



609336

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
03/07/2013	.	
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The Committee on Banking and Insurance (Richter) recommended the following:

Senate Amendment (with title amendment)

Delete lines 633 - 1851

and insert:

Section 8. Paragraphs (a), (b), (c), (g), (i), (m), (q), and (z) of subsection (6) of section 627.351, Florida Statutes, are amended to read:

627.351 Insurance risk apportionment plans.—

(6) CITIZENS PROPERTY INSURANCE CORPORATION.—

(a) The public purpose of this subsection is to ensure that there is an orderly market for property insurance for residents



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12 and businesses of this state.

13 1. The Legislature finds that private insurers are entering
14 the Florida property insurance market unwilling or unable to
15 provide affordable property insurance coverage in many regions
16 of the state. The Legislature further finds that when Citizens
17 Property Insurance Corporation offers rates that are not
18 adequate to cover the average costs that are generated from the
19 claims filed by its policyholders, the deficiency may create a
20 financial burden on all other state policyholders who must
21 purchase their own insurance from private insurers at full
22 actuarial cost and pay an added fee to cover a portion of the
23 cost for claims filed by policyholders of the corporation. The
24 Legislature intends that the corporation not act as a barrier or
25 competitor to the private insurance market but be available to
26 residents of in this state only if there is no private market
27 coverage available at rates determined reasonable by the Office
28 of Insurance Regulation to the extent sought and needed. The
29 absence of affordable property insurance threatens the public
30 health, safety, and welfare and likewise threatens the economic
31 health of the state. As the corporation has continued its rapid
32 growth and exposure, it increasingly threatens state residents
33 with having to absorb an even greater financial burden than they
34 are currently bearing. The state, therefore, has a compelling
35 public interest and a public purpose to assist in assuring that
36 property in the state is insured and that it is insured at
37 affordable, actuarially sound, noncompetitive rates so as to
38 facilitate the remediation, reconstruction, and replacement of
39 damaged or destroyed property without overburdening the
40 policyholders of this state in order to reduce or avoid the



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41 negative effects on ~~otherwise resulting to~~ the public health,
42 safety, and welfare; on, ~~to~~ the economy of the state; and on
43 ~~and to~~ the revenues of the state and local governments which are
44 needed to provide for the public welfare. It is necessary,
45 therefore, to make provide affordable, actuarially sound,
46 noncompetitive property insurance available to applicants who
47 are, in good faith, entitled to procure insurance through the
48 voluntary market but are unable to do so. The Legislature
49 intends, therefore, that affordable, actuarially sound,
50 noncompetitive property insurance be provided and ~~that it~~
51 continue to be provided, as long as necessary, through Citizens
52 Property Insurance Corporation, a government entity that is an
53 integral part of the state, ~~and that is~~ not a private insurance
54 company, or through referrals to private insurers participating
55 in a clearinghouse established by the corporation. To that end,
56 the corporation shall strive to promote ~~increase~~ the
57 availability of affordable and actuarially sound private
58 property insurance in this state, supplemented by coverage
59 provided by the corporation if appropriate, while achieving
60 efficiencies and economies, ~~and while~~ providing service to
61 policyholders, applicants, and agents which is no less than the
62 quality generally provided in the voluntary market, for the
63 achievement of the foregoing public purposes. Because it is
64 essential for this government entity to have the maximum
65 financial resources to pay claims following a catastrophic
66 hurricane, it is further the intent of the Legislature that the
67 corporation continue to be an integral part of the state and not
68 a private insurance company, ~~and~~ that the income of the
69 corporation be exempt from federal income taxation, and that



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70 interest on the debt obligations issued by the corporation be
71 exempt from federal income taxation.

72 2. The Residential Property and Casualty Joint Underwriting
73 Association originally created by this statute shall be known as
74 the Citizens Property Insurance Corporation. The corporation
75 shall provide ~~insurance for~~ residential and commercial property
76 insurance, for applicants who are eligible ~~entitled~~, but, in
77 good faith, are unable to procure insurance through the
78 voluntary market. The corporation shall operate pursuant to a
79 plan of operation approved by order of the Financial Services
80 Commission. The plan is subject to continuous review by the
81 commission, and ~~the~~ commission may, by order, withdraw approval
82 of all or part of a plan if the commission determines that
83 conditions have changed since approval was granted and that the
84 purposes of the plan require changes in the plan. For the
85 purposes of this subsection, residential coverage includes both
86 personal lines residential coverage, which consists of the type
87 of coverage provided by homeowner's, mobile home owner's,
88 dwelling, tenant's, condominium unit owner's, and similar
89 policies; and commercial lines residential coverage, which
90 consists of the type of coverage provided by condominium
91 association, apartment building, and similar policies.

92 3. ~~Effective January 1, 2009,~~ A personal lines residential
93 structure that has a dwelling replacement cost of \$600,000 ~~\$2~~
94 ~~million~~ or more, or a single condominium unit that has a
95 combined dwelling and contents replacement cost of \$600,000 ~~\$2~~
96 ~~million~~ or more is not eligible for coverage by the corporation.
97 ~~Such dwellings insured by the corporation on December 31, 2008,~~
98 ~~may continue to be covered by the corporation until the end of~~



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99 ~~the policy term. However, such dwellings may reapply and obtain~~
100 ~~coverage if the property owner provides the corporation with a~~
101 ~~sworn affidavit from one or more insurance agents, on a form~~
102 ~~provided by the corporation, stating that the agents have made~~
103 ~~their best efforts to obtain coverage and that the property has~~
104 ~~been rejected for coverage by at least one authorized insurer~~
105 ~~and at least three surplus lines insurers. If such conditions~~
106 ~~are met, the dwelling may be insured by the corporation for up~~
107 ~~to 3 years, after which time the dwelling is ineligible for~~
108 ~~coverage. The office shall approve the method used by the~~
109 ~~corporation for valuing the dwelling replacement costs under~~
110 ~~cost for the purposes of this subparagraph. If a policyholder is~~
111 ~~insured by the corporation before ~~prior to~~ being determined ~~to~~~~
112 ~~be ineligible pursuant to this subparagraph and such~~
113 ~~policyholder files a lawsuit challenging the determination, the~~
114 ~~policyholder may remain insured by the corporation until the~~
115 ~~conclusion of the litigation.~~

116 4. It is the intent of the Legislature that policyholders,
117 applicants, and agents of the corporation receive service and
118 treatment of the highest possible level but never less than that
119 generally provided in the voluntary market. It is also intended
120 that the corporation be held to service standards no less than
121 those applied to insurers in the voluntary market by the office
122 with respect to responsiveness, timeliness, customer courtesy,
123 and overall dealings with policyholders, applicants, or agents
124 of the corporation.

125 5. Any structure for which a notice of commencement has
126 been issued on or after July 1, 2013, pursuant to s. 713.135,
127 which is located seaward of the coastal construction control



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128 line created pursuant to s. 161.053, is ineligible for coverage
129 through the corporation unless the structure meets the coastal
130 code-plus building code criteria developed and recommended by
131 the Florida Building Commission. Effective January 1, 2009, a
132 personal lines residential structure that is located in the
133 "wind-borne debris region," as defined in s. 1609.2,
134 International Building Code (2006), and that has an insured
135 value on the structure of \$750,000 or more is not eligible for
136 coverage by the corporation unless the structure has opening
137 protections as required under the Florida Building Code for a
138 newly constructed residential structure in that area. A
139 residential structure shall be deemed to comply with this
140 subparagraph if it has shutters or opening protections on all
141 openings and if such opening protections complied with the
142 Florida Building Code at the time they were installed.

143 6. For any claim filed under any policy of the corporation,
144 a public adjuster may not charge, agree to, or accept any
145 compensation, payment, commission, fee, or other thing of value
146 greater than 10 percent of the additional amount actually paid
147 over the amount that was originally offered by the corporation
148 for any one claim.

149 (b)1. All insurers authorized to write one or more subject
150 lines of business in this state are subject to assessment by the
151 corporation and, for the purposes of this subsection, are
152 referred to collectively as "assessable insurers." Insurers
153 writing one or more subject lines of business in this state
154 pursuant to part VIII of chapter 626 are not assessable
155 insurers; however, ~~but~~ insureds who procure one or more subject
156 lines of business in this state pursuant to part VIII of chapter



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157 626 are subject to assessment by the corporation and are
158 referred to collectively as "assessable insureds." An insurer's
159 assessment liability begins on the first day of the calendar
160 year following the year in which the insurer was issued a
161 certificate of authority to transact insurance for subject lines
162 of business in this state and terminates 1 year after the end of
163 the first calendar year during which the insurer no longer holds
164 a certificate of authority to transact insurance for subject
165 lines of business in this state.

