



130902

LEGISLATIVE ACTION

Senate

House

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Floor: 4/F/2R

12/13/2022 02:46 PM

Senator Pizzo moved the following:

Senate Amendment

Delete lines 540 - 2412

and insert:

In a suit commenced before December 31, 2022, arising under a residential or commercial property insurance policy, the amount of reasonable attorney fees shall be awarded only as provided in s. 57.105 or s. 627.70152, as applicable.



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10 (3) In a suit arising under a residential or commercial
11 property insurance policy, there is no ~~the~~ right to attorney
12 fees under this section ~~may not be transferred to, assigned to,~~
13 ~~or acquired in any other manner by anyone other than a named or~~
14 ~~omnibus insured or a named beneficiary.~~

15 Section 7. Paragraph (i) of subsection (1) of section
16 626.9541, Florida Statutes, is amended to read:

17 626.9541 Unfair methods of competition and unfair or
18 deceptive acts or practices defined.—

19 (1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE
20 ACTS.—The following are defined as unfair methods of competition
21 and unfair or deceptive acts or practices:

22 (i) *Unfair claim settlement practices.*—

23 1. Attempting to settle claims on the basis of an
24 application, when serving as a binder or intended to become a
25 part of the policy, or any other material document which was
26 altered without notice to, or knowledge or consent of, the
27 insured;

28 2. A material misrepresentation made to an insured or any
29 other person having an interest in the proceeds payable under
30 such contract or policy, for the purpose and with the intent of
31 effecting settlement of such claims, loss, or damage under such
32 contract or policy on less favorable terms than those provided
33 in, and contemplated by, such contract or policy;

34 3. Committing or performing with such frequency as to
35 indicate a general business practice any of the following:

36 a. Failing to adopt and implement standards for the proper
37 investigation of claims;

38 b. Misrepresenting pertinent facts or insurance policy



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39 provisions relating to coverages at issue;
40 c. Failing to acknowledge and act promptly upon
41 communications with respect to claims;
42 d. Denying claims without conducting reasonable
43 investigations based upon available information;
44 e. Failing to affirm or deny full or partial coverage of
45 claims, and, as to partial coverage, the dollar amount or extent
46 of coverage, or failing to provide a written statement that the
47 claim is being investigated, upon the written request of the
48 insured within 30 days after proof-of-loss statements have been
49 completed;
50 f. Failing to promptly provide a reasonable explanation in
51 writing to the insured of the basis in the insurance policy, in
52 relation to the facts or applicable law, for denial of a claim
53 or for the offer of a compromise settlement;
54 g. Failing to promptly notify the insured of any additional
55 information necessary for the processing of a claim;
56 h. Failing to clearly explain the nature of the requested
57 information and the reasons why such information is necessary;
58 or
59 i. Failing to pay personal injury protection insurance
60 claims within the time periods required by s. 627.736(4)(b). The
61 office may order the insurer to pay restitution to a
62 policyholder, medical provider, or other claimant, including
63 interest at a rate consistent with the amount set forth in s.
64 55.03(1), for the time period within which an insurer fails to
65 pay claims as required by law. Restitution is in addition to any
66 other penalties allowed by law, including, but not limited to,
67 the suspension of the insurer's certificate of authority; or



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68 4. Failing to pay undisputed amounts of partial or full
69 benefits owed under first-party property insurance policies
70 within 60 ~~90~~ days after an insurer receives notice of a
71 residential property insurance claim, determines the amounts of
72 partial or full benefits, and agrees to coverage, unless payment
73 of the undisputed benefits is prevented by factors beyond the
74 control of the insurer as defined in s. 627.70131(5) ~~an act of~~
75 ~~God, prevented by the impossibility of performance, or due to~~
76 ~~actions by the insured or claimant that constitute fraud, lack~~
77 ~~of cooperation, or intentional misrepresentation regarding the~~
78 ~~claim for which benefits are owed.~~

79 Section 8. Effective January 1, 2023, paragraphs (b), (c),
80 (n), (o), (p), (q), (v), (w), (aa), and (ii) of subsection (6)
81 of section 627.351, Florida Statutes, are amended, and paragraph
82 (kk) is added to that subsection, to read:

83 627.351 Insurance risk apportionment plans.—

84 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

85 (b)1. All insurers authorized to write one or more subject
86 lines of business in this state are subject to assessment by the
87 corporation and, for the purposes of this subsection, are
88 referred to collectively as "assessable insurers." Insurers
89 writing one or more subject lines of business in this state
90 pursuant to part VIII of chapter 626 are not assessable
91 insurers; however, insureds who procure one or more subject
92 lines of business in this state pursuant to part VIII of chapter
93 626 are subject to assessment by the corporation and are
94 referred to collectively as "assessable insureds." An insurer's
95 assessment liability begins on the first day of the calendar
96 year following the year in which the insurer was issued a



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97 certificate of authority to transact insurance for subject lines
98 of business in this state and terminates 1 year after the end of
99 the first calendar year during which the insurer no longer holds
100 a certificate of authority to transact insurance for subject
101 lines of business in this state.

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

105 (I) A personal lines account for personal residential
106 policies issued by the corporation which provides comprehensive,
107 multiperil coverage on risks that are not located in areas
108 eligible for coverage by the Florida Windstorm Underwriting
109 Association as those areas were defined on January 1, 2002, and
110 for policies that do not provide coverage for the peril of wind
111 on risks that are located in such areas;

112 (II) A commercial lines account for commercial residential
113 and commercial nonresidential policies issued by the corporation
114 which provides coverage for basic property perils on risks that
115 are not located in areas eligible for coverage by the Florida
116 Windstorm Underwriting Association as those areas were defined
117 on January 1, 2002, and for policies that do not provide
118 coverage for the peril of wind on risks that are located in such
119 areas; and

120 (III) A coastal account for personal residential policies
121 and commercial residential and commercial nonresidential
122 property policies issued by the corporation which provides
123 coverage for the peril of wind on risks that are located in
124 areas eligible for coverage by the Florida Windstorm
125 Underwriting Association as those areas were defined on January



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126 1, 2002. The corporation may offer policies that provide
127 multiperil coverage and shall offer policies that provide
128 coverage only for the peril of wind for risks located in areas
129 eligible for coverage in the coastal account. Effective July 1,
130 2014, the corporation shall cease offering new commercial
131 residential policies providing multiperil coverage and shall
132 instead continue to offer commercial residential wind-only
133 policies, and may offer commercial residential policies
134 excluding wind. The corporation may, however, continue to renew
135 a commercial residential multiperil policy on a building that is
136 insured by the corporation on June 30, 2014, under a multiperil
137 policy. In issuing multiperil coverage, the corporation may use
138 its approved policy forms and rates for the personal lines
139 account. An applicant or insured who is eligible to purchase a
140 multiperil policy from the corporation may purchase a multiperil
141 policy from an authorized insurer without prejudice to the
142 applicant's or insured's eligibility to prospectively purchase a
143 policy that provides coverage only for the peril of wind from
144 the corporation. An applicant or insured who is eligible for a
145 corporation policy that provides coverage only for the peril of
146 wind may elect to purchase or retain such policy and also
147 purchase or retain coverage excluding wind from an authorized
148 insurer without prejudice to the applicant's or insured's
149 eligibility to prospectively purchase a policy that provides
150 multiperil coverage from the corporation. It is the goal of the
151 Legislature that there be an overall average savings of 10
152 percent or more for a policyholder who currently has a wind-only
153 policy with the corporation, and an ex-wind policy with a
154 voluntary insurer or the corporation, and who obtains a



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155 multiperil policy from the corporation. It is the intent of the
156 Legislature that the offer of multiperil coverage in the coastal
157 account be made and implemented in a manner that does not
158 adversely affect the tax-exempt status of the corporation or
159 creditworthiness of or security for currently outstanding
160 financing obligations or credit facilities of the coastal
161 account, the personal lines account, or the commercial lines
162 account. The coastal account must also include quota share
163 primary insurance under subparagraph (c)2. The area eligible for
164 coverage under the coastal account also includes the area within
165 Port Canaveral, which is bordered on the south by the City of
166 Cape Canaveral, bordered on the west by the Banana River, and
167 bordered on the north by Federal Government property.

168 b. The three separate accounts must be maintained as long
169 as financing obligations entered into by the Florida Windstorm
170 Underwriting Association or Residential Property and Casualty
171 Joint Underwriting Association are outstanding, in accordance
172 with the terms of the corresponding financing documents. If no
173 such financing obligations remain outstanding or if the
174 financing documents allow for combining of accounts, the
175 corporation may consolidate the three separate accounts into a
176 new account, to be known as the Citizens account, for all
177 revenues, assets, liabilities, losses, and expenses of the
178 corporation. The Citizens account, if established by the
179 corporation, is authorized to provide coverage to the same
180 extent as provided under each of the three separate accounts.
181 The authority to provide coverage under the Citizens account is
182 set forth in subparagraph 4. If the financing obligations are no
183 longer outstanding, the corporation may use a single account for



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184 ~~all revenues, assets, liabilities, losses, and expenses of the~~
185 ~~corporation.~~ Consistent with this subparagraph and prudent
186 investment policies that minimize the cost of carrying debt, the
187 board shall exercise its best efforts to retire existing debt or
188 obtain the approval of necessary parties to amend the terms of
189 existing debt, so as to structure the most efficient plan for
190 consolidating the three separate accounts into a single account.
191 Once the accounts are combined into one account, this
192 subparagraph and subparagraph 3. shall be replaced in their
193 entirety by subparagraphs 4. and 5.

194 c. Creditors of the Residential Property and Casualty Joint
195 Underwriting Association and the accounts specified in sub-sub-
196 subparagraphs a.(I) and (II) may have a claim against, and
197 recourse to, those accounts and no claim against, or recourse
198 to, the account referred to in sub-sub-subparagraph a.(III).
199 Creditors of the Florida Windstorm Underwriting Association have
200 a claim against, and recourse to, the account referred to in
201 sub-sub-subparagraph a.(III) and no claim against, or recourse
202 to, the accounts referred to in sub-sub-subparagraphs a.(I) and
203 (II).

204 d. Revenues, assets, liabilities, losses, and expenses not
205 attributable to particular accounts shall be prorated among the
206 accounts.

207 e. The Legislature finds that the revenues of the
208 corporation are revenues that are necessary to meet the
209 requirements set forth in documents authorizing the issuance of
210 bonds under this subsection.

211 f. The income of the corporation may not inure to the
212 benefit of any private person.



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213 3. With respect to a deficit in an account:
214 a. After accounting for the Citizens policyholder surcharge
215 imposed under sub-subparagraph i., if the remaining projected
216 deficit incurred in the coastal account in a particular calendar
217 year:
218 (I) Is not greater than 2 percent of the aggregate
219 statewide direct written premium for the subject lines of
220 business for the prior calendar year, the entire deficit shall
221 be recovered through regular assessments of assessable insurers
222 under paragraph (q) and assessable insureds.
223 (II) Exceeds 2 percent of the aggregate statewide direct
224 written premium for the subject lines of business for the prior
225 calendar year, the corporation shall levy regular assessments on
226 assessable insurers under paragraph (q) and on assessable
227 insureds in an amount equal to the greater of 2 percent of the
228 projected deficit or 2 percent of the aggregate statewide direct
229 written premium for the subject lines of business for the prior
230 calendar year. Any remaining projected deficit shall be
231 recovered through emergency assessments under sub-subparagraph
232 e. ~~d.~~
233 b. Each assessable insurer's share of the amount being
234 assessed under sub-subparagraph a. must be in the proportion
235 that the assessable insurer's direct written premium for the
236 subject lines of business for the year preceding the assessment
237 bears to the aggregate statewide direct written premium for the
238 subject lines of business for that year. The assessment
239 percentage applicable to each assessable insured is the ratio of
240 the amount being assessed under sub-subparagraph a. to the
241 aggregate statewide direct written premium for the subject lines



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242 of business for the prior year. Assessments levied by the
243 corporation on assessable insurers under sub-subparagraph a.
244 must be paid as required by the corporation's plan of operation
245 and paragraph (q). Assessments levied by the corporation on
246 assessable insureds under sub-subparagraph a. shall be collected
247 by the surplus lines agent at the time the surplus lines agent
248 collects the surplus lines tax required by s. 626.932, and paid
249 to the Florida Surplus Lines Service Office at the time the
250 surplus lines agent pays the surplus lines tax to that office.
251 Upon receipt of regular assessments from surplus lines agents,
252 the Florida Surplus Lines Service Office shall transfer the
253 assessments directly to the corporation as determined by the
254 corporation.

