

Amendment No.

CHAMBER ACTION

Senate

House

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Representative Rommel offered the following:

**Amendment (with title amendment)**

Remove everything after the enacting clause and insert:

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

489.147 Prohibited property insurance practices.-

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

(a) "Prohibited advertisement" means any written or electronic communication by a contractor that encourages, instructs, or induces a consumer to contact a contractor or public adjuster for the purpose of making an insurance claim for roof damage. The term includes, but is not limited to, door

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14 hangers, business cards, magnets, flyers, pamphlets, and e-  
15 mails.

16 (b) "Soliciting" means contacting:

17 1. In person;

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

21 3. By delivery to a specific person.

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

24 (a) Soliciting a residential property owner by means of a  
25 prohibited advertisement.

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

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

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

33 (c) Offering, delivering, receiving, or accepting any  
34 compensation, inducement, or reward, for the referral of any  
35 services for which property insurance proceeds are payable.  
36 Payment by the residential property owner or insurance company  
37 to a contractor for roofing services rendered does not  
38 constitute compensation for a referral.

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

44 (e) Providing an insured with an agreement authorizing  
45 repairs without providing a good faith estimate of the itemized  
46 and detailed cost of services and materials for repairs  
47 undertaken pursuant to a property insurance claim. A contractor  
48 does not violate this paragraph if, as a result of the process  
49 of the insurer adjusting a claim, the actual cost of repairs  
50 differs from the initial estimate.

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

55 (4) For the purposes of this section:

56 (a) The acts of any person on behalf of a contractor,  
57 including, but not limited to, the acts of a compensated  
58 employee or a nonemployee who is compensated for soliciting,  
59 shall be considered the actions of the contractor.

60 (b) An unlicensed person who engages in an act prohibited  
61 by this section is guilty of unlicensed contracting and is  
62 subject to the penalties set forth in s. 489.13. Notwithstanding

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63 s. 489.13(3), an unlicensed person who violates this section may  
64 be fined up to \$10,000 for each violation.

65 (5) A contractor may not execute a contract with a  
66 residential property owner to repair or replace a roof without  
67 including a notice that the contractor may not engage in the  
68 practices set forth in paragraph (2)(b). If the contractor fails  
69 to include such notice, the residential property owner may void  
70 the contract within 10 days after executing it.

71 Section 2. Paragraph (a) of subsection (2) of section  
72 624.316, Florida Statutes, is amended to read:

73 624.316 Examination of insurers.—

74 (2)(a) Except as provided in paragraph (f), the office may  
75 examine each insurer, including affiliates, as often as may be  
76 warranted for the protection of the policyholders and in the  
77 public interest, and shall examine each domestic insurer not  
78 less frequently than once every 5 years. The examination shall  
79 cover the preceding 5 fiscal years of the insurer and shall be  
80 commenced within 12 months after the end of the most recent  
81 fiscal year being covered by the examination. The examination  
82 may cover any period of the insurer's operations since the last  
83 previous examination. The examination may include examination of  
84 events subsequent to the end of the most recent fiscal year and  
85 the events of any prior period that affect the present financial  
86 condition of the insurer.

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

89 624.318 Conduct of examination or investigation; access to  
90 records; correction of accounts; appraisals.—

91 (2) Every person, including an affiliate, being examined  
92 or investigated, and its officers, attorneys, employees, agents,  
93 and representatives, shall make freely available to the  
94 department or office or its examiners or investigators the  
95 accounts, records, documents, files, information, assets, and  
96 matters in their possession or control relating to the subject  
97 of the examination or investigation. An agent who provides other  
98 products or services or maintains customer information not  
99 related to insurance must maintain records relating to insurance  
100 products and transactions separately if necessary to give the  
101 department or office access to such records. If records relating  
102 to the insurance transactions are maintained by an agent on  
103 premises owned or operated by a third party, the agent and the  
104 third party must provide access to the records by the department  
105 or office.

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

109 624.424 Annual statement and other information.—

110 (11) Beginning January 1, 2022, each authorized insurer or  
111 insurer group issuing personal lines or commercial lines

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112 residential property insurance policies in this state shall file  
113 with the office on an annual basis in conjunction with the  
114 statements required by paragraph (1)(a) a supplemental report on  
115 an individual and group basis for closed claims. The report must  
116 be on a form prescribed by the commission and must include the  
117 following information for each claim closed, excluding liability  
118 only claims, within the reporting period in this state:

119 (a) The unique claim identification number.  
120 (b) The type of policy.  
121 (c) The zip code of the property where the claim occurred.  
122 (d) The county where the claim occurred.  
123 (e) The date of loss.  
124 (f) The peril or type of loss, including information  
125 about:

126 1. The types of vendors used for mitigation, repair, or  
127 replacement; and

128 2. The names of vendors used, if known.

129 (g) The date the claim was reported to insurer.

130 (h) The initial date the claim was closed, including  
131 information about whether the claim was closed with or without  
132 payment.

133 (i) The date the claim was most recently reopened, if  
134 applicable.

135 (j) The date a supplemental claim was filed, if  
136 applicable.

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137 (k) The date the claim was most recently closed, if  
138 different from the initial date the claim was closed.

139 (l) The name of the public adjuster on the claim, if any.

140 (m) The Florida Bar number and name of the attorney for  
141 the claimant, if any.

142 (n) The total indemnity paid by the insurer.

143 (o) The total loss adjustment expenses paid by the  
144 insurer.

145 (p) The amount paid for claimant's attorney fees, if any.

146 (q) The amount paid in costs for claimant's attorney's  
147 expenses, including, but not limited to, expert witness fees.

148 (r) The contingency risk multiplier, if any, that the  
149 claimant's attorney requested to be applied in calculating the  
150 attorney fees awarded to the claimant's attorney.

151 (s) The contingency risk multiplier, if any, that a court  
152 applied in calculating the attorney fees awarded to the  
153 claimant's attorney.

154 (t) Any other information deemed necessary by the  
155 commission to provide the office with the ability to track  
156 litigation and claims trends occurring in the property market.

157 (13) Each insurer doing business in this state which pays  
158 a fee, commission, or other financial consideration or payment  
159 to any affiliate directly or indirectly is required upon request  
160 to provide to the office any information the office deems  
161 necessary. The fee, commission, or other financial consideration

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162 or payment to any affiliate must be fair and reasonable. In  
163 determining whether the fee, commission, or other financial  
164 consideration or payment is fair and reasonable, the office  
165 shall consider, among other things, the actual cost of the  
166 service being provided.

167 Section 5. Subsection (6) of section 626.7451, Florida  
168 Statutes, is amended to read:

169 626.7451 Managing general agents; required contract  
170 provisions.—No person acting in the capacity of a managing  
171 general agent shall place business with an insurer unless there  
172 is in force a written contract between the parties which sets  
173 forth the responsibility for a particular function, specifies  
174 the division of responsibilities, and contains the following  
175 minimum provisions:

176 (6) The contract shall specify appropriate underwriting  
177 guidelines, including:

- 178 (a) The maximum annual premium volume.  
179 (b) The basis of the rates to be charged.  
180 (c) The types of risks which may be written.  
181 (d) Maximum limits of liability.  
182 (e) Applicable exclusions.  
183 (f) Territorial limitations.  
184 (g) Policy cancellation provisions.  
185 (h) The maximum policy period.  
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187 ~~This subsection shall not apply when the managing general agent~~  
188 ~~is a controlled or controlling person.~~

189  
190 For the purposes of this section and ss. 626.7453 and 626.7454,  
191 the term "controlling person" or "controlling" has the meaning  
192 set forth in s. 625.012(5)(b)1., and the term "controlled  
193 person" or "controlled" has the meaning set forth in s.  
194 625.012(5)(b)2.

