

By the Committees on Commerce and Tourism; and Banking and Insurance

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1 A bill to be entitled
2 An act relating to property insurance; amending s.
3 626.854, F.S.; prohibiting a public adjuster or public
4 adjuster apprentice from choosing the persons or
5 entities that will perform repair work; amending s.
6 627.351, F.S.; postponing the date that new
7 construction or substantial improvement is not
8 eligible for coverage by the corporation; deleting
9 reference to the Residential Property and Casualty
10 Joint Underwriting Association with respect to issuing
11 certain residential or commercial policies; requiring
12 the corporation to cease offering new commercial
13 residential policies providing multiperil coverage
14 after a certain date and providing that the
15 corporation continue offering commercial residential
16 wind-only policies; authorizing the corporation to
17 offer commercial residential policies excluding wind;
18 providing exceptions; specifying the amount of the
19 surcharge to be assessed against personal lines,
20 commercial lines, and coastal accounts to cover a
21 projected deficit; requiring the corporation's board
22 to contract with the Division of Administrative
23 Hearings to hear protests of the corporation's
24 decisions regarding the purchase of commodities and
25 contractual services and issue a recommended order;
26 requiring the board to take final action in a public
27 meeting; revising the date for submitting the annual
28 loss ratio report for residential coverage; amending
29 s. 627.3518, F.S.; defining the term "surplus lines

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30 insurer"; requiring the corporation to implement
31 procedures for diverting ineligible applicants and
32 existing policyholders for commercial residential
33 coverage from the corporation by a certain date;
34 deleting the requirement that the corporation report
35 such procedures to the Legislature; authorizing
36 eligible surplus lines insurers to participate in the
37 corporation's clearinghouse program and providing
38 criteria for such eligibility; conforming cross-
39 references; providing that certain applicants who
40 accept an offer from a surplus lines insurer are
41 considered a renewal; repealing s. 627.3519, F.S.,
42 relating to an annual report requirement relating to
43 aggregate net probable maximum losses; amending s.
44 627.35191, F.S.; requiring the corporation to annually
45 provide certain estimates for the next 12-month period
46 to the Legislature and the Financial Services
47 Commission; amending s. 627.701, F.S.; increasing the
48 amount of the deductible that an insurer must offer
49 for residential property insurance; amending s.
50 627.711, F.S.; prohibiting a mitigation inspector from
51 offering or delivering compensation, and an insurance
52 agency, agent, customer representative, or employee
53 from accepting compensation for referring an owner to
54 the inspector or inspection company; authorizing an
55 insurer to exempt a uniform mitigation verification
56 form from independent verification under certain
57 circumstances; providing that the form provided to the
58 corporation is not subject to verification and the

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59 property is not subject to reinspection under certain
60 circumstances; providing effective dates.

61

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

63

64 Section 1. Subsection (18) of section 626.854, Florida
65 Statutes, is renumbered as subsection (19) and amended, and
66 subsection (18) is added to that section, to read:

67 626.854 "Public adjuster" defined; prohibitions.—The
68 Legislature finds that it is necessary for the protection of the
69 public to regulate public insurance adjusters and to prevent the
70 unauthorized practice of law.

71 (18) A public adjuster, a public adjuster apprentice, or
72 any person acting on behalf of an adjuster or apprentice may not
73 enter into a contract or accept a power of attorney that vests
74 in the public adjuster, the public adjuster apprentice, or the
75 person acting on behalf of the adjuster or apprentice the
76 effective authority to choose the persons or entities that will
77 perform repair work.

78 (19)~~(18)~~ ~~The provisions of Subsections (5)-(18) (5)-(17)~~
79 apply only to residential property insurance policies and
80 condominium unit owner policies as described ~~defined~~ in s.
81 718.111(11).

82 Section 2. Paragraphs (a), (b), (e), and (hh) of subsection
83 (6) of section 627.351, Florida Statutes, are amended to read:

84 627.351 Insurance risk apportionment plans.—

85 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

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

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88 and businesses of this state.

89 1. The Legislature finds that private insurers are
90 unwilling or unable to provide affordable property insurance
91 coverage in this state to the extent sought and needed. The
92 absence of affordable property insurance threatens the public
93 health, safety, and welfare and ~~likewise threatens~~ the economic
94 health of the state. The state, therefore, has a compelling
95 public interest and a public purpose to assist in assuring that
96 property in the state is insured ~~and that it is insured~~ at
97 affordable rates so as to facilitate the remediation,
98 reconstruction, and replacement of damaged or destroyed property
99 in order to reduce or avoid ~~the~~ negative effects on otherwise
100 ~~resulting to~~ the public health, safety, and welfare, to the
101 economy of the state, and to the revenues of the state and local
102 governments which are needed to provide for the public welfare.
103 It is necessary, therefore, to provide affordable property
104 insurance to applicants who are in good faith entitled to
105 procure insurance through the voluntary market but are unable to
106 do so. The Legislature intends, therefore, that affordable
107 property insurance be provided and that it continue to be
108 provided, as long as necessary, through Citizens Property
109 Insurance Corporation, a government entity that is an integral
110 part of the state, ~~and that is~~ not a private insurance company.
111 To that end, the corporation shall strive to increase the
112 availability of affordable property insurance in this state,
113 while achieving efficiencies and economies, and while providing
114 service to policyholders, applicants, and agents which is no
115 less than the quality generally provided in the voluntary
116 market, for the achievement of the foregoing public purposes.

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117 Because it is essential for this government entity to have the
118 maximum financial resources to pay claims following a
119 catastrophic hurricane, it is further the intent of the
120 Legislature that the corporation continue to be an integral part
121 of the state, ~~and~~ that the income of the corporation be exempt
122 from federal income taxation, and that interest on the debt
123 obligations issued by the corporation be exempt from federal
124 income taxation.

