

FOR CONSIDERATION By the Committee on Banking and Insurance

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1 A bill to be entitled
2 An act relating to property insurance; creating s.
3 215.5551, F.S.; creating the Florida Catastrophe Risk
4 Capital Access Facility to increase the access of
5 small domestic insurers to risk-capital markets;
6 providing intent; establishing the facility in the
7 State Board of Administration; providing the purposes
8 of the facility; requiring the facility to be funded
9 entirely by participating insurers after initial
10 apportionment; providing limitations; providing for a
11 board of directors; providing immunity from liability;
12 providing for an annual report; amending s. 624.155,
13 F.S.; providing that Citizens Property Insurance
14 Corporation is an insurer subject to civil actions as
15 an agent of the state covered by sovereign immunity;
16 amending s. 626.752, F.S., relating to the exchange of
17 business between an agent and insurer; providing an
18 exemption from the requirements of that section to the
19 corporation under certain circumstances; amending s.
20 627.062, F.S.; requiring the Office of Insurance
21 Regulation to calculate and publish insurance
22 inflation factors for use in residential property
23 insurance filings; prohibiting the office from
24 disapproving a rate as excessive due to the insurer's
25 purchase of reinsurance for certain purposes; deleting
26 obsolete provisions; conforming cross-references;
27 amending s. 627.0628, F.S.; requiring the Florida
28 Commission on Hurricane Loss Projection Methodology to
29 consider methods for improving the accuracy of wind

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30 mitigation discounts; amending s. 627.0629, F.S.;

31 requiring insurers to provide notice of mitigation

32 discounts in a residential property insurance rate

33 filing; revising the criteria for when the office may

34 hold a public hearing regarding a rate filing;

35 amending s. 627.171, F.S.; allowing a consent to an

36 excess rate to apply to subsequent policy renewals;

37 limiting the allowable amount of excess rates to

38 territories where there is no competition; amending s.

39 627.351, F.S.; reducing the value of residential

40 structures that can be covered by the corporation;

41 revising the corporation's eligibility criteria for

42 structures located seaward of the coastal construction

43 control line; providing for risk-sharing agreements

44 between the corporation and other insurers and

45 specifying the requirements and limitations of such

46 agreements; deleting provisions allowing a

47 policyholder removed from the corporation to remain

48 eligible for coverage regardless of an offer of

49 coverage from an authorized insurer; revising

50 corporation criteria for appointing agents; requiring

51 disclosure of potential corporation surcharges and

52 policyholder obligations to try and obtain private

53 market coverage; revising provisions relating to the

54 Auditor General's review of the corporation; requiring

55 the board to contract with an independent auditing

56 firm to conduct performance audits; authorizing the

57 corporation to adopt programs that encourage insurers

58 to remove policies from the corporation through a loan

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59 secured by a surplus note; revising the corporation's
60 rate standards; requiring that corporation rates be
61 competitive with approved rates charged in the
62 admitted market and include a catastrophe risk load
63 factor; limiting rate increases for specified personal
64 and commercial lines residential policies and allowing
65 an additional rate increase; requiring the corporation
66 to annually certify its rates; requiring the board of
67 directors to provide recommendations to the
68 Legislature on ways of providing rate relief to those
69 who demonstrate a financial need; deleting obsolete
70 provisions; creating s. 627.3518, F.S.; establishing a
71 clearinghouse within the corporation for identifying
72 and diverting insurance coverage to private insurers;
73 providing definitions; providing requirements and
74 duties of the corporation, insurers, and agents;
75 providing for an alternative to submitting risks to
76 the corporation; amending s. 627.405, F.S.;

77 authorizing policyholders to assign benefits subject
78 to conditions in the policy; amending s. 627.410,
79 F.S.; conforming provisions to changes made by the
80 act; creating s. 627.4102, F.S.; providing for an
81 informational filing of certain forms that are exempt
82 from the Office of Insurance Regulation's approval
83 process; requiring an informational filing to include
84 a notarized certification from the insurer and
85 providing a statement that must be included in the
86 certification; requiring a Notice of Change in Policy
87 Terms form to be filed with a changed renewal policy;

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88 providing effective dates.

89

90 Be It Enacted by the Legislature of the State of Florida:

91

92 Section 1. Section 215.5551, Florida Statutes, is created
93 to read:

94 215.5551 Florida Catastrophe Risk Capital Access Facility.

95 (1) The Legislature finds that the global market for
96 catastrophe risk has expanded dramatically, resulting in the
97 availability of billions of dollars in additional risk capital
98 for insurers and new and innovative alternative risk-transfer
99 mechanisms. The Legislature also finds that having access to
100 additional risk capital and risk-transfer mechanisms provides
101 insurers providing coverage in this state with an opportunity to
102 expand their capacity to write additional business and diversify
103 their catastrophe risk. The Legislature further finds that
104 despite an expansion in the amount of available global risk
105 capital, small insurers, particularly smaller domestic insurers,
106 writing property insurance in this state face substantial
107 challenges accessing these global markets when the relatively
108 small amount of risk finance required by any one company is not
109 economically viable. Therefore, it is the intent of the
110 Legislature to create a mechanism to facilitate the access of
111 small domestic insurers to global risk capital markets and risk-
112 transfer mechanisms.

113 (2) Effective July 1, 2013, the Florida Catastrophe Risk
114 Capital Access Facility is created within the State Board of
115 Administration. The facility is not defined nor may it function
116 as an insurer, reinsurer, or other risk-bearing entity under

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117 state law.

118 (3) The facility shall:

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

122 (b) Design and execute risk-transfer tools such as
123 insurance-linked securities and other securitization models for
124 participating insurers, and use special purpose vehicles or
125 protected cells, onshore or offshore, as appropriate, to
126 increase access to risk capital.

127 (c) Identify and coordinate appropriate risk-transfer
128 products and opportunities, initially targeting layers of
129 coverage below, alongside, and above the portion of the
130 reinsurance market covered by the Florida Hurricane Catastrophe
131 Fund.

132 (d) Establish and maintain regular and ongoing contact with
133 global risk capital market participants, institutions, and
134 investors, in order to identify opportunities that satisfy and
135 coordinate insurer demand for additional risk capital.

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

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

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

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

144 (c) Create contractual obligations on the part of the
145 state; or

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146 (d) Levy taxes or assessments.

147 (6) The facility shall be governed by a board of directors
148 composed of seven members, one from the Department of Financial
149 Services; one from the State Board of Administration; one from
150 the Office of Insurance Regulation; three industry members
151 representing Florida property insurance writers, the reinsurance
152 community, and the financial securities industry; and one member
153 appointed by a majority of the board. The board may employ or
154 contract with such staff and professionals as the board deems
155 necessary to accomplish its purpose.

156 (7) There shall be no liability on the part of, and no
157 cause of action of any nature may arise against, the facility or
158 its agents or employees, the board of directors, or the
159 department or office or their representatives for any action
160 taken by them in the performance of their powers and duties
161 under this section.

162 (8) The facility shall submit a report to the Financial
163 Services Commission by January 1 of each year describing
164 facility activities and transactions undertaken by participating
165 insurers.

166 Section 2. Subsection (1) of section 624.155, Florida
167 Statutes, is amended and subsection (10) is added to that
168 section, to read:

169 624.155 Civil remedy.—

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

173 (a) By a violation of any of the following provisions by
174 the insurer:

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- 175 1. Section 626.9541(1)(i), (o), or (x);
176 2. Section 626.9551;
177 3. Section 626.9705;
178 4. Section 626.9706;
179 5. Section 626.9707; or
180 6. Section 627.7283.

181 (b) By the commission of any of the following acts by the
182 insurer:

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

187 2. Making claims payments to insureds or beneficiaries not
188 accompanied by a statement setting forth the coverage under
189 which payments are being made; or

190 3. Except as to liability coverages, failing to promptly
191 settle claims, when the obligation to settle a claim has become
192 reasonably clear, under one portion of the insurance policy
193 coverage in order to influence settlements under other portions
194 of the insurance policy coverage.

195
196 Notwithstanding the provisions of this subsection ~~the above to~~
197 ~~the contrary~~, a person pursuing a remedy under this section need
198 not prove that such act was committed or performed with such
199 frequency as to indicate a general business practice.

200 (10) For the purposes of this section, Citizens Property
201 Insurance Corporation is an agent of the state covered under s.
202 768.28.

203 Section 3. Subsection (4) of section 626.752, Florida

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204 Statutes, is amended to read:

205 626.752 Exchange of business.—

206 (4) The foregoing limitations and restrictions do shall not
207 ~~be construed and shall not~~ apply to the placing of surplus lines
208 business under the provisions of part VIII, or to Citizens
209 Property Insurance Corporation when placing new and renewal
210 business with authorized insurers in order to reduce the size of
211 the corporation pursuant to s. 627.3511.

212 Section 4. Subsection (2) and paragraph (d) of subsection
213 (3) of section 627.062, Florida Statutes, are amended to read:

214 627.062 Rate standards.—

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

216 (a) Insurers or rating organizations shall establish and
217 use rates, rating schedules, or rating manuals that allow the
218 insurer a reasonable rate of return on the classes of insurance
219 written in this state. A copy of rates, rating schedules, rating
220 manuals, premium credits or discount schedules, and surcharge
221 schedules, and changes thereto, must be filed with the office in
222 accordance with ~~under~~ one of the following procedures:

223 1. If the filing is made at least 90 days before the
224 proposed effective date and is not implemented during the
225 office's review of the filing and any proceeding and judicial
226 review, such filing is considered a "file and use" filing. In
227 such case, the office shall finalize its review by issuance of a
228 notice of intent to approve or a notice of intent to disapprove
229 within 90 days after receipt of the filing. The notice of intent
230 to approve and the notice of intent to disapprove constitute
231 agency action for purposes of the Administrative Procedure Act.
232 Requests for supporting information, requests for mathematical

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233 or mechanical corrections, or notification to the insurer by the
234 office of its preliminary findings does not toll the 90-day
235 period during ~~any~~ such proceedings and subsequent judicial
236 review. The rate shall be deemed approved if the office does not
237 issue a notice of intent to approve or a notice of intent to
238 disapprove within 90 days after receipt of the filing.

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

246 ~~3. For all property insurance filings made or submitted~~
247 ~~after January 25, 2007, but before May 1, 2012, an insurer~~
248 ~~seeking a rate that is greater than the rate most recently~~
249 ~~approved by the office shall make a "file and use" filing. For~~
250 ~~purposes of this subparagraph, motor vehicle collision and~~
251 ~~comprehensive coverages are not considered property coverages.~~

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

- 257 1. Past and prospective loss experience within and without
258 this state.
- 259 2. Past and prospective expenses.
- 260 3. The degree of competition among insurers for the risk
261 insured.

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262 4. Investment income reasonably expected by the insurer,
263 consistent with the insurer's investment practices, from
264 investable premiums anticipated from ~~in~~ the filing, plus any
265 other expected income from currently invested assets
266 representing the amount expected on unearned premium reserves
267 and loss reserves. The commission may adopt rules that use ~~using~~
268 reasonable techniques of actuarial science and economics to
269 specify the manner in which insurers calculate investment income
270 attributable to classes of insurance written in this state and
271 ~~the manner~~ in which investment income is used to calculate
272 insurance rates. Such rules ~~manner~~ must allow ~~contemplate~~
273 ~~allowances~~ for an underwriting profit factor and full
274 consideration of investment income which produce a reasonable
275 rate of return; however, investment income from invested surplus
276 may not be considered.

277 5. The reasonableness of the judgment reflected in the
278 filing.

279 6. Dividends, savings, or unabsorbed premium deposits
280 allowed or returned to state ~~Florida~~ policyholders, members, or
281 subscribers.

282 7. The adequacy of loss reserves.

283 8. The cost of reinsurance. The office may not disapprove a
284 rate as excessive ~~solely~~ due solely to the insurer having
285 obtained catastrophic reinsurance to cover the insurer's
286 estimated 250-year probable maximum loss or any lower level of
287 loss, or due solely to an admitted carrier purchasing private
288 reinsurance that would insure against potential deficits within
289 the Florida Hurricane Catastrophe Fund which the most recent
290 estimate made pursuant to s. 215.555(4)(c)2. predicts would be

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291 funded through revenue bonds issued under s. 215.555(6).

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

294 10. Conflagration and catastrophe hazards, if applicable.

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

299 12. A reasonable margin for underwriting profit and
300 contingencies.

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

302 14. Other relevant factors that affect the frequency or
303 severity of claims or expenses.

304 (c) The office shall calculate and publish insurance
305 inflation factors based on noncatastrophe direct loss costs for
306 use in residential property insurance filings. The office shall
307 update the published factors at least annually and make them
308 available on its website. The calculation of insurance inflation
309 factors are not subject to rulemaking under chapter 120.

310 1. An insurer making a residential property insurance rate
311 filing that proposes a change in noncatastrophe base rates by a
312 uniform factor equal to or less than the applicable published
313 insurance inflation factor, may make a rate filing under s.
314 627.0645 which consists of a rate certification in lieu of a
315 full rate filing under paragraph (a). The office shall verify
316 insurer use of the appropriate published inflation factor and,
317 if the inflation factor is used appropriately, the filed rates
318 shall be deemed not excessive.

319 2. An insurer filing under this paragraph may make a

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320 separate filing pursuant to paragraph (l) to adjust its rates
321 for reinsurance rates, reinsurance financing costs and products,
322 and cash buildup factor costs. The insurance inflation factors
323 do not apply to these filings.

324 3. This paragraph does not apply to filings made by
325 Citizens Property Insurance Corporation.

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

331 (e)~~(d)~~ If conflagration or catastrophe hazards are
332 considered by an insurer in its rates or rating plan, including
333 surcharges and discounts, the insurer must ~~shall~~ establish a
334 reserve for that portion of the premium allocated to such hazard
335 and maintain the premium in a catastrophe reserve. Removal of
336 such premiums from the reserve for purposes other than paying
337 claims associated with a catastrophe or purchasing reinsurance
338 for catastrophes must be approved by the office. Any ceding
339 commission received by an insurer purchasing reinsurance for
340 catastrophes must be placed in the catastrophe reserve.

