

By Senator Oelrich

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1                   A bill to be entitled  
2           An act relating to Citizens Property Insurance  
3           Corporation; amending s. 627.351, F.S.; conforming  
4           cross-references; reducing to 2 percent from 6 percent  
5           the amount of the projected deficit in the coastal  
6           account for the prior calendar year which is recovered  
7           through regular assessments; requiring that remaining  
8           projected deficits in personal and commercial lines  
9           accounts be recovered through emergency assessments  
10          after accounting for the Citizens policyholder  
11          surcharge; requiring the Office of Insurance  
12          Regulation of the Financial Services Commission to  
13          notify assessable insurers and the Florida Surplus  
14          Lines Service Office of the dates assessable insurers  
15          shall collect and pay emergency assessments; removing  
16          reference to recoupment of residual market deficit  
17          assessments; requiring the board of governors to make  
18          a determination that an account has a projected  
19          deficit before it levies a Citizens policy holder  
20          surcharge; requiring that a limited apportionment  
21          company begin collecting regular assessments within 90  
22          days and pay in full within 15 months after the  
23          assessment is levied; authorizing the Office of  
24          Insurance Regulation to assist the Citizens Property  
25          Insurance Corporation in the collection of  
26          assessments; replacing the term "market equalization  
27          surcharge" with the term "policyholder surcharge";  
28          providing an effective date.  
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30 Be It Enacted by the Legislature of the State of Florida:

31  
32 Section 1. Paragraphs (b), (c), (q), and (w) of subsection  
33 (6) of section 627.351, Florida Statutes, are amended to read:

34 627.351 Insurance risk apportionment plans.—

35 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

36 (b)1. All insurers authorized to write one or more subject  
37 lines of business in this state are subject to assessment by the  
38 corporation and, for the purposes of this subsection, are  
39 referred to collectively as "assessable insurers." Insurers  
40 writing one or more subject lines of business in this state  
41 pursuant to part VIII of chapter 626 are not assessable  
42 insurers, but insureds who procure one or more subject lines of  
43 business in this state pursuant to part VIII of chapter 626 are  
44 subject to assessment by the corporation and are referred to  
45 collectively as "assessable insureds." An insurer's assessment  
46 liability begins on the first day of the calendar year following  
47 the year in which the insurer was issued a certificate of  
48 authority to transact insurance for subject lines of business in  
49 this state and terminates 1 year after the end of the first  
50 calendar year during which the insurer no longer holds a  
51 certificate of authority to transact insurance for subject lines  
52 of business in this state.

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

56 (I) A personal lines account for personal residential  
57 policies issued by the corporation, or issued by the Residential  
58 Property and Casualty Joint Underwriting Association and renewed

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59 by the corporation, which provides comprehensive, multiperil  
60 coverage on risks that are not located in areas eligible for  
61 coverage by the Florida Windstorm Underwriting Association as  
62 those areas were defined on January 1, 2002, and for policies  
63 that do not provide coverage for the peril of wind on risks that  
64 are located in such areas;

65 (II) A commercial lines account for commercial residential  
66 and commercial nonresidential policies issued by the  
67 corporation, or issued by the Residential Property and Casualty  
68 Joint Underwriting Association and renewed by the corporation,  
69 which provides coverage for basic property perils on risks that  
70 are not located in areas eligible for coverage by the Florida  
71 Windstorm Underwriting Association as those areas were defined  
72 on January 1, 2002, and for policies that do not provide  
73 coverage for the peril of wind on risks that are located in such  
74 areas; and

75 (III) A coastal account for personal residential policies  
76 and commercial residential and commercial nonresidential  
77 property policies issued by the corporation, or transferred to  
78 the corporation, which provides coverage for the peril of wind  
79 on risks that are located in areas eligible for coverage by the  
80 Florida Windstorm Underwriting Association as those areas were  
81 defined on January 1, 2002. The corporation may offer policies  
82 that provide multiperil coverage and the corporation shall  
83 continue to offer policies that provide coverage only for the  
84 peril of wind for risks located in areas eligible for coverage  
85 in the coastal account. In issuing multiperil coverage, the  
86 corporation may use its approved policy forms and rates for the  
87 personal lines account. An applicant or insured who is eligible

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88 to purchase a multiperil policy from the corporation may  
89 purchase a multiperil policy from an authorized insurer without  
90 prejudice to the applicant's or insured's eligibility to  
91 prospectively purchase a policy that provides coverage only for  
92 the peril of wind from the corporation. An applicant or insured  
93 who is eligible for a corporation policy that provides coverage  
94 only for the peril of wind may elect to purchase or retain such  
95 policy and also purchase or retain coverage excluding wind from  
96 an authorized insurer without prejudice to the applicant's or  
97 insured's eligibility to prospectively purchase a policy that  
98 provides multiperil coverage from the corporation. It is the  
99 goal of the Legislature that there be an overall average savings  
100 of 10 percent or more for a policyholder who currently has a  
101 wind-only policy with the corporation, and an ex-wind policy  
102 with a voluntary insurer or the corporation, and who obtains a  
103 multiperil policy from the corporation. It is the intent of the  
104 Legislature that the offer of multiperil coverage in the coastal  
105 account be made and implemented in a manner that does not  
106 adversely affect the tax-exempt status of the corporation or  
107 creditworthiness of or security for currently outstanding  
108 financing obligations or credit facilities of the coastal  
109 account, the personal lines account, or the commercial lines  
110 account. The coastal account must also include quota share  
111 primary insurance under subparagraph (c)2. The area eligible for  
112 coverage under the coastal account also includes the area within  
113 Port Canaveral, which is bordered on the south by the City of  
114 Cape Canaveral, bordered on the west by the Banana River, and  
115 bordered on the north by Federal Government property.

116 b. The three separate accounts must be maintained as long

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117 as financing obligations entered into by the Florida Windstorm  
118 Underwriting Association or Residential Property and Casualty  
119 Joint Underwriting Association are outstanding, in accordance  
120 with the terms of the corresponding financing documents. If the  
121 financing obligations are no longer outstanding, the corporation  
122 may use a single account for all revenues, assets, liabilities,  
123 losses, and expenses of the corporation. Consistent with this  
124 subparagraph and prudent investment policies that minimize the  
125 cost of carrying debt, the board shall exercise its best efforts  
126 to retire existing debt or obtain the approval of necessary  
127 parties to amend the terms of existing debt, so as to structure  
128 the most efficient plan to consolidate the three separate  
129 accounts into a single account.