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

169 (I) A personal lines account for personal residential
170 policies issued by the corporation, or issued by the Residential
171 Property and Casualty Joint Underwriting Association and renewed
172 by the corporation, which provides comprehensive, multiperil
173 coverage on risks that are not located in areas eligible for
174 coverage by the Florida Windstorm Underwriting Association as
175 those areas were defined on January 1, 2002, and for policies
176 that do not provide coverage for the peril of wind on risks that
177 are located in such areas;

178 (II) A commercial lines account for commercial residential
179 and commercial nonresidential policies issued by the
180 corporation, or issued by the Residential Property and Casualty
181 Joint Underwriting Association and renewed by the corporation,
182 which provides coverage for basic property perils on risks that
183 are not located in areas eligible for coverage by the Florida
184 Windstorm Underwriting Association as those areas were defined
185 on January 1, 2002, and for policies that do not provide



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186 coverage for the peril of wind on risks that are located in such
187 areas; and

188 (III) A coastal account for personal residential policies
189 and commercial residential and commercial nonresidential
190 property policies issued by the corporation, or transferred to
191 the corporation, which provides coverage for the peril of wind
192 on risks that are located in areas eligible for coverage by the
193 Florida Windstorm Underwriting Association as those areas were
194 defined on January 1, 2002. The corporation may offer policies
195 that provide multiperil coverage and ~~the corporation~~ shall
196 ~~continue to~~ offer policies that provide coverage only for the
197 peril of wind for risks located in areas eligible for coverage
198 in the coastal account. In issuing multiperil coverage, the
199 corporation may use its approved policy forms and rates for the
200 personal lines account. An applicant or insured who is eligible
201 to purchase a multiperil policy from the corporation may
202 purchase a multiperil policy from an authorized insurer without
203 prejudice to the applicant's or insured's eligibility to
204 prospectively purchase a policy that provides coverage only for
205 the peril of wind from the corporation. An applicant or insured
206 who is eligible for a corporation policy that provides coverage
207 only for the peril of wind may elect to purchase or retain such
208 policy and also purchase or retain coverage excluding wind from
209 an authorized insurer without prejudice to the applicant's or
210 insured's eligibility to prospectively purchase a policy that
211 provides multiperil coverage from the corporation. It is the
212 goal of the Legislature that there be an overall average savings
213 of 10 percent or more for a policyholder who currently has a
214 wind-only policy with the corporation, and an ex-wind policy



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215 with a voluntary insurer or the corporation, and who obtains a
216 multiperil policy from the corporation. It is the intent of the
217 Legislature that the offer of multiperil coverage in the coastal
218 account be made and implemented in a manner that does not
219 adversely affect the tax-exempt status of the corporation or
220 creditworthiness of or security for currently outstanding
221 financing obligations or credit facilities of the coastal
222 account, the personal lines account, or the commercial lines
223 account. ~~The coastal account must also include quota share~~
224 ~~primary insurance under subparagraph (c)2.~~ The area eligible for
225 coverage under the coastal account also includes the area within
226 Port Canaveral, which is bordered on the south by the City of
227 Cape Canaveral, bordered on the west by the Banana River, and
228 bordered on the north by Federal Government property.

229 b. The three separate accounts must be maintained as long
230 as financing obligations entered into by the Florida Windstorm
231 Underwriting Association or Residential Property and Casualty
232 Joint Underwriting Association are outstanding, in accordance
233 with the terms of the corresponding financing documents. If the
234 financing obligations are no longer outstanding, the corporation
235 may use a single account for all revenues, assets, liabilities,
236 losses, and expenses of the corporation. Consistent with this
237 subparagraph and prudent investment policies that minimize the
238 cost of carrying debt, the board shall exercise its best efforts
239 to retire existing debt or obtain the approval of necessary
240 parties to amend the terms of existing debt, in order ~~so as~~ to
241 structure the most efficient plan for consolidating ~~to~~
242 ~~consolidate~~ the three separate accounts into a single account.

243 c. Creditors of the Residential Property and Casualty Joint



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244 Underwriting Association and the accounts specified in sub-sub-
245 subparagraphs a.(I) and (II) may have a claim against, and
246 recourse to, those accounts and no claim against, or recourse
247 to, the account referred to in sub-sub-subparagraph a.(III).
248 Creditors of the Florida Windstorm Underwriting Association have
249 a claim against, and recourse to, the account referred to in
250 sub-sub-subparagraph a.(III) and no claim against, or recourse
251 to, the accounts referred to in sub-sub-subparagraphs a.(I) and
252 (II).

253 d. Revenues, assets, liabilities, losses, and expenses not
254 attributable to particular accounts shall be prorated among the
255 accounts.

256 e. The Legislature finds that the revenues of the
257 corporation are revenues that are necessary to meet the
258 requirements set forth in documents authorizing the issuance of
259 bonds under this subsection.

260 f. The income of the corporation may not inure to the
261 benefit of any private person.

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

263 a. After accounting for the Citizens policyholder surcharge
264 imposed under sub-subparagraph i., if the remaining projected
265 deficit incurred in the coastal account in a particular calendar
266 year:

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

272 (II) Exceeds 2 percent of the aggregate statewide direct



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273 written premium for the subject lines of business for the prior
274 calendar year, the corporation shall levy regular assessments on
275 assessable insurers under paragraph (q) and on assessable
276 insureds in an amount equal to the greater of 2 percent of the
277 projected deficit or 2 percent of the aggregate statewide direct
278 written premium for the subject lines of business for the prior
279 calendar year. Any remaining projected deficit shall be
280 recovered through emergency assessments under sub-subparagraph
281 d.

282 b. Each assessable insurer's share of the amount being
283 assessed under sub-subparagraph a. must be in the proportion
284 that the assessable insurer's direct written premium for the
285 subject lines of business for the year preceding the assessment
286 bears to the aggregate statewide direct written premium for the
287 subject lines of business for that year. The assessment
288 percentage applicable to each assessable insured is the ratio of
289 the amount being assessed under sub-subparagraph a. to the
290 aggregate statewide direct written premium for the subject lines
291 of business for the prior year. Assessments levied by the
292 corporation on assessable insurers under sub-subparagraph a.
293 must be paid as required by the corporation's plan of operation
294 and paragraph (q). Assessments levied by the corporation on
295 assessable insureds under sub-subparagraph a. shall be collected
296 by the surplus lines agent at the time the surplus lines agent
297 collects the surplus lines tax required by s. 626.932, and paid
298 to the Florida Surplus Lines Service Office at the time the
299 surplus lines agent pays the surplus lines tax to that office.
300 Upon receipt of regular assessments from surplus lines agents,
301 the Florida Surplus Lines Service Office shall transfer the



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302 assessments directly to the corporation as determined by the
303 corporation.

304 c. After accounting for the Citizens policyholder surcharge
305 imposed under sub-subparagraph i., the remaining projected
306 deficits in the personal lines account and in the commercial
307 lines account in a particular calendar year shall be recovered
308 through emergency assessments under sub-subparagraph d.

309 d. Upon a determination by the executive director, with the
310 concurrence of the board of governors, that a projected deficit
311 in an account exceeds the amount that is expected to be
312 recovered through regular assessments under sub-subparagraph a.,
313 plus the amount that is expected to be recovered through
314 policyholder surcharges under sub-subparagraph i., the executive
315 director, with concurrence by the board, after verification by
316 the office and approval by the Financial Services Commission,
317 shall levy emergency assessments for as many years as necessary
318 to cover the deficits, to be collected by assessable insurers
319 and the corporation and collected from assessable insureds upon
320 issuance or renewal of policies for subject lines of business,
321 excluding National Flood Insurance policies. The amount
322 collected in a particular year must be a uniform percentage of
323 that year's direct written premium for subject lines of business
324 and all accounts of the corporation, excluding National Flood
325 Insurance Program policy premiums, as annually determined by the
326 executive director, with concurrence by the board, and verified
327 by the office. The office shall verify the arithmetic
328 calculations involved in the board's determination within 30
329 days after receipt of the information on which the determination
330 was based. The office shall notify assessable insurers and the



