

By the Committee on Budget; and Senators Oelrich and Lynn

576-04508-12

20121346c1

1 A bill to be entitled
2 An act relating to property insurance; amending s.
3 215.555, F.S.; revising the definition of "retention";
4 providing for the calculation of an insurer's
5 reimbursement premium and retention under the
6 reimbursement contract; revising coverage levels
7 available under the reimbursement contract; revising
8 aggregate coverage limits; providing for the phase-in
9 of changes to coverage levels and limits; amending s.
10 627.351, F.S.; conforming cross-references; reducing
11 to 2 percent from 6 percent the amount of the
12 projected deficit in the coastal account for the prior
13 calendar year which is recovered through regular
14 assessments; requiring that remaining projected
15 deficits in personal and commercial lines accounts be
16 recovered through emergency assessments after
17 accounting for the Citizens policyholder surcharge;
18 requiring the Office of Insurance Regulation of the
19 Financial Services Commission to notify assessable
20 insurers and the Florida Surplus Lines Service Office
21 of the dates assessable insurers shall collect and pay
22 emergency assessments; removing reference to
23 recoupment of residual market deficit assessments;
24 requiring the board of governors to make a
25 determination that an account has a projected deficit
26 before it levies a Citizens policyholder surcharge;
27 requiring that a limited apportionment company begin
28 collecting regular assessments within 90 days and pay
29 in full within 15 months after the assessment is

576-04508-12

20121346c1

30 levied; authorizing the Office of Insurance Regulation
31 to assist the Citizens Property Insurance Corporation
32 in the collection of assessments; replacing the term
33 "market equalization surcharge" with the term
34 "policyholder surcharge"; providing effective dates.
35

36 Be It Enacted by the Legislature of the State of Florida:
37

38 Section 1. Effective upon this act becoming a law,
39 paragraph (e) of subsection (2) and paragraphs (b) and (c) of
40 subsection (4) of section 215.555, Florida Statutes, are amended
41 to read:

42 215.555 Florida Hurricane Catastrophe Fund.—

43 (2) DEFINITIONS.—As used in this section:

44 (e) "Retention" means the amount of losses below which an
45 insurer is not entitled to reimbursement from the fund. An
46 insurer's retention shall be calculated as follows:

47 1. The board shall calculate and report to each insurer the
48 retention multiples for that year.

49 a. For the contract year beginning June 1, 2005, the
50 retention multiple shall be equal to \$4.5 billion divided by the
51 total estimated reimbursement premium for the contract year; for
52 subsequent years, the retention multiple shall be equal to \$4.5
53 billion, adjusted based upon the reported exposure for the
54 contract year occurring 2 years before the particular contract
55 year to reflect the percentage growth in exposure to the fund
56 for covered policies since 2004, divided by the total estimated
57 reimbursement premium for the contract year.

58 b. For the 2012-2013 contract year, the total reimbursement

576-04508-12

20121346c1

59 premium for purposes of the calculation under this subparagraph
60 shall be estimated using the assumption that all insurers have
61 selected the 90-percent coverage level.

62 c. In order to implement the phase-in of reduced coverage
63 levels as provided in paragraph (4) (b), total reimbursement
64 premium for purposes of the calculation under this subparagraph
65 shall be estimated using the following assumptions:

66 (I) For the 2013-2014 contract year, the assumption is that
67 all insurers have selected the 85-percent coverage level.

68 (II) For the 2014-2015 contract year and subsequent
69 contract years, the assumption is that all insurers have
70 selected the 80-percent coverage level.

71 2. The retention multiple as determined under subparagraph
72 1. shall be adjusted to reflect the coverage level elected by
73 the insurer.

74 a. For an insurer electing the maximum coverage level
75 available under paragraph (4) (b) for a particular contract year
76 ~~For insurers electing the 90-percent coverage level, the~~
77 adjusted retention multiple is 100 percent of the amount
78 determined under subparagraph 1.

79 b. In order to implement the phase-in of reduced coverage
80 levels as provided in paragraph (4) (b), for an insurer electing
81 a coverage level other than the maximum coverage level, the
82 adjusted retention multiple is as follows:

83 (I) With respect to the 2012-2013 contract year, for an
84 insurer ~~For insurers~~ electing the 75-percent coverage level, the
85 retention multiple is 90/75ths ~~120 percent~~ of the amount
86 determined under subparagraph 1., and for an insurer ~~For~~
87 ~~insurers~~ electing the 45-percent coverage level, the adjusted

576-04508-12

20121346c1

88 retention multiple is 90/45ths ~~200 percent~~ of the amount
89 determined under subparagraph 1.

90 (II) With respect to the 2013-2014 contract year, for an
91 insurer electing the 75-percent coverage level, the retention
92 multiple is 85/75ths of the amount determined under subparagraph
93 1., and for an insurer electing the 45-percent coverage level,
94 the retention multiple is 85/45ths of the amount determined
95 under subparagraph 1.

96 (III) With respect to the 2014-2015 contract year and
97 subsequent contract years, for an insurer electing the 75-
98 percent coverage level, the retention multiple is 80/75ths of
99 the amount determined under subparagraph 1., and for an insurer
100 electing the 45-percent coverage level, the retention multiple
101 is 80/45ths of the amount determined under subparagraph 1.

102 3. An insurer shall determine its provisional retention by
103 multiplying its provisional reimbursement premium by the
104 applicable adjusted retention multiple and shall determine its
105 actual retention by multiplying its actual reimbursement premium
106 by the applicable adjusted retention multiple.

107 4. For insurers who experience multiple covered events
108 causing loss during the contract year, beginning June 1, 2005,
109 each insurer's full retention shall be applied to each of the
110 covered events causing the two largest losses for that insurer.
111 For each other covered event resulting in losses, the insurer's
112 retention shall be reduced to one-third of the full retention.
113 The reimbursement contract must ~~shall~~ provide for the
114 reimbursement of losses for each covered event based on the full
115 retention with adjustments made to reflect the reduced
116 retentions on or after January 1 of the contract year provided

576-04508-12

20121346c1

117 the insurer reports its losses as specified in the reimbursement
118 contract.

119 (4) REIMBURSEMENT CONTRACTS.—

120 (b)1. The contract shall contain a promise by the board to
121 reimburse the insurer for a specified percentage ~~45 percent, 75~~
122 ~~percent, or 90 percent~~ of its losses from each covered event in
123 excess of the insurer's retention, plus 5 percent of the
124 reimbursed losses to cover loss adjustment expenses. The
125 available coverage levels are as follows:

126 a. For the 2012-2013 contract year, 90 percent, 75 percent,
127 and 45 percent.

128 b. For the 2013-2014 contract year, 85 percent, 75 percent,
129 and 45 percent.

130 c. For the 2014-2015 contract year and subsequent contract
131 years, 80 percent, 75 percent, and 45 percent.

132 2.a. The insurer must elect one of the percentage coverage
133 levels specified in this paragraph and may, upon renewal of a
134 reimbursement contract, elect a lower percentage coverage level
135 if no revenue bonds issued under subsection (6) after a covered
136 event are outstanding, or elect a higher percentage coverage
137 level, regardless of whether or not revenue bonds are
138 outstanding. All members of an insurer group must elect the same
139 percentage coverage level. A ~~Any~~ joint underwriting association,
140 risk apportionment plan, or other entity created under s.
141 627.351 must elect the maximum ~~90-percent~~ coverage level
142 available under subparagraph 1.

