

1 A bill to be entitled
 2 An act relating to windstorm coverage by Citizens
 3 Property Insurance Corporation; amending s. 627.351,
 4 F.S.; removing provisions relating to windstorm risk
 5 apportionment plan agreements among property insurers;
 6 revising legislative findings; revising the purpose of
 7 the Citizens Property Insurance Corporation; requiring
 8 the corporation to make windstorm coverage available
 9 to homeowners for any residential structures;
 10 providing requirements for the windstorm coverage;
 11 providing construction; removing obsolete language;
 12 authorizing homeowners to obtain windstorm coverage
 13 from certain insurance agents; providing underwriting
 14 and administering requirements for the windstorm
 15 coverage portion of insurance; providing
 16 administrative fees; providing requirements for claims
 17 settlement payments; removing obsolete dates;
 18 conforming provisions to changes made by the act;
 19 requiring the corporation to make windstorm coverage
 20 available for commercial lines residential structures;
 21 providing requirements for the windstorm coverage;
 22 providing construction; providing definitions;
 23 revising certain statements obtained by agents from
 24 applicants for coverage from the corporation; amending
 25 ss. 215.555, 215.5595, 624.805, 627.062, 627.0628,

26 | 627.06281, 627.0629, 627.4025, 627.701, 627.7018,
 27 | 627.711, 627.712, 627.713, 631.54, 718.111, 719.104,
 28 | and 720.303, F.S.; conforming provisions to changes
 29 | made by the act; amending ss. 395.1061, 458.320,
 30 | 459.0085, 464.0123, 624.424, 624.462, 625.317, and
 31 | 627.0655, F.S.; conforming cross-references; amending
 32 | s. 627.3511, F.S.; conforming cross-references;
 33 | conforming provisions to changes made by the act;
 34 | amending ss. 627.3512, 627.3513, 627.3515, 627.3517,
 35 | and 627.3518, F.S.; conforming cross-references;
 36 | amending s. 627.4133, F.S.; conforming a cross-
 37 | reference; conforming a provision to changes made by
 38 | the act; amending ss. 627.945, 628.6017, and 766.105,
 39 | F.S.; conforming cross-references; providing an
 40 | effective date.

41 |

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

43 |

44 | Section 1. Subsections (3) through (7) of section 627.351,
 45 | Florida Statutes, are renumbered as subsections (2) through (6),
 46 | respectively, and present subsections (2) and (5) and paragraphs
 47 | (a), (b), (c), and (v) of present subsection (6) of that section
 48 | are amended to read:

49 | 627.351 Insurance risk apportionment plans.—

50 | ~~(2) WINDSTORM INSURANCE RISK APPORTIONMENT.—~~

51 ~~(a) Agreements may be made among property insurers with~~
52 ~~respect to the equitable apportionment among them of insurance~~
53 ~~which may be afforded applicants who are in good faith entitled~~
54 ~~to, but are unable to procure, such insurance through ordinary~~
55 ~~methods; and such insurers may agree among themselves on the use~~
56 ~~of reasonable rate modifications for such insurance. Such~~
57 ~~agreements and rate modifications shall be subject to the~~
58 ~~applicable provisions of this chapter.~~

59 ~~(b) The department shall require all insurers holding a~~
60 ~~certificate of authority to transact property insurance on a~~
61 ~~direct basis in this state, other than joint underwriting~~
62 ~~associations and other entities formed pursuant to this section,~~
63 ~~to provide windstorm coverage to applicants from areas~~
64 ~~determined to be eligible pursuant to paragraph (c) who in good~~
65 ~~faith are entitled to, but are unable to procure, such coverage~~
66 ~~through ordinary means; or it shall adopt a reasonable plan or~~
67 ~~plans for the equitable apportionment or sharing among such~~
68 ~~insurers of windstorm coverage, which may include formation of~~
69 ~~an association for this purpose. As used in this subsection, the~~
70 ~~term "property insurance" means insurance on real or personal~~
71 ~~property, as defined in s. 624.604, including insurance for~~
72 ~~fire, industrial fire, allied lines, farmowners multiperil,~~
73 ~~homeowners multiperil, commercial multiperil, and mobile homes,~~
74 ~~and including liability coverages on all such insurance, but~~
75 ~~excluding inland marine as defined in s. 624.607(3) and~~

76 ~~excluding vehicle insurance as defined in s. 624.605(1) (a) other~~
 77 ~~than insurance on mobile homes used as permanent dwellings. The~~
 78 ~~department shall adopt rules that provide a formula for the~~
 79 ~~recovery and repayment of any deferred assessments.~~

80 ~~1. For the purpose of this section, properties eligible~~
 81 ~~for such windstorm coverage are defined as dwellings, buildings,~~
 82 ~~and other structures, including mobile homes which are used as~~
 83 ~~dwellings and which are tied down in compliance with mobile home~~
 84 ~~tie-down requirements prescribed by the Department of Highway~~
 85 ~~Safety and Motor Vehicles pursuant to s. 320.8325, and the~~
 86 ~~contents of all such properties. An applicant or policyholder is~~
 87 ~~eligible for coverage only if an offer of coverage cannot be~~
 88 ~~obtained by or for the applicant or policyholder from an~~
 89 ~~admitted insurer at approved rates.~~

90 ~~2.a. (I) All insurers required to be members of such~~
 91 ~~association shall participate in its writings, expenses, and~~
 92 ~~losses. Surplus of the association shall be retained for the~~
 93 ~~payment of claims and shall not be distributed to the member~~
 94 ~~insurers. Such participation by member insurers shall be in the~~
 95 ~~proportion that the net direct premiums of each member insurer~~
 96 ~~written for property insurance in this state during the~~
 97 ~~preceding calendar year bear to the aggregate net direct~~
 98 ~~premiums for property insurance of all member insurers, as~~
 99 ~~reduced by any credits for voluntary writings, in this state~~
 100 ~~during the preceding calendar year. For the purposes of this~~

101 ~~subsection, the term "net direct premiums" means direct written~~
 102 ~~premiums for property insurance, reduced by premium for~~
 103 ~~liability coverage and for the following if included in allied~~
 104 ~~lines: rain and hail on growing crops; livestock; association~~
 105 ~~direct premiums booked; National Flood Insurance Program direct~~
 106 ~~premiums; and similar deductions specifically authorized by the~~
 107 ~~plan of operation and approved by the department. A member's~~
 108 ~~participation shall begin on the first day of the calendar year~~
 109 ~~following the year in which it is issued a certificate of~~
 110 ~~authority to transact property insurance in the state and shall~~
 111 ~~terminate 1 year after the end of the calendar year during which~~
 112 ~~it no longer holds a certificate of authority to transact~~
 113 ~~property insurance in the state. The commissioner, after review~~
 114 ~~of annual statements, other reports, and any other statistics~~
 115 ~~that the commissioner deems necessary, shall certify to the~~
 116 ~~association the aggregate direct premiums written for property~~
 117 ~~insurance in this state by all member insurers.~~

118 ~~(II) Effective July 1, 2002, the association shall operate~~
 119 ~~subject to the supervision and approval of a board of governors~~
 120 ~~who are the same individuals that have been appointed by the~~
 121 ~~Treasurer to serve on the board of governors of the Citizens~~
 122 ~~Property Insurance Corporation.~~

123 ~~(III) The plan of operation shall provide a formula~~
 124 ~~whereby a company voluntarily providing windstorm coverage in~~
 125 ~~affected areas will be relieved wholly or partially from~~

126 ~~apportionment of a regular assessment pursuant to sub-sub-~~
127 ~~subparagraph d. (I) or sub-sub-subparagraph d. (II).~~

128 ~~(IV) A company which is a member of a group of companies~~
129 ~~under common management may elect to have its credits applied on~~
130 ~~a group basis, and any company or group may elect to have its~~
131 ~~credits applied to any other company or group.~~

132 ~~(V) There shall be no credits or relief from apportionment~~
133 ~~to a company for emergency assessments collected from its~~
134 ~~policyholders under sub-sub-subparagraph d. (III).~~

135 ~~(VI) The plan of operation may also provide for the award~~
136 ~~of credits, for a period not to exceed 3 years, from a regular~~
137 ~~assessment pursuant to sub-sub-subparagraph d. (I) or sub-sub-~~
138 ~~subparagraph d. (II) as an incentive for taking policies out of~~
139 ~~the Residential Property and Casualty Joint Underwriting~~
140 ~~Association. In order to qualify for the exemption under this~~
141 ~~sub-sub-subparagraph, the take-out plan must provide that at~~
142 ~~least 40 percent of the policies removed from the Residential~~
143 ~~Property and Casualty Joint Underwriting Association cover risks~~
144 ~~located in Miami-Dade, Broward, and Palm Beach Counties or at~~
145 ~~least 30 percent of the policies so removed cover risks located~~
146 ~~in Miami-Dade, Broward, and Palm Beach Counties and an~~
147 ~~additional 50 percent of the policies so removed cover risks~~
148 ~~located in other coastal counties, and must also provide that no~~
149 ~~more than 15 percent of the policies so removed may exclude~~
150 ~~windstorm coverage. With the approval of the department, the~~

151 ~~association may waive these geographic criteria for a take-out~~
152 ~~plan that removes at least the lesser of 100,000 Residential~~
153 ~~Property and Casualty Joint Underwriting Association policies or~~
154 ~~15 percent of the total number of Residential Property and~~
155 ~~Casualty Joint Underwriting Association policies, provided the~~
156 ~~governing board of the Residential Property and Casualty Joint~~
157 ~~Underwriting Association certifies that the take-out plan will~~
158 ~~materially reduce the Residential Property and Casualty Joint~~
159 ~~Underwriting Association's 100-year probable maximum loss from~~
160 ~~hurricanes. With the approval of the department, the board may~~
161 ~~extend such credits for an additional year if the insurer~~
162 ~~guarantees an additional year of renewability for all policies~~
163 ~~removed from the Residential Property and Casualty Joint~~
164 ~~Underwriting Association, or for 2 additional years if the~~
165 ~~insurer guarantees 2 additional years of renewability for all~~
166 ~~policies removed from the Residential Property and Casualty~~
167 ~~Joint Underwriting Association.~~

168 ~~b. Assessments to pay deficits in the association under~~
169 ~~this subparagraph shall be included as an appropriate factor in~~
170 ~~the making of rates as provided in s. 627.3512.~~

171 ~~e. The Legislature finds that the potential for unlimited~~
172 ~~deficit assessments under this subparagraph may induce insurers~~
173 ~~to attempt to reduce their writings in the voluntary market, and~~
174 ~~that such actions would worsen the availability problems that~~
175 ~~the association was created to remedy. It is the intent of the~~

176 ~~Legislature that insurers remain fully responsible for paying~~
177 ~~regular assessments and collecting emergency assessments for any~~
178 ~~deficits of the association; however, it is also the intent of~~
179 ~~the Legislature to provide a means by which assessment~~
180 ~~liabilities may be amortized over a period of years.~~

181 ~~d.(I) When the deficit incurred in a particular calendar~~
182 ~~year is 10 percent or less of the aggregate statewide direct~~
183 ~~written premium for property insurance for the prior calendar~~
184 ~~year for all member insurers, the association shall levy an~~
185 ~~assessment on member insurers in an amount equal to the deficit.~~

186 ~~(II) When the deficit incurred in a particular calendar~~
187 ~~year exceeds 10 percent of the aggregate statewide direct~~
188 ~~written premium for property insurance for the prior calendar~~
189 ~~year for all member insurers, the association shall levy an~~
190 ~~assessment on member insurers in an amount equal to the greater~~
191 ~~of 10 percent of the deficit or 10 percent of the aggregate~~
192 ~~statewide direct written premium for property insurance for the~~
193 ~~prior calendar year for member insurers. Any remaining deficit~~
194 ~~shall be recovered through emergency assessments under sub-sub-~~
195 ~~subparagraph (III).~~

196 ~~(III) Upon a determination by the board of directors that~~
197 ~~a deficit exceeds the amount that will be recovered through~~
198 ~~regular assessments on member insurers, pursuant to sub-sub-~~
199 ~~subparagraph (I) or sub-sub-subparagraph (II), the board shall~~
200 ~~levy, after verification by the department, emergency~~

201 ~~assessments to be collected by member insurers and by~~
 202 ~~underwriting associations created pursuant to this section which~~
 203 ~~write property insurance, upon issuance or renewal of property~~
 204 ~~insurance policies other than National Flood Insurance policies~~
 205 ~~in the year or years following levy of the regular assessments.~~
 206 ~~The amount of the emergency assessment collected in a particular~~
 207 ~~year shall be a uniform percentage of that year's direct written~~
 208 ~~premium for property insurance for all member insurers and~~
 209 ~~underwriting associations, excluding National Flood Insurance~~
 210 ~~policy premiums, as annually determined by the board and~~
 211 ~~verified by the department. The department shall verify the~~
 212 ~~arithmetic calculations involved in the board's determination~~
 213 ~~within 30 days after receipt of the information on which the~~
 214 ~~determination was based. Notwithstanding any other provision of~~
 215 ~~law, each member insurer and each underwriting association~~
 216 ~~created pursuant to this section shall collect emergency~~
 217 ~~assessments from its policyholders without such obligation being~~
 218 ~~affected by any credit, limitation, exemption, or deferment. The~~
 219 ~~emergency assessments so collected shall be transferred directly~~
 220 ~~to the association on a periodic basis as determined by the~~
 221 ~~association. The aggregate amount of emergency assessments~~
 222 ~~levied under this sub-sub-subparagraph in any calendar year may~~
 223 ~~not exceed the greater of 10 percent of the amount needed to~~
 224 ~~cover the original deficit, plus interest, fees, commissions,~~
 225 ~~required reserves, and other costs associated with financing of~~

226 ~~the original deficit, or 10 percent of the aggregate statewide~~
227 ~~direct written premium for property insurance written by member~~
228 ~~insurers and underwriting associations for the prior year, plus~~
229 ~~interest, fees, commissions, required reserves, and other costs~~
230 ~~associated with financing the original deficit. The board may~~
231 ~~pledge the proceeds of the emergency assessments under this sub-~~
232 ~~sub-subparagraph as the source of revenue for bonds, to retire~~
233 ~~any other debt incurred as a result of the deficit or events~~
234 ~~giving rise to the deficit, or in any other way that the board~~
235 ~~determines will efficiently recover the deficit. The emergency~~
236 ~~assessments under this sub-sub-subparagraph shall continue as~~
237 ~~long as any bonds issued or other indebtedness incurred with~~
238 ~~respect to a deficit for which the assessment was imposed remain~~
239 ~~outstanding, unless adequate provision has been made for the~~
240 ~~payment of such bonds or other indebtedness pursuant to the~~
241 ~~document governing such bonds or other indebtedness. Emergency~~
242 ~~assessments collected under this sub-sub-subparagraph are not~~
243 ~~part of an insurer's rates, are not premium, and are not subject~~
244 ~~to premium tax, fees, or commissions; however, failure to pay~~
245 ~~the emergency assessment shall be treated as failure to pay~~
246 ~~premium.~~