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331 Florida Surplus Lines Service Office of the date on which
332 assessable insurers shall begin to collect and assessable
333 insureds shall begin to pay such assessment. The date must be at
334 least ~~may be not less than~~ 90 days after the date the
335 corporation levies emergency assessments pursuant to this sub-
336 subparagraph. Notwithstanding any other provision of law, the
337 corporation and each assessable insurer that writes subject
338 lines of business shall collect emergency assessments from its
339 policyholders without such obligation being affected by any
340 credit, limitation, exemption, or deferment. Emergency
341 assessments levied by the corporation on assessable insureds
342 shall be collected by the surplus lines agent at the time the
343 surplus lines agent collects the surplus lines tax required by
344 s. 626.932 and paid to the Florida Surplus Lines Service Office
345 at the time the surplus lines agent pays the surplus lines tax
346 to that office. The emergency assessments collected shall be
347 transferred directly to the corporation on a periodic basis as
348 determined by the corporation and held by the corporation solely
349 in the applicable account. The aggregate amount of emergency
350 assessments levied for an account ~~under this sub-subparagraph~~ in
351 any calendar year may be less than but not exceed the greater of
352 10 percent of the amount needed to cover the deficit, plus
353 interest, fees, commissions, required reserves, and other costs
354 associated with financing the original deficit, or 10 percent of
355 the aggregate statewide direct written premium for subject lines
356 of business and all accounts of the corporation for the prior
357 year, plus interest, fees, commissions, required reserves, and
358 other costs associated with financing the deficit.
359 e. The corporation may pledge the proceeds of assessments,



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360 projected recoveries from the Florida Hurricane Catastrophe
361 Fund, other insurance and reinsurance recoverables, policyholder
362 surcharges and other surcharges, and other funds available to
363 the corporation as the source of revenue for and to secure bonds
364 issued under paragraph (q), bonds or other indebtedness issued
365 under subparagraph (c)3., or lines of credit or other financing
366 mechanisms issued or created under this subsection, or to retire
367 any other debt incurred as a result of deficits or events giving
368 rise to deficits, or in any other way that the executive
369 director, with the concurrence of the board, determines will
370 efficiently recover such deficits. The purpose of the lines of
371 credit or other financing mechanisms is to provide additional
372 resources to assist the corporation in covering claims and
373 expenses attributable to a catastrophe. As used in this
374 subsection, the term "assessments" includes regular assessments
375 under sub-subparagraph a. or subparagraph (q)1. and emergency
376 assessments under sub-subparagraph d. Emergency assessments
377 collected under sub-subparagraph d. are not part of an insurer's
378 rates, are not premium, and are not subject to premium tax,
379 fees, or commissions; however, failure to pay the emergency
380 assessment shall be treated as failure to pay premium. The
381 emergency assessments ~~under sub-subparagraph d.~~ shall continue
382 as long as any bonds issued or other indebtedness incurred with
383 respect to a deficit for which the assessment was imposed remain
384 outstanding, unless adequate provision has been made for the
385 payment of such bonds or other indebtedness pursuant to the
386 documents governing such bonds or indebtedness.

387 f. As used in this subsection for purposes of any deficit
388 incurred on or after January 25, 2007, the term "subject lines



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389 of business" means insurance written by assessable insurers or
390 procured by assessable insureds for all property and casualty
391 lines of business in this state, but not including workers'
392 compensation or medical malpractice. As used in this sub-
393 subparagraph, the term "property and casualty lines of business"
394 includes all lines of business identified on Form 2, Exhibit of
395 Premiums and Losses, in the annual statement required of
396 authorized insurers under s. 624.424 and any rule adopted under
397 this section, except for those lines identified as accident and
398 health insurance and except for policies written under the
399 National Flood Insurance Program or the Federal Crop Insurance
400 Program. For purposes of this sub-subparagraph, the term
401 "workers' compensation" includes both workers' compensation
402 insurance and excess workers' compensation insurance.

403 g. The Florida Surplus Lines Service Office shall annually
404 determine ~~annually~~ the aggregate statewide written premium in
405 subject lines of business procured by assessable insureds and
406 report that information to the corporation in a form and at a
407 time the corporation specifies to ensure that the corporation
408 can meet the requirements of this subsection and the
409 corporation's financing obligations.

410 h. The Florida Surplus Lines Service Office shall verify
411 the proper application by surplus lines agents of assessment
412 percentages for regular assessments and emergency assessments
413 levied under this subparagraph on assessable insureds and assist
414 the corporation in ensuring the accurate, timely collection and
415 payment of assessments by surplus lines agents as required by
416 the corporation.

417 i. ~~In 2008 or thereafter,~~ Upon a determination by the board



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418 of governors that an account has a projected deficit, the board
419 shall levy a Citizens policyholder surcharge against all
420 policyholders of the corporation.

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

424 (II) The surcharge is payable upon cancellation or
425 termination of the policy, upon renewal of the policy, or upon
426 issuance of a new policy by the corporation within the first 12
427 months after the date of the levy or the period of time
428 necessary to fully collect the surcharge amount.

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

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

437 j. If the amount of any assessments or surcharges collected
438 from corporation policyholders, assessable insurers or their
439 policyholders, or assessable insureds exceeds the amount of the
440 deficits, such excess amounts shall be remitted to and retained
441 by the corporation in a reserve to be used by the corporation,
442 as determined by the executive director, with the concurrence of
443 the board of governors, and approved by the office, to pay
444 claims or reduce any past, present, or future plan-year deficits
445 or to reduce outstanding debt.

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



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447 1. Must provide for adoption of residential property and
448 casualty insurance policy forms and commercial residential and
449 nonresidential property insurance forms, which must be approved
450 by the office before use. The corporation shall adopt the
451 following policy forms:

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

456 b. Basic personal lines policy forms that are policies
457 similar to an HO-8 policy or a dwelling fire policy that provide
458 coverage meeting the requirements of the secondary mortgage
459 market, but which is more limited than the coverage under a
460 standard policy.

461 c. Commercial lines residential and nonresidential policy
462 forms that are generally similar to the basic perils of full
463 coverage obtainable for commercial residential structures and
464 commercial nonresidential structures in the admitted voluntary
465 market.

466 d. Personal lines and commercial lines residential property
467 insurance forms that cover the peril of wind only. Such ~~The~~
468 forms are applicable only to residential properties located in
469 areas eligible for coverage under the coastal account referred
470 to in sub-subparagraph (b)2.a.

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



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476 f. The corporation may adopt variations of the policy forms
477 listed in sub-subparagraphs a.-e. which contain more restrictive
478 coverage.

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

483 2. Must provide that the corporation and an authorized
484 insurer may enter into a risk-sharing agreement for the purpose
485 of reducing the corporation's exposure. As used in this
486 subparagraph, the term "risk-sharing agreement" means an
487 agreement between the corporation and an authorized insurer for
488 the corporation to retain part, but not all, of the risk for a
489 specified group of policies or specified perils within a group
490 of policies, as part of the terms for removal of policies from
491 the corporation.

492 a. Entering into a risk-sharing agreement is voluntary and
493 at the discretion of the corporation and the authorized insurer.
494 To avoid unnecessary expense, the executive director, with
495 concurrence of the board of governors, may limit the
496 corporation's participation in risk-sharing agreements to those
497 participants capable and willing to assume a minimum of 25
498 percent of the exposure on at least 100,000 policies and may
499 specify other limitations. A risk-sharing agreement in which the
500 corporation retains part of the risk may not exceed 5 years.

501 b. The risk-sharing agreement may cover policies in any
502 account and may cover any perils. The corporation may act as a
503 reinsurer or a cedent under a risk sharing agreement or an
504 excess of loss agreement. If the corporation is the reinsurer,



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505 the insurance policy forms and endorsements must be approved by
506 the office, cover all perils that are the subject of the risk-
507 sharing agreement, and cover at least the same limits as the
508 corporation policies being replaced.

509 c. The terms of each risk-sharing agreement must ensure
510 that the consideration received by the corporation is
511 commensurate with the risk retained by the corporation and the
512 risk assumed by the authorized insurer. The corporation may not
513 share risk for bad faith.

514 d. The risk-sharing agreement must specify the proportion
515 of exposure that the authorized insurer reports to the Florida
516 Hurricane Catastrophe Fund and the exposure retained by the
517 corporation. Each shall pay premium and receive reimbursements
518 from the fund for the exposure that they retain or assume as
519 provided in the risk-sharing agreement. The risk retained or
520 assumed is eligible for coverage by the fund and is not
521 considered reinsurance for purposes of coverage by the fund.
522 However, the authorized insurer and the corporation may report
523 participation in the risk sharing agreement on their financial
524 statements as reinsurance if appropriate according to the
525 characteristics of the agreement based on statutory accounting
526 rules and instructions.