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

345 1. Rates shall be deemed excessive if they are likely to
346 produce a profit from Florida business which is unreasonably
347 high in relation to the risk involved in the class of business
348 or if expenses are unreasonably high in relation to services

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349 rendered.

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

354 3. Rates shall be deemed inadequate if ~~they are clearly~~
355 ~~insufficient~~, together with the investment income attributable
356 to them, they are clearly insufficient to sustain projected
357 losses and expenses in the class of business to which they
358 apply.

359 4. A rating plan, including discounts, credits, or
360 surcharges, shall be deemed unfairly discriminatory if it fails
361 to clearly and equitably reflect consideration of the
362 policyholder's participation in a risk management program
363 adopted pursuant to s. 627.0625.

364 5. A rate shall be deemed inadequate as to the premium
365 charged to a risk or group of risks if discounts or credits are
366 allowed which exceed a reasonable reflection of expense savings
367 and reasonably expected loss experience from the risk or group
368 of risks.

369 6. A rate shall be deemed unfairly discriminatory as to a
370 risk or group of risks if the application of premium discounts,
371 credits, or surcharges among such risks does not bear a
372 reasonable relationship to the expected loss and expense
373 experience among the various risks.

374 (g) ~~(f)~~ In reviewing a rate filing, the office may require
375 the insurer to provide, at the insurer's expense, all
376 information necessary to evaluate the condition of the company
377 and the reasonableness of the filing according to the criteria

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378 enumerated in this section.

379 (h)~~(g)~~ The office may at any time review a rate, rating
380 schedule, rating manual, or rate change; the pertinent records
381 of the insurer; and market conditions. If the office finds on a
382 preliminary basis that a rate may be excessive, inadequate, or
383 unfairly discriminatory, the office shall initiate proceedings
384 to disapprove the rate and ~~shall so~~ notify the insurer. However,
385 the office may not disapprove as excessive any rate for which it
386 has given final approval or which has been deemed approved for 1
387 year after the effective date of the filing unless the office
388 finds that a material misrepresentation or material error was
389 made by the insurer or was contained in the filing. Upon
390 notification being notified, the insurer or rating organization
391 shall, within 60 days, file with the office all information
392 that, in the belief of the insurer or organization, proves the
393 reasonableness, adequacy, and fairness of the rate or rate
394 change. The office shall issue a notice of intent to approve or
395 a notice of intent to disapprove pursuant to paragraph (a)
396 within 90 days after receipt of the insurer's initial response.
397 In such instances and in any administrative proceeding relating
398 to the legality of the rate, the insurer or rating organization
399 ~~shall~~ carry the burden of proof of showing, by a preponderance
400 of the evidence, ~~to show~~ that the rate is not excessive,
401 inadequate, or unfairly discriminatory. After the office
402 notifies an insurer that a rate may be excessive, inadequate, or
403 unfairly discriminatory, unless the office withdraws the
404 notification, the insurer may not alter the rate except to
405 conform to the office's notice until the earlier of 120 days
406 after the date the notification was provided or 180 days after

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407 the date of implementing the rate. ~~The office,~~ Subject to
408 chapter 120, the office may disapprove without the 60-day
409 notification any rate increase filed by an insurer within the
410 prohibited time period or during the time that the legality of
411 the increased rate is being contested.

412 (i) ~~(h)~~ If the office finds that a rate or rate change is
413 excessive, inadequate, or unfairly discriminatory, the office
414 shall issue an order of disapproval requiring ~~specifying~~ that a
415 new rate or rate schedule, which responds to the findings of the
416 office, be filed by the insurer. The office shall further order,
417 for any "use and file" filing made in accordance with
418 subparagraph (a)2., that the portion of premiums charged which
419 constitute each policyholder constituting the portion of the
420 rate above that which was actuarially justified be returned to
421 the policyholder in the form of a credit or refund. If the
422 office finds that an insurer's rate or rate change is
423 inadequate, the new rate or rate schedule filed with the office
424 in response to such a finding applies ~~is applicable~~ only to new
425 or renewal business ~~of the insurer~~ written by the insurer on or
426 after the effective date of the responsive filing.

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

430 1. Prohibit an ~~any~~ insurer, including any residual market
431 plan or joint underwriting association, from paying acquisition
432 costs based on the full amount of premium, as defined in s.
433 627.403, applicable to any policy, or prohibit ~~any~~ such insurer
434 from including the full amount of acquisition costs in a rate
435 filing; or

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436 2. Impede, abridge, or otherwise compromise an insurer's
437 right to acquire policyholders, advertise, or appoint agents,
438 including the calculation, manner, or amount of such agent
439 commissions, if any.

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

443 (1) ~~(k)~~ 1. A residential property insurer may make a separate
444 filing limited solely to an adjustment of its rates for
445 reinsurance, the cost of financing products used as a
446 replacement for reinsurance, financing costs incurred in the
447 purchase of reinsurance, and the actual cost paid due to the
448 application of the cash build-up factor pursuant to s.
449 215.555(5)(b) if the insurer:

450 a. Elects to purchase financing products, such as a
451 liquidity instrument or line of credit, in which case the cost
452 included in filing for the liquidity instrument or line of
453 credit may not result in a premium increase exceeding 3 percent
454 for any individual policyholder. All costs contained in the
455 filing may not result in an overall premium increase of more
456 than 15 percent for any individual policyholder.

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

462 2. An insurer that purchases reinsurance or financing
463 products from an affiliated company may make a separate filing
464 only if the costs for such reinsurance or financing products are

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465 charged at or below charges made for comparable coverage by
466 nonaffiliated reinsurers or financial entities making such
467 coverage or financing products available in this state.

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

470 4. An insurer that elects to implement a rate change under
471 this paragraph must file its rate filing with the office at
472 least 45 days before the effective date of the rate change.
473 After an insurer submits a complete filing that meets all of the
474 requirements of this paragraph, the office has 45 days after the
475 date of the filing to review the rate filing and determine if
476 the rate is excessive, inadequate, or unfairly discriminatory.

477
478 The provisions of this subsection do not apply to workers'
479 compensation, employer's liability insurance, and motor vehicle
480 insurance.

481 (3)

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

485 a. Excess or umbrella.

486 b. Surety and fidelity.

487 c. Boiler and machinery and leakage and fire extinguishing
488 equipment.

489 d. Errors and omissions.

490 e. Directors and officers, employment practices, fiduciary
491 liability, and management liability.

492 f. Intellectual property and patent infringement liability.

493 g. Advertising injury and Internet liability insurance.

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494 h. Property risks rated under a highly protected risks
495 rating plan.

496 i. General liability.

497 j. Nonresidential property, except for collateral
498 protection insurance as defined in s. 624.6085.

499 k. Nonresidential multiperil.

500 l. Excess property.

501 m. Burglary and theft.

502 n. Any other commercial lines categories or kinds of
503 insurance or types of commercial lines risks that the office
504 determines should not be subject to paragraph (2) (a) or
505 paragraph (2) (g) ~~(2) (f)~~ because of the existence of a
506 competitive market for such insurance, similarity of such
507 insurance to other categories or kinds of insurance not subject
508 to paragraph (2) (a) or paragraph (2) (g) ~~(2) (f)~~, or to improve
509 the general operational efficiency of the office.

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

514 3. An insurer must notify the office of any changes to
515 rates for insurance and risks described in subparagraph 1.
516 within 30 days after the effective date of the change. The
517 notice must include the name of the insurer, the type or kind of
518 insurance subject to rate change, total premium written during
519 the immediately preceding year by the insurer for the type or
520 kind of insurance subject to the rate change, and the average
521 statewide percentage change in rates. Underwriting files,
522 premiums, losses, and expense statistics relating ~~with regard~~ to

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523 such insurance and risks written by an insurer must be
524 maintained by the insurer and subject to examination by the
525 office. Upon examination, the office, in accordance with
526 generally accepted and reasonable actuarial techniques, shall
527 consider the rate factors in paragraphs (2) (b), (d) ~~(e)~~, and (e)
528 ~~(d)~~ and the standards in paragraph (2) (f) ~~(2) (e)~~ to determine if
529 the rate is excessive, inadequate, or unfairly discriminatory.

530 4. A rating organization must notify the office of any
531 changes to loss cost for insurance and risks described in
532 subparagraph 1. within 30 days after the effective date of the
533 change. The notice must include the name of the rating
534 organization, the type or kind of insurance subject to a loss
535 cost change, loss costs during the immediately preceding year
536 for the type or kind of insurance subject to the loss cost
537 change, and the average statewide percentage change in loss
538 cost. Actuarial data relating ~~with regard~~ to changes to loss
539 cost for risks not subject to paragraph (2) (a) or paragraph
540 (2) (g) ~~(2) (f)~~ must be maintained by the rating organization for
541 2 years after the effective date of the change and are subject
542 to examination by the office. The office may require the rating
543 organization to incur the costs associated with an examination.
544 Upon examination, the office, in accordance with generally
545 accepted and reasonable actuarial techniques, shall consider the
546 rate factors in paragraphs (2) (b), (d), and (e) ~~(2) (b) (d)~~ and
547 the standards in paragraph (2) (f) ~~(2) (e)~~ to determine if the
548 rate is excessive, inadequate, or unfairly discriminatory.

549 Section 5. Paragraphs (a) and (b) of subsection (3) of
550 section 627.0628, Florida Statutes, are amended to read:

551 627.0628 Florida Commission on Hurricane Loss Projection

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552 Methodology; public records exemption; public meetings
553 exemption.—

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

555 (a) The commission shall consider any actuarial methods,
556 principles, standards, models, or output ranges that have the
557 potential for improving the accuracy ~~of~~ or reliability of the
558 hurricane loss projections and wind mitigation discounts used in
559 residential property insurance rate filings. The commission
560 shall, from time to time, adopt findings as to the accuracy or
561 reliability of particular methods, principles, standards,
562 models, or output ranges.

563 (b) The commission shall consider any actuarial methods,
564 principles, standards, or models that have the potential for
565 improving the accuracy ~~of~~ or reliability of projecting probable
566 maximum loss levels. The commission shall adopt findings as to
567 the accuracy or reliability of particular methods, principles,
568 standards, or models related to probable maximum loss
569 calculations. The commission shall review models for accuracy of
570 use when establishing wind mitigation discounts.

571 Section 6. Subsections (1) and (6) of section 627.0629,
572 Florida Statutes, are amended to read:

573 627.0629 Residential property insurance; rate filings.—

574 (1) It is the intent of the Legislature that insurers
575 provide savings to consumers who install or implement windstorm
576 damage mitigation techniques, alterations, or solutions to their
577 properties to prevent windstorm losses. A rate filing for
578 residential property insurance must include notice of the
579 mitigation discounts offered by the insurer, which must be
580 actuarially reasonable discounts, credits, or other rate

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581 differentials, or appropriate reductions in deductibles, for
582 properties on which fixtures or construction techniques
583 demonstrated to reduce the amount of loss in a windstorm have
584 been installed or implemented. The fixtures or construction
585 techniques must include, but are not limited to, fixtures or
586 construction techniques that enhance roof strength, roof
587 covering performance, roof-to-wall strength, wall-to-floor-to-
588 foundation strength, ~~opening protection,~~ and the impact
589 resistance of window, door, and skylight openings strength.
590 Credits, discounts, or other rate differentials, or appropriate
591 reductions in deductibles, for fixtures and construction
592 techniques that meet the minimum requirements of the Florida
593 Building Code must be included in the rate filing. ~~The office~~
594 ~~shall determine the discounts, credits, other rate~~
595 ~~differentials, and appropriate reductions in deductibles that~~
596 ~~reflect the full actuarial value of such revaluation, which may~~
597 ~~be used by insurers in rate filings.~~

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

603 Section 7. Section 627.171, Florida Statutes, is amended to
604 read:

605 627.171 Excess rates.—

606 (1) With the written consent of the insured signed before
607 ~~prior to~~ the policy inception date and filed with the insurer,
608 the insurer may use a rate in excess of the otherwise applicable
609 filed rate on any specific risk. The signed consent form is

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610 valid for subsequent renewals and must include the filed rate as
611 well as the excess rate for the risk insured.~~7 and~~ A copy of the
612 form must be maintained by the insurer for 3 years and be
613 available for review by the office.

614 (2) An insurer may not use excess rates authorized under
615 ~~pursuant to~~ this section for more than 10 percent of its
616 commercial insurance policies written or renewed in each
617 calendar year for any line of commercial insurance or for more
618 than 5 percent of its personal lines insurance policies written
619 or renewed in each calendar year for any line of personal
620 insurance in those counties in which the office has determined
621 there is not a reasonable degree of competition. In determining
622 the 10-percent limitation for commercial insurance policies, the
623 insurer shall exclude a ~~any~~ workers' compensation policy that
624 was written for an employer who had coverage in the joint
625 underwriting plan created by s. 627.311(5) immediately before
626 ~~prior to~~ the writing of the policy by the insurer and a ~~any~~
627 workers' compensation policy that was written for an employer
628 who had been offered coverage in the joint underwriting plan but
629 who was written a policy by the insurer in lieu of accepting the
630 joint underwriting plan policy. Such ~~These~~ workers' compensation
631 policies shall be excluded from the 10-percent limitation for
632 the first 3 years of coverage.

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

636 627.351 Insurance risk apportionment plans.—

637 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

638 (a) The public purpose of this subsection is to ensure that

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639 there is an orderly market for property insurance for residents
640 and businesses of this state.