143 b. In order to implement the phase-in of reduced coverage
144 levels as provided in subparagraph 1., and notwithstanding sub-
145 subparagraph a., if revenue bonds issued under subsection (6)

576-04508-12

20121346c1

146 after a covered event are outstanding and the insurer has
147 elected the maximum coverage level available under subparagraph
148 1., the insurer must, upon renewal of the reimbursement
149 contract, elect the maximum coverage level available under
150 subparagraph 1. for the renewal contract year.

151 3. The contract must ~~shall~~ provide that reimbursement
152 amounts ~~shall~~ not be reduced by reinsurance paid or payable to
153 the insurer from other sources.

154 4. Notwithstanding any other provision ~~contained~~ in this
155 section, the board shall make available to insurers that
156 purchased coverage provided by this subparagraph in 2008,
157 insurers qualifying as limited apportionment companies under s.
158 627.351(6)(c), and insurers that have been approved to
159 participate in the Insurance Capital Build-Up Incentive Program
160 pursuant to s. 215.5595 a contract or contract addendum that
161 provides an additional amount of reimbursement coverage of up to
162 \$10 million. The premium to be charged for this additional
163 reimbursement coverage shall be 50 percent of the additional
164 reimbursement coverage provided, which must ~~shall~~ include one
165 prepaid reinstatement. The minimum retention level that an
166 eligible participating insurer must retain associated with this
167 additional coverage layer is 30 percent of the insurer's surplus
168 ~~as of December 31, 2008, for the 2009-2010 contract year; as of~~
169 ~~December 31, 2009, for the 2010-2011 contract year; and as of~~
170 December 31, 2010, for the 2011-2012 contract year. This
171 coverage is ~~shall be~~ in addition to all other coverage that may
172 be provided under this section. The coverage provided by the
173 fund under this subparagraph is ~~shall be~~ in addition to the
174 claims-paying capacity as defined in subparagraph (c)1., but

576-04508-12

20121346c1

175 only with respect to those insurers that select the additional
176 coverage option and meet the requirements of this subparagraph.
177 The claims-paying capacity with respect to all other
178 participating insurers and limited apportionment companies that
179 do not select the additional coverage option shall be limited to
180 their reimbursement premium's proportionate share of the actual
181 claims-paying capacity otherwise defined in subparagraph (c)1.
182 and as provided for under the terms of the reimbursement
183 contract. The optional coverage retention as specified shall be
184 accessed before the mandatory coverage under the reimbursement
185 contract, but once the limit of coverage selected under this
186 option is exhausted, the insurer's retention under the mandatory
187 coverage applies ~~will apply~~. This coverage will apply and be
188 paid concurrently with mandatory coverage. This subparagraph
189 expires on May 31, 2012.

190 (c)1. The contract must ~~shall~~ also provide that the
191 obligation of the board with respect to all contracts covering a
192 particular contract year ~~shall~~ not exceed the actual claims-
193 paying capacity of the fund up to the limit specified in this
194 subparagraph.

195 a. For the 2012-2013 contract year, the limit is \$17
196 billion.

197 b. For the 2013-2014 contract year, the limit is \$16
198 billion.

199 c. For the 2014-2015 contract year, the limit is \$15
200 billion.

201 d. For contract years after the 2014-2015 contract year, if
202 a limit of \$17 billion for that contract year, unless the board
203 determines that there is sufficient estimated claims-paying

576-04508-12

20121346c1

204 capacity to provide \$15 ~~\$17~~ billion of capacity for the current
205 contract year and an additional \$15 ~~\$17~~ billion of capacity for
206 subsequent contract years. ~~If the board makes such a~~
207 ~~determination,~~ the estimated claims-paying capacity for the
208 particular contract year shall be determined by adding to the
209 \$15 ~~\$17~~ billion limit one-half of the fund's estimated claims-
210 paying capacity in excess of \$30 ~~\$34~~ billion. However, the
211 dollar growth in the limit may not increase in any year by an
212 amount greater than the dollar growth of the balance of the fund
213 as of December 31, ~~less any premiums or interest attributable to~~
214 ~~optional coverage,~~ as defined by rule, which occurred over the
215 prior calendar year.

216 2. In May and October of the contract year, the board shall
217 publish in the Florida Administrative Weekly a statement of the
218 fund's estimated borrowing capacity, the fund's estimated
219 claims-paying capacity, and the projected balance of the fund as
220 of December 31. After the end of each calendar year, the board
221 shall notify insurers of the estimated borrowing capacity,
222 estimated claims-paying capacity, and the balance of the fund as
223 of December 31 to provide insurers with data necessary to assist
224 them in determining their retention and projected payout from
225 the fund for loss reimbursement purposes. In conjunction with
226 the development of the premium formula, as provided ~~for~~ in
227 subsection (5), the board shall publish factors or multiples
228 that assist insurers in determining their retention and
229 projected payout for the next contract year. For all regulatory
230 and reinsurance purposes, an insurer may calculate its projected
231 payout from the fund as its share of the total fund premium for
232 the current contract year multiplied by the sum of the projected

576-04508-12

20121346c1

233 balance of the fund as of December 31 and the estimated
234 borrowing capacity for that contract year as reported under this
235 subparagraph.

236 Section 2. Paragraphs (b), (c), (q), and (w) of subsection
237 (6) of section 627.351, Florida Statutes, are amended to read:

238 627.351 Insurance risk apportionment plans.—

239 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

240 (b)1. All insurers authorized to write one or more subject
241 lines of business in this state are subject to assessment by the
242 corporation and, for the purposes of this subsection, are
243 referred to collectively as "assessable insurers." Insurers
244 writing one or more subject lines of business in this state
245 pursuant to part VIII of chapter 626 are not assessable
246 insurers, but insureds who procure one or more subject lines of
247 business in this state pursuant to part VIII of chapter 626 are
248 subject to assessment by the corporation and are referred to
249 collectively as "assessable insureds." An insurer's assessment
250 liability begins on the first day of the calendar year following
251 the year in which the insurer was issued a certificate of
252 authority to transact insurance for subject lines of business in
253 this state and terminates 1 year after the end of the first
254 calendar year during which the insurer no longer holds a
255 certificate of authority to transact insurance for subject lines
256 of business in this state.

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

260 (I) A personal lines account for personal residential
261 policies issued by the corporation, or issued by the Residential

576-04508-12

20121346c1

262 Property and Casualty Joint Underwriting Association and renewed
263 by the corporation, which provides comprehensive, multiperil
264 coverage on risks that are not located in areas eligible for
265 coverage by the Florida Windstorm Underwriting Association as
266 those areas were defined on January 1, 2002, and for policies
267 that do not provide coverage for the peril of wind on risks that
268 are located in such areas;

269 (II) A commercial lines account for commercial residential
270 and commercial nonresidential policies issued by the
271 corporation, or issued by the Residential Property and Casualty
272 Joint Underwriting Association and renewed by the corporation,
273 which provides coverage for basic property perils on risks that
274 are not located in areas eligible for coverage by the Florida
275 Windstorm Underwriting Association as those areas were defined
276 on January 1, 2002, and for policies that do not provide
277 coverage for the peril of wind on risks that are located in such
278 areas; and

279 (III) A coastal account for personal residential policies
280 and commercial residential and commercial nonresidential
281 property policies issued by the corporation, or transferred to
282 the corporation, which provides coverage for the peril of wind
283 on risks that are located in areas eligible for coverage by the
284 Florida Windstorm Underwriting Association as those areas were
285 defined on January 1, 2002. The corporation may offer policies
286 that provide multiperil coverage and the corporation shall
287 continue to offer policies that provide coverage only for the
288 peril of wind for risks located in areas eligible for coverage
289 in the coastal account. In issuing multiperil coverage, the
290 corporation may use its approved policy forms and rates for the

