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Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Agriculture, Environment, and
General Government)

1 A bill to be entitled
2 An act relating to Citizens Property Insurance
3 Corporation; amending s. 627.021, F.S.; revising
4 applicability; amending s. 627.351, F.S.; revising the
5 method for determining the amounts of potential
6 surcharges to be levied against policyholders under
7 certain circumstances; defining the term "primary
8 residence"; revising conditions for eligibility for
9 coverage with the corporation to require a certain
10 minimum premium; specifying a limit for agent
11 commission rates; revising the application of annual
12 rate increase limits to certain policies issued by the
13 corporation; providing that eligible surplus lines
14 insurers may participate, in the same manner and on
15 the same terms as an authorized insurer, in
16 depopulation, take-out, or keep-out programs relating
17 to policies removed from Citizens Property Insurance
18 Corporation; providing certain exceptions, conditions,
19 and requirements relating to such participation by a
20 surplus lines insurer in the corporation's
21 depopulation, take-out, or keep-out programs;
22 providing thresholds for eligibility for coverage by
23 the corporation for risks offered coverage from
24 qualified surplus lines insurers; authorizing
25 information from underwriting files and confidential
26 claims files to be released by the corporation to



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27 specified entities considering writing or underwriting
28 risks insured by the corporation under certain
29 circumstances; specifying that only the corporation's
30 transfer of a policy file to an insurer, as opposed to
31 the transfer of any file, changes the file's public
32 record status; making technical changes; amending s.
33 627.3517, F.S.; making technical changes; amending s.
34 627.3518, F.S., and reenacting subsections (6) and
35 (7), relating to the Citizens Property Insurance
36 Corporation policyholder eligibility clearinghouse
37 program, to incorporate the amendments made to s.
38 627.351, F.S., in references thereto; conforming
39 provisions to changes made by the act; providing an
40 effective date.

41

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

43

44 Section 1. Subsection (2) of section 627.021, Florida
45 Statutes, is amended to read:

46 627.021 Scope of this part.—

47 (2) This part does not apply to:

48 (a) Reinsurance, except joint reinsurance as provided in s.
49 627.311.

50 (b) Insurance against loss of or damage to aircraft, their
51 hulls, accessories, or equipment, or against liability, other
52 than workers' compensation and employer's liability, arising out
53 of the ownership, maintenance, or use of aircraft.

54 (c) Insurance of vessels or craft, their cargoes, marine
55 builders' risks, marine protection and indemnity, or other risks



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56 commonly insured under marine insurance policies.

57 (d) Commercial inland marine insurance.

58 (e) Except as may be specifically stated to apply, surplus
59 lines insurance placed under ~~the provisions of~~ ss. 626.913-
60 626.937.

61 Section 2. Paragraphs (b), (c), (n), (q), and (x) of
62 subsection (6) of section 627.351, Florida Statutes, are amended
63 to read:

64 627.351 Insurance risk apportionment plans.—

65 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

66 (b)1. All insurers authorized to write one or more subject
67 lines of business in this state are subject to assessment by the
68 corporation and, for the purposes of this subsection, are
69 referred to collectively as "assessable insurers." Insurers
70 writing one or more subject lines of business in this state
71 pursuant to part VIII of chapter 626 are not assessable
72 insurers; however, insureds who procure one or more subject
73 lines of business in this state pursuant to part VIII of chapter
74 626 are subject to assessment by the corporation and are
75 referred to collectively as "assessable insureds." An insurer's
76 assessment liability begins on the first day of the calendar
77 year following the year in which the insurer was issued a
78 certificate of authority to transact insurance for subject lines
79 of business in this state and terminates 1 year after the end of
80 the first calendar year during which the insurer no longer holds
81 a certificate of authority to transact insurance for subject
82 lines of business in this state.

83 2.a. All revenues, assets, liabilities, losses, and
84 expenses of the corporation shall be divided into three separate



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85 accounts as follows:

86 (I) A personal lines account for personal residential
87 policies issued by the corporation which provides comprehensive,
88 multiperil coverage on risks that are not located in areas
89 eligible for coverage by the Florida Windstorm Underwriting
90 Association as those areas were defined on January 1, 2002, and
91 for policies that do not provide coverage for the peril of wind
92 on risks that are located in such areas;

93 (II) A commercial lines account for commercial residential
94 and commercial nonresidential policies issued by the corporation
95 which provides coverage for basic property perils on risks that
96 are not located in areas eligible for coverage by the Florida
97 Windstorm Underwriting Association as those areas were defined
98 on January 1, 2002, and for policies that do not provide
99 coverage for the peril of wind on risks that are located in such
100 areas; and

101 (III) A coastal account for personal residential policies
102 and commercial residential and commercial nonresidential
103 property policies issued by the corporation which provides
104 coverage for the peril of wind on risks that are located in
105 areas eligible for coverage by the Florida Windstorm
106 Underwriting Association as those areas were defined on January
107 1, 2002. The corporation may offer policies that provide
108 multiperil coverage and shall offer policies that provide
109 coverage only for the peril of wind for risks located in areas
110 eligible for coverage in the coastal account. Effective July 1,
111 2014, the corporation shall cease offering new commercial
112 residential policies providing multiperil coverage and shall
113 instead continue to offer commercial residential wind-only



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114 policies, and may offer commercial residential policies
115 excluding wind. The corporation may, however, continue to renew
116 a commercial residential multiperil policy on a building that is
117 insured by the corporation on June 30, 2014, under a multiperil
118 policy. In issuing multiperil coverage, the corporation may use
119 its approved policy forms and rates for the personal lines
120 account. An applicant or insured who is eligible to purchase a
121 multiperil policy from the corporation may purchase a multiperil
122 policy from an authorized insurer without prejudice to the
123 applicant's or insured's eligibility to prospectively purchase a
124 policy that provides coverage only for the peril of wind from
125 the corporation. An applicant or insured who is eligible for a
126 corporation policy that provides coverage only for the peril of
127 wind may elect to purchase or retain such policy and also
128 purchase or retain coverage excluding wind from an authorized
129 insurer without prejudice to the applicant's or insured's
130 eligibility to prospectively purchase a policy that provides
131 multiperil coverage from the corporation. It is the goal of the
132 Legislature that there be an overall average savings of 10
133 percent or more for a policyholder who currently has a wind-only
134 policy with the corporation, and an ex-wind policy with a
135 voluntary insurer or the corporation, and who obtains a
136 multiperil policy from the corporation. It is the intent of the
137 Legislature that the offer of multiperil coverage in the coastal
138 account be made and implemented in a manner that does not
139 adversely affect the tax-exempt status of the corporation or
140 creditworthiness of or security for currently outstanding
141 financing obligations or credit facilities of the coastal
142 account, the personal lines account, or the commercial lines



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143 account. The coastal account must also include quota share
144 primary insurance under subparagraph (c)2. The area eligible for
145 coverage under the coastal account also includes the area within
146 Port Canaveral, which is bordered on the south by the City of
147 Cape Canaveral, bordered on the west by the Banana River, and
148 bordered on the north by Federal Government property.

149 b. The three separate accounts must be maintained as long
150 as financing obligations entered into by the Florida Windstorm
151 Underwriting Association or Residential Property and Casualty
152 Joint Underwriting Association are outstanding, in accordance
153 with the terms of the corresponding financing documents. If the
154 financing obligations are no longer outstanding, the corporation
155 may use a single account for all revenues, assets, liabilities,
156 losses, and expenses of the corporation. Consistent with this
157 subparagraph and prudent investment policies that minimize the
158 cost of carrying debt, the board shall exercise its best efforts
159 to retire existing debt or obtain the approval of necessary
160 parties to amend the terms of existing debt, so as to structure
161 the most efficient plan for consolidating the three separate
162 accounts into a single account.

163 c. Creditors of the Residential Property and Casualty Joint
164 Underwriting Association and the accounts specified in sub-sub-
165 subparagraphs a.(I) and (II) may have a claim against, and
166 recourse to, those accounts and no claim against, or recourse
167 to, the account referred to in sub-sub-subparagraph a.(III).
168 Creditors of the Florida Windstorm Underwriting Association have
169 a claim against, and recourse to, the account referred to in
170 sub-sub-subparagraph a.(III) and no claim against, or recourse
171 to, the accounts referred to in sub-sub-subparagraphs a.(I) and



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172 (II).

173 d. Revenues, assets, liabilities, losses, and expenses not
174 attributable to particular accounts shall be prorated among the
175 accounts.

176 e. The Legislature finds that the revenues of the
177 corporation are revenues that are necessary to meet the
178 requirements set forth in documents authorizing the issuance of
179 bonds under this subsection.

180 f. The income of the corporation may not inure to the
181 benefit of any private person.