247 ~~(IV) Each member insurer's share of the total regular~~
248 ~~assessments under sub-sub-subparagraph (I) or sub-sub-~~
249 ~~subparagraph (II) shall be in the proportion that the insurer's~~
250 ~~net direct premium for property insurance in this state, for the~~

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251 ~~year preceding the assessment bears to the aggregate statewide~~
252 ~~net direct premium for property insurance of all member~~
253 ~~insurers, as reduced by any credits for voluntary writings for~~
254 ~~that year.~~

255 ~~(V) If regular deficit assessments are made under sub-sub-~~
256 ~~subparagraph (I) or sub-sub-subparagraph (II), or by the~~
257 ~~Residential Property and Casualty Joint Underwriting Association~~
258 ~~under sub-subparagraph (6)(b)3.a., the association shall levy~~
259 ~~upon the association's policyholders, as part of its next rate~~
260 ~~filing, or by a separate rate filing solely for this purpose, a~~
261 ~~market equalization surcharge in a percentage equal to the total~~
262 ~~amount of such regular assessments divided by the aggregate~~
263 ~~statewide direct written premium for property insurance for~~
264 ~~member insurers for the prior calendar year. Market equalization~~
265 ~~surcharges under this sub-sub-subparagraph are not considered~~
266 ~~premium and are not subject to commissions, fees, or premium~~
267 ~~taxes; however, failure to pay a market equalization surcharge~~
268 ~~shall be treated as failure to pay premium.~~

269 ~~e. The governing body of any unit of local government, any~~
270 ~~residents of which are insured under the plan, may issue bonds~~
271 ~~as defined in s. 125.013 or s. 166.101 to fund an assistance~~
272 ~~program, in conjunction with the association, for the purpose of~~
273 ~~defraying deficits of the association. In order to avoid~~
274 ~~needless and indiscriminate proliferation, duplication, and~~
275 ~~fragmentation of such assistance programs, any unit of local~~

276 ~~government, any residents of which are insured by the~~
 277 ~~association, may provide for the payment of losses, regardless~~
 278 ~~of whether or not the losses occurred within or outside of the~~
 279 ~~territorial jurisdiction of the local government. Revenue bonds~~
 280 ~~may not be issued until validated pursuant to chapter 75, unless~~
 281 ~~a state of emergency is declared by executive order or~~
 282 ~~proclamation of the Governor pursuant to s. 252.36 making such~~
 283 ~~findings as are necessary to determine that it is in the best~~
 284 ~~interests of, and necessary for, the protection of the public~~
 285 ~~health, safety, and general welfare of residents of this state~~
 286 ~~and the protection and preservation of the economic stability of~~
 287 ~~insurers operating in this state, and declaring it an essential~~
 288 ~~public purpose to permit certain municipalities or counties to~~
 289 ~~issue bonds as will provide relief to claimants and~~
 290 ~~policyholders of the association and insurers responsible for~~
 291 ~~apportionment of plan losses. Any such unit of local government~~
 292 ~~may enter into such contracts with the association and with any~~
 293 ~~other entity created pursuant to this subsection as are~~
 294 ~~necessary to carry out this paragraph. Any bonds issued under~~
 295 ~~this sub-subparagraph shall be payable from and secured by~~
 296 ~~moneys received by the association from assessments under this~~
 297 ~~subparagraph, and assigned and pledged to or on behalf of the~~
 298 ~~unit of local government for the benefit of the holders of such~~
 299 ~~bonds. The funds, credit, property, and taxing power of the~~
 300 ~~state or of the unit of local government shall not be pledged~~

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301 ~~for the payment of such bonds. If any of the bonds remain unsold~~
302 ~~60 days after issuance, the department shall require all~~
303 ~~insurers subject to assessment to purchase the bonds, which~~
304 ~~shall be treated as admitted assets; each insurer shall be~~
305 ~~required to purchase that percentage of the unsold portion of~~
306 ~~the bond issue that equals the insurer's relative share of~~
307 ~~assessment liability under this subsection. An insurer shall not~~
308 ~~be required to purchase the bonds to the extent that the~~
309 ~~department determines that the purchase would endanger or impair~~
310 ~~the solvency of the insurer. The authority granted by this sub-~~
311 ~~subparagraph is additional to any bonding authority granted by~~
312 ~~subparagraph 6.~~

313 ~~3. The plan shall also provide that any member with a~~
314 ~~surplus as to policyholders of \$25 million or less writing 25~~
315 ~~percent or more of its total countrywide property insurance~~
316 ~~premiums in this state may petition the department, within the~~
317 ~~first 90 days of each calendar year, to qualify as a limited~~
318 ~~apportionment company. The apportionment of such a member~~
319 ~~company in any calendar year for which it is qualified shall not~~
320 ~~exceed its gross participation, which shall not be affected by~~
321 ~~the formula for voluntary writings. In no event shall a limited~~
322 ~~apportionment company be required to participate in any~~
323 ~~apportionment of losses pursuant to sub-sub-subparagraph 2.d.(I)~~
324 ~~or sub-sub-subparagraph 2.d.(II) in the aggregate which exceeds~~
325 ~~\$50 million after payment of available plan funds in any~~

326 ~~calendar year. However, a limited apportionment company shall~~
327 ~~collect from its policyholders any emergency assessment imposed~~
328 ~~under sub-sub-subparagraph 2.d.(III). The plan shall provide~~
329 ~~that, if the department determines that any regular assessment~~
330 ~~will result in an impairment of the surplus of a limited~~
331 ~~apportionment company, the department may direct that all or~~
332 ~~part of such assessment be deferred. However, there shall be no~~
333 ~~limitation or deferment of an emergency assessment to be~~
334 ~~collected from policyholders under sub-sub-subparagraph~~
335 ~~2.d.(III).~~

336 ~~4. The plan shall provide for the deferment, in whole or~~
337 ~~in part, of a regular assessment of a member insurer under sub-~~
338 ~~sub-subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II), but~~
339 ~~not for an emergency assessment collected from policyholders~~
340 ~~under sub-sub-subparagraph 2.d.(III), if, in the opinion of the~~
341 ~~commissioner, payment of such regular assessment would endanger~~
342 ~~or impair the solvency of the member insurer. In the event a~~
343 ~~regular assessment against a member insurer is deferred in whole~~
344 ~~or in part, the amount by which such assessment is deferred may~~
345 ~~be assessed against the other member insurers in a manner~~
346 ~~consistent with the basis for assessments set forth in sub-sub-~~
347 ~~subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II).~~

348 ~~5.a. The plan of operation may include deductibles and~~
349 ~~rules for classification of risks and rate modifications~~
350 ~~consistent with the objective of providing and maintaining funds~~

351 ~~sufficient to pay catastrophe losses.~~

352 ~~b. It is the intent of the Legislature that the rates for~~
353 ~~coverage provided by the association be actuarially sound and~~
354 ~~not competitive with approved rates charged in the admitted~~
355 ~~voluntary market such that the association functions as a~~
356 ~~residual market mechanism to provide insurance only when the~~
357 ~~insurance cannot be procured in the voluntary market. The plan~~
358 ~~of operation shall provide a mechanism to assure that, beginning~~
359 ~~no later than January 1, 1999, the rates charged by the~~
360 ~~association for each line of business are reflective of approved~~
361 ~~rates in the voluntary market for hurricane coverage for each~~
362 ~~line of business in the various areas eligible for association~~
363 ~~coverage.~~

364 ~~e. The association shall provide for windstorm coverage on~~
365 ~~residential properties in limits up to \$10 million for~~
366 ~~commercial lines residential risks and up to \$1 million for~~
367 ~~personal lines residential risks. If coverage with the~~
368 ~~association is sought for a residential risk valued in excess of~~
369 ~~these limits, coverage shall be available to the risk up to the~~
370 ~~replacement cost or actual cash value of the property, at the~~
371 ~~option of the insured, if coverage for the risk cannot be~~
372 ~~located in the authorized market. The association must accept a~~
373 ~~commercial lines residential risk with limits above \$10 million~~
374 ~~or a personal lines residential risk with limits above \$1~~
375 ~~million if coverage is not available in the authorized market.~~

376 ~~The association may write coverage above the limits specified in~~
 377 ~~this subparagraph with or without facultative or other~~
 378 ~~reinsurance coverage, as the association determines appropriate.~~

379 ~~d. The plan of operation must provide objective criteria~~
 380 ~~and procedures, approved by the department, to be uniformly~~
 381 ~~applied for all applicants in determining whether an individual~~
 382 ~~risk is so hazardous as to be uninsurable. In making this~~
 383 ~~determination and in establishing the criteria and procedures,~~
 384 ~~the following shall be considered:~~

385 ~~(I) Whether the likelihood of a loss for the individual~~
 386 ~~risk is substantially higher than for other risks of the same~~
 387 ~~class; and~~

388 ~~(II) Whether the uncertainty associated with the~~
 389 ~~individual risk is such that an appropriate premium cannot be~~
 390 ~~determined.~~

391
 392 ~~The acceptance or rejection of a risk by the association~~
 393 ~~pursuant to such criteria and procedures must be construed as~~
 394 ~~the private placement of insurance, and the provisions of~~
 395 ~~chapter 120 do not apply.~~

396 ~~e. If the risk accepts an offer of coverage through the~~
 397 ~~market assistance program or through a mechanism established by~~
 398 ~~the association, either before the policy is issued by the~~
 399 ~~association or during the first 30 days of coverage by the~~
 400 ~~association, and the producing agent who submitted the~~

401 ~~application to the association is not currently appointed by the~~
 402 ~~insurer, the insurer shall:~~

403 ~~(I) Pay to the producing agent of record of the policy,~~
 404 ~~for the first year, an amount that is the greater of the~~
 405 ~~insurer's usual and customary commission for the type of policy~~
 406 ~~written or a fee equal to the usual and customary commission of~~
 407 ~~the association; or~~

408 ~~(II) Offer to allow the producing agent of record of the~~
 409 ~~policy to continue servicing the policy for a period of not less~~
 410 ~~than 1 year and offer to pay the agent the greater of the~~
 411 ~~insurer's or the association's usual and customary commission~~
 412 ~~for the type of policy written.~~

413
 414 ~~If the producing agent is unwilling or unable to accept~~
 415 ~~appointment, the new insurer shall pay the agent in accordance~~
 416 ~~with sub-sub-subparagraph (I). Subject to the provisions of s.~~
 417 ~~627.3517, the policies issued by the association must provide~~
 418 ~~that if the association obtains an offer from an authorized~~
 419 ~~insurer to cover the risk at its approved rates under either a~~
 420 ~~standard policy including wind coverage or, if consistent with~~
 421 ~~the insurer's underwriting rules as filed with the department, a~~
 422 ~~basic policy including wind coverage, the risk is no longer~~
 423 ~~eligible for coverage through the association. Upon termination~~
 424 ~~of eligibility, the association shall provide written notice to~~
 425 ~~the policyholder and agent of record stating that the~~

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426 ~~association policy must be canceled as of 60 days after the date~~
427 ~~of the notice because of the offer of coverage from an~~
428 ~~authorized insurer. Other provisions of the insurance code~~
429 ~~relating to cancellation and notice of cancellation do not apply~~
430 ~~to actions under this sub-subparagraph.~~

431 ~~f. When the association enters into a contractual~~
432 ~~agreement for a take-out plan, the producing agent of record of~~
433 ~~the association policy is entitled to retain any unearned~~
434 ~~commission on the policy, and the insurer shall:~~

435 ~~(I) Pay to the producing agent of record of the~~
436 ~~association policy, for the first year, an amount that is the~~
437 ~~greater of the insurer's usual and customary commission for the~~
438 ~~type of policy written or a fee equal to the usual and customary~~
439 ~~commission of the association; or~~

440 ~~(II) Offer to allow the producing agent of record of the~~
441 ~~association policy to continue servicing the policy for a period~~
442 ~~of not less than 1 year and offer to pay the agent the greater~~
443 ~~of the insurer's or the association's usual and customary~~
444 ~~commission for the type of policy written.~~

445
446 ~~If the producing agent is unwilling or unable to accept~~
447 ~~appointment, the new insurer shall pay the agent in accordance~~
448 ~~with sub-sub-subparagraph (I).~~

449 ~~6.a. The plan of operation may authorize the formation of~~
450 ~~a private nonprofit corporation, a private nonprofit~~

451 ~~unincorporated association, a partnership, a trust, a limited~~
452 ~~liability company, or a nonprofit mutual company which may be~~
453 ~~empowered, among other things, to borrow money by issuing bonds~~
454 ~~or by incurring other indebtedness and to accumulate reserves or~~
455 ~~funds to be used for the payment of insured catastrophe losses.~~
456 ~~The plan may authorize all actions necessary to facilitate the~~
457 ~~issuance of bonds, including the pledging of assessments or~~
458 ~~other revenues.~~

459 ~~b. Any entity created under this subsection, or any entity~~
460 ~~formed for the purposes of this subsection, may sue and be sued,~~
461 ~~may borrow money; issue bonds, notes, or debt instruments;~~
462 ~~pledge or sell assessments, market equalization surcharges and~~
463 ~~other surcharges, rights, premiums, contractual rights,~~
464 ~~projected recoveries from the Florida Hurricane Catastrophe~~
465 ~~Fund, other reinsurance recoverables, and other assets as~~
466 ~~security for such bonds, notes, or debt instruments; enter into~~
467 ~~any contracts or agreements necessary or proper to accomplish~~
468 ~~such borrowings; and take other actions necessary to carry out~~
469 ~~the purposes of this subsection. The association may issue bonds~~
470 ~~or incur other indebtedness, or have bonds issued on its behalf~~
471 ~~by a unit of local government pursuant to subparagraph (6)(q)2.,~~
472 ~~in the absence of a hurricane or other weather-related event,~~
473 ~~upon a determination by the association subject to approval by~~
474 ~~the department that such action would enable it to efficiently~~
475 ~~meet the financial obligations of the association and that such~~