195 Section 6. Section 626.7452, Florida Statutes, is amended  
196 to read:

197 626.7452 Managing general agents; examination authority.—  
198 The acts of the managing general agent are considered to be the  
199 acts of the insurer on whose behalf it is acting. A managing  
200 general agent may be examined as if it were the insurer ~~except~~  
201 ~~in the case where the managing general agent solely represents a~~  
202 ~~single domestic insurer.~~

203 Section 7. Subsection (15) of section 626.854, Florida  
204 Statutes, is amended, and subsection (20) is added to that  
205 section, to read:

206 626.854 "Public adjuster" defined; prohibitions.—The  
207 legislature finds that it is necessary for the protection of the  
208 public to regulate public insurance adjusters and to prevent the  
209 unauthorized practice of law.

210 (15) A licensed contractor under part I of chapter 489, or  
211 a subcontractor of such licensee, may not advertise, solicit,

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212 offer to handle, handle, or perform public adjuster services as  
213 provided in subsection (1) adjust a claim on behalf of an  
214 ~~insured~~ unless licensed and compliant as a public adjuster under  
215 this chapter. The prohibition against solicitation does not  
216 preclude a contractor from suggesting or otherwise recommending  
217 to a consumer that the consumer consider contacting his or her  
218 insurer to determine if the proposed repair is covered under the  
219 consumer's insurance policy, except as it relates to  
220 solicitation prohibited in s. 489.147. In addition However, the  
221 contractor may discuss or explain a bid for construction or  
222 repair of covered property with the residential property owner  
223 who has suffered loss or damage covered by a property insurance  
224 policy, or the insurer of such property, if the contractor is  
225 doing so for the usual and customary fees applicable to the work  
226 to be performed as stated in the contract between the contractor  
227 and the insured.

228 (20) (a) Any following act by a public adjuster, a public  
229 adjuster apprentice, or a person acting on behalf of a public  
230 adjuster or public adjuster apprentice is prohibited and shall  
231 result in discipline as applicable under part VI of this  
232 chapter:

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

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236 a. Allowing a contractor, a public adjuster, a public  
237 adjuster apprentice, or a person acting on behalf of a public  
238 adjuster or public adjuster apprentice to conduct an inspection  
239 of the residential property owner's roof; or

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

242 2. Offering, delivering, receiving, or accepting any  
243 compensation, inducement, or reward for the referral of any  
244 services for which property insurance proceeds would be used for  
245 roofing repairs or replacement.

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

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

254 1. Subject to all applicable penalties set forth in part  
255 VI of this chapter.

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

258 Section 8. Paragraphs (c) and (n) of subsection (6) of  
259 section 627.351, Florida Statutes, are amended, and paragraph  
260 (jj) is added to subsection (6) of that section, to read:

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261 627.351 Insurance risk apportionment plans.—

262 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

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

264 1. Must provide for adoption of residential property and  
265 casualty insurance policy forms and commercial residential and  
266 nonresidential property insurance forms, which must be approved  
267 by the office before use. The corporation shall adopt the  
268 following policy forms:

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

273 b. Basic personal lines policy forms that are policies  
274 similar to an HO-8 policy or a dwelling fire policy that provide  
275 coverage meeting the requirements of the secondary mortgage  
276 market, but which is more limited than the coverage under a  
277 standard policy.

278 c. Commercial lines residential and nonresidential policy  
279 forms that are generally similar to the basic perils of full  
280 coverage obtainable for commercial residential structures and  
281 commercial nonresidential structures in the admitted voluntary  
282 market.

283 d. Personal lines and commercial lines residential  
284 property insurance forms that cover the peril of wind only. The  
285 forms are applicable only to residential properties located in

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286 areas eligible for coverage under the coastal account referred  
287 to in sub-subparagraph (b)2.a.

288 e. Commercial lines nonresidential property insurance  
289 forms that cover the peril of wind only. The forms are  
290 applicable only to nonresidential properties located in areas  
291 eligible for coverage under the coastal account referred to in  
292 sub-subparagraph (b)2.a.

293 f. The corporation may adopt variations of the policy  
294 forms listed in sub-subparagraphs a.-e. which contain more  
295 restrictive coverage.

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

300 2. Must provide that the corporation adopt a program in  
301 which the corporation and authorized insurers enter into quota  
302 share primary insurance agreements for hurricane coverage, as  
303 defined in s. 627.4025(2)(a), for eligible risks, and adopt  
304 property insurance forms for eligible risks which cover the  
305 peril of wind only.

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

307 (I) "Quota share primary insurance" means an arrangement  
308 in which the primary hurricane coverage of an eligible risk is  
309 provided in specified percentages by the corporation and an  
310 authorized insurer. The corporation and authorized insurer are

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311 each solely responsible for a specified percentage of hurricane  
312 coverage of an eligible risk as set forth in a quota share  
313 primary insurance agreement between the corporation and an  
314 authorized insurer and the insurance contract. The  
315 responsibility of the corporation or authorized insurer to pay  
316 its specified percentage of hurricane losses of an eligible  
317 risk, as set forth in the agreement, may not be altered by the  
318 inability of the other party to pay its specified percentage of  
319 losses. Eligible risks that are provided hurricane coverage  
320 through a quota share primary insurance arrangement must be  
321 provided policy forms that set forth the obligations of the  
322 corporation and authorized insurer under the arrangement,  
323 clearly specify the percentages of quota share primary insurance  
324 provided by the corporation and authorized insurer, and  
325 conspicuously and clearly state that the authorized insurer and  
326 the corporation may not be held responsible beyond their  
327 specified percentage of coverage of hurricane losses.

328 (II) "Eligible risks" means personal lines residential and  
329 commercial lines residential risks that meet the underwriting  
330 criteria of the corporation and are located in areas that were  
331 eligible for coverage by the Florida Windstorm Underwriting  
332 Association on January 1, 2002.

333 b. The corporation may enter into quota share primary  
334 insurance agreements with authorized insurers at corporation  
335 coverage levels of 90 percent and 50 percent.

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336 c. If the corporation determines that additional coverage  
337 levels are necessary to maximize participation in quota share  
338 primary insurance agreements by authorized insurers, the  
339 corporation may establish additional coverage levels. However,  
340 the corporation's quota share primary insurance coverage level  
341 may not exceed 90 percent.

342 d. Any quota share primary insurance agreement entered  
343 into between an authorized insurer and the corporation must  
344 provide for a uniform specified percentage of coverage of  
345 hurricane losses, by county or territory as set forth by the  
346 corporation board, for all eligible risks of the authorized  
347 insurer covered under the agreement.

348 e. Any quota share primary insurance agreement entered  
349 into between an authorized insurer and the corporation is  
350 subject to review and approval by the office. However, such  
351 agreement shall be authorized only as to insurance contracts  
352 entered into between an authorized insurer and an insured who is  
353 already insured by the corporation for wind coverage.

354 f. For all eligible risks covered under quota share  
355 primary insurance agreements, the exposure and coverage levels  
356 for both the corporation and authorized insurers shall be  
357 reported by the corporation to the Florida Hurricane Catastrophe  
358 Fund. For all policies of eligible risks covered under such  
359 agreements, the corporation and the authorized insurer must  
360 maintain complete and accurate records for the purpose of

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361 exposure and loss reimbursement audits as required by fund  
362 rules. The corporation and the authorized insurer shall each  
363 maintain duplicate copies of policy declaration pages and  
364 supporting claims documents.

365 g. The corporation board shall establish in its plan of  
366 operation standards for quota share agreements which ensure that  
367 there is no discriminatory application among insurers as to the  
368 terms of the agreements, pricing of the agreements, incentive  
369 provisions if any, and consideration paid for servicing policies  
370 or adjusting claims.

371 h. The quota share primary insurance agreement between the  
372 corporation and an authorized insurer must set forth the  
373 specific terms under which coverage is provided, including, but  
374 not limited to, the sale and servicing of policies issued under  
375 the agreement by the insurance agent of the authorized insurer  
376 producing the business, the reporting of information concerning  
377 eligible risks, the payment of premium to the corporation, and  
378 arrangements for the adjustment and payment of hurricane claims  
379 incurred on eligible risks by the claims adjuster and personnel  
380 of the authorized insurer. Entering into a quota sharing  
381 insurance agreement between the corporation and an authorized  
382 insurer is voluntary and at the discretion of the authorized  
383 insurer.