255 c. The corporation may not levy regular assessments under
256 paragraph (q) pursuant to sub-subparagraph a. or sub-
257 subparagraph b. if the three separate accounts in sub-sub-
258 subparagraphs 2.a.(I)-(III) have been consolidated into the
259 Citizens account pursuant to sub-subparagraph 2.b. However, the
260 outstanding balance of any regular assessment levied by the
261 corporation before establishment of the Citizens account remains
262 payable to the corporation.

263 d. After accounting for the Citizens policyholder surcharge
264 imposed under sub-subparagraph j. ~~i.~~, the remaining projected
265 deficits in the personal lines account and in the commercial
266 lines account in a particular calendar year shall be recovered
267 through emergency assessments under sub-subparagraph e. ~~d.~~

268 e. ~~d.~~ Upon a determination by the board of governors that a
269 projected deficit in an account exceeds the amount that is
270 expected to be recovered through regular assessments under sub-



271 subparagraph a., plus the amount that is expected to be
272 recovered through surcharges under sub-subparagraph j. ~~i.~~, the
273 board, after verification by the office, shall levy emergency
274 assessments for as many years as necessary to cover the
275 deficits, to be collected by assessable insurers and the
276 corporation and collected from assessable insureds upon issuance
277 or renewal of policies for subject lines of business, excluding
278 National Flood Insurance policies. The amount collected in a
279 particular year must be a uniform percentage of that year's
280 direct written premium for subject lines of business and all
281 accounts of the corporation, excluding National Flood Insurance
282 Program policy premiums, as annually determined by the board and
283 verified by the office. The office shall verify the arithmetic
284 calculations involved in the board's determination within 30
285 days after receipt of the information on which the determination
286 was based. The office shall notify assessable insurers and the
287 Florida Surplus Lines Service Office of the date on which
288 assessable insurers shall begin to collect and assessable
289 insureds shall begin to pay such assessment. The date must be at
290 least 90 days after the date the corporation levies emergency
291 assessments pursuant to this sub-subparagraph. Notwithstanding
292 any other provision of law, the corporation and each assessable
293 insurer that writes subject lines of business shall collect
294 emergency assessments from its policyholders without such
295 obligation being affected by any credit, limitation, exemption,
296 or deferment. Emergency assessments levied by the corporation on
297 assessable insureds shall be collected by the surplus lines
298 agent at the time the surplus lines agent collects the surplus
299 lines tax required by s. 626.932 and paid to the Florida Surplus



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300 Lines Service Office at the time the surplus lines agent pays
301 the surplus lines tax to that office. The emergency assessments
302 collected shall be transferred directly to the corporation on a
303 periodic basis as determined by the corporation and held by the
304 corporation solely in the applicable account. The aggregate
305 amount of emergency assessments levied for an account in any
306 calendar year may be less than but may not exceed the greater of
307 10 percent of the amount needed to cover the deficit, plus
308 interest, fees, commissions, required reserves, and other costs
309 associated with financing the original deficit, or 10 percent of
310 the aggregate statewide direct written premium for subject lines
311 of business and all accounts of the corporation for the prior
312 year, plus interest, fees, commissions, required reserves, and
313 other costs associated with financing the deficit.

314 ~~f.e.~~ The corporation may pledge the proceeds of
315 assessments, projected recoveries from the Florida Hurricane
316 Catastrophe Fund, other insurance and reinsurance recoverables,
317 policyholder surcharges and other surcharges, and other funds
318 available to the corporation as the source of revenue for and to
319 secure bonds issued under paragraph (q), bonds or other
320 indebtedness issued under subparagraph (c)3., or lines of credit
321 or other financing mechanisms issued or created under this
322 subsection, or to retire any other debt incurred as a result of
323 deficits or events giving rise to deficits, or in any other way
324 that the board determines will efficiently recover such
325 deficits. The purpose of the lines of credit or other financing
326 mechanisms is to provide additional resources to assist the
327 corporation in covering claims and expenses attributable to a
328 catastrophe. As used in this subsection, the term "assessments"



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329 includes regular assessments under sub-subparagraph a. or
330 subparagraph (q)1. and emergency assessments under sub-
331 subparagraph e. ~~d.~~ Emergency assessments collected under sub-
332 subparagraph e. ~~d.~~ are not part of an insurer's rates, are not
333 premium, and are not subject to premium tax, fees, or
334 commissions; however, failure to pay the emergency assessment
335 shall be treated as failure to pay premium. The emergency
336 assessments shall continue as long as any bonds issued or other
337 indebtedness incurred with respect to a deficit for which the
338 assessment was imposed remain outstanding, unless adequate
339 provision has been made for the payment of such bonds or other
340 indebtedness pursuant to the documents governing such bonds or
341 indebtedness.

342 g. ~~f.~~ As used in this subsection for purposes of any deficit
343 incurred on or after January 25, 2007, the term "subject lines
344 of business" means insurance written by assessable insurers or
345 procured by assessable insureds for all property and casualty
346 lines of business in this state, but not including workers'
347 compensation or medical malpractice. As used in this sub-
348 subparagraph, the term "property and casualty lines of business"
349 includes all lines of business identified on Form 2, Exhibit of
350 Premiums and Losses, in the annual statement required of
351 authorized insurers under s. 624.424 and any rule adopted under
352 this section, except for those lines identified as accident and
353 health insurance and except for policies written under the
354 National Flood Insurance Program or the Federal Crop Insurance
355 Program. For purposes of this sub-subparagraph, the term
356 "workers' compensation" includes both workers' compensation
357 insurance and excess workers' compensation insurance.



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358 ~~h.g.~~ The Florida Surplus Lines Service Office shall
359 determine annually the aggregate statewide written premium in
360 subject lines of business procured by assessable insureds and
361 report that information to the corporation in a form and at a
362 time the corporation specifies to ensure that the corporation
363 can meet the requirements of this subsection and the
364 corporation's financing obligations.

365 ~~i.h.~~ The Florida Surplus Lines Service Office shall verify
366 the proper application by surplus lines agents of assessment
367 percentages for regular assessments and emergency assessments
368 levied under this subparagraph on assessable insureds and assist
369 the corporation in ensuring the accurate, timely collection and
370 payment of assessments by surplus lines agents as required by
371 the corporation.

372 ~~j.i.~~ Upon determination by the board of governors that an
373 account has a projected deficit, the board shall levy a Citizens
374 policyholder surcharge against all policyholders of the
375 corporation.

376 (I) The surcharge shall be levied as a uniform percentage
377 of the premium for the policy of up to 15 percent of such
378 premium, which funds shall be used to offset the deficit.

379 (II) The surcharge is payable upon cancellation or
380 termination of the policy, upon renewal of the policy, or upon
381 issuance of a new policy by the corporation within the first 12
382 months after the date of the levy or the period of time
383 necessary to fully collect the surcharge amount.

384 (III) The corporation may not levy any regular assessments
385 under paragraph (q) pursuant to sub-subparagraph a. or sub-
386 subparagraph b. with respect to a particular year's deficit



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387 until the corporation has first levied the full amount of the
388 surcharge authorized by this sub-subparagraph.

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

392 ~~k.j.~~ If the amount of any assessments or surcharges
393 collected from corporation policyholders, assessable insurers or
394 their policyholders, or assessable insureds exceeds the amount
395 of the deficits, such excess amounts shall be remitted to and
396 retained by the corporation in a reserve to be used by the
397 corporation, as determined by the board of governors and
398 approved by the office, to pay claims or reduce any past,
399 present, or future plan-year deficits or to reduce outstanding
400 debt.

401 4. The Citizens account, if established by the corporation
402 pursuant to sub-subparagraph 2.b., is authorized to provide:

403 a. Personal residential policies that provide
404 comprehensive, multiperil coverage on risks that are not located
405 in areas eligible for coverage by the Florida Windstorm
406 Underwriting Association, as those areas were defined on January
407 1, 2002, and for policies that do not provide coverage for the
408 peril of wind on risks that are located in such areas;

409 b. Commercial residential and commercial nonresidential
410 policies that provide coverage for basic property perils on
411 risks that are not located in areas eligible for coverage by the
412 Florida Windstorm Underwriting Association, as those areas were
413 defined on January 1, 2002, and for policies that do not provide
414 coverage for the peril of wind on risks that are located in such
415 areas; and



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416 c. Personal residential policies and commercial residential
417 and commercial nonresidential property policies that provide
418 coverage for the peril of wind on risks that are located in
419 areas eligible for coverage by the Florida Windstorm
420 Underwriting Association, as those areas were defined on January
421 1, 2002. The corporation may offer policies that provide
422 multiperil coverage and shall offer policies that provide
423 coverage only for the peril of wind for risks located in areas
424 eligible for coverage by the Florida Windstorm Underwriting
425 Association, as those areas were defined on January 1, 2002. The
426 corporation may not offer new commercial residential policies
427 providing multiperil coverage, but shall continue to offer
428 commercial residential wind-only policies, and may offer
429 commercial residential policies excluding wind. However, the
430 corporation may continue to renew a commercial residential
431 multiperil policy on a building that was insured by the
432 corporation on June 30, 2014, under a multiperil policy. In
433 issuing multiperil coverage under this sub-subparagraph, the
434 corporation may use its approved policy forms and rates for
435 risks located in areas not eligible for coverage by the Florida
436 Windstorm Underwriting Association as those areas were defined
437 on January 1, 2002, and for policies that do not provide
438 coverage for the peril of wind on risks that are located in such
439 areas. An applicant or insured who is eligible to purchase a
440 multiperil policy from the corporation may purchase a multiperil
441 policy from an authorized insurer without prejudice to the
442 applicant's or insured's eligibility to prospectively purchase a
443 policy that provides coverage only for the peril of wind from
444 the corporation. An applicant or insured who is eligible for a



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445 corporation policy that provides coverage only for the peril of
446 wind may elect to purchase or retain such policy and also
447 purchase or retain coverage excluding wind from an authorized
448 insurer without prejudice to the applicant's or insured's
449 eligibility to prospectively purchase a policy that provides
450 multi-peril coverage from the corporation. The following
451 policies, which provide coverage only for the peril of wind,
452 must also include quota share primary insurance under
453 subparagraph (c)2.: Personal residential policies and commercial
454 residential and commercial nonresidential property policies that
455 provide coverage for the peril of wind on risks that are located
456 in areas eligible for coverage by the Florida Windstorm
457 Underwriting Association, as those areas were defined on January
458 1, 2002; policies that provide multi-peril coverage, if offered
459 by the corporation, and policies that provide coverage only for
460 the peril of wind for risks located in areas eligible for
461 coverage by the Florida Windstorm Underwriting Association, as
462 those areas were defined on January 1, 2002; commercial
463 residential wind-only policies; commercial residential policies
464 excluding wind, if offered by the corporation; and commercial
465 residential multi-peril policies on a building that was insured
466 by the corporation on June 30, 2014. The area eligible for
467 coverage with the corporation under this sub-subparagraph
468 includes the area within Port Canaveral, which is bordered on
469 the south by the City of Cape Canaveral, bordered on the west by
470 the Banana River, and bordered on the north by Federal
471 Government property.

472 5. With respect to a deficit in the Citizens account:
473 a. Upon a determination by the board of governors that the



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474 Citizens account has a projected deficit, the board shall levy a
475 Citizens policyholder surcharge against all policyholders of the
476 corporation.

477 (I) The surcharge shall be levied as a uniform percentage
478 of the premium for the policy of up to 15 percent of such
479 premium, which funds shall be used to offset the deficit.

480 (II) The surcharge is payable upon cancellation or
481 termination of the policy, upon renewal of the policy, or upon
482 issuance of a new policy by the corporation within the first 12
483 months after the date of the levy or the period of time
484 necessary to fully collect the surcharge amount.

