

By the Committees on Rules; 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.
3 626.621, F.S.; providing additional grounds for
4 refusing, suspending, or revoking a license or
5 appointment of an insurance agent, adjuster, customer
6 representative, or managing general agent based on the
7 acceptance of payment for certain referrals; amending
8 s. 626.854, F.S.; prohibiting a public adjuster or
9 public adjuster apprentice from choosing the persons
10 or entities that will perform repair work; amending s.
11 627.351, F.S.; postponing the date that new
12 construction or substantial improvement is not
13 eligible for coverage by the corporation; deleting
14 reference to the Residential Property and Casualty
15 Joint Underwriting Association with respect to issuing
16 certain residential or commercial policies; requiring
17 the corporation to cease offering new commercial
18 residential policies providing multiperil coverage
19 after a certain date and continue offering commercial
20 residential wind-only policies; authorizing the
21 corporation to offer commercial residential policies
22 excluding wind; providing exceptions; specifying the
23 amount of the surcharge to be assessed against
24 personal lines, commercial lines, and coastal accounts
25 to cover a projected deficit; requiring the
26 corporation's board to contract with the Division of
27 Administrative Hearings to hear protests of the
28 corporation's decisions regarding the purchase of
29 commodities and contractual services and issue a

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30 recommended order; requiring the board to take final
31 action in a public meeting; revising the date for
32 submitting the annual loss-ratio report for
33 residential coverage; amending s. 627.3518, F.S.;
34 defining the term "surplus lines insurer"; requiring
35 the corporation to implement procedures for diverting
36 ineligible applicants and existing policyholders for
37 commercial residential coverage from the corporation
38 by a certain date; deleting the requirement that the
39 corporation report such procedures to the Legislature;
40 authorizing eligible surplus lines insurers to
41 participate in the corporation's clearinghouse program
42 and providing criteria for such eligibility;
43 conforming cross-references; providing that certain
44 applicants who accept an offer from a surplus lines
45 insurer are considered to be renewing; repealing s.
46 627.3519, F.S., relating to an annual report
47 requirement for aggregate net probable maximum losses;
48 amending s. 627.35191, F.S.; requiring the corporation
49 to annually provide certain estimates for the next 12-
50 month period to the Legislature and the Financial
51 Services Commission; amending s. 627.711, F.S.;
52 prohibiting a mitigation inspector from offering or
53 delivering compensation, and an insurance agency,
54 agent, customer representative, or employee from
55 accepting compensation for referring an owner to the
56 inspector or inspection company; authorizing an
57 insurer to exempt a uniform mitigation verification
58 form from independent verification under certain

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59 circumstances; providing that the form provided to the
60 corporation is not subject to verification and the
61 property is not subject to reinspection under certain
62 circumstances; amending s. 817.234; prohibiting a
63 contractor from paying, waiving, or rebating a
64 property insurance deductible; providing penalties;
65 providing effective dates.

66
67 Be It Enacted by the Legislature of the State of Florida:

68
69 Section 1. Subsection (15) is added to section 626.621,
70 Florida Statutes, to read:

71 626.621 Grounds for discretionary refusal, suspension, or
72 revocation of agent's, adjuster's, customer representative's,
73 service representative's, or managing general agent's license or
74 appointment.—The department may, in its discretion, deny an
75 application for, suspend, revoke, or refuse to renew or continue
76 the license or appointment of any applicant, agent, adjuster,
77 customer representative, service representative, or managing
78 general agent, and it may suspend or revoke the eligibility to
79 hold a license or appointment of any such person, if it finds
80 that as to the applicant, licensee, or appointee any one or more
81 of the following applicable grounds exist under circumstances
82 for which such denial, suspension, revocation, or refusal is not
83 mandatory under s. 626.611:

84 (15) Directly or indirectly accepting any compensation,
85 inducement, or reward from an inspector for the referral of the
86 owner of the inspected property to the inspector or inspection
87 company. This prohibition applies to an inspection intended for

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88 submission to a carrier in order to obtain insurance coverage or
89 establish the applicable insurance premium.

90 Section 2. Subsection (18) of section 626.854, Florida
91 Statutes, is redesignated as subsection (19) and amended, and
92 subsection (18) is added to that section, to read:

93 626.854 "Public adjuster" defined; prohibitions.—The
94 Legislature finds that it is necessary for the protection of the
95 public to regulate public insurance adjusters and to prevent the
96 unauthorized practice of law.

97 (18) A public adjuster, a public adjuster apprentice, or a
98 person acting on behalf of an adjuster or apprentice may not
99 enter into a contract or accept a power of attorney that vests
100 in the public adjuster, the public adjuster apprentice, or the
101 person acting on behalf of the adjuster or apprentice the
102 effective authority to choose the persons or entities that will
103 perform repair work.

104 ~~(19)~~ ~~(18)~~ ~~The provisions of Subsections (5)-(18) (5)-(17)~~
105 apply only to residential property insurance policies and
106 condominium unit owner policies as described ~~defined~~ in s.
107 718.111(11).