527 e. Notwithstanding any other provision of law:

528 (I) Policies offered coverage by the corporation or an
529 authorized insurer through a risk-sharing agreement are not
530 eligible for coverage by the corporation outside of the
531 agreement; and

532 (II) A risk-sharing agreement between the corporation and
533 an authorized insurer is not subject to the requirements of a



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534 take-out or keep-out program under ss. 627.3517 and this
535 subsection, except that the agreement must be filed by the
536 authorized insurer with the office for review and approval
537 before the execution of the agreement by the insurer

538 ~~2. Must provide that the corporation adopt a program in~~
539 ~~which the corporation and authorized insurers enter into quota~~
540 ~~share primary insurance agreements for hurricane coverage, as~~
541 ~~defined in s. 627.4025(2)(a), for eligible risks, and adopt~~
542 ~~property insurance forms for eligible risks which cover the~~
543 ~~peril of wind only.~~

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

545 ~~(I) "Quota share primary insurance" means an arrangement in~~
546 ~~which the primary hurricane coverage of an eligible risk is~~
547 ~~provided in specified percentages by the corporation and an~~
548 ~~authorized insurer. The corporation and authorized insurer are~~
549 ~~each solely responsible for a specified percentage of hurricane~~
550 ~~coverage of an eligible risk as set forth in a quota share~~
551 ~~primary insurance agreement between the corporation and an~~
552 ~~authorized insurer and the insurance contract. The~~
553 ~~responsibility of the corporation or authorized insurer to pay~~
554 ~~its specified percentage of hurricane losses of an eligible~~
555 ~~risk, as set forth in the agreement, may not be altered by the~~
556 ~~inability of the other party to pay its specified percentage of~~
557 ~~losses. Eligible risks that are provided hurricane coverage~~
558 ~~through a quota share primary insurance arrangement must be~~
559 ~~provided policy forms that set forth the obligations of the~~
560 ~~corporation and authorized insurer under the arrangement,~~
561 ~~clearly specify the percentages of quota share primary insurance~~
562 ~~provided by the corporation and authorized insurer, and~~



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563 ~~conspicuously and clearly state that the authorized insurer and~~
564 ~~the corporation may not be held responsible beyond their~~
565 ~~specified percentage of coverage of hurricane losses.~~

566 ~~(II) "Eligible risks" means personal lines residential and~~
567 ~~commercial lines residential risks that meet the underwriting~~
568 ~~criteria of the corporation and are located in areas that were~~
569 ~~eligible for coverage by the Florida Windstorm Underwriting~~
570 ~~Association on January 1, 2002.~~

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

574 ~~e. If the corporation determines that additional coverage~~
575 ~~levels are necessary to maximize participation in quota share~~
576 ~~primary insurance agreements by authorized insurers, the~~
577 ~~corporation may establish additional coverage levels. However,~~
578 ~~the corporation's quota share primary insurance coverage level~~
579 ~~may not exceed 90 percent.~~

580 ~~d. Any quota share primary insurance agreement entered into~~
581 ~~between an authorized insurer and the corporation must provide~~
582 ~~for a uniform specified percentage of coverage of hurricane~~
583 ~~losses, by county or territory as set forth by the corporation~~
584 ~~board, for all eligible risks of the authorized insurer covered~~
585 ~~under the agreement.~~

586 ~~e. Any quota share primary insurance agreement entered into~~
587 ~~between an authorized insurer and the corporation is subject to~~
588 ~~review and approval by the office. However, such agreement shall~~
589 ~~be authorized only as to insurance contracts entered into~~
590 ~~between an authorized insurer and an insured who is already~~
591 ~~insured by the corporation for wind coverage.~~



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592 ~~f. For all eligible risks covered under quota share primary~~
593 ~~insurance agreements, the exposure and coverage levels for both~~
594 ~~the corporation and authorized insurers shall be reported by the~~
595 ~~corporation to the Florida Hurricane Catastrophe Fund. For all~~
596 ~~policies of eligible risks covered under such agreements, the~~
597 ~~corporation and the authorized insurer must maintain complete~~
598 ~~and accurate records for the purpose of exposure and loss~~
599 ~~reimbursement audits as required by fund rules. The corporation~~
600 ~~and the authorized insurer shall each maintain duplicate copies~~
601 ~~of policy declaration pages and supporting claims documents.~~

602 ~~g. The corporation board shall establish in its plan of~~
603 ~~operation standards for quota share agreements which ensure that~~
604 ~~there is no discriminatory application among insurers as to the~~
605 ~~terms of the agreements, pricing of the agreements, incentive~~
606 ~~provisions if any, and consideration paid for servicing policies~~
607 ~~or adjusting claims.~~

608 ~~h. The quota share primary insurance agreement between the~~
609 ~~corporation and an authorized insurer must set forth the~~
610 ~~specific terms under which coverage is provided, including, but~~
611 ~~not limited to, the sale and servicing of policies issued under~~
612 ~~the agreement by the insurance agent of the authorized insurer~~
613 ~~producing the business, the reporting of information concerning~~
614 ~~eligible risks, the payment of premium to the corporation, and~~
615 ~~arrangements for the adjustment and payment of hurricane claims~~
616 ~~incurred on eligible risks by the claims adjuster and personnel~~
617 ~~of the authorized insurer. Entering into a quota sharing~~
618 ~~insurance agreement between the corporation and an authorized~~
619 ~~insurer is voluntary and at the discretion of the authorized~~
620 ~~insurer.~~



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621 3.a. May provide that the corporation ~~may employ or~~
622 ~~otherwise contract with individuals or other entities to provide~~
623 ~~administrative or professional services that may be appropriate~~
624 ~~to effectuate the plan. The corporation may~~ borrow funds by
625 issuing bonds or by incurring other indebtedness, and shall have
626 other powers reasonably necessary to effectuate the requirements
627 of this subsection, including, without limitation, the power to
628 issue bonds and incur other indebtedness in order to refinance
629 outstanding bonds or other indebtedness. The corporation may
630 seek judicial validation of its bonds or other indebtedness
631 under chapter 75. The corporation may issue bonds or incur other
632 indebtedness, or have bonds issued on its behalf by a unit of
633 local government pursuant to subparagraph (q)2. in the absence
634 of a hurricane or other weather-related event, upon a
635 determination by the corporation, subject to approval by the
636 office, that such action would enable it to efficiently meet the
637 financial obligations of the corporation and that such
638 financings are reasonably necessary to effectuate the
639 requirements of this subsection. The corporation may take all
640 actions needed to facilitate tax-free status for such bonds or
641 indebtedness, including formation of trusts or other affiliated
642 entities. The corporation may pledge assessments, projected
643 recoveries from the Florida Hurricane Catastrophe Fund, other
644 reinsurance recoverables, Citizens policyholder surcharges and
645 other surcharges, and other funds available to the corporation
646 as security for bonds or other indebtedness. In recognition of
647 s. 10, Art. I of the State Constitution, prohibiting the
648 impairment of obligations of contracts, it is the intent of the
649 Legislature that ~~no~~ action not be taken whose purpose is to



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650 impair any bond indenture or financing agreement or any revenue
651 source committed by contract to such bond or other indebtedness.

652 b. May provide that the corporation employ or otherwise
653 contract with individuals or other entities to provide
654 administrative or professional services that may be appropriate
655 to effectuate the plan. To ensure that the corporation is
656 operating in an efficient and economic manner while providing
657 quality service to policyholders, applicants, and agents, the
658 board shall commission an independent third-party consultant
659 having expertise in insurance company management or insurance
660 company management consulting to prepare a report and make
661 recommendations on the relative costs and benefits of
662 outsourcing various policy issuance and service functions to
663 private servicing carriers or entities performing similar
664 functions in the private market for a fee, rather than
665 performing such functions in-house. In making such
666 recommendations, the consultant shall consider how other
667 residual markets, both in this state and around the country,
668 outsource appropriate functions or use servicing carriers to
669 better match expenses with revenues that fluctuate based on a
670 widely varying policy count. The report must be completed by
671 July 1, 2012. Upon receiving the report, the executive director,
672 with the concurrence of the board, shall develop a plan to
673 implement the report and submit the plan for review,
674 modification, and approval to the Financial Services Commission.
675 Upon the commission's approval of the plan, the board shall
676 begin implementing the plan by January 1, 2013.

677 4. Must require that the corporation operate subject to the
678 supervision and approval of a board of governors consisting of



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679 eight individuals who are residents of this state and who are
680 from different geographical areas of the ~~this~~ state.