485 (III) The surcharge is not considered premium and is not
486 subject to commissions, fees, or premium taxes. However, failure
487 to pay the surcharge shall be treated as failure to pay premium.

488 b. After accounting for the Citizens policyholder surcharge
489 imposed under sub-subparagraph a., the remaining projected
490 deficit incurred in the Citizens account in a particular
491 calendar year shall be recovered through emergency assessments
492 under sub-subparagraph c.

493 c. Upon a determination by the board of governors that a
494 projected deficit in the Citizens account exceeds the amount
495 that is expected to be recovered through surcharges under sub-
496 subparagraph a., the board, after verification by the office,
497 shall levy emergency assessments for as many years as necessary
498 to cover the deficits, to be collected by assessable insurers
499 and the corporation and collected from assessable insureds upon
500 issuance or renewal of policies for subject lines of business,
501 excluding National Flood Insurance Program policies. The amount
502 collected in a particular year must be a uniform percentage of



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503 that year's direct written premium for subject lines of business
504 and the Citizens account, National Flood Insurance Program
505 policy premiums, as annually determined by the board and
506 verified by the office. The office shall verify the arithmetic
507 calculations involved in the board's determination within 30
508 days after receipt of the information on which the determination
509 was based. The office shall notify assessable insurers and the
510 Florida Surplus Lines Service Office of the date on which
511 assessable insurers shall begin to collect and assessable
512 insureds shall begin to pay such assessment. The date must be at
513 least 90 days after the date the corporation levies emergency
514 assessments pursuant to this sub-subparagraph. Notwithstanding
515 any other law, the corporation and each assessable insurer that
516 writes subject lines of business shall collect emergency
517 assessments from its policyholders without such obligation being
518 affected by any credit, limitation, exemption, or deferment.
519 Emergency assessments levied by the corporation on assessable
520 insureds shall be collected by the surplus lines agent at the
521 time the surplus lines agent collects the surplus lines tax
522 required by s. 626.932 and paid to the Florida Surplus Lines
523 Service Office at the time the surplus lines agent pays the
524 surplus lines tax to that office. The emergency assessments
525 collected shall be transferred directly to the corporation on a
526 periodic basis as determined by the corporation and held by the
527 corporation solely in the Citizens account. The aggregate amount
528 of emergency assessments levied for the Citizens account in any
529 calendar year may be less than, but may not exceed the greater
530 of, 10 percent of the amount needed to cover the deficit, plus
531 interest, fees, commissions, required reserves, and other costs



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532 associated with financing the original deficit or 10 percent of
533 the aggregate statewide direct written premium for subject lines
534 of business and the Citizens accounts for the prior year, plus
535 interest, fees, commissions, required reserves, and other costs
536 associated with financing the deficit.

537 d. The corporation may pledge the proceeds of assessments,
538 projected recoveries from the Florida Hurricane Catastrophe
539 Fund, other insurance and reinsurance recoverables, policyholder
540 surcharges and other surcharges, and other funds available to
541 the corporation as the source of revenue for and to secure bonds
542 issued under paragraph (q), bonds or other indebtedness issued
543 under subparagraph (c)3., or lines of credit or other financing
544 mechanisms issued or created under this subsection; or to retire
545 any other debt incurred as a result of deficits or events giving
546 rise to deficits, or in any other way that the board determines
547 will efficiently recover such deficits. The purpose of the lines
548 of credit or other financing mechanisms is to provide additional
549 resources to assist the corporation in covering claims and
550 expenses attributable to a catastrophe. As used in this
551 subsection, the term "assessments" includes emergency
552 assessments under sub-subparagraph c. Emergency assessments
553 collected under sub-subparagraph c. are not part of an insurer's
554 rates, are not premium, and are not subject to premium tax,
555 fees, or commissions; however, failure to pay the emergency
556 assessment shall be treated as failure to pay premium. The
557 emergency assessments shall continue as long as any bonds issued
558 or other indebtedness incurred with respect to a deficit for
559 which the assessment was imposed remain outstanding, unless
560 adequate provision has been made for the payment of such bonds



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561 or other indebtedness pursuant to the documents governing such
562 bonds or indebtedness.

563 e. As used in this subsection and for purposes of any
564 deficit incurred on or after January 25, 2007, the term "subject
565 lines of business" means insurance written by assessable
566 insurers or procured by assessable insureds for all property and
567 casualty lines of business in this state, but not including
568 workers' compensation or medical malpractice. As used in this
569 sub-subparagraph, the term "property and casualty lines of
570 business" includes all lines of business identified on Form 2,
571 Exhibit of Premiums and Losses, in the annual statement required
572 of authorized insurers under s. 624.424 and any rule adopted
573 under this section, except for those lines identified as
574 accident and health insurance and except for policies written
575 under the National Flood Insurance Program or the Federal Crop
576 Insurance Program. For purposes of this sub-subparagraph, the
577 term "workers' compensation" includes both workers' compensation
578 insurance and excess workers' compensation insurance.

579 f. The Florida Surplus Lines Service Office shall annually
580 determine the aggregate statewide written premium in subject
581 lines of business procured by assessable insureds and report
582 that information to the corporation in a form and at a time the
583 corporation specifies to ensure that the corporation can meet
584 the requirements of this subsection and the corporation's
585 financing obligations.

586 g. The Florida Surplus Lines Service Office shall verify
587 the proper application by surplus lines agents of assessment
588 percentages for emergency assessments levied under this
589 subparagraph on assessable insureds and assist the corporation



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590 in ensuring the accurate, timely collection and payment of
591 assessments by surplus lines agents as required by the
592 corporation.

593 h. If the amount of any assessments or surcharges collected
594 from corporation policyholders, assessable insurers or their
595 policyholders, or assessable insureds exceeds the amount of the
596 deficits, such excess amounts shall be remitted to and retained
597 by the corporation in a reserve to be used by the corporation,
598 as determined by the board of governors and approved by the
599 office, to pay claims or reduce any past, present, or future
600 plan-year deficits or to reduce outstanding debt.

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

602 1. Must provide for adoption of residential property and
603 casualty insurance policy forms and commercial residential and
604 nonresidential property insurance forms, which must be approved
605 by the office before use. The corporation shall adopt the
606 following policy forms:

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

611 b. Basic personal lines policy forms that are policies
612 similar to an HO-8 policy or a dwelling fire policy that provide
613 coverage meeting the requirements of the secondary mortgage
614 market, but which is more limited than the coverage under a
615 standard policy.

616 c. Commercial lines residential and nonresidential policy
617 forms that are generally similar to the basic perils of full
618 coverage obtainable for commercial residential structures and



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619 commercial nonresidential structures in the admitted voluntary
620 market.

621 d. Personal lines and commercial lines residential property
622 insurance forms that cover the peril of wind only. The forms are
623 applicable only to residential properties located in areas
624 eligible for coverage by the Florida Windstorm Underwriting
625 Association, as those areas were defined on January 1, 2002
626 ~~under the coastal account referred to in sub-subparagraph~~
627 ~~(b)2.a.~~

628 e. Commercial lines nonresidential property insurance forms
629 that cover the peril of wind only. The forms are applicable only
630 to nonresidential properties located in areas eligible for
631 coverage by the Florida Windstorm Underwriting Association, as
632 those areas were defined on January 1, 2002 ~~under the coastal~~
633 ~~account referred to in sub-subparagraph (b)2.a.~~

634 f. The corporation may adopt variations of the policy forms
635 listed in sub-subparagraphs a.-e. which contain more restrictive
636 coverage.

637 g. ~~Effective January 1, 2013,~~ The corporation shall offer a
638 basic personal lines policy similar to an HO-8 policy with
639 dwelling repair based on common construction materials and
640 methods.

641 2. Must provide that the corporation adopt a program in
642 which the corporation and authorized insurers enter into quota
643 share primary insurance agreements for hurricane coverage, as
644 defined in s. 627.4025(2)(a), for eligible risks, and adopt
645 property insurance forms for eligible risks which cover the
646 peril of wind only.

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



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648 (I) "Quota share primary insurance" means an arrangement in
649 which the primary hurricane coverage of an eligible risk is
650 provided in specified percentages by the corporation and an
651 authorized insurer. The corporation and authorized insurer are
652 each solely responsible for a specified percentage of hurricane
653 coverage of an eligible risk as set forth in a quota share
654 primary insurance agreement between the corporation and an
655 authorized insurer and the insurance contract. The
656 responsibility of the corporation or authorized insurer to pay
657 its specified percentage of hurricane losses of an eligible
658 risk, as set forth in the agreement, may not be altered by the
659 inability of the other party to pay its specified percentage of
660 losses. Eligible risks that are provided hurricane coverage
661 through a quota share primary insurance arrangement must be
662 provided policy forms that set forth the obligations of the
663 corporation and authorized insurer under the arrangement,
664 clearly specify the percentages of quota share primary insurance
665 provided by the corporation and authorized insurer, and
666 conspicuously and clearly state that the authorized insurer and
667 the corporation may not be held responsible beyond their
668 specified percentage of coverage of hurricane losses.

669 (II) "Eligible risks" means personal lines residential and
670 commercial lines residential risks that meet the underwriting
671 criteria of the corporation and are located in areas that were
672 eligible for coverage by the Florida Windstorm Underwriting
673 Association on January 1, 2002.

674 b. The corporation may enter into quota share primary
675 insurance agreements with authorized insurers at corporation
676 coverage levels of 90 percent and 50 percent.



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677 c. If the corporation determines that additional coverage
678 levels are necessary to maximize participation in quota share
679 primary insurance agreements by authorized insurers, the
680 corporation may establish additional coverage levels. However,
681 the corporation's quota share primary insurance coverage level
682 may not exceed 90 percent.

683 d. Any quota share primary insurance agreement entered into
684 between an authorized insurer and the corporation must provide
685 for a uniform specified percentage of coverage of hurricane
686 losses, by county or territory as set forth by the corporation
687 board, for all eligible risks of the authorized insurer covered
688 under the agreement.

689 e. Any quota share primary insurance agreement entered into
690 between an authorized insurer and the corporation is subject to
691 review and approval by the office. However, such agreement shall
692 be authorized only as to insurance contracts entered into
693 between an authorized insurer and an insured who is already
694 insured by the corporation for wind coverage.

695 f. For all eligible risks covered under quota share primary
696 insurance agreements, the exposure and coverage levels for both
697 the corporation and authorized insurers shall be reported by the
698 corporation to the Florida Hurricane Catastrophe Fund. For all
699 policies of eligible risks covered under such agreements, the
700 corporation and the authorized insurer must maintain complete
701 and accurate records for the purpose of exposure and loss
702 reimbursement audits as required by fund rules. The corporation
703 and the authorized insurer shall each maintain duplicate copies
704 of policy declaration pages and supporting claims documents.

705 g. The corporation board shall establish in its plan of



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706 operation standards for quota share agreements which ensure that
707 there is no discriminatory application among insurers as to the
708 terms of the agreements, pricing of the agreements, incentive
709 provisions if any, and consideration paid for servicing policies
710 or adjusting claims.

711 h. The quota share primary insurance agreement between the
712 corporation and an authorized insurer must set forth the
713 specific terms under which coverage is provided, including, but
714 not limited to, the sale and servicing of policies issued under
715 the agreement by the insurance agent of the authorized insurer
716 producing the business, the reporting of information concerning
717 eligible risks, the payment of premium to the corporation, and
718 arrangements for the adjustment and payment of hurricane claims
719 incurred on eligible risks by the claims adjuster and personnel
720 of the authorized insurer. Entering into a quota sharing
721 insurance agreement between the corporation and an authorized
722 insurer is voluntary and at the discretion of the authorized
723 insurer.

