BY THE
 1044 FLORIDA LEGISLATURE.

1045 3. I ALSO UNDERSTAND THAT CITIZENS PROPERTY INSURANCE
 1046 CORPORATION IS NOT SUPPORTED BY THE FULL FAITH AND CREDIT OF THE
 1047 STATE OF FLORIDA.

1048
 1049 a. The corporation shall maintain, in electronic format or
 1050 otherwise, a copy of the applicant's signed acknowledgement and
 1051 provide a copy of the statement to the policyholder as part of
 1052 the first renewal after the effective date of this subparagraph.

1053 b. The signed acknowledgement form creates a conclusive
 1054 presumption that the policyholder understood and accepted his or
 1055 her potential surcharge and assessment liability as a
 1056 policyholder of the corporation.

1057 19. Upon notice and determination by the department that
 1058 an agent appointed by the corporation has violated s.
 1059 626.9541(1)(h), must immediately terminate the agent's
 1060 appointment to represent the corporation.

1061 20. Must provide that new or renewal policies issued by
 1062 the corporation on or after January 1, 2012, do not include
 1063 coverage for attached or detached screen enclosures. The
 1064 corporation is not required to issue a notice of nonrenewal to

1065 exclude this coverage upon the renewal of current policies, but
 1066 shall exclude such coverage using a notice of coverage change.

1067 21. Must provide that new or renewal policies issued by
 1068 the corporation on or after January 1, 2012, which cover
 1069 sinkhole loss do not include coverage for any loss to
 1070 appurtenant structures, driveways, sidewalks, decks, or patios
 1071 which is caused directly or indirectly by sinkhole activity. The
 1072 corporation is not required to issue a notice of nonrenewal to
 1073 exclude this coverage upon the renewal of current policies, but
 1074 shall exclude such coverage using a notice of coverage change
 1075 which may be included with the policy renewal.

1076 (d)1. All prospective employees for senior management
 1077 positions, as defined by the plan of operation, are subject to
 1078 background checks as a prerequisite for employment. The office
 1079 shall conduct the background checks ~~on such prospective~~
 1080 ~~employees~~ pursuant to ss. 624.34, 624.404(3), and 628.261.

1081 2. On or before July 1 of each year, employees of the
 1082 corporation must ~~are required to~~ sign and submit a statement
 1083 attesting that they do not have a conflict of interest, as
 1084 defined in part III of chapter 112. As a condition of
 1085 employment, all prospective employees must ~~are required to~~ sign
 1086 and submit to the corporation a conflict-of-interest statement.

1087 3. Senior managers and members of the board of governors
 1088 are subject to ~~the provisions of~~ part III of chapter 112,
 1089 including, but not limited to, the code of ethics and public
 1090 disclosure and reporting of financial interests, pursuant to s.
 1091 112.3145.

1092 a. Senior managers and board members are also required to

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1093 file such disclosures with the Commission on Ethics and the
 1094 Office of Insurance Regulation. The executive director of the
 1095 corporation or his or her designee shall notify each existing
 1096 and newly appointed ~~and existing appointed~~ member of the board
 1097 of governors and senior managers of their duty to comply with
 1098 the reporting requirements of part III of chapter 112. At least
 1099 quarterly, the executive director or his or her designee shall
 1100 submit to the Commission on Ethics a list of names of the senior
 1101 managers and members of the board of governors who are subject
 1102 to the public disclosure requirements under s. 112.3145.

1103 b. Notwithstanding s. 112.3143(2), a board member may not
 1104 vote on any measure that would inure to his or her special
 1105 private gain or loss; that he or she knows would inure to the
 1106 special private gain or loss of any principal by whom he or she
 1107 is retained or to the parent organization or subsidiary of a
 1108 corporate principal by which he or she is retained, other than
 1109 an agency as defined in s. 112.312; or that he or she knows
 1110 would inure to the special private gain or loss of a relative or
 1111 business associate of the public officer. Before the vote is
 1112 taken, such member must publicly state to the assembly the
 1113 nature of his or her interest in the matter from which he or she
 1114 is abstaining and, within 15 days after the vote occurs,
 1115 disclose the nature of his or her interest as a public record in
 1116 a memorandum filed with the person responsible for recording the
 1117 minutes of the meeting, who shall incorporate the memorandum in
 1118 the minutes.

1119 4. Notwithstanding s. 112.3148 or s. 112.3149, or any
 1120 other provision of law, an employee or board member may not

1121 knowingly accept, directly or indirectly, any gift or
 1122 expenditure from a person or entity, or an employee or
 1123 representative of such person or entity, which ~~that~~ has a
 1124 contractual relationship with the corporation or who is under
 1125 consideration for a contract. An employee or board member who
 1126 fails to comply with subparagraph 3. or this subparagraph is
 1127 subject to penalties provided under ss. 112.317 and 112.3173.