681 a. The Governor, the Chief Financial Officer, the President
682 of the Senate, and the Speaker of the House of Representatives
683 shall each appoint two members of the board. All board members,
684 except those appointed by the speaker, must be confirmed by the
685 Senate during the legislative session following their
686 appointment. At least one of the two members appointed by each
687 appointing officer must have demonstrated expertise in insurance
688 and must be ~~is~~ deemed to be within the scope of the exemption
689 provided under ~~in~~ s. 112.313(7)(b). The Chief Financial Officer
690 shall designate one of the appointees as chair for the purpose
691 of presiding over the orderly conduct of meetings. An appointee
692 serves as chair for no more than one term. All board members
693 serve at the pleasure of the appointing officer. All members of
694 the board are subject to removal at will by the officers who
695 appointed them. All board members, including the chair, shall
696 ~~must~~ be appointed ~~to serve~~ for 3-year terms beginning annually
697 on a date designated by the plan. ~~However, for the first term~~
698 ~~beginning on or after July 1, 2009, each appointing officer~~
699 ~~shall appoint one member of the board for a 2-year term and one~~
700 ~~member for a 3-year term.~~ A board vacancy shall be filled for
701 the unexpired term by the appointing officer. A board member may
702 not serve for more than two terms, except that a board member
703 appointed to fill an unexpired term created by a vacancy may be
704 appointed for two subsequent terms. The Chief Financial Officer
705 shall appoint a technical advisory group to provide information
706 and advice to the executive director and the board in connection
707 with the corporation's ~~board's~~ duties under this subsection. The



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708 executive director shall be appointed by and serve at the
709 pleasure of the Governor and the Chief Financial Officer. and
710 Senior managers of the corporation shall be appointed by the
711 executive director, with the concurrence of ~~engaged by the~~
712 board, and serve at the pleasure of the executive director
713 ~~board. Appointment of the Any~~ executive director ~~appointed on or~~
714 ~~after July 1, 2006,~~ is subject to confirmation by the Senate
715 upon original appointment and upon the election or reelection of
716 the Governor and Chief Financial Officer if retained. The
717 executive director is responsible for employing other staff ~~as~~
718 the corporation may require, subject to review and concurrence
719 by the board.

720 b. The board shall create a Market Accountability Advisory
721 Committee to assist the corporation in developing awareness of
722 its rates and its customer and agent service levels in
723 relationship to the voluntary market insurers writing similar
724 coverage.

725 (I) The members of the advisory committee consist of the
726 following 11 persons, one of whom must be elected chair by the
727 members of the committee: four representatives, one appointed by
728 the Florida Association of Insurance Agents, one by the Florida
729 Association of Insurance and Financial Advisors, one by the
730 Professional Insurance Agents of Florida, and one by the Latin
731 American Association of Insurance Agencies; three
732 representatives appointed by the insurers with the three highest
733 voluntary market share of residential property insurance
734 business in the state; one representative from the Office of
735 Insurance Regulation; one consumer appointed by the board who is
736 insured by the corporation at the time of appointment to the



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737 committee; one representative appointed by the Florida
738 Association of Realtors; and one representative appointed by the
739 Florida Bankers Association. All members shall be appointed to
740 3-year terms, serve at the pleasure of the board of governors,
741 and may serve for consecutive terms.

742 (II) The committee shall report to the corporation at each
743 board meeting on insurance market issues that ~~which~~ may include
744 rates and rate competition within ~~with~~ the voluntary market;
745 service, including policy issuance, claims processing, and
746 general responsiveness to policyholders, applicants, and agents;
747 and matters relating to depopulation.

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

751 a. Subject to s. 627.3517, with respect to personal lines
752 residential risks, if the risk is offered coverage from an
753 authorized insurer at the insurer's approved rate under a
754 standard policy including wind coverage or, if consistent with
755 the insurer's underwriting rules as filed with the office, a
756 basic policy including wind coverage, ~~for a new application to~~
757 ~~the corporation for coverage,~~ the risk is not eligible for any
758 policy issued by the corporation unless the premium for coverage
759 from the authorized insurer is more than 15 percent greater than
760 the premium for comparable coverage from the corporation. If the
761 risk is not able to obtain such offer, the risk is eligible for
762 a standard policy including wind coverage or a basic policy
763 including wind coverage issued by the corporation; however, if
764 the risk could not be insured under a standard policy including
765 wind coverage regardless of market conditions, the risk is



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766 eligible for a basic policy including wind coverage unless
767 rejected under subparagraph 8. ~~However, a policyholder of the~~
768 ~~corporation or a policyholder removed from the corporation~~
769 ~~through an assumption agreement until the end of the assumption~~
770 ~~period remains eligible for coverage from the corporation~~
771 ~~regardless of any offer of coverage from an authorized insurer~~
772 ~~or surplus lines insurer.~~ The corporation shall determine the
773 type of policy to be provided on the basis of objective
774 standards specified in the underwriting manual and based on
775 generally accepted underwriting practices.

776 (I) If the risk accepts an offer of coverage through the
777 market assistance plan or through a mechanism established by the
778 corporation before a policy is issued to the risk by the
779 corporation or during the first 30 days of coverage by the
780 corporation, and the producing agent who submitted the
781 application to the plan or to the corporation is not currently
782 appointed by the insurer, the insurer shall:

783 (A) Pay to the producing agent of record ~~of the policy~~ for
784 the first year, an amount that is the greater of the insurer's
785 usual and customary commission for the type of policy written or
786 a fee equal to the usual and customary commission of the
787 corporation; or

788 (B) Offer to allow the producing agent of record ~~of the~~
789 ~~policy~~ to continue servicing the policy for at least 1 year and
790 offer to pay the agent the greater of the insurer's or the
791 corporation's usual and customary commission for the type of
792 policy written.

793
794 If the producing agent is unwilling or unable to accept



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795 appointment, the new insurer shall pay the agent in accordance
796 with sub-sub-sub-subparagraph (A).

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

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

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

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

814 b. With respect to commercial lines residential risks, ~~for~~
815 ~~a new application to the corporation for coverage,~~ if the risk
816 is offered coverage under a policy including wind coverage from
817 an authorized insurer at its approved rate, the risk is not
818 eligible for a policy issued by the corporation unless the
819 premium for coverage from the authorized insurer is more than 15
820 percent greater than the premium for comparable coverage from
821 the corporation. If the risk is not able to obtain any such
822 offer, the risk is eligible for a policy including wind coverage
823 issued by the corporation. ~~However, a policyholder of the~~



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824 ~~corporation or a policyholder removed from the corporation~~
825 ~~through an assumption agreement until the end of the assumption~~
826 ~~period remains eligible for coverage from the corporation~~
827 ~~regardless of an offer of coverage from an authorized insurer or~~
828 ~~surplus lines insurer.~~

829 (I) If the risk accepts an offer of coverage through the
830 market assistance plan or through a mechanism established by the
831 corporation before a policy is issued to the risk by the
832 corporation or during the first 30 days of coverage by the
833 corporation, and the producing agent who submitted the
834 application to the plan or the corporation is not currently
835 appointed by the insurer, the insurer shall:

836 (A) Pay to the producing agent of record ~~of the policy~~, for
837 the first year, an amount that is the greater of the insurer's
838 usual and customary commission for the type of policy written or
839 a fee equal to the usual and customary commission of the
840 corporation; or

841 (B) Offer to allow the producing agent of record ~~of the~~
842 ~~policy~~ to continue servicing the policy for at least 1 year and
843 offer to pay the agent the greater of the insurer's or the
844 corporation's usual and customary commission for the type of
845 policy written.

846
847 If the producing agent is unwilling or unable to accept
848 appointment, the new insurer shall pay the agent in accordance
849 with sub-sub-sub-subparagraph (A).