125 2. The Residential Property and Casualty Joint Underwriting
126 Association originally created by this statute shall be known as
127 the Citizens Property Insurance Corporation. The corporation
128 shall provide insurance for residential and commercial property,
129 for applicants who are entitled, but, in good faith, are unable
130 to procure insurance through the voluntary market. The
131 corporation shall operate pursuant to a plan of operation
132 approved by order of the Financial Services Commission. The plan
133 is subject to continuous review by the commission. The
134 commission may, by order, withdraw approval of all or part of a
135 plan if the commission determines that conditions have changed
136 since approval was granted and that the purposes of the plan
137 require changes in the plan. For the purposes of this
138 subsection, residential coverage includes both personal lines
139 residential coverage, which consists of the type of coverage
140 provided by homeowner's, mobile home owner's, dwelling,
141 tenant's, condominium unit owner's, and similar policies; and
142 commercial lines residential coverage, which consists of the
143 type of coverage provided by condominium association, apartment
144 building, and similar policies.

145 3. With respect to coverage for personal lines residential

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146 structures:

147 a. Effective January 1, 2014, a structure that has a
148 dwelling replacement cost of \$1 million or more, or a single
149 condominium unit that has a combined dwelling and contents
150 replacement cost of \$1 million or more is not eligible for
151 coverage by the corporation. Such dwellings insured by the
152 corporation on December 31, 2013, may continue to be covered by
153 the corporation until the end of the policy term. The office
154 shall approve the method used by the corporation for valuing the
155 dwelling replacement costs under ~~cost for the purposes of~~ this
156 subparagraph. If a policyholder is insured by the corporation
157 before being determined to be ineligible pursuant to this
158 subparagraph and such policyholder files a lawsuit challenging
159 the determination, the policyholder may remain insured by the
160 corporation until the conclusion of the litigation.

161 b. Effective January 1, 2015, a structure that has a
162 dwelling replacement cost of \$900,000 or more, or a single
163 condominium unit that has a combined dwelling and contents
164 replacement cost of \$900,000 or more, is not eligible for
165 coverage by the corporation. Such dwellings insured by the
166 corporation on December 31, 2014, may continue to be covered by
167 the corporation only until the end of the policy term.

168 c. Effective January 1, 2016, a structure that has a
169 dwelling replacement cost of \$800,000 or more, or a single
170 condominium unit that has a combined dwelling and contents
171 replacement cost of \$800,000 or more, is not eligible for
172 coverage by the corporation. Such dwellings insured by the
173 corporation on December 31, 2015, may continue to be covered by
174 the corporation until the end of the policy term.

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175 d. Effective January 1, 2017, a structure that has a
176 dwelling replacement cost of \$700,000 or more, or a single
177 condominium unit that has a combined dwelling and contents
178 replacement cost of \$700,000 or more, is not eligible for
179 coverage by the corporation. Such dwellings insured by the
180 corporation on December 31, 2016, may continue to be covered by
181 the corporation until the end of the policy term.

182

183 The requirements of sub-subparagraphs b.-d. do not apply in
184 counties where the office determines there is not a reasonable
185 degree of competition. In such counties a personal lines
186 residential structure that has a dwelling replacement cost of
187 less than \$1 million, or a single condominium unit that has a
188 combined dwelling and contents replacement cost of less than \$1
189 million, is eligible for coverage by the corporation.

190 4. It is the intent of the Legislature that policyholders,
191 applicants, and agents of the corporation receive service and
192 treatment of the highest possible level but never less than that
193 generally provided in the voluntary market. It is also intended
194 that the corporation be held to service standards no less than
195 those applied to insurers in the voluntary market by the office
196 with respect to responsiveness, timeliness, customer courtesy,
197 and overall dealings with policyholders, applicants, or agents
198 of the corporation.

199 5.a. Effective January 1, 2009, a personal lines
200 residential structure that is located in the "wind-borne debris
201 region," as defined in s. 1609.2, International Building Code
202 (2006), and that has an insured value on the structure of
203 \$750,000 or more is not eligible for coverage by the corporation

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204 unless the structure has opening protections as required under
205 the Florida Building Code for a newly constructed residential
206 structure in that area. A residential structure is deemed to
207 comply with this subparagraph if it has shutters or opening
208 protections on all openings and if such opening protections
209 complied with the Florida Building Code at the time they were
210 installed.

211 b. Any major structure as defined in s. 161.54(6) (a) for
212 which a permit is applied on or after July 1, 2015 ~~2014~~, for new
213 construction or substantial improvement as defined in s.
214 161.54~~(12)~~ is not eligible for coverage by the corporation if
215 the structure is seaward of the coastal construction control
216 line established pursuant to s. 161.053 or is within the Coastal
217 Barrier Resources System as designated by 16 U.S.C. ss. 3501-
218 3510.

219 (b)1. All insurers authorized to write one or more subject
220 lines of business in this state are subject to assessment by the
221 corporation and, for the purposes of this subsection, are
222 referred to collectively as "assessable insurers." Insurers
223 writing one or more subject lines of business in this state
224 pursuant to part VIII of chapter 626 are not assessable
225 insurers; however, ~~but~~ insureds who procure one or more subject
226 lines of business in this state pursuant to part VIII of chapter
227 626 are subject to assessment by the corporation and are
228 referred to collectively as "assessable insureds." An insurer's
229 assessment liability begins on the first day of the calendar
230 year following the year in which the insurer was issued a
231 certificate of authority to transact insurance for subject lines
232 of business in this state and terminates 1 year after the end of

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233 the first calendar year during which the insurer no longer holds
234 a certificate of authority to transact insurance for subject
235 lines of business in this state.