1128 5. Any senior manager of the corporation who is employed
 1129 on or after January 1, 2007, regardless of the date of hire, who
 1130 subsequently retires or terminates employment is prohibited from
 1131 representing another person or entity before the corporation for
 1132 2 years after retirement or termination of employment from the
 1133 corporation.

1134 6. Any senior manager of the corporation who is employed
 1135 on or after January 1, 2007, regardless of the date of hire, who
 1136 subsequently retires or terminates employment is prohibited from
 1137 having any employment or contractual relationship for 2 years
 1138 with an insurer that has entered into a take-out bonus agreement
 1139 with the corporation.

1140 (n)~~4~~. It is the intent of the Legislature that the rates
 1141 for coverage provided by the corporation be actuarially
 1142 determined and not be competitive with rates charged in the
 1143 admitted voluntary market such that the corporation functions as
 1144 a residual market mechanism that provides insurance only if such
 1145 insurance cannot be procured in the voluntary market. To achieve
 1146 this goal, for any rate filing made by the corporation on or
 1147 after July 1, 2011:

1148 1. Rates for coverage provided by the corporation shall be

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1149 actuarially sound and subject to the requirements of s. 627.062,
1150 except as otherwise provided in this paragraph. The corporation
1151 shall file its recommended rates with the office at least
1152 annually. The office shall consider the recommended rates and
1153 issue a final order establishing the rates within 45 days after
1154 the recommended rates are filed. ~~The corporation shall provide~~
1155 ~~any additional information regarding the rates which the office~~
1156 ~~requires. The office shall consider the recommendations of the~~
1157 ~~board and issue a final order establishing the rates for the~~
1158 ~~corporation within 45 days after the recommended rates are~~
1159 ~~filed.~~ The corporation may not pursue an administrative
1160 challenge or judicial review of the final order of the office.

1161 2. In developing its rates, the corporation shall use an
1162 appropriate industry expense equalization factor to ensure that
1163 its rates include standard industry ratemaking expense
1164 provisions. The industry expense equalization factor must
1165 include a catastrophe risk load, a provision for taxes, a market
1166 provision for reinsurance costs, and an industry expense
1167 provision for general expenses, acquisition expenses, and
1168 commissions.

1169 3. The corporation shall implement a rate increase each
1170 year, which may not exceed 20 percent by territory and 25
1171 percent for any single policy, excluding coverage changes and
1172 surcharges. This subparagraph expires January 1, 2015, and does
1173 not apply to rates for sinkhole coverage or costs for the
1174 purchase of private reinsurance, if any.

1175 4.2. In addition to the rates otherwise determined
1176 pursuant to this paragraph, the corporation shall impose and

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1177 collect an amount equal to the premium tax provided for in s.
1178 624.509 to augment the financial resources of the corporation.

1179 ~~3. After the public hurricane loss projection model under~~
1180 ~~s. 627.06281 has been found to be accurate and reliable by the~~
1181 ~~Florida Commission on Hurricane Loss Projection Methodology,~~
1182 ~~that model shall serve as the minimum benchmark for determining~~
1183 ~~the windstorm portion of the corporation's rates. This~~
1184 ~~subparagraph does not require or allow the corporation to adopt~~
1185 ~~rates lower than the rates otherwise required or allowed by this~~
1186 ~~paragraph.~~

1187 ~~4. The rate filings for the corporation which were~~
1188 ~~approved by the office and which took effect January 1, 2007,~~
1189 ~~are rescinded, except for those rates that were lowered. As soon~~
1190 ~~as possible, the corporation shall begin using the lower rates~~
1191 ~~that were in effect on December 31, 2006, and shall provide~~
1192 ~~refunds to policyholders who have paid higher rates as a result~~
1193 ~~of that rate filing. The rates in effect on December 31, 2006,~~
1194 ~~shall remain in effect for the 2007 and 2008 calendar years~~
1195 ~~except for any rate change that results in a lower rate. The~~
1196 ~~next rate change that may increase rates shall take effect~~
1197 ~~pursuant to a new rate filing recommended by the corporation and~~
1198 ~~established by the office, subject to the requirements of this~~
1199 ~~paragraph.~~

1200 ~~5. Beginning on July 15, 2009, and each year thereafter,~~
1201 ~~the corporation must make a recommended actuarially sound rate~~
1202 ~~filing for each personal and commercial line of business it~~
1203 ~~writes, to be effective no earlier than January 1, 2010.~~

1204 ~~6. Beginning on or after January 1, 2010, and~~

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1205 ~~notwithstanding the board's recommended rates and the office's~~
 1206 ~~final order regarding the corporation's filed rates under~~
 1207 ~~subparagraph 1., the corporation shall implement a rate increase~~
 1208 ~~each year which does not exceed 10 percent for any single policy~~
 1209 ~~issued by the corporation, excluding coverage changes and~~
 1210 ~~surecharges.~~

1211 5.7. The corporation may also implement an increase to
 1212 reflect the effect on the corporation of the cash buildup factor
 1213 pursuant to s. 215.555(5)(b).