724 3. May provide that the corporation may employ or otherwise
725 contract with individuals or other entities to provide
726 administrative or professional services that may be appropriate
727 to effectuate the plan. The corporation may borrow funds by
728 issuing bonds or by incurring other indebtedness, and shall have
729 other powers reasonably necessary to effectuate the requirements
730 of this subsection, including, without limitation, the power to
731 issue bonds and incur other indebtedness in order to refinance
732 outstanding bonds or other indebtedness. The corporation may
733 seek judicial validation of its bonds or other indebtedness
734 under chapter 75. The corporation may issue bonds or incur other



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735 indebtedness, or have bonds issued on its behalf by a unit of
736 local government pursuant to subparagraph (q)2. in the absence
737 of a hurricane or other weather-related event, upon a
738 determination by the corporation, subject to approval by the
739 office, that such action would enable it to efficiently meet the
740 financial obligations of the corporation and that such
741 financings are reasonably necessary to effectuate the
742 requirements of this subsection. The corporation may take all
743 actions needed to facilitate tax-free status for such bonds or
744 indebtedness, including formation of trusts or other affiliated
745 entities. The corporation may pledge assessments, projected
746 recoveries from the Florida Hurricane Catastrophe Fund, other
747 reinsurance recoverables, policyholder surcharges and other
748 surcharges, and other funds available to the corporation as
749 security for bonds or other indebtedness. In recognition of s.
750 10, Art. I of the State Constitution, prohibiting the impairment
751 of obligations of contracts, it is the intent of the Legislature
752 that no action be taken whose purpose is to impair any bond
753 indenture or financing agreement or any revenue source committed
754 by contract to such bond or other indebtedness.

755 4. Must require that the corporation operate subject to the
756 supervision and approval of a board of governors consisting of
757 nine individuals who are residents of this state and who are
758 from different geographical areas of the state, one of whom is
759 appointed by the Governor and serves solely to advocate on
760 behalf of the consumer. The appointment of a consumer
761 representative by the Governor is deemed to be within the scope
762 of the exemption provided in s. 112.313(7)(b) and is in addition
763 to the appointments authorized under sub-subparagraph a.



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764 a. The Governor, the Chief Financial Officer, the President
765 of the Senate, and the Speaker of the House of Representatives
766 shall each appoint two members of the board. At least one of the
767 two members appointed by each appointing officer must have
768 demonstrated expertise in insurance and be deemed to be within
769 the scope of the exemption provided in s. 112.313(7)(b). The
770 Chief Financial Officer shall designate one of the appointees as
771 chair. All board members serve at the pleasure of the appointing
772 officer. All members of the board are subject to removal at will
773 by the officers who appointed them. All board members, including
774 the chair, must be appointed to serve for 3-year terms beginning
775 annually on a date designated by the plan. However, for the
776 first term beginning on or after July 1, 2009, each appointing
777 officer shall appoint one member of the board for a 2-year term
778 and one member for a 3-year term. A board vacancy shall be
779 filled for the unexpired term by the appointing officer. The
780 Chief Financial Officer shall appoint a technical advisory group
781 to provide information and advice to the board in connection
782 with the board's duties under this subsection. The executive
783 director and senior managers of the corporation shall be engaged
784 by the board and serve at the pleasure of the board. Any
785 executive director appointed on or after July 1, 2006, is
786 subject to confirmation by the Senate. The executive director is
787 responsible for employing other staff as the corporation may
788 require, subject to review and concurrence by the board.

789 b. The board shall create a Market Accountability Advisory
790 Committee to assist the corporation in developing awareness of
791 its rates and its customer and agent service levels in
792 relationship to the voluntary market insurers writing similar



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793 coverage.

794 (I) The members of the advisory committee consist of the
795 following 11 persons, one of whom must be elected chair by the
796 members of the committee: four representatives, one appointed by
797 the Florida Association of Insurance Agents, one by the Florida
798 Association of Insurance and Financial Advisors, one by the
799 Professional Insurance Agents of Florida, and one by the Latin
800 American Association of Insurance Agencies; three
801 representatives appointed by the insurers with the three highest
802 voluntary market share of residential property insurance
803 business in the state; one representative from the Office of
804 Insurance Regulation; one consumer appointed by the board who is
805 insured by the corporation at the time of appointment to the
806 committee; one representative appointed by the Florida
807 Association of Realtors; and one representative appointed by the
808 Florida Bankers Association. All members shall be appointed to
809 3-year terms and may serve for consecutive terms.

810 (II) The committee shall report to the corporation at each
811 board meeting on insurance market issues which may include rates
812 and rate competition with the voluntary market; service,
813 including policy issuance, claims processing, and general
814 responsiveness to policyholders, applicants, and agents; and
815 matters relating to depopulation.

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

818 a. Subject to s. 627.3517, with respect to personal lines
819 residential risks, if the risk is offered coverage from an
820 authorized insurer at the insurer's approved rate under a
821 standard policy including wind coverage or, if consistent with



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822 the insurer's underwriting rules as filed with the office, a
823 basic policy including wind coverage, for a new application to
824 the corporation for coverage, the risk is not eligible for any
825 policy issued by the corporation unless the premium for coverage
826 from the authorized insurer is more than 20 percent greater than
827 the premium for comparable coverage from the corporation.
828 Whenever an offer of coverage for a personal lines residential
829 risk is received for a policyholder of the corporation at
830 renewal from an authorized insurer, if the offer is equal to or
831 less than the corporation's renewal premium for comparable
832 coverage, the risk is not eligible for coverage with the
833 corporation for policies that renew before April 1, 2023; for
834 policies that renew on or after that date, the risk is not
835 eligible for coverage with the corporation unless the premium
836 for coverage from the authorized insurer is more than 20 percent
837 greater than the corporation's renewal premium for comparable
838 coverage. If the risk is not able to obtain such offer, the risk
839 is eligible for a standard policy including wind coverage or a
840 basic policy including wind coverage issued by the corporation;
841 however, if the risk could not be insured under a standard
842 policy including wind coverage regardless of market conditions,
843 the risk is eligible for a basic policy including wind coverage
844 unless rejected under subparagraph 8. ~~However, a policyholder~~
845 ~~removed from the corporation through an assumption agreement~~
846 ~~remains eligible for coverage from the corporation until the end~~
847 ~~of the assumption period.~~ The corporation shall determine the
848 type of policy to be provided on the basis of objective
849 standards specified in the underwriting manual and based on
850 generally accepted underwriting practices. A policyholder



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851 removed from the corporation through an assumption agreement
852 does not remain eligible for coverage from the corporation after
853 the end of the policy term. However, any policy removed from the
854 corporation through an assumption agreement remains on the
855 corporation's policy forms through the end of the policy term.

856 (I) If the risk accepts an offer of coverage through the
857 market assistance plan or through a mechanism established by the
858 corporation other than a plan established by s. 627.3518, before
859 a policy is issued to the risk by the corporation or during the
860 first 30 days of coverage by the corporation, and the producing
861 agent who submitted the application to the plan or to the
862 corporation is not currently appointed by the insurer, the
863 insurer shall:

864 (A) Pay to the producing agent of record of the policy for
865 the first year, an amount that is the greater of the insurer's
866 usual and customary commission for the type of policy written or
867 a fee equal to the usual and customary commission of the
868 corporation; or

869 (B) Offer to allow the producing agent of record of the
870 policy to continue servicing the policy for at least 1 year and
871 offer to pay the agent the greater of the insurer's or the
872 corporation's usual and customary commission for the type of
873 policy written.

874
875 If the producing agent is unwilling or unable to accept
876 appointment, the new insurer shall pay the agent in accordance
877 with sub-sub-sub-subparagraph (A).

878 (II) If the corporation enters into a contractual agreement
879 for a take-out plan, the producing agent of record of the



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880 corporation policy is entitled to retain any unearned commission
881 on the policy, and the insurer shall:

882 (A) Pay to the producing agent of record, for the first
883 year, an amount that is the greater of the insurer's usual and
884 customary commission for the type of policy written or a fee
885 equal to the usual and customary commission of the corporation;
886 or

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

891
892 If the producing agent is unwilling or unable to accept
893 appointment, the new insurer shall pay the agent in accordance
894 with sub-sub-sub-subparagraph (A).

895 b. With respect to commercial lines residential risks, for
896 a new application to the corporation for coverage, if the risk
897 is offered coverage under a policy including wind coverage from
898 an authorized insurer at its approved rate, the risk is not
899 eligible for a policy issued by the corporation unless the
900 premium for coverage from the authorized insurer is more than 20
901 15 percent greater than the premium for comparable coverage from
902 the corporation. Whenever an offer of coverage for a commercial
903 lines residential risk is received for a policyholder of the
904 corporation at renewal from an authorized insurer, ~~if the offer~~
905 ~~is equal to or less than the corporation's renewal premium for~~
906 ~~comparable coverage,~~ the risk is not eligible for coverage with
907 the corporation unless the premium for coverage from the
908 authorized insurer is more than 20 percent greater than the



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909 corporation's renewal premium for comparable coverage. If the
910 risk is not able to obtain any such offer, the risk is eligible
911 for a policy including wind coverage issued by the corporation.
912 ~~However,~~ A policyholder removed from the corporation through an
913 assumption agreement remains eligible for coverage from the
914 corporation until the end of the policy term. However, any
915 policy removed from the corporation through an assumption
916 agreement remains on the corporation's policy forms through the
917 end of the policy term assumption period.

918 (I) If the risk accepts an offer of coverage through the
919 market assistance plan or through a mechanism established by the
920 corporation other than a plan established by s. 627.3518, before
921 a policy is issued to the risk by the corporation or during the
922 first 30 days of coverage by the corporation, and the producing
923 agent who submitted the application to the plan or the
924 corporation is not currently appointed by the insurer, the
925 insurer shall:

926 (A) Pay to the producing agent of record of the policy, for
927 the first year, an amount that is the greater of the insurer's
928 usual and customary commission for the type of policy written or
929 a fee equal to the usual and customary commission of the
930 corporation; or

931 (B) Offer to allow the producing agent of record of the
932 policy to continue servicing the policy for at least 1 year and
933 offer to pay the agent the greater of the insurer's or the
934 corporation's usual and customary commission for the type of
935 policy written.

936
937 If the producing agent is unwilling or unable to accept



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938 appointment, the new insurer shall pay the agent in accordance
939 with sub-sub-sub-subparagraph (A).

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

944 (A) Pay to the producing agent of record, for the first
945 year, an amount that is the greater of the insurer's usual and
946 customary commission for the type of policy written or a fee
947 equal to the usual and customary commission of the corporation;
948 or

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

953
954 If the producing agent is unwilling or unable to accept
955 appointment, the new insurer shall pay the agent in accordance
956 with sub-sub-sub-subparagraph (A).

957 c. For purposes of determining comparable coverage under
958 sub-subparagraphs a. and b., the comparison must be based on
959 those forms and coverages that are reasonably comparable. The
960 corporation may rely on a determination of comparable coverage
961 and premium made by the producing agent who submits the
962 application to the corporation, made in the agent's capacity as
963 the corporation's agent. For purposes of comparing the premium
964 for comparable coverage under sub-subparagraphs a. and b.,
965 premium includes any surcharge or assessment that is actually
966 applied to such policy. A comparison may be made solely of the



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967 premium with respect to the main building or structure only on
968 the following basis: the same coverage A or other building
969 limits; the same percentage hurricane deductible that applies on
970 an annual basis or that applies to each hurricane for commercial
971 residential property; the same percentage of ordinance and law
972 coverage, if the same limit is offered by both the corporation
973 and the authorized insurer; the same mitigation credits, to the
974 extent the same types of credits are offered both by the
975 corporation and the authorized insurer; the same method for loss
976 payment, such as replacement cost or actual cash value, if the
977 same method is offered both by the corporation and the
978 authorized insurer in accordance with underwriting rules; and
979 any other form or coverage that is reasonably comparable as
980 determined by the board. If an application is submitted to the
981 corporation for wind-only coverage on a risk that is located in
982 an area eligible for coverage by the Florida Windstorm
983 Underwriting Association, as that area was defined on January 1,
984 2002 in the coastal account, the premium for the corporation's
985 wind-only policy plus the premium for the ex-wind policy that is
986 offered by an authorized insurer to the applicant must be
987 compared to the premium for multiperil coverage offered by an
988 authorized insurer, subject to the standards for comparison
989 specified in this subparagraph. If the corporation or the
990 applicant requests from the authorized insurer a breakdown of
991 the premium of the offer by types of coverage so that a
992 comparison may be made by the corporation or its agent and the
993 authorized insurer refuses or is unable to provide such
994 information, the corporation may treat the offer as not being an
995 offer of coverage from an authorized insurer at the insurer's



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996 approved rate.