850 (II) If the corporation enters into a contractual agreement
851 for a take-out plan, the producing agent of record of the
852 corporation policy is entitled to retain any unearned commission



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853 on the policy, and the insurer shall:

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

859 (B) Offer to allow the producing agent of record to
860 continue servicing the policy for at least 1 year and offer to
861 pay the agent the greater of the insurer's or the corporation's
862 usual and customary commission for the type of policy written.
863

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

867 c. For purposes of determining comparable coverage under
868 sub-subparagraphs a. and b., the comparison must be based on
869 those forms and coverages that are reasonably comparable. The
870 corporation may rely on a determination of comparable coverage
871 and premium made by the producing agent who submits the
872 application to the corporation, made in the agent's capacity as
873 the corporation's agent. A comparison may be made solely of the
874 premium with respect to the main building or structure ~~only~~ on
875 the following basis: the same coverage A or other building
876 limits; the same percentage hurricane deductible that applies on
877 an annual basis or that applies to each hurricane for commercial
878 residential property; the same percentage of ordinance and law
879 coverage, if the same limit is offered by both the corporation
880 and the authorized insurer; the same mitigation credits, to the
881 extent the same types of credits are offered both by the



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882 corporation and the authorized insurer; the same method for loss
883 payment, such as replacement cost or actual cash value, if the
884 same method is offered both by the corporation and the
885 authorized insurer in accordance with underwriting rules; and
886 any other form or coverage that is reasonably comparable as
887 determined by the board. If an application is submitted to the
888 corporation for wind-only coverage in the coastal account, the
889 premium for the corporation's wind-only policy plus the premium
890 for the ex-wind policy that is offered by an authorized insurer
891 to the applicant must be compared to the premium for multiperil
892 coverage offered by an authorized insurer, subject to the
893 standards for comparison specified in this subparagraph. If the
894 corporation or the applicant requests from the authorized
895 insurer a breakdown of the premium of the offer by types of
896 coverage so that a comparison may be made by the corporation or
897 its agent and the authorized insurer refuses or is unable to
898 provide such information, the corporation may treat the offer as
899 not being an offer of coverage from an authorized insurer at the
900 insurer's approved rate.

901 6. Must include rules for classifications of risks and
902 rates.

903 7. Must provide that if premium and investment income for
904 an account attributable to a particular calendar year are in
905 excess of projected losses and expenses for the account
906 attributable to that year, such excess must ~~shall~~ be held in
907 surplus in the account. Such surplus must be available to defray
908 deficits in that account as to future years and used for that
909 purpose before assessing assessable insurers and assessable
910 insureds as to any calendar year.



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911 8. Must provide objective criteria and procedures that are
912 ~~to be~~ uniformly applied to all applicants in determining whether
913 an individual risk is so hazardous as to be uninsurable. In
914 making this determination and in establishing the criteria and
915 procedures, the following must be considered:

916 a. Whether the likelihood of a loss for the individual risk
917 is substantially higher than for other risks of the same class;
918 and

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

921

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

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

929 10. Must provide that the policies issued by the
930 corporation ~~must~~ provide that if the corporation or the market
931 assistance plan obtains an offer from an authorized insurer to
932 cover the risk at its approved rates, the risk is no longer
933 eligible for renewal through the corporation, except as
934 otherwise provided in this subsection.

935 11. Must provide that corporation policies and applications
936 ~~must~~ include a notice that the corporation policy could, under
937 this section, be replaced with a policy issued by an authorized
938 insurer which does not provide coverage identical to the
939 coverage provided by the corporation. The notice must also



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940 specify that acceptance of corporation coverage creates a
941 conclusive presumption that the applicant or policyholder is
942 aware of this potential.

943 12. May establish, subject to approval by the office,
944 different eligibility requirements and operational procedures
945 for any line or type of coverage for any specified county or
946 area if the board determines that such changes are justified due
947 to the voluntary market being sufficiently stable and
948 competitive in such area or for such line or type of coverage
949 and that consumers who, in good faith, are unable to obtain
950 insurance through the voluntary market through ordinary methods
951 continue to have access to coverage from the corporation. If
952 coverage is sought in connection with a real property transfer,
953 the requirements and procedures may not provide an effective
954 date of coverage later than the date of the closing of the
955 transfer as established by the transferor, the transferee, and,
956 if applicable, the lender.

957 13. Must provide that, with respect to the coastal account,
958 any assessable insurer that has ~~with~~ a surplus as to
959 policyholders of \$25 million or less writing 25 percent or more
960 of its total countrywide property insurance premiums in this
961 state may ~~petition the office~~, within the first 90 days of each
962 calendar year, petition the office to qualify as a limited
963 apportionment company. A regular assessment levied by the
964 corporation on a limited apportionment company for a deficit
965 incurred by the corporation for the coastal account may be paid
966 to the corporation on a monthly basis as the assessments are
967 collected by the limited apportionment company from its
968 insureds. ~~The, but a~~ limited apportionment company must begin



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969 collecting the regular assessments within ~~not later than~~ 90 days
970 after the regular assessments are levied by the corporation, and
971 the regular assessments must be paid in full within 15 months
972 after being levied by the corporation. A limited apportionment
973 company shall collect from its policyholders any emergency
974 assessment imposed under sub-subparagraph (b)3.d. The plan must
975 provide that, if the office determines that any regular
976 assessment will result in an impairment of the surplus of a
977 limited apportionment company, the office may direct that all or
978 part of such assessment be deferred as provided in subparagraph
979 (q)4. However, an emergency assessment to be collected from
980 policyholders under sub-subparagraph (b)3.d. may not be limited
981 or deferred.

982 14. Must provide that the corporation appoint as its
983 licensed agents only those agents who at the time of initial
984 appointment also hold an appointment as defined in s. 626.015(3)
985 with an insurer who ~~at the time of the agent's initial~~
986 ~~appointment by the corporation~~ is authorized to write and is
987 actually writing personal lines residential property coverage,
988 commercial residential property coverage, or commercial
989 nonresidential property coverage within the state. As a
990 condition of continued appointment, agents of the corporation
991 must maintain appropriate documentation specified by the
992 corporation which warrants and certifies that alternative
993 coverage was annually sought for each risk placed by that agent
994 with the corporation in accordance with s. 627.3518. After
995 January 1, 2014, if an agent places a policy with the
996 corporation which was ineligible for coverage based on
997 eligibility standards at the time of placement, agent



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998 commissions may not be paid on that policy.

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

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

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

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

1011 19. Must provide that new or renewal policies issued by the
1012 corporation on or after January 1, 2012, which cover sinkhole
1013 loss do not include coverage for any loss to appurtenant
1014 structures, driveways, sidewalks, decks, or patios that are
1015 directly or indirectly caused by sinkhole activity. The
1016 corporation shall exclude such coverage using a notice of
1017 coverage change, which may be included with the policy renewal,
1018 and not by issuance of a notice of nonrenewal of the excluded
1019 coverage upon renewal of the current policy.

1020 20. Must, as of July ~~January~~ 1, 2014 ~~2012~~, ~~must~~ require
1021 that the agent obtain from an applicant for coverage from the
1022 corporation an acknowledgment signed by the applicant, which
1023 includes, at a minimum, the following statement:

1024

1025 ACKNOWLEDGMENT OF POTENTIAL SURCHARGE AND ASSESSMENT LIABILITY:

1026



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

1035 2. I UNDERSTAND THAT I CAN AVOID THE CITIZENS POLICYHOLDER
1036 SURCHARGE, WHICH COULD BE AS HIGH AS 45 PERCENT OF MY PREMIUM,
1037 BY OBTAINING COVERAGE FROM A PRIVATE MARKET INSURER AND THAT TO
1038 BE ELIGIBLE FOR COVERAGE BY CITIZENS I MUST FIRST TRY TO OBTAIN
1039 PRIVATE MARKET COVERAGE BEFORE APPLYING FOR OR RENEWING COVERAGE
1040 WITH CITIZENS. I UNDERSTAND THAT PRIVATE MARKET INSURANCE RATES
1041 ARE REGULATED AND APPROVED BY THE STATE.

1042 3.2. I ~~ALSO~~ UNDERSTAND THAT I MAY BE SUBJECT TO EMERGENCY
1043 ASSESSMENTS TO THE SAME EXTENT AS POLICYHOLDERS OF OTHER
1044 INSURANCE COMPANIES, OR A DIFFERENT AMOUNT AS IMPOSED BY THE
1045 FLORIDA LEGISLATURE.

1046 4.3. I ~~ALSO~~ UNDERSTAND THAT CITIZENS PROPERTY INSURANCE
1047 CORPORATION IS NOT SUPPORTED BY THE FULL FAITH AND CREDIT OF THE
1048 STATE OF FLORIDA.

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

1054 b. The signed acknowledgment form creates a conclusive
1055 presumption that the policyholder understood and accepted his or



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1056 her potential surcharge and assessment liability as a
1057 policyholder of the corporation.

1058 (g) The executive director, with the concurrence of the
1059 board, shall determine whether it is more cost-effective and in
1060 the best interests of the corporation to use legal services
1061 provided by in-house attorneys employed by the corporation
1062 rather than contracting with outside counsel. In making such
1063 determination, the board shall document its findings and ~~shall~~
1064 ~~consider~~ the expertise needed; whether time commitments exceed
1065 in-house staff resources; whether local representation is
1066 needed; the travel, lodging and other costs associated with in-
1067 house representation; and such other factors that the board
1068 determines are relevant.

