

1 A bill to be entitled
2 An act relating to insurance; creating s. 489.147,
3 F.S.; providing definitions; prohibiting certain
4 practices by contractors; providing for disciplinary
5 proceedings; providing that the acts of any persons on
6 behalf of a contractor are considered the acts of a
7 contractor; providing that certain acts constitute
8 unlicensed contracting; providing penalties;
9 prohibiting a contractor from executing a contract
10 with a residential property owner for a roofing repair
11 or replacement unless certain notice is included;
12 authorizing the residential property owner to void the
13 contract within a specified timeframe when such notice
14 is not included; amending s. 624.316, F.S.;
15 authorizing the Office of Insurance Regulation to
16 examine insurer affiliates; amending s. 624.318, F.S.;
17 requiring insurer affiliates to provide certain items
18 and information to the office during examination or
19 investigation; amending s. 624.424, F.S.; requiring
20 property insurers to include certain data regarding
21 closed claims in their quarterly reports to the
22 office; requiring insurers to provide information
23 regarding payments to affiliates upon request by the
24 office; requiring the office to consider certain costs
25 in determining whether payments made by an insurer to

26 | an affiliate are fair and reasonable; amending s.
27 | 626.7451, F.S; requiring that managing general agents
28 | enter into specified contracts with insurers even when
29 | the managing general agents control, or are controlled
30 | by, the insurers; amending s. 626.7452, F.S.;
31 | providing that a managing general agent may be
32 | examined as if it were the insurer even if the
33 | managing general agent solely represents a single
34 | domestic insurer; amending s. 626.854, F.S.;
35 | prohibiting certain acts by a public adjuster, public
36 | adjuster apprentice, and certain other persons;
37 | providing that certain acts constitute unlicensed
38 | practice of public adjusting; providing penalties;
39 | amending s. 627.351, F.S.; revising a procedure that
40 | the plan of operation of Citizens Property Insurance
41 | Corporation must provide; requiring the corporation to
42 | include the costs of catastrophe reinsurance to its
43 | projected 100-year probable maximum loss in its rate
44 | calculations even if the corporation does not purchase
45 | such reinsurance; deleting obsolete language relating
46 | to the corporation's rate filings; requiring the
47 | corporation to annually implement a rate increase that
48 | does not exceed a certain percent for specified years;
49 | prohibiting the corporation from seeking approval by
50 | the office for a rate reduction; providing limits on

51 salaries and salary raises of current employees of the
52 corporation and employees hired by the corporation on
53 or after a specified date; amending s. 627.3518, F.S.;
54 conforming a cross-reference; amending s. 627.70132,
55 F.S.; providing that claims, supplemental claims, and
56 reopened claims under certain property insurance
57 policies for loss or damage caused by perils are
58 barred unless notice is given within a specified
59 timeframe; revising the timeframe for notice for loss
60 or damage caused by windstorm or hurricane; providing
61 date of loss for weather-related events; revising the
62 definition of the term "supplemental claim" or
63 "reopened claim" to include all perils; amending s.
64 627.7015, F.S.; conforming a provision to changes made
65 by the act; creating s. 627.70152, F.S.; providing
66 applicability; providing definitions; requiring that
67 written notice be provided to an insurer before suit
68 is filed under an insurance policy; requiring that
69 certain information be included in the notice;
70 requiring that notice be served within specified time
71 limits; requiring that an insurer provide a response
72 to the notice within specified timeframe; providing
73 for tolling of time if appropriate; requiring an
74 insurer to investigate, review, and evaluate a dispute
75 stated in the notice; requiring an insurer to

76 investigate each claim in the notice in accordance
 77 with the Florida Insurance Code; requiring a court to
 78 dismiss without prejudice a claimant's suit under
 79 certain circumstances; providing for evidentiary
 80 requirements regarding the notice; prohibiting a court
 81 from awarding attorney fees to a claimant under
 82 certain circumstances; providing an effective date.
 83

84 Be It Enacted by the Legislature of the State of Florida:
 85

86 Section 1. Section 489.147, Florida Statutes, is created
 87 to read:

88 489.147 Prohibited property insurance practices.-

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

90 (a) "Prohibited advertisement" means any written or
 91 electronic communication that encourages, instructs, or induces
 92 a consumer to contact a contractor or public adjuster for the
 93 purpose of making an insurance claim for roof damage. The term
 94 includes, but is not limited to, door hangers, business cards,
 95 magnets, flyers, pamphlets, and e-mails.

96 (b) "Soliciting" means contacting:

97 1. In person;

98 2. By electronic means, including, but not limited to, e-
 99 mail, telephone, and any other real-time communication directed
 100 to a specific person; or

101 3. By delivery to a specific person.

102 (2) A contractor may not directly or indirectly engage in
103 any of the following practices:

104 (a) Soliciting a residential property owner by means of a
105 prohibited advertisement.

106 (b) Offering to a residential property owner a rebate,
107 gift, gift card, cash, coupon, waiver of any insurance
108 deductible, or any other thing of value in exchange for:

109 1. Allowing the contractor to conduct an inspection of the
110 residential property owner's roof; or

111 2. Making an insurance claim for damage to the residential
112 property owner's roof.

113 (c) Offering, delivering, receiving, or accepting any
114 compensation, inducement, or reward for the referral of any
115 services for which property insurance proceeds are payable.

116 (d) Interpreting policy provisions or advising an insured
117 regarding coverages or duties under the insured's property
118 insurance policy or adjusting a property insurance claim on
119 behalf of the insured, unless the contractor holds a license as
120 a public adjuster pursuant to part VI of chapter 626.

121 (e) Providing an insured with an agreement authorizing
122 repairs without providing a good faith estimate of the itemized
123 and detailed cost of services and materials for repairs
124 undertaken pursuant to a property insurance claim. A contractor
125 does not violate this paragraph if, as a result of the process

126 of the insurer adjusting a claim, the actual cost of repairs
127 differs from the initial estimate.

128 (3) A contractor who violates this section is subject to
129 disciplinary proceedings as set forth in s. 489.129. A
130 contractor may receive up to a \$10,000 fine for each violation
131 of this section.

132 (4) For the purposes of this section:

133 (a) The acts of any person on behalf of a contractor,
134 including, but not limited to, the acts of a compensated
135 employee or a nonemployee who is compensated for soliciting,
136 shall be considered the actions of the contractor.

137 (b) An unlicensed person who engages in an act prohibited
138 by this section is guilty of unlicensed contracting and is
139 subject to the penalties set forth in s. 489.13. Notwithstanding
140 s. 489.13(3), an unlicensed person who violates this section may
141 be fined up to \$10,000 for each violation.

