

By Senator Hays

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

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

43
 44 Be It Enacted by the Legislature of the State of Florida:

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

49 627.351 Insurance risk apportionment plans.—

50 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

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

55 1. The Legislature finds that actual and threatened
 56 catastrophic losses to property from hurricanes in this state
 57 have caused insurers to be unwilling or unable to provide
 58 property insurance coverage to the extent sought and needed. The

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

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

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

115 b. Because it is essential that the corporation have the
116 maximum financial resources necessary to pay claims following a

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117 catastrophic hurricane, the Legislature also intends that the
118 income of the corporation and interest on the debt obligations
119 issued by the corporation be exempt from federal income
120 taxation.

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

144 3. With respect to coverage for personal lines residential
145 structures:

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

171 b. Effective January 1, 2012, a structure that has a
172 dwelling replacement cost of \$1 million or more, or a single
173 condominium unit that has a combined dwelling and contents
174 replacement cost of \$1 million or more is not eligible for

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175 coverage by the corporation. Such dwellings insured by the
176 corporation on December 31, 2011, may continue to be covered by
177 the corporation only until the end of the policy term.

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

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

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

203 ~~4.5.~~ Effective January 1, 2009, a personal lines

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

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

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

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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 basic ~~that provide~~
245 ~~comprehensive,~~ multiperil coverage on risks that are not located
246 in areas eligible for coverage by ~~in~~ the Florida Windstorm
247 Underwriting Association as those areas were defined on January
248 1, 2002, and for ~~such~~ policies that do not provide coverage for
249 the peril of 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, which provides ~~that provide~~
254 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 policies
261 and commercial residential and commercial nonresidential

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262 property policies issued by the corporation or transferred to
263 the corporation, which provides ~~that provide~~ coverage for the
264 peril of wind on risks that are located in areas eligible for
265 coverage by ~~in~~ the Florida Windstorm Underwriting Association as
266 those areas were defined on January 1, 2002. The corporation may
267 offer policies that provide multiperil coverage and the
268 corporation shall continue to offer policies that provide
269 coverage only for the peril of wind for risks located in areas
270 eligible for coverage in the high-risk account. In issuing
271 multiperil coverage, the corporation may use its approved policy
272 forms and rates for the personal lines account. An applicant or
273 insured who is eligible to purchase a multiperil policy from the
274 corporation may purchase a multiperil policy from an authorized
275 insurer without prejudice to the applicant's or insured's
276 eligibility to prospectively purchase a policy that provides
277 coverage only for the peril of wind from the corporation. An
278 applicant or insured who is eligible for a corporation policy
279 that provides coverage only for the peril of wind may elect to
280 purchase or retain such policy and also purchase or retain
281 coverage excluding wind from an authorized insurer without
282 prejudice to the applicant's or insured's eligibility to
283 prospectively purchase a policy that provides multiperil
284 coverage from the corporation. ~~It is the goal of the Legislature~~
285 ~~that there would be an overall average savings of 10 percent or~~
286 ~~more for a policyholder who currently has a wind-only policy~~
287 ~~with the corporation, and an ex-wind policy with a voluntary~~
288 ~~insurer or the corporation, and who then obtains a multiperil~~
289 ~~policy from the corporation.~~ It is the intent of the Legislature
290 that the offer of multiperil coverage in the high-risk account

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291 be made and implemented in a manner that does not adversely
292 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 (e)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~~
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 Joint
319 Underwriting Association and of the accounts specified in sub-

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

347 b. After accounting for the Citizens policyholder surcharge
348 imposed under sub-subparagraph i., when the remaining projected

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349 deficit incurred in a particular calendar year exceeds 6 percent
350 of the aggregate statewide direct written premium for the
351 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

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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

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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 ~~se~~ 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 ~~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

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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'

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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 determine
477 annually the aggregate statewide written premium in subject
478 lines of business procured by assessable insureds and ~~shall~~
479 report that information to the corporation in a form and at a
480 time the corporation specifies to ensure that the corporation
481 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. ~~for a 12-month period, which~~

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

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

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

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

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

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523 plan-year deficits or to reduce outstanding debt.