1069 (i)1. The Office of the Internal Auditor is established
1070 within the corporation to provide a central point for
1071 coordination of and responsibility for activities that promote
1072 accountability, integrity, and efficiency to the policyholders
1073 and to the taxpayers of this state. The internal auditor shall
1074 be appointed by the board of governors, shall report to and be
1075 under the general supervision of the board of governors, and is
1076 not subject to supervision by an ~~any~~ employee of the
1077 corporation. Administrative staff and support shall be provided
1078 by the corporation. The internal auditor shall be appointed
1079 without regard to political affiliation. It is the duty and
1080 responsibility of the internal auditor to:

1081 a. Provide direction for, supervise, conduct, and
1082 coordinate audits, investigations, and management reviews
1083 relating to the programs and operations of the corporation.

1084 b. Conduct, supervise, or coordinate other activities



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1085 carried out or financed by the corporation for the purpose of
1086 promoting efficiency in the administration of, or preventing and
1087 detecting fraud, abuse, and mismanagement in, its programs and
1088 operations.

1089 c. Submit final audit reports, reviews, or investigative
1090 reports to the board of governors, the executive director, the
1091 members of the Financial Services Commission, and the President
1092 of the Senate and the Speaker of the House of Representatives.

1093 d. Keep the executive director and the board of governors
1094 informed concerning fraud, abuses, and internal control
1095 deficiencies relating to programs and operations administered or
1096 financed by the corporation, recommend corrective action, and
1097 report on the progress made in implementing corrective action.

1098 e. Report expeditiously to the Department of Law
1099 Enforcement or other law enforcement agencies, as appropriate,
1100 whenever the internal auditor has reasonable grounds to believe
1101 there has been a violation of criminal law.

1102 2. On or before February 15, the internal auditor shall
1103 prepare an annual report evaluating the effectiveness of the
1104 internal controls of the corporation and providing
1105 recommendations for corrective action, if necessary, and
1106 summarizing the audits, reviews, and investigations conducted by
1107 the office during the preceding fiscal year. The final report
1108 shall be furnished to the board of governors and the executive
1109 director, the President of the Senate, the Speaker of the House
1110 of Representatives, and the Financial Services Commission.

1111 (m)1. The Auditor General shall conduct an operational
1112 audit of the corporation annually ~~every 3 years~~ to evaluate
1113 management's performance in administering laws, policies, and



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1114 procedures governing the operations of the corporation in an
1115 efficient and effective manner. The scope of the review must
1116 ~~shall~~ include, but is not limited to, evaluating claims
1117 handling, customer service, take-out programs and bonuses;;
1118 financing arrangements made to address a 100-year probable
1119 maximum loss; personnel costs and administration; underwriting,
1120 including processes designed to ensure compliance with policy
1121 eligibility requirements of law;~~;~~ procurement of goods and
1122 services;~~;~~ internal controls;~~;~~ ~~and the internal audit function;~~
1123 and related internal controls. A copy of the report shall be
1124 provided to the corporation's board, the President of the
1125 Senate, the Speaker of the House of Representatives, each member
1126 of the Financial Services Commission, and the Office of
1127 Insurance Regulation. The initial audit must be completed by
1128 February 1, 2009.

1129 2. The executive director, with the concurrence of the
1130 board, shall contract with an independent auditing firm to
1131 conduct a performance audit of the corporation every 2 years.
1132 The objectives of the audit include, but are not limited to, an
1133 evaluation, within the context of insurance industry best
1134 practices, of the corporation's strategic planning processes,
1135 the functionality of the corporation's organizational structure,
1136 the compensation levels of senior management, and the overall
1137 management and operations of the corporation. A copy of the
1138 audit report shall be provided to the corporation's board, the
1139 President of the Senate, the Speaker of the House of
1140 Representatives, each member of the Financial Services
1141 Commission, the Office of Insurance Regulation, and the Auditor
1142 General. The initial audit must be completed by June 1, 2014.



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1143 (q)1. The corporation shall certify to the office its needs
1144 for annual assessments as to a particular calendar year, and for
1145 any interim assessments that it deems ~~to be~~ necessary to sustain
1146 operations as to a particular year pending the receipt of annual
1147 assessments. Upon verification, the office shall approve such
1148 certification, and the corporation shall levy such annual or
1149 interim assessments. Such assessments shall be prorated as
1150 provided in paragraph (b). The corporation shall take all
1151 reasonable and prudent steps necessary to collect the amount of
1152 assessments due from each assessable insurer, including, if
1153 prudent, filing suit to collect the assessments, and the office
1154 may provide such assistance to the corporation it deems
1155 appropriate. If the corporation is unable to collect an
1156 assessment from any assessable insurer, the uncollected
1157 assessments shall be levied as an additional assessment against
1158 the assessable insurers and any assessable insurer required to
1159 pay an additional assessment as a result of such failure to pay
1160 shall have a cause of action against the ~~such~~ nonpaying
1161 assessable insurer. Assessments must ~~shall~~ be included as ~~an~~
1162 ~~appropriate factor~~ in the making of rates. The failure of a
1163 surplus lines agent to collect and remit any regular or
1164 emergency assessment levied by the corporation is ~~considered to~~
1165 ~~be~~ a violation of s. 626.936 and subjects the surplus lines
1166 agent to the penalties provided in that section.

1167 2. The governing body of any unit of local government, any
1168 residents of which are insured by the corporation, may issue
1169 bonds as defined in s. 125.013 or s. 166.101 ~~from time to time~~
1170 to fund an assistance program, in conjunction with the
1171 corporation, for the purpose of defraying deficits of the



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1172 corporation. In order to avoid needless and indiscriminate
1173 proliferation, duplication, and fragmentation of such assistance
1174 programs, the ~~any~~ unit of local government, ~~any residents of~~
1175 ~~which are insured by the corporation,~~ may provide for the
1176 payment of losses, regardless of whether or not the losses
1177 occurred within or outside of the territorial jurisdiction of
1178 the local government. Revenue bonds under this subparagraph may
1179 not be issued until validated pursuant to chapter 75, unless a
1180 state of emergency is declared by executive order or
1181 proclamation of the Governor pursuant to s. 252.36 which makes
1182 ~~making~~ such findings as are necessary to determine that it is in
1183 the best interests of, and necessary for, the protection of the
1184 public health, safety, and general welfare of residents of this
1185 state and declaring it an essential public purpose to permit
1186 certain municipalities or counties to issue such bonds as will
1187 permit relief to claimants and policyholders of the corporation.
1188 Any such unit of local government may enter into ~~such~~ contracts
1189 with the corporation and with any other entity created pursuant
1190 to this subsection as ~~are~~ necessary to carry out this paragraph.
1191 Any bonds issued are ~~under this subparagraph shall be~~ payable
1192 from and secured by moneys received by the corporation from
1193 emergency assessments under sub-subparagraph (b)3.d., and
1194 assigned and pledged to or on behalf of the unit of local
1195 government for the benefit of the holders of such bonds. The
1196 funds, credit, property, and taxing power of the state or of the
1197 unit of local government may ~~shall~~ not be pledged for the
1198 payment of such bonds.

1199 3.~~a~~. The corporation shall adopt one or more programs
1200 subject to approval by the office for the reduction of both new



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1201 and renewal writings ~~by in~~ the corporation. The corporation may
1202 consider any prudent and not unfairly discriminatory approach to
1203 reducing corporation writings.

1204 a. The corporation may adopt a credit against assessment
1205 liability or other liability which provides an incentive for
1206 insurers to take and keep risks out of the corporation by
1207 maintaining or increasing voluntary writings in counties or
1208 areas in which corporation risks are highly concentrated, and a
1209 program to provide a formula under which an insurer voluntarily
1210 taking risks out of the corporation by maintaining or increasing
1211 voluntary writings is relieved, wholly or partially, from
1212 assessments under sub-subparagraph (b)3.a.