142 (5) A contractor may not execute a contract with a
143 residential property owner to repair or replace a roof without
144 including a notice that the contractor may not engage in the
145 practices set forth in paragraph (2)(b). If the contractor fails
146 to include such notice, the residential property owner may void
147 the contract within 10 days after executing it.

148 Section 2. Paragraph (a) of subsection (2) of section
149 624.316, Florida Statutes, is amended to read:

150 Section 624.316 Examination of insurers.—

151 (2) (a) Except as provided in paragraph (f), the office
152 may examine each insurer, including affiliates, as often as may
153 be warranted for the protection of the policyholders and in the
154 public interest, and shall examine each domestic insurer not
155 less frequently than once every 5 years. The examination shall
156 cover the preceding 5 fiscal years of the insurer and shall be
157 commenced within 12 months after the end of the most recent
158 fiscal year being covered by the examination. The examination
159 may cover any period of the insurer's operations since the last
160 previous examination. The examination may include examination
161 of events subsequent to the end of the most recent fiscal year
162 and the events of any prior period that affect the present
163 financial condition of the insurer.

164 Section 3. Subsection (2) of section 624.318, Florida
165 Statutes, is amended to read:

166 624.318 Conduct of examination or investigation; access to
167 records; correction of accounts; appraisals.—

168 (2) Every person, including an affiliate, being examined
169 or investigated, and its officers, attorneys, employees, agents,
170 and representatives, shall make freely available to the
171 department or office or its examiners or investigators the
172 accounts, records, documents, files, information, assets, and
173 matters in their possession or control relating to the subject
174 of the examination or investigation. An agent who provides other
175 products or services or maintains customer information not

176 related to insurance must maintain records relating to insurance
 177 products and transactions separately if necessary to give the
 178 department or office access to such records. If records relating
 179 to the insurance transactions are maintained by an agent on
 180 premises owned or operated by a third party, the agent and the
 181 third party must provide access to the records by the department
 182 or office.

183 Section 4. Subsection (11) of section 624.424, Florida
 184 Statutes, is renumbered as subsection (12), and a new subsection
 185 (11) and subsection (13) are added to that section, to read:

186 624.424 Annual statement and other information.—

187 (11) Each authorized insurer or insurer group issuing
 188 personal lines or commercial lines residential property
 189 insurance policies in this state shall file with the office on a
 190 quarterly basis in conjunction with the statements required by
 191 paragraph (1) (a) a supplemental report on an individual and
 192 group basis for closed claims. The report must be on a form
 193 prescribed by the commission and must include the following
 194 information for each claim closed, excluding liability only
 195 claims, within the reporting period in this state:

- 196 (a) Unique claim identification number.
- 197 (b) Type of policy.
- 198 (c) Zip code of the property where the claim occurred.
- 199 (d) County where the claim occurred.
- 200 (e) Date of loss.

- 201 (f) Peril or type of loss.
- 202 (g) Date reported to insurer.
- 203 (h) Initial date closed.
- 204 (i) Date claim most recently reopened, if applicable.
- 205 (j) Most recent date closed.
- 206 (k) Public adjuster on the claim.
- 207 (l) Attorney for the claimant.
- 208 (m) Water mitigation firm used.
- 209 (n) Total indemnity paid by the insurer.
- 210 (o) Total loss adjustment expenses paid by the insurer.
- 211 (p) Amount paid for insured's attorney fees.
- 212 (q) Contingency fee multiplier requested to be applied to
 213 the calculation of the insured's attorney fees payment, and, if
 214 so, contingency risk multiplier requested.
- 215 (r) Contingency risk multiplier applied to the calculation
 216 of the insured's attorney fees payment, and, if so, contingency
 217 fee multiplier applied.
- 218 (s) Other information deemed necessary by the commission
 219 to provide the office with the ability to track litigation and
 220 claims trends occurring in the property market.
- 221 (13) Each insurer doing business in this state which pays
 222 a fee, commission, or other financial consideration or payment
 223 to any affiliate directly or indirectly is required upon request
 224 to provide to the office any information the office deems
 225 necessary. The fee, commission, or other financial consideration

226 | or payment to any affiliate must be fair and reasonable. In
 227 | determining whether the fee, commission, or other financial
 228 | consideration or payment is fair and reasonable, the office
 229 | shall consider, among other things, the actual cost of the
 230 | service being provided.

231 | Section 5. Subsection (6) of section 626.7451, Florida
 232 | Statutes, is amended to read:

233 | 626.7451 Managing general agents; required contract
 234 | provisions.—No person acting in the capacity of a managing
 235 | general agent shall place business with an insurer unless there
 236 | is in force a written contract between the parties which sets
 237 | forth the responsibility for a particular function, specifies
 238 | the division of responsibilities, and contains the following
 239 | minimum provisions:

240 | (6) The contract shall specify appropriate underwriting
 241 | guidelines, including:

- 242 | (a) The maximum annual premium volume.
- 243 | (b) The basis of the rates to be charged.
- 244 | (c) The types of risks which may be written.
- 245 | (d) Maximum limits of liability.
- 246 | (e) Applicable exclusions.
- 247 | (f) Territorial limitations.
- 248 | (g) Policy cancellation provisions.
- 249 | (h) The maximum policy period.

250 |

251 ~~This subsection shall not apply when the managing general agent~~
252 ~~is a controlled or controlling person.~~

253
254 For the purposes of this section and ss. 626.7453 and 626.7454,
255 the term "controlling person" or "controlling" has the meaning
256 set forth in s. 625.012(5)(b)1., and the term "controlled
257 person" or "controlled" has the meaning set forth in s.
258 625.012(5)(b)2.

259 Section 6. Section 626.7452, Florida Statutes, is amended
260 to read:

261 Section 626.7452 Managing general agents; examination
262 authority.—The acts of the managing general agent are considered
263 to be the acts of the insurer on whose behalf it is acting. A
264 managing general agent may be examined as if it were the insurer
265 ~~except in the case where the managing general agent solely~~
266 ~~represents a single domestic insurer.~~

267 Section 7. Subsection (20) is added to section 626.854,
268 Florida Statutes, to read:

269 626.854 "Public adjuster" defined; prohibitions.—The
270 legislature finds that it is necessary for the protection of the
271 public to regulate public insurance adjusters and to prevent the
272 unauthorized practice of law.