384 3. May provide that the corporation may employ or  
385 otherwise contract with individuals or other entities to provide

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386 administrative or professional services that may be appropriate  
387 to effectuate the plan. The corporation may borrow funds by  
388 issuing bonds or by incurring other indebtedness, and shall have  
389 other powers reasonably necessary to effectuate the requirements  
390 of this subsection, including, without limitation, the power to  
391 issue bonds and incur other indebtedness in order to refinance  
392 outstanding bonds or other indebtedness. The corporation may  
393 seek judicial validation of its bonds or other indebtedness  
394 under chapter 75. The corporation may issue bonds or incur other  
395 indebtedness, or have bonds issued on its behalf by a unit of  
396 local government pursuant to subparagraph (q)2. in the absence  
397 of a hurricane or other weather-related event, upon a  
398 determination by the corporation, subject to approval by the  
399 office, that such action would enable it to efficiently meet the  
400 financial obligations of the corporation and that such  
401 financings are reasonably necessary to effectuate the  
402 requirements of this subsection. The corporation may take all  
403 actions needed to facilitate tax-free status for such bonds or  
404 indebtedness, including formation of trusts or other affiliated  
405 entities. The corporation may pledge assessments, projected  
406 recoveries from the Florida Hurricane Catastrophe Fund, other  
407 reinsurance recoverables, policyholder surcharges and other  
408 surcharges, and other funds available to the corporation as  
409 security for bonds or other indebtedness. In recognition of s.  
410 10, Art. I of the State Constitution, prohibiting the impairment

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

415 4. Must require that the corporation operate subject to  
416 the supervision and approval of a board of governors consisting  
417 of nine individuals who are residents of this state and who are  
418 from different geographical areas of the state, one of whom is  
419 appointed by the Governor and serves solely to advocate on  
420 behalf of the consumer. The appointment of a consumer  
421 representative by the Governor is deemed to be within the scope  
422 of the exemption provided in s. 112.313(7) (b) and is in addition  
423 to the appointments authorized under sub-subparagraph a.

424 a. The Governor, the Chief Financial Officer, the  
425 President of the Senate, and the Speaker of the House of  
426 Representatives shall each appoint two members of the board. At  
427 least one of the two members appointed by each appointing  
428 officer must have demonstrated expertise in insurance and be  
429 deemed to be within the scope of the exemption provided in s.  
430 112.313(7) (b). The Chief Financial Officer shall designate one  
431 of the appointees as chair. All board members serve at the  
432 pleasure of the appointing officer. All members of the board are  
433 subject to removal at will by the officers who appointed them.  
434 All board members, including the chair, must be appointed to  
435 serve for 3-year terms beginning annually on a date designated

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436 by the plan. However, for the first term beginning on or after  
437 July 1, 2009, each appointing officer shall appoint one member  
438 of the board for a 2-year term and one member for a 3-year term.  
439 A board vacancy shall be filled for the unexpired term by the  
440 appointing officer. The Chief Financial Officer shall appoint a  
441 technical advisory group to provide information and advice to  
442 the board in connection with the board's duties under this  
443 subsection. The executive director and senior managers of the  
444 corporation shall be engaged by the board and serve at the  
445 pleasure of the board. Any executive director appointed on or  
446 after July 1, 2006, is subject to confirmation by the Senate.  
447 The executive director is responsible for employing other staff  
448 as the corporation may require, subject to review and  
449 concurrence by the board.

450 b. The board shall create a Market Accountability Advisory  
451 Committee to assist the corporation in developing awareness of  
452 its rates and its customer and agent service levels in  
453 relationship to the voluntary market insurers writing similar  
454 coverage.

455 (I) The members of the advisory committee consist of the  
456 following 11 persons, one of whom must be elected chair by the  
457 members of the committee: four representatives, one appointed by  
458 the Florida Association of Insurance Agents, one by the Florida  
459 Association of Insurance and Financial Advisors, one by the  
460 Professional Insurance Agents of Florida, and one by the Latin

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461 American Association of Insurance Agencies; three  
462 representatives appointed by the insurers with the three highest  
463 voluntary market share of residential property insurance  
464 business in the state; one representative from the Office of  
465 Insurance Regulation; one consumer appointed by the board who is  
466 insured by the corporation at the time of appointment to the  
467 committee; one representative appointed by the Florida  
468 Association of Realtors; and one representative appointed by the  
469 Florida Bankers Association. All members shall be appointed to  
470 3-year terms and may serve for consecutive terms.

471 (II) The committee shall report to the corporation at each  
472 board meeting on insurance market issues which may include rates  
473 and rate competition with the voluntary market; service,  
474 including policy issuance, claims processing, and general  
475 responsiveness to policyholders, applicants, and agents; and  
476 matters relating to depopulation.

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

479 a. Subject to s. 627.3517, with respect to personal lines  
480 residential risks, if the risk is offered coverage from an  
481 authorized insurer at the insurer's approved rate under a  
482 standard policy including wind coverage or, if consistent with  
483 the insurer's underwriting rules as filed with the office, a  
484 basic policy including wind coverage, for a new application to  
485 the corporation for coverage, the risk is not eligible for any

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486 policy issued by the corporation unless the premium for coverage  
487 from the authorized insurer is more than 20 ~~15~~ percent greater  
488 than the premium for comparable coverage from the corporation.  
489 Whenever an offer of coverage for a personal lines residential  
490 risk is received for a policyholder of the corporation at  
491 renewal from an authorized insurer, if the offer is equal to or  
492 less than the corporation's renewal premium for comparable  
493 coverage, the risk is not eligible for coverage with the  
494 corporation. If the risk is not able to obtain such offer, the  
495 risk is eligible for a standard policy including wind coverage  
496 or a basic policy including wind coverage issued by the  
497 corporation; however, if the risk could not be insured under a  
498 standard policy including wind coverage regardless of market  
499 conditions, the risk is eligible for a basic policy including  
500 wind coverage unless rejected under subparagraph 8. However, a  
501 policyholder removed from the corporation through an assumption  
502 agreement remains eligible for coverage from the corporation  
503 until the end of the assumption period. The corporation shall  
504 determine the type of policy to be provided on the basis of  
505 objective standards specified in the underwriting manual and  
506 based on generally accepted underwriting practices.

507 (I) If the risk accepts an offer of coverage through the  
508 market assistance plan or through a mechanism established by the  
509 corporation other than a plan established by s. 627.3518, before  
510 a policy is issued to the risk by the corporation or during the

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511 first 30 days of coverage by the corporation, and the producing  
512 agent who submitted the application to the plan or to the  
513 corporation is not currently appointed by the insurer, the  
514 insurer shall:

515 (A) Pay to the producing agent of record of the policy for  
516 the first year, an amount that is the greater of the insurer's  
517 usual and customary commission for the type of policy written or  
518 a fee equal to the usual and customary commission of the  
519 corporation; or

520 (B) Offer to allow the producing agent of record of the  
521 policy to continue servicing the policy for at least 1 year and  
522 offer to pay the agent the greater of the insurer's or the  
523 corporation's usual and customary commission for the type of  
524 policy written.

525

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

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

533 (A) Pay to the producing agent of record, for the first  
534 year, an amount that is the greater of the insurer's usual and  
535 customary commission for the type of policy written or a fee

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536 equal to the usual and customary commission of the corporation;  
537 or

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

542

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

546 b. With respect to commercial lines residential risks, for  
547 a new application to the corporation for coverage, if the risk  
548 is offered coverage under a policy including wind coverage from  
549 an authorized insurer at its approved rate, the risk is not  
550 eligible for a policy issued by the corporation unless the  
551 premium for coverage from the authorized insurer is more than 15  
552 percent greater than the premium for comparable coverage from  
553 the corporation. Whenever an offer of coverage for a commercial  
554 lines residential risk is received for a policyholder of the  
555 corporation at renewal from an authorized insurer, if the offer  
556 is equal to or less than the corporation's renewal premium for  
557 comparable coverage, the risk is not eligible for coverage with  
558 the corporation. If the risk is not able to obtain any such  
559 offer, the risk is eligible for a policy including wind coverage  
560 issued by the corporation. However, a policyholder removed from

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561 the corporation through an assumption agreement remains eligible  
562 for coverage from the corporation until the end of the  
563 assumption period.