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

239 (I) A personal lines account for personal residential
240 policies issued by the corporation, ~~or issued by the Residential~~
241 ~~Property and Casualty Joint Underwriting Association and renewed~~
242 ~~by the corporation,~~ which provides comprehensive, multiperil
243 coverage on risks that are not located in areas eligible for
244 coverage by the Florida Windstorm Underwriting Association as
245 those areas were defined on January 1, 2002, and for policies
246 that do not provide coverage for the peril of wind on risks that
247 are located in such areas;

248 (II) A commercial lines account for commercial residential
249 and commercial nonresidential policies issued by the
250 corporation, ~~or issued by the Residential Property and Casualty~~
251 ~~Joint Underwriting Association and renewed by the corporation,~~
252 which provides coverage for basic property perils on risks that
253 are not located in areas eligible for coverage by the Florida
254 Windstorm Underwriting Association as those areas were defined
255 on January 1, 2002, and for policies that do not provide
256 coverage for the peril of wind on risks that are located in such
257 areas; and

258 (III) A coastal account for personal residential policies
259 and commercial residential and commercial nonresidential
260 property policies issued by the corporation, ~~or transferred to~~
261 ~~the corporation,~~ which provides coverage for the peril of wind

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262 on risks that are located in areas eligible for coverage by the
263 Florida Windstorm Underwriting Association as those areas were
264 defined on January 1, 2002. The corporation may offer policies
265 that provide multiperil coverage and ~~the corporation~~ shall
266 ~~continue to~~ offer policies that provide coverage only for the
267 peril of wind for risks located in areas eligible for coverage
268 in the coastal account. Effective July 1, 2014, the corporation
269 shall cease offering new commercial residential policies
270 providing multiperil coverage and shall instead continue to
271 offer commercial residential wind-only policies, and may offer
272 commercial residential policies excluding wind. The corporation
273 may, however, continue to renew a commercial residential
274 multiperil policy on a building that is insured by the
275 corporation on June 30, 2014, under a multiperil policy. In
276 issuing multiperil coverage, the corporation may use its
277 approved policy forms and rates for the personal lines account.
278 An applicant or insured who is eligible to purchase a multiperil
279 policy from the corporation may purchase a multiperil policy
280 from an authorized insurer without prejudice to the applicant's
281 or insured's eligibility to prospectively purchase a policy that
282 provides coverage only for the peril of wind from the
283 corporation. An applicant or insured who is eligible for a
284 corporation policy that provides coverage only for the peril of
285 wind may elect to purchase or retain such policy and also
286 purchase or retain coverage excluding wind from an authorized
287 insurer without prejudice to the applicant's or insured's
288 eligibility to prospectively purchase a policy that provides
289 multiperil coverage from the corporation. It is the goal of the
290 Legislature that there be an overall average savings of 10

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291 percent or more for a policyholder who currently has a wind-only
292 policy with the corporation, and an ex-wind policy with a
293 voluntary insurer or the corporation, and who obtains a
294 multiperil policy from the corporation. It is the intent of the
295 Legislature that the offer of multiperil coverage in the coastal
296 account be made and implemented in a manner that does not
297 adversely affect the tax-exempt status of the corporation or
298 creditworthiness of or security for currently outstanding
299 financing obligations or credit facilities of the coastal
300 account, the personal lines account, or the commercial lines
301 account. The coastal account must also include quota share
302 primary insurance under subparagraph (c)2. The area eligible for
303 coverage under the coastal account also includes the area within
304 Port Canaveral, which is bordered on the south by the City of
305 Cape Canaveral, bordered on the west by the Banana River, and
306 bordered on the north by Federal Government property.

307 b. The three separate accounts must be maintained as long
308 as financing obligations entered into by the Florida Windstorm
309 Underwriting Association or Residential Property and Casualty
310 Joint Underwriting Association are outstanding, in accordance
311 with the terms of the corresponding financing documents. If the
312 financing obligations are no longer outstanding, the corporation
313 may use a single account for all revenues, assets, liabilities,
314 losses, and expenses of the corporation. Consistent with this
315 subparagraph and prudent investment policies that minimize the
316 cost of carrying debt, the board shall exercise its best efforts
317 to retire existing debt or obtain the approval of necessary
318 parties to amend the terms of existing debt, so as to structure
319 the most efficient plan for consolidating ~~to consolidate~~ the

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320 three separate accounts into a single account.

321 c. Creditors of the Residential Property and Casualty Joint
322 Underwriting Association and the accounts specified in sub-sub-
323 subparagraphs a.(I) and (II) may have a claim against, and
324 recourse to, those accounts and no claim against, or recourse
325 to, the account referred to in sub-sub-subparagraph a.(III).
326 Creditors of the Florida Windstorm Underwriting Association have
327 a claim against, and recourse to, the account referred to in
328 sub-sub-subparagraph a.(III) and no claim against, or recourse
329 to, the accounts referred to in sub-sub-subparagraphs a.(I) and
330 (II).

331 d. Revenues, assets, liabilities, losses, and expenses not
332 attributable to particular accounts shall be prorated among the
333 accounts.

334 e. The Legislature finds that the revenues of the
335 corporation are revenues that are necessary to meet the
336 requirements set forth in documents authorizing the issuance of
337 bonds under this subsection.

338 f. The income of the corporation may not inure to the
339 benefit of any private person.

