

By the Committees on Appropriations; and Banking and Insurance

576-03539-13

20131770c1

1                   A bill to be entitled  
2           An act relating to property insurance; amending s.  
3           215.555, F.S.; changing the name of the Florida  
4           Hurricane Catastrophe Fund Finance Corporation to the  
5           State Board of Administration Finance Corporation;  
6           creating s. 215.5551, F.S.; creating the Florida  
7           Catastrophe Risk Capital Access Facility to increase  
8           the access of small domestic insurers to risk-capital  
9           markets; providing intent; establishing the facility  
10          in the State Board of Administration; providing the  
11          purposes of the facility; requiring the facility to be  
12          funded entirely by participating insurers after  
13          initial apportionment; providing limitations;  
14          providing for a board of directors; providing immunity  
15          from liability; providing for an annual report;  
16          amending s. 624.155, F.S.; providing that Citizens  
17          Property Insurance Corporation is an insurer subject  
18          to civil actions as an agent of the state covered by  
19          sovereign immunity; amending s. 626.752, F.S.,  
20          relating to the exchange of business between an agent  
21          and insurer; providing an exemption from the  
22          requirements of that section to the corporation or  
23          certain private entities under certain circumstances;  
24          amending s. 627.062, F.S.; requiring the Office of  
25          Insurance Regulation to calculate and publish  
26          insurance inflation factors for use in residential  
27          property insurance filings; prohibiting the office  
28          from disapproving a rate as excessive due to the  
29          insurer's purchase of reinsurance for certain

576-03539-13

20131770c1

30 purposes; deleting obsolete provisions; conforming  
31 cross-references; amending s. 627.0628, F.S.;  
32 requiring the Florida Commission on Hurricane Loss  
33 Projection Methodology to consider methods for  
34 improving the accuracy of wind mitigation discounts;  
35 amending s. 627.0629, F.S.; requiring insurers to  
36 provide notice of mitigation discounts in a  
37 residential property insurance rate filing; revising  
38 the criteria for when the office may hold a public  
39 hearing regarding a rate filing; amending s. 627.171,  
40 F.S.; allowing a consent to an excess rate to apply to  
41 subsequent policy renewals; limiting the allowable  
42 amount of excess rates to counties where there is no  
43 competition; amending s. 627.351, F.S.; revising  
44 legislative intent with respect to the corporation;  
45 reducing the value of residential structures that can  
46 be covered by the corporation; revising the  
47 corporation's eligibility criteria for structures  
48 located seaward of the coastal construction control  
49 line; requiring the corporation's board of governors  
50 to concur with certain decisions by the executive  
51 director; providing for risk-sharing agreements  
52 between the corporation and other insurers and  
53 specifying the requirements and limitations of such  
54 agreements; revising provisions relating to the  
55 appointment of the board of governors and the  
56 executive director; deleting provisions allowing a  
57 policyholder removed from the corporation to remain  
58 eligible for coverage regardless of an offer of

576-03539-13

20131770c1

59 coverage from an authorized insurer; revising  
60 corporation criteria for appointing agents; requiring  
61 disclosure of potential corporation surcharges and  
62 policyholder obligations to try and obtain private  
63 market coverage; revising provisions relating to the  
64 Auditor General's review of the corporation; requiring  
65 the board to contract with an independent auditing  
66 firm to conduct performance audits; authorizing the  
67 corporation to adopt programs that encourage insurers  
68 to remove policies from the corporation through a loan  
69 secured by a surplus note; requiring the corporation  
70 to have an inspector general; providing for  
71 appointment; providing duties; requiring an annual  
72 report to the Legislature; revising provisions  
73 relating to purchases by the corporation; providing  
74 that the corporation is subject to state agency  
75 purchasing requirements; requiring the corporation to  
76 provide notice of purchasing decisions; providing  
77 procedures for protesting such decisions; providing  
78 applicability; revising the corporation's rate  
79 standards; requiring that corporation rates be  
80 competitive with approved rates charged in the  
81 admitted market, actuarially sound, and include a  
82 catastrophe risk load factor; providing exceptions;  
83 limiting rate increases for specified personal and  
84 commercial lines residential policies and allowing an  
85 additional rate increase; requiring the corporation to  
86 annually certify its rates; requiring the board of  
87 directors to provide recommendations to the

576-03539-13

20131770c1

88 Legislature on ways of providing rate relief to those  
89 who demonstrate a financial need; deleting obsolete  
90 provisions; creating s. 627.3518, F.S.; establishing a  
91 clearinghouse within the corporation for identifying  
92 and diverting insurance coverage to private insurers;  
93 providing definitions; providing requirements and  
94 duties of the corporation, insurers, and agents;  
95 providing for an alternative to submitting risks to  
96 the corporation; establishing a temporary keepout  
97 program that allows authorized insurers to provide  
98 coverage to applicants for coverage through the  
99 corporation through the market assistance program  
100 until the clearinghouse is operational; providing  
101 program components; providing for expiration; amending  
102 s. 627.405, F.S.; authorizing policyholders to assign  
103 benefits subject to conditions in the policy; amending  
104 s. 627.410, F.S.; conforming provisions to changes  
105 made by the act; providing effective dates.

106  
107 Be It Enacted by the Legislature of the State of Florida:

108  
109 Section 1. Paragraph (n) of subsection (2) and paragraph  
110 (d) of subsection (6) of section 215.555, Florida Statutes, are  
111 amended to read:

112 215.555 Florida Hurricane Catastrophe Fund.—

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

114 (n) "Corporation" means the State Board of Administration  
115 ~~Florida Hurricane Catastrophe Fund~~ Finance Corporation created  
116 in paragraph (6) (d).

576-03539-13

20131770c1

117 (6) REVENUE BONDS.—

118 (d) State Board of Administration ~~Florida Hurricane~~  
119 ~~Catastrophe Fund Finance Corporation.~~—

120 1. In addition to the findings and declarations in  
121 subsection (1), the Legislature also finds and declares that:

122 a. The public benefits corporation created under this  
123 paragraph will provide a mechanism ~~necessary~~ for the cost-  
124 effective and efficient issuance of bonds. This mechanism will  
125 eliminate unnecessary costs in the bond issuance process,  
126 thereby increasing the amounts available for ~~to pay~~  
127 reimbursement for losses to property sustained as a result of  
128 hurricane damage.

129 b. The purpose of such bonds is to fund reimbursements  
130 through the Florida Hurricane Catastrophe Fund ~~to pay~~ for the  
131 costs of construction, reconstruction, repair, restoration, and  
132 other costs associated with damage to properties of  
133 policyholders of covered policies due to the occurrence of a  
134 hurricane.

135 c. The efficacy of the financing mechanism will be enhanced  
136 by the corporation's ownership of the assessments, by the  
137 insulation of the assessments from possible bankruptcy  
138 proceedings, and by covenants of the state with the  
139 corporation's bondholders.

140 ~~2.a.~~ The State Board of Administration Finance Corporation  
141 ~~There~~ is created, which is a public benefits corporation and,  
142 ~~which is~~ an instrumentality of the state, ~~to be known as the~~  
143 ~~Florida Hurricane Catastrophe Fund Finance Corporation.~~ The  
144 State Board of Administration Finance Corporation is for all  
145 purposes the successor to the Florida Hurricane Catastrophe Fund

576-03539-13

20131770c1

146 Finance Corporation.

147 ~~a.b.~~ The corporation shall operate under a five-member  
148 board of directors consisting of the Governor or a designee, the  
149 Chief Financial Officer or a designee, the Attorney General or a  
150 designee, the director of the Division of Bond Finance of the  
151 State Board of Administration, and the Chief Operating Officer  
152 ~~senior employee of the State Board of Administration responsible~~  
153 ~~for operations~~ of the Florida Hurricane Catastrophe Fund.

154 ~~b.e.~~ The corporation has all of the powers of corporations  
155 under chapter 607 and under chapter 617, subject only to ~~the~~  
156 ~~provisions of~~ this subsection.

157 ~~c.d.~~ The corporation may issue bonds and engage in such  
158 other financial transactions as are necessary to provide  
159 sufficient funds to achieve the purposes of this section.

160 ~~d.e.~~ The corporation may invest in any of the investments  
161 authorized under s. 215.47.

162 ~~e.f.~~ There is ~~shall be~~ no liability on the part of, and no  
163 cause of action shall arise against, any board members or  
164 employees of the corporation for any actions taken by them in  
165 the performance of their duties under this paragraph.

166 3.a. In actions under chapter 75 to validate any bonds  
167 issued by the corporation, the notice required by s. 75.06 must  
168 ~~shall~~ be published in two newspapers of general circulation in  
169 the state, and the complaint and order of the court shall be  
170 served only on the State Attorney of the Second Judicial  
171 Circuit.

172 b. The state hereby covenants with holders of bonds of the  
173 corporation that the state will not repeal or abrogate the power  
174 of the board to direct the Office of Insurance Regulation to

576-03539-13

20131770c1

175 levy the assessments and to collect the proceeds of the revenues  
176 pledged to the payment of such bonds as long as ~~any~~ such bonds  
177 remain outstanding unless adequate provision has been made for  
178 the payment of such bonds pursuant to the documents authorizing  
179 the issuance of the ~~such~~ bonds.

180 ~~c.4.~~ The bonds of the corporation are not a debt of the  
181 state or of any political subdivision, and neither the state nor  
182 any political subdivision is liable on such bonds. The  
183 corporation may not ~~does not have the power to~~ pledge the  
184 credit, the revenues, or the taxing power of the state or of any  
185 political subdivision. The credit, revenues, or taxing power of  
186 the state or of any political subdivision may ~~shall~~ not be  
187 deemed to be pledged to the payment of any bonds of the  
188 corporation.

189 ~~d.5.a.~~ The property, revenues, and other assets of the  
190 corporation; the transactions and operations of the corporation  
191 and the income from such transactions and operations; and all  
192 bonds issued under this paragraph and interest on such bonds are  
193 exempt from taxation by the state and any political subdivision,  
194 including the intangibles tax under chapter 199 and the income  
195 tax under chapter 220. This exemption does not apply to any tax  
196 imposed by chapter 220 on interest, income, or profits on debt  
197 obligations owned by corporations other than the State Board of  
198 Administration ~~Florida Hurricane Catastrophe Fund~~ Finance  
199 Corporation.

200 ~~e.b.~~ All bonds of the corporation are ~~shall be and~~  
201 ~~constitute~~ legal investments without limitation for all public  
202 bodies of this state; for all banks, trust companies, savings  
203 banks, savings associations, savings and loan associations, and

576-03539-13

20131770c1

204 investment companies; for all administrators, executors,  
205 trustees, and other fiduciaries; for all insurance companies and  
206 associations and other persons carrying on an insurance  
207 business; and for all other persons who are now or may hereafter  
208 be authorized to invest in bonds or other obligations of the  
209 state and are ~~shall be and constitute~~ eligible securities to be  
210 deposited as collateral for the security of any state, county,  
211 municipal, or other public funds. This sub-subparagraph shall be  
212 considered ~~as~~ additional and supplemental authority and may  
213 ~~shall~~ not be limited without specific reference to this sub-  
214 subparagraph.

215 ~~4.6.~~ The corporation and its corporate existence shall  
216 continue until terminated by law; however, no such law shall  
217 take effect as long as the corporation has bonds outstanding  
218 unless adequate provision has been made for the payment of such  
219 bonds pursuant to the documents authorizing the issuance of such  
220 bonds. Upon termination of the existence of the corporation, all  
221 of its rights and properties in excess of its obligations shall  
222 pass to and be vested in the state.

223 Section 2. Section 215.5551, Florida Statutes, is created  
224 to read:

225 215.5551 Florida Catastrophe Risk Capital Access Facility.

226 (1) The Legislature finds that the global market for  
227 catastrophe risk has expanded dramatically, resulting in the  
228 availability of billions of dollars in additional risk capital  
229 for insurers and new and innovative alternative risk-transfer  
230 mechanisms. The Legislature also finds that having access to  
231 additional risk capital and risk-transfer mechanisms provides  
232 insurers providing coverage in this state with an opportunity to



576-03539-13

20131770c1

233 expand their capacity to write additional business and diversify  
234 their catastrophe risk. The Legislature further finds that  
235 despite an expansion in the amount of available global risk  
236 capital, small insurers, particularly smaller domestic insurers,  
237 writing property insurance in this state face substantial  
238 challenges accessing these global markets when the relatively  
239 small amount of risk finance required by any one company is not  
240 economically viable. Therefore, it is the intent of the  
241 Legislature to create a mechanism to facilitate the access of  
242 small domestic insurers to global risk capital markets and risk-  
243 transfer mechanisms.

244 (2) Effective July 1, 2013, the Florida Catastrophe Risk  
245 Capital Access Facility is created within the State Board of  
246 Administration. The facility is not defined nor may it function  
247 as an insurer, reinsurer, or other risk-bearing entity under  
248 state law.

249 (3) The facility shall:

250 (a) Aggregate the demand for risk finance from global  
251 capital markets among smaller volume domestic property insurance  
252 companies writing business in this state.

253 (b) Design and execute risk-transfer tools such as  
254 insurance-linked securities and other securitization models for  
255 participating insurers, and use special purpose vehicles or  
256 protected cells, onshore or offshore, as appropriate, to  
257 increase access to risk capital.

258 (c) Identify and coordinate appropriate risk-transfer  
259 products and opportunities, initially targeting layers of  
260 coverage below, alongside, and above the portion of the  
261 reinsurance market covered by the Florida Hurricane Catastrophe

576-03539-13

20131770c1

262 Fund.

263 (d) Establish and maintain regular and ongoing contact with  
264 global risk capital market participants, institutions, and  
265 investors, in order to identify opportunities that satisfy and  
266 coordinate insurer demand for additional risk capital.

267 (4) After an initial apportionment for startup purposes,  
268 the facility shall be funded entirely by participating insurers  
269 on a pro rata basis.

270 (5) In conducting its affairs, the facility may not:

271 (a) Take a position in, or provide financial support for,  
272 risk-transfer transactions;

273 (b) Be a guarantor of premium or make any other financial  
274 guarantees to participating insurers;

275 (c) Create contractual obligations on the part of the  
276 state; or

277 (d) Levy taxes or assessments.

278 (6) The facility shall be governed by a board of directors  
279 composed of seven members, one from the Department of Financial  
280 Services; one from the State Board of Administration; one from  
281 the Office of Insurance Regulation; three industry members  
282 representing Florida property insurance writers, the reinsurance  
283 community, and the financial securities industry; and one member  
284 appointed by a majority of the board. The board may employ or  
285 contract with such staff and professionals as the board deems  
286 necessary to accomplish its purpose.

287 (7) There shall be no liability on the part of, and no  
288 cause of action of any nature may arise against, the facility or  
289 its agents or employees, the board of directors, or the  
290 department or office or their representatives for any action

576-03539-13

20131770c1

291 taken by them in the performance of their powers and duties  
292 under this section.

293 (8) The facility shall submit a report to the Financial  
294 Services Commission by January 1 of each year describing  
295 facility activities and transactions undertaken by participating  
296 insurers.

297 Section 3. Subsection (1) of section 624.155, Florida  
298 Statutes, is amended and subsection (10) is added to that  
299 section, to read:

300 624.155 Civil remedy.—

301 (1) Any person may bring a civil action against an insurer,  
302 including Citizens Property Insurance Corporation, if ~~when~~ such  
303 person is damaged:

304 (a) By a violation of any of the following provisions by  
305 the insurer:

- 306 1. Section 626.9541(1) (i), (o), or (x);
- 307 2. Section 626.9551;
- 308 3. Section 626.9705;
- 309 4. Section 626.9706;
- 310 5. Section 626.9707; or
- 311 6. Section 627.7283.

312 (b) By the commission of any of the following acts by the  
313 insurer:

314 1. Not attempting in good faith to settle claims if ~~when~~,  
315 under all the circumstances, it could and should have done so,  
316 had it acted fairly and honestly toward its insured and with due  
317 regard for her or his interests;

318 2. Making claims payments to insureds or beneficiaries not  
319 accompanied by a statement setting forth the coverage under

576-03539-13

20131770c1

320 which payments are being made; or

321 3. Except as to liability coverages, failing to promptly  
322 settle claims, when the obligation to settle a claim has become  
323 reasonably clear, under one portion of the insurance policy  
324 coverage in order to influence settlements under other portions  
325 of the insurance policy coverage.

326

327 Notwithstanding the provisions of this subsection ~~the above to~~  
328 ~~the contrary~~, a person pursuing a remedy under this section need  
329 not prove that such act was committed or performed with such  
330 frequency as to indicate a general business practice.

331 (10) For the purposes of this section, Citizens Property  
332 Insurance Corporation is an agent of the state covered under s.  
333 768.28.

334 Section 4. Subsection (4) of section 626.752, Florida  
335 Statutes, is amended to read:

336 626.752 Exchange of business.—

337 (4) The foregoing limitations and restrictions do ~~shall~~ not  
338 ~~be construed and shall not~~ apply to the placing of surplus lines  
339 business under the provisions of part VIII, or to the activities  
340 of Citizens Property Insurance Corporation or private entities  
341 referenced under 627.3518(7) when placing new and renewal  
342 business with authorized insurers in accordance with s.627.3518.

343 Section 5. Subsection (2) and paragraph (d) of subsection  
344 (3) of section 627.062, Florida Statutes, are amended to read:

345 627.062 Rate standards.—

346 (2) As to all such classes of insurance:

347 (a) Insurers or rating organizations shall establish and  
348 use rates, rating schedules, or rating manuals that allow the

576-03539-13

20131770c1

349 insurer a reasonable rate of return on the classes of insurance  
350 written in this state. A copy of rates, rating schedules, rating  
351 manuals, premium credits or discount schedules, and surcharge  
352 schedules, and changes thereto, must be filed with the office in  
353 accordance with ~~under~~ one of the following procedures:

354 1. If the filing is made at least 90 days before the  
355 proposed effective date and is not implemented during the  
356 office's review of the filing and any proceeding and judicial  
357 review, such filing is considered a "file and use" filing. In  
358 such case, the office shall finalize its review by issuance of a  
359 notice of intent to approve or a notice of intent to disapprove  
360 within 90 days after receipt of the filing. The notice of intent  
361 to approve and the notice of intent to disapprove constitute  
362 agency action for purposes of the Administrative Procedure Act.  
363 Requests for supporting information, requests for mathematical  
364 or mechanical corrections, or notification to the insurer by the  
365 office of its preliminary findings does not toll the 90-day  
366 period during ~~any~~ such proceedings and subsequent judicial  
367 review. The rate shall be deemed approved if the office does not  
368 issue a notice of intent to approve or a notice of intent to  
369 disapprove within 90 days after receipt of the filing.

370 2. If the filing is not made in accordance with  
371 subparagraph 1., such filing must be made as soon as  
372 practicable, but within 30 days after the effective date, and is  
373 considered a "use and file" filing. An insurer making a "use and  
374 file" filing is potentially subject to an order by the office to  
375 return ~~to policyholders~~ those portions of rates found to be  
376 excessive to policyholders, as provided in paragraph (i) ~~(h)~~.