564 (I) If the risk accepts an offer of coverage through the  
565 market assistance plan or through a mechanism established by the  
566 corporation other than a plan established by s. 627.3518, before  
567 a policy is issued to the risk by the corporation or during the  
568 first 30 days of coverage by the corporation, and the producing  
569 agent who submitted the application to the plan or the  
570 corporation is not currently appointed by the insurer, the  
571 insurer shall:

572 (A) Pay to the producing agent of record of the policy,  
573 for the first year, an amount that is the greater of the  
574 insurer's usual and customary commission for the type of policy  
575 written or a fee equal to the usual and customary commission of  
576 the corporation; or

577 (B) Offer to allow the producing agent of record of the  
578 policy to continue servicing the policy for at least 1 year and  
579 offer to pay the agent the greater of the insurer's or the  
580 corporation's usual and customary commission for the type of  
581 policy written.

582

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

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

590 (A) Pay to the producing agent of record, for the first  
591 year, an amount that is the greater of the insurer's usual and  
592 customary commission for the type of policy written or a fee  
593 equal to the usual and customary commission of the corporation;  
594 or

595 (B) Offer to allow the producing agent of record to  
596 continue servicing the policy for at least 1 year and offer to  
597 pay the agent the greater of the insurer's or the corporation's  
598 usual and customary commission for the type of policy written.  
599

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

603 c. For purposes of determining comparable coverage under  
604 sub-subparagraphs a. and b., the comparison must be based on  
605 those forms and coverages that are reasonably comparable. The  
606 corporation may rely on a determination of comparable coverage  
607 and premium made by the producing agent who submits the  
608 application to the corporation, made in the agent's capacity as  
609 the corporation's agent. A comparison may be made solely of the  
610 premium with respect to the main building or structure only on

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611 the following basis: the same coverage A or other building  
612 limits; the same percentage hurricane deductible that applies on  
613 an annual basis or that applies to each hurricane for commercial  
614 residential property; the same percentage of ordinance and law  
615 coverage, if the same limit is offered by both the corporation  
616 and the authorized insurer; the same mitigation credits, to the  
617 extent the same types of credits are offered both by the  
618 corporation and the authorized insurer; the same method for loss  
619 payment, such as replacement cost or actual cash value, if the  
620 same method is offered both by the corporation and the  
621 authorized insurer in accordance with underwriting rules; and  
622 any other form or coverage that is reasonably comparable as  
623 determined by the board. If an application is submitted to the  
624 corporation for wind-only coverage in the coastal account, the  
625 premium for the corporation's wind-only policy plus the premium  
626 for the ex-wind policy that is offered by an authorized insurer  
627 to the applicant must be compared to the premium for multiperil  
628 coverage offered by an authorized insurer, subject to the  
629 standards for comparison specified in this subparagraph. If the  
630 corporation or the applicant requests from the authorized  
631 insurer a breakdown of the premium of the offer by types of  
632 coverage so that a comparison may be made by the corporation or  
633 its agent and the authorized insurer refuses or is unable to  
634 provide such information, the corporation may treat the offer as

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635 not being an offer of coverage from an authorized insurer at the  
636 insurer's approved rate.

637 6. Must include rules for classifications of risks and  
638 rates.

639 7. Must provide that if premium and investment income for  
640 an account attributable to a particular calendar year are in  
641 excess of projected losses and expenses for the account  
642 attributable to that year, such excess shall be held in surplus  
643 in the account. Such surplus must be available to defray  
644 deficits in that account as to future years and used for that  
645 purpose before assessing assessable insurers and assessable  
646 insureds as to any calendar year.

647 8. Must provide objective criteria and procedures to be  
648 uniformly applied to all applicants in determining whether an  
649 individual risk is so hazardous as to be uninsurable. In making  
650 this determination and in establishing the criteria and  
651 procedures, the following must be considered:

652 a. Whether the likelihood of a loss for the individual  
653 risk is substantially higher than for other risks of the same  
654 class; and

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

657

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658 The acceptance or rejection of a risk by the corporation shall  
659 be construed as the private placement of insurance, and the  
660 provisions of chapter 120 do not apply.

661 9. Must provide that the corporation make its best efforts  
662 to procure catastrophe reinsurance at reasonable rates, to cover  
663 its projected 100-year probable maximum loss as determined by  
664 the board of governors. If catastrophe reinsurance is not  
665 available at reasonable rates, the corporation need not purchase  
666 it, but the corporation shall include the costs of reinsurance  
667 to cover its projected 100-year probable maximum loss in its  
668 rate calculations even if it does not purchase catastrophe  
669 reinsurance.

670 10. The policies issued by the corporation must provide  
671 that if the corporation or the market assistance plan obtains an  
672 offer from an authorized insurer to cover the risk at its  
673 approved rates, the risk is no longer eligible for renewal  
674 through the corporation, except as otherwise provided in this  
675 subsection.

676 11. Corporation policies and applications must include a  
677 notice that the corporation policy could, under this section, be  
678 replaced with a policy issued by an authorized insurer which  
679 does not provide coverage identical to the coverage provided by  
680 the corporation. The notice must also specify that acceptance of  
681 corporation coverage creates a conclusive presumption that the  
682 applicant or policyholder is aware of this potential.

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683           12. May establish, subject to approval by the office,  
684 different eligibility requirements and operational procedures  
685 for any line or type of coverage for any specified county or  
686 area if the board determines that such changes are justified due  
687 to the voluntary market being sufficiently stable and  
688 competitive in such area or for such line or type of coverage  
689 and that consumers who, in good faith, are unable to obtain  
690 insurance through the voluntary market through ordinary methods  
691 continue to have access to coverage from the corporation. If  
692 coverage is sought in connection with a real property transfer,  
693 the requirements and procedures may not provide an effective  
694 date of coverage later than the date of the closing of the  
695 transfer as established by the transferor, the transferee, and,  
696 if applicable, the lender.

697           13. Must provide that, with respect to the coastal  
698 account, any assessable insurer with a surplus as to  
699 policyholders of \$25 million or less writing 25 percent or more  
700 of its total countrywide property insurance premiums in this  
701 state may petition the office, within the first 90 days of each  
702 calendar year, to qualify as a limited apportionment company. A  
703 regular assessment levied by the corporation on a limited  
704 apportionment company for a deficit incurred by the corporation  
705 for the coastal account may be paid to the corporation on a  
706 monthly basis as the assessments are collected by the limited  
707 apportionment company from its insureds, but a limited

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708 apportionment company must begin collecting the regular  
709 assessments not later than 90 days after the regular assessments  
710 are levied by the corporation, and the regular assessments must  
711 be paid in full within 15 months after being levied by the  
712 corporation. A limited apportionment company shall collect from  
713 its policyholders any emergency assessment imposed under sub-  
714 subparagraph (b)3.d. The plan must provide that, if the office  
715 determines that any regular assessment will result in an  
716 impairment of the surplus of a limited apportionment company,  
717 the office may direct that all or part of such assessment be  
718 deferred as provided in subparagraph (q)4. However, an emergency  
719 assessment to be collected from policyholders under sub-  
720 subparagraph (b)3.d. may not be limited or deferred.

721 14. Must provide that the corporation appoint as its  
722 licensed agents only those agents who throughout such  
723 appointments also hold an appointment as defined in s. 626.015  
724 by an insurer who is authorized to write and is actually writing  
725 or renewing personal lines residential property coverage,  
726 commercial residential property coverage, or commercial  
727 nonresidential property coverage within the state.