108 Section 3. Paragraphs (a), (b), (e), and (hh) of subsection
109 (6) of section 627.351, Florida Statutes, are amended to read:

110 627.351 Insurance risk apportionment plans.—

111 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

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

115 1. The Legislature finds that private insurers are
116 unwilling or unable to provide affordable property insurance

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117 coverage in this state to the extent sought and needed. The
118 absence of affordable property insurance threatens the public
119 health, safety, and welfare and ~~likewise threatens~~ the economic
120 health of the state. The state, therefore, has a compelling
121 public interest and a public purpose to assist in assuring that
122 property in the state is insured ~~and that it is insured~~ at
123 affordable rates so as to facilitate the remediation,
124 reconstruction, and replacement of damaged or destroyed property
125 in order to reduce or avoid ~~the~~ negative effects on ~~otherwise~~
126 ~~resulting to~~ the public health, safety, and welfare, to the
127 economy of the state, and to the revenues of the state and local
128 governments which are needed to provide for the public welfare.
129 It is necessary, therefore, to provide affordable property
130 insurance to applicants who are in good faith entitled to
131 procure insurance through the voluntary market but are unable to
132 do so. The Legislature intends, therefore, that affordable
133 property insurance be provided and that it continue to be
134 provided, as long as necessary, through Citizens Property
135 Insurance Corporation, a government entity that is an integral
136 part of the state, ~~and that is~~ not a private insurance company.
137 To that end, the corporation shall strive to increase the
138 availability of affordable property insurance in this state,
139 while achieving efficiencies and economies, and while providing
140 service to policyholders, applicants, and agents which is no
141 less than the quality generally provided in the voluntary
142 market, for the achievement of the foregoing public purposes.
143 Because it is essential for this government entity to have the
144 maximum financial resources to pay claims following a
145 catastrophic hurricane, it is further the intent of the

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146 Legislature that the corporation continue to be an integral part
147 of the state, and that the income of the corporation be exempt
148 from federal income taxation, and that interest on the debt
149 obligations issued by the corporation be exempt from federal
150 income taxation.

151 2. The Residential Property and Casualty Joint Underwriting
152 Association originally created by this statute shall be known as
153 the Citizens Property Insurance Corporation. The corporation
154 shall provide insurance for residential and commercial property,
155 for applicants who are entitled, but, in good faith, are unable
156 to procure insurance through the voluntary market. The
157 corporation shall operate pursuant to a plan of operation
158 approved by order of the Financial Services Commission. The plan
159 is subject to continuous review by the commission. The
160 commission may, by order, withdraw approval of all or part of a
161 plan if the commission determines that conditions have changed
162 since approval was granted and that the purposes of the plan
163 require changes in the plan. For the purposes of this
164 subsection, residential coverage includes both personal lines
165 residential coverage, which consists of the type of coverage
166 provided by homeowner's, mobile home owner's, dwelling,
167 tenant's, condominium unit owner's, and similar policies; and
168 commercial lines residential coverage, which consists of the
169 type of coverage provided by condominium association, apartment
170 building, and similar policies.

171 3. With respect to coverage for personal lines residential
172 structures:

173 a. Effective January 1, 2014, a structure that has a
174 dwelling replacement cost of \$1 million or more, or a single

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175 condominium unit that has a combined dwelling and contents
176 replacement cost of \$1 million or more is not eligible for
177 coverage by the corporation. Such dwellings insured by the
178 corporation on December 31, 2013, may continue to be covered by
179 the corporation until the end of the policy term. The office
180 shall approve the method used by the corporation for valuing the
181 dwelling replacement costs under ~~cost for the purposes of~~ this
182 subparagraph. If a policyholder is insured by the corporation
183 before being determined to be ineligible pursuant to this
184 subparagraph and such policyholder files a lawsuit challenging
185 the determination, the policyholder may remain insured by the
186 corporation until the conclusion of the litigation.

187 b. Effective January 1, 2015, a structure that has a
188 dwelling replacement cost of \$900,000 or more, or a single
189 condominium unit that has a combined dwelling and contents
190 replacement cost of \$900,000 or more, is not eligible for
191 coverage by the corporation. Such dwellings insured by the
192 corporation on December 31, 2014, may continue to be covered by
193 the corporation only until the end of the policy term.

194 c. Effective January 1, 2016, a structure that has a
195 dwelling replacement cost of \$800,000 or more, or a single
196 condominium unit that has a combined dwelling and contents
197 replacement cost of \$800,000 or more, is not eligible for
198 coverage by the corporation. Such dwellings insured by the
199 corporation on December 31, 2015, may continue to be covered by
200 the corporation until the end of the policy term.

201 d. Effective January 1, 2017, a structure that has a
202 dwelling replacement cost of \$700,000 or more, or a single
203 condominium unit that has a combined dwelling and contents

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204 replacement cost of \$700,000 or more, is not eligible for
205 coverage by the corporation. Such dwellings insured by the
206 corporation on December 31, 2016, may continue to be covered by
207 the corporation until the end of the policy term.

208
209 The requirements of sub-subparagraphs b.-d. do not apply in
210 counties where the office determines there is not a reasonable
211 degree of competition. In such counties a personal lines
212 residential structure that has a dwelling replacement cost of
213 less than \$1 million, or a single condominium unit that has a
214 combined dwelling and contents replacement cost of less than \$1
215 million, is eligible for coverage by the corporation.