576-04508-12

20121346c1

291 personal lines account. An applicant or insured who is eligible
292 to purchase a multiperil policy from the corporation may
293 purchase a multiperil policy from an authorized insurer without
294 prejudice to the applicant's or insured's eligibility to
295 prospectively purchase a policy that provides coverage only for
296 the peril of wind from the corporation. An applicant or insured
297 who is eligible for a corporation policy that provides coverage
298 only for the peril of wind may elect to purchase or retain such
299 policy and also purchase or retain coverage excluding wind from
300 an authorized insurer without prejudice to the applicant's or
301 insured's eligibility to prospectively purchase a policy that
302 provides multiperil coverage from the corporation. It is the
303 goal of the Legislature that there be an overall average savings
304 of 10 percent or more for a policyholder who currently has a
305 wind-only policy with the corporation, and an ex-wind policy
306 with a voluntary insurer or the corporation, and who obtains a
307 multiperil policy from the corporation. It is the intent of the
308 Legislature that the offer of multiperil coverage in the coastal
309 account be made and implemented in a manner that does not
310 adversely affect the tax-exempt status of the corporation or
311 creditworthiness of or security for currently outstanding
312 financing obligations or credit facilities of the coastal
313 account, the personal lines account, or the commercial lines
314 account. The coastal account must also include quota share
315 primary insurance under subparagraph (c)2. The area eligible for
316 coverage under the coastal account also includes the area within
317 Port Canaveral, which is bordered on the south by the City of
318 Cape Canaveral, bordered on the west by the Banana River, and
319 bordered on the north by Federal Government property.

576-04508-12

20121346c1

320 b. The three separate accounts must be maintained as long
321 as financing obligations entered into by the Florida Windstorm
322 Underwriting Association or Residential Property and Casualty
323 Joint Underwriting Association are outstanding, in accordance
324 with the terms of the corresponding financing documents. If the
325 financing obligations are no longer outstanding, the corporation
326 may use a single account for all revenues, assets, liabilities,
327 losses, and expenses of the corporation. Consistent with this
328 subparagraph and prudent investment policies that minimize the
329 cost of carrying debt, the board shall exercise its best efforts
330 to retire existing debt or obtain the approval of necessary
331 parties to amend the terms of existing debt, so as to structure
332 the most efficient plan to consolidate the three separate
333 accounts into a single account.

334 c. Creditors of the Residential Property and Casualty Joint
335 Underwriting Association and the accounts specified in sub-sub-
336 subparagraphs a.(I) and (II) may have a claim against, and
337 recourse to, those accounts and no claim against, or recourse
338 to, the account referred to in sub-sub-subparagraph a.(III).
339 Creditors of the Florida Windstorm Underwriting Association have
340 a claim against, and recourse to, the account referred to in
341 sub-sub-subparagraph a.(III) and no claim against, or recourse
342 to, the accounts referred to in sub-sub-subparagraphs a.(I) and
343 (II).

344 d. Revenues, assets, liabilities, losses, and expenses not
345 attributable to particular accounts shall be prorated among the
346 accounts.

347 e. The Legislature finds that the revenues of the
348 corporation are revenues that are necessary to meet the

576-04508-12

20121346c1

349 requirements set forth in documents authorizing the issuance of
350 bonds under this subsection.

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

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

354 a. After accounting for the Citizens policyholder surcharge
355 imposed under sub-subparagraph i. h., if the remaining projected
356 deficit incurred in the coastal account in a particular calendar
357 year:

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

363 (II) Exceeds 2 ½ percent of the aggregate statewide direct
364 written premium for the subject lines of business for the prior
365 calendar year, the corporation shall levy regular assessments on
366 assessable insurers under paragraph (q) and on assessable
367 insureds in an amount equal to the greater of 2 ½ percent of the
368 projected deficit or 2 ½ percent of the aggregate statewide
369 direct written premium for the subject lines of business for the
370 prior calendar year. Any remaining projected deficit shall be
371 recovered through emergency assessments under sub-subparagraph
372 d. e.

373 b. Each assessable insurer's share of the amount being
374 assessed under sub-subparagraph a. must be in the proportion
375 that the assessable insurer's direct written premium for the
376 subject lines of business for the year preceding the assessment
377 bears to the aggregate statewide direct written premium for the

576-04508-12

20121346c1

378 subject lines of business for that year. The assessment
379 percentage applicable to each assessable insured is the ratio of
380 the amount being assessed under sub-subparagraph a. to the
381 aggregate statewide direct written premium for the subject lines
382 of business for the prior year. Assessments levied by the
383 corporation on assessable insurers under sub-subparagraph a.
384 must be paid as required by the corporation's plan of operation
385 and paragraph (q). Assessments levied by the corporation on
386 assessable insureds under sub-subparagraph a. shall be collected
387 by the surplus lines agent at the time the surplus lines agent
388 collects the surplus lines tax required by s. 626.932, and paid
389 to the Florida Surplus Lines Service Office at the time the
390 surplus lines agent pays the surplus lines tax to that office.
391 Upon receipt of regular assessments from surplus lines agents,
392 the Florida Surplus Lines Service Office shall transfer the
393 assessments directly to the corporation as determined by the
394 corporation.

395 c. After accounting for the Citizens policyholder surcharge
396 imposed under sub-subparagraph i., the remaining projected
397 deficits in the personal lines account and in the commercial
398 lines account in a particular calendar year shall be recovered
399 through emergency assessments under sub-subparagraph d.

400 ~~d.e.~~ Upon a determination by the board of governors that a
401 projected deficit in an account exceeds the amount that is
402 expected to ~~will~~ be recovered through regular assessments under
403 sub-subparagraph a., plus the amount that is expected to be
404 recovered through surcharges under sub-subparagraph i. ~~h.~~, the
405 board, after verification by the office, shall levy emergency
406 assessments for as many years as necessary to cover the

576-04508-12

20121346c1

407 deficits, to be collected by assessable insurers and the
408 corporation and collected from assessable insureds upon issuance
409 or renewal of policies for subject lines of business, excluding
410 National Flood Insurance policies. The amount collected in a
411 particular year must be a uniform percentage of that year's
412 direct written premium for subject lines of business and all
413 accounts of the corporation, excluding National Flood Insurance
414 Program policy premiums, as annually determined by the board and
415 verified by the office. The office shall verify the arithmetic
416 calculations involved in the board's determination within 30
417 days after receipt of the information on which the determination
418 was based. The office shall notify assessable insurers and the
419 Florida Surplus Lines Service Office of the date on which
420 assessable insurers shall begin to collect and assessable
421 insureds shall begin to pay such assessment. The date may be not
422 less than 90 days after the date the corporation levies
423 emergency assessments pursuant to this sub-subparagraph.
424 Notwithstanding any other provision of law, the corporation and
425 each assessable insurer that writes subject lines of business
426 shall collect emergency assessments from its policyholders
427 without such obligation being affected by any credit,
428 limitation, exemption, or deferment. Emergency assessments
429 levied by the corporation on assessable insureds shall be
430 collected by the surplus lines agent at the time the surplus
431 lines agent collects the surplus lines tax required by s.
432 626.932 and paid to the Florida Surplus Lines Service Office at
433 the time the surplus lines agent pays the surplus lines tax to
434 that office. The emergency assessments collected shall be
435 transferred directly to the corporation on a periodic basis as

576-04508-12

20121346c1

436 determined by the corporation and held by the corporation solely
437 in the applicable account. The aggregate amount of emergency
438 assessments levied for an account under this sub-subparagraph in
439 any calendar year may be less than but not exceed the greater of
440 10 percent of the amount needed to cover the deficit, plus
441 interest, fees, commissions, required reserves, and other costs
442 associated with financing the original deficit, or 10 percent of
443 the aggregate statewide direct written premium for subject lines
444 of business and all accounts of the corporation for the prior
445 year, plus interest, fees, commissions, required reserves, and
446 other costs associated with financing the deficit.