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

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

735           17. Must provide coverage for manufactured or mobile home  
736 dwellings. Such coverage must also include the following  
737 attached structures:

738           a. Screened enclosures that are aluminum framed or  
739 screened enclosures that are not covered by the same or  
740 substantially the same materials as those of the primary  
741 dwelling;

742           b. Carports that are aluminum or carports that are not  
743 covered by the same or substantially the same materials as those  
744 of the primary dwelling; and

745           c. Patios that have a roof covering that is constructed of  
746 materials that are not the same or substantially the same  
747 materials as those of the primary dwelling.

748

749 The corporation shall make available a policy for mobile homes  
750 or manufactured homes for a minimum insured value of at least  
751 \$3,000.

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

754           19. May require commercial property to meet specified  
755 hurricane mitigation construction features as a condition of  
756 eligibility for coverage.

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757           20. Must provide that new or renewal policies issued by  
758 the corporation on or after January 1, 2012, which cover  
759 sinkhole loss do not include coverage for any loss to  
760 appurtenant structures, driveways, sidewalks, decks, or patios  
761 that are directly or indirectly caused by sinkhole activity. The  
762 corporation shall exclude such coverage using a notice of  
763 coverage change, which may be included with the policy renewal,  
764 and not by issuance of a notice of nonrenewal of the excluded  
765 coverage upon renewal of the current policy.

766           21. As of January 1, 2012, must require that the agent  
767 obtain from an applicant for coverage from the corporation an  
768 acknowledgment signed by the applicant, which includes, at a  
769 minimum, the following statement:

770  
771                           ACKNOWLEDGMENT OF POTENTIAL SURCHARGE  
772                           AND ASSESSMENT LIABILITY:

773  
774           1. AS A POLICYHOLDER OF CITIZENS PROPERTY INSURANCE  
775 CORPORATION, I UNDERSTAND THAT IF THE CORPORATION SUSTAINS A  
776 DEFICIT AS A RESULT OF HURRICANE LOSSES OR FOR ANY OTHER REASON,  
777 MY POLICY COULD BE SUBJECT TO SURCHARGES, WHICH WILL BE DUE AND  
778 PAYABLE UPON RENEWAL, CANCELLATION, OR TERMINATION OF THE  
779 POLICY, AND THAT THE SURCHARGES COULD BE AS HIGH AS 45 PERCENT  
780 OF MY PREMIUM, OR A DIFFERENT AMOUNT AS IMPOSED BY THE FLORIDA  
781 LEGISLATURE.

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782           2. I UNDERSTAND THAT I CAN AVOID THE CITIZENS POLICYHOLDER  
783 SURCHARGE, WHICH COULD BE AS HIGH AS 45 PERCENT OF MY PREMIUM,  
784 BY OBTAINING COVERAGE FROM A PRIVATE MARKET INSURER AND THAT TO  
785 BE ELIGIBLE FOR COVERAGE BY CITIZENS, I MUST FIRST TRY TO OBTAIN  
786 PRIVATE MARKET COVERAGE BEFORE APPLYING FOR OR RENEWING COVERAGE  
787 WITH CITIZENS. I UNDERSTAND THAT PRIVATE MARKET INSURANCE RATES  
788 ARE REGULATED AND APPROVED BY THE STATE.

789           3. I UNDERSTAND THAT I MAY BE SUBJECT TO EMERGENCY  
790 ASSESSMENTS TO THE SAME EXTENT AS POLICYHOLDERS OF OTHER  
791 INSURANCE COMPANIES, OR A DIFFERENT AMOUNT AS IMPOSED BY THE  
792 FLORIDA LEGISLATURE.

793           4. I ALSO UNDERSTAND THAT CITIZENS PROPERTY INSURANCE  
794 CORPORATION IS NOT SUPPORTED BY THE FULL FAITH AND CREDIT OF THE  
795 STATE OF FLORIDA.

796

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

801           b. The signed acknowledgment form creates a conclusive  
802 presumption that the policyholder understood and accepted his or  
803 her potential surcharge and assessment liability as a  
804 policyholder of the corporation.

805           (n)1. Rates for coverage provided by the corporation must  
806 be actuarially sound and subject to s. 627.062, except as

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807 otherwise provided in this paragraph. The corporation shall file  
808 its recommended rates with the office at least annually. The  
809 corporation shall provide any additional information regarding  
810 the rates which the office requires. The office shall consider  
811 the recommendations of the board and issue a final order  
812 establishing the rates for the corporation within 45 days after  
813 the recommended rates are filed. The corporation may not pursue  
814 an administrative challenge or judicial review of the final  
815 order of the office.

816 2. In addition to the rates otherwise determined pursuant  
817 to this paragraph, the corporation shall impose and collect an  
818 amount equal to the premium tax provided in s. 624.509 to  
819 augment the financial resources of the corporation.

820 3. After the public hurricane loss-projection model under s.  
821 627.06281 has been found to be accurate and reliable by the  
822 Florida Commission on Hurricane Loss Projection Methodology, the  
823 model shall be considered when establishing the windstorm  
824 portion of the corporation's rates. The corporation may use the  
825 public model results in combination with the results of private  
826 models to calculate rates for the windstorm portion of the  
827 corporation's rates. This subparagraph does not require or allow  
828 the corporation to adopt rates lower than the rates otherwise  
829 required or allowed by this paragraph.

830 ~~4. The rate filings for the corporation which were~~  
831 ~~approved by the office and took effect January 1, 2007, are~~

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832 ~~rescinded, except for those rates that were lowered. As soon as~~  
833 ~~possible, the corporation shall begin using the lower rates that~~  
834 ~~were in effect on December 31, 2006, and provide refunds to~~  
835 ~~policyholders who paid higher rates as a result of that rate~~  
836 ~~filing. The rates in effect on December 31, 2006, remain in~~  
837 ~~effect for the 2007 and 2008 calendar years except for any rate~~  
838 ~~change that results in a lower rate. The next rate change that~~  
839 ~~may increase rates shall take effect pursuant to a new rate~~  
840 ~~filing recommended by the corporation and established by the~~  
841 ~~office, subject to this paragraph.~~

842 ~~4.5. Beginning on July 15, 2009, and annually thereafter,~~  
843 The corporation must make a recommended actuarially sound rate  
844 filing for each personal and commercial line of business it  
845 writes, ~~to be effective no earlier than January 1, 2010.~~

846 ~~5.6. Beginning on or after January 1, 2010, and~~  
847 Notwithstanding the board's recommended rates and the office's  
848 final order regarding the corporation's filed rates under  
849 subparagraph 1., the corporation shall annually implement a rate  
850 increase which, except for sinkhole coverage, does not exceed  
851 the following 10 percent for any single policy issued by the  
852 corporation, excluding coverage changes and surcharges:

- 853 a. Eleven percent for 2022.  
854 b. Twelve percent for 2023.  
855 c. Thirteen percent for 2024.  
856 d. Fourteen percent for 2025.

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857 e. Fifteen percent for 2026 and all subsequent years.

858 ~~6.7.~~ The corporation may also implement an increase to  
859 reflect the effect on the corporation of the cash buildup factor  
860 pursuant to s. 215.555(5) (b).

861 ~~7.8.~~ The corporation's implementation of rates as  
862 prescribed in subparagraph 5. 6. shall cease for any line of  
863 business written by the corporation upon the corporation's  
864 implementation of actuarially sound rates. Thereafter, the  
865 corporation shall annually make a recommended actuarially sound  
866 rate filing for each commercial and personal line of business  
867 the corporation writes.

868 (jj) The corporation's budget allocations for the  
869 compensation of all corporation employees and any proposed raise  
870 for an individual employee exceeding 10 percent of that  
871 employee's current salary must be approved by the board of  
872 governors. The corporation must have an overall employee  
873 compensation plan approved by the board of governors.

874 Section 9. Subsection (5) of section 627.3518, Florida  
875 Statutes, is amended to read:

876 627.3518 Citizens Property Insurance Corporation  
877 policyholder eligibility clearinghouse program.—The purpose of  
878 this section is to provide a framework for the corporation to  
879 implement a clearinghouse program by January 1, 2014.