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

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

530 a. Standard personal lines policy forms that are similar
531 ~~comprehensive multiperil policies providing full coverage of a~~
532 ~~residential property equivalent~~ to the coverage provided in the
533 private insurance market under an HO-3, HO-4, or HO-6 policy.
534 The corporation shall cease to offer or renew HO-3 policy forms
535 on December 31, 2012.

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

551 e. Commercial lines nonresidential property insurance forms

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

556 f. The corporation may adopt variations of the policy forms
557 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 in~~
566 ~~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~~

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

607 ~~e. Any quota share primary insurance agreement entered into~~
608 ~~between an authorized insurer and the corporation is subject to~~
609 ~~review and approval by the office. However, such agreement shall~~

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610 ~~be authorized only as to insurance contracts entered into~~
611 ~~between an authorized insurer and an insured who is already~~
612 ~~insured by the corporation for wind coverage.~~

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

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

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

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639 ~~of the authorized insurer. Entering into a quota sharing~~
640 ~~insurance agreement between the corporation and an authorized~~
641 ~~insurer shall be voluntary and at the discretion of the~~
642 ~~authorized insurer.~~

643 2.3. ~~May provide that the corporation may~~ employ or
644 otherwise contract with individuals or other entities to provide
645 administrative or professional services ~~that may be appropriate~~
646 ~~to effectuate the plan.~~

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

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668 Fund, other reinsurance recoverables, market equalization and
669 other surcharges, and other funds available to the corporation
670 as security for bonds or other indebtedness. In recognition of
671 s. 10, Art. I of the State Constitution, prohibiting the
672 impairment of obligations of contracts, it is the intent of the
673 Legislature that no action be taken whose purpose is to impair
674 any bond indenture or financing agreement or any revenue source
675 committed by contract to such bond or other indebtedness.

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

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697 the board shall begin implementing the plan by January 1, 2013.

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

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

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726 as the corporation may require, subject to review and
727 concurrence by the board.

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

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

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

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755 responsiveness to policyholders, applicants, and agents; and
756 matters relating to depopulation, producer compensation, or
757 agency agreements.

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

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

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

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

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

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

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

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

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

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

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

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

830 b. Subject to s. 627.3517, with respect to commercial lines
831 residential risks, ~~for a new application to the corporation for~~
832 ~~coverage~~, if the risk is offered coverage under a policy
833 including wind coverage from an authorized insurer at its
834 approved rate, the risk is not eligible for a any policy issued
835 by the corporation ~~unless the premium for coverage from the~~
836 ~~authorized insurer is more than 15 percent greater than the~~
837 ~~premium for comparable coverage from the corporation~~. If the
838 risk is not able to obtain any such offer, the risk is eligible
839 for a policy including wind coverage issued by the corporation.
840 Notwithstanding these limitations, an application for coverage
841 having an effective date before January 1, 2015, is eligible for

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

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

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

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

867
868 If the producing agent is unwilling or unable to accept
869 appointment, the new insurer shall pay the agent in accordance
870 with sub-sub-sub-subparagraph (A).

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

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

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

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

889 c. Effective upon this act becoming a law, the corporation
890 shall cease to accept applications for or issue new policies
891 covering commercial nonresidential risks. ~~For purposes of~~
892 ~~determining comparable coverage under sub-subparagraphs a. and~~
893 ~~b., the comparison shall be based on those forms and coverages~~
894 ~~that are reasonably comparable. The corporation may rely on a~~
895 ~~determination of comparable coverage and premium made by the~~
896 ~~producing agent who submits the application to the corporation,~~
897 ~~made in the agent's capacity as the corporation's agent. A~~
898 ~~comparison may be made solely of the premium with respect to the~~
899 ~~main building or structure only on the following basis: the same~~

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

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

928 6.7. Must provide that if premium and investment income for

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

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

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

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

946

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

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

954 9.10. Must issue ~~The policies that issued by the~~
955 ~~corporation must~~ provide that, if the corporation or the market
956 assistance plan obtains an offer from an authorized insurer to
957 cover the risk at its approved rates, the risk is no longer

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958 eligible for renewal through the corporation, except as
959 otherwise provided in this subsection.