1214 ~~8. The corporation's implementation of rates as prescribed~~
 1215 ~~in subparagraph 6. shall cease for any line of business written~~
 1216 ~~by the corporation upon the corporation's implementation of~~
 1217 ~~actuarially sound rates. Thereafter, the corporation shall~~
 1218 ~~annually make a recommended actuarially sound rate filing for~~
 1219 ~~each commercial and personal line of business the corporation~~
 1220 ~~writes.~~

1221 (o) If coverage in an account is deactivated pursuant to
 1222 paragraph (p), coverage through the corporation shall be
 1223 reactivated by order of the office only under one of the
 1224 following circumstances:

1225 1. If the market assistance plan receives a minimum of 100
 1226 applications for coverage within a 3-month period, or 200
 1227 applications for coverage within a 1-year period or less for
 1228 residential coverage, unless the market assistance plan provides
 1229 a quotation from admitted carriers at their filed rates for at
 1230 least 90 percent of such applicants. A ~~Any~~ market assistance
 1231 plan application that is rejected because an individual risk is
 1232 so hazardous as to be uninsurable using the criteria specified

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1233 in subparagraph (c)7. may ~~(e)8.~~ shall not be included in the
 1234 minimum percentage calculation ~~provided herein.~~ If ~~In the event~~
 1235 ~~that~~ there is a legal or administrative challenge to a
 1236 determination by the office that the conditions of this
 1237 subparagraph have been met for eligibility for coverage by ~~in~~
 1238 the corporation, an ~~any~~ eligible risk may obtain coverage during
 1239 the pendency of such challenge.

1240 2. In response to a state of emergency declared by the
 1241 Governor under s. 252.36, the office may activate coverage by
 1242 order during ~~for the period of~~ the emergency upon a finding by
 1243 the office that the emergency significantly affects the
 1244 availability of residential property insurance.

1245 (q)1. The corporation shall certify to the office its
 1246 needs for annual assessments as to a particular calendar year,
 1247 and for any interim assessments that it deems to be necessary to
 1248 sustain operations as to a particular year pending the receipt
 1249 of annual assessments. Upon verification, the office shall
 1250 approve such certification, and the corporation shall levy such
 1251 annual or interim assessments. Such assessments shall be
 1252 prorated as provided in paragraph (b). The corporation shall
 1253 take all reasonable and prudent steps necessary to collect the
 1254 amount of assessment due from each assessable insurer,
 1255 including, if prudent, filing suit to collect such assessment.
 1256 If the corporation is unable to collect an assessment from any
 1257 assessable insurer, the uncollected assessments shall be levied
 1258 as an additional assessment against the assessable insurers and
 1259 any assessable insurer required to pay an additional assessment
 1260 as a result of such failure to pay shall have a cause of action

1261 against such nonpaying assessable insurer. Assessments shall be
 1262 included as an appropriate factor in the making of rates. The
 1263 failure of a surplus lines agent to collect and remit any
 1264 regular or emergency assessment levied by the corporation is
 1265 considered to be a violation of s. 626.936 and subjects the
 1266 surplus lines agent to the penalties provided in that section.

1267 2. The governing body of any unit of local government, any
 1268 residents of which are insured by the corporation, may issue
 1269 bonds as defined in s. 125.013 or s. 166.101 from time to time
 1270 to fund an assistance program, in conjunction with the
 1271 corporation, for the purpose of defraying deficits of the
 1272 corporation. In order to avoid needless and indiscriminate
 1273 proliferation, duplication, and fragmentation of such assistance
 1274 programs, any unit of local government, any residents of which
 1275 are insured by the corporation, may provide for the payment of
 1276 losses, regardless of whether or not the losses occurred within
 1277 or outside of the territorial jurisdiction of the local
 1278 government. Revenue bonds under this subparagraph may not be
 1279 issued until validated pursuant to chapter 75, unless a state of
 1280 emergency is declared by executive order or proclamation of the
 1281 Governor pursuant to s. 252.36 making such findings as are
 1282 necessary to determine that it is in the best interests of, and
 1283 necessary for, the protection of the public health, safety, and
 1284 general welfare of residents of this state and declaring it an
 1285 essential public purpose to permit certain municipalities or
 1286 counties to issue such bonds as will permit relief to claimants
 1287 and policyholders of the corporation. Any such unit of local
 1288 government may enter into such contracts with the corporation

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1289 and with any other entity created pursuant to this subsection as
1290 are necessary to carry out this paragraph. Any bonds issued
1291 under this subparagraph shall be payable from and secured by
1292 moneys received by the corporation from emergency assessments
1293 under sub-subparagraph (b)3.d., and assigned and pledged to or
1294 on behalf of the unit of local government for the benefit of the
1295 holders of such bonds. The funds, credit, property, and taxing
1296 power of the state or of the unit of local government shall not
1297 be pledged for the payment of such bonds.