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

341 a. After accounting for the Citizens policyholder surcharge
342 imposed under sub-subparagraph i., if the remaining projected
343 deficit incurred in the coastal account in a particular calendar
344 year:

345 (I) Is not greater than 2 percent of the aggregate
346 statewide direct written premium for the subject lines of
347 business for the prior calendar year, the entire deficit shall
348 be recovered through regular assessments of assessable insurers

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349 under paragraph (q) and assessable insureds.

350 (II) Exceeds 2 percent of the aggregate statewide direct
351 written premium for the subject lines of business for the prior
352 calendar year, the corporation shall levy regular assessments on
353 assessable insurers under paragraph (q) and on assessable
354 insureds in an amount equal to the greater of 2 percent of the
355 projected deficit or 2 percent of the aggregate statewide direct
356 written premium for the subject lines of business for the prior
357 calendar year. Any remaining projected deficit shall be
358 recovered through emergency assessments under sub-subparagraph
359 d.

360 b. Each assessable insurer's share of the amount being
361 assessed under sub-subparagraph a. must be in the proportion
362 that the assessable insurer's direct written premium for the
363 subject lines of business for the year preceding the assessment
364 bears to the aggregate statewide direct written premium for the
365 subject lines of business for that year. The assessment
366 percentage applicable to each assessable insured is the ratio of
367 the amount being assessed under sub-subparagraph a. to the
368 aggregate statewide direct written premium for the subject lines
369 of business for the prior year. Assessments levied by the
370 corporation on assessable insurers under sub-subparagraph a.
371 must be paid as required by the corporation's plan of operation
372 and paragraph (q). Assessments levied by the corporation on
373 assessable insureds under sub-subparagraph a. shall be collected
374 by the surplus lines agent at the time the surplus lines agent
375 collects the surplus lines tax required by s. 626.932, and paid
376 to the Florida Surplus Lines Service Office at the time the
377 surplus lines agent pays the surplus lines tax to that office.

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378 Upon receipt of regular assessments from surplus lines agents,
379 the Florida Surplus Lines Service Office shall transfer the
380 assessments directly to the corporation as determined by the
381 corporation.

382 c. After accounting for the Citizens policyholder surcharge
383 imposed under sub-subparagraph i., the remaining projected
384 deficits in the personal lines account and in the commercial
385 lines account in a particular calendar year shall be recovered
386 through emergency assessments under sub-subparagraph d.

387 d. Upon a determination by the board of governors that a
388 projected deficit in an account exceeds the amount that is
389 expected to be recovered through regular assessments under sub-
390 subparagraph a., plus the amount that is expected to be
391 recovered through surcharges under sub-subparagraph i., the
392 board, after verification by the office, shall levy emergency
393 assessments for as many years as necessary to cover the
394 deficits, to be collected by assessable insurers and the
395 corporation and collected from assessable insureds upon issuance
396 or renewal of policies for subject lines of business, excluding
397 National Flood Insurance policies. The amount collected in a
398 particular year must be a uniform percentage of that year's
399 direct written premium for subject lines of business and all
400 accounts of the corporation, excluding National Flood Insurance
401 Program policy premiums, as annually determined by the board and
402 verified by the office. The office shall verify the arithmetic
403 calculations involved in the board's determination within 30
404 days after receipt of the information on which the determination
405 was based. The office shall notify assessable insurers and the
406 Florida Surplus Lines Service Office of the date on which

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407 assessable insurers shall begin to collect and assessable
408 insureds shall begin to pay such assessment. The date must be at
409 least ~~may be not less than~~ 90 days after the date the
410 corporation levies emergency assessments pursuant to this sub-
411 subparagraph. Notwithstanding any other provision of law, the
412 corporation and each assessable insurer that writes subject
413 lines of business shall collect emergency assessments from its
414 policyholders without such obligation being affected by any
415 credit, limitation, exemption, or deferment. Emergency
416 assessments levied by the corporation on assessable insureds
417 shall be collected by the surplus lines agent at the time the
418 surplus lines agent collects the surplus lines tax required by
419 s. 626.932 and paid to the Florida Surplus Lines Service Office
420 at the time the surplus lines agent pays the surplus lines tax
421 to that office. The emergency assessments collected shall be
422 transferred directly to the corporation on a periodic basis as
423 determined by the corporation and held by the corporation solely
424 in the applicable account. The aggregate amount of emergency
425 assessments levied for an account ~~under this sub-subparagraph~~ in
426 any calendar year may be less than but may not exceed the
427 greater of 10 percent of the amount needed to cover the deficit,
428 plus interest, fees, commissions, required reserves, and other
429 costs associated with financing the original deficit, or 10
430 percent of the aggregate statewide direct written premium for
431 subject lines of business and all accounts of the corporation
432 for the prior year, plus interest, fees, commissions, required
433 reserves, and other costs associated with financing the deficit.

434 e. The corporation may pledge the proceeds of assessments,
435 projected recoveries from the Florida Hurricane Catastrophe

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436 Fund, other insurance and reinsurance recoverables, policyholder
437 surcharges and other surcharges, and other funds available to
438 the corporation as the source of revenue for and to secure bonds
439 issued under paragraph (q), bonds or other indebtedness issued
440 under subparagraph (c)3., or lines of credit or other financing
441 mechanisms issued or created under this subsection, or to retire
442 any other debt incurred as a result of deficits or events giving
443 rise to deficits, or in any other way that the board determines
444 will efficiently recover such deficits. The purpose of the lines
445 of credit or other financing mechanisms is to provide additional
446 resources to assist the corporation in covering claims and
447 expenses attributable to a catastrophe. As used in this
448 subsection, the term "assessments" includes regular assessments
449 under sub-subparagraph a. or subparagraph (q)1. and emergency
450 assessments under sub-subparagraph d. Emergency assessments
451 collected under sub-subparagraph d. are not part of an insurer's
452 rates, are not premium, and are not subject to premium tax,
453 fees, or commissions; however, failure to pay the emergency
454 assessment shall be treated as failure to pay premium. The
455 emergency assessments ~~under sub-subparagraph d.~~ shall continue
456 as long as any bonds issued or other indebtedness incurred with
457 respect to a deficit for which the assessment was imposed remain
458 outstanding, unless adequate provision has been made for the
459 payment of such bonds or other indebtedness pursuant to the
460 documents governing such bonds or indebtedness.