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

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

984 ~~12.13. Must provide that, with respect to the high-risk~~
985 account, any assessable insurer with a surplus as to
986 policyholders of \$25 million or less writing 25 percent or more

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

1007 13.14. Effective January 1, 2012, ~~must provide that the~~
 1008 ~~corporation~~ appoint as its licensed agents only those agents who
 1009 also hold an appointment as defined in s. 626.015(3) with an
 1010 insurer who ~~at the time of the agent's initial appointment by~~
 1011 ~~the corporation~~ is authorized to write and is actually writing
 1012 personal lines residential property coverage, commercial
 1013 residential property coverage, or commercial nonresidential
 1014 property coverage within the state.

1015 14.15. ~~Must provide, by July 1, 2007,~~ a premium payment

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1016 plan option to its policyholders which, allows at a minimum,
 1017 allows for quarterly and semiannual payment of premiums. A
 1018 monthly payment plan may, ~~but is not required to,~~ be offered.

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

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

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

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

1031
 1032 ACKNOWLEDGEMENT OF POTENTIAL SURCHARGE AND ASSESSMENT LIABILITY:
 1033

1034 1. AS A POLICYHOLDER OF CITIZENS PROPERTY INSURANCE
 1035 CORPORATION, I UNDERSTAND THAT IF THE CORPORATION SUSTAINS A
 1036 DEFICIT AS A RESULT OF HURRICANE LOSSES OR FOR ANY OTHER REASON,
 1037 MY POLICY COULD BE SUBJECT TO SURCHARGES, WHICH WILL BE DUE AND
 1038 PAYABLE UPON RENEWAL, CANCELLATION, OR TERMINATION OF THE
 1039 POLICY, AND THAT THE SURCHARGES COULD BE AS HIGH AS 45 PERCENT
 1040 OF MY PREMIUM, OR A DIFFERENT AMOUNT AS IMPOSED BY THE FLORIDA
 1041 LEGISLATURE.

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

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1045 FLORIDA LEGISLATURE.

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

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

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

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

1063 20. Must provide that new or renewal policies issued by the
1064 corporation on or after January 1, 2012, do not include coverage
1065 for attached or detached screen enclosures. The corporation is
1066 not required to issue a notice of nonrenewal to exclude this
1067 coverage upon the renewal of current policies, but shall exclude
1068 such coverage using a notice of coverage change.

1069 21. Must provide that new or renewal policies issued by the
1070 corporation on or after January 1, 2012, which cover the peril
1071 of sinkhole do not include coverage for any loss to appurtenant
1072 structures, driveways, sidewalks, decks, or patios which is
1073 caused directly or indirectly by sinkhole activity. The

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1074 corporation is not required to issue a notice of nonrenewal to
1075 exclude this coverage upon the renewal of current policies, but
1076 shall exclude such coverage using a notice of coverage change
1077 which may be included with the policy renewal.

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

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

1089 3. Senior managers and members of the board of governors
1090 are subject to ~~the provisions of~~ part III of chapter 112,
1091 including, but not limited to, the code of ethics and public
1092 disclosure and reporting of financial interests, pursuant to s.
1093 112.3145.

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

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1103 managers and members of the board of governors who are subject
1104 to the public disclosure requirements under s. 112.3145.

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

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

1130 5. Any senior manager of the corporation who is employed on
1131 or after January 1, 2007, regardless of the date of hire, who

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1132 subsequently retires or terminates employment is prohibited from
1133 representing another person or entity before the corporation for
1134 2 years after retirement or termination of employment from the
1135 corporation.

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

1142 (n)~~1~~. It is the intent of the Legislature that the rates
1143 for coverage provided by the corporation be actuarially
1144 determined and not be competitive with rates charged in the
1145 admitted voluntary market such that the corporation functions as
1146 a residual market mechanism that provides insurance only if such
1147 insurance cannot be procured in the voluntary market. To achieve
1148 this goal, for any rate filing made by the corporation on or
1149 after July 1, 2011: Rates for coverage provided by the
1150 ~~corporation shall be actuarially sound and subject to the~~
1151 ~~requirements of s. 627.062, except as otherwise provided in this~~
1152 ~~paragraph. The corporation shall file its recommended rates with~~
1153 ~~the office at least annually. The corporation shall provide any~~
1154 ~~additional information regarding the rates which the office~~
1155 ~~requires. The office shall consider the recommendations of the~~
1156 ~~board and issue a final order establishing the rates for the~~
1157 ~~corporation within 45 days after the recommended rates are~~
1158 ~~filed. The corporation may not pursue an administrative~~
1159 ~~challenge or judicial review of the final order of the office.~~