130 c. Creditors of the Residential Property and Casualty Joint  
131 Underwriting Association and the accounts specified in sub-sub-  
132 subparagraphs a.(I) and (II) may have a claim against, and  
133 recourse to, those accounts and no claim against, or recourse  
134 to, the account referred to in sub-sub-subparagraph a.(III).  
135 Creditors of the Florida Windstorm Underwriting Association have  
136 a claim against, and recourse to, the account referred to in  
137 sub-sub-subparagraph a.(III) and no claim against, or recourse  
138 to, the accounts referred to in sub-sub-subparagraphs a.(I) and  
139 (II).

140 d. Revenues, assets, liabilities, losses, and expenses not  
141 attributable to particular accounts shall be prorated among the  
142 accounts.

143 e. The Legislature finds that the revenues of the  
144 corporation are revenues that are necessary to meet the  
145 requirements set forth in documents authorizing the issuance of

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146 bonds under this subsection.

147 f. ~~No part of~~ The income of the corporation may not inure  
148 to the benefit of any private person.

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

150 a. After accounting for the Citizens policyholder surcharge  
151 imposed under sub-subparagraph i. ~~h.~~, if the remaining projected  
152 deficit incurred in the coastal account in a particular calendar  
153 year:

154 (I) Is not greater than 2 ½ percent of the aggregate  
155 statewide direct written premium for the subject lines of  
156 business for the prior calendar year, the entire deficit shall  
157 be recovered through regular assessments of assessable insurers  
158 under paragraph (q) and assessable insureds.

159 (II) Exceeds 2 ½ percent of the aggregate statewide direct  
160 written premium for the subject lines of business for the prior  
161 calendar year, the corporation shall levy regular assessments on  
162 assessable insurers under paragraph (q) and on assessable  
163 insureds in an amount equal to the greater of 2 ½ percent of the  
164 projected deficit or 2 ½ percent of the aggregate statewide  
165 direct written premium for the subject lines of business for the  
166 prior calendar year. Any remaining projected deficit shall be  
167 recovered through emergency assessments under sub-subparagraph  
168 d. ~~e.~~

169 b. Each assessable insurer's share of the amount being  
170 assessed under sub-subparagraph a. must be in the proportion  
171 that the assessable insurer's direct written premium for the  
172 subject lines of business for the year preceding the assessment  
173 bears to the aggregate statewide direct written premium for the  
174 subject lines of business for that year. The assessment

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175 percentage applicable to each assessable insured is the ratio of  
176 the amount being assessed under sub-subparagraph a. to the  
177 aggregate statewide direct written premium for the subject lines  
178 of business for the prior year. Assessments levied by the  
179 corporation on assessable insurers under sub-subparagraph a.  
180 must be paid as required by the corporation's plan of operation  
181 and paragraph (q). Assessments levied by the corporation on  
182 assessable insureds under sub-subparagraph a. shall be collected  
183 by the surplus lines agent at the time the surplus lines agent  
184 collects the surplus lines tax required by s. 626.932, and paid  
185 to the Florida Surplus Lines Service Office at the time the  
186 surplus lines agent pays the surplus lines tax to that office.  
187 Upon receipt of regular assessments from surplus lines agents,  
188 the Florida Surplus Lines Service Office shall transfer the  
189 assessments directly to the corporation as determined by the  
190 corporation.

191 c. After accounting for the Citizens policyholder surcharge  
192 imposed under sub-subparagraph i., the remaining projected  
193 deficits in the personal lines account and in the commercial  
194 lines account in a particular calendar year shall be recovered  
195 through emergency assessments under sub-subparagraph d.

196 ~~d.e.~~ Upon a determination by the board of governors that a  
197 projected deficit in an account exceeds the amount that is  
198 expected to ~~will~~ be recovered through regular assessments under  
199 sub-subparagraph a., plus the amount that is expected to be  
200 recovered through surcharges under sub-subparagraph i. ~~h.~~, the  
201 board, after verification by the office, shall levy emergency  
202 assessments for as many years as necessary to cover the  
203 deficits, to be collected by assessable insurers and the

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204 corporation and collected from assessable insureds upon issuance  
205 or renewal of policies for subject lines of business, excluding  
206 National Flood Insurance policies. The amount collected in a  
207 particular year must be a uniform percentage of that year's  
208 direct written premium for subject lines of business and all  
209 accounts of the corporation, excluding National Flood Insurance  
210 Program policy premiums, as annually determined by the board and  
211 verified by the office. The office shall verify the arithmetic  
212 calculations involved in the board's determination within 30  
213 days after receipt of the information on which the determination  
214 was based. The office shall notify assessable insurers and the  
215 Florida Surplus Lines Service Office of the date on which  
216 assessable insurers shall begin to collect and assessable  
217 insureds shall begin to pay such assessment. The date may be not  
218 less than 90 days after the date the corporation levies  
219 emergency assessments pursuant to this sub-subparagraph.  
220 Notwithstanding any other provision of law, the corporation and  
221 each assessable insurer that writes subject lines of business  
222 shall collect emergency assessments from its policyholders  
223 without such obligation being affected by any credit,  
224 limitation, exemption, or deferment. Emergency assessments  
225 levied by the corporation on assessable insureds shall be  
226 collected by the surplus lines agent at the time the surplus  
227 lines agent collects the surplus lines tax required by s.  
228 626.932 and paid to the Florida Surplus Lines Service Office at  
229 the time the surplus lines agent pays the surplus lines tax to  
230 that office. The emergency assessments collected shall be  
231 transferred directly to the corporation on a periodic basis as  
232 determined by the corporation and held by the corporation solely



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233 in the applicable account. The aggregate amount of emergency  
234 assessments levied for an account under this sub-subparagraph in  
235 any calendar year may be less than but not exceed the greater of  
236 10 percent of the amount needed to cover the deficit, plus  
237 interest, fees, commissions, required reserves, and other costs  
238 associated with financing the original deficit, or 10 percent of  
239 the aggregate statewide direct written premium for subject lines  
240 of business and all accounts of the corporation for the prior  
241 year, plus interest, fees, commissions, required reserves, and  
242 other costs associated with financing the deficit.