377 ~~3. For all property insurance filings made or submitted~~

576-03539-13

20131770c1

378 after January 25, 2007, but before May 1, 2012, an insurer  
379 seeking a rate that is greater than the rate most recently  
380 approved by the office shall make a "file and use" filing. For  
381 purposes of this subparagraph, motor vehicle collision and  
382 comprehensive coverages are not considered property coverages.

383 (b) Upon receiving a rate filing, the office shall review  
384 the filing to determine if a rate is excessive, inadequate, or  
385 unfairly discriminatory. In making that determination, the  
386 office shall, in accordance with generally accepted and  
387 reasonable actuarial techniques, consider the following factors:

388 1. Past and prospective loss experience within and without  
389 this state.

390 2. Past and prospective expenses.

391 3. The degree of competition among insurers for the risk  
392 insured.

393 4. Investment income reasonably expected by the insurer,  
394 consistent with the insurer's investment practices, from  
395 investable premiums anticipated from ~~in~~ the filing, plus any  
396 other expected income from currently invested assets  
397 representing the amount expected on unearned premium reserves  
398 and loss reserves. The commission may adopt rules that use ~~using~~  
399 reasonable techniques of actuarial science and economics to  
400 specify the manner in which insurers calculate investment income  
401 attributable to classes of insurance written in this state and  
402 ~~the manner~~ in which investment income is used to calculate  
403 insurance rates. Such rules ~~manner~~ must allow ~~contemplate~~  
404 ~~allowances~~ for an underwriting profit factor and full  
405 consideration of investment income which produce a reasonable  
406 rate of return; however, investment income from invested surplus

576-03539-13

20131770c1

407 may not be considered.

408 5. The reasonableness of the judgment reflected in the  
409 filing.

410 6. Dividends, savings, or unabsorbed premium deposits  
411 allowed or returned to state ~~Florida~~ policyholders, members, or  
412 subscribers.

413 7. The adequacy of loss reserves.

414 8. The cost of reinsurance. The office may not disapprove a  
415 rate as excessive ~~solely~~ due solely to the insurer having  
416 obtained catastrophic reinsurance to cover the insurer's  
417 estimated 250-year probable maximum loss or any lower level of  
418 loss, or due solely to an admitted carrier purchasing private  
419 reinsurance that would insure against potential deficits within  
420 the Florida Hurricane Catastrophe Fund which the most recent  
421 estimate made pursuant to s. 215.555(4)(c)2. predicts would be  
422 funded through revenue bonds issued under s. 215.555(6).

423 9. Trend factors, including trends in actual losses per  
424 insured unit for the insurer making the filing.

425 10. Conflagration and catastrophe hazards, if applicable.

426 11. Projected hurricane losses, if applicable, which must  
427 be estimated using a model or method found to be acceptable or  
428 reliable by the Florida Commission on Hurricane Loss Projection  
429 Methodology, and as further provided in s. 627.0628.

430 12. A reasonable margin for underwriting profit and  
431 contingencies.

432 13. The cost of medical services, if applicable.

433 14. Other relevant factors that affect the frequency or  
434 severity of claims or expenses.

435 (c) The office shall calculate and publish insurance

576-03539-13

20131770c1

436 inflation factors based on noncatastrophe direct loss costs for  
437 use in residential property insurance filings. The office shall  
438 update the published factors at least annually and make them  
439 available on its website. The calculation of insurance inflation  
440 factors are not subject to rulemaking under chapter 120.

441 1. An insurer making a residential property insurance rate  
442 filing that proposes a change in noncatastrophe base rates by a  
443 uniform factor equal to or less than the applicable published  
444 insurance inflation factor, may make a rate filing under s.  
445 627.0645 which consists of a rate certification in lieu of a  
446 full rate filing under paragraph (a). The office shall verify  
447 insurer use of the appropriate published inflation factor and,  
448 if the inflation factor is used appropriately, the filed rates  
449 shall be deemed not excessive.

450 2. An insurer filing under this paragraph may make a  
451 separate filing pursuant to paragraph (1) to adjust its rates  
452 for reinsurance rates, reinsurance financing costs and products,  
453 and cash buildup factor costs. The insurance inflation factors  
454 do not apply to these filings.

455 3. This paragraph does not apply to filings made by  
456 Citizens Property Insurance Corporation.

457 (d)(e) In the case of fire insurance rates, consideration  
458 must be given to the availability of water supplies and the  
459 experience of the fire insurance business during ~~a period of not~~  
460 ~~less than~~ the most recent 5-year or longer period for which such  
461 experience is available.

462 (e)(d) If conflagration or catastrophe hazards are  
463 considered by an insurer in its rates or rating plan, including  
464 surcharges and discounts, the insurer must ~~shall~~ establish a



576-03539-13

20131770c1

465 reserve for that portion of the premium allocated to such hazard  
466 and maintain the premium in a catastrophe reserve. Removal of  
467 such premiums from the reserve for purposes other than paying  
468 claims associated with a catastrophe or purchasing reinsurance  
469 for catastrophes must be approved by the office. Any ceding  
470 commission received by an insurer purchasing reinsurance for  
471 catastrophes must be placed in the catastrophe reserve.

472 (f) ~~(e)~~ After consideration of the rate factors provided in  
473 paragraphs (b), ~~(c)~~, and (d), and (e) the office may find a rate  
474 to be excessive, inadequate, or unfairly discriminatory based  
475 upon the following standards:

476 1. Rates shall be deemed excessive if they are likely to  
477 produce a profit from Florida business which is unreasonably  
478 high in relation to the risk involved in the class of business  
479 or if expenses are unreasonably high in relation to services  
480 rendered.

481 2. Rates shall be deemed excessive if, among other things,  
482 the rate structure established by a stock insurance company  
483 provides for replenishment of surpluses from premiums, ~~if the~~  
484 such replenishment is attributable to investment losses.

485 3. Rates shall be deemed inadequate if ~~they are clearly~~  
486 ~~insufficient~~, together with the investment income attributable  
487 to them, they are clearly insufficient to sustain projected  
488 losses and expenses in the class of business to which they  
489 apply.

490 4. A rating plan, including discounts, credits, or  
491 surcharges, shall be deemed unfairly discriminatory if it fails  
492 to clearly and equitably reflect consideration of the  
493 policyholder's participation in a risk management program

576-03539-13

20131770c1

494 adopted pursuant to s. 627.0625.

495         5. A rate shall be deemed inadequate as to the premium  
496 charged to a risk or group of risks if discounts or credits are  
497 allowed which exceed a reasonable reflection of expense savings  
498 and reasonably expected loss experience from the risk or group  
499 of risks.

500         6. A rate shall be deemed unfairly discriminatory as to a  
501 risk or group of risks if the application of premium discounts,  
502 credits, or surcharges among such risks does not bear a  
503 reasonable relationship to the expected loss and expense  
504 experience among the various risks.

505         (g) ~~(f)~~ In reviewing a rate filing, the office may require  
506 the insurer to provide, at the insurer's expense, all  
507 information necessary to evaluate the condition of the company  
508 and the reasonableness of the filing according to the criteria  
509 enumerated in this section.

510         (h) ~~(g)~~ The office may at any time review a rate, rating  
511 schedule, rating manual, or rate change; the pertinent records  
512 of the insurer; and market conditions. If the office finds on a  
513 preliminary basis that a rate may be excessive, inadequate, or  
514 unfairly discriminatory, the office shall initiate proceedings  
515 to disapprove the rate and ~~shall so~~ notify the insurer. However,  
516 the office may not disapprove as excessive any rate for which it  
517 has given final approval or which has been deemed approved for 1  
518 year after the effective date of the filing unless the office  
519 finds that a material misrepresentation or material error was  
520 made by the insurer or was contained in the filing. Upon  
521 notification ~~being notified~~, the insurer or rating organization  
522 shall, within 60 days, file with the office all information

576-03539-13

20131770c1

523 that, in the belief of the insurer or organization, proves the  
524 reasonableness, adequacy, and fairness of the rate or rate  
525 change. The office shall issue a notice of intent to approve or  
526 a notice of intent to disapprove pursuant to paragraph (a)  
527 within 90 days after receipt of the insurer's initial response.  
528 In such instances and in any administrative proceeding relating  
529 to the legality of the rate, the insurer or rating organization  
530 ~~shall~~ carry the burden of proof of showing, by a preponderance  
531 of the evidence, ~~to show~~ that the rate is not excessive,  
532 inadequate, or unfairly discriminatory. After the office  
533 notifies an insurer that a rate may be excessive, inadequate, or  
534 unfairly discriminatory, unless the office withdraws the  
535 notification, the insurer may not alter the rate except to  
536 conform to the office's notice until the earlier of 120 days  
537 after the date the notification was provided or 180 days after  
538 the date of implementing the rate. ~~The office,~~ Subject to  
539 chapter 120, the office may disapprove without the 60-day  
540 notification any rate increase filed by an insurer within the  
541 prohibited time period or during the time that the legality of  
542 the increased rate is being contested.

543 (i) ~~(h)~~ If the office finds that a rate or rate change is  
544 excessive, inadequate, or unfairly discriminatory, the office  
545 shall issue an order of disapproval requiring ~~specifying~~ that a  
546 new rate or rate schedule, which responds to the findings of the  
547 office, be filed by the insurer. The office shall further order,  
548 for any "use and file" filing made in accordance with  
549 subparagraph (a)2., that the portion of premiums charged which  
550 constitute ~~each policyholder constituting~~ the portion of the  
551 rate above that which was actuarially justified be returned to

576-03539-13

20131770c1

552 the policyholder in the form of a credit or refund. If the  
553 office finds that an insurer's rate or rate change is  
554 inadequate, the new rate or rate schedule filed with the office  
555 in response to such a finding applies ~~is applicable~~ only to new  
556 or renewal business ~~of the insurer~~ written by the insurer on or  
557 after the effective date of the responsive filing.

558 (j) ~~(i)~~ Except as otherwise specifically provided in this  
559 chapter, for property and casualty insurance the office may not  
560 directly or indirectly:

561 1. Prohibit an ~~any~~ insurer, including any residual market  
562 plan or joint underwriting association, from paying acquisition  
563 costs based on the full amount of premium, as defined in s.  
564 627.403, applicable to any policy, or prohibit ~~any~~ such insurer  
565 from including the full amount of acquisition costs in a rate  
566 filing; or

567 2. Impede, abridge, or otherwise compromise an insurer's  
568 right to acquire policyholders, advertise, or appoint agents,  
569 including the calculation, manner, or amount of such agent  
570 commissions, if any.

571 (k) ~~(j)~~ With respect to residential property insurance rate  
572 filings, the rate filing must account for mitigation measures  
573 undertaken by policyholders to reduce hurricane losses.

574 (l) ~~(k)~~ 1. A residential property insurer may make a separate  
575 filing limited solely to an adjustment of its rates for  
576 reinsurance, the cost of financing products used as a  
577 replacement for reinsurance, financing costs incurred in the  
578 purchase of reinsurance, and the actual cost paid due to the  
579 application of the cash build-up factor pursuant to s.  
580 215.555(5) (b) if the insurer:

576-03539-13

20131770c1

581 a. Elects to purchase financing products,  such as a  
582 liquidity instrument or line of credit, in which case the cost  
583 included in filing for the liquidity instrument or line of  
584 credit may not result in a premium increase exceeding 3 percent  
585 for any individual policyholder. All costs contained in the  
586 filing may not result in an overall premium increase of more  
587 than 15 percent for any individual policyholder.

588 b. Includes in the filing a copy of all of its reinsurance,  
589 liquidity instrument, or line of credit contracts; proof of the  
590 billing or payment for the contracts; and the calculation upon  
591 which the proposed rate change is based demonstrating that the  
592 costs meet the criteria of this section.

593 2. An insurer that purchases reinsurance or financing  
594 products from an affiliated company may make a separate filing  
595 only if the costs for such reinsurance or financing products are  
596 charged at or below charges made for comparable coverage by  
597 nonaffiliated reinsurers or financial entities making such  
598 coverage or financing products available in this state.

599 3. An insurer may make only one filing per 12-month period  
600 under this paragraph.

601 4. An insurer that elects to implement a rate change under  
602 this paragraph must file its rate filing with the office at  
603 least 45 days before the effective date of the rate change.  
604 After an insurer submits a complete filing that meets all of the  
605 requirements of this paragraph, the office has 45 days after the  
606 date of the filing to review the rate filing and determine if  
607 the rate is excessive, inadequate, or unfairly discriminatory.

608

609 The provisions of this subsection do not apply to workers'

576-03539-13

20131770c1

610 compensation, employer's liability insurance, and motor vehicle  
611 insurance.

612 (3)

613 (d)1. The following categories or kinds of insurance and  
614 types of commercial lines risks are not subject to paragraph  
615 (2) (a) or paragraph (2) (g) ~~(2) (f)~~:

616 a. Excess or umbrella.

617 b. Surety and fidelity.

618 c. Boiler and machinery and leakage and fire extinguishing  
619 equipment.

620 d. Errors and omissions.

621 e. Directors and officers, employment practices, fiduciary  
622 liability, and management liability.

623 f. Intellectual property and patent infringement liability.

624 g. Advertising injury and Internet liability insurance.

625 h. Property risks rated under a highly protected risks  
626 rating plan.

627 i. General liability.

628 j. Nonresidential property, except for collateral  
629 protection insurance as defined in s. 624.6085.

630 k. Nonresidential multiperil.

631 l. Excess property.

632 m. Burglary and theft.

633 n. Any other commercial lines categories or kinds of  
634 insurance or types of commercial lines risks that the office  
635 determines should not be subject to paragraph (2) (a) or  
636 paragraph (2) (g) ~~(2) (f)~~ because of the existence of a  
637 competitive market for such insurance, similarity of such  
638 insurance to other categories or kinds of insurance not subject

576-03539-13

20131770c1

639 to paragraph (2) (a) or paragraph (2) (g) ~~(2) (f)~~, or to improve  
640 the general operational efficiency of the office.

641 2. Insurers or rating organizations shall establish and use  
642 rates, rating schedules, or rating manuals that ~~to~~ allow the  
643 insurer a reasonable rate of return on insurance and risks  
644 described in subparagraph 1. which are written in this state.

645 3. An insurer must notify the office of any changes to  
646 rates for insurance and risks described in subparagraph 1.  
647 within 30 days after the effective date of the change. The  
648 notice must include the name of the insurer, the type or kind of  
649 insurance subject to rate change, total premium written during  
650 the immediately preceding year by the insurer for the type or  
651 kind of insurance subject to the rate change, and the average  
652 statewide percentage change in rates. Underwriting files,  
653 premiums, losses, and expense statistics relating ~~with regard~~ to  
654 such insurance and risks written by an insurer must be  
655 maintained by the insurer and subject to examination by the  
656 office. Upon examination, the office, in accordance with  
657 generally accepted and reasonable actuarial techniques, shall  
658 consider the rate factors in paragraphs (2) (b), (d) ~~(e)~~, and (e)  
659 ~~(d)~~ and the standards in paragraph (2) (f) ~~(2) (e)~~ to determine if  
660 the rate is excessive, inadequate, or unfairly discriminatory.

661 4. A rating organization must notify the office of any  
662 changes to loss cost for insurance and risks described in  
663 subparagraph 1. within 30 days after the effective date of the  
664 change. The notice must include the name of the rating  
665 organization, the type or kind of insurance subject to a loss  
666 cost change, loss costs during the immediately preceding year  
667 for the type or kind of insurance subject to the loss cost

576-03539-13

20131770c1

668 change, and the average statewide percentage change in loss  
669 cost. Actuarial data relating ~~with regard~~ to changes to loss  
670 cost for risks not subject to paragraph (2) (a) or paragraph  
671 (2) (g) ~~(2) (f)~~ must be maintained by the rating organization for  
672 2 years after the effective date of the change and are subject  
673 to examination by the office. The office may require the rating  
674 organization to incur the costs associated with an examination.  
675 Upon examination, the office, in accordance with generally  
676 accepted and reasonable actuarial techniques, shall consider the  
677 rate factors in paragraphs (2) (b), (d), and (e) ~~(2) (b) (d)~~ and  
678 the standards in paragraph (2) (f) ~~(2) (e)~~ to determine if the  
679 rate is excessive, inadequate, or unfairly discriminatory.

680 Section 6. Paragraphs (a) and (b) of subsection (3) of  
681 section 627.0628, Florida Statutes, are amended to read:

682 627.0628 Florida Commission on Hurricane Loss Projection  
683 Methodology; public records exemption; public meetings  
684 exemption.—

685 (3) ADOPTION AND EFFECT OF STANDARDS AND GUIDELINES.—

686 (a) The commission shall consider any actuarial methods,  
687 principles, standards, models, or output ranges that have the  
688 potential for improving the accuracy ~~of~~ or reliability of the  
689 hurricane loss projections and wind mitigation discounts used in  
690 residential property insurance rate filings. The commission  
691 shall, from time to time, adopt findings as to the accuracy or  
692 reliability of particular methods, principles, standards,  
693 models, or output ranges.

694 (b) The commission shall consider any actuarial methods,  
695 principles, standards, or models that have the potential for  
696 improving the accuracy ~~of~~ or reliability of projecting probable



576-03539-13

20131770c1

697 maximum loss levels. The commission shall adopt findings as to  
698 the accuracy or reliability of particular methods, principles,  
699 standards, or models related to probable maximum loss  
700 calculations. The commission shall review models for accuracy of  
701 use when establishing wind mitigation discounts.

702 Section 7. Subsections (1) and (6) of section 627.0629,  
703 Florida Statutes, are amended to read:

704 627.0629 Residential property insurance; rate filings.—

705 (1) It is the intent of the Legislature that insurers  
706 provide savings to consumers who install or implement windstorm  
707 damage mitigation techniques, alterations, or solutions to their  
708 properties to prevent windstorm losses. A rate filing for  
709 residential property insurance must include notice of the  
710 mitigation discounts offered by the insurer, which must be  
711 actuarially reasonable discounts, credits, or other rate  
712 differentials, or appropriate reductions in deductibles, for  
713 properties on which fixtures or construction techniques  
714 demonstrated to reduce the amount of loss in a windstorm have  
715 been installed or implemented. The fixtures or construction  
716 techniques must include, but are not limited to, fixtures or  
717 construction techniques that enhance roof strength, roof  
718 covering performance, roof-to-wall strength, wall-to-floor-to-  
719 foundation strength, ~~opening protection,~~ and the impact  
720 resistance of window, door, and skylight openings strength.  
721 Credits, discounts, or other rate differentials, or appropriate  
722 reductions in deductibles, for fixtures and construction  
723 techniques that meet the minimum requirements of the Florida  
724 Building Code must be included in the rate filing. ~~The office~~  
725 ~~shall determine the discounts, credits, other rate~~

576-03539-13

20131770c1

726 ~~differentials, and appropriate reductions in deductibles that~~  
727 ~~reflect the full actuarial value of such revaluation, which may~~  
728 ~~be used by insurers in rate filings.~~

729       (6) The office may hold a public hearing for a any rate  
730 filing that is based in whole or in part on data from a computer  
731 model which exceeds may not exceed 15 percent in counties the  
732 office determines do not have a reasonable degree of competition  
733 ~~unless there is a public hearing.~~

734       Section 8. Section 627.171, Florida Statutes, is amended to  
735 read:

736       627.171 Excess rates.—

737       (1) With the written consent of the insured signed before  
738 ~~prior to~~ the policy inception date and filed with the insurer,  
739 the insurer may use a rate in excess of the otherwise applicable  
740 filed rate on any specific risk. The signed consent form is  
741 valid for subsequent renewals and must include the filed rate as  
742 well as the excess rate for the risk insured.7 ~~and~~ A copy of the  
743 form must be maintained by the insurer for 3 years and be  
744 available for review by the office.