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

183 a. After accounting for the Citizens policyholder surcharge
184 imposed under sub-subparagraph i., if the remaining projected
185 deficit incurred in the coastal account in a particular calendar
186 year:

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

192 (II) Exceeds 2 percent of the aggregate statewide direct
193 written premium for the subject lines of business for the prior
194 calendar year, the corporation shall levy regular assessments on
195 assessable insurers under paragraph (q) and on assessable
196 insureds in an amount equal to the greater of 2 percent of the
197 projected deficit or 2 percent of the aggregate statewide direct
198 written premium for the subject lines of business for the prior
199 calendar year. Any remaining projected deficit shall be
200 recovered through emergency assessments under sub-subparagraph



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201 d.
202 b. Each assessable insurer's share of the amount being
203 assessed under sub-subparagraph a. must be in the proportion
204 that the assessable insurer's direct written premium for the
205 subject lines of business for the year preceding the assessment
206 bears to the aggregate statewide direct written premium for the
207 subject lines of business for that year. The assessment
208 percentage applicable to each assessable insured is the ratio of
209 the amount being assessed under sub-subparagraph a. to the
210 aggregate statewide direct written premium for the subject lines
211 of business for the prior year. Assessments levied by the
212 corporation on assessable insurers under sub-subparagraph a.
213 must be paid as required by the corporation's plan of operation
214 and paragraph (q). Assessments levied by the corporation on
215 assessable insureds under sub-subparagraph a. shall be collected
216 by the surplus lines agent at the time the surplus lines agent
217 collects the surplus lines tax required by s. 626.932, and paid
218 to the Florida Surplus Lines Service Office at the time the
219 surplus lines agent pays the surplus lines tax to that office.
220 Upon receipt of regular assessments from surplus lines agents,
221 the Florida Surplus Lines Service Office shall transfer the
222 assessments directly to the corporation as determined by the
223 corporation.

224 c. After accounting for the Citizens policyholder surcharge
225 imposed under sub-subparagraph i., the remaining projected
226 deficits in the personal lines account and in the commercial
227 lines account in a particular calendar year shall be recovered
228 through emergency assessments under sub-subparagraph d.

229 d. Upon a determination by the board of governors that a



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230 projected deficit in an account exceeds the amount that is
231 expected to be recovered through regular assessments under sub-
232 subparagraph a., plus the amount that is expected to be
233 recovered through surcharges under sub-subparagraph i., the
234 board, after verification by the office, shall levy emergency
235 assessments for as many years as necessary to cover the
236 deficits, to be collected by assessable insurers and the
237 corporation and collected from assessable insureds upon issuance
238 or renewal of policies for subject lines of business, excluding
239 National Flood Insurance policies. The amount collected in a
240 particular year must be a uniform percentage of that year's
241 direct written premium for subject lines of business and all
242 accounts of the corporation, excluding National Flood Insurance
243 Program policy premiums, as annually determined by the board and
244 verified by the office. The office shall verify the arithmetic
245 calculations involved in the board's determination within 30
246 days after receipt of the information on which the determination
247 was based. The office shall notify assessable insurers and the
248 Florida Surplus Lines Service Office of the date on which
249 assessable insurers shall begin to collect and assessable
250 insureds shall begin to pay such assessment. The date must be at
251 least 90 days after the date the corporation levies emergency
252 assessments pursuant to this sub-subparagraph. Notwithstanding
253 any other provision of law, the corporation and each assessable
254 insurer that writes subject lines of business shall collect
255 emergency assessments from its policyholders without such
256 obligation being affected by any credit, limitation, exemption,
257 or deferment. Emergency assessments levied by the corporation on
258 assessable insureds shall be collected by the surplus lines



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259 agent at the time the surplus lines agent collects the surplus
260 lines tax required by s. 626.932 and paid to the Florida Surplus
261 Lines Service Office at the time the surplus lines agent pays
262 the surplus lines tax to that office. The emergency assessments
263 collected shall be transferred directly to the corporation on a
264 periodic basis as determined by the corporation and held by the
265 corporation solely in the applicable account. The aggregate
266 amount of emergency assessments levied for an account in any
267 calendar year may be less than but may not exceed the greater of
268 10 percent of the amount needed to cover the deficit, plus
269 interest, fees, commissions, required reserves, and other costs
270 associated with financing the original deficit, or 10 percent of
271 the aggregate statewide direct written premium for subject lines
272 of business and all accounts of the corporation for the prior
273 year, plus interest, fees, commissions, required reserves, and
274 other costs associated with financing the deficit.

275 e. The corporation may pledge the proceeds of assessments,
276 projected recoveries from the Florida Hurricane Catastrophe
277 Fund, other insurance and reinsurance recoverables, policyholder
278 surcharges and other surcharges, and other funds available to
279 the corporation as the source of revenue for and to secure bonds
280 issued under paragraph (q), bonds or other indebtedness issued
281 under subparagraph (c)3., or lines of credit or other financing
282 mechanisms issued or created under this subsection, or to retire
283 any other debt incurred as a result of deficits or events giving
284 rise to deficits, or in any other way that the board determines
285 will efficiently recover such deficits. The purpose of the lines
286 of credit or other financing mechanisms is to provide additional
287 resources to assist the corporation in covering claims and



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288 expenses attributable to a catastrophe. As used in this
289 subsection, the term "assessments" includes regular assessments
290 under sub-subparagraph a. or subparagraph (q)1. and emergency
291 assessments under sub-subparagraph d. Emergency assessments
292 collected under sub-subparagraph d. are not part of an insurer's
293 rates, are not premium, and are not subject to premium tax,
294 fees, or commissions; however, failure to pay the emergency
295 assessment shall be treated as failure to pay premium. The
296 emergency assessments shall continue as long as any bonds issued
297 or other indebtedness incurred with respect to a deficit for
298 which the assessment was imposed remain outstanding, unless
299 adequate provision has been made for the payment of such bonds
300 or other indebtedness pursuant to the documents governing such
301 bonds or indebtedness.

302 f. As used in this subsection for purposes of any deficit
303 incurred on or after January 25, 2007, the term "subject lines
304 of business" means insurance written by assessable insurers or
305 procured by assessable insureds for all property and casualty
306 lines of business in this state, but not including workers'
307 compensation or medical malpractice. As used in this sub-
308 subparagraph, the term "property and casualty lines of business"
309 includes all lines of business identified on Form 2, Exhibit of
310 Premiums and Losses, in the annual statement required of
311 authorized insurers under s. 624.424 and any rule adopted under
312 this section, except for those lines identified as accident and
313 health insurance and except for policies written under the
314 National Flood Insurance Program or the Federal Crop Insurance
315 Program. For purposes of this sub-subparagraph, the term
316 "workers' compensation" includes both workers' compensation



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317 insurance and excess workers' compensation insurance.

318 g. The Florida Surplus Lines Service Office shall determine
319 annually the aggregate statewide written premium in subject
320 lines of business procured by assessable insureds and report
321 that information to the corporation in a form and at a time the
322 corporation specifies to ensure that the corporation can meet
323 the requirements of this subsection and the corporation's
324 financing obligations.

325 h. The Florida Surplus Lines Service Office shall verify
326 the proper application by surplus lines agents of assessment
327 percentages for regular assessments and emergency assessments
328 levied under this subparagraph on assessable insureds and assist
329 the corporation in ensuring the accurate, timely collection and
330 payment of assessments by surplus lines agents as required by
331 the corporation.

332 i. Upon determination by the board of governors that an
333 account has a projected deficit, the board shall levy a Citizens
334 policyholder surcharge against all policyholders of the
335 corporation.

336 (I) The surcharge shall be levied as a uniform percentage
337 of the premium for the policy ~~of up to 15 percent of such~~
338 ~~premium~~, which funds shall be used to offset the deficit, as
339 follows:

340 (A) If the total number of policyholders of the corporation
341 is less than 1 million, a surcharge of 15 percent of the premium
342 shall be levied.

343 (B) If the total number of policyholders of the corporation
344 is at least 1 million but less than 1.5 million policyholders, a
345 surcharge of 20 percent of the premium shall be levied.



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346 (C) If the total number of policyholders of the corporation
347 is at least 1.5 million, a surcharge of 25 percent of the
348 premium shall be levied.

349 (II) The surcharge is payable upon cancellation or
350 termination of the policy, upon renewal of the policy, or upon
351 issuance of a new policy by the corporation within the first 12
352 months after the date of the levy or the period of time
353 necessary to fully collect the surcharge amount.

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

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

362 j. If the amount of any assessments or surcharges collected
363 from corporation policyholders, assessable insurers or their
364 policyholders, or assessable insureds exceeds the amount of the
365 deficits, such excess amounts shall be remitted to and retained
366 by the corporation in a reserve to be used by the corporation,
367 as determined by the board of governors and approved by the
368 office, to pay claims or reduce any past, present, or future
369 plan-year deficits or to reduce outstanding debt.

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

371 1. Must provide for adoption of residential property and
372 casualty insurance policy forms and commercial residential and
373 nonresidential property insurance forms, which must be approved
374 by the office before use. The corporation shall adopt the



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375 following policy forms:

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

380 b. Basic personal lines policy forms that are policies
381 similar to an HO-8 policy or a dwelling fire policy that provide
382 coverage meeting the requirements of the secondary mortgage
383 market, but which is more limited than the coverage under a
384 standard policy.

385 c. Commercial lines residential and nonresidential policy
386 forms that are generally similar to the basic perils of full
387 coverage obtainable for commercial residential structures and
388 commercial nonresidential structures in the admitted voluntary
389 market.