461 f. As used in this subsection for purposes of any deficit
462 incurred on or after January 25, 2007, the term "subject lines
463 of business" means insurance written by assessable insurers or
464 procured by assessable insureds for all property and casualty

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465 lines of business in this state, but not including workers'
466 compensation or medical malpractice. As used in this sub-
467 subparagraph, the term "property and casualty lines of business"
468 includes all lines of business identified on Form 2, Exhibit of
469 Premiums and Losses, in the annual statement required of
470 authorized insurers under s. 624.424 and any rule adopted under
471 this section, except for those lines identified as accident and
472 health insurance and except for policies written under the
473 National Flood Insurance Program or the Federal Crop Insurance
474 Program. For purposes of this sub-subparagraph, the term
475 "workers' compensation" includes both workers' compensation
476 insurance and excess workers' compensation insurance.

477 g. The Florida Surplus Lines Service Office shall determine
478 annually the aggregate statewide written premium in subject
479 lines of business procured by assessable insureds and report
480 that information to the corporation in a form and at a time the
481 corporation specifies to ensure that the corporation can meet
482 the requirements of this subsection and the corporation's
483 financing obligations.

484 h. The Florida Surplus Lines Service Office shall verify
485 the proper application by surplus lines agents of assessment
486 percentages for regular assessments and emergency assessments
487 levied under this subparagraph on assessable insureds and assist
488 the corporation in ensuring the accurate, timely collection and
489 payment of assessments by surplus lines agents as required by
490 the corporation.

491 i. ~~In 2008 or thereafter,~~ Upon a determination by the board
492 of governors that an account has a projected deficit, the board
493 shall levy a Citizens policyholder surcharge against all

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494 policyholders of the corporation.

495 (I) The surcharge shall be levied as a uniform percentage
496 of the premium for all corporation policyholders ~~for the policy~~
497 of up to 10 percent of the policy premium for deficits in the
498 personal lines account, up to 15 percent of the policy ~~such~~
499 premium for deficits in the commercial lines account, and up to
500 20 percent of the policy premium for deficits in the coastal
501 account, which funds shall be used to offset the deficit.

502 (II) The surcharge is payable upon cancellation or
503 termination of the policy, upon renewal of the policy, or upon
504 issuance of a new policy by the corporation within the first 12
505 months after the date of the levy or the period of time
506 necessary to fully collect the surcharge amount.

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

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

515 j. If the amount of any assessments or surcharges collected
516 from corporation policyholders, assessable insurers or their
517 policyholders, or assessable insureds exceeds the amount of the
518 deficits, such excess amounts shall be remitted to and retained
519 by the corporation in a reserve to be used by the corporation,
520 as determined by the board of governors and approved by the
521 office, to pay claims or reduce any past, present, or future
522 plan-year deficits or to reduce outstanding debt.

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523 (e) The corporation is subject to s. 287.057 for the
524 purchase of commodities and contractual services except as
525 otherwise provided in this paragraph. Services provided by
526 tradepersons or technical experts to assist a licensed adjuster
527 in the evaluation of individual claims are not subject to the
528 procurement requirements of this section. Additionally, the
529 procurement of financial services providers and underwriters
530 must be made pursuant to s. 627.3513. Contracts for goods or
531 services valued at or more than \$100,000 are subject to approval
532 by the board.

533 1. The corporation is an agency for purposes of s. 287.057,
534 except that, for purposes of s. 287.057(22), the corporation is
535 an eligible user.

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

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

542 2. The corporation must provide notice of a decision or
543 intended decision concerning a solicitation, contract award, or
544 exceptional purchase by electronic posting. Such notice must
545 contain the following statement: "Failure to file a protest
546 within the time prescribed in this section constitutes a waiver
547 of proceedings."

548 a. A person adversely affected by the corporation's
549 decision or intended decision to award a contract pursuant to s.
550 287.057(1) or (3)(c) who elects to challenge the decision must
551 file a written notice of protest with the executive director of

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552 the corporation within 72 hours after the corporation posts a
553 notice of its decision or intended decision. For a protest of
554 the terms, conditions, and specifications contained in a
555 solicitation, including ~~any~~ provisions governing the methods for
556 ranking bids, proposals, replies, awarding contracts, reserving
557 rights of further negotiation, or modifying or amending any
558 contract, the notice of protest must be filed in writing within
559 72 hours after ~~the~~ posting ~~of~~ the solicitation. Saturdays,
560 Sundays, and state holidays are excluded in the computation of
561 the 72-hour time period.

562 b. A formal written protest must be filed within 10 days
563 after the date the notice of protest is filed. The formal
564 written protest must state with particularity the facts and law
565 upon which the protest is based. Upon receipt of a formal
566 written protest that has been timely filed, the corporation must
567 stop the solicitation or contract award process until the
568 subject of the protest is resolved by final board action unless
569 the executive director sets forth in writing particular facts
570 and circumstances that require the continuance of the
571 solicitation or contract award process without delay in order to
572 avoid an immediate and serious danger to the public health,
573 safety, or welfare.