641 1. The Legislature finds that private insurers are
642 unwilling or unable to provide affordable property insurance
643 coverage rates in certain parts of the ~~in this~~ state to the
644 extent sought and needed. The absence of affordable property
645 insurance threatens the public health, safety, and welfare and
646 likewise threatens the economic health of the state. The state,
647 therefore, has a compelling public interest and a public purpose
648 to assist in assuring that property in the state is insured and
649 ~~that it is~~ insured at affordable rates so as to facilitate the
650 remediation, reconstruction, and replacement of damaged or
651 destroyed property in order to reduce or avoid ~~the~~ negative
652 effects on ~~otherwise resulting to~~ the public health, safety, and
653 welfare, to the economy of the state, and to the revenues of the
654 state and local governments which are needed to provide for the
655 public welfare. It is necessary, therefore, to make provide
656 affordable property insurance available to applicants who are,
657 in good faith, entitled to procure insurance through the
658 voluntary market but are unable to do so. The Legislature
659 intends, therefore, that affordable property insurance be
660 provided and ~~that it~~ continue to be provided, as long as
661 necessary, through Citizens Property Insurance Corporation, a
662 government entity that is an integral part of the state, and
663 ~~that is~~ not a private insurance company, or through referrals to
664 private insurers participating in a clearinghouse established by
665 the corporation. To that end, the corporation shall strive to
666 increase the availability of affordable property insurance in
667 this state, while achieving efficiencies and economies, and

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668 while providing service to policyholders, applicants, and agents
669 which is no less than the quality generally provided in the
670 voluntary market, for the achievement of the foregoing public
671 purposes. Because it is essential for this government entity to
672 have the maximum financial resources to pay claims following a
673 catastrophic hurricane, it is further the intent of the
674 Legislature that the corporation continue to be an integral part
675 of the state and not a private insurance company, and that the
676 income of the corporation be exempt from federal income taxation
677 and that interest on the debt obligations issued by the
678 corporation be exempt from federal income taxation.

679 2. The Residential Property and Casualty Joint Underwriting
680 Association originally created by this statute shall be known as
681 the Citizens Property Insurance Corporation. The corporation
682 shall provide ~~insurance for~~ residential and commercial property
683 insurance, for applicants who are entitled, but, in good faith,
684 are unable to procure insurance through the voluntary market.
685 The corporation shall operate pursuant to a plan of operation
686 approved by order of the Financial Services Commission. The plan
687 is subject to continuous review by the commission, and the
688 commission may, by order, withdraw approval of all or part of a
689 plan if the commission determines that conditions have changed
690 since approval was granted and that the purposes of the plan
691 require changes in the plan. For the purposes of this
692 subsection, residential coverage includes both personal lines
693 residential coverage, which consists of the type of coverage
694 provided by homeowner's, mobile home owner's, dwelling,
695 tenant's, condominium unit owner's, and similar policies; and
696 commercial lines residential coverage, which consists of the

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697 type of coverage provided by condominium association, apartment
698 building, and similar policies.

699 3. ~~Effective January 1, 2009,~~ A personal lines residential
700 structure that has a dwelling replacement cost of \$600,000 ~~\$2~~
701 ~~million~~ or more, or a single condominium unit that has a
702 combined dwelling and contents replacement cost of \$600,000 ~~\$2~~
703 ~~million~~ or more is not eligible for coverage by the corporation.
704 ~~Such dwellings insured by the corporation on December 31, 2008,~~
705 ~~may continue to be covered by the corporation until the end of~~
706 ~~the policy term. However, such dwellings may reapply and obtain~~
707 ~~coverage if the property owner provides the corporation with a~~
708 ~~sworn affidavit from one or more insurance agents, on a form~~
709 ~~provided by the corporation, stating that the agents have made~~
710 ~~their best efforts to obtain coverage and that the property has~~
711 ~~been rejected for coverage by at least one authorized insurer~~
712 ~~and at least three surplus lines insurers. If such conditions~~
713 ~~are met, the dwelling may be insured by the corporation for up~~
714 ~~to 3 years, after which time the dwelling is ineligible for~~
715 ~~coverage.~~ The office shall approve the method used by the
716 corporation for valuing the dwelling replacement costs under
717 ~~cost for the purposes of~~ this subparagraph. If a policyholder is
718 insured by the corporation before ~~prior to~~ being determined ~~to~~
719 ~~be~~ ineligible pursuant to this subparagraph and such
720 policyholder files a lawsuit challenging the determination, the
721 policyholder may remain insured by the corporation until the
722 conclusion of the litigation.

723 4. It is the intent of the Legislature that policyholders,
724 applicants, and agents of the corporation receive service and
725 treatment of the highest possible level but never less than that

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726 generally provided in the voluntary market. It is also intended
727 that the corporation be held to service standards no less than
728 those applied to insurers in the voluntary market by the office
729 with respect to responsiveness, timeliness, customer courtesy,
730 and overall dealings with policyholders, applicants, or agents
731 of the corporation.

732 5. Any structure for which a notice of commencement has
733 been issued on or after July 1, 2013, pursuant to s. 713.135,
734 which is located seaward of the coastal construction control
735 line created pursuant to s. 161.053, is ineligible for coverage
736 through the corporation unless the structure meets the coastal
737 code-plus building code criteria developed and recommended by
738 the Florida Building Commission.

739 ~~5. Effective January 1, 2009, a personal lines residential~~
740 ~~structure that is located in the "wind-borne debris region," as~~
741 ~~defined in s. 1609.2, International Building Code (2006), and~~
742 ~~that has an insured value on the structure of \$750,000 or more~~
743 ~~is not eligible for coverage by the corporation unless the~~
744 ~~structure has opening protections as required under the Florida~~
745 ~~Building Code for a newly constructed residential structure in~~
746 ~~that area. A residential structure shall be deemed to comply~~
747 ~~with this subparagraph if it has shutters or opening protections~~
748 ~~on all openings and if such opening protections complied with~~
749 ~~the Florida Building Code at the time they were installed.~~

750 6. For any claim filed under any policy of the corporation,
751 a public adjuster may not charge, agree to, or accept any
752 compensation, payment, commission, fee, or other thing of value
753 greater than 10 percent of the additional amount actually paid
754 over the amount that was originally offered by the corporation

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755 for any one claim.

756 (b)1. All insurers authorized to write one or more subject
757 lines of business in this state are subject to assessment by the
758 corporation and, for the purposes of this subsection, are
759 referred to collectively as "assessable insurers." Insurers
760 writing one or more subject lines of business in this state
761 pursuant to part VIII of chapter 626 are not assessable
762 insurers; however, ~~but~~ insureds who procure one or more subject
763 lines of business in this state pursuant to part VIII of chapter
764 626 are subject to assessment by the corporation and are
765 referred to collectively as "assessable insureds." An insurer's
766 assessment liability begins on the first day of the calendar
767 year following the year in which the insurer was issued a
768 certificate of authority to transact insurance for subject lines
769 of business in this state and terminates 1 year after the end of
770 the first calendar year during which the insurer no longer holds
771 a certificate of authority to transact insurance for subject
772 lines of business in this state.

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

776 (I) A personal lines account for personal residential
777 policies issued by the corporation, or issued by the Residential
778 Property and Casualty Joint Underwriting Association and renewed
779 by the corporation, which provides comprehensive, multiperil
780 coverage on risks that are not located in areas eligible for
781 coverage by the Florida Windstorm Underwriting Association as
782 those areas were defined on January 1, 2002, and for policies
783 that do not provide coverage for the peril of wind on risks that

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784 are located in such areas;

785 (II) A commercial lines account for commercial residential
786 and commercial nonresidential policies issued by the
787 corporation, or issued by the Residential Property and Casualty
788 Joint Underwriting Association and renewed by the corporation,
789 which provides coverage for basic property perils on risks that
790 are not located in areas eligible for coverage by the Florida
791 Windstorm Underwriting Association as those areas were defined
792 on January 1, 2002, and for policies that do not provide
793 coverage for the peril of wind on risks that are located in such
794 areas; and

795 (III) A coastal account for personal residential policies
796 and commercial residential and commercial nonresidential
797 property policies issued by the corporation, or transferred to
798 the corporation, which provides coverage for the peril of wind
799 on risks that are located in areas eligible for coverage by the
800 Florida Windstorm Underwriting Association as those areas were
801 defined on January 1, 2002. The corporation may offer policies
802 that provide multiperil coverage and ~~the corporation~~ shall
803 ~~continue to~~ offer policies that provide coverage only for the
804 peril of wind for risks located in areas eligible for coverage
805 in the coastal account. In issuing multiperil coverage, the
806 corporation may use its approved policy forms and rates for the
807 personal lines account. An applicant or insured who is eligible
808 to purchase a multiperil policy from the corporation may
809 purchase a multiperil policy from an authorized insurer without
810 prejudice to the applicant's or insured's eligibility to
811 prospectively purchase a policy that provides coverage only for
812 the peril of wind from the corporation. An applicant or insured

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813 who is eligible for a corporation policy that provides coverage
814 only for the peril of wind may elect to purchase or retain such
815 policy and also purchase or retain coverage excluding wind from
816 an authorized insurer without prejudice to the applicant's or
817 insured's eligibility to prospectively purchase a policy that
818 provides multiperil coverage from the corporation. It is the
819 goal of the Legislature that there be an overall average savings
820 of 10 percent or more for a policyholder who currently has a
821 wind-only policy with the corporation, and an ex-wind policy
822 with a voluntary insurer or the corporation, and who obtains a
823 multiperil policy from the corporation. It is the intent of the
824 Legislature that the offer of multiperil coverage in the coastal
825 account be made and implemented in a manner that does not
826 adversely affect the tax-exempt status of the corporation or
827 creditworthiness of or security for currently outstanding
828 financing obligations or credit facilities of the coastal
829 account, the personal lines account, or the commercial lines
830 account. ~~The coastal account must also include quota share~~
831 ~~primary insurance under subparagraph (c)2.~~ The area eligible for
832 coverage under the coastal account also includes the area within
833 Port Canaveral, which is bordered on the south by the City of
834 Cape Canaveral, bordered on the west by the Banana River, and
835 bordered on the north by Federal Government property.

836 b. The three separate accounts must be maintained as long
837 as financing obligations entered into by the Florida Windstorm
838 Underwriting Association or Residential Property and Casualty
839 Joint Underwriting Association are outstanding, in accordance
840 with the terms of the corresponding financing documents. If the
841 financing obligations are no longer outstanding, the corporation

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842 may use a single account for all revenues, assets, liabilities,
843 losses, and expenses of the corporation. Consistent with this
844 subparagraph and prudent investment policies that minimize the
845 cost of carrying debt, the board shall exercise its best efforts
846 to retire existing debt or obtain the approval of necessary
847 parties to amend the terms of existing debt, in order ~~so as~~ to
848 structure the most efficient plan for consolidating ~~to~~
849 ~~consolidate~~ the three separate accounts into a single account.

850 c. Creditors of the Residential Property and Casualty Joint
851 Underwriting Association and the accounts specified in sub-sub-
852 subparagraphs a.(I) and (II) may have a claim against, and
853 recourse to, those accounts and no claim against, or recourse
854 to, the account referred to in sub-sub-subparagraph a.(III).
855 Creditors of the Florida Windstorm Underwriting Association have
856 a claim against, and recourse to, the account referred to in
857 sub-sub-subparagraph a.(III) and no claim against, or recourse
858 to, the accounts referred to in sub-sub-subparagraphs a.(I) and
859 (II).

860 d. Revenues, assets, liabilities, losses, and expenses not
861 attributable to particular accounts shall be prorated among the
862 accounts.

863 e. The Legislature finds that the revenues of the
864 corporation are revenues that are necessary to meet the
865 requirements set forth in documents authorizing the issuance of
866 bonds under this subsection.

867 f. The income of the corporation may not inure to the
868 benefit of any private person.

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

870 a. After accounting for the Citizens policyholder surcharge

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871 imposed under sub-subparagraph i., if the remaining projected
872 deficit incurred in the coastal account in a particular calendar
873 year:

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

879 (II) Exceeds 2 percent of the aggregate statewide direct
880 written premium for the subject lines of business for the prior
881 calendar year, the corporation shall levy regular assessments on
882 assessable insurers under paragraph (q) and on assessable
883 insureds in an amount equal to the greater of 2 percent of the
884 projected deficit or 2 percent of the aggregate statewide direct
885 written premium for the subject lines of business for the prior
886 calendar year. Any remaining projected deficit shall be
887 recovered through emergency assessments under sub-subparagraph
888 d.

889 b. Each assessable insurer's share of the amount being
890 assessed under sub-subparagraph a. must be in the proportion
891 that the assessable insurer's direct written premium for the
892 subject lines of business for the year preceding the assessment
893 bears to the aggregate statewide direct written premium for the
894 subject lines of business for that year. The assessment
895 percentage applicable to each assessable insured is the ratio of
896 the amount being assessed under sub-subparagraph a. to the
897 aggregate statewide direct written premium for the subject lines
898 of business for the prior year. Assessments levied by the
899 corporation on assessable insurers under sub-subparagraph a.

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900 must be paid as required by the corporation's plan of operation
901 and paragraph (q). Assessments levied by the corporation on
902 assessable insureds under sub-subparagraph a. shall be collected
903 by the surplus lines agent at the time the surplus lines agent
904 collects the surplus lines tax required by s. 626.932, and paid
905 to the Florida Surplus Lines Service Office at the time the
906 surplus lines agent pays the surplus lines tax to that office.
907 Upon receipt of regular assessments from surplus lines agents,
908 the Florida Surplus Lines Service Office shall transfer the
909 assessments directly to the corporation as determined by the
910 corporation.

911 c. After accounting for the Citizens policyholder surcharge
912 imposed under sub-subparagraph i., the remaining projected
913 deficits in the personal lines account and in the commercial
914 lines account in a particular calendar year shall be recovered
915 through emergency assessments under sub-subparagraph d.