447 e.d. The corporation may pledge the proceeds of
448 assessments, projected recoveries from the Florida Hurricane
449 Catastrophe Fund, other insurance and reinsurance recoverables,
450 policyholder surcharges and other surcharges, and other funds
451 available to the corporation as the source of revenue for and to
452 secure bonds issued under paragraph (q), bonds or other
453 indebtedness issued under subparagraph (c)3., or lines of credit
454 or other financing mechanisms issued or created under this
455 subsection, or to retire any other debt incurred as a result of
456 deficits or events giving rise to deficits, or in any other way
457 that the board determines will efficiently recover such
458 deficits. The purpose of the lines of credit or other financing
459 mechanisms is to provide additional resources to assist the
460 corporation in covering claims and expenses attributable to a
461 catastrophe. As used in this subsection, the term "assessments"
462 includes regular assessments under sub-subparagraph a. or
463 subparagraph (q)1. and emergency assessments under sub-
464 subparagraph d. Emergency assessments collected under sub-

576-04508-12

20121346c1

465 subparagraph d. are not part of an insurer's rates, are not
466 premium, and are not subject to premium tax, fees, or
467 commissions; however, failure to pay the emergency assessment
468 shall be treated as failure to pay premium. The emergency
469 assessments under sub-subparagraph d. ~~e.~~ shall continue as long
470 as any bonds issued or other indebtedness incurred with respect
471 to a deficit for which the assessment was imposed remain
472 outstanding, unless adequate provision has been made for the
473 payment of such bonds or other indebtedness pursuant to the
474 documents governing such bonds or indebtedness.

475 ~~f.e.~~ As used in this subsection for purposes of any deficit
476 incurred on or after January 25, 2007, the term "subject lines
477 of business" means insurance written by assessable insurers or
478 procured by assessable insureds for all property and casualty
479 lines of business in this state, but not including workers'
480 compensation or medical malpractice. As used in this sub-
481 subparagraph, the term "property and casualty lines of business"
482 includes all lines of business identified on Form 2, Exhibit of
483 Premiums and Losses, in the annual statement required of
484 authorized insurers under s. 624.424 and any rule adopted under
485 this section, except for those lines identified as accident and
486 health insurance and except for policies written under the
487 National Flood Insurance Program or the Federal Crop Insurance
488 Program. For purposes of this sub-subparagraph, the term
489 "workers' compensation" includes both workers' compensation
490 insurance and excess workers' compensation insurance.

491 ~~g.f.~~ The Florida Surplus Lines Service Office shall
492 determine annually the aggregate statewide written premium in
493 subject lines of business procured by assessable insureds and

576-04508-12

20121346c1

494 report that information to the corporation in a form and at a
495 time the corporation specifies to ensure that the corporation
496 can meet the requirements of this subsection and the
497 corporation's financing obligations.

498 ~~h.g.~~ The Florida Surplus Lines Service Office shall verify
499 the proper application by surplus lines agents of assessment
500 percentages for regular assessments and emergency assessments
501 levied under this subparagraph on assessable insureds and assist
502 the corporation in ensuring the accurate, timely collection and
503 payment of assessments by surplus lines agents as required by
504 the corporation.

505 ~~i.h. If a deficit is incurred in any account~~ In 2008 or
506 thereafter, upon a determination by the board of governors that
507 an account has a projected deficit, the board shall levy a
508 Citizens policyholder surcharge against all policyholders of the
509 corporation.

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

513 (II) The surcharge is payable upon cancellation or
514 termination of the policy, upon renewal of the policy, or upon
515 issuance of a new policy by the corporation within the first 12
516 months after the date of the levy or the period of time
517 necessary to fully collect the surcharge amount.

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

576-04508-12

20121346c1

523 (IV) The surcharge is not considered premium and is not
524 subject to commissions, fees, or premium taxes. However, failure
525 to pay the surcharge shall be treated as failure to pay premium.

526 ~~j.i.~~ If the amount of any assessments or surcharges
527 collected from corporation policyholders, assessable insurers or
528 their policyholders, or assessable insureds exceeds the amount
529 of the deficits, such excess amounts shall be remitted to and
530 retained by the corporation in a reserve to be used by the
531 corporation, as determined by the board of governors and
532 approved by the office, to pay claims or reduce any past,
533 present, or future plan-year deficits or to reduce outstanding
534 debt.

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

536 1. Must provide for adoption of residential property and
537 casualty insurance policy forms and commercial residential and
538 nonresidential property insurance forms, which must be approved
539 by the office before use. The corporation shall adopt the
540 following policy forms:

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

545 b. Basic personal lines policy forms that are policies
546 similar to an HO-8 policy or a dwelling fire policy that provide
547 coverage meeting the requirements of the secondary mortgage
548 market, but which is more limited than the coverage under a
549 standard policy.

550 c. Commercial lines residential and nonresidential policy
551 forms that are generally similar to the basic perils of full

576-04508-12

20121346c1

552 coverage obtainable for commercial residential structures and
553 commercial nonresidential structures in the admitted voluntary
554 market.

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

560 e. Commercial lines nonresidential property insurance forms
561 that cover the peril of wind only. The forms are applicable only
562 to nonresidential properties located in areas eligible for
563 coverage under the coastal account referred to in sub-
564 subparagraph (b)2.a.

565 f. The corporation may adopt variations of the policy forms
566 listed in sub-subparagraphs a.-e. which contain more restrictive
567 coverage.

568 2. Must provide that the corporation adopt a program in
569 which the corporation and authorized insurers enter into quota
570 share primary insurance agreements for hurricane coverage, as
571 defined in s. 627.4025(2)(a), for eligible risks, and adopt
572 property insurance forms for eligible risks which cover the
573 peril of wind only.

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

575 (I) "Quota share primary insurance" means an arrangement in
576 which the primary hurricane coverage of an eligible risk is
577 provided in specified percentages by the corporation and an
578 authorized insurer. The corporation and authorized insurer are
579 each solely responsible for a specified percentage of hurricane
580 coverage of an eligible risk as set forth in a quota share

576-04508-12

20121346c1

581 primary insurance agreement between the corporation and an
582 authorized insurer and the insurance contract. The
583 responsibility of the corporation or authorized insurer to pay
584 its specified percentage of hurricane losses of an eligible
585 risk, as set forth in the agreement, may not be altered by the
586 inability of the other party to pay its specified percentage of
587 losses. Eligible risks that are provided hurricane coverage
588 through a quota share primary insurance arrangement must be
589 provided policy forms that set forth the obligations of the
590 corporation and authorized insurer under the arrangement,
591 clearly specify the percentages of quota share primary insurance
592 provided by the corporation and authorized insurer, and
593 conspicuously and clearly state that the authorized insurer and
594 the corporation may not be held responsible beyond their
595 specified percentage of coverage of hurricane losses.

596 (II) "Eligible risks" means personal lines residential and
597 commercial lines residential risks that meet the underwriting
598 criteria of the corporation and are located in areas that were
599 eligible for coverage by the Florida Windstorm Underwriting
600 Association on January 1, 2002.

601 b. The corporation may enter into quota share primary
602 insurance agreements with authorized insurers at corporation
603 coverage levels of 90 percent and 50 percent.

604 c. If the corporation determines that additional coverage
605 levels are necessary to maximize participation in quota share
606 primary insurance agreements by authorized insurers, the
607 corporation may establish additional coverage levels. However,
608 the corporation's quota share primary insurance coverage level
609 may not exceed 90 percent.