273 (20) (a) Any following act by a public adjuster, a public
274 adjuster apprentice, or a person acting on behalf of a public
275 adjuster or public adjuster apprentice is prohibited and shall

276 result in discipline as applicable under part VI of this
277 chapter:

278 1. Offering to a residential property owner a rebate,
279 gift, gift card, cash, coupon, waiver of any insurance
280 deductible, or any other thing of value in exchange for:

281 a. Allowing a contractor, a public adjuster, a public
282 adjuster apprentice, or a person acting on behalf of a public
283 adjuster or public adjuster apprentice to conduct an inspection
284 of the residential property owner's roof; or

285 b. Making an insurance claim for damage to the residential
286 property owner's roof.

287 2. Offering, delivering, receiving, or accepting any
288 compensation, inducement, or reward for the referral of any
289 services for which property insurance proceeds would be used for
290 roofing repairs or replacement.

291 (b) Notwithstanding the fine set forth in s. 626.8698, a
292 public adjuster or public adjuster apprentice may be subject to
293 a fine not to exceed \$10,000 per act for a violation of this
294 subsection.

295 (c) A person who engages in an act prohibited by this
296 subsection and who is not a public adjuster or a public adjuster
297 apprentice, or is not otherwise exempt from licensure, is guilty
298 of the unlicensed practice of public adjusting and may be:

299 1. Subject to all applicable penalties set forth in part
300 VI of this chapter.

301 2. Notwithstanding subparagraph 1., subject to a fine not
 302 to exceed \$10,000 per act for a violation of this subsection.

303 Section 8. Paragraphs (c) and (n) of subsection (6) of
 304 section 627.351, Florida Statutes, are amended, and a new
 305 paragraph (jj) is added to subsection (6) of that section, to
 306 read:

307 627.351 Insurance risk apportionment plans.—

308 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

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

310 1. Must provide for adoption of residential property and
 311 casualty insurance policy forms and commercial residential and
 312 nonresidential property insurance forms, which must be approved
 313 by the office before use. The corporation shall adopt the
 314 following policy forms:

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

319 b. Basic personal lines policy forms that are policies
 320 similar to an HO-8 policy or a dwelling fire policy that provide
 321 coverage meeting the requirements of the secondary mortgage
 322 market, but which is more limited than the coverage under a
 323 standard policy.

324 c. Commercial lines residential and nonresidential policy
 325 forms that are generally similar to the basic perils of full

326 coverage obtainable for commercial residential structures and
327 commercial nonresidential structures in the admitted voluntary
328 market.

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

334 e. Commercial lines nonresidential property insurance
335 forms that cover the peril of wind only. The forms are
336 applicable only to nonresidential properties located in areas
337 eligible for coverage under the coastal account referred to in
338 sub-subparagraph (b)2.a.

339 f. The corporation may adopt variations of the policy
340 forms listed in sub-subparagraphs a.-e. which contain more
341 restrictive coverage.

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

346 2. Must provide that the corporation adopt a program in
347 which the corporation and authorized insurers enter into quota
348 share primary insurance agreements for hurricane coverage, as
349 defined in s. 627.4025(2)(a), for eligible risks, and adopt
350 property insurance forms for eligible risks which cover the

351 peril of wind only.

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

353 (I) "Quota share primary insurance" means an arrangement
354 in which the primary hurricane coverage of an eligible risk is
355 provided in specified percentages by the corporation and an
356 authorized insurer. The corporation and authorized insurer are
357 each solely responsible for a specified percentage of hurricane
358 coverage of an eligible risk as set forth in a quota share
359 primary insurance agreement between the corporation and an
360 authorized insurer and the insurance contract. The
361 responsibility of the corporation or authorized insurer to pay
362 its specified percentage of hurricane losses of an eligible
363 risk, as set forth in the agreement, may not be altered by the
364 inability of the other party to pay its specified percentage of
365 losses. Eligible risks that are provided hurricane coverage
366 through a quota share primary insurance arrangement must be
367 provided policy forms that set forth the obligations of the
368 corporation and authorized insurer under the arrangement,
369 clearly specify the percentages of quota share primary insurance
370 provided by the corporation and authorized insurer, and
371 conspicuously and clearly state that the authorized insurer and
372 the corporation may not be held responsible beyond their
373 specified percentage of coverage of hurricane losses.

374 (II) "Eligible risks" means personal lines residential and
375 commercial lines residential risks that meet the underwriting

376 criteria of the corporation and are located in areas that were
377 eligible for coverage by the Florida Windstorm Underwriting
378 Association on January 1, 2002.

379 b. The corporation may enter into quota share primary
380 insurance agreements with authorized insurers at corporation
381 coverage levels of 90 percent and 50 percent.

382 c. If the corporation determines that additional coverage
383 levels are necessary to maximize participation in quota share
384 primary insurance agreements by authorized insurers, the
385 corporation may establish additional coverage levels. However,
386 the corporation's quota share primary insurance coverage level
387 may not exceed 90 percent.

388 d. Any quota share primary insurance agreement entered
389 into between an authorized insurer and the corporation must
390 provide for a uniform specified percentage of coverage of
391 hurricane losses, by county or territory as set forth by the
392 corporation board, for all eligible risks of the authorized
393 insurer covered under the agreement.

394 e. Any quota share primary insurance agreement entered
395 into between an authorized insurer and the corporation is
396 subject to review and approval by the office. However, such
397 agreement shall be authorized only as to insurance contracts
398 entered into between an authorized insurer and an insured who is
399 already insured by the corporation for wind coverage.

400 f. For all eligible risks covered under quota share

401 primary insurance agreements, the exposure and coverage levels
402 for both the corporation and authorized insurers shall be
403 reported by the corporation to the Florida Hurricane Catastrophe
404 Fund. For all policies of eligible risks covered under such
405 agreements, the corporation and the authorized insurer must
406 maintain complete and accurate records for the purpose of
407 exposure and loss reimbursement audits as required by fund
408 rules. The corporation and the authorized insurer shall each
409 maintain duplicate copies of policy declaration pages and
410 supporting claims documents.

411 g. The corporation board shall establish in its plan of
412 operation standards for quota share agreements which ensure that
413 there is no discriminatory application among insurers as to the
414 terms of the agreements, pricing of the agreements, incentive
415 provisions if any, and consideration paid for servicing policies
416 or adjusting claims.

417 h. The quota share primary insurance agreement between the
418 corporation and an authorized insurer must set forth the
419 specific terms under which coverage is provided, including, but
420 not limited to, the sale and servicing of policies issued under
421 the agreement by the insurance agent of the authorized insurer
422 producing the business, the reporting of information concerning
423 eligible risks, the payment of premium to the corporation, and
424 arrangements for the adjustment and payment of hurricane claims
425 incurred on eligible risks by the claims adjuster and personnel

426 of the authorized insurer. Entering into a quota sharing
427 insurance agreement between the corporation and an authorized
428 insurer is voluntary and at the discretion of the authorized
429 insurer.