216 4. It is the intent of the Legislature that policyholders,
217 applicants, and agents of the corporation receive service and
218 treatment of the highest possible level but never less than that
219 generally provided in the voluntary market. It is also intended
220 that the corporation be held to service standards no less than
221 those applied to insurers in the voluntary market by the office
222 with respect to responsiveness, timeliness, customer courtesy,
223 and overall dealings with policyholders, applicants, or agents
224 of the corporation.

225 5.a. Effective January 1, 2009, a personal lines
226 residential structure that is located in the "wind-borne debris
227 region," as defined in s. 1609.2, International Building Code
228 (2006), and that has an insured value on the structure of
229 \$750,000 or more is not eligible for coverage by the corporation
230 unless the structure has opening protections as required under
231 the Florida Building Code for a newly constructed residential
232 structure in that area. A residential structure is deemed to

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233 comply with this subparagraph if it has shutters or opening
234 protections on all openings and if such opening protections
235 complied with the Florida Building Code at the time they were
236 installed.

237 b. Any major structure as defined in s. 161.54(6)(a) for
238 which a permit is applied on or after July 1, 2015 ~~2014~~, for new
239 construction or substantial improvement as defined in s.
240 161.54~~(12)~~ is not eligible for coverage by the corporation if
241 the structure is seaward of the coastal construction control
242 line established pursuant to s. 161.053 or is within the Coastal
243 Barrier Resources System as designated by 16 U.S.C. ss. 3501-
244 3510.

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

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

265 (I) A personal lines account for personal residential
266 policies issued by the corporation, ~~or issued by the Residential~~
267 ~~Property and Casualty Joint Underwriting Association and renewed~~
268 ~~by the corporation,~~ which provides comprehensive, multiperil
269 coverage on risks that are not located in areas eligible for
270 coverage by the Florida Windstorm Underwriting Association as
271 those areas were defined on January 1, 2002, and for policies
272 that do not provide coverage for the peril of wind on risks that
273 are located in such areas;

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

284 (III) A coastal account for personal residential policies
285 and commercial residential and commercial nonresidential
286 property policies issued by the corporation, ~~or transferred to~~
287 ~~the corporation,~~ which provides coverage for the peril of wind
288 on risks that are located in areas eligible for coverage by the
289 Florida Windstorm Underwriting Association as those areas were
290 defined on January 1, 2002. The corporation may offer policies

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291 that provide multiperil coverage and ~~the corporation~~ shall
292 ~~continue to offer policies that provide coverage only for the~~
293 ~~peril of wind for risks located in areas eligible for coverage~~
294 ~~in the coastal account. Effective July 1, 2014, the corporation~~
295 ~~shall cease offering new commercial residential policies~~
296 ~~providing multiperil coverage and shall instead continue to~~
297 ~~offer commercial residential wind-only policies, and may offer~~
298 ~~commercial residential policies excluding wind. The corporation~~
299 ~~may, however, continue to renew a commercial residential~~
300 ~~multiperil policy on a building that is insured by the~~
301 ~~corporation on June 30, 2014, under a multiperil policy.~~ In
302 issuing multiperil coverage, the corporation may use its
303 approved policy forms and rates for the personal lines account.
304 An applicant or insured who is eligible to purchase a multiperil
305 policy from the corporation may purchase a multiperil policy
306 from an authorized insurer without prejudice to the applicant's
307 or insured's eligibility to prospectively purchase a policy that
308 provides coverage only for the peril of wind from the
309 corporation. An applicant or insured who is eligible for a
310 corporation policy that provides coverage only for the peril of
311 wind may elect to purchase or retain such policy and also
312 purchase or retain coverage excluding wind from an authorized
313 insurer without prejudice to the applicant's or insured's
314 eligibility to prospectively purchase a policy that provides
315 multiperil coverage from the corporation. It is the goal of the
316 Legislature that there be an overall average savings of 10
317 percent or more for a policyholder who currently has a wind-only
318 policy with the corporation, and an ex-wind policy with a
319 voluntary insurer or the corporation, and who obtains a

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320 multiperil policy from the corporation. It is the intent of the
321 Legislature that the offer of multiperil coverage in the coastal
322 account be made and implemented in a manner that does not
323 adversely affect the tax-exempt status of the corporation or
324 creditworthiness of or security for currently outstanding
325 financing obligations or credit facilities of the coastal
326 account, the personal lines account, or the commercial lines
327 account. The coastal account must also include quota share
328 primary insurance under subparagraph (c)2. The area eligible for
329 coverage under the coastal account also includes the area within
330 Port Canaveral, which is bordered on the south by the City of
331 Cape Canaveral, bordered on the west by the Banana River, and
332 bordered on the north by Federal Government property.

333 b. The three separate accounts must be maintained as long
334 as financing obligations entered into by the Florida Windstorm
335 Underwriting Association or Residential Property and Casualty
336 Joint Underwriting Association are outstanding, in accordance
337 with the terms of the corresponding financing documents. If the
338 financing obligations are no longer outstanding, the corporation
339 may use a single account for all revenues, assets, liabilities,
340 losses, and expenses of the corporation. Consistent with this
341 subparagraph and prudent investment policies that minimize the
342 cost of carrying debt, the board shall exercise its best efforts
343 to retire existing debt or obtain the approval of necessary
344 parties to amend the terms of existing debt, so as to structure
345 the most efficient plan for consolidating ~~to consolidate~~ the
346 three separate accounts into a single account.