1298 3.a. The corporation shall adopt one or more programs
1299 subject to approval by the office for the reduction of both new
1300 and renewal writings in the corporation. Beginning January 1,
1301 2008, any program the corporation adopts for the payment of
1302 bonuses to an insurer for each risk the insurer removes from the
1303 corporation shall comply with s. 627.3511(2) and may not exceed
1304 the amount referenced in s. 627.3511(2) for each risk removed.
1305 The corporation may consider any prudent and not unfairly
1306 discriminatory approach to reducing corporation writings, and
1307 may adopt a credit against assessment liability or other
1308 liability that provides an incentive for insurers to take risks
1309 out of the corporation and to keep risks out of the corporation
1310 by maintaining or increasing voluntary writings in counties or
1311 areas in which corporation risks are highly concentrated and a
1312 program to provide a formula under which an insurer voluntarily
1313 taking risks out of the corporation by maintaining or increasing
1314 voluntary writings will be relieved wholly or partially from
1315 assessments under sub-subparagraphs (b)3.a. and b. However, any
1316 "take-out bonus" or payment to an insurer must be conditioned on

1317 | the property being insured for at least 5 years by the insurer,
 1318 | unless canceled or nonrenewed by the policyholder. If the policy
 1319 | is canceled or nonrenewed by the policyholder before the end of
 1320 | the 5-year period, the amount of the take-out bonus must be
 1321 | prorated for the time period the policy was insured. When the
 1322 | corporation enters into a contractual agreement for a take-out
 1323 | plan, the producing agent of record of the corporation policy is
 1324 | entitled to retain any unearned commission on such policy, and
 1325 | the insurer shall either:

1326 | (I) Pay to the producing agent of record of the policy,
 1327 | for the first year, an amount which is the greater of the
 1328 | insurer's usual and customary commission for the type of policy
 1329 | written or a policy fee equal to the usual and customary
 1330 | commission of the corporation; or

1331 | (II) Offer to allow the producing agent of record of the
 1332 | policy to continue servicing the policy for a period of not less
 1333 | than 1 year and offer to pay the agent the insurer's usual and
 1334 | customary commission for the type of policy written. If the
 1335 | producing agent is unwilling or unable to accept appointment by
 1336 | the new insurer, the new insurer shall pay the agent in
 1337 | accordance with sub-sub-subparagraph (I).

1338 | b. Any credit or exemption from regular assessments
 1339 | adopted under this subparagraph shall last no longer than the 3
 1340 | years following the cancellation or expiration of the policy by
 1341 | the corporation. With the approval of the office, the board may
 1342 | extend such credits for an additional year if the insurer
 1343 | guarantees an additional year of renewability for all policies
 1344 | removed from the corporation, or for 2 additional years if the

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1345 insurer guarantees 2 additional years of renewability for all
1346 policies so removed.

1347 c. There shall be no credit, limitation, exemption, or
1348 deferment from emergency assessments to be collected from
1349 policyholders pursuant to sub-subparagraph (b)3.d.

1350 d. Notwithstanding any other provision of law, for
1351 purposes of a depopulation, take-out, or keep-out program
1352 adopted by the corporation, including an initial or renewal
1353 offer of coverage made to a policyholder removed from the
1354 corporation pursuant to a depopulation, take-out, or keep-out
1355 program, an eligible surplus lines insurer may participate in a
1356 depopulation, take-out, or keep-out program in the same manner
1357 and on the same terms as an authorized insurer, except as
1358 provided under this sub-subparagraph. To qualify to participate
1359 in a depopulation, take-out, or keep-out program, an eligible
1360 surplus lines insurer must first obtain approval from the office
1361 for a depopulation, take-out, or keep-out plan and must then
1362 comply with all of the corporation's requirements for the
1363 depopulation, take-out, or keep-out plan applicable to admitted
1364 insurers and with all statutory provisions applicable to the
1365 removal of policies from the corporation. With regard to a
1366 policyholder removed from the corporation through an assumption
1367 agreement, until the end of the assumption period, the
1368 policyholder remains eligible for coverage from the corporation
1369 regardless of any offer of coverage from a surplus lines
1370 insurer. In considering a surplus lines insurer's request for
1371 approval for a depopulation, take-out, or keep-out plan, the
1372 office must determine that the surplus lines insurer meets the

1373 following requirements:

1374 (I) The surplus lines insurer maintains a surplus to
 1375 policyholders of at least \$50 million on a company or pooled
 1376 basis;

1377 (II) The surplus lines insurer maintains an A.M. Best
 1378 Financial Strength Rating of A minus or better;

1379 (III) The surplus lines insurer maintains reserves,
 1380 surplus, reinsurance, and reinsurance equivalents sufficient to
 1381 cover the insurer's 100-year probable maximum hurricane loss at
 1382 least twice in a single hurricane season. In addition, the
 1383 surplus lines insurer must submit such reinsurance to the office
 1384 to review for purposes of the takeout;

1385 (IV) The surplus lines insurer provides prominent notice
 1386 to the policyholder before the assumption of the policy that
 1387 surplus lines policies are not provided coverage by the Florida
 1388 Insurance Guaranty Association and an outline of any substantial
 1389 differences in coverage between the existing policy and the
 1390 policy being offered to the insured; and

1391 (V) The surplus lines insurer provides similar policy
 1392 coverage.