916 d. Upon a determination by the board of governors that a
917 projected deficit in an account exceeds the amount that is
918 expected to be recovered through regular assessments under sub-
919 subparagraph a., plus the amount that is expected to be
920 recovered through policyholder surcharges under sub-subparagraph
921 i., the board, after verification by the office, shall levy
922 emergency assessments for as many years as necessary to cover
923 the deficits, to be collected by assessable insurers and the
924 corporation and collected from assessable insureds upon issuance
925 or renewal of policies for subject lines of business, excluding
926 National Flood Insurance policies. The amount collected in a
927 particular year must be a uniform percentage of that year's
928 direct written premium for subject lines of business and all

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929 accounts of the corporation, excluding National Flood Insurance
930 Program policy premiums, as annually determined by the board and
931 verified by the office. The office shall verify the arithmetic
932 calculations involved in the board's determination within 30
933 days after receipt of the information on which the determination
934 was based. The office shall notify assessable insurers and the
935 Florida Surplus Lines Service Office of the date on which
936 assessable insurers shall begin to collect and assessable
937 insureds shall begin to pay such assessment. The date must be at
938 least ~~may be not less than~~ 90 days after the date the
939 corporation levies emergency assessments pursuant to this sub-
940 subparagraph. Notwithstanding any other provision of law, the
941 corporation and each assessable insurer that writes subject
942 lines of business shall collect emergency assessments from its
943 policyholders without such obligation being affected by any
944 credit, limitation, exemption, or deferment. Emergency
945 assessments levied by the corporation on assessable insureds
946 shall be collected by the surplus lines agent at the time the
947 surplus lines agent collects the surplus lines tax required by
948 s. 626.932 and paid to the Florida Surplus Lines Service Office
949 at the time the surplus lines agent pays the surplus lines tax
950 to that office. The emergency assessments collected shall be
951 transferred directly to the corporation on a periodic basis as
952 determined by the corporation and held by the corporation solely
953 in the applicable account. The aggregate amount of emergency
954 assessments levied for an account ~~under this sub-subparagraph~~ in
955 any calendar year may be less than but not exceed the greater of
956 10 percent of the amount needed to cover the deficit, plus
957 interest, fees, commissions, required reserves, and other costs

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958 associated with financing the original deficit, or 10 percent of
959 the aggregate statewide direct written premium for subject lines
960 of business and all accounts of the corporation for the prior
961 year, plus interest, fees, commissions, required reserves, and
962 other costs associated with financing the deficit.

963 e. The corporation may pledge the proceeds of assessments,
964 projected recoveries from the Florida Hurricane Catastrophe
965 Fund, other insurance and reinsurance recoverables, policyholder
966 surcharges and other surcharges, and other funds available to
967 the corporation as the source of revenue for and to secure bonds
968 issued under paragraph (q), bonds or other indebtedness issued
969 under subparagraph (c)3., or lines of credit or other financing
970 mechanisms issued or created under this subsection, or to retire
971 any other debt incurred as a result of deficits or events giving
972 rise to deficits, or in any other way that the board determines
973 will efficiently recover such deficits. The purpose of the lines
974 of credit or other financing mechanisms is to provide additional
975 resources to assist the corporation in covering claims and
976 expenses attributable to a catastrophe. As used in this
977 subsection, the term "assessments" includes regular assessments
978 under sub-subparagraph a. or subparagraph (q)1. and emergency
979 assessments under sub-subparagraph d. Emergency assessments
980 collected under sub-subparagraph d. are not part of an insurer's
981 rates, are not premium, and are not subject to premium tax,
982 fees, or commissions; however, failure to pay the emergency
983 assessment shall be treated as failure to pay premium. The
984 emergency assessments ~~under sub-subparagraph d.~~ shall continue
985 as long as any bonds issued or other indebtedness incurred with
986 respect to a deficit for which the assessment was imposed remain

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987 outstanding, unless adequate provision has been made for the
988 payment of such bonds or other indebtedness pursuant to the
989 documents governing such bonds or indebtedness.

990 f. As used in this subsection for purposes of any deficit
991 incurred on or after January 25, 2007, the term "subject lines
992 of business" means insurance written by assessable insurers or
993 procured by assessable insureds for all property and casualty
994 lines of business in this state, but not including workers'
995 compensation or medical malpractice. As used in this sub-
996 subparagraph, the term "property and casualty lines of business"
997 includes all lines of business identified on Form 2, Exhibit of
998 Premiums and Losses, in the annual statement required of
999 authorized insurers under s. 624.424 and any rule adopted under
1000 this section, except for those lines identified as accident and
1001 health insurance and except for policies written under the
1002 National Flood Insurance Program or the Federal Crop Insurance
1003 Program. For purposes of this sub-subparagraph, the term
1004 "workers' compensation" includes both workers' compensation
1005 insurance and excess workers' compensation insurance.

1006 g. The Florida Surplus Lines Service Office shall annually
1007 determine ~~annually~~ the aggregate statewide written premium in
1008 subject lines of business procured by assessable insureds and
1009 report that information to the corporation in a form and at a
1010 time the corporation specifies to ensure that the corporation
1011 can meet the requirements of this subsection and the
1012 corporation's financing obligations.

1013 h. The Florida Surplus Lines Service Office shall verify
1014 the proper application by surplus lines agents of assessment
1015 percentages for regular assessments and emergency assessments

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1016 levied under this subparagraph on assessable insureds and assist
1017 the corporation in ensuring the accurate, timely collection and
1018 payment of assessments by surplus lines agents as required by
1019 the corporation.

1020 i. ~~In 2008 or thereafter,~~ Upon a determination by the board
1021 of governors that an account has a projected deficit, the board
1022 shall levy a Citizens policyholder surcharge against all
1023 policyholders of the corporation.

1024 (I) The surcharge shall be levied as a uniform percentage
1025 ~~of the premium for the policy~~ of up to 15 percent of the policy
1026 ~~such~~ premium, which funds shall be used to offset the deficit.

1027 (II) The surcharge is payable upon cancellation or
1028 termination of the policy, upon renewal of the policy, or upon
1029 issuance of a new policy by the corporation within the first 12
1030 months after the date of the levy or the period of time
1031 necessary to fully collect the surcharge amount.

1032 (III) The corporation may not levy any regular assessments
1033 under paragraph (q) pursuant to sub-subparagraph a. or sub-
1034 subparagraph b. with respect to a particular year's deficit
1035 until the corporation has first levied the full amount of the
1036 surcharge authorized by this sub-subparagraph.

1037 (IV) The surcharge is not considered premium and is not
1038 subject to commissions, fees, or premium taxes. However, failure
1039 to pay the surcharge shall be treated as failure to pay premium.

1040 j. If the amount of any assessments or surcharges collected
1041 from corporation policyholders, assessable insurers or their
1042 policyholders, or assessable insureds exceeds the amount of the
1043 deficits, such excess amounts shall be remitted to and retained
1044 by the corporation in a reserve to be used by the corporation,

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1045 as determined by the board of governors and approved by the
1046 office, to pay claims or reduce any past, present, or future
1047 plan-year deficits or to reduce outstanding debt.

1048 (c) The corporation's plan of operation:

1049 1. Must provide for adoption of residential property and
1050 casualty insurance policy forms and commercial residential and
1051 nonresidential property insurance forms, which must be approved
1052 by the office before use. The corporation shall adopt the
1053 following policy forms:

1054 a. Standard personal lines policy forms that are
1055 comprehensive multiperil policies providing full coverage of a
1056 residential property equivalent to the coverage provided in the
1057 private insurance market under an HO-3, HO-4, or HO-6 policy.

1058 b. Basic personal lines policy forms that are policies
1059 similar to an HO-8 policy or a dwelling fire policy that provide
1060 coverage meeting the requirements of the secondary mortgage
1061 market, but which is more limited than the coverage under a
1062 standard policy.

1063 c. Commercial lines residential and nonresidential policy
1064 forms that are generally similar to the basic perils of full
1065 coverage obtainable for commercial residential structures and
1066 commercial nonresidential structures in the admitted voluntary
1067 market.

1068 d. Personal lines and commercial lines residential property
1069 insurance forms that cover the peril of wind only. Such ~~The~~
1070 forms are applicable only to residential properties located in
1071 areas eligible for coverage under the coastal account referred
1072 to in sub-subparagraph (b)2.a.

1073 e. Commercial lines nonresidential property insurance forms

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1074 that cover the peril of wind only. Such ~~The~~ forms are applicable
1075 only to nonresidential properties located in areas eligible for
1076 coverage under the coastal account referred to in sub-
1077 subparagraph (b)2.a.

1078 f. The corporation may adopt variations of the policy forms
1079 listed in sub-subparagraphs a.-e. which contain more restrictive
1080 coverage.

1081 g. Effective January 1, 2013, the corporation shall offer a
1082 basic personal lines policy similar to an HO-8 policy with
1083 dwelling repair based on common construction materials and
1084 methods.

1085 2. Must provide that the corporation and an authorized
1086 insurer may enter into a risk-sharing agreement for the purpose
1087 of reducing the corporation's exposure. As used in this
1088 subparagraph, the term "risk-sharing agreement" means an
1089 agreement between the corporation and an authorized insurer for
1090 the corporation to retain part, but not all, of the risk for a
1091 specified group of policies or specified perils within a group
1092 of policies, as part of the terms for removal of policies from
1093 the corporation.

1094 a. Entering into a risk-sharing agreement is voluntary and
1095 at the discretion of the corporation and the authorized insurer.
1096 To avoid unnecessary expense, the board of governors may limit
1097 the corporation's participation in risk-sharing agreements to
1098 those participants capable and willing to assume a minimum of 25
1099 percent of the exposure on at least 100,000 policies and may
1100 specify other limitations. A risk-sharing agreement in which the
1101 corporation retains part of the risk may not exceed 5 years.

1102 b. The risk-sharing agreement may cover policies in any

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1103 account and may cover any perils. The corporation may act as a
1104 reinsurer or a cedent under a risk sharing agreement or an
1105 excess of loss agreement. If the corporation is the reinsurer,
1106 the insurance policy forms and endorsements must be approved by
1107 the office, cover all perils that are the subject of the risk-
1108 sharing agreement, and cover at least the same limits as the
1109 corporation policies being replaced.

1110 c. The terms of each risk-sharing agreement must ensure
1111 that the consideration received by the corporation is
1112 commensurate with the risk retained by the corporation and the
1113 risk assumed by the authorized insurer. The corporation may not
1114 share risk for bad faith.

1115 d. The risk-sharing agreement must specify the proportion
1116 of exposure that the authorized insurer reports to the Florida
1117 Hurricane Catastrophe Fund and the exposure retained by the
1118 corporation. Each shall pay premium and receive reimbursements
1119 from the fund for the exposure that they retain or assume as
1120 provided in the risk-sharing agreement. The risk retained or
1121 assumed is eligible for coverage by the fund and is not
1122 considered reinsurance for purposes of coverage by the fund.
1123 However, the authorized insurer and the corporation may report
1124 participation in the risk sharing agreement on their financial
1125 statements as reinsurance if appropriate according to the
1126 characteristics of the agreement based on statutory accounting
1127 rules and instructions.

1128 e. Notwithstanding any other provision of law:

1129 (I) Policies offered coverage by the corporation or an
1130 authorized insurer through a risk-sharing agreement are not
1131 eligible for coverage by the corporation outside of the

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1132 agreement; and

1133 (II) A risk-sharing agreement between the corporation and
1134 an authorized insurer is not subject to the requirements of a
1135 take-out or keep-out program under ss. 627.3517 and this
1136 subsection, except that the agreement must be filed by the
1137 authorized insurer with the office for review and approval
1138 before the execution of the agreement by the insurer.

1139 ~~2. Must provide that the corporation adopt a program in~~
1140 ~~which the corporation and authorized insurers enter into quota~~
1141 ~~share primary insurance agreements for hurricane coverage, as~~
1142 ~~defined in s. 627.4025(2)(a), for eligible risks, and adopt~~
1143 ~~property insurance forms for eligible risks which cover the~~
1144 ~~peril of wind only.~~

1145 ~~a. As used in this subsection, the term:~~

1146 ~~(I) "Quota share primary insurance" means an arrangement in~~
1147 ~~which the primary hurricane coverage of an eligible risk is~~
1148 ~~provided in specified percentages by the corporation and an~~
1149 ~~authorized insurer. The corporation and authorized insurer are~~
1150 ~~each solely responsible for a specified percentage of hurricane~~
1151 ~~coverage of an eligible risk as set forth in a quota share~~
1152 ~~primary insurance agreement between the corporation and an~~
1153 ~~authorized insurer and the insurance contract. The~~
1154 ~~responsibility of the corporation or authorized insurer to pay~~
1155 ~~its specified percentage of hurricane losses of an eligible~~
1156 ~~risk, as set forth in the agreement, may not be altered by the~~
1157 ~~inability of the other party to pay its specified percentage of~~
1158 ~~losses. Eligible risks that are provided hurricane coverage~~
1159 ~~through a quota share primary insurance arrangement must be~~
1160 ~~provided policy forms that set forth the obligations of the~~

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1161 ~~corporation and authorized insurer under the arrangement,~~
1162 ~~clearly specify the percentages of quota share primary insurance~~
1163 ~~provided by the corporation and authorized insurer, and~~
1164 ~~conspicuously and clearly state that the authorized insurer and~~
1165 ~~the corporation may not be held responsible beyond their~~
1166 ~~specified percentage of coverage of hurricane losses.~~

1167 ~~(II) "Eligible risks" means personal lines residential and~~
1168 ~~commercial lines residential risks that meet the underwriting~~
1169 ~~criteria of the corporation and are located in areas that were~~
1170 ~~eligible for coverage by the Florida Windstorm Underwriting~~
1171 ~~Association on January 1, 2002.~~

1172 ~~b. The corporation may enter into quota share primary~~
1173 ~~insurance agreements with authorized insurers at corporation~~
1174 ~~coverage levels of 90 percent and 50 percent.~~

1175 ~~e. If the corporation determines that additional coverage~~
1176 ~~levels are necessary to maximize participation in quota share~~
1177 ~~primary insurance agreements by authorized insurers, the~~
1178 ~~corporation may establish additional coverage levels. However,~~
1179 ~~the corporation's quota share primary insurance coverage level~~
1180 ~~may not exceed 90 percent.~~

1181 ~~d. Any quota share primary insurance agreement entered into~~
1182 ~~between an authorized insurer and the corporation must provide~~
1183 ~~for a uniform specified percentage of coverage of hurricane~~
1184 ~~losses, by county or territory as set forth by the corporation~~
1185 ~~board, for all eligible risks of the authorized insurer covered~~
1186 ~~under the agreement.~~

1187 ~~e. Any quota share primary insurance agreement entered into~~
1188 ~~between an authorized insurer and the corporation is subject to~~
1189 ~~review and approval by the office. However, such agreement shall~~

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1190 ~~be authorized only as to insurance contracts entered into~~
1191 ~~between an authorized insurer and an insured who is already~~
1192 ~~insured by the corporation for wind coverage.~~