476 ~~financings are reasonably necessary to effectuate the~~
477 ~~requirements of this subsection. Any such entity may accumulate~~
478 ~~reserves and retain surpluses as of the end of any association~~
479 ~~year to provide for the payment of losses incurred by the~~
480 ~~association during that year or any future year. The association~~
481 ~~shall incorporate and continue the plan of operation and~~
482 ~~articles of agreement in effect on the effective date of chapter~~
483 ~~76-96, Laws of Florida, to the extent that it is not~~
484 ~~inconsistent with chapter 76-96, and as subsequently modified~~
485 ~~consistent with chapter 76-96. The board of directors and~~
486 ~~officers currently serving shall continue to serve until their~~
487 ~~successors are duly qualified as provided under the plan. The~~
488 ~~assets and obligations of the plan in effect immediately prior~~
489 ~~to the effective date of chapter 76-96 shall be construed to be~~
490 ~~the assets and obligations of the successor plan created herein.~~

491 ~~e. In recognition of s. 10, Art. I of the State~~
492 ~~Constitution, prohibiting the impairment of obligations of~~
493 ~~contracts, it is the intent of the Legislature that no action be~~
494 ~~taken whose purpose is to impair any bond indenture or financing~~
495 ~~agreement or any revenue source committed by contract to such~~
496 ~~bond or other indebtedness issued or incurred by the association~~
497 ~~or any other entity created under this subsection.~~

498 ~~7. On such coverage, an agent's remuneration shall be that~~
499 ~~amount of money payable to the agent by the terms of his or her~~
500 ~~contract with the company with which the business is placed.~~

501 ~~However, no commission will be paid on that portion of the~~
 502 ~~premium which is in excess of the standard premium of that~~
 503 ~~company.~~

504 ~~8. Subject to approval by the department, the association~~
 505 ~~may establish different eligibility requirements and operational~~
 506 ~~procedures for any line or type of coverage for any specified~~
 507 ~~eligible area or portion of an eligible area if the board~~
 508 ~~determines that such changes to the eligibility requirements and~~
 509 ~~operational procedures are justified due to the voluntary market~~
 510 ~~being sufficiently stable and competitive in such area or for~~
 511 ~~such line or type of coverage and that consumers who, in good~~
 512 ~~faith, are unable to obtain insurance through the voluntary~~
 513 ~~market through ordinary methods would continue to have access to~~
 514 ~~coverage from the association. When coverage is sought in~~
 515 ~~connection with a real property transfer, such requirements and~~
 516 ~~procedures shall not provide for an effective date of coverage~~
 517 ~~later than the date of the closing of the transfer as~~
 518 ~~established by the transferor, the transferee, and, if~~
 519 ~~applicable, the lender.~~

520 ~~9. Notwithstanding any other provision of law:~~

521 ~~a. The pledge or sale of, the lien upon, and the security~~
 522 ~~interest in any rights, revenues, or other assets of the~~
 523 ~~association created or purported to be created pursuant to any~~
 524 ~~financing documents to secure any bonds or other indebtedness of~~
 525 ~~the association shall be and remain valid and enforceable,~~

526 ~~notwithstanding the commencement of and during the continuation~~
527 ~~of, and after, any rehabilitation, insolvency, liquidation,~~
528 ~~bankruptcy, receivership, conservatorship, reorganization, or~~
529 ~~similar proceeding against the association under the laws of~~
530 ~~this state or any other applicable laws.~~

531 ~~b. No such proceeding shall relieve the association of its~~
532 ~~obligation, or otherwise affect its ability to perform its~~
533 ~~obligation, to continue to collect, or levy and collect,~~
534 ~~assessments, market equalization or other surcharges, projected~~
535 ~~recoveries from the Florida Hurricane Catastrophe Fund,~~
536 ~~reinsurance recoverables, or any other rights, revenues, or~~
537 ~~other assets of the association pledged.~~

538 ~~e. Each such pledge or sale of, lien upon, and security~~
539 ~~interest in, including the priority of such pledge, lien, or~~
540 ~~security interest, any such assessments, emergency assessments,~~
541 ~~market equalization or renewal surcharges, projected recoveries~~
542 ~~from the Florida Hurricane Catastrophe Fund, reinsurance~~
543 ~~recoverables, or other rights, revenues, or other assets which~~
544 ~~are collected, or levied and collected, after the commencement~~
545 ~~of and during the pendency of or after any such proceeding shall~~
546 ~~continue unaffected by such proceeding.~~

547 ~~d. As used in this subsection, the term "financing~~
548 ~~documents" means any agreement, instrument, or other document~~
549 ~~now existing or hereafter created evidencing any bonds or other~~
550 ~~indebtedness of the association or pursuant to which any such~~

551 ~~bonds or other indebtedness has been or may be issued and~~
552 ~~pursuant to which any rights, revenues, or other assets of the~~
553 ~~association are pledged or sold to secure the repayment of such~~
554 ~~bonds or indebtedness, together with the payment of interest on~~
555 ~~such bonds or such indebtedness, or the payment of any other~~
556 ~~obligation of the association related to such bonds or~~
557 ~~indebtedness.~~

558 ~~e. Any such pledge or sale of assessments, revenues,~~
559 ~~contract rights or other rights or assets of the association~~
560 ~~shall constitute a lien and security interest, or sale, as the~~
561 ~~case may be, that is immediately effective and attaches to such~~
562 ~~assessments, revenues, contract, or other rights or assets,~~
563 ~~whether or not imposed or collected at the time the pledge or~~
564 ~~sale is made. Any such pledge or sale is effective, valid,~~
565 ~~binding, and enforceable against the association or other entity~~
566 ~~making such pledge or sale, and valid and binding against and~~
567 ~~superior to any competing claims or obligations owed to any~~
568 ~~other person or entity, including policyholders in this state,~~
569 ~~asserting rights in any such assessments, revenues, contract, or~~
570 ~~other rights or assets to the extent set forth in and in~~
571 ~~accordance with the terms of the pledge or sale contained in the~~
572 ~~applicable financing documents, whether or not any such person~~
573 ~~or entity has notice of such pledge or sale and without the need~~
574 ~~for any physical delivery, recordation, filing, or other action.~~

575 ~~f. There shall be no liability on the part of, and no~~

576 ~~cause of action of any nature shall arise against, any member~~
577 ~~insurer or its agents or employees, agents or employees of the~~
578 ~~association, members of the board of directors of the~~
579 ~~association, or the department or its representatives, for any~~
580 ~~action taken by them in the performance of their duties or~~
581 ~~responsibilities under this subsection. Such immunity does not~~
582 ~~apply to actions for breach of any contract or agreement~~
583 ~~pertaining to insurance, or any willful tort.~~

584 ~~(c) The provisions of paragraph (b) are applicable only~~
585 ~~with respect to:~~

586 ~~1. Those areas that were eligible for coverage under this~~
587 ~~subsection on April 9, 1993; or~~

588 ~~2. Any county or area as to which the department, after~~
589 ~~public hearing, finds that the following criteria exist:~~

590 ~~a. Due to the lack of windstorm insurance coverage in the~~
591 ~~county or area so affected, economic growth and development is~~
592 ~~being deterred or otherwise stifled in such county or area,~~
593 ~~mortgages are in default, and financial institutions are unable~~
594 ~~to make loans;~~

595 ~~b. The county or area so affected is enforcing the~~
596 ~~structural requirements of the Florida Building Code, as defined~~
597 ~~in s. 553.73, for new construction and has included adequate~~
598 ~~minimum floor elevation requirements for structures in areas~~
599 ~~subject to inundation; and~~

600 ~~e. Extending windstorm insurance coverage to such county~~

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601 ~~or area is consistent with and will implement and further the~~
602 ~~policies and objectives set forth in applicable state laws,~~
603 ~~rules, and regulations governing coastal management, coastal~~
604 ~~construction, comprehensive planning, beach and shore~~
605 ~~preservation, barrier island preservation, coastal zone~~
606 ~~protection, and the Coastal Zone Protection Act of 1985.~~

607
608 ~~The department shall consider reports of the Florida Building~~
609 ~~Commission when evaluating building code enforcement. Any time~~
610 ~~after the department has determined that the criteria referred~~
611 ~~to in this subparagraph do not exist with respect to any county~~
612 ~~or area of the state, it may, after a subsequent public hearing,~~
613 ~~declare that such county or area is no longer eligible for~~
614 ~~windstorm coverage through the plan.~~

615 ~~(d) For the purpose of evaluating whether the criteria of~~
616 ~~paragraph (c) are met, such criteria shall be applied as the~~
617 ~~situation would exist if policies had not been written by the~~
618 ~~Florida Residential Property and Casualty Joint Underwriting~~
619 ~~Association and property insurance for such policyholders was~~
620 ~~not available.~~

621 ~~(c)1. Notwithstanding the provisions of subparagraph (c)2.~~
622 ~~or paragraph (d), eligibility shall not be extended to any area~~
623 ~~that was not eligible on March 1, 1997, except that the~~
624 ~~department may act with respect to any petition on which a~~
625 ~~hearing was held prior to May 9, 1997.~~

626 ~~2. Notwithstanding the provisions of subparagraph 1., the~~
 627 ~~following area is eligible for coverage under this subsection~~
 628 ~~effective July 1, 2002: the area within Port Canaveral which is~~
 629 ~~bordered on the south by the City of Cape Canaveral, bordered on~~
 630 ~~the west by the Banana River, and bordered on the north by~~
 631 ~~United States Government property.~~

632 ~~(f) As used in this subsection, the term "department"~~
 633 ~~means the former Department of Insurance.~~

634 (4)~~(5)~~ PROPERTY AND CASUALTY INSURANCE RISK
 635 APPORTIONMENT.—The commission shall adopt by rule a joint
 636 underwriting plan to equitably apportion among insurers
 637 authorized in this state to write property insurance as defined
 638 in s. 624.604 or casualty insurance as defined in s. 624.605,
 639 the underwriting of one or more classes of property insurance or
 640 casualty insurance, except for the types of insurance that are
 641 included within property insurance or casualty insurance for
 642 which an equitable apportionment plan, assigned risk plan, or
 643 joint underwriting plan is authorized under s. 627.311 or
 644 subsection (1), subsection (2), subsection (3), or subsection
 645 ~~(4), or subsection (5)~~ and except for risks eligible for flood
 646 insurance written through the federal flood insurance program to
 647 persons with risks eligible under subparagraph (a)1. and who are
 648 in good faith entitled to, but are unable to, obtain such
 649 property or casualty insurance coverage, including excess
 650 coverage, through the voluntary market. For purposes of this

651 subsection, an adequate level of coverage means that coverage
652 which is required by state law or by responsible or prudent
653 business practices. The Joint Underwriting Association shall not
654 be required to provide coverage for any type of risk for which
655 there are no insurers providing similar coverage in this state.
656 The office may designate one or more participating insurers who
657 agree to provide policyholder and claims service, including the
658 issuance of policies, on behalf of the participating insurers.

659 (a) The plan shall provide:

660 1. A means of establishing eligibility of a risk for
661 obtaining insurance through the plan, which provides that:

662 a. A risk shall be eligible for such property insurance or
663 casualty insurance as is required by Florida law if the
664 insurance is unavailable in the voluntary market, including the
665 market assistance program and the surplus lines market.

666 b. A commercial risk not eligible under sub-subparagraph
667 a. shall be eligible for property or casualty insurance if:

668 (I) The insurance is unavailable in the voluntary market,
669 including the market assistance plan and the surplus lines
670 market;

671 (II) Failure to secure the insurance would substantially
672 impair the ability of the entity to conduct its affairs; and

673 (III) The risk is not determined by the Risk Underwriting
674 Committee to be uninsurable.

675 c. In the event the Federal Government terminates the

676 Federal Crime Insurance Program established under 44 C.F.R. ss.
677 80-83, Florida commercial and residential risks previously
678 insured under the federal program shall be eligible under the
679 plan.

680 d.(I) In the event a risk is eligible under this paragraph
681 and in the event the market assistance plan receives a minimum
682 of 100 applications for coverage within a 3-month period, or 200
683 applications for coverage within a 1-year period or less, for a
684 given class of risk contained in the classification system
685 defined in the plan of operation of the Joint Underwriting
686 Association, and unless the market assistance plan provides a
687 quotation for at least 80 percent of such applicants, such
688 classification shall immediately be eligible for coverage in the
689 Joint Underwriting Association.

690 (II) Any market assistance plan application which is
691 rejected because an individual risk is so hazardous as to be
692 practically uninsurable, considering whether the likelihood of a
693 loss for such a risk is substantially higher than for other
694 risks of the same class due to individual risk characteristics,
695 prior loss experience, unwillingness to cooperate with a prior
696 insurer, physical characteristics and physical location shall
697 not be included in the minimum percentage calculation provided
698 above. In the event that there is any legal or administrative
699 challenge to a determination by the office that the conditions
700 of this subparagraph have been met for eligibility for coverage

701 in the Joint Underwriting Association for a given
 702 classification, any eligible risk may obtain coverage during the
 703 pendency of any such challenge.

704 e. In order to qualify as a quotation for the purpose of
 705 meeting the minimum percentage calculation in this subparagraph,
 706 the quoted premium must meet the following criteria:

707 (I) In the case of an admitted carrier, the quoted premium
 708 must not exceed the premium available for a given classification
 709 currently in use by the Joint Underwriting Association or the
 710 premium developed by using the rates and rating plans on file
 711 with the office by the quoting insurer, whichever is greater.

712 (II) In the case of an authorized surplus lines insurer,
 713 the quoted premium must not exceed the premium available for a
 714 given classification currently in use by the Joint Underwriting
 715 Association by more than 25 percent, after consideration of any
 716 individual risk surcharge or credit.

717 f. Any agent who falsely certifies the unavailability of
 718 coverage as provided by sub-subparagraphs a. and b., is subject
 719 to the penalties provided in s. 626.611.

720 2. A means for the equitable apportionment of profits or
 721 losses and expenses among participating insurers.

722 3. Rules for the classification of risks and rates which
 723 reflect the past and prospective loss experience.

724 4. A rating plan which reasonably reflects the prior
 725 claims experience of the insureds. Such rating plan shall

726 include at least two levels of rates for risks that have
 727 favorable loss experience and risks that have unfavorable loss
 728 experience, as established by the plan.