880 (5) Notwithstanding s. 627.3517, any applicant for new  
881 coverage from the corporation is not eligible for coverage from

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882 the corporation if provided an offer of coverage from an  
883 authorized insurer through the program at a premium that is at  
884 or below the eligibility threshold established in s.  
885 627.351(6)(c)5.a. Whenever an offer of coverage for a personal  
886 lines risk is received for a policyholder of the corporation at  
887 renewal from an authorized insurer through the program, if the  
888 offer is equal to or less than the corporation's renewal premium  
889 for comparable coverage, the risk is not eligible for coverage  
890 with the corporation. In the event an offer of coverage for a  
891 new applicant is received from an authorized insurer through the  
892 program, and the premium offered exceeds the eligibility  
893 threshold contained in s. 627.351(6)(c)5.a., the applicant or  
894 insured may elect to accept such coverage, or may elect to  
895 accept or continue coverage with the corporation. In the event  
896 an offer of coverage for a personal lines risk is received from  
897 an authorized insurer at renewal through the program, and the  
898 premium offered is more than the corporation's renewal premium  
899 for comparable coverage, the insured may elect to accept such  
900 coverage, or may elect to accept or continue coverage with the  
901 corporation. Section 627.351(6)(c)5.a.(I) does not apply to an  
902 offer of coverage from an authorized insurer obtained through  
903 the program. An applicant for coverage from the corporation who  
904 was declared ineligible for coverage at renewal by the  
905 corporation in the previous 36 months due to an offer of  
906 coverage pursuant to this subsection shall be considered a

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907 renewal under this section if the corporation determines that  
908 the authorized insurer making the offer of coverage pursuant to  
909 this subsection continues to insure the applicant and increased  
910 the rate on the policy in excess of the increase allowed for the  
911 corporation under s. 627.351(6)(n)5. ~~s. 627.351(6)(n)6.~~

912 Section 10. Subsection (1) of section 627.428, Florida  
913 Statutes, is amended to read:

914 627.428 Attorney fees.—

915 (1) Upon the rendition of a judgment or decree by any of  
916 the courts of this state against an insurer and in favor of any  
917 named or omnibus insured or the named beneficiary under a policy  
918 or contract executed by the insurer, the trial court or, in the  
919 event of an appeal in which the insured or beneficiary prevails,  
920 the appellate court shall adjudge or decree against the insurer  
921 and in favor of the insured or beneficiary a reasonable sum as  
922 fees or compensation for the insured's or beneficiary's attorney  
923 prosecuting the suit in which the recovery is had. In a suit  
924 arising under a residential or commercial property insurance  
925 policy not brought by an assignee, the amount of reasonable  
926 attorney fees under this subsection shall be modified and  
927 awarded as provided in s. 57.105 or s. 627.70152.

928 Section 11. Paragraph (c) of subsection (4) of section  
929 627.7011, Florida Statutes, is redesignated as paragraph (d),  
930 and a new paragraph (c) is added to that subsection, to read:

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931 627.7011 Homeowners' policies; offer of replacement cost  
932 coverage and law and ordinance coverage.—

933 (4)

934 (c) An insurer that issues a homeowner's insurance policy  
935 or schedule providing that any loss that is repaired or replaced  
936 will be adjusted on the basis of actual cash value must:

937 1. Provide a policyholder with a form, approved by the  
938 office, that the policyholder must sign at the initial policy or  
939 schedule issuance, and must fully advise the policyholder of the  
940 nature of the coverage being accepted if the policyholder  
941 chooses to purchase a policy providing actual cash value  
942 coverage. The signed form creates the conclusive presumption  
943 that there was an informed, knowing acceptance of actual cash  
944 value coverage and rejection of replacement cost coverage.

945 2. Include with the policy or schedule providing actual  
946 cash value coverage at the initial issuance and every renewal,  
947 in bold type no smaller than 18 points, the following statement:

948  
949 "YOU ARE ELECTING TO PURCHASE COVERAGE ON YOUR HOME THAT  
950 PROVIDES THAT ANY LOSS THAT IS REPAIRED OR REPLACED WILL BE  
951 ADJUSTED ON THE BASIS OF ACTUAL CASH VALUE. THIS MEANS THAT  
952 DEPRECIATION IN THE VALUE OF YOUR LOST OR DAMAGED PROPERTY WILL  
953 BE CONSIDERED IN DETERMINING WHAT THE INSURER PAYS YOU FOR YOUR  
954 LOSS OR DAMAGE. BE ADVISED THIS MAY RESULT IN YOUR HAVING TO PAY

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955 SIGNIFICANT COSTS TO REPAIR OR REPLACE YOUR PROPERTY. PLEASE  
956 DISCUSS WITH YOUR INSURANCE AGENT."

957  
958 3. At least once every 3 years, provide a policyholder who  
959 has a policy or schedule providing actual cash value coverage  
960 with notice, on a form approved by the office, that replacement  
961 cost coverage is available.

962 4. Unless the insurer obtains the policyholder's written  
963 acceptance of actual cash value coverage pursuant to this  
964 subsection, deem the policy or schedule to include replacement  
965 cost coverage.

966 Section 12. Section 627.70132, Florida Statutes, is  
967 amended to read:

968 627.70132 Notice of property insurance ~~windstorm or~~  
969 ~~hurricane~~ claim.—

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

971 (a) "Reopened claim" means a claim that an insurer has  
972 previously closed, but that has been reopened upon an insured's  
973 request for additional costs for loss or damage previously  
974 disclosed to the insurer.

975 (b) "Supplemental claim" means a claim for additional loss  
976 or damage from the same peril which the insurer has previously  
977 adjusted or for which costs have been incurred while completing  
978 repairs or replacement pursuant to an open claim for which  
979 timely notice was previously provided to the insurer.

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980        (2) A claim or reopened claim, but not a supplemental  
981 claim, or reopened claim under an insurance policy that provides  
982 property insurance, as defined in s. 624.604, including a  
983 property insurance policy issued by an eligible surplus lines  
984 insurer, for loss or damage caused by any the peril of windstorm  
985 or hurricane is barred unless notice of the claim, ~~supplemental~~  
986 ~~claim, or reopened claim~~ was given to the insurer in accordance  
987 with the terms of the policy within 2 3 years after the date of  
988 loss hurricane first made landfall or the windstorm caused the  
989 covered damage.

990        (3) For claims resulting from hurricanes, tornadoes,  
991 windstorms, severe rain, or other weather-related events that  
992 are tracked by weather services and media, the date of loss is  
993 the date that the hurricane made landfall, or the tornado,  
994 windstorm, severe rain, or other weather-related event is  
995 verified by the National Oceanic and Atmospheric Administration.

996        (4) Subject to the time limits provided for in s. 95.11, a  
997 supplemental claim is not barred as long as notice of that claim  
998 is given to the insurer while the claim to which the  
999 supplemental claim is related remains open.

1000        (5) For purposes of this section, a claim that an insurer  
1001 has closed without providing an insured with the total amount  
1002 due for the loss or damage is not considered a closed claim the  
1003 term "supplemental claim" or "reopened claim" means any  
1004 additional claim for recovery from the insurer for losses from

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1005 ~~the same hurricane or windstorm which the insurer has previously~~  
1006 ~~adjusted pursuant to the initial claim.~~

1007 (6) This section does not affect any applicable limitation  
1008 on civil actions provided in s. 95.11 for claims, supplemental  
1009 claims, or reopened claims timely filed under this section.

1010 Section 13. Paragraph (e) of subsection (9) of section  
1011 627.7015, Florida Statutes, is amended to read:

1012 627.7015 Alternative procedure for resolution of disputed  
1013 property insurance claims.—

1014 (9) For purposes of this section, the term "claim" refers  
1015 to any dispute between an insurer and a policyholder relating to  
1016 a material issue of fact other than a dispute:

1017 (e) With respect to a ~~windstorm or hurricane~~ loss that  
1018 does not comply with s. 627.70132.