1160 1. The corporation shall file its recommended rates with

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

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

1174 3. The corporation shall implement a rate increase each
1175 year for each residential line of business it writes, which may
1176 not exceed 20 percent by territory and 25 percent for any single
1177 policy, excluding coverage changes and surcharges. This
1178 subparagraph expires January 1, 2015, and does not apply to
1179 rates for sinkhole coverage or costs for the purchase of private
1180 reinsurance, if any.

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

1185 ~~3. After the public hurricane loss-projection model under~~
1186 ~~s. 627.06281 has been found to be accurate and reliable by the~~
1187 ~~Florida Commission on Hurricane Loss Projection Methodology,~~
1188 ~~that model shall serve as the minimum benchmark for determining~~
1189 ~~the windstorm portion of the corporation's rates. This~~

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1190 ~~subparagraph does not require or allow the corporation to adopt~~
1191 ~~rates lower than the rates otherwise required or allowed by this~~
1192 ~~paragraph.~~

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

1205 ~~5. Beginning on July 15, 2009, and each year thereafter,~~
1206 ~~the corporation must make a recommended actuarially sound rate~~
1207 ~~filing for each personal and commercial line of business it~~
1208 ~~writes, to be effective no earlier than January 1, 2010.~~

1209 ~~6. Beginning on or after January 1, 2010, and~~
1210 ~~notwithstanding the board's recommended rates and the office's~~
1211 ~~final order regarding the corporation's filed rates under~~
1212 ~~subparagraph 1., the corporation shall implement a rate increase~~
1213 ~~each year which does not exceed 10 percent for any single policy~~
1214 ~~issued by the corporation, excluding coverage changes and~~
1215 ~~surcharges.~~

1216 ~~5.7.~~ The corporation may also implement an increase to
1217 reflect the effect on the corporation of the cash buildup factor
1218 pursuant to s. 215.555(5)(b).

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1219 6. This paragraph does not require or allow the corporation
1220 to reduce rates.

1221 ~~8. The corporation's implementation of rates as prescribed~~
1222 ~~in subparagraph 6. shall cease for any line of business written~~
1223 ~~by the corporation upon the corporation's implementation of~~
1224 ~~actuarially sound rates. Thereafter, the corporation shall~~
1225 ~~annually make a recommended actuarially sound rate filing for~~
1226 ~~each commercial and personal line of business the corporation~~
1227 ~~writes.~~

1228 (o) If coverage in an account is deactivated pursuant to
1229 paragraph (p), coverage through the corporation shall be
1230 reactivated by order of the office only under one of the
1231 following circumstances:

1232 1. If the market assistance plan receives a minimum of 100
1233 applications for coverage within a 3-month period, or 200
1234 applications for coverage within a 1-year period or less for
1235 residential coverage, unless the market assistance plan provides
1236 a quotation from admitted carriers at their filed rates for at
1237 least 90 percent of such applicants. A ~~Any~~ market assistance
1238 plan application that is rejected because an individual risk is
1239 so hazardous as to be uninsurable using the criteria specified
1240 in subparagraph (c)7. ~~may (e)8. shall~~ not be included in the
1241 minimum percentage calculation ~~provided herein.~~ If ~~In the event~~
1242 ~~that~~ there is a legal or administrative challenge to a
1243 determination by the office that the conditions of this
1244 subparagraph have been met for eligibility for coverage by ~~in~~
1245 the corporation, an ~~any~~ eligible risk may obtain coverage during
1246 the pendency of such challenge.