576-04508-12

20121346c1

610 d. Any quota share primary insurance agreement entered into
611 between an authorized insurer and the corporation must provide
612 for a uniform specified percentage of coverage of hurricane
613 losses, by county or territory as set forth by the corporation
614 board, for all eligible risks of the authorized insurer covered
615 under the agreement.

616 e. Any quota share primary insurance agreement entered into
617 between an authorized insurer and the corporation is subject to
618 review and approval by the office. However, such agreement shall
619 be authorized only as to insurance contracts entered into
620 between an authorized insurer and an insured who is already
621 insured by the corporation for wind coverage.

622 f. For all eligible risks covered under quota share primary
623 insurance agreements, the exposure and coverage levels for both
624 the corporation and authorized insurers shall be reported by the
625 corporation to the Florida Hurricane Catastrophe Fund. For all
626 policies of eligible risks covered under such agreements, the
627 corporation and the authorized insurer must maintain complete
628 and accurate records for the purpose of exposure and loss
629 reimbursement audits as required by fund rules. The corporation
630 and the authorized insurer shall each maintain duplicate copies
631 of policy declaration pages and supporting claims documents.

632 g. The corporation board shall establish in its plan of
633 operation standards for quota share agreements which ensure that
634 there is no discriminatory application among insurers as to the
635 terms of the agreements, pricing of the agreements, incentive
636 provisions if any, and consideration paid for servicing policies
637 or adjusting claims.

638 h. The quota share primary insurance agreement between the

576-04508-12

20121346c1

639 corporation and an authorized insurer must set forth the
640 specific terms under which coverage is provided, including, but
641 not limited to, the sale and servicing of policies issued under
642 the agreement by the insurance agent of the authorized insurer
643 producing the business, the reporting of information concerning
644 eligible risks, the payment of premium to the corporation, and
645 arrangements for the adjustment and payment of hurricane claims
646 incurred on eligible risks by the claims adjuster and personnel
647 of the authorized insurer. Entering into a quota sharing
648 insurance agreement between the corporation and an authorized
649 insurer is voluntary and at the discretion of the authorized
650 insurer.

651 3.a. May provide that the corporation may employ or
652 otherwise contract with individuals or other entities to provide
653 administrative or professional services that may be appropriate
654 to effectuate the plan. The corporation may borrow funds by
655 issuing bonds or by incurring other indebtedness, and shall have
656 other powers reasonably necessary to effectuate the requirements
657 of this subsection, including, without limitation, the power to
658 issue bonds and incur other indebtedness in order to refinance
659 outstanding bonds or other indebtedness. The corporation may
660 seek judicial validation of its bonds or other indebtedness
661 under chapter 75. The corporation may issue bonds or incur other
662 indebtedness, or have bonds issued on its behalf by a unit of
663 local government pursuant to subparagraph (q)2. in the absence
664 of a hurricane or other weather-related event, upon a
665 determination by the corporation, subject to approval by the
666 office, that such action would enable it to efficiently meet the
667 financial obligations of the corporation and that such

576-04508-12

20121346c1

668 financings are reasonably necessary to effectuate the
669 requirements of this subsection. The corporation may take all
670 actions needed to facilitate tax-free status for such bonds or
671 indebtedness, including formation of trusts or other affiliated
672 entities. The corporation may pledge assessments, projected
673 recoveries from the Florida Hurricane Catastrophe Fund, other
674 reinsurance recoverables, policyholder surcharges ~~market~~
675 ~~equalization~~ and other surcharges, and other funds available to
676 the corporation as security for bonds or other indebtedness. In
677 recognition of s. 10, Art. I of the State Constitution,
678 prohibiting the impairment of obligations of contracts, it is
679 the intent of the Legislature that no action be taken whose
680 purpose is to impair any bond indenture or financing agreement
681 or any revenue source committed by contract to such bond or
682 other indebtedness.

683 b. To ensure that the corporation is operating in an
684 efficient and economic manner while providing quality service to
685 policyholders, applicants, and agents, the board shall
686 commission an independent third-party consultant having
687 expertise in insurance company management or insurance company
688 management consulting to prepare a report and make
689 recommendations on the relative costs and benefits of
690 outsourcing various policy issuance and service functions to
691 private servicing carriers or entities performing similar
692 functions in the private market for a fee, rather than
693 performing such functions in-house. In making such
694 recommendations, the consultant shall consider how other
695 residual markets, both in this state and around the country,
696 outsource appropriate functions or use servicing carriers to

576-04508-12

20121346c1

697 better match expenses with revenues that fluctuate based on a
698 widely varying policy count. The report must be completed by
699 July 1, 2012. Upon receiving the report, the board shall develop
700 a plan to implement the report and submit the plan for review,
701 modification, and approval to the Financial Services Commission.
702 Upon the commission's approval of the plan, the board shall
703 begin implementing the plan by January 1, 2013.

704 4. Must require that the corporation operate subject to the
705 supervision and approval of a board of governors consisting of
706 eight individuals who are residents of this state, from
707 different geographical areas of this state.

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

576-04508-12

20121346c1

726 with the board's duties under this subsection. The executive
727 director and senior managers of the corporation shall be engaged
728 by the board and serve at the pleasure of the board. Any
729 executive director appointed on or after July 1, 2006, is
730 subject to confirmation by the Senate. The executive director is
731 responsible for employing other staff as the corporation may
732 require, subject to review and concurrence by the board.

733 b. The board shall create a Market Accountability Advisory
734 Committee to assist the corporation in developing awareness of
735 its rates and its customer and agent service levels in
736 relationship to the voluntary market insurers writing similar
737 coverage.

738 (I) The members of the advisory committee consist of the
739 following 11 persons, one of whom must be elected chair by the
740 members of the committee: four representatives, one appointed by
741 the Florida Association of Insurance Agents, one by the Florida
742 Association of Insurance and Financial Advisors, one by the
743 Professional Insurance Agents of Florida, and one by the Latin
744 American Association of Insurance Agencies; three
745 representatives appointed by the insurers with the three highest
746 voluntary market share of residential property insurance
747 business in the state; one representative from the Office of
748 Insurance Regulation; one consumer appointed by the board who is
749 insured by the corporation at the time of appointment to the
750 committee; one representative appointed by the Florida
751 Association of Realtors; and one representative appointed by the
752 Florida Bankers Association. All members shall be appointed to
753 3-year terms and may serve for consecutive terms.

754 (II) The committee shall report to the corporation at each

576-04508-12

20121346c1

755 board meeting on insurance market issues which may include rates
756 and rate competition with the voluntary market; service,
757 including policy issuance, claims processing, and general
758 responsiveness to policyholders, applicants, and agents; and
759 matters relating to depopulation.

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

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

576-04508-12

20121346c1

784 type of policy to be provided on the basis of objective
785 standards specified in the underwriting manual and based on
786 generally accepted underwriting practices.

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

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

799 (B) Offer to allow the producing agent of record of the
800 policy to continue servicing the policy for at least 1 year and
801 offer to pay the agent the greater of the insurer's or the
802 corporation's usual and customary commission for the type of
803 policy written.

804
805 If the producing agent is unwilling or unable to accept
806 appointment, the new insurer shall pay the agent in accordance
807 with sub-sub-sub-subparagraph (A).

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

812 (A) Pay to the producing agent of record, for the first

576-04508-12

20121346c1

813 year, an amount that is the greater of the insurer's usual and
814 customary commission for the type of policy written or a fee
815 equal to the usual and customary commission of the corporation;
816 or

817 (B) Offer to allow the producing agent of record to
818 continue servicing the policy for at least 1 year and offer to
819 pay the agent the greater of the insurer's or the corporation's
820 usual and customary commission for the type of policy written.