1193 ~~f. For all eligible risks covered under quota share primary~~
1194 ~~insurance agreements, the exposure and coverage levels for both~~
1195 ~~the corporation and authorized insurers shall be reported by the~~
1196 ~~corporation to the Florida Hurricane Catastrophe Fund. For all~~
1197 ~~policies of eligible risks covered under such agreements, the~~
1198 ~~corporation and the authorized insurer must maintain complete~~
1199 ~~and accurate records for the purpose of exposure and loss~~
1200 ~~reimbursement audits as required by fund rules. The corporation~~
1201 ~~and the authorized insurer shall each maintain duplicate copies~~
1202 ~~of policy declaration pages and supporting claims documents.~~

1203 ~~g. The corporation board shall establish in its plan of~~
1204 ~~operation standards for quota share agreements which ensure that~~
1205 ~~there is no discriminatory application among insurers as to the~~
1206 ~~terms of the agreements, pricing of the agreements, incentive~~
1207 ~~provisions if any, and consideration paid for servicing policies~~
1208 ~~or adjusting claims.~~

1209 ~~h. The quota share primary insurance agreement between the~~
1210 ~~corporation and an authorized insurer must set forth the~~
1211 ~~specific terms under which coverage is provided, including, but~~
1212 ~~not limited to, the sale and servicing of policies issued under~~
1213 ~~the agreement by the insurance agent of the authorized insurer~~
1214 ~~producing the business, the reporting of information concerning~~
1215 ~~eligible risks, the payment of premium to the corporation, and~~
1216 ~~arrangements for the adjustment and payment of hurricane claims~~
1217 ~~incurred on eligible risks by the claims adjuster and personnel~~
1218 ~~of the authorized insurer. Entering into a quota sharing~~

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1219 ~~insurance agreement between the corporation and an authorized~~
1220 ~~insurer is voluntary and at the discretion of the authorized~~
1221 ~~insurer.~~

1222 3.a. May provide that the corporation ~~may employ or~~
1223 ~~otherwise contract with individuals or other entities to provide~~
1224 ~~administrative or professional services that may be appropriate~~
1225 ~~to effectuate the plan. The corporation may~~ borrow funds by
1226 issuing bonds or by incurring other indebtedness, and shall have
1227 other powers reasonably necessary to effectuate the requirements
1228 of this subsection, including, without limitation, the power to
1229 issue bonds and incur other indebtedness in order to refinance
1230 outstanding bonds or other indebtedness. The corporation may
1231 seek judicial validation of its bonds or other indebtedness
1232 under chapter 75. The corporation may issue bonds or incur other
1233 indebtedness, or have bonds issued on its behalf by a unit of
1234 local government pursuant to subparagraph (q)2. in the absence
1235 of a hurricane or other weather-related event, upon a
1236 determination by the corporation, subject to approval by the
1237 office, that such action would enable it to efficiently meet the
1238 financial obligations of the corporation and that such
1239 financings are reasonably necessary to effectuate the
1240 requirements of this subsection. The corporation may take all
1241 actions needed to facilitate tax-free status for such bonds or
1242 indebtedness, including formation of trusts or other affiliated
1243 entities. The corporation may pledge assessments, projected
1244 recoveries from the Florida Hurricane Catastrophe Fund, other
1245 reinsurance recoverables, Citizens policyholder surcharges and
1246 other surcharges, and other funds available to the corporation
1247 as security for bonds or other indebtedness. In recognition of

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1248 s. 10, Art. I of the State Constitution, prohibiting the
1249 impairment of obligations of contracts, it is the intent of the
1250 Legislature that ~~no~~ action not be taken whose purpose is to
1251 impair any bond indenture or financing agreement or any revenue
1252 source committed by contract to such bond or other indebtedness.

1253 b. May provide that the corporation employ or otherwise
1254 contract with individuals or other entities to provide
1255 administrative or professional services that may be appropriate
1256 to effectuate the plan. To ensure that the corporation is
1257 operating in an efficient and economic manner while providing
1258 quality service to policyholders, applicants, and agents, the
1259 board shall commission an independent third-party consultant
1260 having expertise in insurance company management or insurance
1261 company management consulting to prepare a report and make
1262 recommendations on the relative costs and benefits of
1263 outsourcing various policy issuance and service functions to
1264 private servicing carriers or entities performing similar
1265 functions in the private market for a fee, rather than
1266 performing such functions in-house. In making such
1267 recommendations, the consultant shall consider how other
1268 residual markets, both in this state and around the country,
1269 outsource appropriate functions or use servicing carriers to
1270 better match expenses with revenues that fluctuate based on a
1271 widely varying policy count. The report must be completed by
1272 July 1, 2012. Upon receiving the report, the board shall develop
1273 a plan to implement the report and submit the plan for review,
1274 modification, and approval to the Financial Services Commission.
1275 Upon the commission's approval of the plan, the board shall
1276 begin implementing the plan by January 1, 2013.

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1277 4. Must require that the corporation operate subject to the
1278 supervision and approval of a board of governors consisting of
1279 eight individuals who are residents of this state and who are~~r~~
1280 from different geographical areas of the ~~this~~ state.

1281 a. The Governor, the Chief Financial Officer, the President
1282 of the Senate, and the Speaker of the House of Representatives
1283 shall each appoint two members of the board. At least one of the
1284 two members appointed by each appointing officer must have
1285 demonstrated expertise in insurance and ~~is~~ deemed to be within
1286 the scope of the exemption provided under ~~in~~ s. 112.313(7)(b).
1287 The Chief Financial Officer shall designate one of the
1288 appointees as chair. All board members serve at the pleasure of
1289 the appointing officer. All members of the board are subject to
1290 removal at will by the officers who appointed them. All board
1291 members, including the chair, shall ~~must~~ be appointed ~~to serve~~
1292 for 3-year terms beginning annually on a date designated by the
1293 plan. ~~However, for the first term beginning on or after July 1,~~
1294 ~~2009, each appointing officer shall appoint one member of the~~
1295 ~~board for a 2-year term and one member for a 3-year term.~~ A
1296 board vacancy shall be filled for the unexpired term by the
1297 appointing officer. The Chief Financial Officer shall appoint a
1298 technical advisory group to provide information and advice to
1299 the board in connection with the board's duties under this
1300 subsection. The executive director and senior managers of the
1301 corporation shall be engaged by the board and serve at the
1302 pleasure of the board. Any executive director appointed on or
1303 after July 1, 2006, is subject to confirmation by the Senate.
1304 The executive director is responsible for employing other staff
1305 ~~as~~ the corporation may require, subject to review and

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1306 concurrence by the board.

1307 b. The board shall create a Market Accountability Advisory
1308 Committee to assist the corporation in developing awareness of
1309 its rates and its customer and agent service levels in
1310 relationship to the voluntary market insurers writing similar
1311 coverage.

1312 (I) The members of the advisory committee consist of the
1313 following 11 persons, one of whom must be elected chair by the
1314 members of the committee: four representatives, one appointed by
1315 the Florida Association of Insurance Agents, one by the Florida
1316 Association of Insurance and Financial Advisors, one by the
1317 Professional Insurance Agents of Florida, and one by the Latin
1318 American Association of Insurance Agencies; three
1319 representatives appointed by the insurers with the three highest
1320 voluntary market share of residential property insurance
1321 business in the state; one representative from the Office of
1322 Insurance Regulation; one consumer appointed by the board who is
1323 insured by the corporation at the time of appointment to the
1324 committee; one representative appointed by the Florida
1325 Association of Realtors; and one representative appointed by the
1326 Florida Bankers Association. All members shall be appointed to
1327 3-year terms and may serve for consecutive terms.

1328 (II) The committee shall report to the corporation at each
1329 board meeting on insurance market issues that ~~which~~ may include
1330 rates and rate competition within ~~with~~ the voluntary market;
1331 service, including policy issuance, claims processing, and
1332 general responsiveness to policyholders, applicants, and agents;
1333 and matters relating to depopulation.

1334 5. Must provide a procedure for determining the eligibility

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1335 of a risk for coverage by the corporation which applies to both
1336 new and renewal policies, as follows:

1337 a. Subject to s. 627.3517, with respect to personal lines
1338 residential risks, if the risk is offered coverage from an
1339 authorized insurer at the insurer's approved rate under a
1340 standard policy including wind coverage or, if consistent with
1341 the insurer's underwriting rules as filed with the office, a
1342 basic policy including wind coverage, ~~for a new application to~~
1343 ~~the corporation for coverage~~, the risk is not eligible for any
1344 policy issued by the corporation unless the premium for coverage
1345 from the authorized insurer is more than 15 percent greater than
1346 the premium for comparable coverage from the corporation. If the
1347 risk is not able to obtain such offer, the risk is eligible for
1348 a standard policy including wind coverage or a basic policy
1349 including wind coverage issued by the corporation; however, if
1350 the risk could not be insured under a standard policy including
1351 wind coverage regardless of market conditions, the risk is
1352 eligible for a basic policy including wind coverage unless
1353 rejected under subparagraph 8. ~~However, a policyholder of the~~
1354 ~~corporation or a policyholder removed from the corporation~~
1355 ~~through an assumption agreement until the end of the assumption~~
1356 ~~period remains eligible for coverage from the corporation~~
1357 ~~regardless of any offer of coverage from an authorized insurer~~
1358 ~~or surplus lines insurer.~~ The corporation shall determine the
1359 type of policy to be provided on the basis of objective
1360 standards specified in the underwriting manual and based on
1361 generally accepted underwriting practices.

1362 (I) If the risk accepts an offer of coverage through the
1363 market assistance plan or through a mechanism established by the

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1364 corporation before a policy is issued to the risk by the
1365 corporation or during the first 30 days of coverage by the
1366 corporation, and the producing agent who submitted the
1367 application to the plan or to the corporation is not currently
1368 appointed by the insurer, the insurer shall:

1369 (A) Pay to the producing agent of record ~~of the policy~~ for
1370 the first year, an amount that is the greater of the insurer's
1371 usual and customary commission for the type of policy written or
1372 a fee equal to the usual and customary commission of the
1373 corporation; or

1374 (B) Offer to allow the producing agent of record ~~of the~~
1375 ~~policy~~ to continue servicing the policy for at least 1 year and
1376 offer to pay the agent the greater of the insurer's or the
1377 corporation's usual and customary commission for the type of
1378 policy written.

1379
1380 If the producing agent is unwilling or unable to accept
1381 appointment, the new insurer shall pay the agent in accordance
1382 with sub-sub-sub-subparagraph (A).

1383 (II) If the corporation enters into a contractual agreement
1384 for a take-out plan, the producing agent of record of the
1385 corporation policy is entitled to retain any unearned commission
1386 on the policy, and the insurer shall:

1387 (A) Pay to the producing agent of record, for the first
1388 year, an amount that is the greater of the insurer's usual and
1389 customary commission for the type of policy written or a fee
1390 equal to the usual and customary commission of the corporation;
1391 or

1392 (B) Offer to allow the producing agent of record to

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1393 continue servicing the policy for at least 1 year and offer to
1394 pay the agent the greater of the insurer's or the corporation's
1395 usual and customary commission for the type of policy written.

1396

1397 If the producing agent is unwilling or unable to accept
1398 appointment, the new insurer shall pay the agent in accordance
1399 with sub-sub-sub-subparagraph (A).

1400 b. With respect to commercial lines residential risks, ~~for~~
1401 ~~a new application to the corporation for coverage,~~ if the risk
1402 is offered coverage under a policy including wind coverage from
1403 an authorized insurer at its approved rate, the risk is not
1404 eligible for a policy issued by the corporation unless the
1405 premium for coverage from the authorized insurer is more than 15
1406 percent greater than the premium for comparable coverage from
1407 the corporation. If the risk is not able to obtain any such
1408 offer, the risk is eligible for a policy including wind coverage
1409 issued by the corporation. ~~However, a policyholder of the~~
1410 ~~corporation or a policyholder removed from the corporation~~
1411 ~~through an assumption agreement until the end of the assumption~~
1412 ~~period remains eligible for coverage from the corporation~~
1413 ~~regardless of an offer of coverage from an authorized insurer or~~
1414 ~~surplus lines insurer.~~

1415 (I) If the risk accepts an offer of coverage through the
1416 market assistance plan or through a mechanism established by the
1417 corporation before a policy is issued to the risk by the
1418 corporation or during the first 30 days of coverage by the
1419 corporation, and the producing agent who submitted the
1420 application to the plan or the corporation is not currently
1421 appointed by the insurer, the insurer shall:

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1422 (A) Pay to the producing agent of record ~~of the policy~~, for
1423 the first year, an amount that is the greater of the insurer's
1424 usual and customary commission for the type of policy written or
1425 a fee equal to the usual and customary commission of the
1426 corporation; or

1427 (B) Offer to allow the producing agent of record ~~of the~~
1428 ~~policy~~ to continue servicing the policy for at least 1 year and
1429 offer to pay the agent the greater of the insurer's or the
1430 corporation's usual and customary commission for the type of
1431 policy written.

1432
1433 If the producing agent is unwilling or unable to accept
1434 appointment, the new insurer shall pay the agent in accordance
1435 with sub-sub-sub-subparagraph (A).

1436 (II) If the corporation enters into a contractual agreement
1437 for a take-out plan, the producing agent of record of the
1438 corporation policy is entitled to retain any unearned commission
1439 on the policy, and the insurer shall:

1440 (A) Pay to the producing agent of record, for the first
1441 year, an amount that is the greater of the insurer's usual and
1442 customary commission for the type of policy written or a fee
1443 equal to the usual and customary commission of the corporation;
1444 or

1445 (B) Offer to allow the producing agent of record to
1446 continue servicing the policy for at least 1 year and offer to
1447 pay the agent the greater of the insurer's or the corporation's
1448 usual and customary commission for the type of policy written.

1449
1450 If the producing agent is unwilling or unable to accept

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1451 appointment, the new insurer shall pay the agent in accordance
1452 with sub-sub-sub-subparagraph (A).