1247 2. In response to a state of emergency declared by the

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

1252 (s)1. There is ~~shall be~~ no liability on the part of, and no
1253 cause of action ~~of any nature~~ shall arise against, any
1254 assessable insurer or its agents or employees, the corporation
1255 or its agents or employees, members of the board of governors or
1256 their respective designees at a board meeting, corporation
1257 committee members, or the office or its representatives, for any
1258 action taken by them in the performance of their duties or
1259 responsibilities under this subsection.

1260 a. As part of the immunity, the corporation, as a
1261 governmental entity serving a public purpose, is not liable for
1262 any claim for bad faith whether or not brought pursuant to s.
1263 624.155, and this subsection or any other provision of law does
1264 not create liability or a cause of action for bad faith or a
1265 claim for extracontractual damages.

1266 b. Such immunity does not apply to:

1267 (I)~~a.~~ Any of the foregoing persons or entities for any
1268 willful tort;

1269 (II)~~b.~~ The corporation or its producing agents for breach
1270 of any contract or agreement pertaining to insurance coverage;

1271 (III)~~c.~~ The corporation with respect to issuance or payment
1272 of debt;

1273 (IV)~~d.~~ An ~~Any~~ assessable insurer with respect to any action
1274 to enforce an assessable insurer's obligations to the
1275 corporation under this subsection; or

1276 (V)~~e.~~ The corporation in any pending or future action for

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1277 breach of contract or for benefits under a policy issued by the
1278 corporation. ~~+~~ In any such action, the corporation is ~~shall be~~
1279 liable to the policyholders and beneficiaries for attorney's
1280 fees under s. 627.428.

1281 2. The corporation shall manage its claim employees,
1282 independent adjusters, and others who handle claims to ensure
1283 they carry out the corporation's duty to its policyholders to
1284 handle claims carefully, timely, diligently, and in good faith,
1285 balanced against the corporation's duty to the state to manage
1286 its assets responsibly in order to minimize its assessment
1287 potential.

1288 (w) Notwithstanding any other provision of law:

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

1299 2. ~~No~~ Such proceeding does not ~~shall~~ relieve the
1300 corporation of its obligation, or otherwise affect its ability
1301 to perform its obligation, to continue to collect, or levy and
1302 collect, assessments, market equalization or other surcharges
1303 ~~under subparagraph (c)10.~~, or any other rights, revenues, or
1304 other assets of the corporation pledged pursuant to any
1305 financing documents.

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1306 3. Each such pledge or sale of, lien upon, and security
1307 interest in, including the priority of such pledge, lien, or
1308 security interest, any such assessments, market equalization or
1309 other surcharges, or other rights, revenues, or other assets
1310 which are collected, or levied and collected, after the
1311 commencement of and during the pendency of, or after, any such
1312 proceeding continues ~~shall continue~~ unaffected by such
1313 proceeding. As used in this subsection, the term "financing
1314 documents" means any agreement or agreements, instrument or
1315 instruments, or other document or documents now existing or
1316 hereafter created evidencing any bonds or other indebtedness of
1317 the corporation or pursuant to which any such bonds or other
1318 indebtedness has been or may be issued and pursuant to which any
1319 rights, revenues, or other assets of the corporation are pledged
1320 or sold to secure the repayment of such bonds or indebtedness,
1321 together with the payment of interest on such bonds or such
1322 indebtedness, or the payment of any other obligation or
1323 financial product, as defined in the plan of operation of the
1324 corporation related to such bonds or indebtedness.

1325 4. Any such pledge or sale of assessments, revenues,
1326 contract rights, or other rights or assets of the corporation
1327 constitutes ~~shall constitute~~ a lien and security interest, or
1328 sale, as the case may be, that is immediately effective and
1329 attaches to such assessments, revenues, or contract rights or
1330 other rights or assets, whether or not imposed or collected at
1331 the time the pledge or sale is made. ~~Any~~ Such pledge or sale is
1332 effective, valid, binding, and enforceable against the
1333 corporation or other entity making such pledge or sale, and
1334 valid and binding against and superior to any competing claims

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1335 or obligations owed to any other person or entity, including
1336 policyholders in this state, asserting rights in any such
1337 assessments, revenues, or contract rights or other rights or
1338 assets to the extent set forth in and in accordance with the
1339 terms of the pledge or sale contained in the applicable
1340 financing documents, whether or not any such person or entity
1341 has notice of such pledge or sale and without the need for any
1342 physical delivery, recordation, filing, or other action.