745       (2) In those counties in which the office has determined  
746 there is not a reasonable degree of competition, an insurer may  
747 not use excess rates authorized under ~~pursuant to~~ this section  
748 for more than 10 percent of its commercial insurance policies  
749 written or renewed in each calendar year for any line of  
750 commercial insurance or for more than 5 percent of its personal  
751 lines insurance policies written or renewed in each calendar  
752 year for any line of personal insurance. In determining the 10-  
753 percent limitation for commercial insurance policies, the  
754 insurer shall exclude a any workers' compensation policy that

576-03539-13

20131770c1

755 was written for an employer who had coverage in the joint  
756 underwriting plan created by s. 627.311(5) immediately before  
757 ~~prior to~~ the writing of the policy by the insurer and a ~~any~~  
758 workers' compensation policy that was written for an employer  
759 who had been offered coverage in the joint underwriting plan but  
760 who was written a policy by the insurer in lieu of accepting the  
761 joint underwriting plan policy. Such ~~These~~ workers' compensation  
762 policies shall be excluded from the 10-percent limitation for  
763 the first 3 years of coverage.

764 Section 9. Paragraphs (a), (b), (c), (g), (i), (m), (q),  
765 and (z) of subsection (6) of section 627.351, Florida Statutes,  
766 are amended, and paragraph (gg) is added to that subsection, to  
767 read:

768 627.351 Insurance risk apportionment plans.—

769 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

770 (a) The public purpose of this subsection is to ensure that  
771 there is an orderly market for property insurance for residents  
772 and businesses of this state.

773 1. The Legislature finds that private insurers are entering  
774 the Florida property insurance market ~~unwilling or unable~~ to  
775 provide affordable property insurance coverage in many regions  
776 of the state. The Legislature further finds that when Citizens  
777 Property Insurance Corporation offers rates that are not  
778 adequate to cover the average costs that are generated from the  
779 claims filed by its policyholders, the deficiency may create a  
780 financial burden on all other state policyholders who must  
781 purchase their own insurance from private insurers at full  
782 actuarial cost and pay an added fee to cover a portion of the  
783 cost for claims filed by policyholders of the corporation. The

576-03539-13

20131770c1

784 Legislature intends that the corporation not act as a barrier or  
785 competitor to the private insurance market but be available to  
786 residents of ~~in~~ this state only if there is no private market  
787 coverage available at rates determined reasonable by the Office  
788 of Insurance Regulation ~~to the extent sought and needed~~. The  
789 absence of ~~affordable~~ property insurance threatens the public  
790 health, safety, and welfare and likewise threatens the economic  
791 health of the state. As the corporation has continued its rapid  
792 growth and exposure, it increasingly threatens state residents  
793 with having to absorb an even greater financial burden than they  
794 are currently bearing. The state, therefore, has a compelling  
795 public interest and a public purpose to assist in assuring that  
796 property in the state is insured and ~~that it is~~ insured at  
797 affordable, actuarially sound, noncompetitive rates so as to  
798 facilitate the remediation, reconstruction, and replacement of  
799 damaged or destroyed property without overburdening the  
800 policyholders of this state in order to reduce or avoid ~~the~~  
801 negative effects on ~~otherwise resulting to~~ the public health,  
802 safety, and welfare; on, ~~to~~ the economy of the state; and on,  
803 ~~and to~~ the revenues of the state and local governments which are  
804 needed to provide for the public welfare. It is necessary,  
805 therefore, to make provide affordable, actuarially sound,  
806 noncompetitive property insurance available to applicants who  
807 are, in good faith, entitled to procure insurance through the  
808 voluntary market but are unable to do so. The Legislature  
809 intends, therefore, that affordable, actuarially sound,  
810 noncompetitive property insurance be provided and ~~that it~~  
811 continue to be provided, as long as necessary, through Citizens  
812 Property Insurance Corporation, a government entity that is an

576-03539-13

20131770c1

813 integral part of the state, ~~and that is~~ not a private insurance  
814 company, or through referrals to private insurers participating  
815 in a clearinghouse established by the corporation. To that end,  
816 the corporation shall strive to promote ~~increase~~ the  
817 availability of affordable and actuarially sound private  
818 property insurance in this state, supplemented by coverage  
819 provided by the corporation if appropriate, while achieving  
820 efficiencies and economies, ~~and while~~ providing service to  
821 policyholders, applicants, and agents which is no less than the  
822 quality generally provided in the voluntary market, for the  
823 achievement of the foregoing public purposes. Because it is  
824 essential for this government entity to have the maximum  
825 financial resources to pay claims following a catastrophic  
826 hurricane, it is further the intent of the Legislature that the  
827 corporation continue to be an integral part of the state and not  
828 a private insurance company, ~~and~~ that the income of the  
829 corporation be exempt from federal income taxation, and that  
830 interest on the debt obligations issued by the corporation be  
831 exempt from federal income taxation.

832 2. The Residential Property and Casualty Joint Underwriting  
833 Association originally created by this statute shall be known as  
834 the Citizens Property Insurance Corporation. The corporation  
835 shall provide ~~insurance for~~ residential and commercial property  
836 insurance, for applicants who are eligible ~~entitled,~~ but, in  
837 good faith, are unable to procure insurance through the  
838 voluntary market. The corporation shall operate pursuant to a  
839 plan of operation approved by order of the Financial Services  
840 Commission. The plan is subject to continuous review by the  
841 commission, and ~~the~~ commission may, by order, withdraw approval

576-03539-13

20131770c1

842 of all or part of a plan if the commission determines that  
843 conditions have changed since approval was granted and that the  
844 purposes of the plan require changes in the plan. For the  
845 purposes of this subsection, residential coverage includes both  
846 personal lines residential coverage, which consists of the type  
847 of coverage provided by homeowner's, mobile home owner's,  
848 dwelling, tenant's, condominium unit owner's, and similar  
849 policies; and commercial lines residential coverage, which  
850 consists of the type of coverage provided by condominium  
851 association, apartment building, and similar policies.

852 3. With respect to coverage for personal lines residential  
853 structures:

854 a. Effective January 1, 2014 ~~2009~~, a personal lines  
855 residential structure that has a dwelling replacement cost of \$1  
856 ~~\$2~~ million or more, or a single condominium unit that has a  
857 combined dwelling and contents replacement cost of \$1 ~~\$2~~ million  
858 or more is not eligible for coverage by the corporation. Such  
859 dwellings insured by the corporation on December 31, 2013 ~~2008~~,  
860 may continue to be covered by the corporation until the end of  
861 the policy term. ~~However, such dwellings may reapply and obtain~~  
862 ~~coverage if the property owner provides the corporation with a~~  
863 ~~sworn affidavit from one or more insurance agents, on a form~~  
864 ~~provided by the corporation, stating that the agents have made~~  
865 ~~their best efforts to obtain coverage and that the property has~~  
866 ~~been rejected for coverage by at least one authorized insurer~~  
867 ~~and at least three surplus lines insurers. If such conditions~~  
868 ~~are met, the dwelling may be insured by the corporation for up~~  
869 ~~to 3 years, after which time the dwelling is ineligible for~~  
870 ~~coverage.~~ The office shall approve the method used by the

576-03539-13

20131770c1

871 corporation for valuing ~~the~~ dwelling replacement costs under  
872 ~~cost for the purposes of~~ this subparagraph. If a policyholder is  
873 insured by the corporation before ~~prior to~~ being determined ~~to~~  
874 ~~be~~ ineligible pursuant to this subparagraph and such  
875 policyholder files a lawsuit challenging the determination, the  
876 policyholder may remain insured by the corporation until the  
877 conclusion of the litigation.

878 b. Effective January 1, 2015, a structure that has a  
879 dwelling replacement cost of \$900,000 or more, or a single  
880 condominium unit that has a combined dwelling and contents  
881 replacement cost of \$900,000 or more, is not eligible for  
882 coverage by the corporation. Such dwellings insured by the  
883 corporation on December 31, 2014, may continue to be covered by  
884 the corporation until the end of the policy term.

885 c. Effective January 1, 2016, a structure that has a  
886 dwelling replacement cost of \$800,000 or more, or a single  
887 condominium unit that has a combined dwelling and contents  
888 replacement cost of \$800,000 or more, is not eligible for  
889 coverage by the corporation. Such dwellings insured by the  
890 corporation on December 31, 2015, may continue to be covered by  
891 the corporation until the end of the policy term.

892 d. Effective January 1, 2017, a structure that has a  
893 dwelling replacement cost of \$700,000 or more, or a single  
894 condominium unit that has a combined dwelling and contents  
895 replacement cost of \$700,000 or more, is not eligible for  
896 coverage by the corporation. Such dwellings insured by the  
897 corporation on December 31, 2016, may continue to be covered by  
898 the corporation until the end of the policy term.

899 e. Effective January 1, 2018, a structure that has a

576-03539-13

20131770c1

900 dwelling replacement cost of \$600,000 or more, or a single  
901 condominium unit that has a combined dwelling and contents  
902 replacement cost of \$600,000 or more, is not eligible for  
903 coverage by the corporation. Such dwellings insured by the  
904 corporation on December 31, 2017, may continue to be covered by  
905 the corporation until the end of the policy term.

906 f. Effective January 1, 2019, a structure that has a  
907 dwelling replacement cost of \$500,000 or more, or a single  
908 condominium unit that has a combined dwelling and contents  
909 replacement cost of \$500,000 or more, is not eligible for  
910 coverage by the corporation. Such dwellings insured by the  
911 corporation on December 31, 2018, may continue to be covered by  
912 the corporation until the end of the policy term.

913  
914 The requirements of sub-subparagraphs b.-f. do not apply in  
915 counties where the office determines there is not a reasonable  
916 degree of competition. In such counties the eligibility  
917 requirements of sub-subparagraph a. apply.

918 4. It is the intent of the Legislature that policyholders,  
919 applicants, and agents of the corporation receive service and  
920 treatment of the highest possible level but never less than that  
921 generally provided in the voluntary market. It is also intended  
922 that the corporation be held to service standards no less than  
923 those applied to insurers in the voluntary market by the office  
924 with respect to responsiveness, timeliness, customer courtesy,  
925 and overall dealings with policyholders, applicants, or agents  
926 of the corporation.

927 5. A new structure for which a notice of commencement has  
928 been issued on or after July 1, 2013, pursuant to s. 713.135,



576-03539-13

20131770c1

929 which is located seaward of the coastal construction control  
930 line created pursuant to s. 161.053, is ineligible for coverage  
931 through the corporation unless the structure meets the coastal  
932 code-plus building code criteria developed and recommended by  
933 the Florida Building Commission. Filing a notice of commencement  
934 for an addition to an existing structure that was built before  
935 July 1, 2013, requires that the addition be built according to  
936 the code-plus building criteria but does not require that the  
937 existing structure meet the code-plus criteria in order to be  
938 eligible for coverage through the corporation. ~~Effective January~~  
939 ~~1, 2009, a personal lines residential structure that is located~~  
940 ~~in the "wind-borne debris region," as defined in s. 1609.2,~~  
941 ~~International Building Code (2006), and that has an insured~~  
942 ~~value on the structure of \$750,000 or more is not eligible for~~  
943 ~~coverage by the corporation unless the structure has opening~~  
944 ~~protections as required under the Florida Building Code for a~~  
945 ~~newly constructed residential structure in that area. A~~  
946 ~~residential structure shall be deemed to comply with this~~  
947 ~~subparagraph if it has shutters or opening protections on all~~  
948 ~~openings and if such opening protections complied with the~~  
949 ~~Florida Building Code at the time they were installed.~~

950 6. For any claim filed under any policy of the corporation,  
951 a public adjuster may not charge, agree to, or accept any  
952 compensation, payment, commission, fee, or other thing of value  
953 greater than 10 percent of the additional amount actually paid  
954 over the amount that was originally offered by the corporation  
955 for any one claim.

956 (b)1. All insurers authorized to write one or more subject  
957 lines of business in this state are subject to assessment by the

576-03539-13

20131770c1

958 corporation and, for the purposes of this subsection, are  
959 referred to collectively as "assessable insurers." Insurers  
960 writing one or more subject lines of business in this state  
961 pursuant to part VIII of chapter 626 are not assessable  
962 insurers; however, ~~but~~ insureds who procure one or more subject  
963 lines of business in this state pursuant to part VIII of chapter  
964 626 are subject to assessment by the corporation and are  
965 referred to collectively as "assessable insureds." An insurer's  
966 assessment liability begins on the first day of the calendar  
967 year following the year in which the insurer was issued a  
968 certificate of authority to transact insurance for subject lines  
969 of business in this state and terminates 1 year after the end of  
970 the first calendar year during which the insurer no longer holds  
971 a certificate of authority to transact insurance for subject  
972 lines of business in this state.

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

976 (I) A personal lines account for personal residential  
977 policies issued by the corporation, or issued by the Residential  
978 Property and Casualty Joint Underwriting Association and renewed  
979 by the corporation, which provides comprehensive, multiperil  
980 coverage on risks that are not located in areas eligible for  
981 coverage by the Florida Windstorm Underwriting Association as  
982 those areas were defined on January 1, 2002, and for policies  
983 that do not provide coverage for the peril of wind on risks that  
984 are located in such areas;

985 (II) A commercial lines account for commercial residential  
986 and commercial nonresidential policies issued by the

576-03539-13

20131770c1

987 corporation, or issued by the Residential Property and Casualty  
988 Joint Underwriting Association and renewed by the corporation,  
989 which provides coverage for basic property perils on risks that  
990 are not located in areas eligible for coverage by the Florida  
991 Windstorm Underwriting Association as those areas were defined  
992 on January 1, 2002, and for policies that do not provide  
993 coverage for the peril of wind on risks that are located in such  
994 areas; and

995 (III) A coastal account for personal residential policies  
996 and commercial residential and commercial nonresidential  
997 property policies issued by the corporation, or transferred to  
998 the corporation, which provides coverage for the peril of wind  
999 on risks that are located in areas eligible for coverage by the  
1000 Florida Windstorm Underwriting Association as those areas were  
1001 defined on January 1, 2002. The corporation may offer policies  
1002 that provide multiperil coverage and ~~the corporation~~ shall  
1003 ~~continue to~~ offer policies that provide coverage only for the  
1004 peril of wind for risks located in areas eligible for coverage  
1005 in the coastal account. In issuing multiperil coverage, the  
1006 corporation may use its approved policy forms and rates for the  
1007 personal lines account. An applicant or insured who is eligible  
1008 to purchase a multiperil policy from the corporation may  
1009 purchase a multiperil policy from an authorized insurer without  
1010 prejudice to the applicant's or insured's eligibility to  
1011 prospectively purchase a policy that provides coverage only for  
1012 the peril of wind from the corporation. An applicant or insured  
1013 who is eligible for a corporation policy that provides coverage  
1014 only for the peril of wind may elect to purchase or retain such  
1015 policy and also purchase or retain coverage excluding wind from

576-03539-13

20131770c1

1016 an authorized insurer without prejudice to the applicant's or  
1017 insured's eligibility to prospectively purchase a policy that  
1018 provides multiperil coverage from the corporation. It is the  
1019 goal of the Legislature that there be an overall average savings  
1020 of 10 percent or more for a policyholder who currently has a  
1021 wind-only policy with the corporation, and an ex-wind policy  
1022 with a voluntary insurer or the corporation, and who obtains a  
1023 multiperil policy from the corporation. It is the intent of the  
1024 Legislature that the offer of multiperil coverage in the coastal  
1025 account be made and implemented in a manner that does not  
1026 adversely affect the tax-exempt status of the corporation or  
1027 creditworthiness of or security for currently outstanding  
1028 financing obligations or credit facilities of the coastal  
1029 account, the personal lines account, or the commercial lines  
1030 account. ~~The coastal account must also include quota share~~  
1031 ~~primary insurance under subparagraph (c)2.~~ The area eligible for  
1032 coverage under the coastal account also includes the area within  
1033 Port Canaveral, which is bordered on the south by the City of  
1034 Cape Canaveral, bordered on the west by the Banana River, and  
1035 bordered on the north by Federal Government property.

1036 b. The three separate accounts must be maintained as long  
1037 as financing obligations entered into by the Florida Windstorm  
1038 Underwriting Association or Residential Property and Casualty  
1039 Joint Underwriting Association are outstanding, in accordance  
1040 with the terms of the corresponding financing documents. If the  
1041 financing obligations are no longer outstanding, the corporation  
1042 may use a single account for all revenues, assets, liabilities,  
1043 losses, and expenses of the corporation. Consistent with this  
1044 subparagraph and prudent investment policies that minimize the

576-03539-13

20131770c1

1045 cost of carrying debt, the board shall exercise its best efforts  
1046 to retire existing debt or obtain the approval of necessary  
1047 parties to amend the terms of existing debt, in order so as to  
1048 structure the most efficient plan for consolidating ~~to~~  
1049 ~~consolidate~~ the three separate accounts into a single account.

1050 c. Creditors of the Residential Property and Casualty Joint  
1051 Underwriting Association and the accounts specified in sub-sub-  
1052 subparagraphs a.(I) and (II) may have a claim against, and  
1053 recourse to, those accounts and no claim against, or recourse  
1054 to, the account referred to in sub-sub-subparagraph a.(III).  
1055 Creditors of the Florida Windstorm Underwriting Association have  
1056 a claim against, and recourse to, the account referred to in  
1057 sub-sub-subparagraph a.(III) and no claim against, or recourse  
1058 to, the accounts referred to in sub-sub-subparagraphs a.(I) and  
1059 (II).

1060 d. Revenues, assets, liabilities, losses, and expenses not  
1061 attributable to particular accounts shall be prorated among the  
1062 accounts.

1063 e. The Legislature finds that the revenues of the  
1064 corporation are revenues that are necessary to meet the  
1065 requirements set forth in documents authorizing the issuance of  
1066 bonds under this subsection.

1067 f. The income of the corporation may not inure to the  
1068 benefit of any private person.

1069 3. With respect to a deficit in an account:

1070 a. After accounting for the Citizens policyholder surcharge  
1071 imposed under sub-subparagraph i., if the remaining projected  
1072 deficit incurred in the coastal account in a particular calendar  
1073 year:

576-03539-13

20131770c1

1074 (I) Is not greater than 2 percent of the aggregate  
1075 statewide direct written premium for the subject lines of  
1076 business for the prior calendar year, the entire deficit shall  
1077 be recovered through regular assessments of assessable insurers  
1078 under paragraph (q) and assessable insureds.

1079 (II) Exceeds 2 percent of the aggregate statewide direct  
1080 written premium for the subject lines of business for the prior  
1081 calendar year, the corporation shall levy regular assessments on  
1082 assessable insurers under paragraph (q) and on assessable  
1083 insureds in an amount equal to the greater of 2 percent of the  
1084 projected deficit or 2 percent of the aggregate statewide direct  
1085 written premium for the subject lines of business for the prior  
1086 calendar year. Any remaining projected deficit shall be  
1087 recovered through emergency assessments under sub-subparagraph  
1088 d.