1453 c. For purposes of determining comparable coverage under
1454 sub-subparagraphs a. and b., the comparison must be based on
1455 those forms and coverages that are reasonably comparable. The
1456 corporation may rely on a determination of comparable coverage
1457 and premium made by the producing agent who submits the
1458 application to the corporation, made in the agent's capacity as
1459 the corporation's agent. A comparison may be made solely of the
1460 premium with respect to the main building or structure ~~only~~ on
1461 the following basis: the same coverage A or other building
1462 limits; the same percentage hurricane deductible that applies on
1463 an annual basis or that applies to each hurricane for commercial
1464 residential property; the same percentage of ordinance and law
1465 coverage, if the same limit is offered by both the corporation
1466 and the authorized insurer; the same mitigation credits, to the
1467 extent the same types of credits are offered both by the
1468 corporation and the authorized insurer; the same method for loss
1469 payment, such as replacement cost or actual cash value, if the
1470 same method is offered both by the corporation and the
1471 authorized insurer in accordance with underwriting rules; and
1472 any other form or coverage that is reasonably comparable as
1473 determined by the board. If an application is submitted to the
1474 corporation for wind-only coverage in the coastal account, the
1475 premium for the corporation's wind-only policy plus the premium
1476 for the ex-wind policy that is offered by an authorized insurer
1477 to the applicant must be compared to the premium for multiperil
1478 coverage offered by an authorized insurer, subject to the
1479 standards for comparison specified in this subparagraph. If the

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1480 corporation or the applicant requests from the authorized
1481 insurer a breakdown of the premium of the offer by types of
1482 coverage so that a comparison may be made by the corporation or
1483 its agent and the authorized insurer refuses or is unable to
1484 provide such information, the corporation may treat the offer as
1485 not being an offer of coverage from an authorized insurer at the
1486 insurer's approved rate.

1487 6. Must include rules for classifications of risks and
1488 rates.

1489 7. Must provide that if premium and investment income for
1490 an account attributable to a particular calendar year are in
1491 excess of projected losses and expenses for the account
1492 attributable to that year, such excess must ~~shall~~ be held in
1493 surplus in the account. Such surplus must be available to defray
1494 deficits in that account as to future years and used for that
1495 purpose before assessing assessable insurers and assessable
1496 insureds as to any calendar year.

1497 8. Must provide objective criteria and procedures that are
1498 ~~to be~~ uniformly applied to all applicants in determining whether
1499 an individual risk is so hazardous as to be uninsurable. In
1500 making this determination and in establishing the criteria and
1501 procedures, the following must be considered:

1502 a. Whether the likelihood of a loss for the individual risk
1503 is substantially higher than for other risks of the same class;
1504 and

1505 b. Whether the uncertainty associated with the individual
1506 risk is such that an appropriate premium cannot be determined.

1507
1508 The acceptance or rejection of a risk by the corporation shall

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1509 be construed as the private placement of insurance, and the
1510 provisions of chapter 120 do not apply.

1511 9. Must provide that the corporation make its best efforts
1512 to procure catastrophe reinsurance at reasonable rates, to cover
1513 its projected 100-year probable maximum loss as determined by
1514 the board of governors.

1515 10. Must provide that the policies issued by the
1516 corporation ~~must~~ provide that if the corporation or the market
1517 assistance plan obtains an offer from an authorized insurer to
1518 cover the risk at its approved rates, the risk is no longer
1519 eligible for renewal through the corporation, except as
1520 otherwise provided in this subsection.

1521 11. Must provide that corporation policies and applications
1522 ~~must~~ include a notice that the corporation policy could, under
1523 this section, be replaced with a policy issued by an authorized
1524 insurer which does not provide coverage identical to the
1525 coverage provided by the corporation. The notice must also
1526 specify that acceptance of corporation coverage creates a
1527 conclusive presumption that the applicant or policyholder is
1528 aware of this potential.

1529 12. May establish, subject to approval by the office,
1530 different eligibility requirements and operational procedures
1531 for any line or type of coverage for any specified county or
1532 area if the board determines that such changes are justified due
1533 to the voluntary market being sufficiently stable and
1534 competitive in such area or for such line or type of coverage
1535 and that consumers who, in good faith, are unable to obtain
1536 insurance through the voluntary market through ordinary methods
1537 continue to have access to coverage from the corporation. If

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1538 coverage is sought in connection with a real property transfer,
1539 the requirements and procedures may not provide an effective
1540 date of coverage later than the date of the closing of the
1541 transfer as established by the transferor, the transferee, and,
1542 if applicable, the lender.

1543 13. Must provide that, with respect to the coastal account,
1544 any assessable insurer that has ~~with~~ a surplus as to
1545 policyholders of \$25 million or less writing 25 percent or more
1546 of its total countrywide property insurance premiums in this
1547 state may ~~petition the office~~, within the first 90 days of each
1548 calendar year, petition the office to qualify as a limited
1549 apportionment company. A regular assessment levied by the
1550 corporation on a limited apportionment company for a deficit
1551 incurred by the corporation for the coastal account may be paid
1552 to the corporation on a monthly basis as the assessments are
1553 collected by the limited apportionment company from its
1554 insureds. ~~The, but a~~ limited apportionment company must begin
1555 collecting the regular assessments within ~~not later than~~ 90 days
1556 after the regular assessments are levied by the corporation, and
1557 the regular assessments must be paid in full within 15 months
1558 after being levied by the corporation. A limited apportionment
1559 company shall collect from its policyholders any emergency
1560 assessment imposed under sub-subparagraph (b)3.d. The plan must
1561 provide that, if the office determines that any regular
1562 assessment will result in an impairment of the surplus of a
1563 limited apportionment company, the office may direct that all or
1564 part of such assessment be deferred as provided in subparagraph
1565 (q)4. However, an emergency assessment to be collected from
1566 policyholders under sub-subparagraph (b)3.d. may not be limited

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1567 or deferred.

1568 14. Must provide that the corporation appoint as its
1569 licensed agents only those agents who at the time of initial
1570 appointment also hold an appointment as defined in s. 626.015(3)
1571 ~~with an insurer who at the time of the agent's initial~~
1572 ~~appointment by the corporation~~ is authorized to write and is
1573 actually writing personal lines residential property coverage,
1574 commercial residential property coverage, or commercial
1575 nonresidential property coverage within the state. As a
1576 condition of continued appointment, agents of the corporation
1577 must maintain appropriate documentation specified by the
1578 corporation which warrants and certifies that alternative
1579 coverage was annually sought for each risk placed by that agent
1580 with the corporation in accordance with s. 627.3518. After
1581 January 1, 2014, if an agent places a policy with the
1582 corporation which was ineligible for coverage based on
1583 eligibility standards at the time of placement, agent
1584 commissions may not be paid on that policy.

1585 15. Must provide a premium payment plan option to its
1586 policyholders which, at a minimum, allows for quarterly and
1587 semiannual payment of premiums. A monthly payment plan may, but
1588 is not required to, be offered.

1589 16. Must limit coverage on mobile homes or manufactured
1590 homes built before 1994 to actual cash value of the dwelling
1591 rather than replacement costs of the dwelling.

1592 17. May provide such limits of coverage as the board
1593 determines, consistent with the requirements of this subsection.

1594 18. May require commercial property to meet specified
1595 hurricane mitigation construction features as a condition of

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1596 eligibility for coverage.

1597 19. Must provide that new or renewal policies issued by the
 1598 corporation on or after January 1, 2012, which cover sinkhole
 1599 loss do not include coverage for any loss to appurtenant
 1600 structures, driveways, sidewalks, decks, or patios that are
 1601 directly or indirectly caused by sinkhole activity. The
 1602 corporation shall exclude such coverage using a notice of
 1603 coverage change, which may be included with the policy renewal,
 1604 and not by issuance of a notice of nonrenewal of the excluded
 1605 coverage upon renewal of the current policy.

1606 20. Must, as of July ~~January~~ 1, 2014 ~~2012~~, ~~must~~ require
 1607 that the agent obtain from an applicant for coverage from the
 1608 corporation an acknowledgment signed by the applicant, which
 1609 includes, at a minimum, the following statement:

1610
 1611 ACKNOWLEDGMENT OF POTENTIAL SURCHARGE
 1612 AND ASSESSMENT LIABILITY:

1613
 1614 1. AS A POLICYHOLDER OF CITIZENS PROPERTY INSURANCE
 1615 CORPORATION, I UNDERSTAND THAT IF THE CORPORATION SUSTAINS A
 1616 DEFICIT AS A RESULT OF HURRICANE LOSSES OR FOR ANY OTHER REASON,
 1617 MY POLICY COULD BE SUBJECT TO SURCHARGES, WHICH WILL BE DUE AND
 1618 PAYABLE UPON RENEWAL, CANCELLATION, OR TERMINATION OF THE
 1619 POLICY, AND THAT THE SURCHARGES COULD BE AS HIGH AS 45 PERCENT
 1620 OF MY PREMIUM, OR A DIFFERENT AMOUNT AS IMPOSED BY THE FLORIDA
 1621 LEGISLATURE.

1622 2. I UNDERSTAND THAT I CAN AVOID THE CITIZENS POLICYHOLDER
 1623 SURCHARGE, WHICH COULD BE AS HIGH AS 45 PERCENT OF MY PREMIUM,
 1624 BY OBTAINING COVERAGE FROM A PRIVATE MARKET INSURER AND THAT TO

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1625 BE ELIGIBLE FOR COVERAGE BY CITIZENS I MUST FIRST TRY TO OBTAIN
1626 PRIVATE MARKET COVERAGE BEFORE APPLYING FOR OR RENEWING COVERAGE
1627 WITH CITIZENS. I UNDERSTAND THAT PRIVATE MARKET INSURANCE RATES
1628 ARE REGULATED AND APPROVED BY THE STATE.

1629 3.2. I ~~ALSO~~ UNDERSTAND THAT I MAY BE SUBJECT TO EMERGENCY
1630 ASSESSMENTS TO THE SAME EXTENT AS POLICYHOLDERS OF OTHER
1631 INSURANCE COMPANIES, OR A DIFFERENT AMOUNT AS IMPOSED BY THE
1632 FLORIDA LEGISLATURE.

1633 4.3. I ~~ALSO~~ UNDERSTAND THAT CITIZENS PROPERTY INSURANCE
1634 CORPORATION IS NOT SUPPORTED BY THE FULL FAITH AND CREDIT OF THE
1635 STATE OF FLORIDA.

1636 a. The corporation shall maintain, in electronic format or
1637 otherwise, a copy of the applicant's signed acknowledgment and
1638 provide a copy of the statement to the policyholder as part of
1639 his or her ~~the first~~ renewal after the effective date of this
1640 subparagraph.

1641 b. The signed acknowledgment form creates a conclusive
1642 presumption that the policyholder understood and accepted his or
1643 her potential surcharge and assessment liability as a
1644 policyholder of the corporation.

1645 (m) 1. The Auditor General shall conduct an operational
1646 audit of the corporation annually ~~every 3 years~~ to evaluate
1647 management's performance in administering laws, policies, and
1648 procedures governing the operations of the corporation in an
1649 efficient and effective manner. The scope of the review must
1650 ~~shall~~ include, but is not limited to, evaluating claims
1651 handling, customer service, take-out programs and bonuses; it
1652 financing arrangements made to address a 100-year probable
1653 maximum loss; personnel costs and administration; underwriting,

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1654 including processes designed to ensure compliance with policy
1655 eligibility requirements of law;~~7~~ procurement of goods and
1656 services;~~7~~ internal controls;~~7~~ and the internal audit function;
1657 and related internal controls. A copy of the report shall be
1658 provided to the corporation's board, the President of the
1659 Senate, the Speaker of the House of Representatives, each member
1660 of the Financial Services Commission, and the Office of
1661 Insurance Regulation. The initial audit must be completed by
1662 February 1,~~2009~~.

1663 2. The board shall contract with an independent auditing
1664 firm to conduct a performance audit of the corporation every 2
1665 years. The objectives of the audit include, but are not limited
1666 to, an evaluation, within the context of insurance industry best
1667 practices, of the corporation's strategic planning processes,
1668 the functionality of the corporation's organizational structure,
1669 the compensation levels of senior management, and the overall
1670 management and operations of the corporation. A copy of the
1671 audit report shall be provided to the corporation's board, the
1672 President of the Senate, the Speaker of the House of
1673 Representatives, each member of the Financial Services
1674 Commission, the Office of Insurance Regulation, and the Auditor
1675 General. The initial audit must be completed by June 1, 2014.

1676 (q)1. The corporation shall certify to the office its needs
1677 for annual assessments as to a particular calendar year, and for
1678 any interim assessments that it deems ~~to be~~ necessary to sustain
1679 operations as to a particular year pending the receipt of annual
1680 assessments. Upon verification, the office shall approve such
1681 certification, and the corporation shall levy such annual or
1682 interim assessments. Such assessments shall be prorated as

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1683 provided in paragraph (b). The corporation shall take all
1684 reasonable and prudent steps necessary to collect the amount of
1685 assessments due from each assessable insurer, including, if
1686 prudent, filing suit to collect the assessments, and the office
1687 may provide such assistance to the corporation it deems
1688 appropriate. If the corporation is unable to collect an
1689 assessment from any assessable insurer, the uncollected
1690 assessments shall be levied as an additional assessment against
1691 the assessable insurers and any assessable insurer required to
1692 pay an additional assessment as a result of such failure to pay
1693 shall have a cause of action against the ~~such~~ nonpaying
1694 assessable insurer. Assessments must ~~shall~~ be included as an
1695 ~~appropriate factor~~ in the making of rates. The failure of a
1696 surplus lines agent to collect and remit any regular or
1697 emergency assessment levied by the corporation is ~~considered to~~
1698 ~~be~~ a violation of s. 626.936 and subjects the surplus lines
1699 agent to the penalties provided in that section.