430 3. May provide that the corporation may employ or
431 otherwise contract with individuals or other entities to provide
432 administrative or professional services that may be appropriate
433 to effectuate the plan. The corporation may borrow funds by
434 issuing bonds or by incurring other indebtedness, and shall have
435 other powers reasonably necessary to effectuate the requirements
436 of this subsection, including, without limitation, the power to
437 issue bonds and incur other indebtedness in order to refinance
438 outstanding bonds or other indebtedness. The corporation may
439 seek judicial validation of its bonds or other indebtedness
440 under chapter 75. The corporation may issue bonds or incur other
441 indebtedness, or have bonds issued on its behalf by a unit of
442 local government pursuant to subparagraph (q)2. in the absence
443 of a hurricane or other weather-related event, upon a
444 determination by the corporation, subject to approval by the
445 office, that such action would enable it to efficiently meet the
446 financial obligations of the corporation and that such
447 financings are reasonably necessary to effectuate the
448 requirements of this subsection. The corporation may take all
449 actions needed to facilitate tax-free status for such bonds or
450 indebtedness, including formation of trusts or other affiliated

451 entities. The corporation may pledge assessments, projected
452 recoveries from the Florida Hurricane Catastrophe Fund, other
453 reinsurance recoverables, policyholder surcharges and other
454 surcharges, and other funds available to the corporation as
455 security for bonds or other indebtedness. In recognition of s.
456 10, Art. I of the State Constitution, prohibiting the impairment
457 of obligations of contracts, it is the intent of the Legislature
458 that no action be taken whose purpose is to impair any bond
459 indenture or financing agreement or any revenue source committed
460 by contract to such bond or other indebtedness.

461 4. Must require that the corporation operate subject to
462 the supervision and approval of a board of governors consisting
463 of nine individuals who are residents of this state and who are
464 from different geographical areas of the state, one of whom is
465 appointed by the Governor and serves solely to advocate on
466 behalf of the consumer. The appointment of a consumer
467 representative by the Governor is deemed to be within the scope
468 of the exemption provided in s. 112.313(7)(b) and is in addition
469 to the appointments authorized under sub-subparagraph a.

470 a. The Governor, the Chief Financial Officer, the
471 President of the Senate, and the Speaker of the House of
472 Representatives shall each appoint two members of the board. At
473 least one of the two members appointed by each appointing
474 officer must have demonstrated expertise in insurance and be
475 deemed to be within the scope of the exemption provided in s.

476 112.313(7)(b). The Chief Financial Officer shall designate one
477 of the appointees as chair. All board members serve at the
478 pleasure of the appointing officer. All members of the board are
479 subject to removal at will by the officers who appointed them.
480 All board members, including the chair, must be appointed to
481 serve for 3-year terms beginning annually on a date designated
482 by the plan. However, for the first term beginning on or after
483 July 1, 2009, each appointing officer shall appoint one member
484 of the board for a 2-year term and one member for a 3-year term.
485 A board vacancy shall be filled for the unexpired term by the
486 appointing officer. The Chief Financial Officer shall appoint a
487 technical advisory group to provide information and advice to
488 the board in connection with the board's duties under this
489 subsection. The executive director and senior managers of the
490 corporation shall be engaged by the board and serve at the
491 pleasure of the board. Any executive director appointed on or
492 after July 1, 2006, is subject to confirmation by the Senate.
493 The executive director is responsible for employing other staff
494 as the corporation may require, subject to review and
495 concurrence by the board.

496 b. The board shall create a Market Accountability Advisory
497 Committee to assist the corporation in developing awareness of
498 its rates and its customer and agent service levels in
499 relationship to the voluntary market insurers writing similar
500 coverage.

501 (I) The members of the advisory committee consist of the
 502 following 11 persons, one of whom must be elected chair by the
 503 members of the committee: four representatives, one appointed by
 504 the Florida Association of Insurance Agents, one by the Florida
 505 Association of Insurance and Financial Advisors, one by the
 506 Professional Insurance Agents of Florida, and one by the Latin
 507 American Association of Insurance Agencies; three
 508 representatives appointed by the insurers with the three highest
 509 voluntary market share of residential property insurance
 510 business in the state; one representative from the Office of
 511 Insurance Regulation; one consumer appointed by the board who is
 512 insured by the corporation at the time of appointment to the
 513 committee; one representative appointed by the Florida
 514 Association of Realtors; and one representative appointed by the
 515 Florida Bankers Association. All members shall be appointed to
 516 3-year terms and may serve for consecutive terms.

517 (II) The committee shall report to the corporation at each
 518 board meeting on insurance market issues which may include rates
 519 and rate competition with the voluntary market; service,
 520 including policy issuance, claims processing, and general
 521 responsiveness to policyholders, applicants, and agents; and
 522 matters relating to depopulation.

- 523 5. Must provide a procedure for determining the
 524 eligibility of a risk for coverage, as follows:
 525 a. Subject to s. 627.3517, with respect to personal lines

526 residential risks, if the risk is offered coverage from an
527 authorized insurer at the insurer's approved rate under a
528 standard policy including wind coverage or, if consistent with
529 the insurer's underwriting rules as filed with the office, a
530 basic policy including wind coverage, for a new application to
531 the corporation for coverage, the risk is not eligible for any
532 policy issued by the corporation unless the premium for coverage
533 from the authorized insurer is more than 20 ~~15~~ percent greater
534 than the premium for comparable coverage from the corporation.
535 Whenever an offer of coverage for a personal lines residential
536 risk is received for a policyholder of the corporation at
537 renewal from an authorized insurer, if the offer is equal to or
538 less than the corporation's renewal premium for comparable
539 coverage, the risk is not eligible for coverage with the
540 corporation. If the risk is not able to obtain such offer, the
541 risk is eligible for a standard policy including wind coverage
542 or a basic policy including wind coverage issued by the
543 corporation; however, if the risk could not be insured under a
544 standard policy including wind coverage regardless of market
545 conditions, the risk is eligible for a basic policy including
546 wind coverage unless rejected under subparagraph 8. However, a
547 policyholder removed from the corporation through an assumption
548 agreement remains eligible for coverage from the corporation
549 until the end of the assumption period. The corporation shall
550 determine the type of policy to be provided on the basis of

551 objective standards specified in the underwriting manual and
552 based on generally accepted underwriting practices.