347 c. Creditors of the Residential Property and Casualty Joint
348 Underwriting Association and the accounts specified in sub-sub-

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349 subparagraphs a.(I) and (II) may have a claim against, and
350 recourse to, those accounts and no claim against, or recourse
351 to, the account referred to in sub-sub-subparagraph a.(III).
352 Creditors of the Florida Windstorm Underwriting Association have
353 a claim against, and recourse to, the account referred to in
354 sub-sub-subparagraph a.(III) and no claim against, or recourse
355 to, the accounts referred to in sub-sub-subparagraphs a.(I) and
356 (II).

357 d. Revenues, assets, liabilities, losses, and expenses not
358 attributable to particular accounts shall be prorated among the
359 accounts.

360 e. The Legislature finds that the revenues of the
361 corporation are revenues that are necessary to meet the
362 requirements set forth in documents authorizing the issuance of
363 bonds under this subsection.

364 f. The income of the corporation may not inure to the
365 benefit of any private person.

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

367 a. After accounting for the Citizens policyholder surcharge
368 imposed under sub-subparagraph i., if the remaining projected
369 deficit incurred in the coastal account in a particular calendar
370 year:

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

376 (II) Exceeds 2 percent of the aggregate statewide direct
377 written premium for the subject lines of business for the prior

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378 calendar year, the corporation shall levy regular assessments on
379 assessable insurers under paragraph (q) and on assessable
380 insureds in an amount equal to the greater of 2 percent of the
381 projected deficit or 2 percent of the aggregate statewide direct
382 written premium for the subject lines of business for the prior
383 calendar year. Any remaining projected deficit shall be
384 recovered through emergency assessments under sub-subparagraph
385 d.

386 b. Each assessable insurer's share of the amount being
387 assessed under sub-subparagraph a. must be in the proportion
388 that the assessable insurer's direct written premium for the
389 subject lines of business for the year preceding the assessment
390 bears to the aggregate statewide direct written premium for the
391 subject lines of business for that year. The assessment
392 percentage applicable to each assessable insured is the ratio of
393 the amount being assessed under sub-subparagraph a. to the
394 aggregate statewide direct written premium for the subject lines
395 of business for the prior year. Assessments levied by the
396 corporation on assessable insurers under sub-subparagraph a.
397 must be paid as required by the corporation's plan of operation
398 and paragraph (q). Assessments levied by the corporation on
399 assessable insureds under sub-subparagraph a. shall be collected
400 by the surplus lines agent at the time the surplus lines agent
401 collects the surplus lines tax required by s. 626.932, and paid
402 to the Florida Surplus Lines Service Office at the time the
403 surplus lines agent pays the surplus lines tax to that office.
404 Upon receipt of regular assessments from surplus lines agents,
405 the Florida Surplus Lines Service Office shall transfer the
406 assessments directly to the corporation as determined by the

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407 corporation.

408 c. After accounting for the Citizens policyholder surcharge
409 imposed under sub-subparagraph i., the remaining projected
410 deficits in the personal lines account and in the commercial
411 lines account in a particular calendar year shall be recovered
412 through emergency assessments under sub-subparagraph d.

413 d. Upon a determination by the board of governors that a
414 projected deficit in an account exceeds the amount that is
415 expected to be recovered through regular assessments under sub-
416 subparagraph a., plus the amount that is expected to be
417 recovered through surcharges under sub-subparagraph i., the
418 board, after verification by the office, shall levy emergency
419 assessments for as many years as necessary to cover the
420 deficits, to be collected by assessable insurers and the
421 corporation and collected from assessable insureds upon issuance
422 or renewal of policies for subject lines of business, excluding
423 National Flood Insurance policies. The amount collected in a
424 particular year must be a uniform percentage of that year's
425 direct written premium for subject lines of business and all
426 accounts of the corporation, excluding National Flood Insurance
427 Program policy premiums, as annually determined by the board and
428 verified by the office. The office shall verify the arithmetic
429 calculations involved in the board's determination within 30
430 days after receipt of the information on which the determination
431 was based. The office shall notify assessable insurers and the
432 Florida Surplus Lines Service Office of the date on which
433 assessable insurers shall begin to collect and assessable
434 insureds shall begin to pay such assessment. The date must be at
435 least ~~may be not less than~~ 90 days after the date the