729 5. Reasonable limits to available amounts of insurance.
 730 Such limits may not be less than the amounts of insurance
 731 required of eligible risks by Florida law.

732 6. Risk management requirements for insurance where such
 733 requirements are reasonable and are expected to reduce losses.

734 7. Deductibles as may be necessary to meet the needs of
 735 insureds.

736 8. Policy forms which are consistent with the forms in use
 737 by the majority of the insurers providing coverage in the
 738 voluntary market for the coverage requested by the applicant.

739 9. A means to remove risks from the plan once such risks
 740 no longer meet the eligibility requirements of this paragraph.
 741 For this purpose, the plan shall include the following
 742 requirements: At each 6-month interval after the activation of
 743 any class of insureds, the board of governors or its designated
 744 committee shall review the number of applications to the market
 745 assistance plan for that class. If, based on these latest
 746 numbers, at least 90 percent of such applications have been
 747 provided a quotation, the Joint Underwriting Association shall
 748 cease underwriting new applications for such class within 30
 749 days, and notification of this decision shall be sent to the
 750 office, the major agents' associations, and the board of

751 directors of the market assistance plan. A quotation for the
752 purpose of this subparagraph shall meet the same criteria for a
753 quotation as provided in sub-subparagraph 1.e. All policies
754 which were previously written for that class shall continue in
755 force until their normal expiration date, at which time, subject
756 to the required timely notification of nonrenewal by the Joint
757 Underwriting Association, the insured may then elect to reapply
758 to the Joint Underwriting Association according to the
759 requirements of eligibility. If, upon reapplication, those
760 previously insured Joint Underwriting Association risks meet the
761 eligibility requirements, the Joint Underwriting Association
762 shall provide the coverage requested.

763 10. A means for providing credits to insurers against any
764 deficit assessment levied pursuant to paragraph (c), for risks
765 voluntarily written through the market assistance plan by such
766 insurers.

767 11. That the Joint Underwriting Association shall operate
768 subject to the supervision and approval of a board of governors
769 consisting of 13 individuals appointed by the Chief Financial
770 Officer, and shall have an executive or underwriting committee.
771 At least four of the members shall be representatives of
772 insurance trade associations as follows: one member from the
773 American Insurance Association, one member from the Alliance of
774 American Insurers, one member from the National Association of
775 Independent Insurers, and one member from an unaffiliated

776 insurer writing coverage on a national basis. Two
777 representatives shall be from two of the statewide agents'
778 associations. Each board member shall be appointed to serve for
779 2-year terms beginning on a date designated by the plan and
780 shall serve at the pleasure of the Chief Financial Officer.
781 Members may be reappointed for subsequent terms.

782 (b) Rates used by the Joint Underwriting Association shall
783 be actuarially sound. To the extent applicable, the rate
784 standards set forth in s. 627.062 shall be considered by the
785 office in establishing rates to be used by the joint
786 underwriting plan. The initial rate level shall be determined
787 using the rates, rules, rating plans, and classifications
788 contained in the most current Insurance Services Office (ISO)
789 filing with the office or the filing of other licensed rating
790 organizations with an additional increment of 25 percent of
791 premium. For any type of coverage or classification which lends
792 itself to manual rating for which the Insurance Services Office
793 or another licensed rating organization does not file or publish
794 a rate, the Joint Underwriting Association shall file and use an
795 initial rate based on the average current market rate. The
796 initial rate level for the rate plan shall also be subject to an
797 experience and schedule rating plan which may produce a maximum
798 of 25 percent debits or credits. For any risk which does not
799 lend itself to manual rating and for which no rate has been
800 promulgated under the rate plan, the board shall develop and

801 file with the office, subject to its approval, appropriate
802 criteria and factors for rating the individual risk. Such
803 criteria and factors shall include, but not be limited to, loss
804 rating plans, composite rating plans, and unique and unusual
805 risk rating plans. The initial rates required under this
806 paragraph shall be adjusted in conformity with future filings by
807 the Insurance Services Office with the office and shall remain
808 in effect until such time as the Joint Underwriting Association
809 has sufficient data as to independently justify an actuarially
810 sound change in such rates.

811 (c)1. In the event an underwriting deficit exists for any
812 policy year the plan is in effect, any surplus which has accrued
813 from previous years and is not projected within reasonable
814 actuarial certainty to be needed for payment for claims in the
815 year the surplus arose shall be used to offset the deficit to
816 the extent available.

817 2. As to any remaining deficit, the board of governors of
818 the Joint Underwriting Association shall levy and collect an
819 assessment in an amount sufficient to offset such deficit. Such
820 assessment shall be levied against the insurers participating in
821 the plan during the year giving rise to the assessment. Any
822 assessments against insurers for the lines of property and
823 casualty insurance issued to commercial risks shall be recovered
824 from the participating insurers in the proportion that the net
825 direct premium of each insurer for commercial risks written

826 during the preceding calendar year bears to the aggregate net
827 direct premium written for commercial risks by all members of
828 the plan for the lines of insurance included in the plan. Any
829 assessments against insurers for the lines of property and
830 casualty insurance issued to personal risks eligible under sub-
831 subparagraph (a)1.a. or sub-subparagraph (a)1.c. shall be
832 recovered from the participating insurers in the proportion that
833 the net direct premium of each insurer for personal risks
834 written during the preceding calendar year bears to the
835 aggregate net direct premium written for personal risks by all
836 members of the plan for the lines of insurance included in the
837 plan.

838 3. The board shall take all reasonable and prudent steps
839 necessary to collect the amount of assessment due from each
840 participating insurer and policyholder, including, if prudent,
841 filing suit to collect such assessment. If the board is unable
842 to collect an assessment from any insurer, the uncollected
843 assessments shall be levied as an additional assessment against
844 the participating insurers and any participating insurer
845 required to pay an additional assessment as a result of such
846 failure to pay shall have a cause of action against such
847 nonpaying insurer.

848 4. Any funds or entitlements that the state may be
849 eligible to receive by virtue of the Federal Government's
850 termination of the Federal Crime Insurance Program referenced in

851 sub-subparagraph (a)1.c. may be used under the plan to offset
852 any subsequent underwriting deficits that may occur from risks
853 previously insured with the Federal Crime Insurance Program.

854 5. Assessments shall be included as an appropriate factor
855 in the making of rates as provided in s. 627.3512.

856 6.a. The Legislature finds that the potential for
857 unlimited assessments under this paragraph may induce insurers
858 to attempt to reduce their writings in the voluntary market, and
859 that such actions would worsen the availability problems that
860 the association was created to remedy. It is the intent of the
861 Legislature that insurers remain fully responsible for covering
862 any deficits of the association; however, it is also the intent
863 of the Legislature to provide a means by which assessment
864 liabilities may be amortized over a period of years.

865 b. The total amount of deficit assessments under this
866 paragraph with respect to any year may not exceed 10 percent of
867 the statewide total gross written premium for all insurers for
868 the coverages referred to in the introductory language of this
869 subsection for the prior year, except that if the deficit with
870 respect to any plan year exceeds such amount and bonds are
871 issued under sub-subparagraph c. to defray the deficit, the
872 total amount of assessments with respect to such deficit may not
873 in any year exceed 10 percent of the deficit, or such lesser
874 percentage as is sufficient to retire the bonds as determined by
875 the board, and shall continue annually until the bonds are

876 | retired.

877 | c. The governing body of any unit of local government, any
878 | residents or businesses of which are insured by the association,
879 | may issue bonds as defined in s. 125.013 or s. 166.101 from time
880 | to time to fund an assistance program, in conjunction with the
881 | association, for the purpose of defraying deficits of the
882 | association. Revenue bonds may not be issued until validated
883 | pursuant to chapter 75, unless a state of emergency is declared
884 | by executive order or proclamation of the Governor pursuant to
885 | s. 252.36 making such findings as are necessary to determine
886 | that it is in the best interests of, and necessary for, the
887 | protection of the public health, safety, and general welfare of
888 | residents of this state and the protection and preservation of
889 | the economic stability of insurers operating in this state, and
890 | declaring it an essential public purpose to permit certain
891 | municipalities or counties to issue such bonds as will provide
892 | relief to claimants and policyholders of the joint underwriting
893 | association and insurers responsible for apportionment of
894 | association losses. The unit of local government shall enter
895 | into such contracts with the association as are necessary to
896 | carry out this paragraph. Any bonds issued under this sub-
897 | subparagraph shall be payable from and secured by moneys
898 | received by the association from assessments under this
899 | paragraph, and assigned and pledged to or on behalf of the unit
900 | of local government for the benefit of the holders of such

901 bonds. The funds, credit, property, and taxing power of the
902 state or of the unit of local government shall not be pledged
903 for the payment of such bonds. If any of the bonds remain unsold
904 60 days after issuance, the office shall require all insurers
905 subject to assessment to purchase the bonds, which shall be
906 treated as admitted assets; each insurer shall be required to
907 purchase that percentage of the unsold portion of the bond issue
908 that equals the insurer's relative share of assessment liability
909 under this subsection. An insurer shall not be required to
910 purchase the bonds to the extent that the office determines that
911 the purchase would endanger or impair the solvency of the
912 insurer.

913 7. The plan shall provide for the deferment, in whole or
914 in part, of the assessment of an insurer if the office finds
915 that payment of the assessment would endanger or impair the
916 solvency of the insurer. In the event an assessment against an
917 insurer is deferred in whole or in part, the amount by which
918 such assessment is deferred may be assessed against the other
919 member insurers in a manner consistent with the basis for
920 assessments set forth in subparagraph 2.

921 (d) Upon adoption of the plan, all insurers authorized in
922 this state to underwrite property or casualty insurance shall
923 participate in the plan.

924 (e) A Risk Underwriting Committee of the Joint
925 Underwriting Association composed of three members experienced

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926 | in evaluating insurance risks is created to review risks
927 | rejected by the voluntary market for which application is made
928 | for insurance through the joint underwriting plan. The committee
929 | shall consist of a representative of the market assistance plan
930 | created under s. 627.3515, a member selected by the insurers
931 | participating in the Joint Underwriting Association, and a
932 | member named by the Chief Financial Officer. The Risk
933 | Underwriting Committee shall appoint such advisory committees as
934 | are provided for in the plan and are necessary to conduct its
935 | functions. The salaries and expenses of the members of the Risk
936 | Underwriting Committee and its advisory committees shall be paid
937 | by the joint underwriting plan. The plan approved by the office
938 | shall establish criteria and procedures for use by the Risk
939 | Underwriting Committee for determining whether an individual
940 | risk is so hazardous as to be uninsurable. In making this
941 | determination and in establishing the criteria and procedures,
942 | the following shall be considered:

- 943 | 1. Whether the likelihood of a loss for the individual
944 | risk is substantially higher than for other risks of the same
945 | class; and
- 946 | 2. Whether the uncertainty associated with the individual
947 | risk is such that an appropriate premium cannot be determined.

948 |
949 | The acceptance or rejection of a risk by the underwriting
950 | committee shall be construed as the private placement of

951 insurance, and the provisions of chapter 120 shall not apply.

952 (f) There shall be no liability on the part of, and no
 953 cause of action of any nature shall arise against, any member
 954 insurer or its agents or employees, the Florida Property and
 955 Casualty Joint Underwriting Association or its agents or
 956 employees, members of the board of governors, the Chief
 957 Financial Officer, or the office or its representatives for any
 958 action taken by them in the performance of their duties under
 959 this subsection. Such immunity does not apply to actions for
 960 breach of any contract or agreement pertaining to insurance, or
 961 any other willful tort.

962 (5)~~(6)~~ CITIZENS PROPERTY INSURANCE CORPORATION.—

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

966 1. The Legislature finds that private insurers are
 967 unwilling or unable to provide affordable property insurance
 968 coverage in this state to the extent sought and needed. The
 969 absence of affordable property insurance threatens the public
 970 health, safety, and welfare and likewise threatens the economic
 971 health of the state. The state therefore has a compelling public
 972 interest and a public purpose to assist in assuring that
 973 property in the state is insured and that it is insured at
 974 affordable rates so as to facilitate the remediation,
 975 reconstruction, and replacement of damaged or destroyed property

976 | in order to reduce or avoid the negative effects otherwise
 977 | resulting to the public health, safety, and welfare, to the
 978 | economy of the state, and to the revenues of the state and local
 979 | governments which are needed to provide for the public welfare.
 980 | ~~It is necessary, therefore, to provide affordable property~~
 981 | ~~insurance to applicants who are in good faith entitled to~~
 982 | ~~procure insurance through the voluntary market but are unable to~~
 983 | ~~do so.~~ The Legislature intends, therefore, that affordable
 984 | property insurance be provided and that it continue to be
 985 | provided, as long as necessary, through Citizens Property
 986 | Insurance Corporation, a government entity that is an integral
 987 | part of the state, and that is not a private insurance company.
 988 | To that end, the corporation shall strive to increase the
 989 | availability of affordable property insurance in this state,
 990 | while achieving efficiencies and economies, and while providing
 991 | service to policyholders, applicants, and agents which is no
 992 | less than the quality generally provided in the voluntary
 993 | market, for the achievement of the foregoing public purposes.
 994 | Because it is essential for this government entity to have the
 995 | maximum financial resources to pay claims following a
 996 | catastrophic hurricane, it is the intent of the Legislature that
 997 | the corporation continue to be an integral part of the state and
 998 | that the income of the corporation be exempt from federal income
 999 | taxation and that interest on the debt obligations issued by the
 1000 | corporation be exempt from federal income taxation.

1001 2. The Residential Property and Casualty Joint
 1002 Underwriting Association originally created by this statute
 1003 shall be known as the Citizens Property Insurance Corporation.
 1004 The corporation shall provide insurance for residential and
 1005 commercial property, ~~for applicants who are entitled, but, in~~
 1006 ~~good faith, are unable to procure insurance through the~~
 1007 ~~voluntary market.~~ The corporation shall operate pursuant to a
 1008 plan of operation approved by order of the Financial Services
 1009 Commission. The plan is subject to continuous review by the
 1010 commission. The commission may, by order, withdraw approval of
 1011 all or part of a plan if the commission determines that
 1012 conditions have changed since approval was granted and that the
 1013 purposes of the plan require changes in the plan. For the
 1014 purposes of this subsection, residential coverage includes both
 1015 personal lines residential coverage, which consists of the type
 1016 of coverage provided by homeowner, mobile home owner, dwelling,
 1017 tenant, condominium unit owner, and similar policies; and
 1018 commercial lines residential coverage, which consists of the
 1019 type of coverage provided by condominium association, apartment
 1020 building, and similar policies.