390 d. Personal lines and commercial lines residential property
391 insurance forms that cover the peril of wind only. The forms are
392 applicable only to residential properties located in areas
393 eligible for coverage under the coastal account referred to in
394 sub-subparagraph (b)2.a.

395 e. Commercial lines nonresidential property insurance forms
396 that cover the peril of wind only. The forms are applicable only
397 to nonresidential properties located in areas eligible for
398 coverage under the coastal account referred to in sub-
399 subparagraph (b)2.a.

400 f. The corporation may adopt variations of the policy forms
401 listed in sub-subparagraphs a.-e. which contain more restrictive
402 coverage.

403 g. Effective January 1, 2013, the corporation shall offer a



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404 basic personal lines policy similar to an HO-8 policy with
405 dwelling repair based on common construction materials and
406 methods.

407 2. Must provide that the corporation adopt a program in
408 which the corporation and authorized insurers enter into quota
409 share primary insurance agreements for hurricane coverage, as
410 defined in s. 627.4025(2)(a), for eligible risks, and adopt
411 property insurance forms for eligible risks which cover the
412 peril of wind only.

413 a. As used in this subsection, the term:

414 (II) "Primary residence" means the dwelling that the
415 insured has represented as their permanent home on the insurance
416 application or otherwise to the corporation.

417 (III)~~(I)~~ "Quota share primary insurance" means an
418 arrangement in which the primary hurricane coverage of an
419 eligible risk is provided in specified percentages by the
420 corporation and an authorized insurer. The corporation and
421 authorized insurer are each solely responsible for a specified
422 percentage of hurricane coverage of an eligible risk as set
423 forth in a quota share primary insurance agreement between the
424 corporation and an authorized insurer and the insurance
425 contract. The responsibility of the corporation or authorized
426 insurer to pay its specified percentage of hurricane losses of
427 an eligible risk, as set forth in the agreement, may not be
428 altered by the inability of the other party to pay its specified
429 percentage of losses. Eligible risks that are provided hurricane
430 coverage through a quota share primary insurance arrangement
431 must be provided policy forms that set forth the obligations of
432 the corporation and authorized insurer under the arrangement,



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433 clearly specify the percentages of quota share primary insurance
434 provided by the corporation and authorized insurer, and
435 conspicuously and clearly state that the authorized insurer and
436 the corporation may not be held responsible beyond their
437 specified percentage of coverage of hurricane losses.

438 (I)~~(II)~~ "Eligible risks" means personal lines residential
439 and commercial lines residential risks that meet the
440 underwriting criteria of the corporation and are located in
441 areas that were eligible for coverage by the Florida Windstorm
442 Underwriting Association on January 1, 2002.

443 b. The corporation may enter into quota share primary
444 insurance agreements with authorized insurers at corporation
445 coverage levels of 90 percent and 50 percent.

446 c. If the corporation determines that additional coverage
447 levels are necessary to maximize participation in quota share
448 primary insurance agreements by authorized insurers, the
449 corporation may establish additional coverage levels. However,
450 the corporation's quota share primary insurance coverage level
451 may not exceed 90 percent.

452 d. Any quota share primary insurance agreement entered into
453 between an authorized insurer and the corporation must provide
454 for a uniform specified percentage of coverage of hurricane
455 losses, by county or territory as set forth by the corporation
456 board, for all eligible risks of the authorized insurer covered
457 under the agreement.

458 e. Any quota share primary insurance agreement entered into
459 between an authorized insurer and the corporation is subject to
460 review and approval by the office. However, such agreement shall
461 be authorized only as to insurance contracts entered into



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462 between an authorized insurer and an insured who is already
463 insured by the corporation for wind coverage.

464 f. For all eligible risks covered under quota share primary
465 insurance agreements, the exposure and coverage levels for both
466 the corporation and authorized insurers shall be reported by the
467 corporation to the Florida Hurricane Catastrophe Fund. For all
468 policies of eligible risks covered under such agreements, the
469 corporation and the authorized insurer must maintain complete
470 and accurate records for the purpose of exposure and loss
471 reimbursement audits as required by fund rules. The corporation
472 and the authorized insurer shall each maintain duplicate copies
473 of policy declaration pages and supporting claims documents.

474 g. The corporation board shall establish in its plan of
475 operation standards for quota share agreements which ensure that
476 there is no discriminatory application among insurers as to the
477 terms of the agreements, pricing of the agreements, incentive
478 provisions if any, and consideration paid for servicing policies
479 or adjusting claims.

480 h. The quota share primary insurance agreement between the
481 corporation and an authorized insurer must set forth the
482 specific terms under which coverage is provided, including, but
483 not limited to, the sale and servicing of policies issued under
484 the agreement by the insurance agent of the authorized insurer
485 producing the business, the reporting of information concerning
486 eligible risks, the payment of premium to the corporation, and
487 arrangements for the adjustment and payment of hurricane claims
488 incurred on eligible risks by the claims adjuster and personnel
489 of the authorized insurer. Entering into a quota sharing
490 insurance agreement between the corporation and an authorized



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491 insurer is voluntary and at the discretion of the authorized
492 insurer.

493 3. May provide that the corporation may employ or otherwise
494 contract with individuals or other entities to provide
495 administrative or professional services that may be appropriate
496 to effectuate the plan. The corporation may borrow funds by
497 issuing bonds or by incurring other indebtedness, and shall have
498 other powers reasonably necessary to effectuate the requirements
499 of this subsection, including, without limitation, the power to
500 issue bonds and incur other indebtedness in order to refinance
501 outstanding bonds or other indebtedness. The corporation may
502 seek judicial validation of its bonds or other indebtedness
503 under chapter 75. The corporation may issue bonds or incur other
504 indebtedness, or have bonds issued on its behalf by a unit of
505 local government pursuant to subparagraph (q)2. in the absence
506 of a hurricane or other weather-related event, upon a
507 determination by the corporation, subject to approval by the
508 office, that such action would enable it to efficiently meet the
509 financial obligations of the corporation and that such
510 financings are reasonably necessary to effectuate the
511 requirements of this subsection. The corporation may take all
512 actions needed to facilitate tax-free status for such bonds or
513 indebtedness, including formation of trusts or other affiliated
514 entities. The corporation may pledge assessments, projected
515 recoveries from the Florida Hurricane Catastrophe Fund, other
516 reinsurance recoverables, policyholder surcharges and other
517 surcharges, and other funds available to the corporation as
518 security for bonds or other indebtedness. In recognition of s.
519 10, Art. I of the State Constitution, prohibiting the impairment



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520 of obligations of contracts, it is the intent of the Legislature
521 that no action be taken whose purpose is to impair any bond
522 indenture or financing agreement or any revenue source committed
523 by contract to such bond or other indebtedness.

524 4. Must require that the corporation operate subject to the
525 supervision and approval of a board of governors consisting of
526 nine individuals who are residents of this state and who are
527 from different geographical areas of this ~~the~~ state, one of whom
528 is appointed by the Governor and serves solely to advocate on
529 behalf of the consumer. The appointment of a consumer
530 representative by the Governor is deemed to be within the scope
531 of the exemption provided in s. 112.313(7) (b) and is in addition
532 to the appointments authorized under sub-subparagraph a.

533 a. The Governor, the Chief Financial Officer, the President
534 of the Senate, and the Speaker of the House of Representatives
535 shall each appoint two members of the board. At least one of the
536 two members appointed by each appointing officer must have
537 demonstrated expertise in insurance and be deemed to be within
538 the scope of the exemption provided in s. 112.313(7) (b). The
539 Chief Financial Officer shall designate one of the appointees as
540 chair. All board members serve at the pleasure of the appointing
541 officer. All members of the board are subject to removal at will
542 by the officers who appointed them. All board members, including
543 the chair, must be appointed to serve for 3-year terms beginning
544 annually on a date designated by the plan. However, for the
545 first term beginning on or after July 1, 2009, each appointing
546 officer shall appoint one member of the board for a 2-year term
547 and one member for a 3-year term. A board vacancy shall be
548 filled for the unexpired term by the appointing officer. The



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549 Chief Financial Officer shall appoint a technical advisory group
550 to provide information and advice to the board in connection
551 with the board's duties under this subsection. The executive
552 director and senior managers of the corporation shall be engaged
553 by the board and serve at the pleasure of the board. Any
554 executive director appointed on or after July 1, 2006, is
555 subject to confirmation by the Senate. The executive director is
556 responsible for employing other staff as the corporation may
557 require, subject to review and concurrence by the board.

558 b. The board shall create a Market Accountability Advisory
559 Committee to assist the corporation in developing awareness of
560 its rates and its customer and agent service levels in
561 relationship to the voluntary market insurers writing similar
562 coverage.