1089 b. Each assessable insurer's share of the amount being  
1090 assessed under sub-subparagraph a. must be in the proportion  
1091 that the assessable insurer's direct written premium for the  
1092 subject lines of business for the year preceding the assessment  
1093 bears to the aggregate statewide direct written premium for the  
1094 subject lines of business for that year. The assessment  
1095 percentage applicable to each assessable insured is the ratio of  
1096 the amount being assessed under sub-subparagraph a. to the  
1097 aggregate statewide direct written premium for the subject lines  
1098 of business for the prior year. Assessments levied by the  
1099 corporation on assessable insurers under sub-subparagraph a.  
1100 must be paid as required by the corporation's plan of operation  
1101 and paragraph (q). Assessments levied by the corporation on  
1102 assessable insureds under sub-subparagraph a. shall be collected

576-03539-13

20131770c1

1103 by the surplus lines agent at the time the surplus lines agent  
1104 collects the surplus lines tax required by s. 626.932, and paid  
1105 to the Florida Surplus Lines Service Office at the time the  
1106 surplus lines agent pays the surplus lines tax to that office.  
1107 Upon receipt of regular assessments from surplus lines agents,  
1108 the Florida Surplus Lines Service Office shall transfer the  
1109 assessments directly to the corporation as determined by the  
1110 corporation.

1111 c. After accounting for the Citizens policyholder surcharge  
1112 imposed under sub-subparagraph i., the remaining projected  
1113 deficits in the personal lines account and in the commercial  
1114 lines account in a particular calendar year shall be recovered  
1115 through emergency assessments under sub-subparagraph d.

1116 d. Upon a determination by the executive director, with the  
1117 concurrence of the board of governors, that a projected deficit  
1118 in an account exceeds the amount that is expected to be  
1119 recovered through regular assessments under sub-subparagraph a.,  
1120 plus the amount that is expected to be recovered through  
1121 policyholder surcharges under sub-subparagraph i., the executive  
1122 director, with concurrence by the board, after verification by  
1123 the office, shall levy emergency assessments for as many years  
1124 as necessary to cover the deficits, to be collected by  
1125 assessable insurers and the corporation and collected from  
1126 assessable insureds upon issuance or renewal of policies for  
1127 subject lines of business, excluding National Flood Insurance  
1128 policies. The executive director shall notify the Financial  
1129 Services Commission of the emergency assessments within 5 days  
1130 after the board's concurrence with the executive director's  
1131 determination that such assessments are necessary. The amount

576-03539-13

20131770c1

1132 collected in a particular year must be a uniform percentage of  
1133 that year's direct written premium for subject lines of business  
1134 and all accounts of the corporation, excluding National Flood  
1135 Insurance Program policy premiums, as annually determined by the  
1136 executive director, with concurrence by the board, and verified  
1137 by the office. The office shall verify the arithmetic  
1138 calculations involved in the board's determination within 30  
1139 days after receipt of the information on which the determination  
1140 was based. The office shall notify assessable insurers and the  
1141 Florida Surplus Lines Service Office of the date on which  
1142 assessable insurers shall begin to collect and assessable  
1143 insureds shall begin to pay such assessment. The date must be at  
1144 least ~~may be not less than~~ 90 days after the date the  
1145 corporation levies emergency assessments pursuant to this sub-  
1146 subparagraph. Notwithstanding any other provision of law, the  
1147 corporation and each assessable insurer that writes subject  
1148 lines of business shall collect emergency assessments from its  
1149 policyholders without such obligation being affected by any  
1150 credit, limitation, exemption, or deferment. Emergency  
1151 assessments levied by the corporation on assessable insureds  
1152 shall be collected by the surplus lines agent at the time the  
1153 surplus lines agent collects the surplus lines tax required by  
1154 s. 626.932 and paid to the Florida Surplus Lines Service Office  
1155 at the time the surplus lines agent pays the surplus lines tax  
1156 to that office. The emergency assessments collected shall be  
1157 transferred directly to the corporation on a periodic basis as  
1158 determined by the corporation and held by the corporation solely  
1159 in the applicable account. The aggregate amount of emergency  
1160 assessments levied for an account ~~under this sub-subparagraph~~ in



576-03539-13

20131770c1

1161 any calendar year may be less than but not exceed the greater of  
1162 10 percent of the amount needed to cover the deficit, plus  
1163 interest, fees, commissions, required reserves, and other costs  
1164 associated with financing the original deficit, or 10 percent of  
1165 the aggregate statewide direct written premium for subject lines  
1166 of business and all accounts of the corporation for the prior  
1167 year, plus interest, fees, commissions, required reserves, and  
1168 other costs associated with financing the deficit.

1169 e. The corporation may pledge the proceeds of assessments,  
1170 projected recoveries from the Florida Hurricane Catastrophe  
1171 Fund, other insurance and reinsurance recoverables, policyholder  
1172 surcharges and other surcharges, and other funds available to  
1173 the corporation as the source of revenue for and to secure bonds  
1174 issued under paragraph (q), bonds or other indebtedness issued  
1175 under subparagraph (c)3., or lines of credit or other financing  
1176 mechanisms issued or created under this subsection, or to retire  
1177 any other debt incurred as a result of deficits or events giving  
1178 rise to deficits, or in any other way that the executive  
1179 director, with the concurrence of the board, determines will  
1180 efficiently recover such deficits. The purpose of the lines of  
1181 credit or other financing mechanisms is to provide additional  
1182 resources to assist the corporation in covering claims and  
1183 expenses attributable to a catastrophe. As used in this  
1184 subsection, the term "assessments" includes regular assessments  
1185 under sub-subparagraph a. or subparagraph (q)1. and emergency  
1186 assessments under sub-subparagraph d. Emergency assessments  
1187 collected under sub-subparagraph d. are not part of an insurer's  
1188 rates, are not premium, and are not subject to premium tax,  
1189 fees, or commissions; however, failure to pay the emergency

576-03539-13

20131770c1

1190 assessment shall be treated as failure to pay premium. The  
1191 emergency assessments ~~under sub-subparagraph d.~~ shall continue  
1192 as long as any bonds issued or other indebtedness incurred with  
1193 respect to a deficit for which the assessment was imposed remain  
1194 outstanding, unless adequate provision has been made for the  
1195 payment of such bonds or other indebtedness pursuant to the  
1196 documents governing such bonds or indebtedness.

1197 f. As used in this subsection for purposes of any deficit  
1198 incurred on or after January 25, 2007, the term "subject lines  
1199 of business" means insurance written by assessable insurers or  
1200 procured by assessable insureds for all property and casualty  
1201 lines of business in this state, but not including workers'  
1202 compensation or medical malpractice. As used in this sub-  
1203 subparagraph, the term "property and casualty lines of business"  
1204 includes all lines of business identified on Form 2, Exhibit of  
1205 Premiums and Losses, in the annual statement required of  
1206 authorized insurers under s. 624.424 and any rule adopted under  
1207 this section, except for those lines identified as accident and  
1208 health insurance and except for policies written under the  
1209 National Flood Insurance Program or the Federal Crop Insurance  
1210 Program. For purposes of this sub-subparagraph, the term  
1211 "workers' compensation" includes both workers' compensation  
1212 insurance and excess workers' compensation insurance.

1213 g. The Florida Surplus Lines Service Office shall annually  
1214 determine ~~annually~~ the aggregate statewide written premium in  
1215 subject lines of business procured by assessable insureds and  
1216 report that information to the corporation in a form and at a  
1217 time the corporation specifies to ensure that the corporation  
1218 can meet the requirements of this subsection and the

576-03539-13

20131770c1

1219 corporation's financing obligations.

1220 h. The Florida Surplus Lines Service Office shall verify  
1221 the proper application by surplus lines agents of assessment  
1222 percentages for regular assessments and emergency assessments  
1223 levied under this subparagraph on assessable insureds and assist  
1224 the corporation in ensuring the accurate, timely collection and  
1225 payment of assessments by surplus lines agents as required by  
1226 the corporation.

1227 i. ~~In 2008 or thereafter,~~ Upon a determination by the board  
1228 of governors that an account has a projected deficit, the board  
1229 shall levy a Citizens policyholder surcharge against all  
1230 policyholders of the corporation.

1231 (I) The surcharge shall be levied as a uniform percentage  
1232 ~~of the premium for the policy~~ of up to 15 percent of the policy  
1233 ~~such~~ premium, which funds shall be used to offset the deficit.

1234 (II) The surcharge is payable upon cancellation or  
1235 termination of the policy, upon renewal of the policy, or upon  
1236 issuance of a new policy by the corporation within the first 12  
1237 months after the date of the levy or the period of time  
1238 necessary to fully collect the surcharge amount.

1239 (III) The corporation may not levy any regular assessments  
1240 under paragraph (q) pursuant to sub-subparagraph a. or sub-  
1241 subparagraph b. with respect to a particular year's deficit  
1242 until the corporation has first levied the full amount of the  
1243 surcharge authorized by this sub-subparagraph.

1244 (IV) The surcharge is not considered premium and is not  
1245 subject to commissions, fees, or premium taxes. However, failure  
1246 to pay the surcharge shall be treated as failure to pay premium.

1247 j. If the amount of any assessments or surcharges collected

576-03539-13

20131770c1

1248 from corporation policyholders, assessable insurers or their  
1249 policyholders, or assessable insureds exceeds the amount of the  
1250 deficits, such excess amounts shall be remitted to and retained  
1251 by the corporation in a reserve to be used by the corporation,  
1252 as determined by the executive director, with the concurrence of  
1253 the board of governors, and approved by the office, to pay  
1254 claims or reduce any past, present, or future plan-year deficits  
1255 or to reduce outstanding debt.

1256 (c) The corporation's plan of operation:

1257 1. Must provide for adoption of residential property and  
1258 casualty insurance policy forms and commercial residential and  
1259 nonresidential property insurance forms, which must be approved  
1260 by the office before use. The corporation shall adopt the  
1261 following policy forms:

1262 a. Standard personal lines policy forms that are  
1263 comprehensive multiperil policies providing full coverage of a  
1264 residential property equivalent to the coverage provided in the  
1265 private insurance market under an HO-3, HO-4, or HO-6 policy.

1266 b. Basic personal lines policy forms that are policies  
1267 similar to an HO-8 policy or a dwelling fire policy that provide  
1268 coverage meeting the requirements of the secondary mortgage  
1269 market, but which is more limited than the coverage under a  
1270 standard policy.

1271 c. Commercial lines residential and nonresidential policy  
1272 forms that are generally similar to the basic perils of full  
1273 coverage obtainable for commercial residential structures and  
1274 commercial nonresidential structures in the admitted voluntary  
1275 market.

1276 d. Personal lines and commercial lines residential property

576-03539-13

20131770c1

1277 insurance forms that cover the peril of wind only. Such ~~The~~  
1278 forms are applicable only to residential properties located in  
1279 areas eligible for coverage under the coastal account referred  
1280 to in sub-subparagraph (b)2.a.

1281 e. Commercial lines nonresidential property insurance forms  
1282 that cover the peril of wind only. Such ~~The~~ forms are applicable  
1283 only to nonresidential properties located in areas eligible for  
1284 coverage under the coastal account referred to in sub-  
1285 subparagraph (b)2.a.

1286 f. The corporation may adopt variations of the policy forms  
1287 listed in sub-subparagraphs a.-e. which contain more restrictive  
1288 coverage.

1289 g. Effective January 1, 2013, the corporation shall offer a  
1290 basic personal lines policy similar to an HO-8 policy with  
1291 dwelling repair based on common construction materials and  
1292 methods.

1293 2. Must provide that the corporation and an authorized  
1294 insurer may enter into a risk-sharing agreement for the purpose  
1295 of reducing the corporation's exposure. As used in this  
1296 subparagraph, the term "risk-sharing agreement" means an  
1297 agreement between the corporation and an authorized insurer for  
1298 the corporation to retain part, but not all, of the risk for a  
1299 specified group of policies or specified perils within a group  
1300 of policies, as part of the terms for removal of policies from  
1301 the corporation.

1302 a. Entering into a risk-sharing agreement is voluntary and  
1303 at the discretion of the corporation and the authorized insurer.  
1304 To avoid unnecessary expense, the executive director, with  
1305 concurrence of the board of governors, may limit the

576-03539-13

20131770c1

1306 corporation's participation in risk-sharing agreements to those  
1307 participants capable and willing to assume a minimum of 25  
1308 percent of the exposure on at least 100,000 policies and may  
1309 specify other limitations. A risk-sharing agreement in which the  
1310 corporation retains part of the risk may not exceed 5 years.

1311 b. The risk-sharing agreement may cover policies in any  
1312 account and may cover any perils. The corporation may act as a  
1313 reinsurer or a cedent under a risk sharing agreement or an  
1314 excess of loss agreement. If the corporation is the reinsurer,  
1315 the insurance policy forms and endorsements must be approved by  
1316 the office, cover all perils that are the subject of the risk-  
1317 sharing agreement, and cover at least the same limits as the  
1318 corporation policies being replaced.

1319 c. The terms of each risk-sharing agreement must ensure  
1320 that the consideration received by the corporation is  
1321 commensurate with the risk retained by the corporation and the  
1322 risk assumed by the authorized insurer. The corporation may not  
1323 share risk for bad faith.

1324 d. The risk-sharing agreement must specify the proportion  
1325 of exposure that the authorized insurer reports to the Florida  
1326 Hurricane Catastrophe Fund and the exposure retained by the  
1327 corporation. Each shall pay premium and receive reimbursements  
1328 from the fund for the exposure that they retain or assume as  
1329 provided in the risk-sharing agreement. The risk retained or  
1330 assumed is eligible for coverage by the fund and is not  
1331 considered reinsurance for purposes of coverage by the fund.  
1332 However, the authorized insurer and the corporation may report  
1333 participation in the risk sharing agreement on their financial  
1334 statements as reinsurance if appropriate according to the

576-03539-13

20131770c1

1335 characteristics of the agreement based on statutory accounting  
1336 rules and instructions.

1337 e. Notwithstanding any other provision of law:

1338 (I) Policies offered coverage by the corporation or an  
1339 authorized insurer through a risk-sharing agreement are not  
1340 eligible for coverage by the corporation outside of the  
1341 agreement; and

1342 (II) A risk-sharing agreement between the corporation and  
1343 an authorized insurer is not subject to the requirements of a  
1344 take-out or keep-out program under ss. 627.3517 and this  
1345 subsection, except that the agreement must be filed by the  
1346 authorized insurer with the office for review and approval  
1347 before the execution of the agreement by the insurer.

1348 f. To ensure that exposures are accurately reported to the  
1349 Florida Hurricane Catastrophe Fund, the corporation and each  
1350 insurer participating in a risk-sharing agreement under this  
1351 subparagraph must report its exposure under covered policies to  
1352 the fund as required under s. 215.555(5)(c), including the  
1353 requirement that, by September 1 of each year, each insurer  
1354 notify the board of its insured values under covered policies as  
1355 of June 30 of that year. Each report must also specify the  
1356 percentage of liability applicable to the corporation and the  
1357 percentage applicable to the insurer. Pursuant to its authority  
1358 under s. 215.555, the State Board of Administration shall adopt  
1359 rules to administer this sub-subparagraph.

1360 ~~2. Must provide that the corporation adopt a program in~~  
1361 ~~which the corporation and authorized insurers enter into quota~~  
1362 ~~share primary insurance agreements for hurricane coverage, as~~  
1363 ~~defined in s. 627.4025(2)(a), for eligible risks, and adopt~~

576-03539-13

20131770c1

1364 ~~property insurance forms for eligible risks which cover the~~  
1365 ~~peril of wind only.~~

1366 ~~a. As used in this subsection, the term:~~

1367 ~~(I) "Quota share primary insurance" means an arrangement in~~  
1368 ~~which the primary hurricane coverage of an eligible risk is~~  
1369 ~~provided in specified percentages by the corporation and an~~  
1370 ~~authorized insurer. The corporation and authorized insurer are~~  
1371 ~~each solely responsible for a specified percentage of hurricane~~  
1372 ~~coverage of an eligible risk as set forth in a quota share~~  
1373 ~~primary insurance agreement between the corporation and an~~  
1374 ~~authorized insurer and the insurance contract. The~~  
1375 ~~responsibility of the corporation or authorized insurer to pay~~  
1376 ~~its specified percentage of hurricane losses of an eligible~~  
1377 ~~risk, as set forth in the agreement, may not be altered by the~~  
1378 ~~inability of the other party to pay its specified percentage of~~  
1379 ~~losses. Eligible risks that are provided hurricane coverage~~  
1380 ~~through a quota share primary insurance arrangement must be~~  
1381 ~~provided policy forms that set forth the obligations of the~~  
1382 ~~corporation and authorized insurer under the arrangement,~~  
1383 ~~clearly specify the percentages of quota share primary insurance~~  
1384 ~~provided by the corporation and authorized insurer, and~~  
1385 ~~conspicuously and clearly state that the authorized insurer and~~  
1386 ~~the corporation may not be held responsible beyond their~~  
1387 ~~specified percentage of coverage of hurricane losses.~~

1388 ~~(II) "Eligible risks" means personal lines residential and~~  
1389 ~~commercial lines residential risks that meet the underwriting~~  
1390 ~~criteria of the corporation and are located in areas that were~~  
1391 ~~eligible for coverage by the Florida Windstorm Underwriting~~  
1392 ~~Association on January 1, 2002.~~



576-03539-13

20131770c1

1393 ~~b. The corporation may enter into quota share primary~~  
1394 ~~insurance agreements with authorized insurers at corporation~~  
1395 ~~coverage levels of 90 percent and 50 percent.~~

1396 ~~e. If the corporation determines that additional coverage~~  
1397 ~~levels are necessary to maximize participation in quota share~~  
1398 ~~primary insurance agreements by authorized insurers, the~~  
1399 ~~corporation may establish additional coverage levels. However,~~  
1400 ~~the corporation's quota share primary insurance coverage level~~  
1401 ~~may not exceed 90 percent.~~

1402 ~~d. Any quota share primary insurance agreement entered into~~  
1403 ~~between an authorized insurer and the corporation must provide~~  
1404 ~~for a uniform specified percentage of coverage of hurricane~~  
1405 ~~losses, by county or territory as set forth by the corporation~~  
1406 ~~board, for all eligible risks of the authorized insurer covered~~  
1407 ~~under the agreement.~~

1408 ~~e. Any quota share primary insurance agreement entered into~~  
1409 ~~between an authorized insurer and the corporation is subject to~~  
1410 ~~review and approval by the office. However, such agreement shall~~  
1411 ~~be authorized only as to insurance contracts entered into~~  
1412 ~~between an authorized insurer and an insured who is already~~  
1413 ~~insured by the corporation for wind coverage.~~

1414 ~~f. For all eligible risks covered under quota share primary~~  
1415 ~~insurance agreements, the exposure and coverage levels for both~~  
1416 ~~the corporation and authorized insurers shall be reported by the~~  
1417 ~~corporation to the Florida Hurricane Catastrophe Fund. For all~~  
1418 ~~policies of eligible risks covered under such agreements, the~~  
1419 ~~corporation and the authorized insurer must maintain complete~~  
1420 ~~and accurate records for the purpose of exposure and loss~~  
1421 ~~reimbursement audits as required by fund rules. The corporation~~

576-03539-13

20131770c1

1422 and the authorized insurer shall each maintain duplicate copies  
1423 of policy declaration pages and supporting claims documents.