1393
 1394 This sub-subparagraph does not subject any surplus lines insurer
 1395 to requirements in addition to the requirements contained in
 1396 part VIII of chapter 626. A surplus lines broker who makes an
 1397 offer of coverage under this sub-subparagraph is not required to
 1398 comply with s. 626.916(1) (a), (b), (c), and (e).

1399 4. The plan shall provide for the deferment, in whole or
 1400 in part, of the assessment of an assessable insurer, other than

1401 an emergency assessment collected from policyholders pursuant to
 1402 sub-subparagraph (b)3.d., if the office finds that payment of
 1403 the assessment would endanger or impair the solvency of the
 1404 insurer. In the event an assessment against an assessable
 1405 insurer is deferred in whole or in part, the amount by which
 1406 such assessment is deferred may be assessed against the other
 1407 assessable insurers in a manner consistent with the basis for
 1408 assessments set forth in paragraph (b).

1409 5. Effective July 1, 2007, in order to evaluate the costs
 1410 and benefits of approved take-out plans, if the corporation pays
 1411 a bonus or other payment to an insurer for an approved take-out
 1412 plan, it shall maintain a record of the address or such other
 1413 identifying information on the property or risk removed in order
 1414 to track if and when the property or risk is later insured by
 1415 the corporation.

1416 6. Any policy taken out, assumed, or removed from the
 1417 corporation is, as of the effective date of the take-out,
 1418 assumption, or removal, direct insurance issued by the insurer
 1419 and not by the corporation, even if the corporation continues to
 1420 service the policies. This subparagraph applies to policies of
 1421 the corporation and not policies taken out, assumed, or removed
 1422 from any other entity.

1423 (s)1. There is ~~shall be~~ no liability on the part of, and
 1424 no cause of action ~~of any nature~~ shall arise against, any
 1425 assessable insurer or its agents or employees, the corporation
 1426 or its agents or employees, members of the board of governors or
 1427 their respective designees at a board meeting, corporation
 1428 committee members, or the office or its representatives, for any

1429 | action taken by them in the performance of their duties or
 1430 | responsibilities under this subsection.

1431 | a. As part of the immunity, the corporation, as a
 1432 | governmental entity serving a public purpose, is not liable for
 1433 | any claim for bad faith whether or not brought pursuant to s.
 1434 | 624.155, and this subsection or any other provision of law does
 1435 | not create liability or a cause of action for bad faith or a
 1436 | claim for extracontractual damages.

1437 | b. Such immunity does not apply to:

1438 | (I)a. Any of the foregoing persons or entities for any
 1439 | willful tort;

1440 | (II)b. The corporation or its producing agents for breach
 1441 | of any contract or agreement pertaining to insurance coverage;

1442 | (III)e. The corporation with respect to issuance or
 1443 | payment of debt;

1444 | (IV)d. An ~~Any~~ assessable insurer with respect to any
 1445 | action to enforce an assessable insurer's obligations to the
 1446 | corporation under this subsection; or

1447 | (V)e. The corporation in any pending or future action for
 1448 | breach of contract or for benefits under a policy issued by the
 1449 | corporation. ~~+~~ In any such action, the corporation is ~~shall be~~
 1450 | liable to the policyholders and beneficiaries for attorney's
 1451 | fees under s. 627.428.

1452 | 2. The corporation shall manage its claim employees,
 1453 | independent adjusters, and others who handle claims to ensure
 1454 | they carry out the corporation's duty to its policyholders to
 1455 | handle claims carefully, timely, diligently, and in good faith,
 1456 | balanced against the corporation's duty to the state to manage

1457 its assets responsibly in order to minimize its assessment
 1458 potential.

1459 (w) Notwithstanding any other provision of law:

1460 1. The pledge or sale of, the lien upon, and the security
 1461 interest in any rights, revenues, or other assets of the
 1462 corporation created or purported to be created pursuant to any
 1463 financing documents to secure any bonds or other indebtedness of
 1464 the corporation shall be and remain valid and enforceable,
 1465 notwithstanding the commencement of and during the continuation
 1466 of, and after, any rehabilitation, insolvency, liquidation,
 1467 bankruptcy, receivership, conservatorship, reorganization, or
 1468 similar proceeding against the corporation under the laws of
 1469 this state.

1470 2. ~~No~~ Such proceeding does not ~~shall~~ relieve the
 1471 corporation of its obligation, or otherwise affect its ability
 1472 to perform its obligation, to continue to collect, or levy and
 1473 collect, assessments, market equalization or other surcharges
 1474 ~~under subparagraph (c)10.~~, or any other rights, revenues, or
 1475 other assets of the corporation pledged pursuant to any
 1476 financing documents.