821
822 If the producing agent is unwilling or unable to accept
823 appointment, the new insurer shall pay the agent in accordance
824 with sub-sub-sub-subparagraph (A).

825 b. With respect to commercial lines residential risks, for
826 a new application to the corporation for coverage, if the risk
827 is offered coverage under a policy including wind coverage from
828 an authorized insurer at its approved rate, the risk is not
829 eligible for a policy issued by the corporation unless the
830 premium for coverage from the authorized insurer is more than 15
831 percent greater than the premium for comparable coverage from
832 the corporation. If the risk is not able to obtain any such
833 offer, the risk is eligible for a policy including wind coverage
834 issued by the corporation. However, a policyholder of the
835 corporation or a policyholder removed from the corporation
836 through an assumption agreement until the end of the assumption
837 period remains eligible for coverage from the corporation
838 regardless of an offer of coverage from an authorized insurer or
839 surplus lines insurer.

840 (I) If the risk accepts an offer of coverage through the
841 market assistance plan or through a mechanism established by the

576-04508-12

20121346c1

842 corporation before a policy is issued to the risk by the
843 corporation or during the first 30 days of coverage by the
844 corporation, and the producing agent who submitted the
845 application to the plan or the corporation is not currently
846 appointed by the insurer, the insurer shall:

847 (A) Pay to the producing agent of record of the policy, for
848 the first year, an amount that is the greater of the insurer's
849 usual and customary commission for the type of policy written or
850 a fee equal to the usual and customary commission of the
851 corporation; or

852 (B) Offer to allow the producing agent of record of the
853 policy to continue servicing the policy for at least 1 year and
854 offer to pay the agent the greater of the insurer's or the
855 corporation's usual and customary commission for the type of
856 policy written.

857
858 If the producing agent is unwilling or unable to accept
859 appointment, the new insurer shall pay the agent in accordance
860 with sub-sub-sub-subparagraph (A).

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

865 (A) Pay to the producing agent of record, for the first
866 year, an amount that is the greater of the insurer's usual and
867 customary commission for the type of policy written or a fee
868 equal to the usual and customary commission of the corporation;
869 or

870 (B) Offer to allow the producing agent of record to

576-04508-12

20121346c1

871 continue servicing the policy for at least 1 year and offer to
872 pay the agent the greater of the insurer's or the corporation's
873 usual and customary commission for the type of policy written.

874

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

878 c. For purposes of determining comparable coverage under
879 sub-subparagraphs a. and b., the comparison must be based on
880 those forms and coverages that are reasonably comparable. The
881 corporation may rely on a determination of comparable coverage
882 and premium made by the producing agent who submits the
883 application to the corporation, made in the agent's capacity as
884 the corporation's agent. A comparison may be made solely of the
885 premium with respect to the main building or structure only on
886 the following basis: the same coverage A or other building
887 limits; the same percentage hurricane deductible that applies on
888 an annual basis or that applies to each hurricane for commercial
889 residential property; the same percentage of ordinance and law
890 coverage, if the same limit is offered by both the corporation
891 and the authorized insurer; the same mitigation credits, to the
892 extent the same types of credits are offered both by the
893 corporation and the authorized insurer; the same method for loss
894 payment, such as replacement cost or actual cash value, if the
895 same method is offered both by the corporation and the
896 authorized insurer in accordance with underwriting rules; and
897 any other form or coverage that is reasonably comparable as
898 determined by the board. If an application is submitted to the
899 corporation for wind-only coverage in the coastal account, the

576-04508-12

20121346c1

900 premium for the corporation's wind-only policy plus the premium
901 for the ex-wind policy that is offered by an authorized insurer
902 to the applicant must be compared to the premium for multiperil
903 coverage offered by an authorized insurer, subject to the
904 standards for comparison specified in this subparagraph. If the
905 corporation or the applicant requests from the authorized
906 insurer a breakdown of the premium of the offer by types of
907 coverage so that a comparison may be made by the corporation or
908 its agent and the authorized insurer refuses or is unable to
909 provide such information, the corporation may treat the offer as
910 not being an offer of coverage from an authorized insurer at the
911 insurer's approved rate.

912 6. Must include rules for classifications of risks and
913 rates.

914 7. Must provide that if premium and investment income for
915 an account attributable to a particular calendar year are in
916 excess of projected losses and expenses for the account
917 attributable to that year, such excess shall be held in surplus
918 in the account. Such surplus must be available to defray
919 deficits in that account as to future years and used for that
920 purpose before assessing assessable insurers and assessable
921 insureds as to any calendar year.

922 8. Must provide objective criteria and procedures to be
923 uniformly applied to all applicants in determining whether an
924 individual risk is so hazardous as to be uninsurable. In making
925 this determination and in establishing the criteria and
926 procedures, the following must be considered:

927 a. Whether the likelihood of a loss for the individual risk
928 is substantially higher than for other risks of the same class;

576-04508-12

20121346c1

929 and

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

932

933 The acceptance or rejection of a risk by the corporation shall
934 be construed as the private placement of insurance, and the
935 provisions of chapter 120 do not apply.

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

940 10. The policies issued by the corporation must provide
941 that if the corporation or the market assistance plan obtains an
942 offer from an authorized insurer to cover the risk at its
943 approved rates, the risk is no longer eligible for renewal
944 through the corporation, except as otherwise provided in this
945 subsection.

946 11. Corporation policies and applications must include a
947 notice that the corporation policy could, under this section, be
948 replaced with a policy issued by an authorized insurer which
949 does not provide coverage identical to the coverage provided by
950 the corporation. The notice must also specify that acceptance of
951 corporation coverage creates a conclusive presumption that the
952 applicant or policyholder is aware of this potential.

953 12. May establish, subject to approval by the office,
954 different eligibility requirements and operational procedures
955 for any line or type of coverage for any specified county or
956 area if the board determines that such changes are justified due
957 to the voluntary market being sufficiently stable and

576-04508-12

20121346c1

958 competitive in such area or for such line or type of coverage
959 and that consumers who, in good faith, are unable to obtain
960 insurance through the voluntary market through ordinary methods
961 continue to have access to coverage from the corporation. If
962 coverage is sought in connection with a real property transfer,
963 the requirements and procedures may not provide an effective
964 date of coverage later than the date of the closing of the
965 transfer as established by the transferor, the transferee, and,
966 if applicable, the lender.

967 13. Must provide that, with respect to the coastal account,
968 any assessable insurer with a surplus as to policyholders of \$25
969 million or less writing 25 percent or more of its total
970 countrywide property insurance premiums in this state may
971 petition the office, within the first 90 days of each calendar
972 year, to qualify as a limited apportionment company. A regular
973 assessment levied by the corporation on a limited apportionment
974 company for a deficit incurred by the corporation for the
975 coastal account may be paid to the corporation on a monthly
976 basis as the assessments are collected by the limited
977 apportionment company from its insureds ~~pursuant to s. 627.3512,~~
978 but a limited apportionment company must begin collecting the
979 regular assessments not later than 90 days after the regular
980 assessments are levied by the corporation, and the regular
981 assessments ~~assessment~~ must be paid in full within 15 ~~12~~ months
982 after being levied by the corporation. A limited apportionment
983 company shall collect from its policyholders any emergency
984 assessment imposed under sub-subparagraph (b)3.d. The plan must
985 provide that, if the office determines that any regular
986 assessment will result in an impairment of the surplus of a

576-04508-12

20121346c1

987 limited apportionment company, the office may direct that all or
988 part of such assessment be deferred as provided in subparagraph
989 (q)4. However, an emergency assessment to be collected from
990 policyholders under sub-subparagraph (b)3.d. may not be limited
991 or deferred.