553 (I) If the risk accepts an offer of coverage through the
554 market assistance plan or through a mechanism established by the
555 corporation other than a plan established by s. 627.3518, before
556 a policy is issued to the risk by the corporation or during the
557 first 30 days of coverage by the corporation, and the producing
558 agent who submitted the application to the plan or to the
559 corporation is not currently appointed by the insurer, the
560 insurer shall:

561 (A) Pay to the producing agent of record of the policy for
562 the first year, an amount that is the greater of the insurer's
563 usual and customary commission for the type of policy written or
564 a fee equal to the usual and customary commission of the
565 corporation; or

566 (B) Offer to allow the producing agent of record of the
567 policy to continue servicing the policy for at least 1 year and
568 offer to pay the agent the greater of the insurer's or the
569 corporation's usual and customary commission for the type of
570 policy written.

571
572 If the producing agent is unwilling or unable to accept
573 appointment, the new insurer shall pay the agent in accordance
574 with sub-sub-sub-subparagraph (A).

575 (II) If the corporation enters into a contractual

576 agreement for a take-out plan, the producing agent of record of
577 the corporation policy is entitled to retain any unearned
578 commission on the policy, and the insurer shall:

579 (A) Pay to the producing agent of record, for the first
580 year, an amount that is the greater of the insurer's usual and
581 customary commission for the type of policy written or a fee
582 equal to the usual and customary commission of the corporation;
583 or

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

588
589 If the producing agent is unwilling or unable to accept
590 appointment, the new insurer shall pay the agent in accordance
591 with sub-sub-sub-subparagraph (A).

592 b. With respect to commercial lines residential risks, for
593 a new application to the corporation for coverage, if the risk
594 is offered coverage under a policy including wind coverage from
595 an authorized insurer at its approved rate, the risk is not
596 eligible for a policy issued by the corporation unless the
597 premium for coverage from the authorized insurer is more than 15
598 percent greater than the premium for comparable coverage from
599 the corporation. Whenever an offer of coverage for a commercial
600 lines residential risk is received for a policyholder of the

601 corporation at renewal from an authorized insurer, if the offer
602 is equal to or less than the corporation's renewal premium for
603 comparable coverage, the risk is not eligible for coverage with
604 the corporation. If the risk is not able to obtain any such
605 offer, the risk is eligible for a policy including wind coverage
606 issued by the corporation. However, a policyholder removed from
607 the corporation through an assumption agreement remains eligible
608 for coverage from the corporation until the end of the
609 assumption period.

610 (I) If the risk accepts an offer of coverage through the
611 market assistance plan or through a mechanism established by the
612 corporation other than a plan established by s. 627.3518, before
613 a policy is issued to the risk by the corporation or during the
614 first 30 days of coverage by the corporation, and the producing
615 agent who submitted the application to the plan or the
616 corporation is not currently appointed by the insurer, the
617 insurer shall:

618 (A) Pay to the producing agent of record of the policy,
619 for the first year, an amount that is the greater of the
620 insurer's usual and customary commission for the type of policy
621 written or a fee equal to the usual and customary commission of
622 the corporation; or

623 (B) Offer to allow the producing agent of record of the
624 policy to continue servicing the policy for at least 1 year and
625 offer to pay the agent the greater of the insurer's or the

626 corporation's usual and customary commission for the type of
 627 policy written.

628
 629 If the producing agent is unwilling or unable to accept
 630 appointment, the new insurer shall pay the agent in accordance
 631 with sub-sub-sub-subparagraph (A).

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

636 (A) Pay to the producing agent of record, for the first
 637 year, an amount that is the greater of the insurer's usual and
 638 customary commission for the type of policy written or a fee
 639 equal to the usual and customary commission of the corporation;
 640 or

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

645
 646 If the producing agent is unwilling or unable to accept
 647 appointment, the new insurer shall pay the agent in accordance
 648 with sub-sub-sub-subparagraph (A).

649 c. For purposes of determining comparable coverage under
 650 sub-subparagraphs a. and b., the comparison must be based on

651 those forms and coverages that are reasonably comparable. The
652 corporation may rely on a determination of comparable coverage
653 and premium made by the producing agent who submits the
654 application to the corporation, made in the agent's capacity as
655 the corporation's agent. A comparison may be made solely of the
656 premium with respect to the main building or structure only on
657 the following basis: the same coverage A or other building
658 limits; the same percentage hurricane deductible that applies on
659 an annual basis or that applies to each hurricane for commercial
660 residential property; the same percentage of ordinance and law
661 coverage, if the same limit is offered by both the corporation
662 and the authorized insurer; the same mitigation credits, to the
663 extent the same types of credits are offered both by the
664 corporation and the authorized insurer; the same method for loss
665 payment, such as replacement cost or actual cash value, if the
666 same method is offered both by the corporation and the
667 authorized insurer in accordance with underwriting rules; and
668 any other form or coverage that is reasonably comparable as
669 determined by the board. If an application is submitted to the
670 corporation for wind-only coverage in the coastal account, the
671 premium for the corporation's wind-only policy plus the premium
672 for the ex-wind policy that is offered by an authorized insurer
673 to the applicant must be compared to the premium for multiperil
674 coverage offered by an authorized insurer, subject to the
675 standards for comparison specified in this subparagraph. If the

676 corporation or the applicant requests from the authorized
677 insurer a breakdown of the premium of the offer by types of
678 coverage so that a comparison may be made by the corporation or
679 its agent and the authorized insurer refuses or is unable to
680 provide such information, the corporation may treat the offer as
681 not being an offer of coverage from an authorized insurer at the
682 insurer's approved rate.

683 6. Must include rules for classifications of risks and
684 rates.

685 7. Must provide that if premium and investment income for
686 an account attributable to a particular calendar year are in
687 excess of projected losses and expenses for the account
688 attributable to that year, such excess shall be held in surplus
689 in the account. Such surplus must be available to defray
690 deficits in that account as to future years and used for that
691 purpose before assessing assessable insurers and assessable
692 insureds as to any calendar year.

693 8. Must provide objective criteria and procedures to be
694 uniformly applied to all applicants in determining whether an
695 individual risk is so hazardous as to be uninsurable. In making
696 this determination and in establishing the criteria and
697 procedures, the following must be considered:

698 a. Whether the likelihood of a loss for the individual
699 risk is substantially higher than for other risks of the same
700 class; and

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

703
704 The acceptance or rejection of a risk by the corporation shall
705 be construed as the private placement of insurance, and the
706 provisions of chapter 120 do not apply.

707 9. Must provide that the corporation make its best efforts
708 to procure catastrophe reinsurance at reasonable rates, to cover
709 its projected 100-year probable maximum loss as determined by
710 the board of governors. If catastrophe reinsurance is not
711 available at reasonable rates, the corporation need not purchase
712 it, but the corporation shall include the costs of reinsurance
713 to cover its projected 100-year probable maximum loss in its
714 rate calculations even if it does not purchase catastrophe
715 reinsurance.