243 e.d. The corporation may pledge the proceeds of  
244 assessments, projected recoveries from the Florida Hurricane  
245 Catastrophe Fund, other insurance and reinsurance recoverables,  
246 policyholder surcharges and other surcharges, and other funds  
247 available to the corporation as the source of revenue for and to  
248 secure bonds issued under paragraph (q), bonds or other  
249 indebtedness issued under subparagraph (c)3., or lines of credit  
250 or other financing mechanisms issued or created under this  
251 subsection, or to retire any other debt incurred as a result of  
252 deficits or events giving rise to deficits, or in any other way  
253 that the board determines will efficiently recover such  
254 deficits. The purpose of the lines of credit or other financing  
255 mechanisms is to provide additional resources to assist the  
256 corporation in covering claims and expenses attributable to a  
257 catastrophe. As used in this subsection, the term "assessments"  
258 includes regular assessments under sub-subparagraph a. or  
259 subparagraph (q)1. and emergency assessments under sub-  
260 subparagraph d. Emergency assessments collected under sub-  
261 subparagraph d. are not part of an insurer's rates, are not

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262 premium, and are not subject to premium tax, fees, or  
263 commissions; however, failure to pay the emergency assessment  
264 shall be treated as failure to pay premium. The emergency  
265 assessments under sub-subparagraph d. ~~e.~~ shall continue as long  
266 as any bonds issued or other indebtedness incurred with respect  
267 to a deficit for which the assessment was imposed remain  
268 outstanding, unless adequate provision has been made for the  
269 payment of such bonds or other indebtedness pursuant to the  
270 documents governing such bonds or indebtedness.

271 f.e. As used in this subsection for purposes of any deficit  
272 incurred on or after January 25, 2007, the term "subject lines  
273 of business" means insurance written by assessable insurers or  
274 procured by assessable insureds for all property and casualty  
275 lines of business in this state, but not including workers'  
276 compensation or medical malpractice. As used in this sub-  
277 subparagraph, the term "property and casualty lines of business"  
278 includes all lines of business identified on Form 2, Exhibit of  
279 Premiums and Losses, in the annual statement required of  
280 authorized insurers under s. 624.424 and any rule adopted under  
281 this section, except for those lines identified as accident and  
282 health insurance and except for policies written under the  
283 National Flood Insurance Program or the Federal Crop Insurance  
284 Program. For purposes of this sub-subparagraph, the term  
285 "workers' compensation" includes both workers' compensation  
286 insurance and excess workers' compensation insurance.

287 g.f. The Florida Surplus Lines Service Office shall  
288 determine annually the aggregate statewide written premium in  
289 subject lines of business procured by assessable insureds and  
290 report that information to the corporation in a form and at a

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291 time the corporation specifies to ensure that the corporation  
292 can meet the requirements of this subsection and the  
293 corporation's financing obligations.

294 ~~h.g.~~ The Florida Surplus Lines Service Office shall verify  
295 the proper application by surplus lines agents of assessment  
296 percentages for regular assessments and emergency assessments  
297 levied under this subparagraph on assessable insureds and assist  
298 the corporation in ensuring the accurate, timely collection and  
299 payment of assessments by surplus lines agents as required by  
300 the corporation.

301 ~~i.h. If a deficit is incurred in any account~~ In 2008 or  
302 thereafter, upon a determination by the board of governors that  
303 an account has a projected deficit, the board shall levy a  
304 Citizens policyholder surcharge against all policyholders of the  
305 corporation.

306 (I) The surcharge shall be levied as a uniform percentage  
307 of the premium for the policy of up to 15 percent of such  
308 premium, which funds shall be used to offset the deficit.

309 (II) The surcharge is payable upon cancellation or  
310 termination of the policy, upon renewal of the policy, or upon  
311 issuance of a new policy by the corporation within the first 12  
312 months after the date of the levy or the period of time  
313 necessary to fully collect the surcharge amount.

314 (III) The corporation may not levy any regular assessments  
315 under paragraph (q) pursuant to sub-subparagraph a. or sub-  
316 subparagraph b. with respect to a particular year's deficit  
317 until the corporation has first levied the full amount of the  
318 surcharge authorized by this sub-subparagraph.

319 (IV) The surcharge is not considered premium and is not

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320 subject to commissions, fees, or premium taxes. However, failure  
321 to pay the surcharge shall be treated as failure to pay premium.

322 j.~~i.~~ If the amount of any assessments or surcharges  
323 collected from corporation policyholders, assessable insurers or  
324 their policyholders, or assessable insureds exceeds the amount  
325 of the deficits, such excess amounts shall be remitted to and  
326 retained by the corporation in a reserve to be used by the  
327 corporation, as determined by the board of governors and  
328 approved by the office, to pay claims or reduce any past,  
329 present, or future plan-year deficits or to reduce outstanding  
330 debt.

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

332 1. Must provide for adoption of residential property and  
333 casualty insurance policy forms and commercial residential and  
334 nonresidential property insurance forms, which must be approved  
335 by the office before use. The corporation shall adopt the  
336 following policy forms:

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

341 b. Basic personal lines policy forms that are policies  
342 similar to an HO-8 policy or a dwelling fire policy that provide  
343 coverage meeting the requirements of the secondary mortgage  
344 market, but which is more limited than the coverage under a  
345 standard policy.

346 c. Commercial lines residential and nonresidential policy  
347 forms that are generally similar to the basic perils of full  
348 coverage obtainable for commercial residential structures and

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349 commercial nonresidential structures in the admitted voluntary  
350 market.

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

356 e. Commercial lines nonresidential property insurance forms  
357 that cover the peril of wind only. The forms are applicable only  
358 to nonresidential properties located in areas eligible for  
359 coverage under the coastal account referred to in sub-  
360 subparagraph (b)2.a.

361 f. The corporation may adopt variations of the policy forms  
362 listed in sub-subparagraphs a.-e. which contain more restrictive  
363 coverage.

364 2. Must provide that the corporation adopt a program in  
365 which the corporation and authorized insurers enter into quota  
366 share primary insurance agreements for hurricane coverage, as  
367 defined in s. 627.4025(2)(a), for eligible risks, and adopt  
368 property insurance forms for eligible risks which cover the  
369 peril of wind only.

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

371 (I) "Quota share primary insurance" means an arrangement in  
372 which the primary hurricane coverage of an eligible risk is  
373 provided in specified percentages by the corporation and an  
374 authorized insurer. The corporation and authorized insurer are  
375 each solely responsible for a specified percentage of hurricane  
376 coverage of an eligible risk as set forth in a quota share  
377 primary insurance agreement between the corporation and an

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378 authorized insurer and the insurance contract. The  
379 responsibility of the corporation or authorized insurer to pay  
380 its specified percentage of hurricane losses of an eligible  
381 risk, as set forth in the agreement, may not be altered by the  
382 inability of the other party to pay its specified percentage of  
383 losses. Eligible risks that are provided hurricane coverage  
384 through a quota share primary insurance arrangement must be  
385 provided policy forms that set forth the obligations of the  
386 corporation and authorized insurer under the arrangement,  
387 clearly specify the percentages of quota share primary insurance  
388 provided by the corporation and authorized insurer, and  
389 conspicuously and clearly state that the authorized insurer and  
390 the corporation may not be held responsible beyond their  
391 specified percentage of coverage of hurricane losses.