1424 g. ~~The corporation board shall establish in its plan of~~  
1425 ~~operation standards for quota share agreements which ensure that~~  
1426 ~~there is no discriminatory application among insurers as to the~~  
1427 ~~terms of the agreements, pricing of the agreements, incentive~~  
1428 ~~provisions if any, and consideration paid for servicing policies~~  
1429 ~~or adjusting claims.~~

1430 h. ~~The quota share primary insurance agreement between the~~  
1431 ~~corporation and an authorized insurer must set forth the~~  
1432 ~~specific terms under which coverage is provided, including, but~~  
1433 ~~not limited to, the sale and servicing of policies issued under~~  
1434 ~~the agreement by the insurance agent of the authorized insurer~~  
1435 ~~producing the business, the reporting of information concerning~~  
1436 ~~eligible risks, the payment of premium to the corporation, and~~  
1437 ~~arrangements for the adjustment and payment of hurricane claims~~  
1438 ~~incurred on eligible risks by the claims adjuster and personnel~~  
1439 ~~of the authorized insurer. Entering into a quota sharing~~  
1440 ~~insurance agreement between the corporation and an authorized~~  
1441 ~~insurer is voluntary and at the discretion of the authorized~~  
1442 ~~insurer.~~

1443 3.a. May provide that the corporation ~~may employ or~~  
1444 ~~otherwise contract with individuals or other entities to provide~~  
1445 ~~administrative or professional services that may be appropriate~~  
1446 ~~to effectuate the plan. The corporation may borrow funds by~~  
1447 ~~issuing bonds or by incurring other indebtedness, and shall have~~  
1448 ~~other powers reasonably necessary to effectuate the requirements~~  
1449 ~~of this subsection, including, without limitation, the power to~~  
1450 ~~issue bonds and incur other indebtedness in order to refinance~~

576-03539-13

20131770c1

1451 outstanding bonds or other indebtedness. The corporation may  
1452 seek judicial validation of its bonds or other indebtedness  
1453 under chapter 75. The corporation may issue bonds or incur other  
1454 indebtedness, or have bonds issued on its behalf by a unit of  
1455 local government pursuant to subparagraph (q)2. in the absence  
1456 of a hurricane or other weather-related event, upon a  
1457 determination by the corporation, subject to approval by the  
1458 office, that such action would enable it to efficiently meet the  
1459 financial obligations of the corporation and that such  
1460 financings are reasonably necessary to effectuate the  
1461 requirements of this subsection. The corporation may take all  
1462 actions needed to facilitate tax-free status for such bonds or  
1463 indebtedness, including formation of trusts or other affiliated  
1464 entities. The corporation may pledge assessments, projected  
1465 recoveries from the Florida Hurricane Catastrophe Fund, other  
1466 reinsurance recoverables, Citizens policyholder surcharges and  
1467 other surcharges, and other funds available to the corporation  
1468 as security for bonds or other indebtedness. In recognition of  
1469 s. 10, Art. I of the State Constitution, prohibiting the  
1470 impairment of obligations of contracts, it is the intent of the  
1471 Legislature that ~~no~~ action not be taken whose purpose is to  
1472 impair any bond indenture or financing agreement or any revenue  
1473 source committed by contract to such bond or other indebtedness.

1474 b. May provide that the corporation employ or otherwise  
1475 contract with individuals or other entities to provide  
1476 administrative or professional services that may be appropriate  
1477 to effectuate the plan. To ensure that the corporation is  
1478 operating in an efficient and economic manner while providing  
1479 quality service to policyholders, applicants, and agents, the

576-03539-13

20131770c1

1480 board shall commission an independent third-party consultant  
1481 having expertise in insurance company management or insurance  
1482 company management consulting to prepare a report and make  
1483 recommendations on the relative costs and benefits of  
1484 outsourcing various policy issuance and service functions to  
1485 private servicing carriers or entities performing similar  
1486 functions in the private market for a fee~~7~~ rather than  
1487 performing such functions in-house. In making such  
1488 recommendations, the consultant shall consider how other  
1489 residual markets, both in this state and around the country,  
1490 outsource appropriate functions or use servicing carriers to  
1491 better match expenses with revenues that fluctuate based on a  
1492 widely varying policy count. The report must be completed by  
1493 July 1, 2012. Upon receiving the report, the executive director,  
1494 with the concurrence of the board, shall develop a plan to  
1495 implement the report and submit the plan for review,  
1496 modification, and approval to the Financial Services Commission.  
1497 Upon the commission's approval of the plan, the board shall  
1498 begin implementing the plan by January 1, 2013.

1499 4. Must require that the corporation operate subject to the  
1500 supervision and approval of a board of governors consisting of  
1501 eight individuals who are residents of this state and who are~~7~~  
1502 from different geographical areas of the ~~this~~ state.

1503 a. The Governor, the Chief Financial Officer, the President  
1504 of the Senate, and the Speaker of the House of Representatives  
1505 shall each appoint two members of the board. All board members,  
1506 except those appointed by the speaker, must be confirmed by the  
1507 Senate during the legislative session following their  
1508 appointment. At least one of the two members appointed by each

576-03539-13

20131770c1

1509 appointing officer must have demonstrated expertise in insurance  
1510 and must be ~~is~~ deemed to be within the scope of the exemption  
1511 provided under ~~in~~ s. 112.313(7) (b). The Chief Financial Officer  
1512 shall designate one of the appointees as chair for the purpose  
1513 of presiding over the orderly conduct of meetings. An appointee  
1514 serves as chair for no more than one term. All board members  
1515 serve at the pleasure of the appointing officer. All members of  
1516 the board are subject to removal at will by the officers who  
1517 appointed them. All board members, including the chair, shall  
1518 ~~must~~ be appointed ~~to serve~~ for 3-year terms beginning annually  
1519 on a date designated by the plan. ~~However, for the first term~~  
1520 ~~beginning on or after July 1, 2009, each appointing officer~~  
1521 ~~shall appoint one member of the board for a 2-year term and one~~  
1522 ~~member for a 3-year term.~~ A board vacancy shall be filled for  
1523 the unexpired term by the appointing officer. A board member may  
1524 not serve for more than two terms, except that a board member  
1525 appointed to fill an unexpired term created by a vacancy may be  
1526 appointed for two subsequent terms. The Chief Financial Officer  
1527 shall appoint a technical advisory group to provide information  
1528 and advice to the executive director and the board in connection  
1529 with the corporation's board's duties under this subsection. The  
1530 executive director shall be appointed by and serve at the  
1531 pleasure of the Governor and the Chief Financial Officer. ~~and~~  
1532 Senior managers of the corporation shall be appointed by the  
1533 executive director, with the concurrence of ~~engaged by~~ the  
1534 board, and serve at the pleasure of the executive director  
1535 ~~board.~~ Appointment of the ~~Any~~ executive director ~~appointed on or~~  
1536 ~~after July 1, 2006,~~ is subject to confirmation by the Senate  
1537 upon original appointment and upon the election or reelection of

576-03539-13

20131770c1

1538 the Governor and Chief Financial Officer if retained. The  
1539 executive director is responsible for employing other staff ~~as~~  
1540 the corporation may require, subject to review and concurrence  
1541 by the board.

1542 b. The board shall create a Market Accountability Advisory  
1543 Committee to assist the corporation in developing awareness of  
1544 its rates and its customer and agent service levels in  
1545 relationship to the voluntary market insurers writing similar  
1546 coverage.

1547 (I) The members of the advisory committee consist of the  
1548 following 11 persons, one of whom must be elected chair by the  
1549 members of the committee: four representatives, one appointed by  
1550 the Florida Association of Insurance Agents, one by the Florida  
1551 Association of Insurance and Financial Advisors, one by the  
1552 Professional Insurance Agents of Florida, and one by the Latin  
1553 American Association of Insurance Agencies; three  
1554 representatives appointed by the insurers with the three highest  
1555 voluntary market share of residential property insurance  
1556 business in the state; one representative from the Office of  
1557 Insurance Regulation; one consumer appointed by the board who is  
1558 insured by the corporation at the time of appointment to the  
1559 committee; one representative appointed by the Florida  
1560 Association of Realtors; and one representative appointed by the  
1561 Florida Bankers Association. All members shall be appointed to  
1562 3-year terms, serve at the pleasure of the board of governors,  
1563 and may serve for consecutive terms.

1564 (II) The committee shall report to the corporation at each  
1565 board meeting on insurance market issues that ~~which~~ may include  
1566 rates and rate competition within ~~with~~ the voluntary market;

576-03539-13

20131770c1

1567 service, including policy issuance, claims processing, and  
1568 general responsiveness to policyholders, applicants, and agents;  
1569 and matters relating to depopulation.

1570 5. Must provide a procedure for determining the eligibility  
1571 of a risk for coverage by the corporation which applies to both  
1572 new and renewal policies, as follows:

1573 a. Subject to s. 627.3517, with respect to personal lines  
1574 residential risks, if the risk is offered coverage from an  
1575 authorized insurer at the insurer's approved rate under a  
1576 standard policy including wind coverage or, if consistent with  
1577 the insurer's underwriting rules as filed with the office, a  
1578 basic policy including wind coverage, ~~for a new application to~~  
1579 ~~the corporation for coverage~~, the risk is not eligible for any  
1580 policy issued by the corporation unless the premium for coverage  
1581 from the authorized insurer is more than 15 percent greater than  
1582 the premium for comparable coverage from the corporation. If the  
1583 risk is not able to obtain such offer, the risk is eligible for  
1584 a standard policy including wind coverage or a basic policy  
1585 including wind coverage issued by the corporation; however, if  
1586 the risk could not be insured under a standard policy including  
1587 wind coverage regardless of market conditions, the risk is  
1588 eligible for a basic policy including wind coverage unless  
1589 rejected under subparagraph 8. ~~However, a policyholder of the~~  
1590 ~~corporation or a policyholder removed from the corporation~~  
1591 ~~through an assumption agreement until the end of the assumption~~  
1592 ~~period remains eligible for coverage from the corporation~~  
1593 ~~regardless of any offer of coverage from an authorized insurer~~  
1594 ~~or surplus lines insurer~~. The corporation shall determine the  
1595 type of policy to be provided on the basis of objective

576-03539-13

20131770c1

1596 standards specified in the underwriting manual and based on  
1597 generally accepted underwriting practices.

1598 (I) If the risk accepts an offer of coverage through the  
1599 market assistance plan or through a mechanism established by the  
1600 corporation before a policy is issued to the risk by the  
1601 corporation or during the first 30 days of coverage by the  
1602 corporation, and the producing agent who submitted the  
1603 application to the plan or to the corporation is not currently  
1604 appointed by the insurer, the insurer shall:

1605 (A) Pay to the producing agent of record ~~of the policy~~ for  
1606 the first year, an amount that is the greater of the insurer's  
1607 usual and customary commission for the type of policy written or  
1608 a fee equal to the usual and customary commission of the  
1609 corporation; or

1610 (B) Offer to allow the producing agent of record ~~of the~~  
1611 ~~policy~~ to continue servicing the policy for at least 1 year and  
1612 offer to pay the agent the greater of the insurer's or the  
1613 corporation's usual and customary commission for the type of  
1614 policy written.

1615  
1616 If the producing agent is unwilling or unable to accept  
1617 appointment, the new insurer shall pay the agent in accordance  
1618 with sub-sub-sub-subparagraph (A).

1619 (II) If the corporation enters into a contractual agreement  
1620 for a take-out plan, the producing agent of record of the  
1621 corporation policy is entitled to retain any unearned commission  
1622 on the policy, and the insurer shall:

1623 (A) Pay to the producing agent of record, for the first  
1624 year, an amount that is the greater of the insurer's usual and



576-03539-13

20131770c1

1625 customary commission for the type of policy written or a fee  
1626 equal to the usual and customary commission of the corporation;  
1627 or

1628 (B) Offer to allow the producing agent of record to  
1629 continue servicing the policy for at least 1 year and offer to  
1630 pay the agent the greater of the insurer's or the corporation's  
1631 usual and customary commission for the type of policy written.  
1632

1633 If the producing agent is unwilling or unable to accept  
1634 appointment, the new insurer shall pay the agent in accordance  
1635 with sub-sub-sub-subparagraph (A).

1636 b. With respect to commercial lines residential risks, ~~for~~  
1637 ~~a new application to the corporation for coverage,~~ if the risk  
1638 is offered coverage under a policy including wind coverage from  
1639 an authorized insurer at its approved rate, the risk is not  
1640 eligible for a policy issued by the corporation unless the  
1641 premium for coverage from the authorized insurer is more than 15  
1642 percent greater than the premium for comparable coverage from  
1643 the corporation. If the risk is not able to obtain any such  
1644 offer, the risk is eligible for a policy including wind coverage  
1645 issued by the corporation. ~~However, a policyholder of the~~  
1646 ~~corporation or a policyholder removed from the corporation~~  
1647 ~~through an assumption agreement until the end of the assumption~~  
1648 ~~period remains eligible for coverage from the corporation~~  
1649 ~~regardless of an offer of coverage from an authorized insurer or~~  
1650 ~~surplus lines insurer.~~

1651 (I) If the risk accepts an offer of coverage through the  
1652 market assistance plan or through a mechanism established by the  
1653 corporation before a policy is issued to the risk by the

576-03539-13

20131770c1

1654 corporation or during the first 30 days of coverage by the  
1655 corporation, and the producing agent who submitted the  
1656 application to the plan or the corporation is not currently  
1657 appointed by the insurer, the insurer shall:

1658 (A) Pay to the producing agent of record ~~of the policy~~, for  
1659 the first year, an amount that is the greater of the insurer's  
1660 usual and customary commission for the type of policy written or  
1661 a fee equal to the usual and customary commission of the  
1662 corporation; or

1663 (B) Offer to allow the producing agent of record ~~of the~~  
1664 ~~policy~~ to continue servicing the policy for at least 1 year and  
1665 offer to pay the agent the greater of the insurer's or the  
1666 corporation's usual and customary commission for the type of  
1667 policy written.

1668  
1669 If the producing agent is unwilling or unable to accept  
1670 appointment, the new insurer shall pay the agent in accordance  
1671 with sub-sub-sub-subparagraph (A).

1672 (II) If the corporation enters into a contractual agreement  
1673 for a take-out plan, the producing agent of record of the  
1674 corporation policy is entitled to retain any unearned commission  
1675 on the policy, and the insurer shall:

1676 (A) Pay to the producing agent of record, for the first  
1677 year, an amount that is the greater of the insurer's usual and  
1678 customary commission for the type of policy written or a fee  
1679 equal to the usual and customary commission of the corporation;  
1680 or

1681 (B) Offer to allow the producing agent of record to  
1682 continue servicing the policy for at least 1 year and offer to

576-03539-13

20131770c1

1683 pay the agent the greater of the insurer's or the corporation's  
1684 usual and customary commission for the type of policy written.

1685

1686 If the producing agent is unwilling or unable to accept  
1687 appointment, the new insurer shall pay the agent in accordance  
1688 with sub-sub-sub-subparagraph (A).

1689 c. For purposes of determining comparable coverage under  
1690 sub-subparagraphs a. and b., the comparison must be based on  
1691 those forms and coverages that are reasonably comparable. The  
1692 corporation may rely on a determination of comparable coverage  
1693 and premium made by the producing agent who submits the  
1694 application to the corporation, made in the agent's capacity as  
1695 the corporation's agent. A comparison may be made solely of the  
1696 premium with respect to the main building or structure ~~only~~ on  
1697 the following basis: the same coverage A or other building  
1698 limits; the same percentage hurricane deductible that applies on  
1699 an annual basis or that applies to each hurricane for commercial  
1700 residential property; the same percentage of ordinance and law  
1701 coverage, if the same limit is offered by both the corporation  
1702 and the authorized insurer; the same mitigation credits, to the  
1703 extent the same types of credits are offered both by the  
1704 corporation and the authorized insurer; the same method for loss  
1705 payment, such as replacement cost or actual cash value, if the  
1706 same method is offered both by the corporation and the  
1707 authorized insurer in accordance with underwriting rules; and  
1708 any other form or coverage that is reasonably comparable as  
1709 determined by the board. If an application is submitted to the  
1710 corporation for wind-only coverage in the coastal account, the  
1711 premium for the corporation's wind-only policy plus the premium

576-03539-13

20131770c1

1712 for the ex-wind policy that is offered by an authorized insurer  
1713 to the applicant must be compared to the premium for multiperil  
1714 coverage offered by an authorized insurer, subject to the  
1715 standards for comparison specified in this subparagraph. If the  
1716 corporation or the applicant requests from the authorized  
1717 insurer a breakdown of the premium of the offer by types of  
1718 coverage so that a comparison may be made by the corporation or  
1719 its agent and the authorized insurer refuses or is unable to  
1720 provide such information, the corporation may treat the offer as  
1721 not being an offer of coverage from an authorized insurer at the  
1722 insurer's approved rate.

1723 6. Must include rules for classifications of risks and  
1724 rates.

1725 7. Must provide that if premium and investment income for  
1726 an account attributable to a particular calendar year are in  
1727 excess of projected losses and expenses for the account  
1728 attributable to that year, such excess must ~~shall~~ be held in  
1729 surplus in the account. Such surplus must be available to defray  
1730 deficits in that account as to future years and used for that  
1731 purpose before assessing assessable insurers and assessable  
1732 insureds as to any calendar year.

1733 8. Must provide objective criteria and procedures that are  
1734 ~~to be~~ uniformly applied to all applicants in determining whether  
1735 an individual risk is so hazardous as to be uninsurable. In  
1736 making this determination and in establishing the criteria and  
1737 procedures, the following must be considered:

1738 a. Whether the likelihood of a loss for the individual risk  
1739 is substantially higher than for other risks of the same class;  
1740 and

576-03539-13

20131770c1

1741           b. Whether the uncertainty associated with the individual  
1742 risk is such that an appropriate premium cannot be determined.

1743  
1744 The acceptance or rejection of a risk by the corporation shall  
1745 be construed as the private placement of insurance, and the  
1746 provisions of chapter 120 do not apply.

1747           9. Must provide that the corporation make its best efforts  
1748 to procure catastrophe reinsurance at reasonable rates, to cover  
1749 its projected 100-year probable maximum loss as determined by  
1750 the board of governors.

1751           10. Must provide that the policies issued by the  
1752 corporation ~~must~~ provide that if the corporation or the market  
1753 assistance plan obtains an offer from an authorized insurer to  
1754 cover the risk at its approved rates, the risk is no longer  
1755 eligible for renewal through the corporation, except as  
1756 otherwise provided in this subsection.

1757           11. Must provide that corporation policies and applications  
1758 ~~must~~ include a notice that the corporation policy could, under  
1759 this section, be replaced with a policy issued by an authorized  
1760 insurer which does not provide coverage identical to the  
1761 coverage provided by the corporation. The notice must also  
1762 specify that acceptance of corporation coverage creates a  
1763 conclusive presumption that the applicant or policyholder is  
1764 aware of this potential.