1019 Section 14. Section 627.70152, Florida Statutes, is  
1020 created to read:

1021 627.70152 Suits arising under a property insurance  
1022 policy.—

1023 (1) APPLICATION.—This section applies exclusively to all  
1024 suits arising under a residential or commercial property  
1025 insurance policy not brought by an assignee.

1026 (2) DEFINITIONS.—As used in this section, the term:

1027 (a) "Amount obtained" means damages recovered, if any, but  
1028 the term does not include any amount awarded for attorney fees,  
1029 costs, or interest.

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1030 (b) "Claimant" means an insured who is filing suit under a  
1031 residential or commercial property insurance policy.

1032 (c) "Disputed amount" means the difference between the  
1033 claimant's presuit settlement demand, not including attorney  
1034 fees and costs listed in the demand, and the insurer's presuit  
1035 settlement offer, not including attorney fees and costs, if part  
1036 of the offer.

1037 (d) "Presuit settlement demand" means the demand made by  
1038 the claimant in the written notice of intent to initiate  
1039 litigation as required by paragraph (3)(e). The demand must  
1040 include the amount of reasonable and necessary attorney fees and  
1041 costs incurred by the claimant, to be calculated by multiplying  
1042 the number of hours actually worked on the claim, by the  
1043 claimant's attorney as of the date of the notice by a reasonable  
1044 hourly rate.

1045 (e) "Presuit settlement offer" means the offer made by the  
1046 insurer in its written response to the notice as required by  
1047 subsection (4).

1048 (3) CLAIMANT DUTIES AND NOTICE.—A claimant must timely:

1049 (a) Cooperate with the insurer in the claim investigation.

1050 (b) Provide the insurer with requested records and  
1051 documents related to any services that have been provided.

1052 (c) Provide the insurer with current estimates of the  
1053 scope of work needed to be performed, including supplemental or  
1054 additional repairs, if required.

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1055 (d) Allow the insurer to inspect, photograph, or evaluate,  
1056 in a mutually agreeable manner and at a mutually agreeable time,  
1057 the property that is the subject of the claim.

1058 (e) As a condition precedent to filing a suit under a  
1059 property insurance policy, provide the department with written  
1060 notice of intent to initiate litigation on a form provided by  
1061 the department. Such notice must be given at least 10 business  
1062 days before filing suit under the policy, but may not be given  
1063 before the insurer has made a determination of coverage under s.  
1064 627.70131. Notice to the insurer must be provided by the  
1065 department to the e-mail address designated by the insurer under  
1066 s. 624.422. The notice must state with specificity all of the  
1067 following information:

1068 1. That the notice is provided pursuant to this section.

1069 2. The alleged acts or omissions of the insurer giving  
1070 rise to the suit, which may include a denial of coverage.

1071 3. If provided by an attorney or other representative,  
1072 that a copy of the notice was provided to the claimant.

1073 4. If the notice is provided following a denial of  
1074 coverage, an estimate of damages, if known.

1075 5. If the notice is provided following acts or omissions  
1076 by the insurer other than denial of coverage, both of the  
1077 following:

1078 a. The presuit settlement demand, which must itemize the  
1079 damages, attorney fees, and costs.

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1080 b. The disputed amount.

1081  
1082 Documentation to support the information provided in this  
1083 paragraph may be provided along with the notice to the insurer.

1084 (f) Serve a notice of intent to initiate litigation within  
1085 the time limits provided in s. 95.11. However, the notice is not  
1086 required if the suit is a counterclaim. Service of a notice  
1087 tolls the time limits provided in s. 95.11 for 10 business days  
1088 if such time limits will expire before the end of the 10-day  
1089 notice period.

1090 (4) INSURER DUTIES.—An insurer must have a procedure for  
1091 the prompt investigation, review, and evaluation of the dispute  
1092 stated in the notice and must investigate each claim contained  
1093 in the notice in accordance with the Florida Insurance Code.  
1094 An insurer must respond in writing within 10 business days after  
1095 receiving the notice specified in subsection (3). The insurer  
1096 must provide the response to the claimant via e-mail if the  
1097 insured has designated an e-mail address in the notice.

1098 (a) If an insurer is responding to a notice served on the  
1099 insurer following a denial of coverage by the insurer, the  
1100 insurer must respond by:

1101 1. Accepting coverage;

1102 2. Continuing to deny coverage; or

1103 3. Asserting the right to reinspect the damaged property.

1104 If the insurer responds by asserting the right to reinspect the

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1105 damaged property, it has 14 business days after the response  
1106 asserting that right, to reinspect the property and accept or  
1107 continue to deny coverage. The time limits provided in s. 95.11  
1108 are tolled during the reinspection period if such time limits  
1109 expire before the end of the reinspection period. If the insurer  
1110 continues to deny coverage, the claimant may file suit without  
1111 providing additional notice to the insurer.

1112 (b) If an insurer is responding to a notice provided to  
1113 the insurer alleging an act or omission by the insurer other  
1114 than a denial of coverage, the insurer must respond by making a  
1115 settlement offer or requiring the claimant to participate in  
1116 appraisal or another method of alternative dispute resolution.  
1117 The time limits provided in s. 95.11 are tolled as long as  
1118 appraisal or other alternative dispute resolution is ongoing if  
1119 such time limits expire during the appraisal process or dispute  
1120 resolution process. If the appraisal or alternative dispute  
1121 resolution has not been concluded within 90 days after the  
1122 expiration of the 10-day notice of intent to initiate litigation  
1123 specified in subsection (3), the claimant or claimant's attorney  
1124 may immediately file suit without providing the insurer  
1125 additional notice.

1126 (5) DISMISSAL OF SUIT.—A court must dismiss without  
1127 prejudice any claimant's suit relating to a claim for which a  
1128 notice of intent to initiate litigation is given as required by

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1129 this section if such suit is commenced before the expiration of  
1130 the 10-day notice period.

1131 (6) ADMISSIBILITY OF NOTICE AND RESPONSE.—The notice  
1132 provided pursuant to subsection (3) and, if applicable, the  
1133 documentation to support the information provided in the notice:

1134 (a) Are admissible as evidence only in a proceeding  
1135 regarding attorney fees.

1136 (b) Do not limit the evidence of attorney fees or costs,  
1137 damages, or loss which may be offered at trial.

1138 (c) Do not relieve any obligation that an insured or  
1139 assignee has to give notice under any other provision of law.

1140 (7) TOLLING.—If a claim is not resolved during the presuit  
1141 notice process and if the time limits provided in s. 95.11  
1142 expire in the 30 days following the conclusion of the presuit  
1143 notice process, such time limits are tolled for 30 days.

1144 (8) ATTORNEY FEES.—

1145 (a) In a suit arising under a residential or commercial  
1146 property insurance policy not brought by an assignee, the amount  
1147 of reasonable attorney fees and costs under s. 627.428(1) shall  
1148 be calculated and awarded as follows:

1149 1. If the difference between the amount obtained by the  
1150 claimant and the presuit settlement offer, excluding reasonable  
1151 attorney fees and costs, is less than 20 percent of the disputed  
1152 amount, each party pays its own attorney fees and costs and a  
1153 claimant may not be awarded attorney fees under s. 627.428(1).

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1154 2. If the difference between the amount obtained by the  
1155 claimant and the presuit settlement offer, excluding reasonable  
1156 attorney fees and costs, is at least 20 percent but less than 50  
1157 percent of the disputed amount, the insurer pays the claimant's  
1158 attorney fees and costs under s. 627.428(1) equal to the  
1159 percentage of the disputed amount obtained times the total  
1160 attorney fees and costs.

1161 3. If the difference between the amount obtained by the  
1162 claimant and the presuit settlement offer, excluding reasonable  
1163 attorney fees and costs, is at least 50 percent of the disputed  
1164 amount, the insurer pays the claimant's full attorney fees and  
1165 costs under s. 627.428(1).

1166 (b) In a suit arising under a residential or commercial  
1167 property insurance policy not brought by an assignee, if a court  
1168 dismisses a claimant's suit pursuant to subsection (5), the  
1169 court may not award to the claimant any incurred attorney fees  
1170 for services rendered before the dismissal of the suit.