1213 b. Beginning January 1, 2008, Any program the corporation
1214 adopts for the payment of bonuses to an insurer for each risk
1215 the insurer removes from the corporation must ~~shall~~ comply with
1216 s. 627.3511(2) and may not exceed the amount referenced in s.
1217 627.3511(2) for each risk removed. ~~The corporation may consider~~
1218 ~~any prudent and not unfairly discriminatory approach to reducing~~
1219 ~~corporation writings, and may adopt a credit against assessment~~
1220 ~~liability or other liability that provides an incentive for~~
1221 ~~insurers to take risks out of the corporation and to keep risks~~
1222 ~~out of the corporation by maintaining or increasing voluntary~~
1223 ~~writings in counties or areas in which corporation risks are~~
1224 ~~highly concentrated and a program to provide a formula under~~
1225 ~~which an insurer voluntarily taking risks out of the corporation~~
1226 ~~by maintaining or increasing voluntary writings will be relieved~~
1227 ~~wholly or partially from assessments under sub-subparagraph~~
1228 ~~(b)3.a. However,~~ Any "take-out bonus" or payment to an insurer
1229 must be conditioned on the property being insured for at least 5



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1230 years by the insurer, unless canceled or nonrenewed by the
1231 policyholder. If the policy is canceled or nonrenewed by the
1232 policyholder before the end of the 5-year period, the amount of
1233 the take-out bonus must be prorated for the time period the
1234 policy was insured. ~~If~~ ~~when~~ the corporation enters into a
1235 contractual agreement for a take-out plan, the producing agent
1236 of record of the corporation policy is entitled to retain any
1237 unearned commission on such policy, and the insurer shall
1238 either:

1239 (I) Pay to the producing agent of record of the policy, for
1240 the first year, an amount which is the greater of the insurer's
1241 usual and customary commission for the type of policy written or
1242 a policy fee equal to the usual and customary commission of the
1243 corporation; or

1244 (II) Offer to allow the producing agent of record ~~of the~~
1245 ~~policy~~ to continue servicing the policy for at least ~~a period of~~
1246 ~~not less than~~ 1 year and offer to pay the agent the insurer's
1247 usual and customary commission for the type of policy written.
1248 If the producing agent is unwilling or unable to accept
1249 appointment by the new insurer, the new insurer shall pay the
1250 agent in accordance with sub-sub-subparagraph (I).

1251 ~~c.b.~~ Any credit or exemption from regular assessments
1252 adopted under this subparagraph shall last up to ~~no longer than~~
1253 ~~the~~ 3 years after ~~following~~ the cancellation or expiration of
1254 the policy by the corporation. With the approval of the office,
1255 the board may extend such credits for an additional year if the
1256 insurer guarantees an additional year of renewability for all
1257 policies removed from the corporation, or for 2 additional years
1258 if the insurer guarantees 2 additional years of renewability for



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1259 all policies so removed.

1260 ~~d.e.~~ A ~~There shall be no~~ credit, limitation, exemption, or
1261 deferment from emergency assessments ~~to be~~ collected from
1262 policyholders pursuant to sub-subparagraph (b)3.d. is
1263 prohibited.

1264 4. The corporation plan shall provide for the deferment, in
1265 whole or in part, of the assessment of an assessable insurer,
1266 other than an emergency assessment collected from policyholders
1267 pursuant to sub-subparagraph (b)3.d., if the office finds that
1268 payment of the assessment would endanger or impair the solvency
1269 of the insurer. If ~~In the event~~ an assessment against an
1270 assessable insurer is deferred in whole or in part, the amount
1271 by which such assessment is deferred may be assessed against the
1272 other assessable insurers in a manner consistent with the basis
1273 for assessments set forth in paragraph (b).

1274 5. ~~Effective July 1, 2007,~~ In order to evaluate the costs
1275 and benefits of approved take-out plans, if the corporation pays
1276 a bonus or other payment to an insurer for an approved take-out
1277 plan, it shall maintain a record of the address or such other
1278 identifying information on the property or risk removed in order
1279 to track if and when the property or risk is later insured by
1280 the corporation.

1281 ~~6.~~ Any policy taken out, assumed, or removed from the
1282 corporation is, as of the effective date of the take-out,
1283 assumption, or removal, direct insurance issued by the insurer
1284 and not by the corporation, even if the corporation continues to
1285 service the policies. This subparagraph applies to policies of
1286 the corporation and not policies taken out, assumed, or removed
1287 from any other entity.



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1288 6. The corporation may adopt one or more programs to
1289 encourage authorized insurers to remove policies from the
1290 corporation through a loan from the corporation to an insurer
1291 secured by a surplus note that contains such necessary and
1292 reasonable provisions as the corporation requires. Such surplus
1293 note is subject to the review and approval of the office
1294 pursuant to s. 628.401. The corporation may include, but is not
1295 limited to, provisions regarding the maximum size of a loan to
1296 an insurer, capital matching requirements, the relationship
1297 between the aggregate number of policies or amount of loss
1298 exposure removed from the association and the amount of a loan,
1299 retention requirements related to policies removed from the
1300 corporation, and limitations on the number of insurers receiving
1301 loans from the corporation under any one management group in
1302 whatever form or arrangement. If a loan secured by a surplus
1303 note is provided to a new mutual insurance company, the
1304 corporation may require the board of the new mutual insurer to
1305 have a majority of independent board members, may restrict the
1306 ability of the new mutual insurer to convert to a stock insurer
1307 while the mutual insurer owes any principal or interest under
1308 the surplus note to the corporation, establish a capital match
1309 requirement of up to \$1 of private capital for each \$4 of the
1310 corporation's loan to a new mutual insurer, and limit the
1311 eligibility of a new mutual insurer for a waiver of the ceding
1312 commission traditionally associated with take-out programs from
1313 the corporation to those new mutual insurers that agree
1314 contractually to maintain an expense ratio below 20 per cent of
1315 written premium. For this purpose, the term "expense ratio"
1316 means the sum of agent commissions and other acquisition



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1317 expenses; general and administrative expenses; and premium
1318 taxes, licenses, and fees, divided by the gross written premium.

1319 (z) In enacting the provisions of this section, the
1320 Legislature recognizes that both the Florida Windstorm
1321 Underwriting Association and the Residential Property and
1322 Casualty Joint Underwriting Association have entered into
1323 financing arrangements that obligate each entity to service its
1324 debts and maintain the capacity to repay funds secured under
1325 these financing arrangements. It is the intent of the
1326 Legislature that ~~nothing in~~ this section not be construed to
1327 compromise, diminish, or interfere with the rights of creditors
1328 under such financing arrangements. It is further the intent of
1329 the Legislature to preserve the obligations of the Florida
1330 Windstorm Underwriting Association and Residential Property and
1331 Casualty Joint Underwriting Association with regard to
1332 outstanding financing arrangements, with such obligations
1333 passing entirely and unchanged to the corporation and,
1334 specifically, to the applicable account of the corporation. So
1335 long as any bonds, notes, indebtedness, or other financing
1336 obligations of the Florida Windstorm Underwriting Association or
1337 the Residential Property and Casualty Joint Underwriting
1338 Association are outstanding, under the terms of the financing
1339 documents pertaining to them, the executive director of the
1340 corporation, with the concurrence of the governing board, ~~of the~~
1341 ~~corporation~~ shall have and shall exercise the authority to levy,
1342 charge, collect, and receive all premiums, assessments,
1343 surcharges, charges, revenues, and receipts that the
1344 associations had authority to levy, charge, collect, or receive
1345 under the provisions of subsection (2) and this subsection,



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1346 respectively, as they existed on January 1, 2002, to provide
1347 moneys, without exercise of the authority provided by this
1348 subsection, in at least the amounts, and by the times, as would
1349 be provided under those former provisions of subsection (2) or
1350 this subsection, respectively, so that the value, amount, and
1351 collectability of any assets, revenues, or revenue source
1352 pledged or committed to, or any lien thereon securing such
1353 outstanding bonds, notes, indebtedness, or other financing
1354 obligations is ~~will~~ not be diminished, impaired, or adversely
1355 affected by the amendments made by this section ~~act~~ and to
1356 permit compliance with all provisions of financing documents
1357 pertaining to such bonds, notes, indebtedness, or other
1358 financing obligations, or the security or credit enhancement for
1359 them, and any reference in this subsection to bonds, notes,
1360 indebtedness, financing obligations, or similar obligations, of
1361 the corporation must ~~shall~~ include like instruments or contracts
1362 of the Florida Windstorm Underwriting Association and the
1363 Residential Property and Casualty Joint Underwriting Association
1364 to the extent not inconsistent with the ~~provisions of the~~
1365 financing documents pertaining to them.

1366
1367 ===== T I T L E A M E N D M E N T =====

1368 And the title is amended as follows:

1369 Delete lines 39 - 46

1370 and insert:

1371 627.351, F.S.; revising legislative intent with
1372 respect to the corporation; reducing the value of
1373 residential structures that can be covered by the
1374 corporation; revising the corporation's eligibility



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1375 criteria for structures located seaward of the coastal
1376 construction control line; requiring the corporation's
1377 board of governors to concur with certain decisions by
1378 the executive director; providing for risk-sharing
1379 agreements between the corporation and other insurers
1380 and specifying the requirements and limitations of
1381 such agreements; revising provisions relating to the
1382 appointment of the board of governors and the
1383 executive director; deleting provisions allowing a