392 (II) "Eligible risks" means personal lines residential and  
393 commercial lines residential risks that meet the underwriting  
394 criteria of the corporation and are located in areas that were  
395 eligible for coverage by the Florida Windstorm Underwriting  
396 Association on January 1, 2002.

397 b. The corporation may enter into quota share primary  
398 insurance agreements with authorized insurers at corporation  
399 coverage levels of 90 percent and 50 percent.

400 c. If the corporation determines that additional coverage  
401 levels are necessary to maximize participation in quota share  
402 primary insurance agreements by authorized insurers, the  
403 corporation may establish additional coverage levels. However,  
404 the corporation's quota share primary insurance coverage level  
405 may not exceed 90 percent.

406 d. Any quota share primary insurance agreement entered into

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407 between an authorized insurer and the corporation must provide  
408 for a uniform specified percentage of coverage of hurricane  
409 losses, by county or territory as set forth by the corporation  
410 board, for all eligible risks of the authorized insurer covered  
411 under the agreement.

412 e. Any quota share primary insurance agreement entered into  
413 between an authorized insurer and the corporation is subject to  
414 review and approval by the office. However, such agreement shall  
415 be authorized only as to insurance contracts entered into  
416 between an authorized insurer and an insured who is already  
417 insured by the corporation for wind coverage.

418 f. For all eligible risks covered under quota share primary  
419 insurance agreements, the exposure and coverage levels for both  
420 the corporation and authorized insurers shall be reported by the  
421 corporation to the Florida Hurricane Catastrophe Fund. For all  
422 policies of eligible risks covered under such agreements, the  
423 corporation and the authorized insurer must maintain complete  
424 and accurate records for the purpose of exposure and loss  
425 reimbursement audits as required by fund rules. The corporation  
426 and the authorized insurer shall each maintain duplicate copies  
427 of policy declaration pages and supporting claims documents.

428 g. The corporation board shall establish in its plan of  
429 operation standards for quota share agreements which ensure that  
430 there is no discriminatory application among insurers as to the  
431 terms of the agreements, pricing of the agreements, incentive  
432 provisions if any, and consideration paid for servicing policies  
433 or adjusting claims.

434 h. The quota share primary insurance agreement between the  
435 corporation and an authorized insurer must set forth the

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436 specific terms under which coverage is provided, including, but  
437 not limited to, the sale and servicing of policies issued under  
438 the agreement by the insurance agent of the authorized insurer  
439 producing the business, the reporting of information concerning  
440 eligible risks, the payment of premium to the corporation, and  
441 arrangements for the adjustment and payment of hurricane claims  
442 incurred on eligible risks by the claims adjuster and personnel  
443 of the authorized insurer. Entering into a quota sharing  
444 insurance agreement between the corporation and an authorized  
445 insurer is voluntary and at the discretion of the authorized  
446 insurer.

447 3.a. May provide that the corporation may employ or  
448 otherwise contract with individuals or other entities to provide  
449 administrative or professional services that may be appropriate  
450 to effectuate the plan. The corporation may borrow funds by  
451 issuing bonds or by incurring other indebtedness, and shall have  
452 other powers reasonably necessary to effectuate the requirements  
453 of this subsection, including, without limitation, the power to  
454 issue bonds and incur other indebtedness in order to refinance  
455 outstanding bonds or other indebtedness. The corporation may  
456 seek judicial validation of its bonds or other indebtedness  
457 under chapter 75. The corporation may issue bonds or incur other  
458 indebtedness, or have bonds issued on its behalf by a unit of  
459 local government pursuant to subparagraph (q)2. in the absence  
460 of a hurricane or other weather-related event, upon a  
461 determination by the corporation, subject to approval by the  
462 office, that such action would enable it to efficiently meet the  
463 financial obligations of the corporation and that such  
464 financings are reasonably necessary to effectuate the



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465 requirements of this subsection. The corporation may take all  
466 actions needed to facilitate tax-free status for such bonds or  
467 indebtedness, including formation of trusts or other affiliated  
468 entities. The corporation may pledge assessments, projected  
469 recoveries from the Florida Hurricane Catastrophe Fund, other  
470 reinsurance recoverables, policyholder surcharges ~~market~~  
471 ~~equalization~~ and other surcharges, and other funds available to  
472 the corporation as security for bonds or other indebtedness. In  
473 recognition of s. 10, Art. I of the State Constitution,  
474 prohibiting the impairment of obligations of contracts, it is  
475 the intent of the Legislature that no action be taken whose  
476 purpose is to impair any bond indenture or financing agreement  
477 or any revenue source committed by contract to such bond or  
478 other indebtedness.

479       b. To ensure that the corporation is operating in an  
480 efficient and economic manner while providing quality service to  
481 policyholders, applicants, and agents, the board shall  
482 commission an independent third-party consultant having  
483 expertise in insurance company management or insurance company  
484 management consulting to prepare a report and make  
485 recommendations on the relative costs and benefits of  
486 outsourcing various policy issuance and service functions to  
487 private servicing carriers or entities performing similar  
488 functions in the private market for a fee, rather than  
489 performing such functions in-house. In making such  
490 recommendations, the consultant shall consider how other  
491 residual markets, both in this state and around the country,  
492 outsource appropriate functions or use servicing carriers to  
493 better match expenses with revenues that fluctuate based on a

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494 widely varying policy count. The report must be completed by  
495 July 1, 2012. Upon receiving the report, the board shall develop  
496 a plan to implement the report and submit the plan for review,  
497 modification, and approval to the Financial Services Commission.  
498 Upon the commission's approval of the plan, the board shall  
499 begin implementing the plan by January 1, 2013.

500 4. Must require that the corporation operate subject to the  
501 supervision and approval of a board of governors consisting of  
502 eight individuals who are residents of this state, from  
503 different geographical areas of this state.

504 a. The Governor, the Chief Financial Officer, the President  
505 of the Senate, and the Speaker of the House of Representatives  
506 shall each appoint two members of the board. At least one of the  
507 two members appointed by each appointing officer must have  
508 demonstrated expertise in insurance and is deemed to be within  
509 the scope of the exemption provided in s. 112.313(7)(b). The  
510 Chief Financial Officer shall designate one of the appointees as  
511 chair. All board members serve at the pleasure of the appointing  
512 officer. All members of the board are subject to removal at will  
513 by the officers who appointed them. All board members, including  
514 the chair, must be appointed to serve for 3-year terms beginning  
515 annually on a date designated by the plan. However, for the  
516 first term beginning on or after July 1, 2009, each appointing  
517 officer shall appoint one member of the board for a 2-year term  
518 and one member for a 3-year term. A board vacancy shall be  
519 filled for the unexpired term by the appointing officer. The  
520 Chief Financial Officer shall appoint a technical advisory group  
521 to provide information and advice to the board in connection  
522 with the board's duties under this subsection. The executive

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523 director and senior managers of the corporation shall be engaged  
524 by the board and serve at the pleasure of the board. Any  
525 executive director appointed on or after July 1, 2006, is  
526 subject to confirmation by the Senate. The executive director is  
527 responsible for employing other staff as the corporation may  
528 require, subject to review and concurrence by the board.