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436 corporation levies emergency assessments pursuant to this sub-
437 subparagraph. Notwithstanding any other provision of law, the
438 corporation and each assessable insurer that writes subject
439 lines of business shall collect emergency assessments from its
440 policyholders without such obligation being affected by any
441 credit, limitation, exemption, or deferment. Emergency
442 assessments levied by the corporation on assessable insureds
443 shall be collected by the surplus lines agent at the time the
444 surplus lines agent collects the surplus lines tax required by
445 s. 626.932 and paid to the Florida Surplus Lines Service Office
446 at the time the surplus lines agent pays the surplus lines tax
447 to that office. The emergency assessments collected shall be
448 transferred directly to the corporation on a periodic basis as
449 determined by the corporation and held by the corporation solely
450 in the applicable account. The aggregate amount of emergency
451 assessments levied for an account ~~under this sub-subparagraph~~ in
452 any calendar year may be less than but may not exceed the
453 greater of 10 percent of the amount needed to cover the deficit,
454 plus interest, fees, commissions, required reserves, and other
455 costs associated with financing the original deficit, or 10
456 percent of the aggregate statewide direct written premium for
457 subject lines of business and all accounts of the corporation
458 for the prior year, plus interest, fees, commissions, required
459 reserves, and other costs associated with financing the deficit.

460 e. The corporation may pledge the proceeds of assessments,
461 projected recoveries from the Florida Hurricane Catastrophe
462 Fund, other insurance and reinsurance recoverables, policyholder
463 surcharges and other surcharges, and other funds available to
464 the corporation as the source of revenue for and to secure bonds

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465 issued under paragraph (q), bonds or other indebtedness issued
466 under subparagraph (c)3., or lines of credit or other financing
467 mechanisms issued or created under this subsection, or to retire
468 any other debt incurred as a result of deficits or events giving
469 rise to deficits, or in any other way that the board determines
470 will efficiently recover such deficits. The purpose of the lines
471 of credit or other financing mechanisms is to provide additional
472 resources to assist the corporation in covering claims and
473 expenses attributable to a catastrophe. As used in this
474 subsection, the term "assessments" includes regular assessments
475 under sub-subparagraph a. or subparagraph (q)1. and emergency
476 assessments under sub-subparagraph d. Emergency assessments
477 collected under sub-subparagraph d. are not part of an insurer's
478 rates, are not premium, and are not subject to premium tax,
479 fees, or commissions; however, failure to pay the emergency
480 assessment shall be treated as failure to pay premium. The
481 emergency assessments ~~under sub-subparagraph d.~~ shall continue
482 as long as any bonds issued or other indebtedness incurred with
483 respect to a deficit for which the assessment was imposed remain
484 outstanding, unless adequate provision has been made for the
485 payment of such bonds or other indebtedness pursuant to the
486 documents governing such bonds or indebtedness.

487 f. As used in this subsection for purposes of any deficit
488 incurred on or after January 25, 2007, the term "subject lines
489 of business" means insurance written by assessable insurers or
490 procured by assessable insureds for all property and casualty
491 lines of business in this state, but not including workers'
492 compensation or medical malpractice. As used in this sub-
493 subparagraph, the term "property and casualty lines of business"

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494 includes all lines of business identified on Form 2, Exhibit of
495 Premiums and Losses, in the annual statement required of
496 authorized insurers under s. 624.424 and any rule adopted under
497 this section, except for those lines identified as accident and
498 health insurance and except for policies written under the
499 National Flood Insurance Program or the Federal Crop Insurance
500 Program. For purposes of this sub-subparagraph, the term
501 "workers' compensation" includes both workers' compensation
502 insurance and excess workers' compensation insurance.

503 g. The Florida Surplus Lines Service Office shall determine
504 annually the aggregate statewide written premium in subject
505 lines of business procured by assessable insureds and report
506 that information to the corporation in a form and at a time the
507 corporation specifies to ensure that the corporation can meet
508 the requirements of this subsection and the corporation's
509 financing obligations.

510 h. The Florida Surplus Lines Service Office shall verify
511 the proper application by surplus lines agents of assessment
512 percentages for regular assessments and emergency assessments
513 levied under this subparagraph on assessable insureds and assist
514 the corporation in ensuring the accurate, timely collection and
515 payment of assessments by surplus lines agents as required by
516 the corporation.

517 i. ~~In 2008 or thereafter,~~ Upon a determination by the board
518 of governors that an account has a projected deficit, the board
519 shall levy a Citizens policyholder surcharge against all
520 policyholders of the corporation.

521 (I) The surcharge shall be levied as a uniform percentage
522 of the premium for all corporation policyholders ~~for the policy~~

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523 of up to 10 percent of the policy premium for deficits in the
524 personal lines account, up to 15 percent of the policy such
525 premium for deficits in the commercial lines account, and up to
526 20 percent of the policy premium for deficits in the coastal
527 account, which funds shall be used to offset the deficit.

528 (II) The surcharge is payable upon cancellation or
529 termination of the policy, upon renewal of the policy, or upon
530 issuance of a new policy by the corporation within the first 12
531 months after the date of the levy or the period of time
532 necessary to fully collect the surcharge amount.

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

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

541 j. If the amount of any assessments or surcharges collected
542 from corporation policyholders, assessable insurers or their
543 policyholders, or assessable insureds exceeds the amount of the
544 deficits, such excess amounts shall be remitted to and retained
545 by the corporation in a reserve to be used by the corporation,
546 as determined by the board of governors and approved by the
547 office, to pay claims or reduce any past, present, or future
548 plan-year deficits or to reduce outstanding debt.