563 (I) The members of the advisory committee consist of the
564 following 11 persons, one of whom must be elected chair by the
565 members of the committee: four representatives, one appointed by
566 the Florida Association of Insurance Agents, one by the Florida
567 Association of Insurance and Financial Advisors, one by the
568 Professional Insurance Agents of Florida, and one by the Latin
569 American Association of Insurance Agencies; three
570 representatives appointed by the insurers with the three highest
571 voluntary market share of residential property insurance
572 business in this ~~the~~ state; one representative from the Office
573 of Insurance Regulation; one consumer appointed by the board who
574 is insured by the corporation at the time of appointment to the
575 committee; one representative appointed by the Florida
576 Association of Realtors; and one representative appointed by the
577 Florida Bankers Association. All members shall be appointed to



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578 3-year terms and may serve for consecutive terms.

579 (II) The committee shall report to the corporation at each
580 board meeting on insurance market issues that ~~which~~ may include
581 rates and rate competition with the voluntary market; service,
582 including policy issuance, claims processing, and general
583 responsiveness to policyholders, applicants, and agents; and
584 matters relating to depopulation.

585 5. Must provide a procedure for determining the eligibility
586 of a risk for coverage, as follows:

587 a. Subject to s. 627.3517, with respect to personal lines
588 residential risks, if the risk is offered coverage from an
589 authorized insurer at the insurer's approved rate under a
590 standard policy including wind coverage or, if consistent with
591 the insurer's underwriting rules as filed with the office, a
592 basic policy including wind coverage, for a new application to
593 the corporation for coverage, the risk is not eligible for any
594 policy issued by the corporation unless the premium for coverage
595 from the authorized insurer is more than 15 percent greater than
596 the premium for comparable coverage from the corporation.

597 Whenever an offer of coverage for a personal lines residential
598 risk is received for a policyholder of the corporation ~~at~~
599 ~~renewal~~ from an authorized insurer, ~~if the offer is equal to or~~
600 ~~less than the corporation's renewal premium for comparable~~
601 ~~coverage,~~ the risk is not eligible for coverage with the
602 corporation unless the premium for comparable coverage from the
603 authorized insurer is more than 15 percent greater than the
604 premium under subparagraph (n)1. for personal residential
605 properties that are not the insured's primary residence. If the
606 risk is not able to obtain such offer, the risk is eligible for



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607 a standard policy including wind coverage or a basic policy
608 including wind coverage issued by the corporation; however, if
609 the risk could not be insured under a standard policy including
610 wind coverage regardless of market conditions, the risk is
611 eligible for a basic policy including wind coverage unless
612 rejected under subparagraph 8. However, a policyholder removed
613 from the corporation through an assumption agreement remains
614 eligible for coverage from the corporation until the end of the
615 assumption period. The corporation shall determine the type of
616 policy to be provided on the basis of objective standards
617 specified in the underwriting manual and based on generally
618 accepted underwriting practices.

619 (I) If the risk accepts an offer of coverage through the
620 market assistance plan or through a mechanism established by the
621 corporation other than a plan established by s. 627.3518, before
622 a policy is issued to the risk by the corporation or during the
623 first 30 days of coverage by the corporation, and the producing
624 agent who submitted the application to the plan or to the
625 corporation is not currently appointed by the insurer, the
626 insurer shall:

627 (A) Pay to the producing agent of record of the policy for
628 the first year, an amount that is the greater of the insurer's
629 usual and customary commission for the type of policy written or
630 a fee equal to the usual and customary commission of the
631 corporation; or

632 (B) Offer to allow the producing agent of record of the
633 policy to continue servicing the policy for at least 1 year and
634 offer to pay the agent the greater of the insurer's or the
635 corporation's usual and customary commission for the type of



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636 policy written.

637

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

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

645 (A) Pay to the producing agent of record, for the first
646 year, an amount that is the greater of the insurer's usual and
647 customary commission for the type of policy written or a fee
648 equal to the usual and customary commission of the corporation;
649 or

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

654

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

658 b. With respect to commercial lines residential risks, for
659 a new application to the corporation for coverage, if the risk
660 is offered coverage under a policy including wind coverage from
661 an authorized insurer at its approved rate, the risk is not
662 eligible for a policy issued by the corporation unless the
663 premium for coverage from the authorized insurer is more than 15
664 percent greater than the premium for comparable coverage from



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665 the corporation. Whenever an offer of coverage for a commercial
666 lines residential risk is received for a policyholder of the
667 corporation at renewal from an authorized insurer, if the offer
668 is equal to or less than the corporation's renewal premium for
669 comparable coverage, the risk is not eligible for coverage with
670 the corporation. If the risk is not able to obtain any such
671 offer, the risk is eligible for a policy including wind coverage
672 issued by the corporation. However, a policyholder removed from
673 the corporation through an assumption agreement remains eligible
674 for coverage from the corporation until the end of the
675 assumption period.

676 (I) If the risk accepts an offer of coverage through the
677 market assistance plan or through a mechanism established by the
678 corporation other than a plan established by s. 627.3518, before
679 a policy is issued to the risk by the corporation or during the
680 first 30 days of coverage by the corporation, and the producing
681 agent who submitted the application to the plan or the
682 corporation is not currently appointed by the insurer, the
683 insurer shall:

684 (A) Pay to the producing agent of record of the policy, for
685 the first year, an amount that is the greater of the insurer's
686 usual and customary commission for the type of policy written or
687 a fee equal to the usual and customary commission of the
688 corporation; or

689 (B) Offer to allow the producing agent of record of the
690 policy to continue servicing the policy for at least 1 year and
691 offer to pay the agent the greater of the insurer's or the
692 corporation's usual and customary commission for the type of
693 policy written.



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694
695 If the producing agent is unwilling or unable to accept
696 appointment, the new insurer shall pay the agent in accordance
697 with sub-sub-sub-subparagraph (A).

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

702 (A) Pay to the producing agent of record, for the first
703 year, an amount that is the greater of the insurer's usual and
704 customary commission for the type of policy written or a fee
705 equal to the usual and customary commission of the corporation;
706 or

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

711
712 If the producing agent is unwilling or unable to accept
713 appointment, the new insurer shall pay the agent in accordance
714 with sub-sub-sub-subparagraph (A).

715 c. For purposes of determining comparable coverage under
716 sub-subparagraphs a. and b., the comparison must be based on
717 those forms and coverages that are reasonably comparable. The
718 corporation may rely on a determination of comparable coverage
719 and premium made by the producing agent who submits the
720 application to the corporation, made in the agent's capacity as
721 the corporation's agent. A comparison may be made solely of the
722 premium with respect to the main building or structure only on



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723 the following basis: the same coverage A or other building
724 limits; the same percentage hurricane deductible that applies on
725 an annual basis or that applies to each hurricane for commercial
726 residential property; the same percentage of ordinance and law
727 coverage, if the same limit is offered by both the corporation
728 and the authorized insurer; the same mitigation credits, to the
729 extent the same types of credits are offered both by the
730 corporation and the authorized insurer; the same method for loss
731 payment, such as replacement cost or actual cash value, if the
732 same method is offered both by the corporation and the
733 authorized insurer in accordance with underwriting rules; and
734 any other form or coverage that is reasonably comparable as
735 determined by the board. If an application is submitted to the
736 corporation for wind-only coverage in the coastal account, the
737 premium for the corporation's wind-only policy plus the premium
738 for the ex-wind policy that is offered by an authorized insurer
739 to the applicant must be compared to the premium for multiperil
740 coverage offered by an authorized insurer, subject to the
741 standards for comparison specified in this subparagraph. If the
742 corporation or the applicant requests from the authorized
743 insurer a breakdown of the premium of the offer by types of
744 coverage so that a comparison may be made by the corporation or
745 its agent and the authorized insurer refuses or is unable to
746 provide such information, the corporation may treat the offer as
747 not being an offer of coverage from an authorized insurer at the
748 insurer's approved rate.

749 6. Must include rules for classifications of risks and
750 rates.

751 7. Must provide that if premium and investment income for



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752 an account attributable to a particular calendar year are in
753 excess of projected losses and expenses for the account
754 attributable to that year, such excess shall be held in surplus
755 in the account. Such surplus must be available to defray
756 deficits in that account as to future years and used for that
757 purpose before assessing assessable insurers and assessable
758 insureds as to any calendar year.

759 8. Must provide objective criteria and procedures to be
760 uniformly applied to all applicants in determining whether an
761 individual risk is so hazardous as to be uninsurable. In making
762 this determination and in establishing the criteria and
763 procedures, the following must be considered:

764 a. Whether the likelihood of a loss for the individual risk
765 is substantially higher than for other risks of the same class;
766 and

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

769
770 The acceptance or rejection of a risk by the corporation shall
771 be construed as the private placement of insurance, and ~~the~~
772 ~~provisions of~~ chapter 120 does ~~de~~ not apply.

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

777 10. The policies issued by the corporation must provide
778 that if the corporation or the market assistance plan obtains an
779 offer from an authorized insurer to cover the risk at its
780 approved rates, the risk is no longer eligible for renewal



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781 through the corporation, except as otherwise provided in this
782 subsection.

783 11. Corporation policies and applications must include a
784 notice that the corporation policy could, under this section, be
785 replaced with a policy issued by an authorized insurer which
786 does not provide coverage identical to the coverage provided by
787 the corporation. The notice must also specify that acceptance of
788 corporation coverage creates a conclusive presumption that the
789 applicant or policyholder is aware of this potential.