1700 2. The governing body of any unit of local government, any
1701 residents of which are insured by the corporation, may issue
1702 bonds as defined in s. 125.013 or s. 166.101 ~~from time to time~~
1703 to fund an assistance program, in conjunction with the
1704 corporation, for the purpose of defraying deficits of the
1705 corporation. In order to avoid needless and indiscriminate
1706 proliferation, duplication, and fragmentation of such assistance
1707 programs, the ~~any~~ unit of local government, ~~any residents of~~
1708 ~~which are insured by the corporation,~~ may provide for the
1709 payment of losses, regardless of whether or not the losses
1710 occurred within or outside of the territorial jurisdiction of
1711 the local government. Revenue bonds under this subparagraph may

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1712 not be issued until validated pursuant to chapter 75, unless a
1713 state of emergency is declared by executive order or
1714 proclamation of the Governor pursuant to s. 252.36 which makes
1715 ~~making~~ such findings as are necessary to determine that it is in
1716 the best interests of, and necessary for, the protection of the
1717 public health, safety, and general welfare of residents of this
1718 state and declaring it an essential public purpose to permit
1719 certain municipalities or counties to issue such bonds as will
1720 permit relief to claimants and policyholders of the corporation.
1721 Any such unit of local government may enter into ~~such~~ contracts
1722 with the corporation and with any other entity created pursuant
1723 to this subsection as ~~are~~ necessary to carry out this paragraph.
1724 Any bonds issued are under this subparagraph shall be payable
1725 from and secured by moneys received by the corporation from
1726 emergency assessments under sub-subparagraph (b)3.d., and
1727 assigned and pledged to or on behalf of the unit of local
1728 government for the benefit of the holders of such bonds. The
1729 funds, credit, property, and taxing power of the state or of the
1730 unit of local government may ~~shall~~ not be pledged for the
1731 payment of such bonds.

1732 3.~~a~~. The corporation shall adopt one or more programs
1733 subject to approval by the office for the reduction of both new
1734 and renewal writings by ~~in~~ the corporation. The corporation may
1735 consider any prudent and not unfairly discriminatory approach to
1736 reducing corporation writings.

1737 a. The corporation may adopt a credit against assessment
1738 liability or other liability which provides an incentive for
1739 insurers to take and keep risks out of the corporation by
1740 maintaining or increasing voluntary writings in counties or

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1741 areas in which corporation risks are highly concentrated, and a
1742 program to provide a formula under which an insurer voluntarily
1743 taking risks out of the corporation by maintaining or increasing
1744 voluntary writings is relieved, wholly or partially, from
1745 assessments under sub-subparagraph (b)3.a.

1746 b. Beginning January 1, 2008, Any program the corporation
1747 adopts for the payment of bonuses to an insurer for each risk
1748 the insurer removes from the corporation must ~~shall~~ comply with
1749 s. 627.3511(2) and may not exceed the amount referenced in s.
1750 627.3511(2) for each risk removed. ~~The corporation may consider~~
1751 ~~any prudent and not unfairly discriminatory approach to reducing~~
1752 ~~corporation writings, and may adopt a credit against assessment~~
1753 ~~liability or other liability that provides an incentive for~~
1754 ~~insurers to take risks out of the corporation and to keep risks~~
1755 ~~out of the corporation by maintaining or increasing voluntary~~
1756 ~~writings in counties or areas in which corporation risks are~~
1757 ~~highly concentrated and a program to provide a formula under~~
1758 ~~which an insurer voluntarily taking risks out of the corporation~~
1759 ~~by maintaining or increasing voluntary writings will be relieved~~
1760 ~~wholly or partially from assessments under sub-subparagraph~~
1761 ~~(b)3.a. However,~~ Any "take-out bonus" or payment to an insurer
1762 must be conditioned on the property being insured for at least 5
1763 years by the insurer, unless canceled or nonrenewed by the
1764 policyholder. If the policy is canceled or nonrenewed by the
1765 policyholder before the end of the 5-year period, the amount of
1766 the take-out bonus must be prorated for the time period the
1767 policy was insured. If ~~When~~ the corporation enters into a
1768 contractual agreement for a take-out plan, the producing agent
1769 of record of the corporation policy is entitled to retain any

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1770 unearned commission on such policy, and the insurer shall
1771 either:

1772 (I) Pay to the producing agent of record of the policy, for
1773 the first year, an amount which is the greater of the insurer's
1774 usual and customary commission for the type of policy written or
1775 a policy fee equal to the usual and customary commission of the
1776 corporation; or

1777 (II) Offer to allow the producing agent of record ~~of the~~
1778 ~~policy~~ to continue servicing the policy for at least ~~a period of~~
1779 ~~not less than~~ 1 year and offer to pay the agent the insurer's
1780 usual and customary commission for the type of policy written.
1781 If the producing agent is unwilling or unable to accept
1782 appointment by the new insurer, the new insurer shall pay the
1783 agent in accordance with sub-sub-subparagraph (I).

1784 ~~c.b.~~ Any credit or exemption from regular assessments
1785 adopted under this subparagraph shall last up to ~~no longer than~~
1786 ~~the~~ 3 years after ~~following~~ the cancellation or expiration of
1787 the policy by the corporation. With the approval of the office,
1788 the board may extend such credits for an additional year if the
1789 insurer guarantees an additional year of renewability for all
1790 policies removed from the corporation, or for 2 additional years
1791 if the insurer guarantees 2 additional years of renewability for
1792 all policies so removed.

1793 ~~d.e.~~ A ~~There shall be no~~ credit, limitation, exemption, or
1794 deferment from emergency assessments ~~to be~~ collected from
1795 policyholders pursuant to sub-subparagraph (b)3.d. is
1796 prohibited.

1797 4. The corporation plan shall provide for the deferment, in
1798 whole or in part, of the assessment of an assessable insurer,

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1799 other than an emergency assessment collected from policyholders
1800 pursuant to sub-subparagraph (b)3.d., if the office finds that
1801 payment of the assessment would endanger or impair the solvency
1802 of the insurer. ~~If In the event~~ an assessment against an
1803 assessable insurer is deferred in whole or in part, the amount
1804 by which such assessment is deferred may be assessed against the
1805 other assessable insurers in a manner consistent with the basis
1806 for assessments set forth in paragraph (b).

1807 5. ~~Effective July 1, 2007,~~ In order to evaluate the costs
1808 and benefits of approved take-out plans, if the corporation pays
1809 a bonus or other payment to an insurer for an approved take-out
1810 plan, it shall maintain a record of the address or such other
1811 identifying information on the property or risk removed in order
1812 to track if and when the property or risk is later insured by
1813 the corporation.

1814 ~~6.~~ Any policy taken out, assumed, or removed from the
1815 corporation is, as of the effective date of the take-out,
1816 assumption, or removal, direct insurance issued by the insurer
1817 and not by the corporation, even if the corporation continues to
1818 service the policies. This subparagraph applies to policies of
1819 the corporation and not policies taken out, assumed, or removed
1820 from any other entity.

1821 6. The corporation may adopt one or more programs to
1822 encourage authorized insurers to remove policies from the
1823 corporation through a loan from the corporation to an insurer
1824 secured by a surplus note that contains such necessary and
1825 reasonable provisions as the corporation requires. Such surplus
1826 note is subject to the review and approval of the office
1827 pursuant to s. 628.401. The corporation may include, but is not

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1828 limited to, provisions regarding the maximum size of a loan to
1829 an insurer, capital matching requirements, the relationship
1830 between the aggregate number of policies or amount of loss
1831 exposure removed from the association and the amount of a loan,
1832 retention requirements related to policies removed from the
1833 corporation, and limitations on the number of insurers receiving
1834 loans from the corporation under any one management group in
1835 whatever form or arrangement. If a loan secured by a surplus
1836 note is provided to a new mutual insurance company, the
1837 corporation may require the board of the new mutual insurer to
1838 have a majority of independent board members, may restrict the
1839 ability of the new mutual insurer to convert to a stock insurer
1840 while the mutual insurer owes any principal or interest under
1841 the surplus note to the corporation, establish a capital match
1842 requirement of up to \$1 of private capital for each \$4 of the
1843 corporation's loan to a new mutual insurer, and limit the
1844 eligibility of a new mutual insurer for a waiver of the ceding
1845 commission traditionally associated with take-out programs from
1846 the corporation to those new mutual insurers that agree
1847 contractually to maintain an expense ratio below 20 per cent of
1848 written premium. For this purpose, the term "expense ratio"
1849 means the sum of agent commissions and other acquisition
1850 expenses; general and administrative expenses; and premium
1851 taxes, licenses, and fees, divided by the gross written premium.

1852 Section 9. Effective January 1, 2014, paragraph (n) of
1853 subsection (6) of section 627.351, Florida Statutes, is amended
1854 to read:

1855 627.351 Insurance risk apportionment plans.—

1856 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

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1857 ~~(n)1. Rates for coverage provided by the corporation must~~
1858 ~~be actuarially sound and subject to s. 627.062, Except as~~
1859 ~~otherwise provided in this paragraph,~~ rates for coverage
1860 provided by the corporation must be actuarially sound and not
1861 competitive with approved rates charged in the admitted
1862 voluntary market in order for the corporation to function as a
1863 residual market mechanism that provides insurance only if
1864 insurance cannot be procured in the voluntary market.

1865 a. In establishing actuarially sound rates the corporation
1866 shall include an appropriate catastrophe risk load factor that
1867 reflects the actual catastrophic risk exposure retained by the
1868 corporation.

1869 b. Rates for personal and commercial lines residential
1870 policies, other than mobile home coverage, and commercial lines
1871 nonresidential policies are not competitive with approved rates
1872 charged in the admitted voluntary market if the average rates of
1873 the corporation for each rating territory are no lower than the
1874 average rates charged by the insurer that had the highest
1875 average rate in that rating territory among the 20 admitted
1876 insurers with the greatest total direct written premium in the
1877 state for that line of business in the preceding year.

1878 c. Rates for mobile home coverage are not competitive with
1879 approved rates charged in the admitted voluntary market if the
1880 average rates of the corporation for mobile home coverages are
1881 no lower than the average rates charged by the insurer that had
1882 the highest average rate in that rating territory among the 5
1883 admitted insurers with the greatest total written premium for
1884 mobile home owner's policies in the state in the preceding year.
1885 ~~The corporation shall file its recommended rates with the office~~

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1886 ~~at least annually. The corporation shall provide any additional~~
1887 ~~information regarding the rates which the office requires. The~~
1888 ~~office shall consider the recommendations of the board and issue~~
1889 ~~a final order establishing the rates for the corporation within~~
1890 ~~45 days after the recommended rates are filed. The corporation~~
1891 ~~may not pursue an administrative challenge or judicial review of~~
1892 ~~the final order of the office.~~

1893 d. The requirement that rates for coverage provided by the
1894 corporation not be competitive with approved rates charged in
1895 the admitted voluntary market does not apply to new and renewal
1896 policies covered by the corporation in territories where the
1897 office determines there is not a reasonable degree of
1898 competition. The corporation rates in such territories must be
1899 actuarially sound.

1900 2. In addition to the rates otherwise determined pursuant
1901 to this paragraph, the corporation shall impose and collect an
1902 amount equal to the premium tax provided in s. 624.509 to
1903 augment the financial resources of the corporation.

1904 ~~3. After the public hurricane loss projection model under~~
1905 ~~s. 627.06281 has been found to be accurate and reliable by the~~
1906 ~~Florida Commission on Hurricane Loss Projection Methodology, the~~
1907 ~~model shall serve as the minimum benchmark for determining the~~
1908 ~~windstorm portion of the corporation's rates. This subparagraph~~
1909 ~~does not require or allow the corporation to adopt rates lower~~
1910 ~~than the rates otherwise required or allowed by this paragraph.~~

1911 ~~4. The rate filings for the corporation which were approved~~
1912 ~~by the office and took effect January 1, 2007, are rescinded,~~
1913 ~~except for those rates that were lowered. As soon as possible,~~
1914 ~~the corporation shall begin using the lower rates that were in~~

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1915 ~~effect on December 31, 2006, and provide refunds to~~
1916 ~~policyholders who paid higher rates as a result of that rate~~
1917 ~~filing. The rates in effect on December 31, 2006, remain in~~
1918 ~~effect for the 2007 and 2008 calendar years except for any rate~~
1919 ~~change that results in a lower rate. The next rate change that~~
1920 ~~may increase rates shall take effect pursuant to a new rate~~
1921 ~~filing recommended by the corporation and established by the~~
1922 ~~office, subject to this paragraph.~~

1923 ~~5. Beginning on July 15, 2009, and annually thereafter, the~~
1924 ~~corporation must make a recommended actuarially sound rate~~
1925 ~~filing for each personal and commercial line of business it~~
1926 ~~writes, to be effective no earlier than January 1, 2010.~~

1927 ~~3.6. Beginning on or after January 1, 2010, and~~
1928 ~~notwithstanding the board's recommended rates and the office's~~
1929 ~~final order regarding the corporation's filed rates under~~
1930 ~~subparagraph 1.7, The corporation shall annually implement a rate~~
1931 ~~increase which, except for sinkhole coverage, does not exceed 10~~
1932 ~~percent for any territory single policy issued by the~~
1933 ~~corporation, excluding coverage changes and surcharges. This~~
1934 ~~subparagraph is limited to:~~

1935 ~~a. Personal lines residential policies that have a dwelling~~
1936 ~~replacement cost of less than \$300,000 and cover homestead~~
1937 ~~personal residential properties or personal residential~~
1938 ~~properties that are occupied by renters as a permanent~~
1939 ~~residence, that were initially insured by the corporation before~~
1940 ~~July 1, 2013, and that have been continuously insured by the~~
1941 ~~corporation since that date.~~

1942 ~~b. Personal lines residential wind-only policies that have~~
1943 ~~a dwelling replacement cost of less than \$300,000 and cover~~

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1944 homestead personal residential properties, or personal
1945 residential properties that are occupied by renters as a
1946 permanent resident, that were initially insured by the
1947 corporation before July 1, 2013, and that have been continuously
1948 insured by the corporation since that date.

1949 c. Commercial lines residential properties that were
1950 initially insured by the corporation before July 1, 2013, and
1951 that have been continuously insured by the corporation since
1952 that date.

1953 4. The corporation shall also implement the following rate
1954 increases:

1955 a.7. The corporation may also implement An increase to
1956 reflect the effect on the corporation of the cash buildup factor
1957 pursuant to s. 215.555(5)(b).