716 10. The policies issued by the corporation must provide
717 that if the corporation or the market assistance plan obtains an
718 offer from an authorized insurer to cover the risk at its
719 approved rates, the risk is no longer eligible for renewal
720 through the corporation, except as otherwise provided in this
721 subsection.

722 11. Corporation policies and applications must include a
723 notice that the corporation policy could, under this section, be
724 replaced with a policy issued by an authorized insurer which
725 does not provide coverage identical to the coverage provided by

726 the corporation. The notice must also specify that acceptance of
727 corporation coverage creates a conclusive presumption that the
728 applicant or policyholder is aware of this potential.

729 12. May establish, subject to approval by the office,
730 different eligibility requirements and operational procedures
731 for any line or type of coverage for any specified county or
732 area if the board determines that such changes are justified due
733 to the voluntary market being sufficiently stable and
734 competitive in such area or for such line or type of coverage
735 and that consumers who, in good faith, are unable to obtain
736 insurance through the voluntary market through ordinary methods
737 continue to have access to coverage from the corporation. If
738 coverage is sought in connection with a real property transfer,
739 the requirements and procedures may not provide an effective
740 date of coverage later than the date of the closing of the
741 transfer as established by the transferor, the transferee, and,
742 if applicable, the lender.

743 13. Must provide that, with respect to the coastal
744 account, any assessable insurer with a surplus as to
745 policyholders of \$25 million or less writing 25 percent or more
746 of its total countrywide property insurance premiums in this
747 state may petition the office, within the first 90 days of each
748 calendar year, to qualify as a limited apportionment company. A
749 regular assessment levied by the corporation on a limited
750 apportionment company for a deficit incurred by the corporation

751 for the coastal account may be paid to the corporation on a
752 monthly basis as the assessments are collected by the limited
753 apportionment company from its insureds, but a limited
754 apportionment company must begin collecting the regular
755 assessments not later than 90 days after the regular assessments
756 are levied by the corporation, and the regular assessments must
757 be paid in full within 15 months after being levied by the
758 corporation. A limited apportionment company shall collect from
759 its policyholders any emergency assessment imposed under sub-
760 subparagraph (b)3.d. The plan must provide that, if the office
761 determines that any regular assessment will result in an
762 impairment of the surplus of a limited apportionment company,
763 the office may direct that all or part of such assessment be
764 deferred as provided in subparagraph (q)4. However, an emergency
765 assessment to be collected from policyholders under sub-
766 subparagraph (b)3.d. may not be limited or deferred.

767 14. Must provide that the corporation appoint as its
768 licensed agents only those agents who throughout such
769 appointments also hold an appointment as defined in s. 626.015
770 by an insurer who is authorized to write and is actually writing
771 or renewing personal lines residential property coverage,
772 commercial residential property coverage, or commercial
773 nonresidential property coverage within the state.

774 15. Must provide a premium payment plan option to its
775 policyholders which, at a minimum, allows for quarterly and

776 semiannual payment of premiums. A monthly payment plan may, but
777 is not required to, be offered.

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

781 17. Must provide coverage for manufactured or mobile home
782 dwellings. Such coverage must also include the following
783 attached structures:

784 a. Screened enclosures that are aluminum framed or
785 screened enclosures that are not covered by the same or
786 substantially the same materials as those of the primary
787 dwelling;

788 b. Carports that are aluminum or carports that are not
789 covered by the same or substantially the same materials as those
790 of the primary dwelling; and

791 c. Patios that have a roof covering that is constructed of
792 materials that are not the same or substantially the same
793 materials as those of the primary dwelling.

794

795 The corporation shall make available a policy for mobile homes
796 or manufactured homes for a minimum insured value of at least
797 \$3,000.

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

800 19. May require commercial property to meet specified

801 hurricane mitigation construction features as a condition of
 802 eligibility for coverage.

803 20. Must provide that new or renewal policies issued by
 804 the corporation on or after January 1, 2012, which cover
 805 sinkhole loss do not include coverage for any loss to
 806 appurtenant structures, driveways, sidewalks, decks, or patios
 807 that are directly or indirectly caused by sinkhole activity. The
 808 corporation shall exclude such coverage using a notice of
 809 coverage change, which may be included with the policy renewal,
 810 and not by issuance of a notice of nonrenewal of the excluded
 811 coverage upon renewal of the current policy.

812 21. As of January 1, 2012, must require that the agent
 813 obtain from an applicant for coverage from the corporation an
 814 acknowledgment signed by the applicant, which includes, at a
 815 minimum, the following statement:

816
 817 ACKNOWLEDGMENT OF POTENTIAL SURCHARGE
 818 AND ASSESSMENT LIABILITY:
 819

820 1. AS A POLICYHOLDER OF CITIZENS PROPERTY INSURANCE
 821 CORPORATION, I UNDERSTAND THAT IF THE CORPORATION SUSTAINS A
 822 DEFICIT AS A RESULT OF HURRICANE LOSSES OR FOR ANY OTHER REASON,
 823 MY POLICY COULD BE SUBJECT TO SURCHARGES, WHICH WILL BE DUE AND
 824 PAYABLE UPON RENEWAL, CANCELLATION, OR TERMINATION OF THE
 825 POLICY, AND THAT THE SURCHARGES COULD BE AS HIGH AS 45 PERCENT

826 OF MY PREMIUM, OR A DIFFERENT AMOUNT AS IMPOSED BY THE FLORIDA
827 LEGISLATURE.

828 2. I UNDERSTAND THAT I CAN AVOID THE CITIZENS POLICYHOLDER
829 SURCHARGE, WHICH COULD BE AS HIGH AS 45 PERCENT OF MY PREMIUM,
830 BY OBTAINING COVERAGE FROM A PRIVATE MARKET INSURER AND THAT TO
831 BE ELIGIBLE FOR COVERAGE BY CITIZENS, I MUST FIRST TRY TO OBTAIN
832 PRIVATE MARKET COVERAGE BEFORE APPLYING FOR OR RENEWING COVERAGE
833 WITH CITIZENS. I UNDERSTAND THAT PRIVATE MARKET INSURANCE RATES
834 ARE REGULATED AND APPROVED BY THE STATE.

835 3. I UNDERSTAND THAT I MAY BE SUBJECT TO EMERGENCY
836 ASSESSMENTS TO THE SAME EXTENT AS POLICYHOLDERS OF OTHER
837 INSURANCE COMPANIES, OR A DIFFERENT AMOUNT AS IMPOSED BY THE
838 FLORIDA LEGISLATURE.