1021 3. Effective January 1, 2025, with respect to coverage for
 1022 personal lines residential structures:

1023 a. ~~Effective January 1, 2014,~~ A structure that has a
 1024 dwelling replacement cost of \$700,000 ~~\$1 million~~ or more, or a
 1025 single condominium unit that has a combined dwelling and

1026 contents replacement cost of \$700,000 ~~\$1 million~~ or more, is not
 1027 eligible for coverage by the corporation, except as otherwise
 1028 provided in sub-subparagraph b. ~~Such dwellings insured by the~~
 1029 ~~corporation on December 31, 2013, may continue to be covered by~~
 1030 ~~the corporation until the end of the policy term.~~ The office
 1031 shall approve the method used by the corporation for valuing the
 1032 dwelling replacement cost for the purposes of this subparagraph.
 1033 If a policyholder is insured by the corporation before being
 1034 determined to be ineligible pursuant to this subparagraph and
 1035 such policyholder files a lawsuit challenging the determination,
 1036 the policyholder may remain insured by the corporation until the
 1037 conclusion of the litigation. This subparagraph does not apply
 1038 in counties where the office determines that there is not a
 1039 reasonable degree of competition. In such counties a personal
 1040 lines residential structure that has a dwelling replacement cost
 1041 of less than \$1 million, or a single condominium unit that has a
 1042 combined dwelling and contents replacement cost of less than \$1
 1043 million, is eligible for coverage by the corporation.

1044 b. The corporation shall make windstorm coverage available
 1045 to any homeowner, including a condominium association, for any
 1046 residential structure, including a mobile home that is used as a
 1047 dwelling and that is tied down in compliance with mobile home
 1048 tie-down requirements prescribed by the Department of Highway
 1049 Safety and Motor Vehicles pursuant to s. 320.8325. The windstorm
 1050 coverage must include coverage of the contents of the structure

1051 and may not depend on which property and casualty insurer is
1052 providing the property and casualty coverage for the structure
1053 which is not windstorm coverage. This sub-subparagraph does not
1054 prohibit an insurer from issuing or renewing a policy that
1055 provides hurricane or windstorm coverage for a residential
1056 structure ~~Effective January 1, 2015, a structure that has a~~
1057 ~~dwelling replacement cost of \$900,000 or more, or a single~~
1058 ~~condominium unit that has a combined dwelling and contents~~
1059 ~~replacement cost of \$900,000 or more, is not eligible for~~
1060 ~~coverage by the corporation. Such dwellings insured by the~~
1061 ~~corporation on December 31, 2014, may continue to be covered by~~
1062 ~~the corporation only until the end of the policy term.~~

1063 (I) A homeowner may obtain a windstorm coverage quote from
1064 an agent that transacts property and casualty insurance. If the
1065 homeowner elects windstorm coverage by the corporation in
1066 addition to property and casualty coverage by an insurer other
1067 than the corporation, the windstorm portion of the quote shall
1068 be underwritten by the corporation and administered by the
1069 insurer chosen by the homeowner. If the homeowner elects only
1070 windstorm coverage, the corporation shall administer the policy.
1071 The administrator shall handle windstorm claims, and, if the
1072 administrator is an insurer that is not the corporation, the
1073 administrator shall handle windstorm as well as nonwindstorm
1074 claims. Underwriting rules under this code apply to windstorm
1075 coverage by the corporation and may preclude the offering of

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1076 windstorm coverage under limited circumstances prescribed by
1077 this code.

1078 (II) The windstorm premiums, adjusted by a standard
1079 formula prescribed by the corporation for administrative fees
1080 for the insurance agent and, if applicable, for the insurer
1081 other than the corporation, shall be passed on to the
1082 corporation.

1083 (III) The corporation shall pool the windstorm premiums
1084 and shall use the pool as the primary source for settlement of
1085 windstorm claims submitted by the policyholder through the
1086 policyholder's administrator. Settlement payments shall be
1087 processed and distributed through the corporation or, if
1088 applicable, the homeowner's property and casualty insurer. If
1089 the corporation is not the administrator, the corporation shall
1090 pay claims administrative fees to the homeowner's property and
1091 casualty insurer.

1092 ~~e. Effective January 1, 2016, a structure that has a~~
1093 ~~dwelling replacement cost of \$800,000 or more, or a single~~
1094 ~~condominium unit that has a combined dwelling and contents~~
1095 ~~replacement cost of \$800,000 or more, is not eligible for~~
1096 ~~coverage by the corporation. Such dwellings insured by the~~
1097 ~~corporation on December 31, 2015, may continue to be covered by~~
1098 ~~the corporation until the end of the policy term.~~

1099 ~~d. effective January 1, 2017, a structure that has a~~
1100 ~~dwelling replacement cost of \$700,000 or more, or a single~~

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1101 ~~condominium unit that has a combined dwelling and contents~~
1102 ~~replacement cost of \$700,000 or more, is not eligible for~~
1103 ~~coverage by the corporation. Such dwellings insured by the~~
1104 ~~corporation on December 31, 2016, may continue to be covered by~~
1105 ~~the corporation until the end of the policy term.~~

1106
1107 ~~The requirements of sub-subparagraphs b.-d. do not apply in~~
1108 ~~counties where the office determines there is not a reasonable~~
1109 ~~degree of competition. In such counties a personal lines~~
1110 ~~residential structure that has a dwelling replacement cost of~~
1111 ~~less than \$1 million, or a single condominium unit that has a~~
1112 ~~combined dwelling and contents replacement cost of less than \$1~~
1113 ~~million, is eligible for coverage by the corporation.~~

1114 4. It is the intent of the Legislature that policyholders,
1115 applicants, and agents of the corporation receive service and
1116 treatment of the highest possible level but never less than that
1117 generally provided in the voluntary market. It is also intended
1118 that the corporation be held to service standards no less than
1119 those applied to insurers in the voluntary market by the office
1120 with respect to responsiveness, timeliness, customer courtesy,
1121 and overall dealings with policyholders, applicants, or agents
1122 of the corporation.

1123 5.a. Effective July 1, 2024 ~~January 1, 2009~~, a personal
1124 lines residential structure that is located in the "wind-borne
1125 debris region," as defined in s. 1609.2, International Building

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1126 Code (2006), and that has an insured value on the structure of
1127 \$750,000 or more is not eligible for coverage by the
1128 corporation, except for windstorm coverage, unless the structure
1129 has opening protections as required under the Florida Building
1130 Code for a newly constructed residential structure in that area.
1131 A residential structure is deemed to comply with this sub-
1132 subparagraph if it has shutters or opening protections on all
1133 openings and if such opening protections complied with the
1134 Florida Building Code at the time they were installed.

1135 b. Any major structure, as defined in s. 161.54(6)(a),
1136 that is newly constructed, or rebuilt, repaired, restored, or
1137 remodeled to increase the total square footage of finished area
1138 by more than 25 percent, pursuant to a permit applied for ~~after~~
1139 ~~July 1, 2015~~, is not eligible for coverage by the corporation,
1140 except for windstorm coverage, if the structure is seaward of
1141 the coastal construction control line established pursuant to s.
1142 161.053 or is within the Coastal Barrier Resources System as
1143 designated by 16 U.S.C. ss. 3501-3510.

1144 6. Effective July 1, 2024, the corporation shall make
1145 windstorm coverage available to all commercial lines residential
1146 structures, including condominiums, regardless of whether the
1147 units are rented. The windstorm coverage must include coverage
1148 of the contents of the structure and may not depend on which
1149 property and casualty insurer is providing the property and
1150 casualty coverage for the structure which is not windstorm

1151 coverage. This subparagraph does not prohibit an insurer from
 1152 issuing or renewing a windstorm or hurricane coverage policy for
 1153 a residential structure. This subparagraph does not prohibit an
 1154 insurer from issuing or renewing a policy that provides
 1155 hurricane or windstorm coverage for a commercial lines
 1156 residential structure ~~With respect to wind-only coverage for~~
 1157 ~~commercial lines residential condominiums, effective July 1,~~
 1158 ~~2014, a condominium shall be deemed ineligible for coverage if~~
 1159 ~~50 percent or more of the units are rented more than eight times~~
 1160 ~~in a calendar year for a rental agreement period of less than 30~~
 1161 ~~days.~~

1162 7. As used in this subsection, the term:

1163 a. "Windstorm" means wind, wind gusts, gales, hail, rain,
 1164 or tornadoes caused by or resulting from a named tropical storm,
 1165 including a hurricane, which create direct physical loss or
 1166 damage to property.

1167 b. "Windstorm coverage" is coverage for loss or damage
 1168 caused by the peril of windstorm during a named tropical storm,
 1169 including coverage for damage to the interior of a building, or
 1170 to property inside a building, caused by rain, snow, sleet,
 1171 hail, sand, or dust if the direct force of the windstorm first
 1172 damages the building, causing an opening through which rain,
 1173 snow, sleet, hail, sand, or dust enters and causes damage. The
 1174 coverage includes, but is not limited to, hurricane coverage.

1175 (b)1. All insurers authorized to write one or more subject

1176 lines of business in this state are subject to assessment by the
 1177 corporation and, for the purposes of this subsection, are
 1178 referred to collectively as "assessable insurers." Insurers
 1179 writing one or more subject lines of business in this state
 1180 pursuant to part VIII of chapter 626 are not assessable
 1181 insurers; however, insureds who procure one or more subject
 1182 lines of business in this state pursuant to part VIII of chapter
 1183 626 are subject to assessment by the corporation and are
 1184 referred to collectively as "assessable insureds." An insurer's
 1185 assessment liability begins on the first day of the calendar
 1186 year following the year in which the insurer was issued a
 1187 certificate of authority to transact insurance for subject lines
 1188 of business in this state and terminates 1 year after the end of
 1189 the first calendar year during which the insurer no longer holds
 1190 a certificate of authority to transact insurance for subject
 1191 lines of business in this state.

1192 2.a. All revenues, assets, liabilities, losses, and
 1193 expenses of the corporation shall be divided into three separate
 1194 accounts as follows:

1195 (I) A personal lines account for personal residential
 1196 policies issued by the corporation which provides comprehensive,
 1197 multiperil coverage on risks that are not located in areas
 1198 eligible for coverage by the Florida Windstorm Underwriting
 1199 Association as those areas were defined on January 1, 2002, ~~and~~
 1200 ~~for policies that do not provide coverage for the peril of wind~~

1201 ~~on risks that are located in such areas;~~

1202 (II) A commercial lines account for commercial residential
 1203 and commercial nonresidential policies issued by the corporation
 1204 which provides coverage for basic property perils on risks that
 1205 are not located in areas eligible for coverage by the Florida
 1206 Windstorm Underwriting Association as those areas were defined
 1207 on January 1, 2002, ~~and for policies that do not provide~~
 1208 ~~coverage for the peril of wind on risks that are located in such~~
 1209 ~~areas;~~ and

1210 (III) A coastal account for personal residential policies
 1211 and commercial residential and commercial nonresidential
 1212 property policies issued by the corporation which provides
 1213 coverage for the peril of wind on risks that are located in
 1214 areas eligible for coverage by the Florida Windstorm
 1215 Underwriting Association as those areas were defined on January
 1216 1, 2002. The corporation may offer policies that provide
 1217 multiperil coverage and shall offer policies that provide
 1218 coverage only for the peril of wind for risks located in areas
 1219 eligible for coverage in the coastal account. Effective July 1,
 1220 2024 ~~2014~~, the corporation shall cease offering new commercial
 1221 residential policies providing multiperil coverage and shall
 1222 instead continue to offer commercial residential wind-only
 1223 policies, ~~and may offer commercial residential policies~~
 1224 ~~excluding wind~~. The corporation may, however, continue to renew
 1225 a commercial residential multiperil policy on a building that is

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1226 insured by the corporation on June 30, 2024 ~~2014~~, under a
1227 multiperil policy. In issuing multiperil coverage, the
1228 corporation may use its approved policy forms and rates for the
1229 personal lines account. ~~An applicant or insured who is eligible~~
1230 ~~to purchase a multiperil policy from the corporation may~~
1231 ~~purchase a multiperil policy from an authorized insurer without~~
1232 ~~prejudice to the applicant's or insured's eligibility to~~
1233 ~~prospectively purchase a policy that provides coverage only for~~
1234 ~~the peril of wind from the corporation. An applicant or insured~~
1235 ~~who is eligible for a corporation policy that provides coverage~~
1236 ~~only for the peril of wind may elect to purchase or retain such~~
1237 ~~policy and also purchase or retain coverage excluding wind from~~
1238 ~~an authorized insurer without prejudice to the applicant's or~~
1239 ~~insured's eligibility to prospectively purchase a policy that~~
1240 ~~provides multiperil coverage from the corporation. It is the~~
1241 ~~goal of the Legislature that there be an overall average savings~~
1242 ~~of 10 percent or more for a policyholder who currently has a~~
1243 ~~wind-only policy with the corporation, and an ex-wind policy~~
1244 ~~with a voluntary insurer or the corporation, and who obtains a~~
1245 ~~multiperil policy from the corporation. It is the intent of the~~
1246 Legislature that the offer of multiperil coverage in the coastal
1247 account be made and implemented in a manner that does not
1248 adversely affect the tax-exempt status of the corporation or
1249 creditworthiness of or security for currently outstanding
1250 financing obligations or credit facilities of the coastal

1251 account, the personal lines account, or the commercial lines
 1252 account. ~~The coastal account must also include quota share~~
 1253 ~~primary insurance under subparagraph (c)2.~~ The area eligible for
 1254 coverage under the coastal account also includes the area within
 1255 Port Canaveral, which is bordered on the south by the City of
 1256 Cape Canaveral, bordered on the west by the Banana River, and
 1257 bordered on the north by Federal Government property.