997 6. Must include rules for classifications of risks and
998 rates.

999 7. Must provide that if premium and investment income:

1000 a. For an account attributable to a particular calendar
1001 year are in excess of projected losses and expenses for the
1002 account attributable to that year, such excess shall be held in
1003 surplus in the account. Such surplus must be available to defray
1004 deficits in that account as to future years and used for that
1005 purpose before assessing assessable insurers and assessable
1006 insureds as to any calendar year; or

1007 b. For the Citizens account, if established by the
1008 corporation, which are attributable to a particular calendar
1009 year are in excess of projected losses and expenses for the
1010 Citizens account attributable to that year, such excess shall be
1011 held in surplus in the Citizens account. Such surplus must be
1012 available to defray deficits in the Citizens account as to
1013 future years and used for that purpose before assessing
1014 assessable insurers and assessable insureds as to any calendar
1015 year.

1016 8. Must provide objective criteria and procedures to be
1017 uniformly applied to all applicants in determining whether an
1018 individual risk is so hazardous as to be uninsurable. In making
1019 this determination and in establishing the criteria and
1020 procedures, the following must be considered:

1021 a. Whether the likelihood of a loss for the individual risk
1022 is substantially higher than for other risks of the same class;
1023 and

1024 b. Whether the uncertainty associated with the individual



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1025 risk is such that an appropriate premium cannot be determined.

1026

1027 The acceptance or rejection of a risk by the corporation shall
1028 be construed as the private placement of insurance, and the
1029 provisions of chapter 120 do not apply.

1030 9. Must provide that the corporation make its best efforts
1031 to procure catastrophe reinsurance at reasonable rates, to cover
1032 its projected 100-year probable maximum loss as determined by
1033 the board of governors. If catastrophe reinsurance is not
1034 available at reasonable rates, the corporation need not purchase
1035 it, but the corporation shall include the costs of reinsurance
1036 to cover its projected 100-year probable maximum loss in its
1037 rate calculations even if it does not purchase catastrophe
1038 reinsurance.

1039 10. The policies issued by the corporation must provide
1040 that if the corporation or the market assistance plan obtains an
1041 offer from an authorized insurer to cover the risk at its
1042 approved rates, the risk is no longer eligible for renewal
1043 through the corporation, except as otherwise provided in this
1044 subsection.

1045 11. Corporation policies and applications must include a
1046 notice that the corporation policy could, under this section, be
1047 replaced with a policy issued by an authorized insurer which
1048 does not provide coverage identical to the coverage provided by
1049 the corporation. The notice must also specify that acceptance of
1050 corporation coverage creates a conclusive presumption that the
1051 applicant or policyholder is aware of this potential.

1052 12. May establish, subject to approval by the office,
1053 different eligibility requirements and operational procedures



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1054 for any line or type of coverage for any specified county or
1055 area if the board determines that such changes are justified due
1056 to the voluntary market being sufficiently stable and
1057 competitive in such area or for such line or type of coverage
1058 and that consumers who, in good faith, are unable to obtain
1059 insurance through the voluntary market through ordinary methods
1060 continue to have access to coverage from the corporation. If
1061 coverage is sought in connection with a real property transfer,
1062 the requirements and procedures may not provide an effective
1063 date of coverage later than the date of the closing of the
1064 transfer as established by the transferor, the transferee, and,
1065 if applicable, the lender.

1066 13. Must provide that:7

1067 a. With respect to the coastal account, any assessable
1068 insurer with a surplus as to policyholders of \$25 million or
1069 less writing 25 percent or more of its total countrywide
1070 property insurance premiums in this state may petition the
1071 office, within the first 90 days of each calendar year, to
1072 qualify as a limited apportionment company. A regular assessment
1073 levied by the corporation on a limited apportionment company for
1074 a deficit incurred by the corporation for the coastal account
1075 may be paid to the corporation on a monthly basis as the
1076 assessments are collected by the limited apportionment company
1077 from its insureds, but a limited apportionment company must
1078 begin collecting the regular assessments not later than 90 days
1079 after the regular assessments are levied by the corporation, and
1080 the regular assessments must be paid in full within 15 months
1081 after being levied by the corporation. A limited apportionment
1082 company shall collect from its policyholders any emergency



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1083 assessment imposed under sub-subparagraph (b)3.e. ~~(b)3.d.~~ The
1084 plan must provide that, if the office determines that any
1085 regular assessment will result in an impairment of the surplus
1086 of a limited apportionment company, the office may direct that
1087 all or part of such assessment be deferred as provided in
1088 subparagraph (q)4. However, an emergency assessment to be
1089 collected from policyholders under sub-subparagraph (b)3.e.
1090 ~~(b)3.d.~~ may not be limited or deferred; or

1091 b. With respect to the Citizens account, if established by
1092 the corporation pursuant to sub-subparagraph (b)2.b., any
1093 assessable insurer with a surplus as to policyholders of \$25
1094 million or less and writing 25 percent or more of its total
1095 countrywide property insurance premiums in this state may
1096 petition the office, within the first 90 days of each calendar
1097 year, to qualify as a limited apportionment company. A limited
1098 apportionment company shall collect from its policyholders any
1099 emergency assessment imposed under sub-subparagraph (b)5.c. An
1100 emergency assessment to be collected from policyholders under
1101 sub-subparagraph (b)5.c. may not be limited or deferred.

1102 14. Must provide that the corporation appoint as its
1103 licensed agents only those agents who throughout such
1104 appointments also hold an appointment as defined in s. 626.015
1105 by an insurer who is authorized to write and is actually writing
1106 or renewing personal lines residential property coverage,
1107 commercial residential property coverage, or commercial
1108 nonresidential property coverage within the state.

1109 15. Must provide a premium payment plan option to its
1110 policyholders which, at a minimum, allows for quarterly and
1111 semiannual payment of premiums. A monthly payment plan may, but



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1112 is not required to, be offered.

1113 16. Must limit coverage on mobile homes or manufactured
1114 homes built before 1994 to actual cash value of the dwelling
1115 rather than replacement costs of the dwelling.

1116 17. Must provide coverage for manufactured or mobile home
1117 dwellings. Such coverage must also include the following
1118 attached structures:

1119 a. Screened enclosures that are aluminum framed or screened
1120 enclosures that are not covered by the same or substantially the
1121 same materials as those of the primary dwelling;

1122 b. Carports that are aluminum or carports that are not
1123 covered by the same or substantially the same materials as those
1124 of the primary dwelling; and

1125 c. Patios that have a roof covering that is constructed of
1126 materials that are not the same or substantially the same
1127 materials as those of the primary dwelling.

1128

1129 The corporation shall make available a policy for mobile homes
1130 or manufactured homes for a minimum insured value of at least
1131 \$3,000.

1132 18. May provide such limits of coverage as the board
1133 determines, consistent with the requirements of this subsection.

1134 19. May require commercial property to meet specified
1135 hurricane mitigation construction features as a condition of
1136 eligibility for coverage.

1137 20. Must provide that new or renewal policies issued by the
1138 corporation on or after January 1, 2012, which cover sinkhole
1139 loss do not include coverage for any loss to appurtenant
1140 structures, driveways, sidewalks, decks, or patios that are



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1141 directly or indirectly caused by sinkhole activity. The
1142 corporation shall exclude such coverage using a notice of
1143 coverage change, which may be included with the policy renewal,
1144 and not by issuance of a notice of nonrenewal of the excluded
1145 coverage upon renewal of the current policy.

1146 21.a. As of January 1, 2012, unless the Citizens account
1147 has been established pursuant to sub-subparagraph (b)2.b., must
1148 require that the agent obtain from an applicant for coverage
1149 from the corporation an acknowledgment signed by the applicant,
1150 which includes, at a minimum, the following statement:

1151
1152 ACKNOWLEDGMENT OF POTENTIAL SURCHARGE
1153 AND ASSESSMENT LIABILITY:
1154

1155 1. AS A POLICYHOLDER OF CITIZENS PROPERTY INSURANCE
1156 CORPORATION, I UNDERSTAND THAT IF THE CORPORATION SUSTAINS A
1157 DEFICIT AS A RESULT OF HURRICANE LOSSES OR FOR ANY OTHER REASON,
1158 MY POLICY COULD BE SUBJECT TO SURCHARGES, WHICH WILL BE DUE AND
1159 PAYABLE UPON RENEWAL, CANCELLATION, OR TERMINATION OF THE
1160 POLICY, AND THAT THE SURCHARGES COULD BE AS HIGH AS 45 PERCENT
1161 OF MY PREMIUM, OR A DIFFERENT AMOUNT AS IMPOSED BY THE FLORIDA
1162 LEGISLATURE.

1163 2. I UNDERSTAND THAT I CAN AVOID THE CITIZENS POLICYHOLDER
1164 SURCHARGE, WHICH COULD BE AS HIGH AS 45 PERCENT OF MY PREMIUM,
1165 BY OBTAINING COVERAGE FROM A PRIVATE MARKET INSURER AND THAT TO
1166 BE ELIGIBLE FOR COVERAGE BY CITIZENS, I MUST FIRST TRY TO OBTAIN
1167 PRIVATE MARKET COVERAGE BEFORE APPLYING FOR OR RENEWING COVERAGE
1168 WITH CITIZENS. I UNDERSTAND THAT PRIVATE MARKET INSURANCE RATES
1169 ARE REGULATED AND APPROVED BY THE STATE.



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1170 3. I UNDERSTAND THAT I MAY BE SUBJECT TO EMERGENCY
1171 ASSESSMENTS TO THE SAME EXTENT AS POLICYHOLDERS OF OTHER
1172 INSURANCE COMPANIES, OR A DIFFERENT AMOUNT AS IMPOSED BY THE
1173 FLORIDA LEGISLATURE.

1174 4. I ALSO UNDERSTAND THAT CITIZENS PROPERTY INSURANCE
1175 CORPORATION IS NOT SUPPORTED BY THE FULL FAITH AND CREDIT OF THE
1176 STATE OF FLORIDA.

1177
1178 b. The corporation must require, if it has established the
1179 Citizens account pursuant to sub-subparagraph (b)2.b., that the
1180 agent obtain from an applicant for coverage from the corporation
1181 the following acknowledgment signed by the applicant, which
1182 includes, at a minimum, the following statement:

1183
1184 ACKNOWLEDGMENT OF POTENTIAL SURCHARGE
1185 AND ASSESSMENT LIABILITY:
1186

1187 1. AS A POLICYHOLDER OF CITIZENS PROPERTY INSURANCE
1188 CORPORATION, I UNDERSTAND THAT IF THE CORPORATION SUSTAINS A
1189 DEFICIT AS A RESULT OF HURRICANE LOSSES OR FOR ANY OTHER REASON,
1190 MY POLICY COULD BE SUBJECT TO SURCHARGES AND ASSESSMENTS, WHICH
1191 WILL BE DUE AND PAYABLE UPON RENEWAL, CANCELLATION, OR
1192 TERMINATION OF THE POLICY, AND THAT THE SURCHARGES AND
1193 ASSESSMENTS COULD BE AS HIGH AS 25 PERCENT OF MY PREMIUM, OR A
1194 DIFFERENT AMOUNT AS IMPOSED BY THE FLORIDA LEGISLATURE.

1195 2. I UNDERSTAND THAT I CAN AVOID THE CITIZENS POLICYHOLDER
1196 SURCHARGE, WHICH COULD BE AS HIGH AS 15 PERCENT OF MY PREMIUM,
1197 BY OBTAINING COVERAGE FROM A PRIVATE MARKET INSURER AND THAT TO
1198 BE ELIGIBLE FOR COVERAGE BY CITIZENS, I MUST FIRST TRY TO OBTAIN



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1199 PRIVATE MARKET COVERAGE BEFORE APPLYING FOR OR RENEWING COVERAGE
1200 WITH CITIZENS. I UNDERSTAND THAT PRIVATE MARKET INSURANCE RATES
1201 ARE REGULATED AND APPROVED BY THE STATE.