790 12. May establish, subject to approval by the office,
791 different eligibility requirements and operational procedures
792 for any line or type of coverage for any specified county or
793 area if the board determines that such changes are justified due
794 to the voluntary market being sufficiently stable and
795 competitive in such area or for such line or type of coverage
796 and that consumers who, in good faith, are unable to obtain
797 insurance through the voluntary market through ordinary methods
798 continue to have access to coverage from the corporation. If
799 coverage is sought in connection with a real property transfer,
800 the requirements and procedures may not provide an effective
801 date of coverage later than the date of the closing of the
802 transfer as established by the transferor, the transferee, and,
803 if applicable, the lender.

804 13. Must provide that, with respect to the coastal account,
805 any assessable insurer with a surplus as to policyholders of \$25
806 million or less writing 25 percent or more of its total
807 countrywide property insurance premiums in this state may
808 petition the office, within the first 90 days of each calendar
809 year, to qualify as a limited apportionment company. A regular



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810 assessment levied by the corporation on a limited apportionment
811 company for a deficit incurred by the corporation for the
812 coastal account may be paid to the corporation on a monthly
813 basis as the assessments are collected by the limited
814 apportionment company from its insureds, but a limited
815 apportionment company must begin collecting the regular
816 assessments not later than 90 days after the regular assessments
817 are levied by the corporation, and the regular assessments must
818 be paid in full within 15 months after being levied by the
819 corporation. A limited apportionment company shall collect from
820 its policyholders any emergency assessment imposed under sub-
821 subparagraph (b)3.d. The plan must provide that, if the office
822 determines that any regular assessment will result in an
823 impairment of the surplus of a limited apportionment company,
824 the office may direct that all or part of such assessment be
825 deferred as provided in subparagraph (q)4. However, an emergency
826 assessment to be collected from policyholders under sub-
827 subparagraph (b)3.d. may not be limited or deferred.

828 14. Must provide that the corporation appoint as its
829 licensed agents only those agents who throughout such
830 appointments also hold an appointment as defined in s. 626.015
831 by an insurer who is authorized to write and is actually writing
832 or renewing personal lines residential property coverage,
833 commercial residential property coverage, or commercial
834 nonresidential property coverage within this ~~the~~ state.

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



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

842 17. Must provide coverage for manufactured or mobile home
843 dwellings. Such coverage must also include the following
844 attached structures:

845 a. Screened enclosures that are aluminum framed or screened
846 enclosures that are not covered by the same or substantially the
847 same materials as those of the primary dwelling;

848 b. Carports that are aluminum or carports that are not
849 covered by the same or substantially the same materials as those
850 of the primary dwelling; and

851 c. Patios that have a roof covering that is constructed of
852 materials that are not the same or substantially the same
853 materials as those of the primary dwelling.

854
855 The corporation shall make available a policy for mobile homes
856 or manufactured homes for a minimum insured value of at least
857 \$3,000.

858 18. May provide such limits of coverage as the board
859 determines, consistent with the requirements of this subsection.

860 19. May require commercial property to meet specified
861 hurricane mitigation construction features as a condition of
862 eligibility for coverage.

863 20. Must provide that new or renewal policies issued by the
864 corporation on or after January 1, 2012, which cover sinkhole
865 loss do not include coverage for any loss to appurtenant
866 structures, driveways, sidewalks, decks, or patios that are
867 directly or indirectly caused by sinkhole activity. The



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868 corporation shall exclude such coverage using a notice of
869 coverage change, which may be included with the policy renewal,
870 and not by issuance of a notice of nonrenewal of the excluded
871 coverage upon renewal of the current policy.

872 21. As of January 1, 2012, must require that the agent
873 obtain from an applicant for coverage from the corporation an
874 acknowledgment signed by the applicant, which includes, at a
875 minimum, the following statement:

876
877 ACKNOWLEDGMENT OF POTENTIAL SURCHARGE
878 AND ASSESSMENT LIABILITY:
879

880 1. AS A POLICYHOLDER OF CITIZENS PROPERTY INSURANCE
881 CORPORATION, I UNDERSTAND THAT IF THE CORPORATION SUSTAINS A
882 DEFICIT AS A RESULT OF HURRICANE LOSSES OR FOR ANY OTHER REASON,
883 MY POLICY COULD BE SUBJECT TO SURCHARGES, WHICH WILL BE DUE AND
884 PAYABLE UPON RENEWAL, CANCELLATION, OR TERMINATION OF THE
885 POLICY, AND THAT THE SURCHARGES COULD BE AS HIGH AS 45 PERCENT
886 OF MY PREMIUM, OR A DIFFERENT AMOUNT AS IMPOSED BY THE FLORIDA
887 LEGISLATURE.

888 2. I UNDERSTAND THAT I CAN AVOID THE CITIZENS POLICYHOLDER
889 SURCHARGE, WHICH COULD BE AS HIGH AS 45 PERCENT OF MY PREMIUM,
890 BY OBTAINING COVERAGE FROM A PRIVATE MARKET INSURER AND THAT TO
891 BE ELIGIBLE FOR COVERAGE BY CITIZENS, I MUST FIRST TRY TO OBTAIN
892 PRIVATE MARKET COVERAGE BEFORE APPLYING FOR OR RENEWING COVERAGE
893 WITH CITIZENS. I UNDERSTAND THAT PRIVATE MARKET INSURANCE RATES
894 ARE REGULATED AND APPROVED BY THE STATE.

895 3. I UNDERSTAND THAT I MAY BE SUBJECT TO EMERGENCY
896 ASSESSMENTS TO THE SAME EXTENT AS POLICYHOLDERS OF OTHER



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897 INSURANCE COMPANIES, OR A DIFFERENT AMOUNT AS IMPOSED BY THE
898 FLORIDA LEGISLATURE.

899 4. I ALSO UNDERSTAND THAT CITIZENS PROPERTY INSURANCE
900 CORPORATION IS NOT SUPPORTED BY THE FULL FAITH AND CREDIT OF THE
901 STATE OF FLORIDA.

902
903 a. The corporation shall maintain, in electronic format or
904 otherwise, a copy of the applicant's signed acknowledgment and
905 provide a copy of the statement to the policyholder as part of
906 the first renewal after the effective date of this subparagraph.

907 b. The signed acknowledgment form creates a conclusive
908 presumption that the policyholder understood and accepted his or
909 her potential surcharge and assessment liability as a
910 policyholder of the corporation.

911 22. The corporation shall pay a producing agent of record a
912 reasonable commission not to exceed the average of commissions
913 paid in the preceding year by the 20 admitted insurers writing
914 the greatest market share of property insurance in this state.

915 (n)1. Rates for coverage provided by the corporation must
916 be actuarially sound and subject to s. 627.062, except as
917 otherwise provided in this paragraph. The corporation shall file
918 its recommended rates with the office at least annually. The
919 corporation shall provide any additional information regarding
920 the rates which the office requires. The office shall consider
921 the recommendations of the board and issue a final order
922 establishing the rates for the corporation within 45 days after
923 the recommended rates are filed. The corporation may not pursue
924 an administrative challenge or judicial review of the final
925 order of the office.



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926 2. In addition to the rates otherwise determined pursuant
927 to this paragraph, the corporation shall impose and collect an
928 amount equal to the premium tax provided in s. 624.509 to
929 augment the financial resources of the corporation.

930 3. ~~After~~ The public hurricane loss-projection model under
931 s. 627.06281, if ~~has been~~ found to be accurate and reliable by
932 the Florida Commission on Hurricane Loss Projection Methodology,
933 ~~the model~~ shall be considered when establishing the windstorm
934 portion of the corporation's rates. The corporation may use the
935 public model results in combination with the results of private
936 models to calculate rates for the windstorm portion of the
937 corporation's rates. This subparagraph does not require or allow
938 the corporation to adopt rates lower than the rates otherwise
939 required or allowed by this paragraph.

940 4. The rate filings for the corporation which were approved
941 by the office and took effect January 1, 2007, are rescinded,
942 except for those rates that were lowered. As soon as possible,
943 the corporation shall begin using the lower rates that were in
944 effect on December 31, 2006, and provide refunds to
945 policyholders who paid higher rates as a result of that rate
946 filing. The rates in effect on December 31, 2006, remain in
947 effect for the 2007 and 2008 calendar years except for any rate
948 change that results in a lower rate. The next rate change that
949 may increase rates shall take effect pursuant to a new rate
950 filing recommended by the corporation and established by the
951 office, subject to this paragraph.

952 5. Beginning on July 15, 2009, and annually thereafter, the
953 corporation must make a recommended actuarially sound rate
954 filing for each personal and commercial line of business it



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955 writes, to be effective no earlier than January 1, 2010.