549 (e) The corporation is subject to s. 287.057 for the
550 purchase of commodities and contractual services except as
551 otherwise provided in this paragraph. Services provided by

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552 tradepersons or technical experts to assist a licensed adjuster
553 in the evaluation of individual claims are not subject to the
554 procurement requirements of this section. Additionally, the
555 procurement of financial services providers and underwriters
556 must be made pursuant to s. 627.3513. Contracts for goods or
557 services valued at or more than \$100,000 are subject to approval
558 by the board.

559 1. The corporation is an agency for purposes of s. 287.057,
560 except that, for purposes of s. 287.057(22), the corporation is
561 an eligible user.

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

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

568 2. The corporation must provide notice of a decision or
569 intended decision concerning a solicitation, contract award, or
570 exceptional purchase by electronic posting. Such notice must
571 contain the following statement: "Failure to file a protest
572 within the time prescribed in this section constitutes a waiver
573 of proceedings."

574 a. A person adversely affected by the corporation's
575 decision or intended decision to award a contract pursuant to s.
576 287.057(1) or (3)(c) who elects to challenge the decision must
577 file a written notice of protest with the executive director of
578 the corporation within 72 hours after the corporation posts a
579 notice of its decision or intended decision. For a protest of
580 the terms, conditions, and specifications contained in a

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581 solicitation, including ~~any~~ provisions governing the methods for
582 ranking bids, proposals, replies, awarding contracts, reserving
583 rights of further negotiation, or modifying or amending any
584 contract, the notice of protest must be filed in writing within
585 72 hours after ~~the~~ posting ~~of~~ the solicitation. Saturdays,
586 Sundays, and state holidays are excluded in the computation of
587 the 72-hour time period.

588 b. A formal written protest must be filed within 10 days
589 after the date the notice of protest is filed. The formal
590 written protest must state with particularity the facts and law
591 upon which the protest is based. Upon receipt of a formal
592 written protest that has been timely filed, the corporation must
593 stop the solicitation or contract award process until the
594 subject of the protest is resolved by final board action unless
595 the executive director sets forth in writing particular facts
596 and circumstances that require the continuance of the
597 solicitation or contract award process without delay in order to
598 avoid an immediate and serious danger to the public health,
599 safety, or welfare.

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

603 (II) If the subject of a protest is not resolved by mutual
604 agreement within 7 business days, the corporation's board must
605 transmit the protest to the Division of Administrative Hearings
606 and contract with the division to conduct a hearing to determine
607 the merits of the protest and to issue a recommended order ~~place~~
608 ~~the protest on the agenda and resolve it at its next regularly~~
609 ~~scheduled meeting.~~ The contract must provide for the corporation

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610 to reimburse the division for any costs incurred by the division
611 for court reporters, transcript preparation, travel, facility
612 rental, and other customary hearing costs in the manner set
613 forth in s. 120.65(9). The division has jurisdiction to
614 determine the facts and law concerning the protest and to issue
615 a recommended order. The division's rules and procedures apply
616 to these proceedings; the division's applicable bond
617 requirements do not apply. The protest must be heard by the
618 division ~~board~~ at a publicly noticed meeting in accordance with
619 procedures established by the division ~~board~~.

620 c. In a protest of an invitation-to-bid or request-for-
621 proposals procurement, submissions made after the bid or
622 proposal opening which amend or supplement the bid or proposal
623 may not be considered. In protesting an invitation-to-negotiate
624 procurement, submissions made after the corporation announces
625 its intent to award a contract, reject all replies, or withdraw
626 the solicitation that amends or supplements the reply may not be
627 considered. Unless otherwise provided by law, the burden of
628 proof rests with the party protesting the corporation's action.
629 In a competitive-procurement protest, other than a rejection of
630 all bids, proposals, or replies, the administrative law judge
631 ~~corporation's board~~ must conduct a de novo proceeding to
632 determine whether the corporation's proposed action is contrary
633 to the corporation's governing statutes, the corporation's rules
634 or policies, or the solicitation specifications. The standard of
635 proof for the proceeding is whether the corporation's action was
636 clearly erroneous, contrary to competition, arbitrary, or
637 capricious. In any bid-protest proceeding contesting an intended
638 corporation action to reject all bids, proposals, or replies,

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639 the standard of review by the board is whether the corporation's
640 intended action is illegal, arbitrary, dishonest, or fraudulent.

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

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

649 (hh) The corporation shall ~~must~~ prepare a report for each
650 calendar year outlining both the statewide average and county-
651 specific details of the loss ratio attributable to losses that
652 are not catastrophic losses for residential coverage provided by
653 the corporation, which information must be presented to the
654 office and available for public inspection on the Internet
655 website of the corporation by March 1 ~~January 15th~~ of the
656 following calendar year.

657 Section 4. Paragraph (e) is added to subsection (1) of
658 section 627.3518, Florida Statutes, subsection (2) and paragraph
659 (e) of subsection (4) of that section are amended, present
660 subsections (5) through (10) of that section are redesignated as
661 subsections (6) through (11), respectively, present subsection
662 (11) is redesignated as subsection (13), new subsections (5) and
663 (12) are added to that section, and present subsections (5)
664 through (7) of that section are amended, to read:

665 627.3518 Citizens Property Insurance Corporation
666 policyholder eligibility clearinghouse program.—The purpose of
667 this section is to provide a framework for the corporation to

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668 implement a clearinghouse program by January 1, 2014.