1765           12. May establish, subject to approval by the office,  
1766 different eligibility requirements and operational procedures  
1767 for any line or type of coverage for any specified county or  
1768 area if the board determines that such changes are justified due  
1769 to the voluntary market being sufficiently stable and

576-03539-13

20131770c1

1770 competitive in such area or for such line or type of coverage  
1771 and that consumers who, in good faith, are unable to obtain  
1772 insurance through the voluntary market through ordinary methods  
1773 continue to have access to coverage from the corporation. If  
1774 coverage is sought in connection with a real property transfer,  
1775 the requirements and procedures may not provide an effective  
1776 date of coverage later than the date of the closing of the  
1777 transfer as established by the transferor, the transferee, and,  
1778 if applicable, the lender.

1779       13. Must provide that, with respect to the coastal account,  
1780 any assessable insurer that has ~~with~~ a surplus as to  
1781 policyholders of \$25 million or less writing 25 percent or more  
1782 of its total countrywide property insurance premiums in this  
1783 state may ~~petition the office~~, within the first 90 days of each  
1784 calendar year, petition the office to qualify as a limited  
1785 apportionment company. A regular assessment levied by the  
1786 corporation on a limited apportionment company for a deficit  
1787 incurred by the corporation for the coastal account may be paid  
1788 to the corporation on a monthly basis as the assessments are  
1789 collected by the limited apportionment company from its  
1790 insureds. ~~The, but a~~ limited apportionment company must begin  
1791 collecting the regular assessments within ~~not later than~~ 90 days  
1792 after the regular assessments are levied by the corporation, and  
1793 the regular assessments must be paid in full within 15 months  
1794 after being levied by the corporation. A limited apportionment  
1795 company shall collect from its policyholders any emergency  
1796 assessment imposed under sub-subparagraph (b)3.d. The plan must  
1797 provide that, if the office determines that any regular  
1798 assessment will result in an impairment of the surplus of a

576-03539-13

20131770c1

1799 limited apportionment company, the office may direct that all or  
1800 part of such assessment be deferred as provided in subparagraph  
1801 (q)4. However, an emergency assessment to be collected from  
1802 policyholders under sub-subparagraph (b)3.d. may not be limited  
1803 or deferred.

1804 14. Must provide that the corporation appoint as its  
1805 licensed agents only those agents who at the time of initial  
1806 appointment also hold an appointment as defined in s. 626.015(3)  
1807 with an insurer who ~~at the time of the agent's initial~~  
1808 ~~appointment by the corporation~~ is authorized to write and is  
1809 actually writing personal lines residential property coverage,  
1810 commercial residential property coverage, or commercial  
1811 nonresidential property coverage within the state. As a  
1812 condition of continued appointment, agents of the corporation  
1813 must maintain appropriate documentation specified by the  
1814 corporation which warrants and certifies that alternative  
1815 coverage was annually sought for each risk placed by that agent  
1816 with the corporation in accordance with s. 627.3518. After  
1817 January 1, 2014, if an agent places a policy with the  
1818 corporation which was ineligible for coverage based on  
1819 eligibility standards at the time of placement, agent  
1820 commissions may not be paid on that policy.

1821 15. Must provide a premium payment plan option to its  
1822 policyholders which, at a minimum, allows for quarterly and  
1823 semiannual payment of premiums. A monthly payment plan may, but  
1824 is not required to, be offered.

1825 16. Must limit coverage on mobile homes or manufactured  
1826 homes built before 1994 to actual cash value of the dwelling  
1827 rather than replacement costs of the dwelling.

576-03539-13

20131770c1

1828           17. May provide such limits of coverage as the board  
1829 determines, consistent with the requirements of this subsection.

1830           18. May require commercial property to meet specified  
1831 hurricane mitigation construction features as a condition of  
1832 eligibility for coverage.

1833           19. Must provide that new or renewal policies issued by the  
1834 corporation on or after January 1, 2012, which cover sinkhole  
1835 loss do not include coverage for any loss to appurtenant  
1836 structures, driveways, sidewalks, decks, or patios that are  
1837 directly or indirectly caused by sinkhole activity. The  
1838 corporation shall exclude such coverage using a notice of  
1839 coverage change, which may be included with the policy renewal,  
1840 and not by issuance of a notice of nonrenewal of the excluded  
1841 coverage upon renewal of the current policy.

1842           20. Must, as of July January 1, 2014 2012, ~~must~~ require  
1843 that the agent obtain from an applicant for coverage from the  
1844 corporation an acknowledgment signed by the applicant, which  
1845 includes, at a minimum, the following statement:

1846  
1847           ACKNOWLEDGMENT OF POTENTIAL SURCHARGE AND ASSESSMENT LIABILITY:

1848  
1849           1. AS A POLICYHOLDER OF CITIZENS PROPERTY INSURANCE  
1850 CORPORATION, I UNDERSTAND THAT IF THE CORPORATION SUSTAINS A  
1851 DEFICIT AS A RESULT OF HURRICANE LOSSES OR FOR ANY OTHER REASON,  
1852 MY POLICY COULD BE SUBJECT TO SURCHARGES, WHICH WILL BE DUE AND  
1853 PAYABLE UPON RENEWAL, CANCELLATION, OR TERMINATION OF THE  
1854 POLICY, AND THAT THE SURCHARGES COULD BE AS HIGH AS 45 PERCENT  
1855 OF MY PREMIUM, OR A DIFFERENT AMOUNT AS IMPOSED BY THE FLORIDA  
1856 LEGISLATURE.



576-03539-13

20131770c1

1857       2. I UNDERSTAND THAT I CAN AVOID THE CITIZENS POLICYHOLDER  
1858 SURCHARGE, WHICH COULD BE AS HIGH AS 45 PERCENT OF MY PREMIUM,  
1859 BY OBTAINING COVERAGE FROM A PRIVATE MARKET INSURER AND THAT TO  
1860 BE ELIGIBLE FOR COVERAGE BY CITIZENS I MUST FIRST TRY TO OBTAIN  
1861 PRIVATE MARKET COVERAGE BEFORE APPLYING FOR OR RENEWING COVERAGE  
1862 WITH CITIZENS. I UNDERSTAND THAT PRIVATE MARKET INSURANCE RATES  
1863 ARE REGULATED AND APPROVED BY THE STATE.

1864       ~~3.2.~~ I ~~ALSO~~ UNDERSTAND THAT I MAY BE SUBJECT TO EMERGENCY  
1865 ASSESSMENTS TO THE SAME EXTENT AS POLICYHOLDERS OF OTHER  
1866 INSURANCE COMPANIES, OR A DIFFERENT AMOUNT AS IMPOSED BY THE  
1867 FLORIDA LEGISLATURE.

1868       ~~4.3.~~ I ~~ALSO~~ UNDERSTAND THAT CITIZENS PROPERTY INSURANCE  
1869 CORPORATION IS NOT SUPPORTED BY THE FULL FAITH AND CREDIT OF THE  
1870 STATE OF FLORIDA.

1871       a. The corporation shall maintain, in electronic format or  
1872 otherwise, a copy of the applicant's signed acknowledgment and  
1873 provide a copy of the statement to the policyholder as part of  
1874 his or her ~~the first~~ renewal after the effective date of this  
1875 subparagraph.

1876       b. The signed acknowledgment form creates a conclusive  
1877 presumption that the policyholder understood and accepted his or  
1878 her potential surcharge and assessment liability as a  
1879 policyholder of the corporation.

1880       (g) The executive director, with the concurrence of the  
1881 board, shall determine whether it is more cost-effective and in  
1882 the best interests of the corporation to use legal services  
1883 provided by in-house attorneys employed by the corporation  
1884 rather than contracting with outside counsel. In making such  
1885 determination, the board shall document its findings and ~~shall~~

576-03539-13

20131770c1

1886 consider~~+~~ the expertise needed; whether time commitments exceed  
1887 in-house staff resources; whether local representation is  
1888 needed; the travel, lodging and other costs associated with in-  
1889 house representation; and such other factors that the board  
1890 determines are relevant.

1891 (i)1. The Office of the Internal Auditor is established  
1892 within the corporation to provide a central point for  
1893 coordination of and responsibility for activities that promote  
1894 accountability, integrity, and efficiency to the policyholders  
1895 and to the taxpayers of this state. The internal auditor shall  
1896 be appointed by the board of governors, shall report to and be  
1897 under the general supervision of the board of governors, and is  
1898 not subject to supervision by an ~~any~~ employee of the  
1899 corporation. Administrative staff and support shall be provided  
1900 by the corporation. The internal auditor shall be appointed  
1901 without regard to political affiliation. It is the duty and  
1902 responsibility of the internal auditor to:

1903 a. Provide direction for, supervise, conduct, and  
1904 coordinate audits, investigations, and management reviews  
1905 relating to the programs and operations of the corporation.

1906 b. Conduct, supervise, or coordinate other activities  
1907 carried out or financed by the corporation for the purpose of  
1908 promoting efficiency in the administration of, or preventing and  
1909 detecting fraud, abuse, and mismanagement in, its programs and  
1910 operations.

1911 c. Submit final audit reports, reviews, or investigative  
1912 reports to the board of governors, the executive director, the  
1913 members of the Financial Services Commission, and the President  
1914 of the Senate and the Speaker of the House of Representatives.

576-03539-13

20131770c1

1915 d. Keep the executive director and the board of governors  
1916 informed concerning fraud, abuses, and internal control  
1917 deficiencies relating to programs and operations administered or  
1918 financed by the corporation, recommend corrective action, and  
1919 report on the progress made in implementing corrective action.

1920 e. Report expeditiously to the Department of Law  
1921 Enforcement or other law enforcement agencies, as appropriate,  
1922 whenever the internal auditor has reasonable grounds to believe  
1923 there has been a violation of criminal law.

1924 f. Cooperate and coordinate activities with the  
1925 corporation's inspector general.

1926 2. On or before February 15, the internal auditor shall  
1927 prepare an annual report evaluating the effectiveness of the  
1928 internal controls of the corporation and providing  
1929 recommendations for corrective action, if necessary, and  
1930 summarizing the audits, reviews, and investigations conducted by  
1931 the office during the preceding fiscal year. The final report  
1932 shall be furnished to the board of governors and the executive  
1933 director, the President of the Senate, the Speaker of the House  
1934 of Representatives, and the Financial Services Commission.

1935 (m) 1. The Auditor General shall conduct an operational  
1936 audit of the corporation annually ~~every 3 years~~ to evaluate  
1937 management's performance in administering laws, policies, and  
1938 procedures governing the operations of the corporation in an  
1939 efficient and effective manner. The scope of the review must  
1940 ~~shall~~ include, but is not limited to, evaluating claims  
1941 handling, customer service, take-out programs and bonuses; ;  
1942 financing arrangements made to address a 100-year probable  
1943 maximum loss; personnel costs and administration; underwriting,

576-03539-13

20131770c1

1944 including processes designed to ensure compliance with policy  
1945 eligibility requirements of law;~~7~~ procurement of goods and  
1946 services;~~7~~ internal controls;~~7~~ and the internal audit function;  
1947 and related internal controls. A copy of the report shall be  
1948 provided to the corporation's board, the President of the  
1949 Senate, the Speaker of the House of Representatives, each member  
1950 of the Financial Services Commission, and the Office of  
1951 Insurance Regulation. The initial audit must be completed by  
1952 February 1,~~2009~~.

1953 2. The executive director, with the concurrence of the  
1954 board, shall contract with an independent auditing firm to  
1955 conduct a performance audit of the corporation every 2 years.  
1956 The objectives of the audit include, but are not limited to, an  
1957 evaluation, within the context of insurance industry best  
1958 practices, of the corporation's strategic planning processes,  
1959 the functionality of the corporation's organizational structure,  
1960 the compensation levels of senior management, and the overall  
1961 management and operations of the corporation. A copy of the  
1962 audit report shall be provided to the corporation's board, the  
1963 President of the Senate, the Speaker of the House of  
1964 Representatives, each member of the Financial Services  
1965 Commission, the Office of Insurance Regulation, and the Auditor  
1966 General. The initial audit must be completed by June 1, 2014.

1967 (q)1. The corporation shall certify to the office its needs  
1968 for annual assessments as to a particular calendar year, and for  
1969 any interim assessments that it deems ~~to be~~ necessary to sustain  
1970 operations as to a particular year pending the receipt of annual  
1971 assessments. Upon verification, the office shall approve such  
1972 certification, and the corporation shall levy such annual or

576-03539-13

20131770c1

1973 interim assessments. Such assessments shall be prorated as  
 1974 provided in paragraph (b). The corporation shall take all  
 1975 reasonable and prudent steps necessary to collect the amount of  
 1976 assessments due from each assessable insurer, including, if  
 1977 prudent, filing suit to collect the assessments, and the office  
 1978 may provide such assistance to the corporation it deems  
 1979 appropriate. If the corporation is unable to collect an  
 1980 assessment from any assessable insurer, the uncollected  
 1981 assessments shall be levied as an additional assessment against  
 1982 the assessable insurers and any assessable insurer required to  
 1983 pay an additional assessment as a result of such failure to pay  
 1984 shall have a cause of action against the ~~such~~ nonpaying  
 1985 assessable insurer. Assessments must ~~shall~~ be included as ~~an~~  
 1986 ~~appropriate factor~~ in the making of rates. The failure of a  
 1987 surplus lines agent to collect and remit any regular or  
 1988 emergency assessment levied by the corporation is ~~considered to~~  
 1989 ~~be~~ a violation of s. 626.936 and subjects the surplus lines  
 1990 agent to the penalties provided in that section.

1991 2. The governing body of any unit of local government, any  
 1992 residents of which are insured by the corporation, may issue  
 1993 bonds as defined in s. 125.013 or s. 166.101 ~~from time to time~~  
 1994 to fund an assistance program, in conjunction with the  
 1995 corporation, for the purpose of defraying deficits of the  
 1996 corporation. In order to avoid needless and indiscriminate  
 1997 proliferation, duplication, and fragmentation of such assistance  
 1998 programs, the ~~any~~ unit of local government, ~~any residents of~~  
 1999 ~~which are insured by the corporation,~~ may provide for the  
 2000 payment of losses, regardless of whether or not the losses  
 2001 occurred within or outside of the territorial jurisdiction of

576-03539-13

20131770c1

2002 the local government. Revenue bonds under this subparagraph may  
2003 not be issued until validated pursuant to chapter 75, unless a  
2004 state of emergency is declared by executive order or  
2005 proclamation of the Governor pursuant to s. 252.36 which makes  
2006 ~~making~~ such findings as are necessary to determine that it is in  
2007 the best interests of, and necessary for, the protection of the  
2008 public health, safety, and general welfare of residents of this  
2009 state and declaring it an essential public purpose to permit  
2010 certain municipalities or counties to issue such bonds as will  
2011 permit relief to claimants and policyholders of the corporation.  
2012 Any such unit of local government may enter into ~~such~~ contracts  
2013 with the corporation and with any other entity created pursuant  
2014 to this subsection as ~~are~~ necessary to carry out this paragraph.  
2015 Any bonds issued are ~~under this subparagraph~~ shall be payable  
2016 from and secured by moneys received by the corporation from  
2017 emergency assessments under sub-subparagraph (b)3.d., and  
2018 assigned and pledged to or on behalf of the unit of local  
2019 government for the benefit of the holders of such bonds. The  
2020 funds, credit, property, and taxing power of the state or of the  
2021 unit of local government may ~~shall~~ not be pledged for the  
2022 payment of such bonds.

2023 3.~~a~~. The corporation shall adopt one or more programs  
2024 subject to approval by the office for the reduction of both new  
2025 and renewal writings by ~~in~~ the corporation. The corporation may  
2026 consider any prudent and not unfairly discriminatory approach to  
2027 reducing corporation writings.

2028 a. The corporation may adopt a credit against assessment  
2029 liability or other liability which provides an incentive for  
2030 insurers to take and keep risks out of the corporation by

576-03539-13

20131770c1

2031 maintaining or increasing voluntary writings in counties or  
2032 areas in which corporation risks are highly concentrated, and a  
2033 program to provide a formula under which an insurer voluntarily  
2034 taking risks out of the corporation by maintaining or increasing  
2035 voluntary writings is relieved, wholly or partially, from  
2036 assessments under sub-subparagraph (b)3.a.

2037 b. ~~Beginning January 1, 2008,~~ Any program the corporation  
2038 adopts for the payment of bonuses to an insurer for each risk  
2039 the insurer removes from the corporation must ~~shall~~ comply with  
2040 s. 627.3511(2) and may not exceed the amount referenced in s.  
2041 627.3511(2) for each risk removed. ~~The corporation may consider~~  
2042 ~~any prudent and not unfairly discriminatory approach to reducing~~  
2043 ~~corporation writings, and may adopt a credit against assessment~~  
2044 ~~liability or other liability that provides an incentive for~~  
2045 ~~insurers to take risks out of the corporation and to keep risks~~  
2046 ~~out of the corporation by maintaining or increasing voluntary~~  
2047 ~~writings in counties or areas in which corporation risks are~~  
2048 ~~highly concentrated and a program to provide a formula under~~  
2049 ~~which an insurer voluntarily taking risks out of the corporation~~  
2050 ~~by maintaining or increasing voluntary writings will be relieved~~  
2051 ~~wholly or partially from assessments under sub-subparagraph~~  
2052 ~~(b)3.a. However,~~ Any "take-out bonus" or payment to an insurer  
2053 must be conditioned on the property being insured for at least 5  
2054 years by the insurer, unless canceled or nonrenewed by the  
2055 policyholder. If the policy is canceled or nonrenewed by the  
2056 policyholder before the end of the 5-year period, the amount of  
2057 the take-out bonus must be prorated for the time period the  
2058 policy was insured. If ~~When~~ the corporation enters into a  
2059 contractual agreement for a take-out plan, the producing agent

576-03539-13

20131770c1

2060 of record of the corporation policy is entitled to retain any  
2061 unearned commission on such policy, and the insurer shall  
2062 either:

2063 (I) Pay to the producing agent of record of the policy, for  
2064 the first year, an amount which is the greater of the insurer's  
2065 usual and customary commission for the type of policy written or  
2066 a policy fee equal to the usual and customary commission of the  
2067 corporation; or

2068 (II) Offer to allow the producing agent of record ~~of the~~  
2069 ~~policy~~ to continue servicing the policy for at least a period of  
2070 ~~not less than~~ 1 year and offer to pay the agent the insurer's  
2071 usual and customary commission for the type of policy written.  
2072 If the producing agent is unwilling or unable to accept  
2073 appointment by the new insurer, the new insurer shall pay the  
2074 agent in accordance with sub-sub-subparagraph (I).

2075 ~~c.b.~~ Any credit or exemption from regular assessments  
2076 adopted under this subparagraph shall last up to no longer than  
2077 ~~the~~ 3 years after following the cancellation or expiration of  
2078 the policy by the corporation. With the approval of the office,  
2079 the board may extend such credits for an additional year if the  
2080 insurer guarantees an additional year of renewability for all  
2081 policies removed from the corporation, or for 2 additional years  
2082 if the insurer guarantees 2 additional years of renewability for  
2083 all policies so removed.

2084 ~~d.e. A~~ There shall be no credit, limitation, exemption, or  
2085 deferment from emergency assessments ~~to be~~ collected from  
2086 policyholders pursuant to sub-subparagraph (b)3.d. is  
2087 prohibited.