1477 3. Each such pledge or sale of, lien upon, and security
 1478 interest in, including the priority of such pledge, lien, or
 1479 security interest, any such assessments, market equalization or
 1480 other surcharges, or other rights, revenues, or other assets
 1481 which are collected, or levied and collected, after the
 1482 commencement of and during the pendency of, or after, any such
 1483 proceeding continues ~~shall continue~~ unaffected by such
 1484 proceeding. As used in this subsection, the term "financing

1485 documents" means any agreement or agreements, instrument or
 1486 instruments, or other document or documents now existing or
 1487 hereafter created evidencing any bonds or other indebtedness of
 1488 the corporation or pursuant to which any such bonds or other
 1489 indebtedness has been or may be issued and pursuant to which any
 1490 rights, revenues, or other assets of the corporation are pledged
 1491 or sold to secure the repayment of such bonds or indebtedness,
 1492 together with the payment of interest on such bonds or such
 1493 indebtedness, or the payment of any other obligation or
 1494 financial product, as defined in the plan of operation of the
 1495 corporation related to such bonds or indebtedness.

1496 4. Any such pledge or sale of assessments, revenues,
 1497 contract rights, or other rights or assets of the corporation
 1498 constitutes ~~shall constitute~~ a lien and security interest, or
 1499 sale, as the case may be, that is immediately effective and
 1500 attaches to such assessments, revenues, or contract rights or
 1501 other rights or assets, whether or not imposed or collected at
 1502 the time the pledge or sale is made. ~~Any~~ Such pledge or sale is
 1503 effective, valid, binding, and enforceable against the
 1504 corporation or other entity making such pledge or sale, and
 1505 valid and binding against and superior to any competing claims
 1506 or obligations owed to any other person or entity, including
 1507 policyholders in this state, asserting rights in any such
 1508 assessments, revenues, or contract rights or other rights or
 1509 assets to the extent set forth in and in accordance with the
 1510 terms of the pledge or sale contained in the applicable
 1511 financing documents, whether or not any such person or entity
 1512 has notice of such pledge or sale and without the need for any

1513 physical delivery, recordation, filing, or other action.

1514 5. If ~~As long as~~ the corporation has any bonds
 1515 outstanding, the corporation may not file a voluntary petition
 1516 under chapter 9 of the federal Bankruptcy Code or such
 1517 corresponding chapter or sections as may be in effect, ~~from time~~
 1518 ~~to time~~, and a public officer or any organization, entity, or
 1519 other person may not authorize the corporation to be or become a
 1520 debtor under chapter 9 of the federal Bankruptcy Code or such
 1521 corresponding chapter or sections as may be in effect, ~~from time~~
 1522 ~~to time~~, during any such period.

1523 6. If ordered by a court ~~of competent jurisdiction~~, the
 1524 corporation may assume policies or otherwise provide coverage
 1525 for policyholders of an insurer placed in liquidation under
 1526 chapter 631, under such forms, rates, terms, and conditions as
 1527 the corporation deems appropriate, subject to approval by the
 1528 office.

1529 (x)1. The following records of the corporation are
 1530 confidential and exempt from the provisions of s. 119.07(1) and
 1531 s. 24(a), Art. I of the State Constitution:

1532 a. Underwriting files, except that a policyholder or an
 1533 applicant shall have access to his or her own underwriting
 1534 files. Confidential and exempt underwriting file records may
 1535 also be released to other governmental agencies upon written
 1536 request and demonstration of need; such records held by the
 1537 receiving agency remain confidential and exempt as provided
 1538 herein.

1539 b. Claims files, until termination of all litigation and
 1540 settlement of all claims arising out of the same incident,

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1541 although portions of the claims files may remain exempt, as
1542 otherwise provided by law. Confidential and exempt claims file
1543 records may be released to other governmental agencies upon
1544 written request and demonstration of need; such records held by
1545 the receiving agency remain confidential and exempt as provided
1546 herein.

1547 c. Records obtained or generated by an internal auditor
1548 pursuant to a routine audit, until the audit is completed, or if
1549 the audit is conducted as part of an investigation, until the
1550 investigation is closed or ceases to be active. An investigation
1551 is considered "active" while the investigation is being
1552 conducted with a reasonable, good faith belief that it could
1553 lead to the filing of administrative, civil, or criminal
1554 proceedings.

1555 d. Matters reasonably encompassed in privileged attorney-
1556 client communications.

1557 e. Proprietary information licensed to the corporation
1558 under contract and the contract provides for the confidentiality
1559 of such proprietary information.

1560 f. All information relating to the medical condition or
1561 medical status of a corporation employee which is not relevant
1562 to the employee's capacity to perform his or her duties, except
1563 as otherwise provided in this paragraph. Information that is
1564 exempt shall include, but is not limited to, information
1565 relating to workers' compensation, insurance benefits, and
1566 retirement or disability benefits.