574 (I) The corporation must provide an opportunity to resolve
575 the protest by mutual agreement between the parties within 7
576 business days after receipt of the formal written protest.

577 (II) If the subject of a protest is not resolved by mutual
578 agreement within 7 business days, the corporation's board must
579 transmit the protest to the Division of Administrative Hearings
580 and contract with the division to conduct a hearing to determine

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581 the merits of the protest and to issue a recommended order ~~place~~
582 ~~the protest on the agenda and resolve it at its next regularly~~
583 ~~scheduled meeting.~~ The contract must provide for the corporation
584 to reimburse the division for any costs incurred by the division
585 for court reporters, transcript preparation, travel, facility
586 rental, and other customary hearing costs in the manner set
587 forth in s. 120.65(9). The division has jurisdiction to
588 determine the facts and law concerning the protest and to issue
589 a recommended order. The division's rules and procedures apply
590 to these proceedings; the division's applicable bond
591 requirements do not apply. The protest must be heard by the
592 division ~~board~~ at a publicly noticed meeting in accordance with
593 procedures established by the division ~~board~~.

594 c. In a protest of an invitation-to-bid or request-for-
595 proposals procurement, submissions made after the bid or
596 proposal opening which amend or supplement the bid or proposal
597 may not be considered. In protesting an invitation-to-negotiate
598 procurement, submissions made after the corporation announces
599 its intent to award a contract, reject all replies, or withdraw
600 the solicitation that amends or supplements the reply may not be
601 considered. Unless otherwise provided by law, the burden of
602 proof rests with the party protesting the corporation's action.
603 In a competitive-procurement protest, other than a rejection of
604 all bids, proposals, or replies, the corporation's board must
605 conduct a de novo proceeding to determine whether the
606 corporation's proposed action is contrary to the corporation's
607 governing statutes, the corporation's rules or policies, or the
608 solicitation specifications. The standard of proof for the
609 proceeding is whether the corporation's action was clearly

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610 erroneous, contrary to competition, arbitrary, or capricious. In
611 any bid-protest proceeding contesting an intended corporation
612 action to reject all bids, proposals, or replies, the standard
613 of review by the board is whether the corporation's intended
614 action is illegal, arbitrary, dishonest, or fraudulent.

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

617 3. The board, acting as agency head, shall consider the
618 recommended order of an administrative law judge in a public
619 meeting and take final action on the protest. ~~Contract actions~~
620 and decisions by the board under this paragraph are final. Any
621 further legal remedy lies with the First District Court of
622 Appeal ~~must be made in the Circuit Court of Leon County.~~

623 (hh) The corporation shall ~~must~~ prepare a report for each
624 calendar year outlining both the statewide average and county-
625 specific details of the loss ratio attributable to losses that
626 are not catastrophic losses for residential coverage provided by
627 the corporation, which information must be presented to the
628 office and available for public inspection on the Internet
629 website of the corporation by March 1 ~~January 15th~~ of the
630 following calendar year.

631 Section 3. Paragraph (e) is added to subsection (1) of
632 section 627.3518, Florida Statutes, subsection (2) and paragraph
633 (e) of subsection (4) of that section are amended, present
634 subsections (5) through (10) of that section are redesignated as
635 subsections (6) through (11), respectively, present subsection
636 (11) is redesignated as subsection (13), new subsections (5) and
637 (12) are added to that section, and present subsections (5)
638 through (7) of that section are amended, to read:

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639 627.3518 Citizens Property Insurance Corporation
640 policyholder eligibility clearinghouse program.—The purpose of
641 this section is to provide a framework for the corporation to
642 implement a clearinghouse program by January 1, 2014.

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

644 (e) "Surplus lines insurer" means an unauthorized insurer
645 that has been made eligible by the office to issue coverage
646 under the Surplus Lines Law.

647 (2) In order to confirm eligibility with the corporation
648 and to enhance the access of new applicants for coverage and
649 existing policyholders of the corporation to offers of coverage
650 from authorized insurers and surplus lines insurers, the
651 corporation shall establish a program for personal residential
652 risks in order to facilitate the diversion of ineligible
653 applicants and existing policyholders ~~from the corporation~~ into
654 the voluntary insurance market. The corporation shall also
655 develop appropriate procedures for facilitating the diversion of
656 ineligible applicants and existing policyholders for commercial
657 residential coverage into the private insurance market and
658 implement these procedures by October 1, 2015 ~~shall report such~~
659 ~~procedures to the President of the Senate and the Speaker of the~~
660 ~~House of Representatives by January 1, 2014.~~

661 (4) Any authorized insurer may participate in the program;
662 however, participation is not mandatory for any insurer.
663 Insurers making offers of coverage to new applicants or renewal
664 policyholders through the program:

665 (e) May participate through their single-designated
666 managing general agent or broker; however, the provisions of
667 paragraph (7) (a) ~~(6) (a)~~ regarding ownership, control, and use of

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668 the expirations continue to apply.