1343 5. If ~~As long as~~ the corporation has any bonds outstanding,
1344 the corporation may not file a voluntary petition under chapter
1345 9 of the federal Bankruptcy Code or such corresponding chapter
1346 or sections as may be in effect, ~~from time to time~~, and a public
1347 officer or any organization, entity, or other person may not
1348 authorize the corporation to be or become a debtor under chapter
1349 9 of the federal Bankruptcy Code or such corresponding chapter
1350 or sections as may be in effect, ~~from time to time~~, during any
1351 such period.

1352 6. If ordered by a court ~~of competent jurisdiction~~, the
1353 corporation may assume policies or otherwise provide coverage
1354 for policyholders of an insurer placed in liquidation under
1355 chapter 631, under such forms, rates, terms, and conditions as
1356 the corporation deems appropriate, subject to approval by the
1357 office.

1358 (y) It is the intent of the Legislature that the amendments
1359 to this subsection enacted in 2002 should, over time, reduce the
1360 probable maximum windstorm losses in the residual markets and
1361 ~~should~~ reduce the potential assessments to be levied on property
1362 insurers and policyholders statewide. ~~In furtherance of this~~
1363 ~~intent:~~

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1364 ~~1. The board shall, on or before February 1 of each year,~~
1365 ~~provide a report to the President of the Senate and the Speaker~~
1366 ~~of the House of Representatives showing the reduction or~~
1367 ~~increase in the 100-year probable maximum loss attributable to~~
1368 ~~wind-only coverages and the quota share program under this~~
1369 ~~subsection combined, as compared to the benchmark 100-year~~
1370 ~~probable maximum loss of the Florida Windstorm Underwriting~~
1371 ~~Association. For purposes of this paragraph, the benchmark 100-~~
1372 ~~year probable maximum loss of the Florida Windstorm Underwriting~~
1373 ~~Association shall be the calculation dated February 2001 and~~
1374 ~~based on November 30, 2000, exposures. In order to ensure~~
1375 ~~comparability of data, the board shall use the same methods for~~
1376 ~~calculating its probable maximum loss as were used to calculate~~
1377 ~~the benchmark probable maximum loss.~~

1378 ~~2. Beginning December 1, 2010, if the report under~~
1379 ~~subparagraph 1. for any year indicates that the 100-year~~
1380 ~~probable maximum loss attributable to wind-only coverages and~~
1381 ~~the quota share program combined does not reflect a reduction of~~
1382 ~~at least 25 percent from the benchmark, the board shall reduce~~
1383 ~~the boundaries of the high-risk area eligible for wind-only~~
1384 ~~coverages under this subsection in a manner calculated to reduce~~
1385 ~~such probable maximum loss to an amount at least 25 percent~~
1386 ~~below the benchmark.~~

1387 ~~3. Beginning February 1, 2015, if the report under~~
1388 ~~subparagraph 1. for any year indicates that the 100-year~~
1389 ~~probable maximum loss attributable to wind-only coverages and~~
1390 ~~the quota share program combined does not reflect a reduction of~~
1391 ~~at least 50 percent from the benchmark, the boundaries of the~~
1392 ~~high-risk area eligible for wind-only coverages under this~~

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1393 ~~subsection shall be reduced by the elimination of any area that~~
1394 ~~is not seaward of a line 1,000 feet inland from the Intracoastal~~
1395 ~~Waterway.~~