529       b. The board shall create a Market Accountability Advisory  
530 Committee to assist the corporation in developing awareness of  
531 its rates and its customer and agent service levels in  
532 relationship to the voluntary market insurers writing similar  
533 coverage.

534       (I) The members of the advisory committee consist of the  
535 following 11 persons, one of whom must be elected chair by the  
536 members of the committee: four representatives, one appointed by  
537 the Florida Association of Insurance Agents, one by the Florida  
538 Association of Insurance and Financial Advisors, one by the  
539 Professional Insurance Agents of Florida, and one by the Latin  
540 American Association of Insurance Agencies; three  
541 representatives appointed by the insurers with the three highest  
542 voluntary market share of residential property insurance  
543 business in the state; one representative from the Office of  
544 Insurance Regulation; one consumer appointed by the board who is  
545 insured by the corporation at the time of appointment to the  
546 committee; one representative appointed by the Florida  
547 Association of Realtors; and one representative appointed by the  
548 Florida Bankers Association. All members shall be appointed to  
549 3-year terms and may serve for consecutive terms.

550       (II) The committee shall report to the corporation at each  
551 board meeting on insurance market issues which may include rates

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552 and rate competition with the voluntary market; service,  
553 including policy issuance, claims processing, and general  
554 responsiveness to policyholders, applicants, and agents; and  
555 matters relating to depopulation.

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

558 a. Subject to s. 627.3517, with respect to personal lines  
559 residential risks, if the risk is offered coverage from an  
560 authorized insurer at the insurer's approved rate under a  
561 standard policy including wind coverage or, if consistent with  
562 the insurer's underwriting rules as filed with the office, a  
563 basic policy including wind coverage, for a new application to  
564 the corporation for coverage, the risk is not eligible for any  
565 policy issued by the corporation unless the premium for coverage  
566 from the authorized insurer is more than 15 percent greater than  
567 the premium for comparable coverage from the corporation. If the  
568 risk is not able to obtain such offer, the risk is eligible for  
569 a standard policy including wind coverage or a basic policy  
570 including wind coverage issued by the corporation; however, if  
571 the risk could not be insured under a standard policy including  
572 wind coverage regardless of market conditions, the risk is  
573 eligible for a basic policy including wind coverage unless  
574 rejected under subparagraph 8. However, a policyholder of the  
575 corporation or a policyholder removed from the corporation  
576 through an assumption agreement until the end of the assumption  
577 period remains eligible for coverage from the corporation  
578 regardless of any offer of coverage from an authorized insurer  
579 or surplus lines insurer. The corporation shall determine the  
580 type of policy to be provided on the basis of objective

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581 standards specified in the underwriting manual and based on  
582 generally accepted underwriting practices.

583 (I) If the risk accepts an offer of coverage through the  
584 market assistance plan or through a mechanism established by the  
585 corporation before a policy is issued to the risk by the  
586 corporation or during the first 30 days of coverage by the  
587 corporation, and the producing agent who submitted the  
588 application to the plan or to the corporation is not currently  
589 appointed by the insurer, the insurer shall:

590 (A) Pay to the producing agent of record of the policy for  
591 the first year, an amount that is the greater of the insurer's  
592 usual and customary commission for the type of policy written or  
593 a fee equal to the usual and customary commission of the  
594 corporation; or

595 (B) Offer to allow the producing agent of record of the  
596 policy to continue servicing the policy for at least 1 year and  
597 offer to pay the agent the greater of the insurer's or the  
598 corporation's usual and customary commission for the type of  
599 policy written.

600

601 If the producing agent is unwilling or unable to accept  
602 appointment, the new insurer shall pay the agent in accordance  
603 with sub-sub-sub-subparagraph (A).

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

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

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610 customary commission for the type of policy written or a fee  
611 equal to the usual and customary commission of the corporation;  
612 or

613 (B) Offer to allow the producing agent of record to  
614 continue servicing the policy for at least 1 year and offer to  
615 pay the agent the greater of the insurer's or the corporation's  
616 usual and customary commission for the type of policy written.  
617

618 If the producing agent is unwilling or unable to accept  
619 appointment, the new insurer shall pay the agent in accordance  
620 with sub-sub-sub-subparagraph (A).

621 b. With respect to commercial lines residential risks, for  
622 a new application to the corporation for coverage, if the risk  
623 is offered coverage under a policy including wind coverage from  
624 an authorized insurer at its approved rate, the risk is not  
625 eligible for a policy issued by the corporation unless the  
626 premium for coverage from the authorized insurer is more than 15  
627 percent greater than the premium for comparable coverage from  
628 the corporation. If the risk is not able to obtain any such  
629 offer, the risk is eligible for a policy including wind coverage  
630 issued by the corporation. However, a policyholder of the  
631 corporation or a policyholder removed from the corporation  
632 through an assumption agreement until the end of the assumption  
633 period remains eligible for coverage from the corporation  
634 regardless of an offer of coverage from an authorized insurer or  
635 surplus lines insurer.

636 (I) If the risk accepts an offer of coverage through the  
637 market assistance plan or through a mechanism established by the  
638 corporation before a policy is issued to the risk by the

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639 corporation or during the first 30 days of coverage by the  
640 corporation, and the producing agent who submitted the  
641 application to the plan or the corporation is not currently  
642 appointed by the insurer, the insurer shall:

643 (A) Pay to the producing agent of record of the policy, for  
644 the first year, an amount that is the greater of the insurer's  
645 usual and customary commission for the type of policy written or  
646 a fee equal to the usual and customary commission of the  
647 corporation; or

648 (B) Offer to allow the producing agent of record of the  
649 policy to continue servicing the policy for at least 1 year and  
650 offer to pay the agent the greater of the insurer's or the  
651 corporation's usual and customary commission for the type of  
652 policy written.

653

654 If the producing agent is unwilling or unable to accept  
655 appointment, the new insurer shall pay the agent in accordance  
656 with sub-sub-sub-subparagraph (A).

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

661 (A) Pay to the producing agent of record, for the first  
662 year, an amount that is the greater of the insurer's usual and  
663 customary commission for the type of policy written or a fee  
664 equal to the usual and customary commission of the corporation;  
665 or

666 (B) Offer to allow the producing agent of record to  
667 continue servicing the policy for at least 1 year and offer to

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668 pay the agent the greater of the insurer's or the corporation's  
669 usual and customary commission for the type of policy written.