669 (5) Effective January 1, 2015, an eligible surplus lines
670 insurer may make an offer of similar coverage on a risk
671 submitted through the clearinghouse program if no offers of
672 coverage were submitted by authorized insurers participating in
673 the program and the office determines that the eligible surplus
674 lines insurer:

675 (a) Maintains a surplus of \$50 million on a company or
676 pooled basis;

677 (b) Is rated as having a superior, excellent, exceptional,
678 or equally comparable financial strength by a rating agency
679 acceptable to the office;

680 (c) Maintains reserves, surplus, reinsurance, and
681 reinsurance equivalents to cover the eligible surplus lines
682 insurer's 100-year probable maximum hurricane loss at least
683 twice in a single hurricane season, and submits such reinsurance
684 to the office for review for purposes of participation in the
685 program; and

686 (d) Provides prominent notice to the policyholder:

687 1. That the policyholder does not have to accept an offer
688 of coverage from a surplus lines insurer;

689 2. That an offer of coverage from a surplus lines insurer
690 does not affect whether the policyholder is eligible for
691 coverage from the corporation;

692 3. That a policyholder who accepts an offer of coverage
693 from a surplus lines insurer may, at any time, submit a new
694 application for coverage to the corporation;

695 4. That surplus lines policies are not covered by the
696 Florida Insurance Guaranty Association;

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697 5. That rates for surplus lines insurance are not subject
698 to review by the office; and

699 6. Of any additional information required by the office.
700

701 Such notice must be signed by the policyholder and kept on file
702 with the surplus lines insurer for as long as the policyholder
703 remains insured by the surplus lines insurer.

704 (6)~~(5)~~ Notwithstanding s. 627.3517, an ~~any~~ applicant for
705 new coverage from the corporation is not eligible for coverage
706 from the corporation if provided an offer of coverage from an
707 authorized insurer through the program at a premium that is at
708 or below the eligibility threshold established in s.
709 627.351(6)(c)5.a. or b. Whenever an offer of coverage for a
710 personal lines or commercial lines residential risk is received
711 for a policyholder of the corporation at renewal from an
712 authorized insurer through the program, if the offer is equal to
713 or less than the corporation's renewal premium for comparable
714 coverage, the risk is not eligible for coverage with the
715 corporation. If ~~In the event~~ an offer of coverage for a new
716 applicant is received from an authorized insurer through the
717 program, and the premium offered exceeds the eligibility
718 threshold contained in s. 627.351(6)(c)5.a. or b., the applicant
719 or insured may elect to accept such coverage, or may elect to
720 accept or continue coverage with the corporation. If ~~In the~~
721 ~~event~~ an offer of coverage for a personal lines or commercial
722 lines residential risk is received from an authorized insurer at
723 renewal through the program~~7~~ and if the premium offered is more
724 than the corporation's renewal premium for comparable coverage,
725 the insured may elect to accept such coverage~~7~~ or may elect to

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726 accept or continue coverage with the corporation. Section
727 627.351(6)(c)5.a.(I) or b.(I) does not apply to an offer of
728 coverage from an authorized insurer obtained through the
729 program. An applicant for personal lines residential coverage
730 from the corporation who was declared ineligible for coverage at
731 renewal by the corporation in the previous 36 months due to an
732 offer of coverage pursuant to this subsection is ~~shall be~~
733 considered a renewal under this section if the corporation
734 determines that the authorized insurer making the offer of
735 coverage pursuant to this subsection continues to insure the
736 applicant and increased the rate on the policy in excess of the
737 increase allowed for the corporation under s. 627.351(6)(n)6.

738 (7)~~(6)~~ Independent insurance agents submitting new
739 applications for coverage or that are the agent of record on a
740 renewal policy submitted to the program:

741 (a) Are granted and must maintain ownership and the
742 exclusive use of expirations, records, or other written or
743 electronic information directly related to such applications or
744 renewals written through the corporation or through an insurer
745 participating in the program, notwithstanding s.
746 627.351(6)(c)5.a.(I)(B) and (II)(B) and b.(I)(B) and (II)(B).
747 Such ownership is granted for as long as the insured remains
748 with the agency or until sold or surrendered in writing by the
749 agent. Contracts with the corporation or required by the
750 corporation must not amend, modify, interfere with, or limit
751 such rights of ownership. Such expirations, records, or other
752 written or electronic information may be used to review an
753 application, issue a policy, or for any other purpose necessary
754 for placing such business through the program.

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755 (b) May not be required to be appointed by any insurer
756 participating in the program for policies written solely through
757 the program, notwithstanding ~~the provisions of~~ s. 626.112.

758 (c) May accept an appointment from an ~~any~~ insurer
759 participating in the program.

760 (d) May enter into ~~either~~ a standard or limited agency
761 agreement with the insurer, at the insurer's option.

762

763 Applicants ineligible for coverage in accordance with subsection
764 (6) ~~(5)~~ remain ineligible if their independent agent is
765 unwilling or unable to enter into a standard or limited agency
766 agreement with an insurer participating in the program.

767 (8) ~~(7)~~ Exclusive agents submitting new applications for
768 coverage or that are the agent of record on a renewal policy
769 submitted to the program:

770 (a) Must maintain ownership and the exclusive use of
771 expirations, records, or other written or electronic information
772 directly related to such applications or renewals written
773 through the corporation or through an insurer participating in
774 the program, notwithstanding s. 627.351(6)(c)5.a.(I)(B) and
775 (II)(B) and b.(I)(B) and (II)(B). Contracts with the corporation
776 or required by the corporation must not amend, modify, interfere
777 with, or limit such rights of ownership. Such expirations,
778 records, or other written or electronic information may be used
779 to review an application, issue a policy, or for any other
780 purpose necessary for placing such business through the program.

781 (b) May not be required to be appointed by any insurer
782 participating in the program for policies written solely through
783 the program, notwithstanding ~~the provisions of~~ s. 626.112.

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784 (c) Must only facilitate the placement of an offer of
 785 coverage from an insurer whose limited servicing agreement is
 786 approved by that exclusive agent's exclusive insurer.

787 (d) May enter into a limited servicing agreement with the
 788 insurer making an offer of coverage, and only after the
 789 exclusive agent's insurer has approved the limited servicing
 790 agreement terms. The exclusive agent's insurer must approve a
 791 limited service agreement for the program for an ~~any~~ insurer for
 792 which it has approved a service agreement for other purposes.