956 6. Beginning on or after January 1, 2022 ~~January 1, 2010~~,
957 and notwithstanding the board's recommended rates and the
958 office's final order regarding the corporation's filed rates
959 under subparagraph 1., the corporation shall annually implement
960 a rate increase which, except for sinkhole coverage, does not
961 exceed 10 percent for any single policy renewed ~~issued~~ by the
962 corporation covering a personal residential property that is
963 used as the primary residence of the insured which has a
964 dwelling replacement cost less than \$700,000 or that is a single
965 condominium unit that has a combined dwelling and contents
966 replacement cost less than \$700,000, excluding coverage changes
967 and surcharges, if the policy was initially issued by the
968 corporation before January 1, 2022.

969 7. The corporation may also implement an increase to
970 reflect the effect on the corporation of the cash buildup factor
971 pursuant to s. 215.555(5)(b).

972 8. The corporation's implementation of rates as prescribed
973 in subparagraph 6. shall cease for any line of business written
974 by the corporation upon the corporation's implementation of
975 actuarially sound rates. Thereafter, the corporation shall
976 annually make a recommended actuarially sound rate filing for
977 each commercial and personal line of business the corporation
978 writes.

979 (q)1. The corporation shall certify to the office its needs
980 for annual assessments as to a particular calendar year, and for
981 any interim assessments that it deems to be necessary to sustain
982 operations as to a particular year pending the receipt of annual
983 assessments. Upon verification, the office shall approve such



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984 certification, and the corporation shall levy such annual or
985 interim assessments. Such assessments shall be prorated as
986 provided in paragraph (b). The corporation shall take all
987 reasonable and prudent steps necessary to collect the amount of
988 assessments due from each assessable insurer, including, if
989 prudent, filing suit to collect the assessments, and the office
990 may provide such assistance to the corporation it deems
991 appropriate. If the corporation is unable to collect an
992 assessment from any assessable insurer, the uncollected
993 assessments shall be levied as an additional assessment against
994 the assessable insurers and any assessable insurer required to
995 pay an additional assessment as a result of such failure to pay
996 shall have a cause of action against such nonpaying assessable
997 insurer. Assessments shall be included as an appropriate factor
998 in the making of rates. The failure of a surplus lines agent to
999 collect and remit any regular or emergency assessment levied by
1000 the corporation is considered to be a violation of s. 626.936
1001 and subjects the surplus lines agent to the penalties provided
1002 in that section.

1003 2. The governing body of any unit of local government, any
1004 residents of which are insured by the corporation, may issue
1005 bonds as defined in s. 125.013 or s. 166.101 from time to time
1006 to fund an assistance program, in conjunction with the
1007 corporation, for the purpose of defraying deficits of the
1008 corporation. In order to avoid needless and indiscriminate
1009 proliferation, duplication, and fragmentation of such assistance
1010 programs, any unit of local government, any residents of which
1011 are insured by the corporation, may provide for the payment of
1012 losses, regardless of whether or not the losses occurred within



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1013 or outside of the territorial jurisdiction of the local
1014 government. Revenue bonds under this subparagraph may not be
1015 issued until validated pursuant to chapter 75, unless a state of
1016 emergency is declared by executive order or proclamation of the
1017 Governor pursuant to s. 252.36 making such findings as are
1018 necessary to determine that it is in the best interests of, and
1019 necessary for, the protection of the public health, safety, and
1020 general welfare of residents of this state and declaring it an
1021 essential public purpose to permit certain municipalities or
1022 counties to issue such bonds as will permit relief to claimants
1023 and policyholders of the corporation. Any such unit of local
1024 government may enter into such contracts with the corporation
1025 and with any other entity created pursuant to this subsection as
1026 are necessary to carry out this paragraph. Any bonds issued
1027 under this subparagraph shall be payable from and secured by
1028 moneys received by the corporation from emergency assessments
1029 under sub-subparagraph (b)3.d., and assigned and pledged to or
1030 on behalf of the unit of local government for the benefit of the
1031 holders of such bonds. The funds, credit, property, and taxing
1032 power of the state or of the unit of local government may ~~shall~~
1033 not be pledged for the payment of such bonds.

1034 3.a. The corporation shall adopt one or more programs
1035 subject to approval by the office for the reduction of both new
1036 and renewal writings in the corporation. Beginning January 1,
1037 2008, any program the corporation adopts for the payment of
1038 bonuses to an insurer for each risk the insurer removes from the
1039 corporation shall comply with s. 627.3511(2) and may not exceed
1040 the amount referenced in s. 627.3511(2) for each risk removed.
1041 The corporation may consider any prudent and not unfairly



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1042 discriminatory approach to reducing corporation writings, and
1043 may adopt a credit against assessment liability or other
1044 liability that provides an incentive for insurers to take risks
1045 out of the corporation and to keep risks out of the corporation
1046 by maintaining or increasing voluntary writings in counties or
1047 areas in which corporation risks are highly concentrated and a
1048 program to provide a formula under which an insurer voluntarily
1049 taking risks out of the corporation by maintaining or increasing
1050 voluntary writings will be relieved wholly or partially from
1051 assessments under sub-subparagraph (b)3.a. However, any "take-
1052 out bonus" or payment to an insurer must be conditioned on the
1053 property being insured for at least 5 years by the insurer,
1054 unless canceled or nonrenewed by the policyholder. If the policy
1055 is canceled or nonrenewed by the policyholder before the end of
1056 the 5-year period, the amount of the take-out bonus must be
1057 prorated for the time period the policy was insured. When the
1058 corporation enters into a contractual agreement for a take-out
1059 plan, the producing agent of record of the corporation policy is
1060 entitled to retain any unearned commission on such policy, and
1061 the insurer shall either:

1062 (I) Pay to the producing agent of record of the policy, for
1063 the first year, an amount which is the greater of the insurer's
1064 usual and customary commission for the type of policy written or
1065 a policy fee equal to the usual and customary commission of the
1066 corporation; or

1067 (II) Offer to allow the producing agent of record of the
1068 policy to continue servicing the policy for a period of not less
1069 than 1 year and offer to pay the agent the insurer's usual and
1070 customary commission for the type of policy written. If the



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1071 producing agent is unwilling or unable to accept appointment by
1072 the new insurer, the new insurer shall pay the agent in
1073 accordance with sub-sub-subparagraph (I).

1074 b. Any credit or exemption from regular assessments adopted
1075 under this subparagraph shall last no longer than the 3 years
1076 following the cancellation or expiration of the policy by the
1077 corporation. With the approval of the office, the board may
1078 extend such credits for an additional year if the insurer
1079 guarantees an additional year of renewability for all policies
1080 removed from the corporation, or for 2 additional years if the
1081 insurer guarantees 2 additional years of renewability for all
1082 policies so removed.

1083 c. There shall be no credit, limitation, exemption, or
1084 deferment from emergency assessments to be collected from
1085 policyholders pursuant to sub-subparagraph (b)3.d.

1086 d. Notwithstanding any other provision of law, for purposes
1087 of a depopulation, take-out, or keep-out program adopted by the
1088 corporation, including an initial or renewal offer of coverage
1089 made to a policyholder removed from the corporation pursuant to
1090 such program, an eligible surplus lines insurer may participate
1091 in the program in the same manner and on the same terms as an
1092 authorized insurer, except as provided under this sub-
1093 subparagraph.

1094 (I) To qualify for participation, the surplus lines insurer
1095 must first obtain approval from the office for its depopulation,
1096 take-out, or keep-out plan and then comply with all of the
1097 corporation's requirements for the plan applicable to admitted
1098 insurers and with all statutory provisions applicable to the
1099 removal of policies from the corporation.



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1100 (II) In considering a surplus lines insurer's request for
1101 approval for its plan, the office shall determine that the
1102 surplus lines insurer meets the following requirements:

1103 (A) Maintains surplus of \$50 million on a company or pooled
1104 basis;

1105 (B) Has a superior, excellent, exceptional, or equally
1106 comparable financial strength rating by a rating agency
1107 acceptable to the office;

1108 (C) Maintains reserves, surplus, reinsurance, and
1109 reinsurance equivalents sufficient to cover the insurer's 100-
1110 year probable maximum hurricane loss at least twice in a single
1111 hurricane season, and submits such reinsurance to the office to
1112 review for purposes of the take-out;

1113 (D) Provides prominent notice to the policyholder before
1114 the assumption of the policy that surplus lines policies are not
1115 provided coverage by the Florida Insurance Guaranty Association,
1116 and an outline of any substantial differences in coverage
1117 between the existing policy and the policy being offered to the
1118 insured; and

1119 (E) Provides policy coverage similar to that provided by
1120 the corporation.

1121 (III) To obtain approval for a plan, the surplus lines
1122 insurer must file the following with the office:

1123 (A) Information requested by the office to demonstrate
1124 compliance with s. 624.404(3), including biographical
1125 affidavits, fingerprints processed pursuant to s. 624.34, and
1126 the results of criminal history records checks for officers and
1127 directors of the insurer and its parent or holding company;

1128 (B) A service-of-process consent and agreement form



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1129 executed by the insurer;

1130 (C) Proof that the insurer has been an eligible or
1131 authorized insurer for at least 3 years;

1132 (D) A duly authenticated copy of the insurer's current
1133 audited financial statement, in English, expressing all monetary
1134 values in United States dollars, at an exchange rate then
1135 current and shown in the statement, in the case of statements
1136 originally made in the currencies of other countries, and
1137 including any additional information relative to the insurer as
1138 the office may request;

1139 (E) A complete certified copy of the latest official
1140 financial statement required by the insurer's domiciliary state,
1141 if different from sub-sub-sub-subparagraph (D); and

1142 (F) A copy of the United States trust account agreement, if
1143 applicable.