1258 b. The three separate accounts must be maintained as long
 1259 as financing obligations entered into by the Florida Windstorm
 1260 Underwriting Association or Residential Property and Casualty
 1261 Joint Underwriting Association are outstanding, in accordance
 1262 with the terms of the corresponding financing documents. If no
 1263 such financing obligations remain outstanding or if the
 1264 financing documents allow for combining of accounts, the
 1265 corporation may consolidate the three separate accounts into a
 1266 new account, to be known as the Citizens account, for all
 1267 revenues, assets, liabilities, losses, and expenses of the
 1268 corporation. The Citizens account, if established by the
 1269 corporation, is authorized to provide coverage to the same
 1270 extent as provided under each of the three separate accounts.
 1271 The authority to provide coverage under the Citizens account is
 1272 set forth in subparagraph 4. Consistent with this subparagraph
 1273 and prudent investment policies that minimize the cost of
 1274 carrying debt, the board shall exercise its best efforts to
 1275 retire existing debt or obtain the approval of necessary parties

1276 to amend the terms of existing debt, so as to structure the most
 1277 efficient plan for consolidating the three separate accounts
 1278 into a single account. Once the accounts are combined into one
 1279 account, this subparagraph and subparagraph 3. shall be replaced
 1280 in their entirety by subparagraphs 4. and 5.

1281 c. Creditors of the Residential Property and Casualty
 1282 Joint Underwriting Association and the accounts specified in
 1283 sub-sub-subparagraphs a.(I) and (II) may have a claim against,
 1284 and recourse to, those accounts and no claim against, or
 1285 recourse to, the account referred to in sub-sub-subparagraph
 1286 a.(III). Creditors of the Florida Windstorm Underwriting
 1287 Association have a claim against, and recourse to, the account
 1288 referred to in sub-sub-subparagraph a.(III) and no claim
 1289 against, or recourse to, the accounts referred to in sub-sub-
 1290 subparagraphs a.(I) and (II).

1291 d. Revenues, assets, liabilities, losses, and expenses not
 1292 attributable to particular accounts shall be prorated among the
 1293 accounts.

1294 e. The Legislature finds that the revenues of the
 1295 corporation are revenues that are necessary to meet the
 1296 requirements set forth in documents authorizing the issuance of
 1297 bonds under this subsection.

1298 f. The income of the corporation may not inure to the
 1299 benefit of any private person.

1300 3. With respect to a deficit in an account:

1301 a. After accounting for the Citizens policyholder
 1302 surcharge imposed under sub-subparagraph j., if the remaining
 1303 projected deficit incurred in the coastal account in a
 1304 particular calendar year:

1305 (I) Is not greater than 2 percent of the aggregate
 1306 statewide direct written premium for the subject lines of
 1307 business for the prior calendar year, the entire deficit shall
 1308 be recovered through regular assessments of assessable insurers
 1309 under paragraph (q) and assessable insureds.

1310 (II) Exceeds 2 percent of the aggregate statewide direct
 1311 written premium for the subject lines of business for the prior
 1312 calendar year, the corporation shall levy regular assessments on
 1313 assessable insurers under paragraph (q) and on assessable
 1314 insureds in an amount equal to the greater of 2 percent of the
 1315 projected deficit or 2 percent of the aggregate statewide direct
 1316 written premium for the subject lines of business for the prior
 1317 calendar year. Any remaining projected deficit shall be
 1318 recovered through emergency assessments under sub-subparagraph
 1319 e.

1320 b. Each assessable insurer's share of the amount being
 1321 assessed under sub-subparagraph a. must be in the proportion
 1322 that the assessable insurer's direct written premium for the
 1323 subject lines of business for the year preceding the assessment
 1324 bears to the aggregate statewide direct written premium for the
 1325 subject lines of business for that year. The assessment

1326 percentage applicable to each assessable insured is the ratio of
1327 the amount being assessed under sub-subparagraph a. to the
1328 aggregate statewide direct written premium for the subject lines
1329 of business for the prior year. Assessments levied by the
1330 corporation on assessable insurers under sub-subparagraph a.
1331 must be paid as required by the corporation's plan of operation
1332 and paragraph (q). Assessments levied by the corporation on
1333 assessable insureds under sub-subparagraph a. shall be collected
1334 by the surplus lines agent at the time the surplus lines agent
1335 collects the surplus lines tax required by s. 626.932, and paid
1336 to the Florida Surplus Lines Service Office at the time the
1337 surplus lines agent pays the surplus lines tax to that office.
1338 Upon receipt of regular assessments from surplus lines agents,
1339 the Florida Surplus Lines Service Office shall transfer the
1340 assessments directly to the corporation as determined by the
1341 corporation.

1342 c. The corporation may not levy regular assessments under
1343 paragraph (q) pursuant to sub-subparagraph a. or sub-
1344 subparagraph b. if the three separate accounts in sub-sub-
1345 subparagraphs 2.a.(I)-(III) have been consolidated into the
1346 Citizens account pursuant to sub-subparagraph 2.b. However, the
1347 outstanding balance of any regular assessment levied by the
1348 corporation before establishment of the Citizens account remains
1349 payable to the corporation.

1350 d. After accounting for the Citizens policyholder

1351 surcharge imposed under sub-subparagraph j., the remaining
1352 projected deficits in the personal lines account and in the
1353 commercial lines account in a particular calendar year shall be
1354 recovered through emergency assessments under sub-subparagraph
1355 e.

1356 e. Upon a determination by the board of governors that a
1357 projected deficit in an account exceeds the amount that is
1358 expected to be recovered through regular assessments under sub-
1359 subparagraph a., plus the amount that is expected to be
1360 recovered through surcharges under sub-subparagraph j., the
1361 board, after verification by the office, shall levy emergency
1362 assessments for as many years as necessary to cover the
1363 deficits, to be collected by assessable insurers and the
1364 corporation and collected from assessable insureds upon issuance
1365 or renewal of policies for subject lines of business, excluding
1366 National Flood Insurance policies. The amount collected in a
1367 particular year must be a uniform percentage of that year's
1368 direct written premium for subject lines of business and all
1369 accounts of the corporation, excluding National Flood Insurance
1370 Program policy premiums, as annually determined by the board and
1371 verified by the office. The office shall verify the arithmetic
1372 calculations involved in the board's determination within 30
1373 days after receipt of the information on which the determination
1374 was based. The office shall notify assessable insurers and the
1375 Florida Surplus Lines Service Office of the date on which

1376 assessable insurers shall begin to collect and assessable
 1377 insureds shall begin to pay such assessment. The date must be at
 1378 least 90 days after the date the corporation levies emergency
 1379 assessments pursuant to this sub-subparagraph. Notwithstanding
 1380 any other provision of law, the corporation and each assessable
 1381 insurer that writes subject lines of business shall collect
 1382 emergency assessments from its policyholders without such
 1383 obligation being affected by any credit, limitation, exemption,
 1384 or deferment. Emergency assessments levied by the corporation on
 1385 assessable insureds shall be collected by the surplus lines
 1386 agent at the time the surplus lines agent collects the surplus
 1387 lines tax required by s. 626.932 and paid to the Florida Surplus
 1388 Lines Service Office at the time the surplus lines agent pays
 1389 the surplus lines tax to that office. The emergency assessments
 1390 collected shall be transferred directly to the corporation on a
 1391 periodic basis as determined by the corporation and held by the
 1392 corporation solely in the applicable account. The aggregate
 1393 amount of emergency assessments levied for an account in any
 1394 calendar year may be less than but may not exceed the greater of
 1395 10 percent of the amount needed to cover the deficit, plus
 1396 interest, fees, commissions, required reserves, and other costs
 1397 associated with financing the original deficit, or 10 percent of
 1398 the aggregate statewide direct written premium for subject lines
 1399 of business and all accounts of the corporation for the prior
 1400 year, plus interest, fees, commissions, required reserves, and

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1401 other costs associated with financing the deficit.

1402 f. The corporation may pledge the proceeds of assessments,
1403 projected recoveries from the Florida Hurricane Catastrophe
1404 Fund, other insurance and reinsurance recoverables, policyholder
1405 surcharges and other surcharges, and other funds available to
1406 the corporation as the source of revenue for and to secure bonds
1407 issued under paragraph (q), bonds or other indebtedness issued
1408 under subparagraph (c)2. ~~(e)3.~~, or lines of credit or other
1409 financing mechanisms issued or created under this subsection, or
1410 to retire any other debt incurred as a result of deficits or
1411 events giving rise to deficits, or in any other way that the
1412 board determines will efficiently recover such deficits. The
1413 purpose of the lines of credit or other financing mechanisms is
1414 to provide additional resources to assist the corporation in
1415 covering claims and expenses attributable to a catastrophe. As
1416 used in this subsection, the term "assessments" includes regular
1417 assessments under sub-subparagraph a. or subparagraph (q)1. and
1418 emergency assessments under sub-subparagraph e. Emergency
1419 assessments collected under sub-subparagraph e. are not part of
1420 an insurer's rates, are not premium, and are not subject to
1421 premium tax, fees, or commissions; however, failure to pay the
1422 emergency assessment shall be treated as failure to pay premium.
1423 The emergency assessments shall continue as long as any bonds
1424 issued or other indebtedness incurred with respect to a deficit
1425 for which the assessment was imposed remain outstanding, unless

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1426 adequate provision has been made for the payment of such bonds
1427 or other indebtedness pursuant to the documents governing such
1428 bonds or indebtedness.

1429 g. As used in this subsection for purposes of any deficit
1430 incurred ~~on or after January 25, 2007,~~ the term "subject lines
1431 of business" means insurance written by assessable insurers or
1432 procured by assessable insureds for all property and casualty
1433 lines of business in this state, but not including workers'
1434 compensation or medical malpractice. As used in this sub-
1435 subparagraph, the term "property and casualty lines of business"
1436 includes all lines of business identified on Form 2, Exhibit of
1437 Premiums and Losses, in the annual statement required of
1438 authorized insurers under s. 624.424 and any rule adopted under
1439 this section, except for those lines identified as accident and
1440 health insurance and except for policies written under the
1441 National Flood Insurance Program or the Federal Crop Insurance
1442 Program. For purposes of this sub-subparagraph, the term
1443 "workers' compensation" includes both workers' compensation
1444 insurance and excess workers' compensation insurance.

1445 h. The Florida Surplus Lines Service Office shall
1446 determine annually the aggregate statewide written premium in
1447 subject lines of business procured by assessable insureds and
1448 report that information to the corporation in a form and at a
1449 time the corporation specifies to ensure that the corporation
1450 can meet the requirements of this subsection and the

1451 corporation's financing obligations.

1452 i. The Florida Surplus Lines Service Office shall verify
1453 the proper application by surplus lines agents of assessment
1454 percentages for regular assessments and emergency assessments
1455 levied under this subparagraph on assessable insureds and assist
1456 the corporation in ensuring the accurate, timely collection and
1457 payment of assessments by surplus lines agents as required by
1458 the corporation.

1459 j. Upon determination by the board of governors that an
1460 account has a projected deficit, the board shall levy a Citizens
1461 policyholder surcharge against all policyholders of the
1462 corporation.

1463 (I) The surcharge shall be levied as a uniform percentage
1464 of the premium for the policy of up to 15 percent of such
1465 premium, which funds shall be used to offset the deficit.

1466 (II) The surcharge is payable upon cancellation or
1467 termination of the policy, upon renewal of the policy, or upon
1468 issuance of a new policy by the corporation within the first 12
1469 months after the date of the levy or the period of time
1470 necessary to fully collect the surcharge amount.

1471 (III) The corporation may not levy any regular assessments
1472 under paragraph (q) pursuant to sub-subparagraph a. or sub-
1473 subparagraph b. with respect to a particular year's deficit
1474 until the corporation has first levied the full amount of the
1475 surcharge authorized by this sub-subparagraph.

1476 (IV) The surcharge is not considered premium and is not
 1477 subject to commissions, fees, or premium taxes. However, failure
 1478 to pay the surcharge shall be treated as failure to pay premium.

1479 k. If the amount of any assessments or surcharges
 1480 collected from corporation policyholders, assessable insurers or
 1481 their policyholders, or assessable insureds exceeds the amount
 1482 of the deficits, such excess amounts shall be remitted to and
 1483 retained by the corporation in a reserve to be used by the
 1484 corporation, as determined by the board of governors and
 1485 approved by the office, to pay claims or reduce any past,
 1486 present, or future plan-year deficits or to reduce outstanding
 1487 debt.

1488 4. The Citizens account, if established by the corporation
 1489 pursuant to sub-subparagraph 2.b., is authorized to provide:

1490 a. Personal residential policies that provide
 1491 comprehensive, multiperil coverage on risks that are not located
 1492 in areas eligible for coverage by the Florida Windstorm
 1493 Underwriting Association, as those areas were defined on January
 1494 1, 2002, and for policies that do not provide coverage for the
 1495 peril of wind on risks that are located in such areas;

1496 b. Commercial residential and commercial nonresidential
 1497 policies that provide coverage for basic property perils on
 1498 risks that are not located in areas eligible for coverage by the
 1499 Florida Windstorm Underwriting Association, as those areas were
 1500 defined on January 1, 2002, and for policies that do not provide

1501 coverage for the peril of wind on risks that are located in such
1502 areas; and

1503 c. Personal residential policies and commercial
1504 residential and commercial nonresidential property policies that
1505 provide coverage for the peril of wind on risks that are located
1506 in areas eligible for coverage by the Florida Windstorm
1507 Underwriting Association, as those areas were defined on January
1508 1, 2002. The corporation may offer policies that provide
1509 multiperil coverage and shall offer policies that provide
1510 coverage only for the peril of wind for risks located in areas
1511 eligible for coverage by the Florida Windstorm Underwriting
1512 Association, as those areas were defined on January 1, 2002. The
1513 corporation may not offer new commercial residential policies
1514 providing multiperil coverage, but shall continue to offer
1515 commercial residential wind-only policies, ~~and may offer~~
1516 ~~commercial residential policies excluding wind~~. However, the
1517 corporation may continue to renew a commercial residential
1518 multiperil policy on a building that was insured by the
1519 corporation on July 1, 2024 ~~June 30, 2014~~, under a multiperil
1520 policy. In issuing multiperil coverage under this sub-
1521 subparagraph, the corporation may use its approved policy forms
1522 and rates for risks located in areas not eligible for coverage
1523 by the Florida Windstorm Underwriting Association as those areas
1524 were defined on January 1, 2002, and for policies that do not
1525 provide coverage for the peril of wind on risks that are located

1526 | ~~in such areas. An applicant or insured who is eligible to~~
1527 | ~~purchase a multiperil policy from the corporation may purchase a~~
1528 | ~~multiperil policy from an authorized insurer without prejudice~~
1529 | ~~to the applicant's or insured's eligibility to prospectively~~
1530 | ~~purchase a policy that provides coverage only for the peril of~~
1531 | ~~wind from the corporation. An applicant or insured who is~~
1532 | ~~eligible for a corporation policy that provides coverage only~~
1533 | ~~for the peril of wind may elect to purchase or retain such~~
1534 | ~~policy and also purchase or retain coverage excluding wind from~~
1535 | ~~an authorized insurer without prejudice to the applicant's or~~
1536 | ~~insured's eligibility to prospectively purchase a policy that~~
1537 | ~~provides multiperil coverage from the corporation. The following~~
1538 | ~~policies, which provide coverage only for the peril of wind,~~
1539 | ~~must also include quota share primary insurance under~~
1540 | ~~subparagraph (c)2.: Personal residential policies and commercial~~
1541 | ~~residential and commercial nonresidential property policies that~~
1542 | ~~provide coverage for the peril of wind on risks that are located~~
1543 | ~~in areas eligible for coverage by the Florida Windstorm~~
1544 | ~~Underwriting Association, as those areas were defined on January~~
1545 | ~~1, 2002; policies that provide multiperil coverage, if offered~~
1546 | ~~by the corporation, and policies that provide coverage only for~~
1547 | ~~the peril of wind for risks located in areas eligible for~~
1548 | ~~coverage by the Florida Windstorm Underwriting Association, as~~
1549 | ~~those areas were defined on January 1, 2002; commercial~~
1550 | ~~residential wind-only policies; commercial residential policies~~

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1551 ~~excluding wind, if offered by the corporation; and commercial~~
1552 ~~residential multiperil policies on a building that was insured~~
1553 ~~by the corporation on June 30, 2014. The area eligible for~~
1554 ~~coverage with the corporation under this sub-subparagraph~~
1555 ~~includes the area within Port Canaveral, which is bordered on~~
1556 ~~the south by the City of Cape Canaveral, bordered on the west by~~
1557 ~~the Banana River, and bordered on the north by Federal~~
1558 ~~Government property.~~

1559 5. With respect to a deficit in the Citizens account:

1560 a. Upon a determination by the board of governors that the
1561 Citizens account has a projected deficit, the board shall levy a
1562 Citizens policyholder surcharge against all policyholders of the
1563 corporation.