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

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

673 (2) In order to confirm eligibility with the corporation
674 and to enhance the access of new applicants for coverage and
675 existing policyholders of the corporation to offers of coverage
676 from authorized insurers and surplus lines insurers, the
677 corporation shall establish a program for personal residential
678 risks in order to facilitate the diversion of ineligible
679 applicants and existing policyholders ~~from the corporation~~ into
680 the voluntary insurance market. The corporation shall also
681 develop appropriate procedures for facilitating the diversion of
682 ineligible applicants and existing policyholders for commercial
683 residential coverage into the private insurance market and
684 implement these procedures by October 1, 2015 ~~shall report such~~
685 ~~procedures to the President of the Senate and the Speaker of the~~
686 ~~House of Representatives by January 1, 2014.~~

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

691 (e) May participate through their single-designated
692 managing general agent or broker; however, the provisions of
693 paragraph (7) (a) ~~(6) (a)~~ regarding ownership, control, and use of
694 the expirations continue to apply.

695 (5) Effective January 1, 2015, an eligible surplus lines
696 insurer may make an offer of similar coverage on a risk

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697 submitted though the clearinghouse program if no offers of
698 coverage were submitted by authorized insurers participating in
699 the program and the office determines that the eligible surplus
700 lines insurer:

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

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

706 (c) Maintains reserves, surplus, reinsurance, and
707 reinsurance equivalents to cover the eligible surplus lines
708 insurer's 100-year probable maximum hurricane loss at least
709 twice in a single hurricane season, and submits such reinsurance
710 to the office for review for purposes of participation in the
711 program; and

712 (d) Provides prominent notice to the policyholder:

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

715 2. That an offer of coverage from a surplus lines insurer
716 does not affect whether the policyholder is eligible for
717 coverage from the corporation;

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

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

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

725 6. Of any additional information required by the office.

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726

727 Such notice must be signed by the policyholder and kept on file
728 with the surplus lines insurer for as long as the policyholder
729 remains insured by the surplus lines insurer.

730 ~~(6)~~ ~~(5)~~ Notwithstanding s. 627.3517, an ~~any~~ applicant for
731 new coverage from the corporation is not eligible for coverage
732 from the corporation if provided an offer of coverage from an
733 authorized insurer through the program at a premium that is at
734 or below the eligibility threshold established in s.
735 627.351(6)(c)5.a. or b. Whenever an offer of coverage for a
736 personal lines or commercial lines residential risk is received
737 for a policyholder of the corporation at renewal from an
738 authorized insurer through the program, if the offer is equal to
739 or less than the corporation's renewal premium for comparable
740 coverage, the risk is not eligible for coverage with the
741 corporation. If ~~In the event~~ an offer of coverage for a new
742 applicant is received from an authorized insurer through the
743 program, and the premium offered exceeds the eligibility
744 threshold contained in s. 627.351(6)(c)5.a. or b., the applicant
745 or insured may elect to accept such coverage, or may elect to
746 accept or continue coverage with the corporation. If ~~In the~~
747 ~~event~~ an offer of coverage for a personal lines or commercial
748 lines residential risk is received from an authorized insurer at
749 renewal through the program, and if the premium offered is more
750 than the corporation's renewal premium for comparable coverage,
751 the insured may elect to accept such coverage, or may elect to
752 accept or continue coverage with the corporation. Section
753 627.351(6)(c)5.a.(I) or b.(I) does not apply to an offer of
754 coverage from an authorized insurer obtained through the

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755 program. An applicant for personal lines residential coverage
756 from the corporation who was declared ineligible for coverage at
757 renewal by the corporation in the previous 36 months due to an
758 offer of coverage pursuant to this subsection is ~~shall be~~
759 considered a renewal under this section if the corporation
760 determines that the authorized insurer making the offer of
761 coverage pursuant to this subsection continues to insure the
762 applicant and increased the rate on the policy in excess of the
763 increase allowed for the corporation under s. 627.351(6)(n)6.

764 (7)~~(6)~~ Independent insurance agents submitting new
765 applications for coverage or that are the agent of record on a
766 renewal policy submitted to the program:

767 (a) Are granted and must maintain ownership and the
768 exclusive use of expirations, records, or other written or
769 electronic information directly related to such applications or
770 renewals written through the corporation or through an insurer
771 participating in the program, notwithstanding s.

772 627.351(6)(c)5.a.(I)(B) and (II)(B) and b.(I)(B) and (II)(B).

773 Such ownership is granted for as long as the insured remains
774 with the agency or until sold or surrendered in writing by the
775 agent. Contracts with the corporation or required by the
776 corporation must not amend, modify, interfere with, or limit
777 such rights of ownership. Such expirations, records, or other
778 written or electronic information may be used to review an
779 application, issue a policy, or for any other purpose necessary
780 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) May accept an appointment from an ~~any~~ insurer
785 participating in the program.