670

671 If the producing agent is unwilling or unable to accept  
672 appointment, the new insurer shall pay the agent in accordance  
673 with sub-sub-sub-subparagraph (A).

674 c. For purposes of determining comparable coverage under  
675 sub-subparagraphs a. and b., the comparison must be based on  
676 those forms and coverages that are reasonably comparable. The  
677 corporation may rely on a determination of comparable coverage  
678 and premium made by the producing agent who submits the  
679 application to the corporation, made in the agent's capacity as  
680 the corporation's agent. A comparison may be made solely of the  
681 premium with respect to the main building or structure only on  
682 the following basis: the same coverage A or other building  
683 limits; the same percentage hurricane deductible that applies on  
684 an annual basis or that applies to each hurricane for commercial  
685 residential property; the same percentage of ordinance and law  
686 coverage, if the same limit is offered by both the corporation  
687 and the authorized insurer; the same mitigation credits, to the  
688 extent the same types of credits are offered both by the  
689 corporation and the authorized insurer; the same method for loss  
690 payment, such as replacement cost or actual cash value, if the  
691 same method is offered both by the corporation and the  
692 authorized insurer in accordance with underwriting rules; and  
693 any other form or coverage that is reasonably comparable as  
694 determined by the board. If an application is submitted to the  
695 corporation for wind-only coverage in the coastal account, the  
696 premium for the corporation's wind-only policy plus the premium



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697 for the ex-wind policy that is offered by an authorized insurer  
698 to the applicant must be compared to the premium for multiperil  
699 coverage offered by an authorized insurer, subject to the  
700 standards for comparison specified in this subparagraph. If the  
701 corporation or the applicant requests from the authorized  
702 insurer a breakdown of the premium of the offer by types of  
703 coverage so that a comparison may be made by the corporation or  
704 its agent and the authorized insurer refuses or is unable to  
705 provide such information, the corporation may treat the offer as  
706 not being an offer of coverage from an authorized insurer at the  
707 insurer's approved rate.

708 6. Must include rules for classifications of risks and  
709 rates.

710 7. Must provide that if premium and investment income for  
711 an account attributable to a particular calendar year are in  
712 excess of projected losses and expenses for the account  
713 attributable to that year, such excess shall be held in surplus  
714 in the account. Such surplus must be available to defray  
715 deficits in that account as to future years and used for that  
716 purpose before assessing assessable insurers and assessable  
717 insureds as to any calendar year.

718 8. Must provide objective criteria and procedures to be  
719 uniformly applied to all applicants in determining whether an  
720 individual risk is so hazardous as to be uninsurable. In making  
721 this determination and in establishing the criteria and  
722 procedures, the following must be considered:

723 a. Whether the likelihood of a loss for the individual risk  
724 is substantially higher than for other risks of the same class;  
725 and

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

728  
729 The acceptance or rejection of a risk by the corporation shall  
730 be construed as the private placement of insurance, and the  
731 provisions of chapter 120 do not apply.

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

736           10. The policies issued by the corporation must provide  
737 that if the corporation or the market assistance plan obtains an  
738 offer from an authorized insurer to cover the risk at its  
739 approved rates, the risk is no longer eligible for renewal  
740 through the corporation, except as otherwise provided in this  
741 subsection.

742           11. Corporation policies and applications must include a  
743 notice that the corporation policy could, under this section, be  
744 replaced with a policy issued by an authorized insurer which  
745 does not provide coverage identical to the coverage provided by  
746 the corporation. The notice must also specify that acceptance of  
747 corporation coverage creates a conclusive presumption that the  
748 applicant or policyholder is aware of this potential.

749           12. May establish, subject to approval by the office,  
750 different eligibility requirements and operational procedures  
751 for any line or type of coverage for any specified county or  
752 area if the board determines that such changes are justified due  
753 to the voluntary market being sufficiently stable and  
754 competitive in such area or for such line or type of coverage

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755 and that consumers who, in good faith, are unable to obtain  
756 insurance through the voluntary market through ordinary methods  
757 continue to have access to coverage from the corporation. If  
758 coverage is sought in connection with a real property transfer,  
759 the requirements and procedures may not provide an effective  
760 date of coverage later than the date of the closing of the  
761 transfer as established by the transferor, the transferee, and,  
762 if applicable, the lender.

763 13. Must provide that, with respect to the coastal account,  
764 any assessable insurer with a surplus as to policyholders of \$25  
765 million or less writing 25 percent or more of its total  
766 countrywide property insurance premiums in this state may  
767 petition the office, within the first 90 days of each calendar  
768 year, to qualify as a limited apportionment company. A regular  
769 assessment levied by the corporation on a limited apportionment  
770 company for a deficit incurred by the corporation for the  
771 coastal account may be paid to the corporation on a monthly  
772 basis as the assessments are collected by the limited  
773 apportionment company from its insureds ~~pursuant to s. 627.3512,~~  
774 but a limited apportionment company must begin collecting the  
775 regular assessments not later than 90 days after the regular  
776 assessments are levied by the corporation, and the regular  
777 assessments ~~assessment~~ must be paid in full within 15 ~~12~~ months  
778 after being levied by the corporation. A limited apportionment  
779 company shall collect from its policyholders any emergency  
780 assessment imposed under sub-subparagraph (b)3.d. The plan must  
781 provide that, if the office determines that any regular  
782 assessment will result in an impairment of the surplus of a  
783 limited apportionment company, the office may direct that all or

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784 part of such assessment be deferred as provided in subparagraph  
785 (q)4. However, an emergency assessment to be collected from  
786 policyholders under sub-subparagraph (b)3.d. may not be limited  
787 or deferred.

788 14. Must provide that the corporation appoint as its  
789 licensed agents only those agents who also hold an appointment  
790 as defined in s. 626.015(3) with an insurer who at the time of  
791 the agent's initial appointment by the corporation is authorized  
792 to write and is actually writing personal lines residential  
793 property coverage, commercial residential property coverage, or  
794 commercial nonresidential property coverage within the state.

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

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

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

804 18. May require commercial property to meet specified  
805 hurricane mitigation construction features as a condition of  
806 eligibility for coverage.

807 19. Must provide that new or renewal policies issued by the  
808 corporation on or after January 1, 2012, which cover sinkhole  
809 loss do not include coverage for any loss to appurtenant  
810 structures, driveways, sidewalks, decks, or patios that are  
811 directly or indirectly caused by sinkhole activity. The  
812 corporation shall exclude such coverage using a notice of

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813 coverage change, which may be included with the policy renewal,  
 814 and not by issuance of a notice of nonrenewal of the excluded  
 815 coverage upon renewal of the current policy.