1171 Section 15. Subsection (3) of section 628.801, Florida  
1172 Statutes, is amended to read:

1173 628.801 Insurance holding companies; registration;  
1174 regulation.-

1175 (3) In addition to the powers which the office has under  
1176 Effective January 1, 2015, pursuant to chapter 624 relating to  
1177 the examination of insurers, the office may examine any insurer  
1178 registered under this section and its affiliates to ascertain

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1179 the financial condition of the insurer, including the enterprise  
1180 risk to the insurer by the ultimate controlling party, or by any  
1181 entity or combination of entities within the insurance holding  
1182 company system, or by the insurance holding company system on a  
1183 consolidated basis.

1184 (a) The office may require any insurer registered under  
1185 this section to produce such records, books, or other  
1186 information and papers in the possession of the insurer or its  
1187 affiliates as are reasonably necessary.

1188 (b) The office may retain at the registered insurer's  
1189 expense such attorneys, actuaries, accountants and other experts  
1190 not otherwise a part of the office's staff as shall be  
1191 reasonably necessary to assist in the conduct of the examination  
1192 under this subsection. Any persons so retained shall be under  
1193 the direction and control of the office and shall act in a  
1194 purely advisory capacity.

1195 (c) Each registered insurer producing for examination  
1196 records, books, and papers pursuant to this subsection is liable  
1197 for and shall pay the expense of examination in accordance with  
1198 s. 624.320.

1199 (d) The office shall have the power to examine the  
1200 affiliates of the registered insurer. The scope of the  
1201 examination of an insurer's affiliates under this subsection  
1202 must be limited to information reasonably necessary. An  
1203 examination of an insurer's affiliate under this section, unless

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1204 reasonably necessary to ascertain the financial condition of the  
1205 insurer, may not extend to the passive investors of affiliates  
1206 in the holding company system which do not provide services  
1207 directly or indirectly to the insurer or have direct or indirect  
1208 relationships with the insurer.

1209 Section 16. This act shall take effect July 1, 2021.

1210

1211 -----

1212 **T I T L E A M E N D M E N T**

1213 Remove everything before the enacting clause and insert:

1214 A bill to be entitled

1215 An act relating to insurance; creating s. 489.147,  
1216 F.S.; providing definitions; prohibiting certain  
1217 practices by contractors; providing for disciplinary  
1218 proceedings; providing that the acts of any persons on  
1219 behalf of a contractor are considered the acts of a  
1220 contractor; providing that certain acts constitute  
1221 unlicensed contracting; providing penalties;  
1222 prohibiting a contractor from executing a contract  
1223 with a residential property owner for a roofing repair  
1224 or replacement unless certain notice is included;  
1225 authorizing the residential property owner to void the  
1226 contract within a specified timeframe when such notice  
1227 is not included; amending s. 624.316, F.S.;

1228 authorizing the Office of Insurance Regulation to

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1229 examine insurer affiliates; amending s. 624.318, F.S.;  
1230 requiring insurer affiliates to provide certain items  
1231 and information to the office during examination or  
1232 investigation; amending s. 624.424, F.S.; requiring  
1233 property insurers, effective a certain date, to  
1234 include certain data regarding closed claims in their  
1235 annual reports to the office; requiring specified  
1236 insurers to provide the office with certain  
1237 information under certain circumstances; requiring the  
1238 office to consider certain costs in determining  
1239 whether payments made by an insurer to an affiliate  
1240 are fair and reasonable; amending s. 626.7451, F.S.;  
1241 requiring managing general agents to enter into  
1242 specified contracts with insurers even when the  
1243 managing general agents control, or are controlled by,  
1244 the insurers; amending s. 626.7452, F.S.; providing  
1245 that a managing general agent may be examined as if it  
1246 were the insurer even if the managing general agent  
1247 solely represents a single domestic insurer; amending  
1248 s. 626.854, F.S.; prohibiting certain acts by  
1249 specified licensed contractors and their  
1250 subcontractors; providing construction; prohibiting  
1251 certain acts by a public adjuster, public adjuster  
1252 apprentice, and certain other persons; providing that  
1253 certain acts constitute unlicensed practice of public

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1254 adjusting; providing penalties; amending s. 627.351,  
1255 F.S.; revising a procedure that the plan of operation  
1256 of Citizens Property Insurance Corporation must  
1257 provide; requiring the corporation to include the  
1258 costs of catastrophe reinsurance to its projected 100-  
1259 year probable maximum loss in its rate calculations  
1260 even if the corporation does not purchase such  
1261 reinsurance; deleting obsolete language relating to  
1262 the corporation's rate filings; requiring the  
1263 corporation to annually implement a rate increase that  
1264 does not exceed a certain percent for specified years;  
1265 requiring the corporation's budget allocations for  
1266 salaries for the corporation's employees, all employee  
1267 raises exceeding 10 percent, and an employee  
1268 compensation plan for the corporation to be approved  
1269 by the corporation's board of governors; amending s.  
1270 627.3518, F.S.; conforming a cross-reference; amending  
1271 s. 627.428, F.S.; requiring a suit arising under a  
1272 property insurance policy to be modified and awarded  
1273 as provided by specified provisions of law under  
1274 certain circumstances; amending s. 627.7011, F.S.;  
1275 requiring written acceptance of actual cash value  
1276 coverage in a homeowner's policy; requiring a specific  
1277 statement in a certain homeowner's policy; requiring  
1278 notice of availability of certain coverage in a

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1279 homeowner's policy; requiring the homeowner's policy  
1280 and schedule to be deemed to include replacement cost  
1281 coverage unless a specified requirement is met;  
1282 amending s. 627.70132, F.S.; revising the definitions  
1283 of the terms "supplemental claim" and "reopened claim"  
1284 to include all perils; providing that claims and  
1285 reopened claims under certain property insurance  
1286 policies for loss or damage caused by perils are  
1287 barred unless notice is given within a specified  
1288 timeframe; revising the timeframe for notice for loss  
1289 or damage caused by windstorm or hurricane; providing  
1290 date of loss for weather-related events; providing  
1291 circumstances under which supplemental claims are not  
1292 barred; providing construction; amending s. 627.7015,  
1293 F.S.; conforming a provision to changes made by the  
1294 act; creating s. 627.70152, F.S.; providing  
1295 applicability; providing definitions; providing duties  
1296 of a claimant; requiring written notice to be provided  
1297 to an insurer before a suit is filed under an  
1298 insurance policy; requiring certain information to be  
1299 included in the notice; requiring notice to be served  
1300 within specified time limits; requiring an insurer to  
1301 provide a response to the notice within specified  
1302 timeframe; providing for tolling of time if  
1303 appropriate; requiring an insurer to have a procedure

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1304 for the prompt investigation, review, and evaluation  
1305 of a dispute stated in the notice and to investigate  
1306 each claim in the notice in accordance with the  
1307 Florida Insurance Code; requiring an insurer to  
1308 provide a response to the notice within a specified  
1309 timeframe; requiring an insurer to provide a response  
1310 in certain manners; requiring a court to dismiss  
1311 without prejudice a claimant's suit under certain  
1312 circumstances; providing that the notice and  
1313 documentation are admissible as evidence only in  
1314 specified proceedings; providing construction;  
1315 providing that time limits are tolled under certain  
1316 circumstances; providing calculations and awards of  
1317 attorney fees and costs under certain circumstances;  
1318 prohibiting a court from awarding attorney fees to a  
1319 claimant under certain circumstances; amending s.  
1320 628.801, F.S.; authorizing the office to request  
1321 information from an insurer or its affiliates as  
1322 reasonably necessary; authorizing the office to obtain  
1323 certain staff to conduct an examination at an  
1324 insurer's expense; requiring insurers to pay  
1325 examination expenses; giving the office the authority  
1326 to examine all affiliates of an insurer as reasonably  
1327 necessary to ascertain the insurer's financial  
1328 condition; prohibiting an examination of an insurer's

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1329 | affiliate from extending to specified investors under  
1330 | certain circumstances; providing an effective date.

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