1958 b. An increase of up to 3 percent, which may be used to
1959 procure catastrophe reinsurance or other risk transfer
1960 mechanisms. Such increase must reflect the actual cost of the
1961 procurement of catastrophe reinsurance or other risk transfer
1962 mechanisms. In any year for which the 3 percent increase is
1963 imposed, there must be a corresponding 3 percent decrease, 1
1964 percent per account, from the Citizens policyholder surcharge in
1965 (b)3.i.

1966 5.8. The corporation's implementation of rates as
1967 prescribed in subparagraph 3. 6. shall cease for any line of
1968 business written by the corporation upon the corporation's
1969 implementation of the rates described in subparagraph 1.
1970 actuarially sound rates. Thereafter, the corporation shall
1971 annually make a recommended actuarially sound rate filing
1972 implementing such rates for each commercial and personal line of

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1973 business the corporation writes.

1974 6. The corporation shall annually certify to the office
1975 that its rates comply with the requirements of this paragraph.
1976 If any adjustment in the rates or rating factors of the
1977 corporation is necessary to ensure such compliance, the
1978 corporation shall make and implement such adjustments and file
1979 its revised rates and rating factors with the office. If the
1980 office thereafter determines that the revised rates and rating
1981 factors fail to comply with this paragraph, it shall notify the
1982 corporation and require the corporation to amend its rates or
1983 rating factors in conjunction with its next rate filing. The
1984 office must notify the corporation by electronic means of any
1985 rate filing it approves for any insurer among the insurers
1986 referred to in this paragraph.

1987 7. By January 1, 2014, the board shall provide
1988 recommendations to the Legislature on how to provide relief to a
1989 policyholder whose premium reflects the full rate required under
1990 subparagraph 1. and who demonstrates a financial need at the
1991 time of application or renewal.

1992 Section 10. Section 627.3518, Florida Statutes, is created
1993 to read:

1994 627.3518 Citizens Property Insurance Corporation
1995 clearinghouse.—The Legislature recognizes that Citizens Property
1996 Insurance Corporation has authority to establish a clearinghouse
1997 as a separate organizational unit within the corporation for the
1998 purpose of determining the eligibility of new and renewal risks
1999 seeking coverage through the corporation and facilitating the
2000 identification and diversion of ineligible applicants and
2001 current policyholders from the corporation into the voluntary

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2002 insurance market. The purpose of this section is to augment that
2003 authority by providing a framework for the corporation to
2004 implement such program by July 1, 2013.

2005 (1) DEFINITIONS.—As used in this section, the term:

2006 (a) "Clearinghouse" means the clearinghouse diversion
2007 program created under this section.

2008 (b) "Corporation" means Citizens Property Insurance
2009 Corporation.

2010 (c) "Exclusive agent" means any licensed insurance agent
2011 who has, by contract, agreed to act exclusively for one company
2012 or group of affiliated insurance companies, and who is
2013 disallowed by that contract to directly write for any other
2014 unaffiliated insurer absent express consent from the company or
2015 group of affiliated companies.

2016 (d) "Independent agent" means a licensed insurance agent
2017 who is not required by contract to act only on behalf of one
2018 company or group of affiliated insurance companies.

2019 (2) The clearinghouse shall have all the rights and
2020 responsibilities in carrying out its duties as a licensed
2021 general lines agent, but is not required to employ or engage a
2022 licensed general lines agent or maintain an insurance agency
2023 license in order to solicit and place insurance coverage. In
2024 establishing the clearinghouse the corporation:

2025 (a) Shall require all new applications for coverage and all
2026 policies up for renewal to be submitted to the clearinghouse to
2027 facilitate obtaining an offer of coverage from an authorized
2028 insurer before binding or renewing coverage with the
2029 corporation.

2030 (b) Shall develop an enhanced application for obtaining

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2031 information that will assist private insurers in determining
2032 whether or not to make an offer of coverage through the
2033 clearinghouse.

2034 (c) Shall require all new applications for coverage to be
2035 subject to a 48-hour period that allows a private insurer
2036 participating in the clearinghouse to select applicants for
2037 coverage before the application is submitted to the corporation
2038 for coverage. The insurer may issue a binder to a selected
2039 applicant for at least 30 days, but not more than 60 days.

2040 (d) Notwithstanding s. 626.916(1), if an applicant for new
2041 or renewal coverage from the corporation does not receive an
2042 offer of coverage from an admitted insurer, the applicant may
2043 accept an offer from a surplus lines insurer eligible under ss.
2044 626.913-626.937.

2045 (e) Shall provide funds to operate the clearinghouse. The
2046 corporation may charge a reasonable fee as a percentage of an
2047 agent's commission to offset, or partially offset the costs of
2048 the clearinghouse. However, insurers participating in the
2049 clearinghouse are not required to pay a fee to use the
2050 clearinghouse to renew policies initially written through the
2051 clearinghouse.

2052 (f) Shall enter into contracts with licensed property
2053 insurance companies operating in this state to participate in
2054 the clearinghouse and accept appointments from voluntary market
2055 insurers.

2056 (g) May employ or otherwise contract with individuals or
2057 other entities to provide administrative or professional
2058 services in accordance with purchasing requirements set forth in
2059 corporation's plan under s. 627.351(6)(c).

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2060 (3) A licensed insurer may participate in the
2061 clearinghouse. Insurers making offers of coverage to new
2062 applicants or renewing policyholders through the clearinghouse:

2063 (a) Are not required to individually appoint an agent whose
2064 customer is bound and underwritten through the clearinghouse for
2065 as long as that policy remains with the insurer. Insurers may
2066 appoint an agent whose customer is initially underwritten and
2067 bound through the clearinghouse. If an insurer accepts a policy
2068 from an agent who is not appointed and thereafter elects to
2069 accept a policy from that agent which was not submitted through
2070 the program, the provisions of s. 626.112 requiring appointment
2071 apply to that agent.

2072 (b) Shall enter into a limited agency agreement with each
2073 agent whose customer is underwritten and bound through the
2074 clearinghouse and who is not appointed in accordance with this
2075 subsection.

2076 (c) Shall enter into its standard agency agreement with
2077 each agent whose customer is underwritten and bound through the
2078 clearinghouse if that agent has been appointed by the insurer
2079 pursuant to s. 626.112.

2080 (d) Must comply with the s. 627.4133(2).

2081 (4) Notwithstanding section 627.3517, if an applicant for
2082 new coverage from the corporation is offered coverage from an
2083 admitted insurer through the clearinghouse or through an
2084 alternative option under subsection (7) at a rate that is at or
2085 below the eligibility threshold established in s. 627.351(c)5.,
2086 the risk is not eligible for coverage with the corporation.
2087 Notwithstanding any other provisions of law, if a policyholder
2088 at renewal is provided an offer of coverage from an admitted

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2089 insurer through the program or through an alternative option
2090 under subsection (7), and the offer is no more than 15 percent
2091 above the policyholder's premium for comparable coverage through
2092 the corporation, the risk is not eligible for coverage with the
2093 corporation.

2094 (5) Independent insurance agents submitting new
2095 applications for coverage or who are the agent of record on a
2096 renewal policy submitted to the clearinghouse:

2097 (a) Notwithstanding s. 626.112, are not required to be
2098 appointed by an insurer participating in the clearinghouse for
2099 policies written solely through the clearinghouse.

2100 (b) May accept an appointment from an insurer participating
2101 in the clearinghouse.

2102 (c) Must enter into a standard or limited agency agreement
2103 with the insurer, at the insurer's option.

2104 (d) Must maintain the exclusive use of expirations,
2105 records, or other written or electronic information directly
2106 related to such applications or renewals written through the
2107 corporation or through an insurer participating in the
2108 clearinghouse. Such expirations, records, or other written or
2109 electronic information may be used to review an application,
2110 issue a policy, or for any other purpose necessary for placing
2111 such business through the clearinghouse.

2112 (6) Exclusive agents submitting new applications for
2113 coverage or that are the agent of record on a renewal policy
2114 submitted to the program:

2115 (a) Notwithstanding s. 626.112, are not required to be
2116 appointed by an insurer participating in the clearinghouse for
2117 policies written solely through the clearinghouse.

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2118 (b) May provide the new applicant or renewing policyholder
2119 the opportunity to accept an offer of coverage from an insurer
2120 that is participating in the clearinghouse and that had a
2121 limited servicing agreement approved by the exclusive agent's
2122 insurer.

2123 (c) Must enter into only a limited servicing agreement with
2124 the insurer making an offer of coverage.

2125 (d) Must maintain the exclusive use of expirations,
2126 records, or other written or electronic information directly
2127 related to such applications or renewals written through the
2128 corporation or through an insurer participating in the program,
2129 notwithstanding s. 627.351(6)(c)5.a.(I)(B) and (II)(B). Such
2130 expirations, records, or other written or electronic information
2131 may be used to review an application, issue a policy, or for any
2132 other purpose necessary for placing such business through the
2133 clearinghouse.

2134 (7) The corporation may recognize private entities that the
2135 independent agent elects to use as an alternative to submitting
2136 a risk to the clearinghouse. An alternative option allowed under
2137 this subsection shall obtain offers of coverage from authorized
2138 insurers for new applicants seeking coverage from the
2139 corporation and for corporation policyholders on renewal. The
2140 alternative option may not be used as a replacement for the
2141 clearinghouse. Neither the clearinghouse nor a private entity
2142 operating under this subsection may prohibit insurers from
2143 electing to participate in more than one program or alternative,
2144 and an insurer participating in the private entity alternative
2145 must also participate in the clearinghouse.

2146 (8) Submission of an application for coverage by the

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2147 corporation to the clearinghouse does not constitute the binding
2148 of coverage by the corporation, and failure of the clearinghouse
2149 to obtain an offer of coverage by an insurer is not considered
2150 acceptance of coverage of the risk by the corporation.

2151 Section 11. Subsection (1) of section 627.405, Florida
2152 Statutes, is amended to read:

2153 627.405 Insurable interest; property.—

2154 (1) A ~~Ne~~ contract for property ~~of insurance of property or~~
2155 ~~of any interest in property or arising from property~~ is not
2156 ~~shall be~~ enforceable as to the insurance except for the benefit
2157 of persons having an insurable interest in the things insured ~~as~~
2158 at the time of the loss. Policyholders under a contract of
2159 property insurance may assign benefits to be received under that
2160 contract consistent with, and subject to, the conditions in the
2161 policy.

2162 Section 12. Subsection (1) of section 627.410, Florida
2163 Statutes, is amended to read:

2164 627.410 Filing, approval of forms.—

2165 (1) A ~~Ne~~ basic insurance policy or annuity contract form,
2166 or application form where written application is required and is
2167 to be made a part of the policy or contract, ~~or~~ group
2168 certificates issued under a master contract delivered in this
2169 state, or printed rider or endorsement form or form of renewal
2170 certificate, may not ~~shall~~ be delivered or issued for delivery
2171 in this state, unless the form has been filed with the office by
2172 or on ~~in~~ behalf of the insurer that ~~which~~ proposes to use such
2173 form and has been approved by the office or filed pursuant to s.
2174 627.4102. This provision does not apply to surety bonds or to
2175 policies, riders, endorsements, or forms of unique character

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2176 that ~~which~~ are designed for and used with ~~relation to~~ insurance
2177 ~~on~~ ~~upon~~ a particular subject, ~~(other than as to health~~
2178 ~~insurance)~~, or that ~~which~~ relate to the manner of distributing
2179 ~~distribution of~~ benefits or to the reservation of rights and
2180 benefits under life or health insurance policies and are used at
2181 the request of the individual policyholder, contract holder, or
2182 certificateholder. For ~~As to~~ group insurance policies
2183 effectuated and delivered outside this state but covering
2184 persons resident in this state, the group certificates to be
2185 delivered or issued for delivery in this state shall be filed
2186 with the office for information purposes only.

2187 Section 13. Section 627.4102, Florida Statutes, is created
2188 to read:

2189 627.4102 Informational filing of forms; certification.-

2190 (1) Property and casualty forms, except workers'
2191 compensation forms, are exempt from the approval process
2192 required under s. 627.410 if:

2193 (a) The form has been electronically submitted to the
2194 office in an informational filing made through I-File 30 days
2195 before the delivery or issuance for delivery of the form within
2196 this state; and

2197 (b) At the time the informational filing is made, a
2198 notarized certification is attached to the filing which
2199 certifies that each form within the filing is in compliance with
2200 all applicable state laws and rules. The certification must be
2201 on the insurer's letterhead and signed and dated by the
2202 insurer's president, chief executive officer, general counsel,
2203 or an employee of the insurer responsible for the filing on
2204 behalf of the insurer. The certification must contain the

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2205 following statement, and no other language: "I, ...[name]..., as
2206 ...[title]... of ...[insurer name]..., do hereby certify that
2207 this form filing has been thoroughly and diligently reviewed by
2208 me and by all appropriate company personnel, as well as company
2209 consultants, if applicable, and certify that each form contained
2210 within the filing is in compliance with all applicable Florida
2211 laws and rules. Should a form be found that is not in compliance
2212 with Florida laws and rules, I acknowledge that the Office of
2213 Insurance Regulation shall disapprove the form."

2214 (2) If the filing contains a form that is not in compliance
2215 with state laws and rules, the form filing, at the discretion of
2216 the office, is subject to prior review and approval pursuant to
2217 s. 627.410, and the period for review and approval established
2218 under s. 627.410(2) begins to run on the date the office
2219 notifies the insurer of the discovery of the noncompliant form.

2220 (3) A Notice of Change in Policy Terms form required under
2221 s. 627.43141(2) shall be filed as a part of the informational
2222 filing for a renewal policy that contains a change. All
2223 modifications, additions, or deletions of terms, coverages,
2224 duties, or conditions shall be enumerated within the body of the
2225 form. If a renewal policy that was certified requires such form,
2226 the insurer must provide a copy to the named insured's agent
2227 pursuant to s. 627.43141(6)(c) before or upon providing the form
2228 to the named insured.

2229 (4) This section does not preclude an insurer from electing
2230 to file any form for approval under s. 627.410 which would
2231 otherwise be exempt under this section.

2232 (5) The provisions of this section supersede and replace
2233 the existing order issued by the office exempting specified

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2234 property and casualty forms from the requirements of s. 627.410.

2235 Section 14. Except as otherwise expressly provided in the

2236 act, this act shall take effect July 1, 2013.