1567 g. Upon an employee's entrance into the employee
1568 assistance program, a program to assist any employee who has a

1569 behavioral or medical disorder, substance abuse problem, or
 1570 emotional difficulty which affects the employee's job
 1571 performance, all records relative to that participation shall be
 1572 confidential and exempt from the provisions of s. 119.07(1) and
 1573 s. 24(a), Art. I of the State Constitution, except as otherwise
 1574 provided in s. 112.0455(11).

1575 h. Information relating to negotiations for financing,
 1576 reinsurance, depopulation, or contractual services, until the
 1577 conclusion of the negotiations.

1578 i. Minutes of closed meetings regarding underwriting
 1579 files, and minutes of closed meetings regarding an open claims
 1580 file until termination of all litigation and settlement of all
 1581 claims with regard to that claim, except that information
 1582 otherwise confidential or exempt by law shall be redacted.

1583 2. If an ~~authorized~~ insurer is considering underwriting a
 1584 risk insured by the corporation or has removed a risk from the
 1585 corporation, relevant underwriting files and confidential claims
 1586 files may be released to the insurer provided the insurer agrees
 1587 in writing, notarized and under oath, to maintain the
 1588 confidentiality of such files. If a file is transferred to an
 1589 insurer, that file is no longer a public record because it is
 1590 not held by an agency subject to the provisions of the public
 1591 records law. Underwriting files and confidential claims files
 1592 may also be released to staff and the board of governors of the
 1593 market assistance plan established pursuant to s. 627.3515, who
 1594 must retain the confidentiality of such files, except such files
 1595 may be released to authorized insurers that are considering
 1596 assuming the risks to which the files apply, provided the

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1597 insurer agrees in writing, notarized and under oath, to maintain
1598 the confidentiality of such files. Finally, the corporation or
1599 the board or staff of the market assistance plan may make the
1600 following information obtained from underwriting files and
1601 confidential claims files available to licensed general lines
1602 insurance agents: name, address, and telephone number of the
1603 residential property owner or insured; location of the risk;
1604 rating information; loss history; and policy type. The receiving
1605 licensed general lines insurance agent must retain the
1606 confidentiality of the information received.

1607 3. A policyholder who has filed suit against the
1608 corporation has the right to discover the contents of his or her
1609 own claims file to the same extent that discovery of such
1610 contents would be available from a private insurer in litigation
1611 as provided by the Florida Rules of Civil Procedure, the Florida
1612 Evidence Code, and other applicable law. Pursuant to subpoena, a
1613 third party has the right to discover the contents of an
1614 insured's or applicant's underwriting or claims file to the same
1615 extent that discovery of such contents would be available from a
1616 private insurer by subpoena as provided by the Florida Rules of
1617 Civil Procedure, the Florida Evidence Code, and other applicable
1618 law, and subject to any confidentiality protections requested by
1619 the corporation and agreed to by the seeking party or ordered by
1620 the court. The corporation may release confidential underwriting
1621 and claims file contents and information as it deems necessary
1622 and appropriate to underwrite or service insurance policies and
1623 claims, subject to any confidentiality protections deemed
1624 necessary and appropriate by the corporation.

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1625 4. Portions of meetings of the corporation are exempt from
 1626 the provisions of s. 286.011 and s. 24(b), Art. I of the State
 1627 Constitution wherein confidential underwriting files or
 1628 confidential open claims files are discussed. All portions of
 1629 corporation meetings which are closed to the public shall be
 1630 recorded by a court reporter. The court reporter shall record
 1631 the times of commencement and termination of the meeting, all
 1632 discussion and proceedings, the names of all persons present at
 1633 any time, and the names of all persons speaking. No portion of
 1634 any closed meeting shall be off the record. Subject to the
 1635 provisions hereof and s. 119.07(1)(d)-(f), the court reporter's
 1636 notes of any closed meeting shall be retained by the corporation
 1637 for a minimum of 5 years. A copy of the transcript, less any
 1638 exempt matters, of any closed meeting wherein claims are
 1639 discussed shall become public as to individual claims after
 1640 settlement of the claim.

1641 (y) It is the intent of the Legislature that the
 1642 amendments to this subsection enacted in 2002 should, over time,
 1643 reduce the probable maximum windstorm losses in the residual
 1644 markets and ~~should~~ reduce the potential assessments to be levied
 1645 on property insurers and policyholders statewide. ~~In furtherance~~
 1646 ~~of this intent:~~

1647 ~~1. The board shall, on or before February 1 of each year,~~
 1648 ~~provide a report to the President of the Senate and the Speaker~~
 1649 ~~of the House of Representatives showing the reduction or~~
 1650 ~~increase in the 100-year probable maximum loss attributable to~~
 1651 ~~wind only coverages and the quota share program under this~~
 1652 ~~subsection combined, as compared to the benchmark 100-year~~