2088 4. The corporation plan shall provide for the deferment, in



576-03539-13

20131770c1

2089 whole or in part, of the assessment of an assessable insurer,  
2090 other than an emergency assessment collected from policyholders  
2091 pursuant to sub-subparagraph (b)3.d., if the office finds that  
2092 payment of the assessment would endanger or impair the solvency  
2093 of the insurer. ~~If In the event~~ an assessment against an  
2094 assessable insurer is deferred in whole or in part, the amount  
2095 by which such assessment is deferred may be assessed against the  
2096 other assessable insurers in a manner consistent with the basis  
2097 for assessments set forth in paragraph (b).

2098 5. ~~Effective July 1, 2007,~~ In order to evaluate the costs  
2099 and benefits of approved take-out plans, if the corporation pays  
2100 a bonus or other payment to an insurer for an approved take-out  
2101 plan, it shall maintain a record of the address or such other  
2102 identifying information on the property or risk removed in order  
2103 to track if and when the property or risk is later insured by  
2104 the corporation.

2105 ~~6.~~ Any policy taken out, assumed, or removed from the  
2106 corporation is, as of the effective date of the take-out,  
2107 assumption, or removal, direct insurance issued by the insurer  
2108 and not by the corporation, even if the corporation continues to  
2109 service the policies. This subparagraph applies to policies of  
2110 the corporation and not policies taken out, assumed, or removed  
2111 from any other entity.

2112 6. The corporation may adopt one or more programs to  
2113 encourage authorized insurers to remove policies from the  
2114 corporation through a loan from the corporation to an insurer  
2115 secured by a surplus note that contains such necessary and  
2116 reasonable provisions as the corporation requires. Such surplus  
2117 note is subject to the review and approval of the office

576-03539-13

20131770c1

2118 pursuant to s. 628.401. The corporation may include, but is not  
2119 limited to, provisions regarding the maximum size of a loan to  
2120 an insurer, capital matching requirements, the relationship  
2121 between the aggregate number of policies or amount of loss  
2122 exposure removed from the association and the amount of a loan,  
2123 retention requirements related to policies removed from the  
2124 corporation, and limitations on the number of insurers receiving  
2125 loans from the corporation under any one management group in  
2126 whatever form or arrangement. If a loan secured by a surplus  
2127 note is provided to a new mutual insurance company, the  
2128 corporation may require the board of the new mutual insurer to  
2129 have a majority of independent board members, may restrict the  
2130 ability of the new mutual insurer to convert to a stock insurer  
2131 while the mutual insurer owes any principal or interest under  
2132 the surplus note to the corporation, establish a capital match  
2133 requirement of up to \$1 of private capital for each \$4 of the  
2134 corporation's loan to a new mutual insurer, and limit the  
2135 eligibility of a new mutual insurer for a waiver of the ceding  
2136 commission traditionally associated with take-out programs from  
2137 the corporation to those new mutual insurers that agree  
2138 contractually to maintain an expense ratio below 20 per cent of  
2139 written premium. For this purpose, the term "expense ratio"  
2140 means the sum of agent commissions and other acquisition  
2141 expenses; general and administrative expenses; and premium  
2142 taxes, licenses, and fees, divided by the gross written premium.

2143 (z) In enacting the provisions of this section, the  
2144 Legislature recognizes that both the Florida Windstorm  
2145 Underwriting Association and the Residential Property and  
2146 Casualty Joint Underwriting Association have entered into

576-03539-13

20131770c1

2147 financing arrangements that obligate each entity to service its  
2148 debts and maintain the capacity to repay funds secured under  
2149 these financing arrangements. It is the intent of the  
2150 Legislature that ~~nothing in~~ this section not be construed to  
2151 compromise, diminish, or interfere with the rights of creditors  
2152 under such financing arrangements. It is further the intent of  
2153 the Legislature to preserve the obligations of the Florida  
2154 Windstorm Underwriting Association and Residential Property and  
2155 Casualty Joint Underwriting Association with regard to  
2156 outstanding financing arrangements, with such obligations  
2157 passing entirely and unchanged to the corporation and,  
2158 specifically, to the applicable account of the corporation. So  
2159 long as any bonds, notes, indebtedness, or other financing  
2160 obligations of the Florida Windstorm Underwriting Association or  
2161 the Residential Property and Casualty Joint Underwriting  
2162 Association are outstanding, under the terms of the financing  
2163 documents pertaining to them, the executive director of the  
2164 corporation, with the concurrence of the governing board, ~~of the~~  
2165 ~~corporation~~ shall have and shall exercise the authority to levy,  
2166 charge, collect, and receive all premiums, assessments,  
2167 surcharges, charges, revenues, and receipts that the  
2168 associations had authority to levy, charge, collect, or receive  
2169 under the provisions of subsection (2) and this subsection,  
2170 respectively, as they existed on January 1, 2002, to provide  
2171 moneys, without exercise of the authority provided by this  
2172 subsection, in at least the amounts, and by the times, as would  
2173 be provided under those former provisions of subsection (2) or  
2174 this subsection, respectively, so that the value, amount, and  
2175 collectability of any assets, revenues, or revenue source

576-03539-13

20131770c1

2176 pledged or committed to, or any lien thereon securing such  
2177 outstanding bonds, notes, indebtedness, or other financing  
2178 obligations is ~~will~~ not ~~be~~ diminished, impaired, or adversely  
2179 affected by the amendments made by this section ~~act~~ and to  
2180 permit compliance with all provisions of financing documents  
2181 pertaining to such bonds, notes, indebtedness, or other  
2182 financing obligations, or the security or credit enhancement for  
2183 them, and any reference in this subsection to bonds, notes,  
2184 indebtedness, financing obligations, or similar obligations, of  
2185 the corporation must ~~shall~~ include like instruments or contracts  
2186 of the Florida Windstorm Underwriting Association and the  
2187 Residential Property and Casualty Joint Underwriting Association  
2188 to the extent not inconsistent with the ~~provisions of the~~  
2189 financing documents pertaining to them.

2190 (gg) The Office of Inspector General is established within  
2191 the corporation to provide a central point for coordination of  
2192 and responsibility for activities that promote accountability,  
2193 integrity, and efficiency. The office shall be headed by an  
2194 inspector general, which is a senior management position that  
2195 involves planning, coordinating, and performing activities  
2196 assigned to and assumed by the inspector general for the  
2197 corporation.

2198 1. The inspector general shall be appointed by the  
2199 Financial Services Commission and may be removed from office  
2200 only by the commission. The inspector general shall be appointed  
2201 without regard to political affiliation.

2202 a. At a minimum, the inspector general must possess a  
2203 bachelor's degree from an accredited college or university and 8  
2204 years of professional experience related to the duties of an

576-03539-13

20131770c1

2205 inspector general as described in this paragraph, of which 5  
2206 years must have been at a supervisory level.

2207 b. Until June 30, 2014, the inspector general shall be  
2208 under the general supervision of the Financial Services  
2209 Commission and not subject to the supervision of any employee of  
2210 the corporation. Beginning July 1, 2014, the inspector general  
2211 shall report to, and be under the supervision of, the chair of  
2212 the board of governors. The executive director or corporation  
2213 staff may not prevent or prohibit the inspector general from  
2214 initiating, carrying out, or completing any review, evaluation,  
2215 or investigation.

2216 2. The inspector general shall initiate, direct,  
2217 coordinate, participate in, and perform studies, reviews,  
2218 evaluations, and investigations designed to assess management  
2219 practices; compliance with laws, rules, and policies; and  
2220 program effectiveness and efficiency. This includes:

2221 a. Conducting internal examinations; investigating  
2222 allegations of fraud, waste, abuse, malfeasance, mismanagement,  
2223 employee misconduct, or violations of corporation policies; and  
2224 conducting any other investigations as directed by the Financial  
2225 Services Commission or as independently determined.

2226 b. Evaluating and recommending actions regarding security,  
2227 the ethical behavior of personnel and vendors, and compliance  
2228 with rules, laws, policies, and personnel matters; and rendering  
2229 ethics opinions.

2230 c. Overseeing or participating in personnel and  
2231 administrative policy compliance and management, operational  
2232 reviews, and conducting and selecting human resources-related  
2233 advice and consultation.

576-03539-13

20131770c1

2234 d. In conjunction with the ethics and compliance officer,  
2235 evaluating the application of a corporation code of ethics,  
2236 providing input on the design and content of ethics-related  
2237 policy training courses, educating employees on the code and on  
2238 appropriate conduct, and checking for compliance.

2239 e. Participating in policy development and review. This  
2240 includes working collaboratively with the ethics and compliance  
2241 officer in the creation, modification, and maintenance of  
2242 personnel and administrative services policies and in the  
2243 identification of policy enhancements; and researching policy-  
2244 related issues.

2245 f. Participating in the activities of the senior management  
2246 team and evaluating the management's compliance with recommended  
2247 solutions.

2248 g. Cooperating and coordinating activities with the chief  
2249 of internal audit, but not conducting internal audits.

2250 h. Maintaining records of investigations and discipline in  
2251 accordance with established policies.

2252 i. Supervising and directing the tasks and assignments of  
2253 the staff assigned to assist with the inspector general's  
2254 projects. This includes regular review and feedback regarding  
2255 work in progress and upon completion and providing input  
2256 regarding relevant training and staff development activities as  
2257 warranted.

2258 j. Directing, planning, preparing, and presenting interim  
2259 and final reports and oral briefings to the Financial Services  
2260 Commission and the executive director which communicate the  
2261 results of studies, reviews, and investigations.

2262 k. Providing the executive director with independent and

576-03539-13

20131770c1

2263 objective assessments of programs and activities.

2264 1. Completing special projects and assignments as directed  
2265 by the Financial Services Commission and performing other duties  
2266 as requested by the commission.

2267 3. At least annually, the inspector general shall provide a  
2268 report to the President of the Senate and the Speaker of the  
2269 House of Representatives regarding the corporation's  
2270 clearinghouse and the extent to which policies are being  
2271 returned to the voluntary market. This report must include an  
2272 analysis regarding the effectiveness of the clearinghouse in  
2273 encouraging voluntary market participation in depopulation.

2274 Section 10. Effective October 1, 2013, paragraph (e) of  
2275 subsection (6) of section 627.351, Florida Statutes, is amended  
2276 to read

2277 627.351 Insurance risk apportionment plans.—

2278 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

2279 (e) The corporation is subject to s. 287.057 for the  
2280 purchase of commodities and contractual services except as  
2281 otherwise provided in this paragraph. Services provided by  
2282 traders or technical experts to assist a licensed adjuster  
2283 in the evaluation of individual claims are not subject to the  
2284 procurement requirements of this section. Additionally, the  
2285 procurement of financial services providers and underwriters  
2286 must be made pursuant to s. 627.3513 ~~Purchases that equal or~~  
2287 ~~exceed \$2,500, but are less than \$25,000, shall be made by~~  
2288 ~~receipt of written quotes, written record of telephone quotes,~~  
2289 ~~or informal bids, whenever practical. The procurement of goods~~  
2290 ~~or services valued at or over \$25,000 shall be subject to~~  
2291 ~~competitive solicitation, except in situations where the goods~~

576-03539-13

20131770c1

2292 ~~or services are provided by a sole source or are deemed an~~  
2293 ~~emergency purchase; the services are exempted from competitive~~  
2294 ~~solicitation requirements under s. 287.057(3)(f); or the~~  
2295 ~~procurement of services is subject to s. 627.3513. Justification~~  
2296 ~~for the sole-sourcing or emergency procurement must be~~  
2297 ~~documented.~~ Contracts for goods or services valued at or more  
2298 than ~~over~~ \$100,000 are subject to approval by the board.

2299 1. The corporation is an agency for the purposes of s.  
2300 287.057, except for subsection (22) of that section for which  
2301 the corporation is an eligible user.

2302 a. The authority of the Department of Management Services  
2303 and the Chief Financial Officer under s. 287.057 extends to the  
2304 corporation as if the corporation were an agency.

2305 b. The executive director of the corporation is the agency  
2306 head under s. 287.057, except for resolution of bid protests for  
2307 which the board would serve as the agency head.

2308 2. The corporation must provide notice of a decision or  
2309 intended decision concerning a solicitation, contract award, or  
2310 exceptional purchase by electronic posting. Such notice must  
2311 contain the following statement: "Failure to file a protest  
2312 within the time prescribed in this section constitutes a waiver  
2313 of proceedings."

2314 a. A person adversely affected by the corporation's  
2315 decision or intended decision to award a contract pursuant to s.  
2316 287.057(1) or s. 287.057(3)(c) who elects to challenge the  
2317 decision must file a written notice of protest with the  
2318 executive director of the corporation within 72 hours after the  
2319 corporation posts a notice of its decision or intended decision.  
2320 For a protest of the terms, conditions, and specifications



576-03539-13

20131770c1

2321 contained in a solicitation, including any provisions governing  
2322 the methods for ranking bids, proposals, replies, awarding  
2323 contracts, reserving rights of further negotiation, or modifying  
2324 or amending any contract, the notice of protest must be filed in  
2325 writing within 72 hours after the posting of the solicitation.  
2326 Saturdays, Sundays, and state holidays are excluded in the  
2327 computation of the 72-hour time period.

2328 b. A formal written protest must be filed within 10 days  
2329 after the date the notice of protest is filed. The formal  
2330 written protest must state with particularity the facts and law  
2331 upon which the protest is based. Upon receipt of a formal  
2332 written protest that has been timely filed, the corporation must  
2333 stop the solicitation or contract award process until the  
2334 subject of the protest is resolved by final board action unless  
2335 the executive director sets forth in writing particular facts  
2336 and circumstances that require the continuance of the  
2337 solicitation or contract award process without delay in order to  
2338 avoid an immediate and serious danger to the public health,  
2339 safety, or welfare. The corporation must provide an opportunity  
2340 to resolve the protest by mutual agreement between the parties  
2341 within 7 business days after receipt of the formal written  
2342 protest. If the subject of a protest is not resolved by mutual  
2343 agreement within 7 business days, the corporation's board must  
2344 place the protest on the agenda and resolve it at its next  
2345 regularly scheduled meeting. The protest must be heard by the  
2346 board at a publicly noticed meeting in accordance with  
2347 procedures established by the board.

2348 c. In a protest of an invitation-to-bid or request-for-  
2349 proposals procurement, submissions made after the bid or

576-03539-13

20131770c1

2350 proposal opening which amend or supplement the bid or proposal  
2351 may not be considered. In protesting an invitation-to-negotiate  
2352 procurement, submissions made after the corporation announces  
2353 its intent to award a contract, reject all replies, or withdraw  
2354 the solicitation that amends or supplements the reply may not be  
2355 considered. Unless otherwise provided by law, the burden of  
2356 proof rests with the party protesting the corporation's action.  
2357 In a competitive-procurement protest, other than a rejection of  
2358 all bids, proposals, or replies, the corporation's board must  
2359 conduct a de novo proceeding to determine whether the  
2360 corporation's proposed action is contrary to the corporation's  
2361 governing statutes, the corporation's rules or policies, or the  
2362 solicitation specifications. The standard of proof for the  
2363 proceeding is whether the corporation's action was clearly  
2364 erroneous, contrary to competition, arbitrary, or capricious. In  
2365 any bid-protest proceeding contesting an intended corporation  
2366 action to reject all bids, proposals, or replies, the standard  
2367 of review by the board is whether the corporation's intended  
2368 action is illegal, arbitrary, dishonest, or fraudulent.

2369 d. Failure to file a notice of protest or failure to file a  
2370 formal written protest constitutes a waiver of proceedings.

2371 3. Contract actions and decisions by the board under this  
2372 paragraph are final. Any further legal remedy must be made in  
2373 the Circuit Court of Leon County.

2374 Section 11. The purchase of commodities and contractual  
2375 services by Citizens Property Insurance Corporation commenced  
2376 before October 1, 2013, is governed by the law in effect on  
2377 September 30, 2013.

2378 Section 12. Effective January 1, 2014, paragraph (n) of

576-03539-13

20131770c1

2379 subsection (6) of section 627.351, Florida Statutes, is amended  
2380 to read:

2381 627.351 Insurance risk apportionment plans.—

2382 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

2383 (n)1. ~~Rates for coverage provided by the corporation must~~  
2384 ~~be actuarially sound and subject to s. 627.062,~~ Except as  
2385 otherwise provided in this paragraph, rates for coverage  
2386 provided by the corporation must be actuarially sound and not  
2387 competitive with approved rates charged in the admitted  
2388 voluntary market in order for the corporation to function as a  
2389 residual market mechanism that provides insurance only if  
2390 insurance cannot be procured in the voluntary market.

2391 a. In establishing actuarially sound rates the corporation  
2392 shall include an appropriate catastrophe risk load factor that  
2393 reflects the actual catastrophic risk exposure retained by the  
2394 corporation.

2395 b. In establishing noncompetitive rates for personal and  
2396 commercial lines residential policies, the average rates of the  
2397 corporation for each rating territory may not be less than the  
2398 average rates charged by the insurer that had the highest  
2399 average rate in that rating territory among the 20 voluntary  
2400 admitted insurers with the greatest total direct written premium  
2401 in the state for that line of business in the preceding year.

2402 c. In establishing noncompetitive rates for mobile home  
2403 coverage, the average rates of the corporation may not be less  
2404 than the average rates charged by the insurer that had the  
2405 highest average rate in that rating territory among the five  
2406 voluntary admitted insurers with the greatest total written  
2407 premium for mobile home owner's policies in the state in the

576-03539-13

20131770c1

2408 preceding year. The corporation shall file its recommended rates  
2409 with the office at least annually. ~~The corporation shall provide~~  
2410 ~~any additional information regarding the rates which the office~~  
2411 ~~requires. The office shall consider the recommendations of the~~  
2412 ~~board and issue a final order establishing the rates for the~~  
2413 ~~corporation within 45 days after the recommended rates are~~  
2414 ~~filed. The corporation may not pursue an administrative~~  
2415 ~~challenge or judicial review of the final order of the office.~~

2416 d. Rates for commercial nonresidential policies must be  
2417 actuarially sound in accordance with sub-subparagraph a.

2418 e. The requirements of sub-subparagraphs b. and c. do not  
2419 apply to rates in territories where the office determines there  
2420 is not a reasonable degree of competition. In such territories  
2421 the corporation's rates must be actuarially sound in accordance  
2422 with sub-subparagraph a.

2423 2. In addition to the rates otherwise determined pursuant  
2424 to this paragraph, the corporation shall impose and collect an  
2425 amount equal to the premium tax provided in s. 624.509 to  
2426 augment the financial resources of the corporation.