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

788

789 Applicants ineligible for coverage in accordance with subsection
790 (6) ~~(5)~~ remain ineligible if their independent agent is
791 unwilling or unable to enter into a standard or limited agency
792 agreement with an insurer participating in the program.

793 (8) ~~(7)~~ Exclusive agents submitting new applications for
794 coverage or that are the agent of record on a renewal policy
795 submitted to the program:

796 (a) Must maintain ownership and the exclusive use of
797 expirations, records, or other written or electronic information
798 directly related to such applications or renewals written
799 through the corporation or through an insurer participating in
800 the program, notwithstanding s. 627.351(6)(c)5.a.(I)(B) and
801 (II)(B) and b.(I)(B) and (II)(B). Contracts with the corporation
802 or required by the corporation must not amend, modify, interfere
803 with, or limit such rights of ownership. Such expirations,
804 records, or other written or electronic information may be used
805 to review an application, issue a policy, or for any other
806 purpose necessary for placing such business through the program.

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

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

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813 (d) May enter into a limited servicing agreement with the
814 insurer making an offer of coverage, and only after the
815 exclusive agent's insurer has approved the limited servicing
816 agreement terms. The exclusive agent's insurer must approve a
817 limited service agreement for the program for an ~~any~~ insurer for
818 which it has approved a service agreement for other purposes.

819

820 Applicants ineligible for coverage in accordance with subsection
821 (6) ~~(5)~~ remain ineligible if their exclusive agent is unwilling
822 or unable to enter into a standard or limited agency agreement
823 with an insurer making an offer of coverage to that applicant.

824 (12) An applicant for coverage from the corporation who was
825 a policyholder of the corporation within the previous 36 months
826 and who subsequently accepted an offer of coverage from a
827 surplus lines insurer is considered a renewal under this
828 section.

829 Section 5. Section 627.3519, Florida Statutes, is repealed.

830 Section 6. Section 627.35191, Florida Statutes, is amended
831 to read:

832 627.35191 Required reports ~~Annual report of aggregate net~~
833 ~~probable maximum losses, financing options, and potential~~
834 ~~assessments.-~~

835 (1) By ~~No later than~~ February 1 of each year, the Florida
836 Hurricane Catastrophe Fund and Citizens Property Insurance
837 Corporation shall each submit a report to the Legislature and
838 the Financial Services Commission identifying their respective
839 aggregate net probable maximum losses, financing options, and
840 potential assessments. The report issued by the fund and the
841 corporation must include their respective 50-year, 100-year, and

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842 250-year probable maximum losses; analysis of all reasonable
843 financing strategies for each such probable maximum loss,
844 including the amount and term of debt instruments; specification
845 of the percentage assessments that would be needed to support
846 each of the financing strategies; and calculations of the
847 aggregate assessment burden on Florida property and casualty
848 policyholders for each of the probable maximum losses.

849 (2) In May of each year, Citizens Property Insurance
850 Corporation shall also provide to the Legislature and the
851 Financial Services Commission a statement of the estimated
852 borrowing capacity of the corporation for the next 12-month
853 period, the estimated claims-paying capacity of the corporation,
854 and the corporation's estimated balance as of December 31 of the
855 current calendar year. Such estimates must take into account
856 that the corporation, the Florida Hurricane Catastrophe Fund,
857 and the Florida Insurance Guaranty Association may all be
858 concurrently issuing debt instruments following a catastrophic
859 event.

860 Section 7. Present subsections (6) through (8) of section
861 627.711, Florida Statutes, are redesignated as subsections (7)
862 through (9), respectively, a new subsection (6) is added to that
863 section, and present subsection (8) of that section is amended,
864 to read:

865 627.711 Notice of premium discounts for hurricane loss
866 mitigation; uniform mitigation verification inspection form.—

867 (6) (a) An authorized mitigation inspector may not directly
868 or indirectly offer or deliver any compensation, inducement, or
869 reward to an insurance agency, insurance agent, customer
870 representative, or an employee of an insurance agency for the

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871 referral of the owner of the inspected property to the inspector
872 or the inspection company. Section 455.227(1)(k) applies to
873 applicable licensees in violation of this paragraph.

874 (b) An insurance agency, insurance agent, customer
875 representative, or an employee of an insurance agency may not
876 directly or indirectly receive or accept any compensation,
877 inducement, or reward from an authorized mitigation inspector
878 for the referral of the owner of the inspected property to the
879 inspector or the inspection company. Sections 626.621(2) and
880 626.6215(5)(d) apply to a violation of this paragraph.

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

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900 by a quality assurance program approved by the corporation
901 before submission of the form to the corporation.

902 Section 8. Paragraph (d) is added to subsection (7) of
903 section 817.234, Florida Statutes, to read:

904 817.234 False and fraudulent insurance claims.—

905 (7)

906 (d) A contractor or a person acting on behalf of a
907 contractor may not pay, waive, or rebate all or part of an
908 insurance deductible applicable to covered property for which
909 the payment for repairs will be made from the proceeds of a
910 property insurance policy. A person who violates this paragraph
911 commits a third degree felony, punishable as provided in s.
912 775.082, s. 775.083, or s. 775.084.

913 Section 9. Except as otherwise expressly provided in this
914 act, this act shall take effect July 1, 2014.