992 14. Must provide that the corporation appoint as its
993 licensed agents only those agents who also hold an appointment
994 as defined in s. 626.015(3) with an insurer who at the time of
995 the agent's initial appointment by the corporation is authorized
996 to write and is actually writing personal lines residential
997 property coverage, commercial residential property coverage, or
998 commercial nonresidential property coverage within the state.

999 15. Must provide a premium payment plan option to its
1000 policyholders which, at a minimum, allows for quarterly and
1001 semiannual payment of premiums. A monthly payment plan may, but
1002 is not required to, be offered.

1003 16. Must limit coverage on mobile homes or manufactured
1004 homes built before 1994 to actual cash value of the dwelling
1005 rather than replacement costs of the dwelling.

1006 17. May provide such limits of coverage as the board
1007 determines, consistent with the requirements of this subsection.

1008 18. May require commercial property to meet specified
1009 hurricane mitigation construction features as a condition of
1010 eligibility for coverage.

1011 19. Must provide that new or renewal policies issued by the
1012 corporation on or after January 1, 2012, which cover sinkhole
1013 loss do not include coverage for any loss to appurtenant
1014 structures, driveways, sidewalks, decks, or patios that are
1015 directly or indirectly caused by sinkhole activity. The

576-04508-12

20121346c1

1016 corporation shall exclude such coverage using a notice of
1017 coverage change, which may be included with the policy renewal,
1018 and not by issuance of a notice of nonrenewal of the excluded
1019 coverage upon renewal of the current policy.

1020 20. As of January 1, 2012, must require that the agent
1021 obtain from an applicant for coverage from the corporation an
1022 acknowledgement signed by the applicant, which includes, at a
1023 minimum, the following statement:

1024
1025 ACKNOWLEDGEMENT OF POTENTIAL SURCHARGE
1026 AND ASSESSMENT LIABILITY:

1027
1028 1. AS A POLICYHOLDER OF CITIZENS PROPERTY INSURANCE
1029 CORPORATION, I UNDERSTAND THAT IF THE CORPORATION SUSTAINS A
1030 DEFICIT AS A RESULT OF HURRICANE LOSSES OR FOR ANY OTHER REASON,
1031 MY POLICY COULD BE SUBJECT TO SURCHARGES, WHICH WILL BE DUE AND
1032 PAYABLE UPON RENEWAL, CANCELLATION, OR TERMINATION OF THE
1033 POLICY, AND THAT THE SURCHARGES COULD BE AS HIGH AS 45 PERCENT
1034 OF MY PREMIUM, OR A DIFFERENT AMOUNT AS IMPOSED BY THE FLORIDA
1035 LEGISLATURE.

1036 2. I ALSO UNDERSTAND THAT I MAY BE SUBJECT TO EMERGENCY
1037 ASSESSMENTS TO THE SAME EXTENT AS POLICYHOLDERS OF OTHER
1038 INSURANCE COMPANIES, OR A DIFFERENT AMOUNT AS IMPOSED BY THE
1039 FLORIDA LEGISLATURE.

1040 3. I ALSO UNDERSTAND THAT CITIZENS PROPERTY INSURANCE
1041 CORPORATION IS NOT SUPPORTED BY THE FULL FAITH AND CREDIT OF THE
1042 STATE OF FLORIDA.

1043
1044 a. The corporation shall maintain, in electronic format or

576-04508-12

20121346c1

1045 otherwise, a copy of the applicant's signed acknowledgement and
1046 provide a copy of the statement to the policyholder as part of
1047 the first renewal after the effective date of this subparagraph.

1048 b. The signed acknowledgement form creates a conclusive
1049 presumption that the policyholder understood and accepted his or
1050 her potential surcharge and assessment liability as a
1051 policyholder of the corporation.

1052 (q)1. The corporation shall certify to the office its needs
1053 for annual assessments as to a particular calendar year, and for
1054 any interim assessments that it deems to be necessary to sustain
1055 operations as to a particular year pending the receipt of annual
1056 assessments. Upon verification, the office shall approve such
1057 certification, and the corporation shall levy such annual or
1058 interim assessments. Such assessments shall be prorated as
1059 provided in paragraph (b). The corporation shall take all
1060 reasonable and prudent steps necessary to collect the amount of
1061 assessments ~~assessment~~ due from each assessable insurer,
1062 including, if prudent, filing suit to collect the assessments,
1063 and the office may provide such assistance to the corporation it
1064 deems appropriate ~~such assessment~~. If the corporation is unable
1065 to collect an assessment from any assessable insurer, the
1066 uncollected assessments shall be levied as an additional
1067 assessment against the assessable insurers and any assessable
1068 insurer required to pay an additional assessment as a result of
1069 such failure to pay shall have a cause of action against such
1070 nonpaying assessable insurer. Assessments shall be included as
1071 an appropriate factor in the making of rates. The failure of a
1072 surplus lines agent to collect and remit any regular or
1073 emergency assessment levied by the corporation is considered to

576-04508-12

20121346c1

1074 be a violation of s. 626.936 and subjects the surplus lines
1075 agent to the penalties provided in that section.

1076 2. The governing body of any unit of local government, any
1077 residents of which are insured by the corporation, may issue
1078 bonds as defined in s. 125.013 or s. 166.101 from time to time
1079 to fund an assistance program, in conjunction with the
1080 corporation, for the purpose of defraying deficits of the
1081 corporation. In order to avoid needless and indiscriminate
1082 proliferation, duplication, and fragmentation of such assistance
1083 programs, any unit of local government, any residents of which
1084 are insured by the corporation, may provide for the payment of
1085 losses, regardless of whether or not the losses occurred within
1086 or outside of the territorial jurisdiction of the local
1087 government. Revenue bonds under this subparagraph may not be
1088 issued until validated pursuant to chapter 75, unless a state of
1089 emergency is declared by executive order or proclamation of the
1090 Governor pursuant to s. 252.36 making such findings as are
1091 necessary to determine that it is in the best interests of, and
1092 necessary for, the protection of the public health, safety, and
1093 general welfare of residents of this state and declaring it an
1094 essential public purpose to permit certain municipalities or
1095 counties to issue such bonds as will permit relief to claimants
1096 and policyholders of the corporation. Any such unit of local
1097 government may enter into such contracts with the corporation
1098 and with any other entity created pursuant to this subsection as
1099 are necessary to carry out this paragraph. Any bonds issued
1100 under this subparagraph shall be payable from and secured by
1101 moneys received by the corporation from emergency assessments
1102 under sub-subparagraph (b)3.d., and assigned and pledged to or

576-04508-12

20121346c1

1103 on behalf of the unit of local government for the benefit of the
1104 holders of such bonds. The funds, credit, property, and taxing
1105 power of the state or of the unit of local government shall not
1106 be pledged for the payment of such bonds.