2427 ~~3. After the public hurricane loss projection model under~~  
2428 ~~s. 627.06281 has been found to be accurate and reliable by the~~  
2429 ~~Florida Commission on Hurricane Loss Projection Methodology, the~~  
2430 ~~model shall serve as the minimum benchmark for determining the~~  
2431 ~~windstorm portion of the corporation's rates. This subparagraph~~  
2432 ~~does not require or allow the corporation to adopt rates lower~~  
2433 ~~than the rates otherwise required or allowed by this paragraph.~~

2434 ~~4. The rate filings for the corporation which were approved~~  
2435 ~~by the office and took effect January 1, 2007, are rescinded,~~  
2436 ~~except for those rates that were lowered. As soon as possible,~~

576-03539-13

20131770c1

2437 ~~the corporation shall begin using the lower rates that were in~~  
2438 ~~effect on December 31, 2006, and provide refunds to~~  
2439 ~~policyholders who paid higher rates as a result of that rate~~  
2440 ~~filing. The rates in effect on December 31, 2006, remain in~~  
2441 ~~effect for the 2007 and 2008 calendar years except for any rate~~  
2442 ~~change that results in a lower rate. The next rate change that~~  
2443 ~~may increase rates shall take effect pursuant to a new rate~~  
2444 ~~filing recommended by the corporation and established by the~~  
2445 ~~office, subject to this paragraph.~~

2446 ~~5. Beginning on July 15, 2009, and annually thereafter, the~~  
2447 ~~corporation must make a recommended actuarially sound rate~~  
2448 ~~filing for each personal and commercial line of business it~~  
2449 ~~writes, to be effective no earlier than January 1, 2010.~~

2450 ~~3.6. For policies initially insured by the corporation~~  
2451 ~~before July 1, 2013, and which have continuously been insured by~~  
2452 ~~the corporation since that date, Beginning on or after January~~  
2453 ~~1, 2010, and notwithstanding the board's recommended rates and~~  
2454 ~~the office's final order regarding the corporation's filed rates~~  
2455 ~~under subparagraph 1., the corporation shall annually implement~~  
2456 ~~a rate increase that which, except for sinkhole coverage, does~~  
2457 ~~not exceed 10 percent for any territory single policy issued by~~  
2458 ~~the corporation, excluding coverage changes and surcharges. This~~  
2459 ~~subparagraph is limited to:~~

2460 ~~a. Personal lines residential policies that have a dwelling~~  
2461 ~~replacement cost of less than \$300,000 and that cover homestead~~  
2462 ~~personal residential properties or occupied permanent~~  
2463 ~~residencies having a written rental agreement for at least 12~~  
2464 ~~months.~~

2465 ~~b. Personal lines residential wind-only policies that cover~~

576-03539-13

20131770c1

2466 homestead personal residential properties, or that are occupied  
 2467 permanent residencies that have a written rental agreement for  
 2468 no less than 12 months, and have a dwelling replacement cost of  
 2469 less than:

2470 (1) \$1 million on July 1, 2013.

2471 (II) \$800,000 on January 1, 2014.

2472 (III) \$600,000 on January 1, 2015.

2473 c. Commercial lines residential properties.

2474 4. The corporation shall also implement the following:

2475 a.7. The corporation may also implement An increase to  
 2476 reflect the effect on the corporation of the cash buildup factor  
 2477 pursuant to s. 215.555(5) (b) .

2478 b. An increase of up to 3 percent, which shall only be used  
 2479 to purchase catastrophe reinsurance or other risk transfer  
 2480 mechanisms for purposes of protecting the corporation and its  
 2481 policyholders from potential shortfalls and assessments. In any  
 2482 year for which the full 3 percent increase is imposed, there  
 2483 must also be a corresponding 3 percent decrease, 1 percent per  
 2484 account, from the Citizens policyholder surcharge in (b)3.i.,  
 2485 for that year.

2486 5.8. The corporation's implementation of rates as  
 2487 prescribed in subparagraph 3. 6. shall cease for any line of  
 2488 business written by the corporation upon the corporation's  
 2489 implementation of the rates described in subparagraph 1.  
 2490 actuarially sound rates. Thereafter, the corporation shall  
 2491 annually make a recommended actuarially sound rate filing  
 2492 implementing such rates for each commercial and personal line of  
 2493 business the corporation writes.

2494 6. The corporation shall annually certify to the office

576-03539-13

20131770c1

2495 that its rates comply with the requirements of this paragraph.  
2496 If any adjustment in the rates or rating factors of the  
2497 corporation is necessary to ensure such compliance, the  
2498 corporation shall make and implement such adjustments and file  
2499 its revised rates and rating factors with the office. If the  
2500 office thereafter determines that the revised rates and rating  
2501 factors fail to comply with this paragraph, it shall notify the  
2502 corporation and require the corporation to amend its rates or  
2503 rating factors in conjunction with its next rate filing. The  
2504 office must notify the corporation by electronic means of any  
2505 rate filing it approves for any insurer among the insurers  
2506 referred to in this paragraph.

2507 7. By January 1, 2014, the board shall provide  
2508 recommendations to the Legislature on how to provide relief to a  
2509 policyholder whose premium reflects the full rate required under  
2510 subparagraph 1. and who demonstrates a financial need at the  
2511 time of application or renewal.

2512 Section 13. Section 627.3518, Florida Statutes, is created  
2513 to read:

2514 627.3518 Citizens Property Insurance Corporation  
2515 clearinghouse.—The Legislature recognizes that Citizens Property  
2516 Insurance Corporation has authority to establish a clearinghouse  
2517 as a separate organizational unit within the corporation for the  
2518 purpose of determining the eligibility of new and renewal risks,  
2519 excluding commercial residential, seeking coverage through the  
2520 corporation and facilitating the identification and diversion of  
2521 ineligible applicants and current policyholders from the  
2522 corporation into the voluntary insurance market. The purpose of  
2523 this section is to augment that authority by providing a

576-03539-13

20131770c1

2524 framework for the corporation to implement such program by July  
2525 1, 2013.

2526 (1) As used in this section, the term:

2527 (a) "Clearinghouse" means the clearinghouse diversion  
2528 program created under this section.

2529 (b) "Corporation" means Citizens Property Insurance  
2530 Corporation.

2531 (c) "Exclusive agent" means a licensed insurance agent who  
2532 has agreed, by contract, to act exclusively for one company or  
2533 group of affiliated insurance companies and is disallowed by the  
2534 provisions of that contract to directly write for any other  
2535 unaffiliated insurer absent express consent from the company or  
2536 group of affiliated insurance companies.

2537 (d) "Independent agent" means a licensed insurance agent  
2538 not described in paragraph (c).

2539 (2) In order to confirm eligibility with the corporation  
2540 and to enhance the access of new applicants for coverage and  
2541 existing policyholders of the corporation to offers of coverage  
2542 from authorized and eligible insurers, the corporation shall  
2543 establish a clearinghouse to facilitate the diversion of  
2544 ineligible applicants and existing policyholders from the  
2545 corporation into the voluntary insurance market.

2546 (3) The clearinghouse shall have the same rights and  
2547 responsibilities in carrying out its duties as a licensed  
2548 general lines agent, but is not required to employ or engage a  
2549 licensed general lines agent or to maintain an insurance agency  
2550 license in order to solicit and place insurance coverage. In  
2551 establishing the clearinghouse, the corporation may:

2552 (a) Require all new applications and all policies due for



576-03539-13

20131770c1

2553 renewal to be submitted to the clearinghouse or a private  
2554 alternative in order to facilitate obtaining an offer of  
2555 coverage from an authorized insurer before binding or renewing  
2556 coverage by the corporation.

2557 (b) Employ or otherwise contract with individuals or other  
2558 entities to provide administrative or professional services in  
2559 order to effectuate the plan within the corporation in  
2560 accordance with the applicable purchasing requirements under s.  
2561 627.351.

2562 (c) Enter into contracts with an authorized or eligible  
2563 insurer participating in the clearinghouse and accept an  
2564 appointment by such insurer.

2565 (d) Provide funds to operate the clearinghouse, or charge  
2566 agents and insurers a reasonable fee to offset, or partially  
2567 offset, the costs of the clearinghouse. Insurers participating  
2568 in the clearinghouse are not required to use the clearinghouse  
2569 for the renewal of policies initially written through the  
2570 clearinghouse.

2571 (e) Develop an enhanced application for obtaining  
2572 information that will assist private insurers in determining  
2573 whether to make an offer of coverage through the clearinghouse.

2574 (f) Before approving new applications for coverage by the  
2575 corporation, require every application to be subject to a 48-  
2576 hour period that allows an insurer participating in the  
2577 clearinghouse to select the application for coverage. The  
2578 insurer may issue a binder on any policy selected for coverage  
2579 for a period of at least 30 days, but not more than 60 days.

2580 (4) An authorized or eligible insurer may participate in  
2581 the clearinghouse; however, participation is not mandatory.

576-03539-13

20131770c1

2582 Insurers making offers of coverage to new applicants or renewing  
2583 policyholders through the clearinghouse:

2584 (a) Are not required to individually appoint an agent whose  
2585 customer is underwritten and bound through the clearinghouse.  
2586 Notwithstanding s. 626.112, insurers are not required to appoint  
2587 an agent on a policy underwritten through the clearinghouse as  
2588 long as that policy remains with the insurer. Insurers may  
2589 appoint an agent whose customer is initially underwritten and  
2590 bound through the clearinghouse. If an insurer accepts a policy  
2591 from an agent who is not appointed pursuant to this paragraph  
2592 and thereafter accepts a policy from such agent, the provisions  
2593 of s. 626.112 requiring appointment apply to the agent.

2594 (b) Must enter into a limited agency agreement with each  
2595 agent who is not appointed in accordance with paragraph (a) and  
2596 whose customer is underwritten and bound through the  
2597 clearinghouse.

2598 (c) Must enter into its standard agency agreement with each  
2599 agent whose customer is underwritten and bound through the  
2600 clearinghouse if that agent has been appointed by the insurer  
2601 pursuant to s. 626.112.

2602 (d) Must comply with s. 627.4133(2).

2603 (e) Must allow authorized or eligible insurers  
2604 participating in the clearinghouse to participate through their  
2605 single, designated managing general agent or broker; however the  
2606 provisions of paragraph (6) (a) regarding ownership, control, and  
2607 use of the expirations apply.

2608 (5) (a) Notwithstanding s. 627.3517, an applicant for new  
2609 coverage is not eligible for coverage from the corporation if  
2610 the applicant is offered coverage from an authorized insurer

576-03539-13

20131770c1

2611 through the clearinghouse at a premium that is at or below the  
2612 eligibility threshold established under s. 627.351(6)(c)5.a.

2613 (b) Notwithstanding any other provisions of law, if a  
2614 renewing policyholder of the corporation is offered coverage  
2615 from an authorized insurer for a personal lines or commercial  
2616 lines risk at a premium that is no more than 15 percent above  
2617 the corporation's renewal premium for comparable coverage, the  
2618 risk is not eligible for coverage with the corporation.

2619 (c) Notwithstanding s. 626.916(1), if an applicant for new  
2620 or renewal coverage from the corporation does not receive an  
2621 offer of coverage from an authorized insurer, the applicant may  
2622 choose to accept an offer of coverage from an eligible insurer  
2623 or their broker under ss. 626.913-626.937. Such offers of  
2624 coverage from an eligible insurer do not make the risk  
2625 ineligible for coverage with the corporation.

2626 (d) An applicant for new or renewal coverage from the  
2627 corporation may choose to accept any offers of coverage received  
2628 through the clearinghouse from an authorized insurer that is  
2629 greater than 15 percent of the corporation's renewal premium.

2630 (e) Sections 627.351(6)(c)5.a.(I) and b.(I) do not apply to  
2631 an offer of coverage from an authorized insurer obtained through  
2632 the clearinghouse.

2633 (6) Independent agents who submit new applications for  
2634 coverage or who are the agent of record on a renewal policy  
2635 submitted to the clearinghouse:

2636 (a) Must maintain ownership and the exclusive use of  
2637 expirations, records, or other written or electronic information  
2638 directly related to such applications or renewals written  
2639 through the corporation or through an insurer participating in

576-03539-13

20131770c1

2640 the clearinghouse, notwithstanding s. 627.351(6)(c)5.a.(I)(B)  
2641 and (II)(B). Contracts with the corporation or required by the  
2642 corporation may not amend, modify, interfere with, or limit such  
2643 rights of ownership. Such expirations, records, or other written  
2644 or electronic information may be used to review an application,  
2645 issue a policy, or for any other purpose necessary for placing  
2646 business through the clearinghouse.

2647 (b) Are not required to be appointed by an insurer  
2648 participating in the clearinghouse for policies written solely  
2649 through the clearinghouse, notwithstanding s. 626.112.

2650 (c) May accept an appointment from an insurer participating  
2651 in the clearinghouse.

2652 (d) Must enter into a standard or limited agency agreement  
2653 with the insurer, at the insurer's option.

2654  
2655 Applicants ineligible for coverage under paragraph (5)  
2656 remain ineligible if their independent agent is unwilling or  
2657 unable to enter into a standard or limited agency agreement with  
2658 an insurer participating in the clearinghouse.

2659 (7) Exclusive agents submitting new applications for  
2660 coverage or who are the agent of record on a renewal policy  
2661 submitted to the clearinghouse:

2662 (a) Must maintain ownership and the exclusive use of  
2663 expirations, records, or other written or electronic information  
2664 directly related to such applications or renewals written  
2665 through the corporation or through an insurer participating in  
2666 the clearinghouse, notwithstanding s. 627.351(6)(c)5.a.(I)(B)  
2667 and (II)(B). Contracts with the corporation or required by the  
2668 corporation may not amend, modify, interfere with, or limit such

576-03539-13

20131770c1

2669 rights of ownership. Such expirations, records, or other written  
2670 or electronic information may be used to review an application,  
2671 issue a policy, or for any other purpose necessary for placing  
2672 business through the clearinghouse.

2673 (b) Are not required to be appointed by an insurer  
2674 participating in the clearinghouse for policies written solely  
2675 through the clearinghouse, notwithstanding s. 626.112.

2676 (c) Must accept an offer of coverage from an insurer whose  
2677 limited servicing agreement is approved by that agent's  
2678 exclusive insurer as eligible to participate in the  
2679 clearinghouse with that insurer's exclusive agents.

2680 (d) Must enter into a limited servicing agreement with the  
2681 insurer making an offer of coverage, and may do so only after  
2682 the exclusive agent's insurer has approved the terms of the  
2683 agreement. The exclusive agent's insurer must approve a limited  
2684 service agreement for the clearinghouse if the insurer has  
2685 approved a service agreement with the agent for other purposes.

2686  
2687 An applicant is ineligible for coverage under paragraph (5)  
2688 if the applicant's exclusive agent is unwilling or unable to  
2689 enter into a standard or limited agency agreement with a  
2690 participating insurer making an offer of coverage to that  
2691 applicant.

2692 (8) To promote private market initiatives that provide  
2693 offers of coverage from authorized and eligible insurers to  
2694 applicants for coverage by the corporation and to the  
2695 corporation's policyholders on renewal, the corporation shall  
2696 publish, by January 1, 2014, reasonable standards for private  
2697 alternatives to the submission of a risk to the clearinghouse.

576-03539-13

20131770c1

2698 Such private alternatives may act in a master agency arrangement  
2699 that allows agents to be appointed as subagents of a master  
2700 agency and to use private alternatives for the submission of  
2701 risks to the clearinghouse. The alternative option allowed under  
2702 this subsection is an alternative to, and not a replacement for,  
2703 the clearinghouse. Neither the clearinghouse nor any private  
2704 entity operating under this subsection may prohibit insurers  
2705 that elect to participate from participating in more than one  
2706 clearinghouse or alternative; however, an insurer participating  
2707 in the private entity must also participate in the  
2708 clearinghouse.

2709 (9) Submission of an application to the clearinghouse for  
2710 coverage by the corporation does not constitute the binding of  
2711 coverage, and the failure of the clearinghouse to obtain an  
2712 offer of coverage by an insurer is not considered acceptance of  
2713 coverage of the risk by the corporation.

2714 (10) The clearinghouse does not include commercial  
2715 residential policies.

2716 Section 14. Temporary keepout program.—Citizens Property  
2717 Corporation shall implement a temporary keepout program  
2718 beginning July 1, 2013, and ending on the date the clearinghouse  
2719 program established under s. 627.3518, Florida Statutes, is  
2720 operational.

2721 (1) Subject to procedures adopted by the corporation, the  
2722 program shall provide an opportunity for new applicants for  
2723 personal residential multiperil coverage with the corporation to  
2724 be offered coverage with authorized insurers through the market  
2725 assistance plan established under s. 627.3515, Florida Statutes.

2726 (2) The program is subject to all of the following:

576-03539-13

20131770c1

2727 (a) The corporation may not accept a new personal  
2728 residential multiperil application for coverage within 72 hours  
2729 after submission of the risk to the market assistance plan under  
2730 subsection (1).

2731 (b) Section 627.3517, Florida Statutes, relating to  
2732 consumer choice of agent does not apply to applications for  
2733 coverage accepted by authorized insurers under the program.

2734 (c) Insurers issuing policies under this section are  
2735 subject to s. 627.3518(3), Florida Statutes, relating to agent  
2736 appointment.

2737 (d) Notwithstanding s. 626.916(1), Florida Statutes, if an  
2738 applicant for new or renewal coverage from the corporation does  
2739 not receive an offer of coverage from an eligible insurer, the  
2740 applicant may accept an offer from a designated broker of an  
2741 insurer eligible under ss. 626.913-626.937, Florida Statutes.

2742 (3) This section expires on March 1, 2014, or when the  
2743 clearinghouse program established under s. 627.3518, Florida  
2744 Statutes, becomes operational, whichever occurs first.

2745 Section 15. Subsection (1) of section 627.405, Florida  
2746 Statutes, is amended to read:

2747 627.405 Insurable interest; property.-

2748 (1) A ~~No~~ contract for property ~~of~~ insurance ~~of property~~ or  
2749 ~~of~~ any interest in property or arising from property ~~is not~~  
2750 ~~shall be~~ enforceable as to the insurance except for the benefit  
2751 of persons having an insurable interest in the things insured ~~as~~  
2752 at the time of the loss. Policyholders under a contract of  
2753 property insurance may assign benefits to be received under that  
2754 contract consistent with, and subject to, the conditions in the  
2755 policy.

576-03539-13

20131770c1

2756 Section 16. Subsection (1) of section 627.410, Florida  
2757 Statutes, is amended to read:

2758 627.410 Filing, approval of forms.—

2759 (1) A ~~No~~ basic insurance policy or annuity contract form,  
2760 or application form where written application is required and is  
2761 to be made a part of the policy or contract, ~~or~~ group  
2762 certificates issued under a master contract delivered in this  
2763 state, or printed rider or endorsement form or form of renewal  
2764 certificate, may not ~~shall~~ be delivered or issued for delivery  
2765 in this state, unless the form has been filed with the office by  
2766 or on ~~in~~ behalf of the insurer that ~~which~~ proposes to use such  
2767 form and has been approved by the office. This provision does  
2768 not apply to surety bonds or to policies, riders, endorsements,  
2769 or forms of unique character that ~~which~~ are designed for and  
2770 used with ~~relation to~~ insurance on ~~upon~~ a particular subject,  
2771 ~~(other than as to health insurance)~~, or that ~~which~~ relate to the  
2772 manner of distributing ~~distribution of~~ benefits or to the  
2773 reservation of rights and benefits under life or health  
2774 insurance policies and are used at the request of the individual  
2775 policyholder, contract holder, or certificateholder. For ~~As to~~  
2776 group insurance policies effectuated and delivered outside this  
2777 state but covering persons resident in this state, the group  
2778 certificates to be delivered or issued for delivery in this  
2779 state shall be filed with the office for information purposes  
2780 only.

2781 Section 17. Except as otherwise expressly provided in the  
2782 act, this act shall take effect July 1, 2013.