1564 (I) The surcharge shall be levied as a uniform percentage
1565 of the premium for the policy of up to 15 percent of such
1566 premium, which funds shall be used to offset the deficit.

1567 (II) The surcharge is payable upon cancellation or
1568 termination of the policy, upon renewal of the policy, or upon
1569 issuance of a new policy by the corporation within the first 12
1570 months after the date of the levy or the period of time
1571 necessary to fully collect the surcharge amount.

1572 (III) The surcharge is not considered premium and is not
1573 subject to commissions, fees, or premium taxes. However, failure
1574 to pay the surcharge shall be treated as failure to pay premium.

1575 b. After accounting for the Citizens policyholder

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1576 surcharge imposed under sub-subparagraph a., the remaining
1577 projected deficit incurred in the Citizens account in a
1578 particular calendar year shall be recovered through emergency
1579 assessments under sub-subparagraph c.

1580 c. Upon a determination by the board of governors that a
1581 projected deficit in the Citizens account exceeds the amount
1582 that is expected to be recovered through surcharges under sub-
1583 subparagraph a., the board, after verification by the office,
1584 shall levy emergency assessments for as many years as necessary
1585 to cover the deficits, to be collected by assessable insurers
1586 and the corporation and collected from assessable insureds upon
1587 issuance or renewal of policies for subject lines of business,
1588 excluding National Flood Insurance Program policies. The amount
1589 collected in a particular year must be a uniform percentage of
1590 that year's direct written premium for subject lines of business
1591 and the Citizens account, National Flood Insurance Program
1592 policy premiums, as annually determined by the board and
1593 verified by the office. The office shall verify the arithmetic
1594 calculations involved in the board's determination within 30
1595 days after receipt of the information on which the determination
1596 was based. The office shall notify assessable insurers and the
1597 Florida Surplus Lines Service Office of the date on which
1598 assessable insurers shall begin to collect and assessable
1599 insureds shall begin to pay such assessment. The date must be at
1600 least 90 days after the date the corporation levies emergency

1601 assessments pursuant to this sub-subparagraph. Notwithstanding
 1602 any other law, the corporation and each assessable insurer that
 1603 writes subject lines of business shall collect emergency
 1604 assessments from its policyholders without such obligation being
 1605 affected by any credit, limitation, exemption, or deferment.
 1606 Emergency assessments levied by the corporation on assessable
 1607 insureds shall be collected by the surplus lines agent at the
 1608 time the surplus lines agent collects the surplus lines tax
 1609 required by s. 626.932 and paid to the Florida Surplus Lines
 1610 Service Office at the time the surplus lines agent pays the
 1611 surplus lines tax to that office. The emergency assessments
 1612 collected shall be transferred directly to the corporation on a
 1613 periodic basis as determined by the corporation and held by the
 1614 corporation solely in the Citizens account. The aggregate amount
 1615 of emergency assessments levied for the Citizens account in any
 1616 calendar year may be less than, but may not exceed the greater
 1617 of, 10 percent of the amount needed to cover the deficit, plus
 1618 interest, fees, commissions, required reserves, and other costs
 1619 associated with financing the original deficit or 10 percent of
 1620 the aggregate statewide direct written premium for subject lines
 1621 of business and the Citizens accounts for the prior year, plus
 1622 interest, fees, commissions, required reserves, and other costs
 1623 associated with financing the deficit.

1624 d. The corporation may pledge the proceeds of assessments,
 1625 projected recoveries from the Florida Hurricane Catastrophe

1626 Fund, other insurance and reinsurance recoverables, policyholder
1627 surcharges and other surcharges, and other funds available to
1628 the corporation as the source of revenue for and to secure bonds
1629 issued under paragraph (q), bonds or other indebtedness issued
1630 under subparagraph (c)3., or lines of credit or other financing
1631 mechanisms issued or created under this subsection; or to retire
1632 any other debt incurred as a result of deficits or events giving
1633 rise to deficits, or in any other way that the board determines
1634 will efficiently recover such deficits. The purpose of the lines
1635 of credit or other financing mechanisms is to provide additional
1636 resources to assist the corporation in covering claims and
1637 expenses attributable to a catastrophe. As used in this
1638 subsection, the term "assessments" includes emergency
1639 assessments under sub-subparagraph c. Emergency assessments
1640 collected under sub-subparagraph c. are not part of an insurer's
1641 rates, are not premium, and are not subject to premium tax,
1642 fees, or commissions; however, failure to pay the emergency
1643 assessment shall be treated as failure to pay premium. The
1644 emergency assessments shall continue as long as any bonds issued
1645 or other indebtedness incurred with respect to a deficit for
1646 which the assessment was imposed remain outstanding, unless
1647 adequate provision has been made for the payment of such bonds
1648 or other indebtedness pursuant to the documents governing such
1649 bonds or indebtedness.

1650 e. As used in this subsection and for purposes of any

1651 deficit incurred ~~on or after January 25, 2007,~~ the term "subject
 1652 lines of business" means insurance written by assessable
 1653 insurers or procured by assessable insureds for all property and
 1654 casualty lines of business in this state, but not including
 1655 workers' compensation or medical malpractice. As used in this
 1656 sub-subparagraph, the term "property and casualty lines of
 1657 business" includes all lines of business identified on Form 2,
 1658 Exhibit of Premiums and Losses, in the annual statement required
 1659 of authorized insurers under s. 624.424 and any rule adopted
 1660 under this section, except for those lines identified as
 1661 accident and health insurance and except for policies written
 1662 under the National Flood Insurance Program or the Federal Crop
 1663 Insurance Program. For purposes of this sub-subparagraph, the
 1664 term "workers' compensation" includes both workers' compensation
 1665 insurance and excess workers' compensation insurance.

1666 f. The Florida Surplus Lines Service Office shall annually
 1667 determine the aggregate statewide written premium in subject
 1668 lines of business procured by assessable insureds and report
 1669 that information to the corporation in a form and at a time the
 1670 corporation specifies to ensure that the corporation can meet
 1671 the requirements of this subsection and the corporation's
 1672 financing obligations.

1673 g. The Florida Surplus Lines Service Office shall verify
 1674 the proper application by surplus lines agents of assessment
 1675 percentages for emergency assessments levied under this

1676 subparagraph on assessable insureds and assist the corporation
 1677 in ensuring the accurate, timely collection and payment of
 1678 assessments by surplus lines agents as required by the
 1679 corporation.

1680 h. If the amount of any assessments or surcharges
 1681 collected from corporation policyholders, assessable insurers or
 1682 their policyholders, or assessable insureds exceeds the amount
 1683 of the deficits, such excess amounts shall be remitted to and
 1684 retained by the corporation in a reserve to be used by the
 1685 corporation, as determined by the board of governors and
 1686 approved by the office, to pay claims or reduce any past,
 1687 present, or future plan-year deficits or to reduce outstanding
 1688 debt.

1689 (c) The corporation's plan of operation:

1690 1. Must provide for adoption of residential property and
 1691 casualty insurance policy forms and commercial residential and
 1692 nonresidential property insurance forms, which must be approved
 1693 by the office before use. The corporation shall adopt the
 1694 following policy forms:

1695 a. Standard personal lines policy forms that are
 1696 comprehensive multiperil policies providing full coverage of a
 1697 residential property equivalent to the coverage provided in the
 1698 private insurance market under an HO-3, HO-4, or HO-6 policy.

1699 b. Basic personal lines policy forms that are policies
 1700 similar to an HO-8 policy or a dwelling fire policy that provide

1701 coverage meeting the requirements of the secondary mortgage
 1702 market, but which is more limited than the coverage under a
 1703 standard policy.

1704 c. Commercial lines residential and nonresidential policy
 1705 forms that are generally similar to the basic perils of full
 1706 coverage obtainable for commercial residential structures and
 1707 commercial nonresidential structures in the admitted voluntary
 1708 market.

1709 d. Personal lines and commercial lines residential
 1710 property insurance forms that cover the peril of wind only. ~~The~~
 1711 ~~forms are applicable only to residential properties located in~~
 1712 ~~areas eligible for coverage by the Florida Windstorm~~
 1713 ~~Underwriting Association, as those areas were defined on January~~
 1714 ~~1, 2002.~~

1715 e. Commercial lines nonresidential property insurance
 1716 forms that cover the peril of wind only. ~~The forms are~~
 1717 ~~applicable only to nonresidential properties located in areas~~
 1718 ~~eligible for coverage by the Florida Windstorm Underwriting~~
 1719 ~~Association, as those areas were defined on January 1, 2002.~~

1720 f. The corporation may adopt variations of the policy
 1721 forms listed in sub-subparagraphs a.-e. which contain more
 1722 restrictive coverage.

1723 g. The corporation shall offer a basic personal lines
 1724 policy similar to an HO-8 policy with dwelling repair based on
 1725 common construction materials and methods.

1726 ~~2. Must provide that the corporation adopt a program in~~
1727 ~~which the corporation and authorized insurers enter into quota~~
1728 ~~share primary insurance agreements for hurricane coverage, as~~
1729 ~~defined in s. 627.4025(2)(a), for eligible risks, and adopt~~
1730 ~~property insurance forms for eligible risks which cover the~~
1731 ~~peril of wind only.~~

1732 ~~a. As used in this subsection, the term:~~

1733 ~~(I) "Quota share primary insurance" means an arrangement~~
1734 ~~in which the primary hurricane coverage of an eligible risk is~~
1735 ~~provided in specified percentages by the corporation and an~~
1736 ~~authorized insurer. The corporation and authorized insurer are~~
1737 ~~each solely responsible for a specified percentage of hurricane~~
1738 ~~coverage of an eligible risk as set forth in a quota share~~
1739 ~~primary insurance agreement between the corporation and an~~
1740 ~~authorized insurer and the insurance contract. The~~
1741 ~~responsibility of the corporation or authorized insurer to pay~~
1742 ~~its specified percentage of hurricane losses of an eligible~~
1743 ~~risk, as set forth in the agreement, may not be altered by the~~
1744 ~~inability of the other party to pay its specified percentage of~~
1745 ~~losses. Eligible risks that are provided hurricane coverage~~
1746 ~~through a quota share primary insurance arrangement must be~~
1747 ~~provided policy forms that set forth the obligations of the~~
1748 ~~corporation and authorized insurer under the arrangement,~~
1749 ~~clearly specify the percentages of quota share primary insurance~~
1750 ~~provided by the corporation and authorized insurer, and~~

1751 ~~conspicuously and clearly state that the authorized insurer and~~
1752 ~~the corporation may not be held responsible beyond their~~
1753 ~~specified percentage of coverage of hurricane losses.~~

1754 ~~(II) "Eligible risks" means personal lines residential and~~
1755 ~~commercial lines residential risks that meet the underwriting~~
1756 ~~criteria of the corporation and are located in areas that were~~
1757 ~~eligible for coverage by the Florida Windstorm Underwriting~~
1758 ~~Association on January 1, 2002.~~

1759 ~~b. The corporation may enter into quota share primary~~
1760 ~~insurance agreements with authorized insurers at corporation~~
1761 ~~coverage levels of 90 percent and 50 percent.~~

1762 ~~e. If the corporation determines that additional coverage~~
1763 ~~levels are necessary to maximize participation in quota share~~
1764 ~~primary insurance agreements by authorized insurers, the~~
1765 ~~corporation may establish additional coverage levels. However,~~
1766 ~~the corporation's quota share primary insurance coverage level~~
1767 ~~may not exceed 90 percent.~~

1768 ~~d. Any quota share primary insurance agreement entered~~
1769 ~~into between an authorized insurer and the corporation must~~
1770 ~~provide for a uniform specified percentage of coverage of~~
1771 ~~hurricane losses, by county or territory as set forth by the~~
1772 ~~corporation board, for all eligible risks of the authorized~~
1773 ~~insurer covered under the agreement.~~

1774 ~~e. Any quota share primary insurance agreement entered~~
1775 ~~into between an authorized insurer and the corporation is~~

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1776 ~~subject to review and approval by the office. However, such~~
1777 ~~agreement shall be authorized only as to insurance contracts~~
1778 ~~entered into between an authorized insurer and an insured who is~~
1779 ~~already insured by the corporation for wind coverage.~~