1107 3.a. The corporation shall adopt one or more programs
1108 subject to approval by the office for the reduction of both new
1109 and renewal writings in the corporation. Beginning January 1,
1110 2008, any program the corporation adopts for the payment of
1111 bonuses to an insurer for each risk the insurer removes from the
1112 corporation shall comply with s. 627.3511(2) and may not exceed
1113 the amount referenced in s. 627.3511(2) for each risk removed.
1114 The corporation may consider any prudent and not unfairly
1115 discriminatory approach to reducing corporation writings, and
1116 may adopt a credit against assessment liability or other
1117 liability that provides an incentive for insurers to take risks
1118 out of the corporation and to keep risks out of the corporation
1119 by maintaining or increasing voluntary writings in counties or
1120 areas in which corporation risks are highly concentrated and a
1121 program to provide a formula under which an insurer voluntarily
1122 taking risks out of the corporation by maintaining or increasing
1123 voluntary writings will be relieved wholly or partially from
1124 assessments under sub-subparagraphs (b)3.a. and b. However, any
1125 "take-out bonus" or payment to an insurer must be conditioned on
1126 the property being insured for at least 5 years by the insurer,
1127 unless canceled or nonrenewed by the policyholder. If the policy
1128 is canceled or nonrenewed by the policyholder before the end of
1129 the 5-year period, the amount of the take-out bonus must be
1130 prorated for the time period the policy was insured. When the
1131 corporation enters into a contractual agreement for a take-out

576-04508-12

20121346c1

1132 plan, the producing agent of record of the corporation policy is
1133 entitled to retain any unearned commission on such policy, and
1134 the insurer shall either:

1135 (I) Pay to the producing agent of record of the policy, for
1136 the first year, an amount which is the greater of the insurer's
1137 usual and customary commission for the type of policy written or
1138 a policy fee equal to the usual and customary commission of the
1139 corporation; or

1140 (II) Offer to allow the producing agent of record of the
1141 policy to continue servicing the policy for a period of not less
1142 than 1 year and offer to pay the agent the insurer's usual and
1143 customary commission for the type of policy written. If the
1144 producing agent is unwilling or unable to accept appointment by
1145 the new insurer, the new insurer shall pay the agent in
1146 accordance with sub-sub-subparagraph (I).

1147 b. Any credit or exemption from regular assessments adopted
1148 under this subparagraph shall last no longer than the 3 years
1149 following the cancellation or expiration of the policy by the
1150 corporation. With the approval of the office, the board may
1151 extend such credits for an additional year if the insurer
1152 guarantees an additional year of renewability for all policies
1153 removed from the corporation, or for 2 additional years if the
1154 insurer guarantees 2 additional years of renewability for all
1155 policies so removed.

1156 c. There shall be no credit, limitation, exemption, or
1157 deferment from emergency assessments to be collected from
1158 policyholders pursuant to sub-subparagraph (b)3.d.

1159 4. The plan shall provide for the deferment, in whole or in
1160 part, of the assessment of an assessable insurer, other than an

576-04508-12

20121346c1

1161 emergency assessment collected from policyholders pursuant to
1162 sub-subparagraph (b)3.d., if the office finds that payment of
1163 the assessment would endanger or impair the solvency of the
1164 insurer. In the event an assessment against an assessable
1165 insurer is deferred in whole or in part, the amount by which
1166 such assessment is deferred may be assessed against the other
1167 assessable insurers in a manner consistent with the basis for
1168 assessments set forth in paragraph (b).

1169 5. Effective July 1, 2007, in order to evaluate the costs
1170 and benefits of approved take-out plans, if the corporation pays
1171 a bonus or other payment to an insurer for an approved take-out
1172 plan, it shall maintain a record of the address or such other
1173 identifying information on the property or risk removed in order
1174 to track if and when the property or risk is later insured by
1175 the corporation.

1176 6. Any policy taken out, assumed, or removed from the
1177 corporation is, as of the effective date of the take-out,
1178 assumption, or removal, direct insurance issued by the insurer
1179 and not by the corporation, even if the corporation continues to
1180 service the policies. This subparagraph applies to policies of
1181 the corporation and not policies taken out, assumed, or removed
1182 from any other entity.

1183 (w) Notwithstanding any other provision of law:

1184 1. The pledge or sale of, the lien upon, and the security
1185 interest in any rights, revenues, or other assets of the
1186 corporation created or purported to be created pursuant to any
1187 financing documents to secure any bonds or other indebtedness of
1188 the corporation shall be and remain valid and enforceable,
1189 notwithstanding the commencement of and during the continuation

576-04508-12

20121346c1

1190 of, and after, any rehabilitation, insolvency, liquidation,
1191 bankruptcy, receivership, conservatorship, reorganization, or
1192 similar proceeding against the corporation under the laws of
1193 this state.

1194 2. The ~~No such~~ proceeding does not shall relieve the
1195 corporation of its obligation, or otherwise affect its ability
1196 to perform its obligation, to continue to collect, or levy and
1197 collect, assessments, policyholder surcharges ~~market~~
1198 ~~equalization~~ or other surcharges under sub-subparagraph (b)3.i.
1199 ~~subparagraph (c)10.~~, or any other rights, revenues, or other
1200 assets of the corporation pledged pursuant to any financing
1201 documents.

1202 3. Each such pledge or sale of, lien upon, and security
1203 interest in, including the priority of such pledge, lien, or
1204 security interest, any such assessments, policyholder surcharges
1205 ~~market equalization~~ or other surcharges, or other rights,
1206 revenues, or other assets which are collected, or levied and
1207 collected, after the commencement of and during the pendency of,
1208 or after, any such proceeding shall continue unaffected by such
1209 proceeding. As used in this subsection, the term "financing
1210 documents" means any agreement or agreements, instrument or
1211 instruments, or other document or documents now existing or
1212 hereafter created evidencing any bonds or other indebtedness of
1213 the corporation or pursuant to which any such bonds or other
1214 indebtedness has been or may be issued and pursuant to which any
1215 rights, revenues, or other assets of the corporation are pledged
1216 or sold to secure the repayment of such bonds or indebtedness,
1217 together with the payment of interest on such bonds or such
1218 indebtedness, or the payment of any other obligation or

576-04508-12

20121346c1

1219 financial product, as defined in the plan of operation of the
1220 corporation related to such bonds or indebtedness.

1221 4. Any such pledge or sale of assessments, revenues,
1222 contract rights, or other rights or assets of the corporation
1223 shall constitute a lien and security interest, or sale, as the
1224 case may be, that is immediately effective and attaches to such
1225 assessments, revenues, or contract rights or other rights or
1226 assets, whether or not imposed or collected at the time the
1227 pledge or sale is made. Any such pledge or sale is effective,
1228 valid, binding, and enforceable against the corporation or other
1229 entity making such pledge or sale, and valid and binding against
1230 and superior to any competing claims or obligations owed to any
1231 other person or entity, including policyholders in this state,
1232 asserting rights in any such assessments, revenues, or contract
1233 rights or other rights or assets to the extent set forth in and
1234 in accordance with the terms of the pledge or sale contained in
1235 the applicable financing documents, whether or not any such
1236 person or entity has notice of such pledge or sale and without
1237 the need for any physical delivery, recordation, filing, or
1238 other action.

1239 5. As long as the corporation has any bonds outstanding,
1240 the corporation may not file a voluntary petition under chapter
1241 9 of the federal Bankruptcy Code or such corresponding chapter
1242 or sections as may be in effect, from time to time, and a public
1243 officer or any organization, entity, or other person may not
1244 authorize the corporation to be or become a debtor under chapter
1245 9 of the federal Bankruptcy Code or such corresponding chapter
1246 or sections as may be in effect, from time to time, during any
1247 such period.

576-04508-12

20121346c1

1248 6. If ordered by a court of competent jurisdiction, the
1249 corporation may assume policies or otherwise provide coverage
1250 for policyholders of an insurer placed in liquidation under
1251 chapter 631, under such forms, rates, terms, and conditions as
1252 the corporation deems appropriate, subject to approval by the
1253 office.

1254 Section 3. Except as otherwise expressly provided in this
1255 act and except for this section, which shall take effect upon
1256 this act becoming a law, this act shall take effect July 1,
1257 2012.