816 20. As of January 1, 2012, must require that the agent  
 817 obtain from an applicant for coverage from the corporation an  
 818 acknowledgement signed by the applicant, which includes, at a  
 819 minimum, the following statement:

820  
 821 ACKNOWLEDGEMENT OF POTENTIAL SURCHARGE  
 822 AND ASSESSMENT LIABILITY:  
 823

824 1. AS A POLICYHOLDER OF CITIZENS PROPERTY INSURANCE  
 825 CORPORATION, I UNDERSTAND THAT IF THE CORPORATION SUSTAINS A  
 826 DEFICIT AS A RESULT OF HURRICANE LOSSES OR FOR ANY OTHER REASON,  
 827 MY POLICY COULD BE SUBJECT TO SURCHARGES, WHICH WILL BE DUE AND  
 828 PAYABLE UPON RENEWAL, CANCELLATION, OR TERMINATION OF THE  
 829 POLICY, AND THAT THE SURCHARGES COULD BE AS HIGH AS 45 PERCENT  
 830 OF MY PREMIUM, OR A DIFFERENT AMOUNT AS IMPOSED BY THE FLORIDA  
 831 LEGISLATURE.

832 2. I ALSO UNDERSTAND THAT I MAY BE SUBJECT TO EMERGENCY  
 833 ASSESSMENTS TO THE SAME EXTENT AS POLICYHOLDERS OF OTHER  
 834 INSURANCE COMPANIES, OR A DIFFERENT AMOUNT AS IMPOSED BY THE  
 835 FLORIDA LEGISLATURE.

836 3. I ALSO UNDERSTAND THAT CITIZENS PROPERTY INSURANCE  
 837 CORPORATION IS NOT SUPPORTED BY THE FULL FAITH AND CREDIT OF THE  
 838 STATE OF FLORIDA.

839  
 840 a. The corporation shall maintain, in electronic format or  
 841 otherwise, a copy of the applicant's signed acknowledgement and

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842 provide a copy of the statement to the policyholder as part of  
843 the first renewal after the effective date of this subparagraph.

844 b. The signed acknowledgement form creates a conclusive  
845 presumption that the policyholder understood and accepted his or  
846 her potential surcharge and assessment liability as a  
847 policyholder of the corporation.

848 (q)1. The corporation shall certify to the office its needs  
849 for annual assessments as to a particular calendar year, and for  
850 any interim assessments that it deems to be necessary to sustain  
851 operations as to a particular year pending the receipt of annual  
852 assessments. Upon verification, the office shall approve such  
853 certification, and the corporation shall levy such annual or  
854 interim assessments. Such assessments shall be prorated as  
855 provided in paragraph (b). The corporation shall take all  
856 reasonable and prudent steps necessary to collect the amount of  
857 assessments ~~assessment~~ due from each assessable insurer,  
858 including, if prudent, filing suit to collect the assessments,  
859 and the office may provide such assistance to the corporation it  
860 deems appropriate ~~such assessment~~. If the corporation is unable  
861 to collect an assessment from any assessable insurer, the  
862 uncollected assessments shall be levied as an additional  
863 assessment against the assessable insurers and any assessable  
864 insurer required to pay an additional assessment as a result of  
865 such failure to pay shall have a cause of action against such  
866 nonpaying assessable insurer. Assessments shall be included as  
867 an appropriate factor in the making of rates. The failure of a  
868 surplus lines agent to collect and remit any regular or  
869 emergency assessment levied by the corporation is considered to  
870 be a violation of s. 626.936 and subjects the surplus lines

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871 agent to the penalties provided in that section.

872 2. The governing body of any unit of local government, any  
873 residents of which are insured by the corporation, may issue  
874 bonds as defined in s. 125.013 or s. 166.101 from time to time  
875 to fund an assistance program, in conjunction with the  
876 corporation, for the purpose of defraying deficits of the  
877 corporation. In order to avoid needless and indiscriminate  
878 proliferation, duplication, and fragmentation of such assistance  
879 programs, any unit of local government, any residents of which  
880 are insured by the corporation, may provide for the payment of  
881 losses, regardless of whether or not the losses occurred within  
882 or outside of the territorial jurisdiction of the local  
883 government. Revenue bonds under this subparagraph may not be  
884 issued until validated pursuant to chapter 75, unless a state of  
885 emergency is declared by executive order or proclamation of the  
886 Governor pursuant to s. 252.36 making such findings as are  
887 necessary to determine that it is in the best interests of, and  
888 necessary for, the protection of the public health, safety, and  
889 general welfare of residents of this state and declaring it an  
890 essential public purpose to permit certain municipalities or  
891 counties to issue such bonds as will permit relief to claimants  
892 and policyholders of the corporation. Any such unit of local  
893 government may enter into such contracts with the corporation  
894 and with any other entity created pursuant to this subsection as  
895 are necessary to carry out this paragraph. Any bonds issued  
896 under this subparagraph shall be payable from and secured by  
897 moneys received by the corporation from emergency assessments  
898 under sub-subparagraph (b)3.d., and assigned and pledged to or  
899 on behalf of the unit of local government for the benefit of the

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900 holders of such bonds. The funds, credit, property, and taxing  
901 power of the state or of the unit of local government shall not  
902 be pledged for the payment of such bonds.

903 3.a. The corporation shall adopt one or more programs  
904 subject to approval by the office for the reduction of both new  
905 and renewal writings in the corporation. Beginning January 1,  
906 2008, any program the corporation adopts for the payment of  
907 bonuses to an insurer for each risk the insurer removes from the  
908 corporation shall comply with s. 627.3511(2) and may not exceed  
909 the amount referenced in s. 627.3511(2) for each risk removed.  
910 The corporation may consider any prudent and not unfairly  
911 discriminatory approach to reducing corporation writings, and  
912 may adopt a credit against assessment liability or other  
913 liability that provides an incentive for insurers to take risks  
914 out of the corporation and to keep risks out of the corporation  
915 by maintaining or increasing voluntary writings in counties or  
916 areas in which corporation risks are highly concentrated and a  
917 program to provide a formula under which an insurer voluntarily  
918 taking risks out of the corporation by maintaining or increasing  
919 voluntary writings will be relieved wholly or partially from  
920 assessments under sub-subparagraphs (b)3.a. and b. However, any  
921 "take-out bonus" or payment to an insurer must be conditioned on  
922 the property being insured for at least 5 years by the insurer,  
923 unless canceled or nonrenewed by the policyholder. If the policy  
924 is canceled or nonrenewed by the policyholder before the end of  
925 the 5-year period, the amount of the take-out bonus must be  
926 prorated for the time period the policy was insured. When the  
927 corporation enters into a contractual agreement for a take-out  
928 plan, the producing agent of record of the corporation policy is



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929 entitled to retain any unearned commission on such policy, and  
930 the insurer shall either:

931 (I) Pay to the producing agent of record of the policy, for  
932 the first year, an amount which is the greater of the insurer's  
933 usual and customary commission for the type of policy written or  
934 a policy fee equal to the usual and customary commission of the  
935 corporation; or

936 (II) Offer to allow the producing agent of record of the  
937 policy to continue servicing the policy for a period of not less  
938 than 1 year and offer to pay the agent the insurer's usual and  
939 customary commission for the type of policy written. If the  
940 producing agent is unwilling or unable to accept appointment by  
941 the new insurer, the new insurer shall pay the agent in  
942 accordance with sub-sub-subparagraph (I).