1144
1145 This sub-subparagraph does not subject any surplus lines insurer
1146 to requirements in addition to part VIII of chapter 626. Surplus
1147 lines brokers making an offer of coverage under this sub-
1148 paragraph are not required to comply with s. 626.916(1)(a),
1149 (b), (c), and (e).

1150 (IV) Within 10 days after the date of assumption, the
1151 surplus lines insurer assuming policies from the corporation
1152 shall remit a special deposit equal to the unearned premium net
1153 of unearned commissions on the assumed block of business to the
1154 Bureau of Collateral Management within the Department of
1155 Financial Services. The surplus lines insurer shall submit to
1156 the office, along with the initial deposit, an accounting of the
1157 policies assumed and the amount of unearned premium for such



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1158 policies and a sworn affidavit attesting to its accuracy by an
1159 officer of the surplus lines insurer. Thereafter, the surplus
1160 lines insurer shall make a filing within 10 days after each
1161 calendar quarter attesting to the unearned premium in force for
1162 the previous quarter on policies assumed from the corporation,
1163 and shall submit additional funds with that filing if the
1164 special deposit is insufficient to cover the unearned premium on
1165 assumed policies, or shall receive a return of funds within 60
1166 days if the special deposit exceeds the amount of unearned
1167 premium required for assumed policies. The special deposit is an
1168 asset of the surplus lines insurer which is held by the
1169 department for the benefit of state policyholders of the surplus
1170 lines insurer in the event of the insolvency of the surplus
1171 lines insurer. If an order of liquidation is entered in any
1172 state against the surplus lines insurer, the department may use
1173 the special deposit for payment of unearned premium or policy
1174 claims, return all or part of the deposit to the domiciliary
1175 receiver, or use the funds in accordance with any action
1176 authorized under part I of chapter 631 or in compliance with any
1177 order of a court having jurisdiction over the insolvency.

1178 (V) Surplus lines brokers representing a surplus lines
1179 insurer on a take-out program shall obtain confirmation, in
1180 written or e-mail form, from each producing agent in advance
1181 stating that the agent is willing to participate in the take-out
1182 program with the surplus lines insurer engaging in the take-out
1183 program. The take-out program is also subject to s. 627.3517. If
1184 a policyholder is selected for removal from the corporation by a
1185 surplus lines insurer and an authorized insurer, the corporation
1186 shall give the offer of coverage from the authorized insurer



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1187 priority.

1188 (VI) (A) When offered comparable coverage from a qualified
1189 surplus lines insurer no greater than 15 percent higher than the
1190 premium charged by the corporation, a risk that has a dwelling
1191 replacement cost of \$700,000 or more or a single condominium
1192 unit that has a combined dwelling and contents replacement cost
1193 of \$700,000 or more is not eligible for coverage by the
1194 corporation.

1195 (B) When offered coverage from a qualified surplus lines
1196 insurer, a risk that has a dwelling replacement cost below
1197 \$700,000 or a single condominium unit that has a combined
1198 dwelling and contents replacement cost below \$700,000 remains
1199 eligible for coverage by the corporation.

1200 4. The plan shall provide for the deferment, in whole or in
1201 part, of the assessment of an assessable insurer, other than an
1202 emergency assessment collected from policyholders pursuant to
1203 sub-subparagraph (b)3.d., if the office finds that payment of
1204 the assessment would endanger or impair the solvency of the
1205 insurer. In the event an assessment against an assessable
1206 insurer is deferred in whole or in part, the amount by which
1207 such assessment is deferred may be assessed against the other
1208 assessable insurers in a manner consistent with the basis for
1209 assessments set forth in paragraph (b).

1210 5. Effective July 1, 2007, in order to evaluate the costs
1211 and benefits of approved take-out plans, if the corporation pays
1212 a bonus or other payment to an insurer for an approved take-out
1213 plan, it shall maintain a record of the address or such other
1214 identifying information on the property or risk removed in order
1215 to track if and when the property or risk is later insured by



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1216 the corporation.

1217 6. Any policy taken out, assumed, or removed from the
1218 corporation is, as of the effective date of the take-out,
1219 assumption, or removal, direct insurance issued by the insurer
1220 and not by the corporation, even if the corporation continues to
1221 service the policies. This subparagraph applies to policies of
1222 the corporation and not policies taken out, assumed, or removed
1223 from any other entity.

1224 7. For a policy taken out, assumed, or removed from the
1225 corporation, the insurer may, for a period of no more than 3
1226 years, continue to use any of the corporation's policy forms or
1227 endorsements that apply to the policy taken out, removed, or
1228 assumed without obtaining approval from the office for use of
1229 such policy form or endorsement.

1230 (x)1. The following records of the corporation are
1231 confidential and exempt from ~~the provisions of~~ s. 119.07(1) and
1232 s. 24(a), Art. I of the State Constitution:

1233 a. Underwriting files, except that a policyholder or an
1234 applicant shall have access to his or her own underwriting
1235 files. Confidential and exempt underwriting file records may
1236 also be released to other governmental agencies upon written
1237 request and demonstration of need; such records held by the
1238 receiving agency remain confidential and exempt as provided
1239 herein.

1240 b. Claims files, until termination of all litigation and
1241 settlement of all claims arising out of the same incident,
1242 although portions of the claims files may remain exempt, as
1243 otherwise provided by law. Confidential and exempt claims file
1244 records may be released to other governmental agencies upon



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1245 written request and demonstration of need; such records held by
1246 the receiving agency remain confidential and exempt as provided
1247 herein.

1248 c. Records obtained or generated by an internal auditor
1249 pursuant to a routine audit, until the audit is completed, or if
1250 the audit is conducted as part of an investigation, until the
1251 investigation is closed or ceases to be active. An investigation
1252 is considered "active" while the investigation is being
1253 conducted with a reasonable, good faith belief that it could
1254 lead to the filing of administrative, civil, or criminal
1255 proceedings.

1256 d. Matters reasonably encompassed in privileged attorney-
1257 client communications.

1258 e. Proprietary information licensed to the corporation
1259 under contract and the contract provides for the confidentiality
1260 of such proprietary information.

1261 f. All information relating to the medical condition or
1262 medical status of a corporation employee which is not relevant
1263 to the employee's capacity to perform his or her duties, except
1264 as otherwise provided in this paragraph. Information that is
1265 exempt includes ~~shall include~~, but is not limited to,
1266 information relating to workers' compensation, insurance
1267 benefits, and retirement or disability benefits.

1268 g. Upon an employee's entrance into the employee assistance
1269 program, a program to assist any employee who has a behavioral
1270 or medical disorder, substance abuse problem, or emotional
1271 difficulty that affects the employee's job performance, all
1272 records relative to that participation are ~~shall be~~ confidential
1273 and exempt from ~~the provisions of~~ s. 119.07(1) and s. 24(a),



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1274 Art. I of the State Constitution, except as otherwise provided
1275 in s. 112.0455(11).

1276 h. Information relating to negotiations for financing,
1277 reinsurance, depopulation, or contractual services, until the
1278 conclusion of the negotiations.

1279 i. Minutes of closed meetings regarding underwriting files,
1280 and minutes of closed meetings regarding an open claims file
1281 until termination of all litigation and settlement of all claims
1282 with regard to that claim, except that information otherwise
1283 confidential or exempt by law shall be redacted.

1284 2. If an authorized insurer, a reinsurance intermediary, an
1285 eligible surplus lines insurer, or an entity that has filed an
1286 application with the office for licensure as a property and
1287 casualty insurer in this state is considering writing or
1288 assisting in the underwriting of a risk insured by the
1289 corporation, relevant information from both the underwriting
1290 files and confidential claims files may be released to the
1291 insurer, reinsurance intermediary, eligible surplus lines
1292 insurer, or entity that has been created to seek authority to
1293 write property insurance in this state, provided the recipient
1294 ~~insurer~~ agrees in writing, notarized and under oath, to maintain
1295 the confidentiality of such files. If a policy file is
1296 transferred to an insurer, that policy file is no longer a
1297 public record because it is not held by an agency subject to ~~the~~
1298 ~~provisions of~~ the public records law. Underwriting files and
1299 confidential claims files may also be released to staff and the
1300 board of governors of the market assistance plan established
1301 pursuant to s. 627.3515, who must retain the confidentiality of
1302 such files, except such files may be released to authorized



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1303 insurers that are considering assuming the risks to which the
1304 files apply, provided the insurer agrees in writing, notarized
1305 and under oath, to maintain the confidentiality of such files.
1306 Finally, the corporation or the board or staff of the market
1307 assistance plan may make the following information obtained from
1308 underwriting files and confidential claims files available to an
1309 entity that has obtained a permit to become an authorized
1310 insurer, a reinsurer that may provide reinsurance under s.
1311 624.610, a licensed reinsurance broker, a licensed rating
1312 organization, a modeling company, or a licensed general lines
1313 insurance agent: name, address, and telephone number of the
1314 residential property owner or insured; location of the risk;
1315 rating information; loss history; and policy type. The receiving
1316 person must retain the confidentiality of the information
1317 received and may use the information only for the purposes of
1318 developing a take-out plan or a rating plan to be submitted to
1319 the office for approval or otherwise analyzing the underwriting
1320 of a risk or risks insured by the corporation on behalf of the
1321 private insurance market. A licensed general lines insurance
1322 agent may not use such information for the direct solicitation
1323 of policyholders.