1202 3. I UNDERSTAND THAT I MAY BE SUBJECT TO EMERGENCY
1203 ASSESSMENTS TO THE SAME EXTENT AS POLICYHOLDERS OF OTHER
1204 INSURANCE COMPANIES, OR A DIFFERENT AMOUNT AS IMPOSED BY THE
1205 FLORIDA LEGISLATURE.

1206 4. I ALSO UNDERSTAND THAT CITIZENS PROPERTY INSURANCE
1207 CORPORATION IS NOT SUPPORTED BY THE FULL FAITH AND CREDIT OF THE
1208 STATE OF FLORIDA.

1209
1210 ~~c.a.~~ The corporation shall maintain, in electronic format
1211 or otherwise, a copy of the applicant's signed acknowledgment
1212 and provide a copy of the statement to the policyholder as part
1213 of the first renewal after the effective date of sub-
1214 subparagraph a. or sub-subparagraph b., as applicable ~~this~~
1215 subparagraph.

1216 ~~d.b.~~ The signed acknowledgment form creates a conclusive
1217 presumption that the policyholder understood and accepted his or
1218 her potential surcharge and assessment liability as a
1219 policyholder of the corporation.

1220 (n)1. Rates for coverage provided by the corporation must
1221 be actuarially sound pursuant ~~and subject~~ to s. 627.062 and not
1222 competitive with approved rates charged in the admitted
1223 voluntary market so that the corporation functions as a residual
1224 market mechanism to provide insurance only when insurance cannot
1225 be procured in the voluntary market, except as otherwise
1226 provided in this paragraph. The office shall provide the
1227 corporation such information as would be necessary to determine



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1228 whether rates are competitive. The corporation shall file its
1229 recommended rates with the office at least annually. The
1230 corporation shall provide any additional information regarding
1231 the rates which the office requires. The office shall consider
1232 the recommendations of the board and issue a final order
1233 establishing the rates for the corporation within 45 days after
1234 the recommended rates are filed. The corporation may not pursue
1235 an administrative challenge or judicial review of the final
1236 order of the office.

1237 2. In addition to the rates otherwise determined pursuant
1238 to this paragraph, the corporation shall impose and collect an
1239 amount equal to the premium tax provided in s. 624.509 to
1240 augment the financial resources of the corporation.

1241 3. After the public hurricane loss-projection model under
1242 s. 627.06281 has been found to be accurate and reliable by the
1243 Florida Commission on Hurricane Loss Projection Methodology, the
1244 model shall be considered when establishing the windstorm
1245 portion of the corporation's rates. The corporation may use the
1246 public model results in combination with the results of private
1247 models to calculate rates for the windstorm portion of the
1248 corporation's rates. This subparagraph does not require or allow
1249 the corporation to adopt rates lower than the rates otherwise
1250 required or allowed by this paragraph.

1251 4. The corporation must make a recommended actuarially
1252 sound rate filing for each personal and commercial line of
1253 business it writes.

1254 5. Notwithstanding the board's recommended rates and the
1255 office's final order regarding the corporation's filed rates
1256 under subparagraph 1., the corporation shall annually implement



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1257 a rate increase which, except for sinkhole coverage, does not
1258 exceed the following for any single policy issued by the
1259 corporation, excluding coverage changes and surcharges:

- 1260 a. ~~Eleven percent for 2022.~~
1261 ~~b.~~ Twelve percent for 2023.
1262 ~~b.e.~~ Thirteen percent for 2024.
1263 ~~c.d.~~ Fourteen percent for 2025.
1264 ~~d.e.~~ Fifteen percent for 2026 and all subsequent years.

1265 6. The corporation may also implement an increase to
1266 reflect the effect on the corporation of the cash buildup factor
1267 pursuant to s. 215.555(5)(b).

1268 7. The corporation's implementation of rates as prescribed
1269 in subparagraphs 5. and 8. ~~subparagraph 5.~~ shall cease for any
1270 line of business written by the corporation upon the
1271 corporation's implementation of actuarially sound rates.
1272 Thereafter, the corporation shall annually make a recommended
1273 actuarially sound rate filing that is not competitive with
1274 approved rates in the admitted voluntary market for each
1275 commercial and personal line of business the corporation writes.

1276 8. For any new or renewal personal lines policy written on
1277 or after November 1, 2023, which does not cover a primary
1278 residence, the rate to be applied in calculating premium is not
1279 subject to the rate increase limitations in subparagraph 5.
1280 However, the policyholder may not be charged more than 50
1281 percent above, and may not be charged less than, the established
1282 rate for the corporation which was in effect 1 year before the
1283 date of the application.

1284 9. As used in this paragraph, the term "primary residence"
1285 means the dwelling that is the policyholder's primary home or is



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1286 a rental property that is the primary home of the tenant, and
1287 which the policyholder or tenant occupies for more than 9 months
1288 of each year.

1289 (o) If coverage in an account, or the Citizens account if
1290 established by the corporation, is deactivated pursuant to
1291 paragraph (p), coverage through the corporation shall be
1292 reactivated by order of the office only under one of the
1293 following circumstances:

1294 1. If the market assistance plan receives a minimum of 100
1295 applications for coverage within a 3-month period, or 200
1296 applications for coverage within a 1-year period or less for
1297 residential coverage, unless the market assistance plan provides
1298 a quotation from admitted carriers at their filed rates for at
1299 least 90 percent of such applicants. Any market assistance plan
1300 application that is rejected because an individual risk is so
1301 hazardous as to be uninsurable using the criteria specified in
1302 subparagraph (c)8. shall not be included in the minimum
1303 percentage calculation provided herein. In the event that there
1304 is a legal or administrative challenge to a determination by the
1305 office that the conditions of this subparagraph have been met
1306 for eligibility for coverage in the corporation, any eligible
1307 risk may obtain coverage during the pendency of such challenge.

1308 2. In response to a state of emergency declared by the
1309 Governor under s. 252.36, the office may activate coverage by
1310 order for the period of the emergency upon a finding by the
1311 office that the emergency significantly affects the availability
1312 of residential property insurance.

1313 (p)1. The corporation shall file with the office quarterly
1314 statements of financial condition, an annual statement of



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1315 financial condition, and audited financial statements in the
1316 manner prescribed by law. In addition, the corporation shall
1317 report to the office monthly on the types, premium, exposure,
1318 and distribution by county of its policies in force, and shall
1319 submit other reports as the office requires to carry out its
1320 oversight of the corporation.

1321 2. The activities of the corporation shall be reviewed at
1322 least annually by the office to determine whether coverage shall
1323 be deactivated in an account, or in the Citizens account if
1324 established by the corporation, on the basis that the conditions
1325 giving rise to its activation no longer exist.

1326 (q)1. The corporation shall certify to the office its needs
1327 for annual assessments as to a particular calendar year, and for
1328 any interim assessments that it deems to be necessary to sustain
1329 operations as to a particular year pending the receipt of annual
1330 assessments. Upon verification, the office shall approve such
1331 certification, and the corporation shall levy such annual or
1332 interim assessments. Such assessments shall be prorated, if
1333 authority to levy exists, as provided in paragraph (b). The
1334 corporation shall take all reasonable and prudent steps
1335 necessary to collect the amount of assessments due from each
1336 assessable insurer, including, if prudent, filing suit to
1337 collect the assessments, and the office may provide such
1338 assistance to the corporation it deems appropriate. If the
1339 corporation is unable to collect an assessment from any
1340 assessable insurer, the uncollected assessments shall be levied
1341 as an additional assessment against the assessable insurers and
1342 any assessable insurer required to pay an additional assessment
1343 as a result of such failure to pay shall have a cause of action



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1344 against such nonpaying assessable insurer. Assessments shall be
1345 included as an appropriate factor in the making of rates. The
1346 failure of a surplus lines agent to collect and remit any
1347 regular or emergency assessment levied by the corporation is
1348 considered to be a violation of s. 626.936 and subjects the
1349 surplus lines agent to the penalties provided in that section.

1350 2. The governing body of any unit of local government, any
1351 residents of which are insured by the corporation, may issue
1352 bonds as defined in s. 125.013 or s. 166.101 from time to time
1353 to fund an assistance program, in conjunction with the
1354 corporation, for the purpose of defraying deficits of the
1355 corporation. In order to avoid needless and indiscriminate
1356 proliferation, duplication, and fragmentation of such assistance
1357 programs, any unit of local government, any residents of which
1358 are insured by the corporation, may provide for the payment of
1359 losses, regardless of whether or not the losses occurred within
1360 or outside of the territorial jurisdiction of the local
1361 government. Revenue bonds under this subparagraph may not be
1362 issued until validated pursuant to chapter 75, unless a state of
1363 emergency is declared by executive order or proclamation of the
1364 Governor pursuant to s. 252.36 making such findings as are
1365 necessary to determine that it is in the best interests of, and
1366 necessary for, the protection of the public health, safety, and
1367 general welfare of residents of this state and declaring it an
1368 essential public purpose to permit certain municipalities or
1369 counties to issue such bonds as will permit relief to claimants
1370 and policyholders of the corporation. Any such unit of local
1371 government may enter into such contracts with the corporation
1372 and with any other entity created pursuant to this subsection as



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1373 are necessary to carry out this paragraph. Any bonds issued
1374 under this subparagraph shall be payable from and secured by
1375 moneys received by the corporation from emergency assessments
1376 under sub-subparagraph (b)3.e. ~~(b)3.d.~~, and assigned and pledged
1377 to or on behalf of the unit of local government for the benefit
1378 of the holders of such bonds. The funds, credit, property, and
1379 taxing power of the state or of the unit of local government
1380 shall not be pledged for the payment of such bonds.

1381 3.a. The corporation shall adopt one or more programs
1382 subject to approval by the office for the reduction of both new
1383 and renewal writings in the corporation. Beginning January 1,
1384 2008, any program the corporation adopts for the payment of
1385 bonuses to an insurer for each risk the insurer removes from the
1386 corporation shall comply with s. 627.3511(2) and may not exceed
1387 the amount referenced in s. 627.3511(2) for each risk removed.
1388 The corporation may consider any prudent and not unfairly
1389 discriminatory approach to reducing corporation writings, and
1390 may adopt a credit against assessment liability or other
1391 liability that provides an incentive for insurers to take risks
1392 out of the corporation and to keep risks out of the corporation
1393 by maintaining or increasing voluntary writings in counties or
1394 areas in which corporation risks are highly concentrated and a
1395 program to provide a formula under which an insurer voluntarily
1396 taking risks out of the corporation by maintaining or increasing
1397 voluntary writings will be relieved wholly or partially from
1398 assessments under sub-subparagraph (b)3.a. However, any "take-
1399 out bonus" or payment to an insurer must be conditioned on the
1400 property being insured for at least 5 years by the insurer,
1401 unless canceled or nonrenewed by the policyholder. If the policy



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1402 is canceled or nonrenewed by the policyholder before the end of
1403 the 5-year period, the amount of the take-out bonus must be
1404 prorated for the time period the policy was insured. When the
1405 corporation enters into a contractual agreement for a take-out
1406 plan, the producing agent of record of the corporation policy is
1407 entitled to retain any unearned commission on such policy, and
1408 the insurer shall either:

1409 (I) Pay to the producing agent of record of the policy, for
1410 the first year, an amount which is the greater of the insurer's
1411 usual and customary commission for the type of policy written or
1412 a policy fee equal to the usual and customary commission of the
1413 corporation; or

1414 (II) Offer to allow the producing agent of record of the
1415 policy to continue servicing the policy for a period of not less
1416 than 1 year and offer to pay the agent the insurer's usual and
1417 customary commission for the type of policy written. If the
1418 producing agent is unwilling or unable to accept appointment by
1419 the new insurer, the new insurer shall pay the agent in
1420 accordance with sub-sub-subparagraph (I).

1421 b. Any credit or exemption from regular assessments adopted
1422 under this subparagraph shall last no longer than the 3 years
1423 following the cancellation or expiration of the policy by the
1424 corporation. With the approval of the office, the board may
1425 extend such credits for an additional year if the insurer
1426 guarantees an additional year of renewability for all policies
1427 removed from the corporation, or for 2 additional years if the
1428 insurer guarantees 2 additional years of renewability for all
1429 policies so removed.