943 b. Any credit or exemption from regular assessments adopted  
944 under this subparagraph shall last no longer than the 3 years  
945 following the cancellation or expiration of the policy by the  
946 corporation. With the approval of the office, the board may  
947 extend such credits for an additional year if the insurer  
948 guarantees an additional year of renewability for all policies  
949 removed from the corporation, or for 2 additional years if the  
950 insurer guarantees 2 additional years of renewability for all  
951 policies so removed.

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

955 4. The plan shall provide for the deferment, in whole or in  
956 part, of the assessment of an assessable insurer, other than an  
957 emergency assessment collected from policyholders pursuant to

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958 sub-subparagraph (b)3.d., if the office finds that payment of  
959 the assessment would endanger or impair the solvency of the  
960 insurer. In the event an assessment against an assessable  
961 insurer is deferred in whole or in part, the amount by which  
962 such assessment is deferred may be assessed against the other  
963 assessable insurers in a manner consistent with the basis for  
964 assessments set forth in paragraph (b).

965 5. Effective July 1, 2007, in order to evaluate the costs  
966 and benefits of approved take-out plans, if the corporation pays  
967 a bonus or other payment to an insurer for an approved take-out  
968 plan, it shall maintain a record of the address or such other  
969 identifying information on the property or risk removed in order  
970 to track if and when the property or risk is later insured by  
971 the corporation.

972 6. Any policy taken out, assumed, or removed from the  
973 corporation is, as of the effective date of the take-out,  
974 assumption, or removal, direct insurance issued by the insurer  
975 and not by the corporation, even if the corporation continues to  
976 service the policies. This subparagraph applies to policies of  
977 the corporation and not policies taken out, assumed, or removed  
978 from any other entity.

979 (w) Notwithstanding any other provision of law:

980 1. The pledge or sale of, the lien upon, and the security  
981 interest in any rights, revenues, or other assets of the  
982 corporation created or purported to be created pursuant to any  
983 financing documents to secure any bonds or other indebtedness of  
984 the corporation shall be and remain valid and enforceable,  
985 notwithstanding the commencement of and during the continuation  
986 of, and after, any rehabilitation, insolvency, liquidation,

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987 bankruptcy, receivership, conservatorship, reorganization, or  
988 similar proceeding against the corporation under the laws of  
989 this state.

990 2. The ~~No such~~ proceeding does not ~~shall~~ relieve the  
991 corporation of its obligation, or otherwise affect its ability  
992 to perform its obligation, to continue to collect, or levy and  
993 collect, assessments, policyholder surcharges ~~market~~  
994 ~~equalization~~ or other surcharges under sub-subparagraph (b)3.i.  
995 ~~subparagraph (c)10.~~, or any other rights, revenues, or other  
996 assets of the corporation pledged pursuant to any financing  
997 documents.

998 3. Each such pledge or sale of, lien upon, and security  
999 interest in, including the priority of such pledge, lien, or  
1000 security interest, any such assessments, policyholder surcharges  
1001 ~~market equalization~~ or other surcharges, or other rights,  
1002 revenues, or other assets which are collected, or levied and  
1003 collected, after the commencement of and during the pendency of,  
1004 or after, any such proceeding shall continue unaffected by such  
1005 proceeding. As used in this subsection, the term "financing  
1006 documents" means any agreement or agreements, instrument or  
1007 instruments, or other document or documents now existing or  
1008 hereafter created evidencing any bonds or other indebtedness of  
1009 the corporation or pursuant to which any such bonds or other  
1010 indebtedness has been or may be issued and pursuant to which any  
1011 rights, revenues, or other assets of the corporation are pledged  
1012 or sold to secure the repayment of such bonds or indebtedness,  
1013 together with the payment of interest on such bonds or such  
1014 indebtedness, or the payment of any other obligation or  
1015 financial product, as defined in the plan of operation of the

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1016 corporation related to such bonds or indebtedness.

1017       4. Any such pledge or sale of assessments, revenues,  
1018 contract rights, or other rights or assets of the corporation  
1019 shall constitute a lien and security interest, or sale, as the  
1020 case may be, that is immediately effective and attaches to such  
1021 assessments, revenues, or contract rights or other rights or  
1022 assets, whether or not imposed or collected at the time the  
1023 pledge or sale is made. Any such pledge or sale is effective,  
1024 valid, binding, and enforceable against the corporation or other  
1025 entity making such pledge or sale, and valid and binding against  
1026 and superior to any competing claims or obligations owed to any  
1027 other person or entity, including policyholders in this state,  
1028 asserting rights in any such assessments, revenues, or contract  
1029 rights or other rights or assets to the extent set forth in and  
1030 in accordance with the terms of the pledge or sale contained in  
1031 the applicable financing documents, whether or not any such  
1032 person or entity has notice of such pledge or sale and without  
1033 the need for any physical delivery, recordation, filing, or  
1034 other action.

1035       5. As long as the corporation has any bonds outstanding,  
1036 the corporation may not file a voluntary petition under chapter  
1037 9 of the federal Bankruptcy Code or such corresponding chapter  
1038 or sections as may be in effect, from time to time, and a public  
1039 officer or any organization, entity, or other person may not  
1040 authorize the corporation to be or become a debtor under chapter  
1041 9 of the federal Bankruptcy Code or such corresponding chapter  
1042 or sections as may be in effect, from time to time, during any  
1043 such period.

1044       6. If ordered by a court of competent jurisdiction, the

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1045 corporation may assume policies or otherwise provide coverage  
1046 for policyholders of an insurer placed in liquidation under  
1047 chapter 631, under such forms, rates, terms, and conditions as  
1048 the corporation deems appropriate, subject to approval by the  
1049 office.

1050 Section 2. This act shall take effect July 1, 2012.