1324 3. A policyholder who has filed suit against the
1325 corporation has the right to discover the contents of his or her
1326 own claims file to the same extent that discovery of such
1327 contents would be available from a private insurer in litigation
1328 as provided by the Florida Rules of Civil Procedure, the Florida
1329 Evidence Code, and other applicable law. Pursuant to subpoena, a
1330 third party has the right to discover the contents of an
1331 insured's or applicant's underwriting or claims file to the same



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1332 extent that discovery of such contents would be available from a
1333 private insurer by subpoena as provided by the Florida Rules of
1334 Civil Procedure, the Florida Evidence Code, and other applicable
1335 law, and subject to any confidentiality protections requested by
1336 the corporation and agreed to by the seeking party or ordered by
1337 the court. The corporation may release confidential underwriting
1338 and claims file contents and information as it deems necessary
1339 and appropriate to underwrite or service insurance policies and
1340 claims, subject to any confidentiality protections deemed
1341 necessary and appropriate by the corporation.

1342 4. Portions of meetings of the corporation are exempt from
1343 the provisions of s. 286.011 and s. 24(b), Art. I of the State
1344 Constitution wherein confidential underwriting files or
1345 confidential open claims files are discussed. All portions of
1346 corporation meetings which are closed to the public shall be
1347 recorded by a court reporter. The court reporter shall record
1348 the times of commencement and termination of the meeting, all
1349 discussion and proceedings, the names of all persons present at
1350 any time, and the names of all persons speaking. No portion of
1351 any closed meeting shall be off the record. Subject to the
1352 provisions hereof and s. 119.07(1)(d)-(f), the court reporter's
1353 notes of any closed meeting shall be retained by the corporation
1354 for a minimum of 5 years. A copy of the transcript, less any
1355 exempt matters, of any closed meeting wherein claims are
1356 discussed shall become public as to individual claims after
1357 settlement of the claim.

1358 Section 3. Section 627.3517, Florida Statutes, is amended
1359 to read:

1360 627.3517 Consumer choice.—No provision of s. 627.351, s.



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1361 627.3511, or s. 627.3515 shall be construed to impair the right
1362 of any insurance risk apportionment plan policyholder, upon
1363 receipt of any keep-out ~~keepout~~ or take-out offer, to retain his
1364 or her current agent, so long as that agent is duly licensed and
1365 appointed by the insurance risk apportionment plan or otherwise
1366 authorized to place business with the insurance risk
1367 apportionment plan. This right may ~~shall~~ not be canceled,
1368 suspended, impeded, abridged, or otherwise compromised by any
1369 rule, plan of operation, or depopulation plan, whether through
1370 keep-out ~~keepout~~, take-out, midterm assumption, or any other
1371 means, of any insurance risk apportionment plan or depopulation
1372 plan, including, but not limited to, those described in s.
1373 627.351, s. 627.3511, or s. 627.3515. The commission shall adopt
1374 any rules necessary to cause any insurance risk apportionment
1375 plan or market assistance plan under such sections to
1376 demonstrate that the operations of the plan do not interfere
1377 with, promote, or allow interference with the rights created
1378 under this section. If the policyholder's current agent is
1379 unable or unwilling to be appointed with the insurer making the
1380 take-out or keep-out ~~keepout~~ offer, the policyholder is ~~shall~~
1381 not ~~be~~ disqualified from participation in the appropriate
1382 insurance risk apportionment plan because of an offer of
1383 coverage in the voluntary market. An offer of full property
1384 insurance coverage by the insurer currently insuring either the
1385 ex-wind or wind-only coverage on the policy to which the offer
1386 applies is ~~shall~~ not ~~be~~ considered a take-out or keep-out
1387 ~~keepout~~ offer. Any rule, plan of operation, or plan of
1388 depopulation, through keep-out ~~keepout~~, take-out, midterm
1389 assumption, or any other means, of any property insurance risk



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1390 apportionment plan under s. 627.351(2) or (6) is subject to ss.
1391 627.351(2)(b) and (6)(c) and 627.3511(4).

1392 Section 4. Subsection (5) of section 627.3518, Florida
1393 Statutes, is amended, and paragraph (a) of subsection (6) and
1394 paragraph (a) of subsection (7) of that section are reenacted,
1395 to read:

1396 627.3518 Citizens Property Insurance Corporation
1397 policyholder eligibility clearinghouse program.—The purpose of
1398 this section is to provide a framework for the corporation to
1399 implement a clearinghouse program by January 1, 2014.

1400 (5) Notwithstanding s. 627.3517, any applicant for new
1401 coverage from the corporation is not eligible for coverage from
1402 the corporation if provided an offer of coverage from an
1403 authorized insurer through the program at a premium that is at
1404 or below the eligibility threshold established in s.
1405 627.351(6)(c)5.a. Whenever an offer of coverage for a personal
1406 lines risk is received for a policyholder of the corporation at
1407 renewal from an authorized insurer through the program, if the
1408 offer is at or below the eligibility threshold established in s.
1409 627.351(6)(c)5.a. equal to or less than the corporation's
1410 renewal premium for comparable coverage, the risk is not
1411 eligible for coverage with the corporation. In the event an
1412 offer of coverage for a new applicant or a personal lines risk
1413 at renewal is received from an authorized insurer through the
1414 program, and the premium offered exceeds the eligibility
1415 thresholds specified ~~threshold contained~~ in s.
1416 627.351(6)(c)5.a., the applicant or insured may elect to accept
1417 such coverage, or may elect to accept or continue coverage with
1418 the corporation. ~~In the event an offer of coverage for a~~



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1419 ~~personal lines risk is received from an authorized insurer at~~
1420 ~~renewal through the program, and the premium offered is more~~
1421 ~~than the corporation's renewal premium for comparable coverage,~~
1422 ~~the insured may elect to accept such coverage, or may elect to~~
1423 ~~accept or continue coverage with the corporation. Section~~
1424 627.351(6)(c)5.a.(I) does not apply to an offer of coverage from
1425 an authorized insurer obtained through the program. An applicant
1426 for coverage from the corporation who was declared ineligible
1427 for coverage at renewal by the corporation in the previous 36
1428 months due to an offer of coverage pursuant to this subsection
1429 shall be considered a renewal under this section if the
1430 corporation determines that the authorized insurer making the
1431 offer of coverage pursuant to this subsection continues to
1432 insure the applicant and increased the rate on the policy in
1433 excess of the increase allowed for the corporation under s.
1434 627.351(6)(n)6.

1435 (6) Independent insurance agents submitting new
1436 applications for coverage or that are the agent of record on a
1437 renewal policy submitted to the program:

1438 (a) Are granted and must maintain ownership and the
1439 exclusive use of expirations, records, or other written or
1440 electronic information directly related to such applications or
1441 renewals written through the corporation or through an insurer
1442 participating in the program, notwithstanding s.
1443 627.351(6)(c)5.a.(I)(B) and (II)(B). Such ownership is granted
1444 for as long as the insured remains with the agency or until sold
1445 or surrendered in writing by the agent. Contracts with the
1446 corporation or required by the corporation must not amend,
1447 modify, interfere with, or limit such rights of ownership. Such



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1448 expirations, records, or other written or electronic information
1449 may be used to review an application, issue a policy, or for any
1450 other purpose necessary for placing such business through the
1451 program.

1452
1453 Applicants ineligible for coverage in accordance with subsection
1454 (5) remain ineligible if their independent agent is unwilling or
1455 unable to enter into a standard or limited agency agreement with
1456 an insurer participating in the program.

1457 (7) Exclusive agents submitting new applications for
1458 coverage or that are the agent of record on a renewal policy
1459 submitted to the program:

1460 (a) Must maintain ownership and the exclusive use of
1461 expirations, records, or other written or electronic information
1462 directly related to such applications or renewals written
1463 through the corporation or through an insurer participating in
1464 the program, notwithstanding s. 627.351(6)(c)5.a.(I)(B) and
1465 (II)(B). Contracts with the corporation or required by the
1466 corporation must not amend, modify, interfere with, or limit
1467 such rights of ownership. Such expirations, records, or other
1468 written or electronic information may be used to review an
1469 application, issue a policy, or for any other purpose necessary
1470 for placing such business through the program.

1471
1472 Applicants ineligible for coverage in accordance with subsection
1473 (5) remain ineligible if their exclusive agent is unwilling or
1474 unable to enter into a standard or limited agency agreement with
1475 an insurer making an offer of coverage to that applicant.

1476 Section 5. This act shall take effect January 1, 2022.