1430 c. There shall be no credit, limitation, exemption, or



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1431 deferment from emergency assessments to be collected from
1432 policyholders pursuant to sub-subparagraph (b)3.e. or sub-
1433 subparagraph (b)5.c. ~~(b)3.d.~~

1434 4. The plan shall provide for the deferment, in whole or in
1435 part, of the assessment of an assessable insurer, other than an
1436 emergency assessment collected from policyholders pursuant to
1437 sub-subparagraph (b)3.e. or sub-subparagraph (b)5.c. ~~(b)3.d.~~, if
1438 the office finds that payment of the assessment would endanger
1439 or impair the solvency of the insurer. In the event an
1440 assessment against an assessable insurer is deferred in whole or
1441 in part, the amount by which such assessment is deferred may be
1442 assessed against the other assessable insurers in a manner
1443 consistent with the basis for assessments set forth in paragraph
1444 (b).

1445 5. Effective July 1, 2007, in order to evaluate the costs
1446 and benefits of approved take-out plans, if the corporation pays
1447 a bonus or other payment to an insurer for an approved take-out
1448 plan, it shall maintain a record of the address or such other
1449 identifying information on the property or risk removed in order
1450 to track if and when the property or risk is later insured by
1451 the corporation.

1452 6. Any policy taken out, assumed, or removed from the
1453 corporation is, as of the effective date of the take-out,
1454 assumption, or removal, direct insurance issued by the insurer
1455 and not by the corporation, even if the corporation continues to
1456 service the policies. This subparagraph applies to policies of
1457 the corporation and not policies taken out, assumed, or removed
1458 from any other entity.

1459 7. For a policy taken out, assumed, or removed from the



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1460 corporation, the insurer may, for a period of no more than 3
1461 years, continue to use any of the corporation's policy forms or
1462 endorsements that apply to the policy taken out, removed, or
1463 assumed without obtaining approval from the office for use of
1464 such policy form or endorsement.

1465 (v)1. Effective July 1, 2002, policies of the Residential
1466 Property and Casualty Joint Underwriting Association become
1467 policies of the corporation. All obligations, rights, assets and
1468 liabilities of the association, including bonds, note and debt
1469 obligations, and the financing documents pertaining to them
1470 become those of the corporation as of July 1, 2002. The
1471 corporation is not required to issue endorsements or
1472 certificates of assumption to insureds during the remaining term
1473 of in-force transferred policies.

1474 2. Effective July 1, 2002, policies of the Florida
1475 Windstorm Underwriting Association are transferred to the
1476 corporation and become policies of the corporation. All
1477 obligations, rights, assets, and liabilities of the association,
1478 including bonds, note and debt obligations, and the financing
1479 documents pertaining to them are transferred to and assumed by
1480 the corporation on July 1, 2002. The corporation is not required
1481 to issue endorsements or certificates of assumption to insureds
1482 during the remaining term of in-force transferred policies.

1483 3. The Florida Windstorm Underwriting Association and the
1484 Residential Property and Casualty Joint Underwriting Association
1485 shall take all actions necessary to further evidence the
1486 transfers and provide the documents and instruments of further
1487 assurance as may reasonably be requested by the corporation for
1488 that purpose. The corporation shall execute assumptions and



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1489 instruments as the trustees or other parties to the financing
1490 documents of the Florida Windstorm Underwriting Association or
1491 the Residential Property and Casualty Joint Underwriting
1492 Association may reasonably request to further evidence the
1493 transfers and assumptions, which transfers and assumptions,
1494 however, are effective on the date provided under this paragraph
1495 whether or not, and regardless of the date on which, the
1496 assumptions or instruments are executed by the corporation.
1497 Subject to the relevant financing documents pertaining to their
1498 outstanding bonds, notes, indebtedness, or other financing
1499 obligations, the moneys, investments, receivables, choses in
1500 action, and other intangibles of the Florida Windstorm
1501 Underwriting Association shall be credited to the coastal
1502 account of the corporation, and those of the personal lines
1503 residential coverage account and the commercial lines
1504 residential coverage account of the Residential Property and
1505 Casualty Joint Underwriting Association shall be credited to the
1506 personal lines account and the commercial lines account,
1507 respectively, of the corporation.

1508 4. Effective July 1, 2002, a new applicant for property
1509 insurance coverage who would otherwise have been eligible for
1510 coverage in the Florida Windstorm Underwriting Association is
1511 eligible for coverage from the corporation as provided in this
1512 subsection.

1513 5. The transfer of all policies, obligations, rights,
1514 assets, and liabilities from the Florida Windstorm Underwriting
1515 Association to the corporation and the renaming of the
1516 Residential Property and Casualty Joint Underwriting Association
1517 as the corporation does not affect the coverage with respect to



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1518 covered policies as defined in s. 215.555(2)(c) provided to
1519 these entities by the Florida Hurricane Catastrophe Fund. The
1520 coverage provided by the fund to the Florida Windstorm
1521 Underwriting Association based on its exposures as of June 30,
1522 2002, and each June 30 thereafter, unless the corporation has
1523 established the Citizens account, shall be redesignated as
1524 coverage for the coastal account of the corporation.
1525 Notwithstanding any other provision of law, the coverage
1526 provided by the fund to the Residential Property and Casualty
1527 Joint Underwriting Association based on its exposures as of June
1528 30, 2002, and each June 30 thereafter, unless the corporation
1529 has established the Citizens account, shall be transferred to
1530 the personal lines account and the commercial lines account of
1531 the corporation. Notwithstanding any other provision of law, the
1532 coastal account, unless the corporation has established the
1533 Citizens account, shall be treated, for all Florida Hurricane
1534 Catastrophe Fund purposes, as if it were a separate
1535 participating insurer with its own exposures, reimbursement
1536 premium, and loss reimbursement. Likewise, the personal lines
1537 and commercial lines accounts, unless the corporation has
1538 established the Citizens account, shall be viewed together, for
1539 all fund purposes, as if the two accounts were one and represent
1540 a single, separate participating insurer with its own exposures,
1541 reimbursement premium, and loss reimbursement. The coverage
1542 provided by the fund to the corporation shall constitute and
1543 operate as a full transfer of coverage from the Florida
1544 Windstorm Underwriting Association and Residential Property and
1545 Casualty Joint Underwriting Association to the corporation.

1546 (w) Notwithstanding any other provision of law:



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1547 1. The pledge or sale of, the lien upon, and the security
1548 interest in any rights, revenues, or other assets of the
1549 corporation created or purported to be created pursuant to any
1550 financing documents to secure any bonds or other indebtedness of
1551 the corporation shall be and remain valid and enforceable,
1552 notwithstanding the commencement of and during the continuation
1553 of, and after, any rehabilitation, insolvency, liquidation,
1554 bankruptcy, receivership, conservatorship, reorganization, or
1555 similar proceeding against the corporation under the laws of
1556 this state.

1557 2. The proceeding does not relieve the corporation of its
1558 obligation, or otherwise affect its ability to perform its
1559 obligation, to continue to collect, or levy and collect,
1560 assessments, policyholder surcharges or other surcharges under
1561 sub-subparagraph (b)3.j. ~~(b)3.i.~~, or any other rights, revenues,
1562 or other assets of the corporation pledged pursuant to any
1563 financing documents.

1564 3. Each such pledge or sale of, lien upon, and security
1565 interest in, including the priority of such pledge, lien, or
1566 security interest, any such assessments, policyholder surcharges
1567 or other surcharges, or other rights, revenues, or other assets
1568 which are collected, or levied and collected, after the
1569 commencement of and during the pendency of, or after, any such
1570 proceeding shall continue unaffected by such proceeding. As used
1571 in this subsection, the term "financing documents" means any
1572 agreement or agreements, instrument or instruments, or other
1573 document or documents now existing or hereafter created
1574 evidencing any bonds or other indebtedness of the corporation or
1575 pursuant to which any such bonds or other indebtedness has been



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1576 or may be issued and pursuant to which any rights, revenues, or
1577 other assets of the corporation are pledged or sold to secure
1578 the repayment of such bonds or indebtedness, together with the
1579 payment of interest on such bonds or such indebtedness, or the
1580 payment of any other obligation or financial product, as defined
1581 in the plan of operation of the corporation related to such
1582 bonds or indebtedness.

1583 4. Any such pledge or sale of assessments, revenues,
1584 contract rights, or other rights or assets of the corporation
1585 shall constitute a lien and security interest, or sale, as the
1586 case may be, that is immediately effective and attaches to such
1587 assessments, revenues, or contract rights or other rights or
1588 assets, whether or not imposed or collected at the time the
1589 pledge or sale is made. Any such pledge or sale is effective,
1590 valid, binding, and enforceable against the corporation or other
1591 entity making such pledge or sale, and valid and binding against
1592 and superior to any competing claims or obligations owed to any
1593 other person or entity, including policyholders in this state,
1594 asserting rights in any such assessments, revenues, or contract
1595 rights or other rights or assets to the extent set forth in and
1596 in accordance with the terms of the pledge or sale contained in
1597 the applicable financing documents, whether or not any such
1598 person or entity has notice of such pledge or sale and without
1599 the need for any physical delivery, recordation, filing, or
1600 other action.

1601 5. As long as the corporation has any bonds outstanding,
1602 the corporation may not file a voluntary petition under chapter
1603 9 of the federal Bankruptcy Code or such corresponding chapter
1604 or sections as may be in effect, from time to time, and a public



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1605 officer or any organization, entity, or other person may not
1606 authorize the corporation to be or become a debtor under chapter
1607 9 of the federal Bankruptcy Code or such corresponding chapter
1608 or sections as may be in effect, from time to time, during any
1609 such period.

1610 6. If ordered by a court of competent jurisdiction, the
1611 corporation may assume policies or otherwise provide coverage
1612 for policyholders of an insurer placed in liquidation under
1613 chapter 631, under such forms, rates, terms, and conditions as
1614 the corporation deems appropriate, subject to approval by the
1615 office.

1616 (aa) Except as otherwise provided in this paragraph, the
1617 corporation shall not require the securing and maintaining of
1618 flood insurance as a condition of coverage of a personal lines
1619 residential risk. if The insured or applicant must execute
1620 ~~executes~~ a form approved by the office affirming that flood
1621 insurance is not provided by the corporation and that if flood
1622 insurance is not secured by the applicant or insured from an
1623 insurer other than the corporation and in addition to coverage
1624 by the corporation, the risk will not be eligible for coverage
1625 by the corporation covered for flood damage. A corporation
1626 ~~policyholder electing not to secure flood insurance and~~
1627 ~~executing a form as provided herein making a claim for water~~
1628 ~~damage against the corporation shall have the burden of proving~~
1629 ~~the damage was not caused by flooding. Notwithstanding other~~
1630 ~~provisions of this subsection,~~ The corporation may deny coverage
1631 of a personal lines residential risk to an applicant or insured
1632 who refuses to secure and maintain flood insurance ~~execute the~~
1633 ~~form described herein.~~ The requirement to purchase flood



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1634 insurance shall be implemented as follows:

1635 1. Except as provided in subparagraphs 2. and 3., all
1636 personal lines residential policyholders must have flood
1637 coverage in place for policies effective on or after:

1638 a. January 1, 2024, for property valued at \$600,000 or
1639 more.

1640 b. January 1, 2025, for property valued at \$500,000 or
1641 more.

1642 c. January 1, 2026, for property valued at \$400,000 or
1643 more.

1644 d. January 1, 2027, for all other personal lines
1645 residential property insured by the corporation.

1646 2. All personal lines residential policyholders whose
1647 property insured by the corporation is located within the
1648 special flood hazard area defined by the Federal Emergency
1649 Management Agency must have flood coverage in place:

1650 a. At the time of initial policy issuance for all new
1651 personal lines residential policies issued by the corporation on
1652 or after April 1, 2023.

1653 b. By the time of the policy renewal for all personal lines
1654 residential policies renewing on or after July 1, 2023.

1655 3. Policyholders whose policies issued by the corporation
1656 do not provide coverage for the peril of wind are not required
1657 to purchase flood insurance as a condition for maintaining their
1658 policies with the corporation.