839 4. I ALSO UNDERSTAND THAT CITIZENS PROPERTY INSURANCE
840 CORPORATION IS NOT SUPPORTED BY THE FULL FAITH AND CREDIT OF THE
841 STATE OF FLORIDA.

842

843 a. The corporation shall maintain, in electronic format or
844 otherwise, a copy of the applicant's signed acknowledgment and
845 provide a copy of the statement to the policyholder as part of
846 the first renewal after the effective date of this subparagraph.

847 b. The signed acknowledgment form creates a conclusive
848 presumption that the policyholder understood and accepted his or
849 her potential surcharge and assessment liability as a
850 policyholder of the corporation.

851 (n)1. Rates for coverage provided by the corporation must
852 be actuarially sound and subject to s. 627.062, except as
853 otherwise provided in this paragraph. The corporation shall file
854 its recommended rates with the office at least annually. The
855 corporation shall provide any additional information regarding
856 the rates which the office requires. The office shall consider
857 the recommendations of the board and issue a final order
858 establishing the rates for the corporation within 45 days after
859 the recommended rates are filed. The corporation may not pursue
860 an administrative challenge or judicial review of the final
861 order of the office.

862 2. In addition to the rates otherwise determined pursuant
863 to this paragraph, the corporation shall impose and collect an
864 amount equal to the premium tax provided in s. 624.509 to
865 augment the financial resources of the corporation.

866 3. After the public hurricane loss-projection model under
867 s. 627.06281 has been found to be accurate and reliable by the
868 Florida Commission on Hurricane Loss Projection Methodology, the
869 model shall be considered when establishing the windstorm
870 portion of the corporation's rates. The corporation may use the
871 public model results in combination with the results of private
872 models to calculate rates for the windstorm portion of the
873 corporation's rates. This subparagraph does not require or allow
874 the corporation to adopt rates lower than the rates otherwise
875 required or allowed by this paragraph.

876 ~~4. The rate filings for the corporation which were~~
877 ~~approved by the office and took effect January 1, 2007, are~~
878 ~~rescinded, except for those rates that were lowered. As soon as~~
879 ~~possible, the corporation shall begin using the lower rates that~~
880 ~~were in effect on December 31, 2006, and provide refunds to~~
881 ~~policyholders who paid higher rates as a result of that rate~~
882 ~~filing. The rates in effect on December 31, 2006, remain in~~
883 ~~effect for the 2007 and 2008 calendar years except for any rate~~
884 ~~change that results in a lower rate. The next rate change that~~
885 ~~may increase rates shall take effect pursuant to a new rate~~
886 ~~filing recommended by the corporation and established by the~~
887 ~~office, subject to this paragraph.~~

888 ~~4.5. Beginning on July 15, 2009, and annually thereafter,~~
889 The corporation must make a recommended actuarially sound rate
890 filing for each personal and commercial line of business it
891 writes, ~~to be effective no earlier than January 1, 2010.~~

892 ~~5.6. Beginning on or after January 1, 2010, and~~
893 Notwithstanding the board's recommended rates and the office's
894 final order regarding the corporation's filed rates under
895 subparagraph 1., the corporation shall annually implement a rate
896 increase which, except for sinkhole coverage, does not exceed
897 the following 10 percent for any single policy issued by the
898 corporation, excluding coverage changes and surcharges:

- 899 a. Eleven percent for 2022.
900 b. Twelve percent for 2023.

901 c. Thirteen percent for 2024.
 902 d. Fourteen percent for 2025.
 903 e. Fifteen percent for 2026 and all subsequent years.
 904 6. At no time may the corporation file for approval by the
 905 office for a rate reduction.
 906 7. The corporation may also implement an increase to
 907 reflect the effect on the corporation of the cash buildup factor
 908 pursuant to s. 215.555(5)(b).
 909 8. The corporation's implementation of rates as prescribed
 910 in subparagraph 5. ~~6.~~ shall cease for any line of business
 911 written by the corporation upon the corporation's implementation
 912 of actuarially sound rates. Thereafter, the corporation shall
 913 annually make a recommended actuarially sound rate filing for
 914 each commercial and personal line of business the corporation
 915 writes.
 916 (jj) An employee of the corporation may not receive an
 917 annual salary, whether base pay or base pay combined with any
 918 bonus or incentive payments, in excess of 150 percent of the
 919 annual salary paid to the head of the office, subject to the
 920 following:
 921 1. Anyone employed by the corporation as of June 30, 2021,
 922 whose salary exceeds the salary limits in this paragraph may
 923 retain his or her current salary but may not receive a raise.
 924 2. Anyone employed by the corporation as of June 30, 2021,
 925 whose salary does not exceed the salary limits in this paragraph

926 | may receive a raise such that his or her salary does not exceed
 927 | the salary limits in this paragraph.

928 | 3. Anyone hired by the corporation on or after July 1,
 929 | 2021, is subject to the salary limits in this paragraph.

930 | Section 9. Subsection (5) of section 627.3518, Florida
 931 | Statutes, is amended to read:

932 | 627.3518 Citizens Property Insurance Corporation
 933 | policyholder eligibility clearinghouse program.—The purpose of
 934 | this section is to provide a framework for the corporation to
 935 | implement a clearinghouse program by January 1, 2014.

936 | (5) Notwithstanding s. 627.3517, any applicant for new
 937 | coverage from the corporation is not eligible for coverage from
 938 | the corporation if provided an offer of coverage from an
 939 | authorized insurer through the program at a premium that is at
 940 | or below the eligibility threshold established in s.