793

794 Applicants ineligible for coverage in accordance with subsection
 795 (6) ~~(5)~~ remain ineligible if their exclusive agent is unwilling
 796 or unable to enter into a standard or limited agency agreement
 797 with an insurer making an offer of coverage to that applicant.

798 (12) An applicant for coverage from the corporation who was
 799 a policyholder of the corporation within the previous 36 months
 800 and who subsequently accepted an offer of coverage from a
 801 surplus lines insurer is considered a renewal under this
 802 section.

803 Section 4. Section 627.3519, Florida Statutes, is repealed.

804 Section 5. Section 627.35191, Florida Statutes, is amended
 805 to read:

806 627.35191 Required reports ~~Annual report of aggregate net~~
 807 ~~probable maximum losses, financing options, and potential~~
 808 ~~assessments.-~~

809 (1) By ~~No later than~~ February 1 of each year, the Florida
 810 Hurricane Catastrophe Fund and Citizens Property Insurance
 811 Corporation shall each submit a report to the Legislature and
 812 the Financial Services Commission identifying their respective

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813 aggregate net probable maximum losses, financing options, and
814 potential assessments. The report issued by the fund and the
815 corporation must include their respective 50-year, 100-year, and
816 250-year probable maximum losses; analysis of all reasonable
817 financing strategies for each such probable maximum loss,
818 including the amount and term of debt instruments; specification
819 of the percentage assessments that would be needed to support
820 each of the financing strategies; and calculations of the
821 aggregate assessment burden on Florida property and casualty
822 policyholders for each of the probable maximum losses.

823 (2) In May of each year, Citizens Property Insurance
824 Corporation shall also provide to the Legislature and the
825 Financial Services Commission a statement of the estimated
826 borrowing capacity of the corporation for the next 12-month
827 period, the estimated claims-paying capacity of the corporation,
828 and the corporation's estimated balance as of December 31 of the
829 current calendar year. Such estimates must take into account
830 that the corporation, the Florida Hurricane Catastrophe Fund,
831 and the Florida Insurance Guaranty Association may all be
832 concurrently issuing debt instruments following a catastrophic
833 event.

834 Section 6. Effective January 1, 2015, subsection (7) of
835 section 627.701, Florida Statutes, is amended to read:

836 627.701 Liability of insureds; coinsurance; deductibles.—

837 (7) Before ~~Prior to~~ issuing a personal lines residential
838 property insurance policy on or after January 1, 2015 ~~April 1,~~
839 ~~1997,~~ or before ~~prior to~~ the first renewal of a residential
840 property insurance policy on or after January 1, 2015 ~~April 1,~~
841 ~~1997,~~ the insurer must offer a deductible equal to \$1,000 ~~\$500~~

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842 applicable to losses from perils other than hurricane. The
843 insurer must provide the policyholder with notice of the
844 availability of the deductible specified in this subsection in a
845 form approved by the office at least once every 3 years. The
846 failure to provide such notice constitutes a violation of this
847 code but does not affect the coverage provided under the policy.
848 An insurer may require a higher deductible only as part of a
849 deductible program lawfully in effect on June 1, 1996, or as
850 part of a similar deductible program.

851 Section 7. Present subsections (6) through (8) of section
852 627.711, Florida Statutes, are renumbered as subsections (7)
853 through (9), respectively, a new subsection (6) is added to that
854 section, and present subsection (8) of that section is amended,
855 to read:

856 627.711 Notice of premium discounts for hurricane loss
857 mitigation; uniform mitigation verification inspection form.—

858 (6) (a) An authorized mitigation inspector may not directly
859 or indirectly offer or deliver any compensation, inducement, or
860 reward to an insurance agency, insurance agent, customer
861 representative, or an employee of an insurance agency for the
862 referral of the owner of the inspected property to the inspector
863 or the inspection company. Section 455.227(1)(k) applies to
864 applicable licensees in violation of this paragraph.

865 (b) An insurance agency, insurance agent, customer
866 representative, or an employee of an insurance agency may not
867 directly or indirectly receive or accept any compensation,
868 inducement, or reward from an authorized mitigation inspector
869 for the referral of the owner of the inspected property to the
870 inspector or the inspection company. Sections 626.621(2) and

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871 626.6215(5)(d) apply to a violation of this paragraph.

872 (9)~~(8)~~ At its expense, the insurer may require that a
873 uniform mitigation verification form provided by a policyholder,
874 a policyholder's agent, or an authorized mitigation inspector or
875 inspection company be independently verified by an inspector, an
876 inspection company, or an independent third-party quality
877 assurance provider ~~that~~ ~~which~~ possesses a quality assurance
878 program before accepting the uniform mitigation verification
879 form as valid. At its option, the insurer may exempt from
880 independent verification a uniform mitigation verification form
881 completed by an authorized mitigation inspector or inspection
882 company that possesses a quality assurance program approved by
883 the insurer. A uniform mitigation verification form provided by
884 a policyholder, a policyholder's agent, or an authorized
885 mitigation inspector or inspection company to Citizens Property
886 Insurance Corporation is not subject to independent verification
887 and the property is not subject to reinspection by the
888 corporation, absent material changes to the structure during the
889 term stated on the form, if the form was signed by an authorized
890 mitigation inspector and submitted to, reviewed by, and verified
891 by a quality assurance program approved by the corporation
892 before submission of the form to the corporation.

893 Section 8. Except as otherwise expressly provided in this
894 act, this act shall take effect July 1, 2014.