1659
1660 The flood insurance required under this paragraph must meet, at
1661 a minimum, the coverage available from the National Flood
1662 Insurance Program or the requirements of subparagraphs s.



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1663 627.715(1)(a)1., 2., and 3.

1664 (ii) The corporation shall revise the programs adopted
1665 pursuant to sub-subparagraph (q)3.a. for personal lines
1666 residential policies to maximize policyholder options and
1667 encourage increased participation by insurers and agents. After
1668 January 1, 2017, a policy may not be taken out of the
1669 corporation unless the provisions of this paragraph are met.

1670 1. The corporation must publish a periodic schedule of
1671 cycles during which an insurer may identify, and notify the
1672 corporation of, policies that the insurer is requesting to take
1673 out. A request must include a description of the coverage
1674 offered and an estimated premium and must be submitted to the
1675 corporation in a form and manner prescribed by the corporation.

1676 2. The corporation must maintain and make available to the
1677 agent of record a consolidated list of all insurers requesting
1678 to take out a policy. The list must include a description of the
1679 coverage offered and the estimated premium for each take-out
1680 request.

1681 3. If a policyholder receives a take-out offer from an
1682 authorized insurer, the risk is no longer eligible for coverage
1683 with the corporation unless the premium for coverage from the
1684 authorized insurer is more 20 percent greater than the renewal
1685 premium for comparable coverage from the corporation pursuant to
1686 sub-subparagraph (c)5.c. This subparagraph applies to take-out
1687 offers that are part of an application to participate in
1688 depopulation submitted to the office on or after January 1,
1689 2023.

1690 4. The corporation must provide written notice to the
1691 policyholder and the agent of record regarding all insurers



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1692 requesting to take out the policy ~~and regarding the~~
1693 ~~policyholder's option to accept a take-out offer or to reject~~
1694 ~~all take-out offers and to remain with the corporation.~~ The
1695 notice must be in a format prescribed by the corporation and
1696 include, for each take-out offer:

- 1697 a. The amount of the estimated premium;
1698 b. A description of the coverage; and
1699 c. A comparison of the estimated premium and coverage
1700 offered by the insurer to the estimated premium and coverage
1701 provided by the corporation.

1702 (kk) A corporation policyholder making a claim for water
1703 damage against the corporation has the burden of proving that
1704 the damage was not caused by flooding.

1705 Section 9. Paragraph (s) of subsection (6) of section
1706 627.351, Florida Statutes, is amended to read:

1707 627.351 Insurance risk apportionment plans.—

1708 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

1709 (s)1. There shall be no liability on the part of, and no
1710 cause of action of any nature shall arise against, any
1711 assessable insurer or its agents or employees, the corporation
1712 or its agents or employees, members of the board of governors or
1713 their respective designees at a board meeting, corporation
1714 committee members, or the office or its representatives, for any
1715 action taken by them in the performance of their duties or
1716 responsibilities under this subsection. Such immunity does not
1717 apply to:

- 1718 a. Any of the foregoing persons or entities for any willful
1719 tort;
1720 b. The corporation or its producing agents for breach of



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1721 any contract or agreement pertaining to insurance coverage;
1722 c. The corporation with respect to issuance or payment of
1723 debt;
1724 d. Any assessable insurer with respect to any action to
1725 enforce an assessable insurer's obligations to the corporation
1726 under this subsection; or
1727 e. The corporation in any pending or future action for
1728 breach of contract or for benefits under a policy issued by the
1729 corporation; ~~in any such action, the corporation shall be liable~~
1730 ~~to the policyholders and beneficiaries for attorney's fees under~~
1731 ~~s. 627.428.~~
1732 2. The corporation shall manage its claim employees,
1733 independent adjusters, and others who handle claims to ensure
1734 they carry out the corporation's duty to its policyholders to
1735 handle claims carefully, timely, diligently, and in good faith,
1736 balanced against the corporation's duty to the state to manage
1737 its assets responsibly to minimize its assessment potential.
1738 Section 10. Paragraphs (b) and (c) of subsection (3) and
1739 paragraphs (d), (e), and (f) of subsection (6) of section
1740 627.3511, Florida Statutes, are amended to read:
1741 627.3511 Depopulation of Citizens Property Insurance
1742 Corporation.—
1743 (3) EXEMPTION FROM DEFICIT ASSESSMENTS.—
1744 (b) An insurer that first wrote personal lines residential
1745 property coverage in this state on or after July 1, 1994, is
1746 exempt from regular deficit assessments imposed pursuant to s.
1747 627.351(6)(b)3.a., but not emergency assessments collected from
1748 policyholders pursuant to s. 627.351(6)(b)3.e. ~~s.~~
1749 ~~627.351(6)(b)3.d.~~, of the Citizens Property Insurance



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1750 Corporation until the earlier of the following:

1751 1. The end of the calendar year in which it first wrote 0.5
1752 percent or more of the statewide aggregate direct written
1753 premium for any line of residential property coverage; or

1754 2. December 31, 1997, or December 31 of the third year in
1755 which it wrote such coverage in this state, whichever is later.

1756 (c) Other than an insurer that is exempt under paragraph
1757 (b), an insurer that in any calendar year increases its total
1758 structure exposure subject to wind coverage by 25 percent or
1759 more over its exposure for the preceding calendar year is, with
1760 respect to that year, exempt from deficit assessments imposed
1761 pursuant to s. 627.351(6)(b)3.a., but not emergency assessments
1762 collected from policyholders pursuant to s. 627.351(6)(b)3.e. ~~s.~~
1763 ~~627.351(6)(b)3.d.~~, of the Citizens Property Insurance
1764 Corporation attributable to such increase in exposure.

1765 (6) COMMERCIAL RESIDENTIAL TAKE-OUT PLANS.—

1766 (d) The calculation of an insurer's regular assessment
1767 liability under s. 627.351(6)(b)3.a., but not emergency
1768 assessments collected from policyholders pursuant to s.
1769 627.351(6)(b)3.e. ~~s. 627.351(6)(b)3.d.~~, shall, with respect to
1770 commercial residential policies removed from the corporation
1771 under an approved take-out plan, exclude such removed policies
1772 for the succeeding 3 years, as follows:

1773 1. In the first year following removal of the policies, the
1774 policies are excluded from the calculation to the extent of 100
1775 percent.

1776 2. In the second year following removal of the policies,
1777 the policies are excluded from the calculation to the extent of
1778 75 percent.



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1779 3. In the third year following removal of the policies, the
1780 policies are excluded from the calculation to the extent of 50
1781 percent.

1782 (e) An insurer that first wrote commercial residential
1783 property coverage in this state on or after June 1, 1996, is
1784 exempt from regular assessments under s. 627.351(6)(b)3.a., but
1785 not emergency assessments collected from policyholders pursuant
1786 to s. 627.351(6)(b)3.e. ~~s. 627.351(6)(b)3.d.~~, with respect to
1787 commercial residential policies until the earlier of:

1788 1. The end of the calendar year in which such insurer first
1789 wrote 0.5 percent or more of the statewide aggregate direct
1790 written premium for commercial residential property coverage; or

1791 2. December 31 of the third year in which such insurer
1792 wrote commercial residential property coverage in this state.

1793 (f) An insurer that is not otherwise exempt from regular
1794 assessments under s. 627.351(6)(b)3.a. with respect to
1795 commercial residential policies is, for any calendar year in
1796 which such insurer increased its total commercial residential
1797 hurricane exposure by 25 percent or more over its exposure for
1798 the preceding calendar year, exempt from regular assessments
1799 under s. 627.351(6)(b)3.a., but not emergency assessments
1800 collected from policyholders pursuant to s. 627.351(6)(b)3.e. ~~s.~~
1801 ~~627.351(6)(b)3.d.~~, attributable to such increased exposure.

1802 Section 11. Effective January 1, 2023, subsection (5) of
1803 section 627.3518, Florida Statutes, is amended to read:

1804 627.3518 Citizens Property Insurance Corporation
1805 policyholder eligibility clearinghouse program.—The purpose of
1806 this section is to provide a framework for the corporation to
1807 implement a clearinghouse program by January 1, 2014.



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1808 (5) Notwithstanding s. 627.3517, any applicant for new
1809 coverage from the corporation is not eligible for coverage from
1810 the corporation if provided an offer of coverage from an
1811 authorized insurer through the program at a premium that is at
1812 or below the eligibility threshold for applicants for new
1813 coverage established in s. 627.351(6)(c)5.a. Whenever an offer
1814 of coverage for a personal lines risk is received for a
1815 policyholder of the corporation at renewal from an authorized
1816 insurer through the program which is at or below the eligibility
1817 threshold for policyholders of the corporation established in s.
1818 627.351(6)(c)5.a., if the offer is equal to or less than the
1819 corporation's renewal premium for comparable coverage, the risk
1820 is not eligible for coverage with the corporation. In the event
1821 an offer of coverage for a new applicant is received from an
1822 authorized insurer through the program, and the premium offered
1823 exceeds the eligibility threshold for applicants for new
1824 coverage established ~~contained~~ in s. 627.351(6)(c)5.a., the
1825 applicant or insured may elect to accept such coverage, or may
1826 elect to accept or continue coverage with the corporation. In
1827 the event an offer of coverage for a personal lines risk is
1828 received from an authorized insurer at renewal through the
1829 program, and the premium offered exceeds the eligibility
1830 threshold for policyholders of the corporation established in s.
1831 627.351(6)(c)5.a. is more than the corporation's renewal premium
1832 for comparable coverage, the insured may elect to accept such
1833 coverage, or may elect to accept or continue coverage with the
1834 corporation. Section 627.351(6)(c)5.a.(I) does not apply to an
1835 offer of coverage from an authorized insurer obtained through
1836 the program. ~~An applicant for coverage from the corporation who~~



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1837 ~~was declared ineligible for coverage at renewal by the~~
1838 ~~corporation in the previous 36 months due to an offer of~~
1839 ~~coverage pursuant to this subsection shall be considered a~~
1840 ~~renewal under this section if the corporation determines that~~
1841 ~~the authorized insurer making the offer of coverage pursuant to~~
1842 ~~this subsection continues to insure the applicant and increased~~
1843 ~~the rate on the policy in excess of the increase allowed for the~~
1844 ~~corporation under s. 627.351(6)(n)5.~~

1845 Section 12. Subsection (3) of section 627.410, Florida
1846 Statutes, is amended to read:

1847 627.410 Filing, approval of forms.—

1848 (3) The office may, for cause, withdraw a previous
1849 approval. No insurer shall issue or use any form disapproved by
1850 the office, or as to which the office has withdrawn approval,
1851 after the effective date of the order of the office. Based on a
1852 finding from a market conduct examination of a property insurer
1853 that the insurer has exhibited a pattern or practice of one or
1854 more willful unfair insurance trade practice violations with
1855 regard to its use of appraisal, the office shall reexamine the
1856 insurer's property insurance policy forms that contain an
1857 appraisal clause, and the office may:

1858 (a) Withdraw approval of the forms, if warranted by the
1859 Florida Insurance Code.

1860 (b) In addition to any regulatory action under ss. 624.418
1861 and 624.4211, issue an order prohibiting the insurer from
1862 invoking appraisal for up to 2 years.

1863 Section 13. Subsections (1) and (4) of section 627.428,
1864 Florida Statutes, are amended to read:

1865 627.428 Attorney fees.—



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1866 (1) Except as provided in subsection (4), upon the
1867 rendition of a judgment or decree by any of the courts of this
1868 state against an insurer and in favor of any named or omnibus
1869 insured or the named beneficiary under a policy or contract
1870 executed by the insurer, the trial court or, in the event of an
1871 appeal in which the insured or beneficiary prevails, the
1872 appellate court shall adjudge or decree against the insurer and
1873 in favor of the insured or beneficiary a reasonable sum as fees
1874 or compensation for the insured's or beneficiary's attorney
1875 prosecuting the suit in which the recovery is had. In a suit
1876 commenced before December 31, 2022, arising under a residential
1877 or commercial property insurance policy, the amount of
1878 reasonable attorney fees shall be awarded only as provided in s.
1879 57.105 or s. 627.70152, as applicable.