941 | 627.351(6)(c)5.a. Whenever an offer of coverage for a personal
 942 | lines risk is received for a policyholder of the corporation at
 943 | renewal from an authorized insurer through the program, if the
 944 | offer is equal to or less than the corporation's renewal premium
 945 | for comparable coverage, the risk is not eligible for coverage
 946 | with the corporation. In the event an offer of coverage for a
 947 | new applicant is received from an authorized insurer through the
 948 | program, and the premium offered exceeds the eligibility
 949 | threshold contained in s. 627.351(6)(c)5.a., the applicant or
 950 | insured may elect to accept such coverage, or may elect to

951 accept or continue coverage with the corporation. In the event
 952 an offer of coverage for a personal lines risk is received from
 953 an authorized insurer at renewal through the program, and the
 954 premium offered is more than the corporation's renewal premium
 955 for comparable coverage, the insured may elect to accept such
 956 coverage, or may elect to accept or continue coverage with the
 957 corporation. Section 627.351(6)(c)5.a.(I) does not apply to an
 958 offer of coverage from an authorized insurer obtained through
 959 the program. An applicant for coverage from the corporation who
 960 was declared ineligible for coverage at renewal by the
 961 corporation in the previous 36 months due to an offer of
 962 coverage pursuant to this subsection shall be considered a
 963 renewal under this section if the corporation determines that
 964 the authorized insurer making the offer of coverage pursuant to
 965 this subsection continues to insure the applicant and increased
 966 the rate on the policy in excess of the increase allowed for the
 967 corporation under s. 627.351(6)(n)5. ~~s. 627.351(6)(n)6.~~

968 Section 10. Section 627.70132, Florida Statutes, is
 969 amended to read:

970 627.70132 Notice of property insurance ~~windstorm or~~
 971 ~~hurricane~~ claim.—A claim, supplemental claim, or reopened claim
 972 under an insurance policy that provides property insurance, as
 973 defined in s. 624.604, including a property insurance policy
 974 issued by an eligible surplus lines insurer, for loss or damage
 975 caused by any ~~the~~ peril ~~of windstorm or hurricane~~ is barred

976 unless notice of the claim, supplemental claim, or reopened
 977 claim was given to the insurer in accordance with the terms of
 978 the policy within 2 ~~3~~ years after the date of loss ~~hurricane~~
 979 ~~first made landfall or the windstorm caused the covered damage.~~
 980 For claims resulting from hurricanes, tornadoes, windstorms,
 981 severe rain, or other weather-related events that are tracked by
 982 weather services and media, the date of loss is the date that
 983 the hurricane made landfall, or the tornado, windstorm, severe
 984 rain, or other weather-related event is verified by the National
 985 Oceanic and Atmospheric Administration or another disinterested
 986 verifiable third party to have occurred, in the location of the
 987 property that is the subject of the claim. For purposes of this
 988 section, the term "supplemental claim" or "reopened claim" means
 989 any additional claim for recovery from the insurer for losses
 990 from the same peril ~~hurricane or windstorm~~ which the insurer has
 991 previously adjusted pursuant to the initial claim. This section
 992 does not affect any applicable limitation on civil actions
 993 provided in s. 95.11 for claims, supplemental claims, or
 994 reopened claims timely filed under this section.

995 Section 11. Paragraph (e) of subsection (9) of section
 996 627.7015, Florida Statutes, is amended to read:

997 627.7015 Alternative procedure for resolution of disputed
 998 property insurance claims.—

999 (9) For purposes of this section, the term "claim" refers
 1000 to any dispute between an insurer and a policyholder relating to

1001 a material issue of fact other than a dispute:

1002 (e) With respect to a ~~windstorm or hurricane~~ loss that
 1003 does not comply with s. 627.70132.

1004 Section 12. Section 627.70152, Florida Statutes, is
 1005 created to read:

1006 627.70152 Suits arising under a property insurance
 1007 policy.—

1008 (1) APPLICATION.—This section applies to all residential
 1009 or commercial property suits not brought by an assignee.

1010 (2) DEFINITIONS.—As used in this section, the term:

1011 (a) "Claimant" means an insured who is filing suit under a
 1012 residential or commercial property insurance policy.

1013 (b) "Demand" means the specific amount alleged to be owed
 1014 by the insurer to the claimant under the residential or
 1015 commercial property insurance policy.

1016 (c) "Notice" means claimant presuit notice.

1017 (3) NOTICE.—

1018 (a) As a condition precedent to filing a suit under a
 1019 property insurance policy, a claimant or the claimant's attorney
 1020 must provide the insurer with a written notice of intent to
 1021 initiate litigation before filing suit under the policy. Such
 1022 notice must be served by certified mail, return receipt
 1023 requested, or electronic delivery at least 10 business days
 1024 before filing suit, but may not be served before the insurer has
 1025 made a determination of coverage under s. 627.70131. The notice

1026 must specify all of the following:

1027 1. That the notice is being provided pursuant to this
1028 section.

1029 2. The alleged acts or omissions of the insurer giving
1030 rise to the suit.

1031 3. The damages in dispute.

1032 4. The demand.

1033 5. The amount of reasonable and necessary attorney fees
1034 and costs incurred by the claimant, to be calculated by
1035 multiplying the number of hours actually worked on the claim as
1036 of the date of the notice by the claimant's attorney by a
1037 reasonable hourly rate.

1038 6. If provided by an attorney or other representative,
1039 that a copy of the notice was provided to the claimant.

1040
1041 Documentation to support the information provided in this
1042 paragraph may be provided along with the notice to the insurer.

1043 (b) A notice of intent to initiate litigation must be
1044 served within the time limits provided in s. 95.11. However, the
1045 notice is not required if the suit is a counterclaim. Service of
1046 a notice tolls the time limits provided in s. 95.11 for 10 days
1047 if such time limits will expire before the end of the 10-day
1048 notice period.

1049 (c) An insurer must respond in writing to the notice
1050 within 10 business days after receiving the notice specified in

1051 paragraph (a) by making a settlement offer or requiring the
1052 claimant to participate in appraisal or another method of
1053 alternative dispute resolution under the policy. The time limits
1054 provided in s. 95.11 are tolled as long as appraisal or other
1055 alternative dispute resolution is ongoing. An insurer must have
1056 a procedure for the prompt investigation, review, and evaluation
1057 of the dispute stated in the notice and must investigate each
1058 claim contained in the notice in accordance with the Florida
1059 Insurance Code.

1060 (d) A court must dismiss without prejudice any claimant's
1061 suit relating to a claim for which a notice of intent to
1062 initiate litigation is given as required by this subsection if
1063 such suit is commenced before the expiration of the 10-day
1064 notice period.

1065 (4) ADMISSIBILITY OF NOTICE AND RESPONSE.—The notice
1066 provided pursuant to subsection (3) and, if applicable, the
1067 documentation to support the information provided pursuant to
1068 paragraph (3) (a):

1069 (a) Are admissible as evidence in a civil suit or an
1070 alternative dispute resolution proceeding relating to the claim
1071 for which the notice is given.

1072 (b) Do not limit the evidence of attorney fees or costs,
1073 damages, or loss which may be offered at trial.

1074 (c) Do not relieve any obligation that an insured or
1075 assignee has to give notice under any other provision of law.

1076 | (5) ATTORNEY FEES.—If a court dismisses a claimant's suit
1077 | pursuant to paragraph (3)(d), the court may not award to the
1078 | claimant any incurred attorney fees for services rendered before
1079 | the dismissal of the suit.

1080 | Section 13. This act shall take effect July 1, 2021.