1396 (aa) As a condition of eligibility for coverage by the
1397 corporation, an applicant or insured of a property located in
1398 Special Flood Hazard Area, as defined by the National Flood
1399 Insurance Program, must maintain in effect a separate flood
1400 insurance policy having coverage limits for building and
1401 contents at least equal to those provided under the
1402 corporation's policy, subject to the maximum limits available
1403 under the National Flood Insurance Program policy. This
1404 requirement does not apply to an insured who is a tenant or a
1405 condominium unit owner above the ground floor; a policy issued
1406 by the corporation which excludes wind and hail coverage; a risk
1407 that is not eligible for flood coverage under the National Flood
1408 Insurance Program; or a mobile home that is located more than 2
1409 miles from open water, including the ocean, the gulf, a bay, a
1410 river, or the intracoastal waterway. This paragraph applies to
1411 new policies issued by the corporation on or after January 1,
1412 2012, and to policies renewed by the corporation on or after
1413 January 1, 2013. The corporation shall not require the securing
1414 of flood insurance as a condition of coverage if the insured or
1415 applicant executes a form approved by the office affirming that
1416 flood insurance is not provided by the corporation and that if
1417 flood insurance is not secured by the applicant or insured in
1418 addition to coverage by the corporation, the risk will not be
1419 covered for flood damage. A corporation policyholder electing
1420 not to secure flood insurance and executing a form as provided
1421 herein making a claim for water damage against the corporation

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1422 shall have the burden of proving the damage was not caused by
1423 flooding. Notwithstanding other provisions of this subsection,
1424 the corporation may deny coverage to an applicant or insured who
1425 refuses to execute the form described herein.

1426 ~~(cc) The office may establish a pilot program to offer~~
1427 ~~optional sinkhole coverage in one or more counties or other~~
1428 ~~territories of the corporation for the purpose of implementing~~
1429 ~~s. 627.706, as amended by s. 30, chapter 2007-1, Laws of~~
1430 ~~Florida. Under the pilot program, the corporation is not~~
1431 ~~required to issue a notice of nonrenewal to exclude sinkhole~~
1432 ~~coverage upon the renewal of existing policies, but may exclude~~
1433 ~~such coverage using a notice of coverage change.~~

1434 Section 2. Subsection (4) of section 627.3511, Florida
1435 Statutes, is amended to read:

1436 627.3511 Depopulation of Citizens Property Insurance
1437 Corporation.—

1438 (4) AGENT BONUS.—If ~~When~~ the corporation enters into a
1439 contractual agreement for a take-out plan that provides a bonus
1440 to the insurer, the producing agent of record of the corporation
1441 policy is entitled to retain any unearned commission on such
1442 policy, and the insurer shall ~~either~~:

1443 (a) Pay to the producing agent ~~of record of the association~~
1444 ~~policy~~, for the first year, an amount that is the greater of the
1445 insurer's usual and customary commission for the type of policy
1446 written or a fee equal to the usual and customary commission of
1447 the corporation; or

1448 (b) Offer to allow the producing agent ~~of record of the~~
1449 ~~corporation policy~~ to continue servicing the policy for at least
1450 ~~a period of not less than 1 year~~ and offer to pay the agent the

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1451 greater of the insurer's or the corporation's usual and
1452 customary commission for the type of policy written.

1453
1454 If the producing agent is unwilling or unable to accept
1455 appointment, the new insurer shall pay the agent in accordance
1456 with paragraph (a). The requirement ~~of this subsection~~ that the
1457 producing agent of record is entitled to retain the unearned
1458 commission on an association policy does not apply to a policy
1459 for which coverage has been provided in the association for 30
1460 days or less ~~or for which a cancellation notice has been issued~~
1461 ~~pursuant to s. 627.351(6)(c)10. during the first 30 days of~~
1462 ~~coverage.~~

1463 Section 3. Subsection (1) of section 627.712, Florida
1464 Statutes, is amended to read:

1465 627.712 Residential windstorm coverage required;
1466 availability of exclusions for windstorm or contents.—

1467 (1) An insurer issuing a residential property insurance
1468 policy must provide windstorm coverage. Except as provided in
1469 paragraph (2)(c), this section does not apply ~~with respect~~ to
1470 risks that are eligible for wind-only coverage from Citizens
1471 Property Insurance Corporation under s. 627.351(6), and ~~with~~
1472 ~~respect~~ to risks that are not eligible for coverage from
1473 Citizens Property Insurance Corporation under s. 627.351(6)(a)3.
1474 or 4. 5. A risk ineligible for ~~Citizens~~ coverage under s.
1475 627.351(6)(a)3. or 4. 5. is exempt from the requirements of this
1476 section only if the risk is located within the boundaries of the
1477 high-risk account of the corporation.

1478 Section 4. This act shall take effect upon becoming a law.