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1653 ~~probable maximum loss of the Florida Windstorm Underwriting~~
1654 ~~Association. For purposes of this paragraph, the benchmark 100-~~
1655 ~~year probable maximum loss of the Florida Windstorm Underwriting~~
1656 ~~Association shall be the calculation dated February 2001 and~~
1657 ~~based on November 30, 2000, exposures. In order to ensure~~
1658 ~~comparability of data, the board shall use the same methods for~~
1659 ~~calculating its probable maximum loss as were used to calculate~~
1660 ~~the benchmark probable maximum loss.~~

1661 ~~2. Beginning December 1, 2010, if the report under~~
1662 ~~subparagraph 1. for any year indicates that the 100-year~~
1663 ~~probable maximum loss attributable to wind-only coverages and~~
1664 ~~the quota share program combined does not reflect a reduction of~~
1665 ~~at least 25 percent from the benchmark, the board shall reduce~~
1666 ~~the boundaries of the high-risk area eligible for wind-only~~
1667 ~~coverages under this subsection in a manner calculated to reduce~~
1668 ~~such probable maximum loss to an amount at least 25 percent~~
1669 ~~below the benchmark.~~

1670 ~~3. Beginning February 1, 2015, if the report under~~
1671 ~~subparagraph 1. for any year indicates that the 100-year~~
1672 ~~probable maximum loss attributable to wind-only coverages and~~
1673 ~~the quota share program combined does not reflect a reduction of~~
1674 ~~at least 50 percent from the benchmark, the boundaries of the~~
1675 ~~high-risk area eligible for wind-only coverages under this~~
1676 ~~subsection shall be reduced by the elimination of any area that~~
1677 ~~is not seaward of a line 1,000 feet inland from the Intracoastal~~
1678 ~~Waterway.~~

1679 ~~(aa) As a condition of eligibility for coverage by the~~
1680 ~~corporation, an applicant or insured of a property located in a~~

1681 Special Flood Hazard Area, as defined by the National Flood
 1682 Insurance Program, must maintain in effect a separate flood
 1683 insurance policy having coverage limits for building and
 1684 contents at least equal to those provided under the
 1685 corporation's policy, subject to the maximum limits available
 1686 under the National Flood Insurance Program policy. This
 1687 requirement does not apply to an insured who is a tenant or a
 1688 condominium unit owner above the ground floor; a policy issued
 1689 by the corporation which excludes wind and hail coverage; a risk
 1690 that is not eligible for flood coverage under the National Flood
 1691 Insurance Program; or a mobile home that is located more than 2
 1692 miles from open water, including the ocean, the gulf, a bay, a
 1693 river, or the intracoastal waterway. This paragraph applies to
 1694 new policies issued by the corporation on or after January 1,
 1695 2012, and to policies renewed by the corporation on or after
 1696 January 1, 2013. The corporation shall not require the securing
 1697 of flood insurance as a condition of coverage if the insured or
 1698 applicant executes a form approved by the office affirming that
 1699 flood insurance is not provided by the corporation and that if
 1700 flood insurance is not secured by the applicant or insured in
 1701 addition to coverage by the corporation, the risk will not be
 1702 covered for flood damage. A corporation policyholder electing
 1703 not to secure flood insurance and executing a form as provided
 1704 herein making a claim for water damage against the corporation
 1705 shall have the burden of proving the damage was not caused by
 1706 flooding. Notwithstanding other provisions of this subsection,
 1707 the corporation may deny coverage to an applicant or insured who
 1708 refuses to execute the form described herein.

1709 ~~(cc) The office may establish a pilot program to offer~~
 1710 ~~optional sinkhole coverage in one or more counties or other~~
 1711 ~~territories of the corporation for the purpose of implementing~~
 1712 ~~s. 627.706, as amended by s. 30, chapter 2007-1, Laws of~~
 1713 ~~Florida. Under the pilot program, the corporation is not~~
 1714 ~~required to issue a notice of nonrenewal to exclude sinkhole~~
 1715 ~~coverage upon the renewal of existing policies, but may exclude~~
 1716 ~~such coverage using a notice of coverage change.~~

1717 Section 2. Subsection (1) of section 627.712, Florida
 1718 Statutes, is amended to read:

1719 627.712 Residential windstorm coverage required;
 1720 availability of exclusions for windstorm or contents.—

1721 (1) An insurer issuing a residential property insurance
 1722 policy must provide windstorm coverage. Except as provided in
 1723 paragraph (2)(c), this section does not apply ~~with respect~~ to
 1724 risks that are eligible for wind-only coverage from Citizens
 1725 Property Insurance Corporation under s. 627.351(6), and ~~with~~
 1726 ~~respect~~ to risks that are not eligible for coverage from
 1727 Citizens Property Insurance Corporation under s. 627.351(6)(a)3.
 1728 or 4. 5. A risk ineligible for Citizens coverage under s.
 1729 627.351(6)(a)3. or 4. 5. is exempt from the requirements of this
 1730 section only if the risk is located within the boundaries of the
 1731 high-risk account of the corporation.

1732 Section 3. This act shall take effect upon becoming a law.