1780 ~~f. For all eligible risks covered under quota share~~
1781 ~~primary insurance agreements, the exposure and coverage levels~~
1782 ~~for both the corporation and authorized insurers shall be~~
1783 ~~reported by the corporation to the Florida Hurricane Catastrophe~~
1784 ~~Fund. For all policies of eligible risks covered under such~~
1785 ~~agreements, the corporation and the authorized insurer must~~
1786 ~~maintain complete and accurate records for the purpose of~~
1787 ~~exposure and loss reimbursement audits as required by fund~~
1788 ~~rules. The corporation and the authorized insurer shall each~~
1789 ~~maintain duplicate copies of policy declaration pages and~~
1790 ~~supporting claims documents.~~

1791 ~~g. The corporation board shall establish in its plan of~~
1792 ~~operation standards for quota share agreements which ensure that~~
1793 ~~there is no discriminatory application among insurers as to the~~
1794 ~~terms of the agreements, pricing of the agreements, incentive~~
1795 ~~provisions if any, and consideration paid for servicing policies~~
1796 ~~or adjusting claims.~~

1797 ~~h. The quota share primary insurance agreement between the~~
1798 ~~corporation and an authorized insurer must set forth the~~
1799 ~~specific terms under which coverage is provided, including, but~~
1800 ~~not limited to, the sale and servicing of policies issued under~~

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1801 ~~the agreement by the insurance agent of the authorized insurer~~
1802 ~~producing the business, the reporting of information concerning~~
1803 ~~eligible risks, the payment of premium to the corporation, and~~
1804 ~~arrangements for the adjustment and payment of hurricane claims~~
1805 ~~incurred on eligible risks by the claims adjuster and personnel~~
1806 ~~of the authorized insurer. Entering into a quota sharing~~
1807 ~~insurance agreement between the corporation and an authorized~~
1808 ~~insurer is voluntary and at the discretion of the authorized~~
1809 ~~insurer.~~

1810 2.3. May provide that the corporation may employ or
1811 otherwise contract with individuals or other entities to provide
1812 administrative or professional services that may be appropriate
1813 to effectuate the plan. The corporation may borrow funds by
1814 issuing bonds or by incurring other indebtedness, and shall have
1815 other powers reasonably necessary to effectuate the requirements
1816 of this subsection, including, without limitation, the power to
1817 issue bonds and incur other indebtedness in order to refinance
1818 outstanding bonds or other indebtedness. The corporation may
1819 seek judicial validation of its bonds or other indebtedness
1820 under chapter 75. The corporation may issue bonds or incur other
1821 indebtedness, or have bonds issued on its behalf by a unit of
1822 local government pursuant to subparagraph (q)2. in the absence
1823 of a hurricane or other weather-related event, upon a
1824 determination by the corporation, subject to approval by the
1825 office, that such action would enable it to efficiently meet the

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1826 financial obligations of the corporation and that such
1827 financings are reasonably necessary to effectuate the
1828 requirements of this subsection. The corporation may take all
1829 actions needed to facilitate tax-free status for such bonds or
1830 indebtedness, including formation of trusts or other affiliated
1831 entities. The corporation may pledge assessments, projected
1832 recoveries from the Florida Hurricane Catastrophe Fund, other
1833 reinsurance recoverables, policyholder surcharges and other
1834 surcharges, and other funds available to the corporation as
1835 security for bonds or other indebtedness. In recognition of s.
1836 10, Art. I of the State Constitution, prohibiting the impairment
1837 of obligations of contracts, it is the intent of the Legislature
1838 that no action be taken whose purpose is to impair any bond
1839 indenture or financing agreement or any revenue source committed
1840 by contract to such bond or other indebtedness.

1841 3.4. Must require that the corporation operate subject to
1842 the supervision and approval of a board of governors consisting
1843 of nine individuals who are residents of this state and who are
1844 from different geographical areas of the state, one of whom is
1845 appointed by the Governor and serves solely to advocate on
1846 behalf of the consumer. The appointment of a consumer
1847 representative by the Governor is deemed to be within the scope
1848 of the exemption provided in s. 112.313(7) (b) and is in addition
1849 to the appointments authorized under sub-subparagraph a.

1850 a. The Governor, the Chief Financial Officer, the

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1851 President of the Senate, and the Speaker of the House of
1852 Representatives shall each appoint two members of the board. At
1853 least one of the two members appointed by each appointing
1854 officer must have demonstrated expertise in insurance and be
1855 deemed to be within the scope of the exemption provided in s.
1856 112.313(7)(b). The Chief Financial Officer shall designate one
1857 of the appointees as chair. All board members serve at the
1858 pleasure of the appointing officer. All members of the board are
1859 subject to removal at will by the officers who appointed them.
1860 All board members, including the chair, must be appointed to
1861 serve for 3-year terms beginning annually on a date designated
1862 by the plan. However, for the first term beginning on or after
1863 July 1, 2009, each appointing officer shall appoint one member
1864 of the board for a 2-year term and one member for a 3-year term.
1865 A board vacancy shall be filled for the unexpired term by the
1866 appointing officer. The Chief Financial Officer shall appoint a
1867 technical advisory group to provide information and advice to
1868 the board in connection with the board's duties under this
1869 subsection. The executive director and senior managers of the
1870 corporation shall be engaged by the board and serve at the
1871 pleasure of the board. Any executive director appointed on or
1872 after July 1, 2006, is subject to confirmation by the Senate.
1873 The executive director is responsible for employing other staff
1874 as the corporation may require, subject to review and
1875 concurrence by the board.

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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1876 b. The board shall create a Market Accountability Advisory
1877 Committee to assist the corporation in developing awareness of
1878 its rates and its customer and agent service levels in
1879 relationship to the voluntary market insurers writing similar
1880 coverage.

1881 (I) The members of the advisory committee consist of the
1882 following 11 persons, one of whom must be elected chair by the
1883 members of the committee: four representatives, one appointed by
1884 the Florida Association of Insurance Agents, one by the Florida
1885 Association of Insurance and Financial Advisors, one by the
1886 Professional Insurance Agents of Florida, and one by the Latin
1887 American Association of Insurance Agencies; three
1888 representatives appointed by the insurers with the three highest
1889 voluntary market share of residential property insurance
1890 business in the state; one representative from the Office of
1891 Insurance Regulation; one consumer appointed by the board who is
1892 insured by the corporation at the time of appointment to the
1893 committee; one representative appointed by the Florida
1894 Association of Realtors; and one representative appointed by the
1895 Florida Bankers Association. All members shall be appointed to
1896 3-year terms and may serve for consecutive terms.

1897 (II) The committee shall report to the corporation at each
1898 board meeting on insurance market issues which may include rates
1899 and rate competition with the voluntary market; service,
1900 including policy issuance, claims processing, and general

1901 | responsiveness to policyholders, applicants, and agents; and
 1902 | matters relating to depopulation.

1903 | ~~4.5.~~ Must provide a procedure for determining the
 1904 | eligibility of a risk for coverage, as follows:

1905 | a. Subject to s. 627.3517, with respect to personal lines
 1906 | residential risks, if the risk is offered coverage from an
 1907 | authorized insurer at the insurer's approved rate under a
 1908 | standard policy excluding ~~including~~ wind coverage or, if
 1909 | consistent with the insurer's underwriting rules as filed with
 1910 | the office, a basic policy excluding ~~including~~ wind coverage,
 1911 | for a new application to the corporation for coverage, the risk
 1912 | is not eligible for any policy issued by the corporation unless
 1913 | the premium for coverage from the authorized insurer is more
 1914 | than 20 percent greater than the premium for comparable coverage
 1915 | from the corporation. Whenever an offer of coverage for a
 1916 | personal lines residential risk is received for a policyholder
 1917 | of the corporation at renewal from an authorized insurer, if the
 1918 | offer is equal to or less than the corporation's renewal premium
 1919 | for comparable coverage, the risk is not eligible for coverage
 1920 | with the corporation for policies that renew before April 1,
 1921 | 2023; for policies that renew on or after that date, the risk is
 1922 | not eligible for coverage with the corporation unless the
 1923 | premium for coverage from the authorized insurer is more than 20
 1924 | percent greater than the corporation's renewal premium for
 1925 | comparable coverage. If the risk is not able to obtain such

1926 offer, the risk is eligible for a standard policy including wind
1927 coverage or a basic policy including wind coverage issued by the
1928 corporation; ~~however, if the risk could not be insured under a~~
1929 ~~standard policy including wind coverage regardless of market~~
1930 ~~conditions, the risk is eligible for a basic policy including~~
1931 ~~wind coverage unless rejected under subparagraph 8. The~~
1932 ~~corporation shall determine the type of policy to be provided on~~
1933 ~~the basis of objective standards specified in the underwriting~~
1934 ~~manual and based on generally accepted underwriting practices. A~~
1935 ~~policyholder removed from the corporation through an assumption~~
1936 ~~agreement does not remain eligible for coverage from the~~
1937 ~~corporation after the end of the policy term. However, any~~
1938 ~~policy removed from the corporation through an assumption~~
1939 ~~agreement remains on the corporation's policy forms through the~~
1940 ~~end of the policy term.~~

1941 (I) If the risk accepts an offer of coverage through the
1942 market assistance plan or through a mechanism established by the
1943 corporation other than a plan established by s. 627.3518, before
1944 a policy is issued to the risk by the corporation or during the
1945 first 30 days of coverage by the corporation, and the producing
1946 agent who submitted the application to the plan or to the
1947 corporation is not currently appointed by the insurer, the
1948 insurer shall:

1949 (A) Pay to the producing agent of record of the policy for
1950 the first year, an amount that is the greater of the insurer's

1951 usual and customary commission for the type of policy written or
 1952 a fee equal to the usual and customary commission of the
 1953 corporation; or

1954 (B) Offer to allow the producing agent of record of the
 1955 policy to continue servicing the policy for at least 1 year and
 1956 offer to pay the agent the greater of the insurer's or the
 1957 corporation's usual and customary commission for the type of
 1958 policy written.

1959
 1960 If the producing agent is unwilling or unable to accept
 1961 appointment, the new insurer shall pay the agent in accordance
 1962 with sub-sub-sub-subparagraph (A).

1963 (II) If the corporation enters into a contractual
 1964 agreement for a take-out plan, the producing agent of record of
 1965 the corporation policy is entitled to retain any unearned
 1966 commission on the policy, and the insurer shall:

1967 (A) Pay to the producing agent of record, for the first
 1968 year, an amount that is the greater of the insurer's usual and
 1969 customary commission for the type of policy written or a fee
 1970 equal to the usual and customary commission of the corporation;
 1971 or

1972 (B) Offer to allow the producing agent of record to
 1973 continue servicing the policy for at least 1 year and offer to
 1974 pay the agent the greater of the insurer's or the corporation's
 1975 usual and customary commission for the type of policy written.

1976
 1977 If the producing agent is unwilling or unable to accept
 1978 appointment, the new insurer shall pay the agent in accordance
 1979 with sub-sub-sub-subparagraph (A).
 1980 b. With respect to commercial lines residential risks, for
 1981 a new application to the corporation for coverage, if the risk
 1982 is offered coverage under a policy ~~including wind coverage~~ from
 1983 an authorized insurer at its approved rate, the risk is not
 1984 eligible for a policy issued by the corporation unless the
 1985 premium for coverage from the authorized insurer is more than 20
 1986 percent greater than the premium for comparable coverage from
 1987 the corporation. Whenever an offer of coverage for a commercial
 1988 lines residential risk is received for a policyholder of the
 1989 corporation at renewal from an authorized insurer, the risk is
 1990 not eligible for coverage with the corporation unless the
 1991 premium for coverage from the authorized insurer is more than 20
 1992 percent greater than the corporation's renewal premium for
 1993 comparable coverage. If the risk is not able to obtain any such
 1994 offer, the risk is eligible for a policy ~~including wind coverage~~
 1995 issued by the corporation. A policyholder removed from the
 1996 corporation through an assumption agreement remains eligible for
 1997 coverage from the corporation until the end of the policy term.
 1998 However, any policy removed from the corporation through an
 1999 assumption agreement remains on the corporation's policy forms
 2000 through the end of the policy term.

2001 (I) If the risk accepts an offer of coverage through the
 2002 market assistance plan or through a mechanism established by the
 2003 corporation other than a plan established by s. 627.3518, before
 2004 a policy is issued to the risk by the corporation or during the
 2005 first 30 days of coverage by the corporation, and the producing
 2006 agent who submitted the application to the plan or the
 2007 corporation is not currently appointed by the insurer, the
 2008 insurer shall:

2009 (A) Pay to the producing agent of record of the policy,
 2010 for the first year, an amount that is the greater of the
 2011 insurer's usual and customary commission for the type of policy
 2012 written or a fee equal to the usual and customary commission of
 2013 the corporation; or

2014 (B) Offer to allow the producing agent of record of the
 2015 policy to continue servicing the policy for at least 1 year and
 2016 offer to pay the agent the greater of the insurer's or the
 2017 corporation's usual and customary commission for the type of
 2018 policy written.

2019
 2020 If the producing agent is unwilling or unable to accept
 2021 appointment, the new insurer shall pay the agent in accordance
 2022 with sub-sub-sub-subparagraph (A).

2023 (II) If the corporation enters into a contractual
 2024 agreement for a take-out plan, the producing agent of record of
 2025 the corporation policy is entitled to retain any unearned

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2026 | commission on the policy, and the insurer shall:

2027 | (A) Pay to the producing agent of record, for the first
2028 | year, an amount that is the greater of the insurer's usual and
2029 | customary commission for the type of policy written or a fee
2030 | equal to the usual and customary commission of the corporation;
2031 | or

2032 | (B) Offer to allow the producing agent of record to
2033 | continue servicing the policy for at least 1 year and offer to
2034 | pay the agent the greater of the insurer's or the corporation's
2035 | usual and customary commission for the type of policy written.

2036 |
2037 | If the producing agent is unwilling or unable to accept
2038 | appointment, the new insurer shall pay the agent in accordance
2039 | with sub-sub-sub-subparagraph (A).

2040 | c. For purposes of determining comparable coverage under
2041 | sub-subparagraphs a. and b., the comparison must be based on
2042 | those forms and coverages that are reasonably comparable. The
2043 | corporation may rely on a determination of comparable coverage
2044 | and premium made by the producing agent who submits the
2045 | application to the corporation, made in the agent's capacity as
2046 | the corporation's agent. For purposes of comparing the premium
2047 | for comparable coverage under sub-subparagraphs a. and b.,
2048 | premium includes any surcharge or assessment that is actually
2049 | applied to such policy. A comparison may be made solely of the
2050 | premium with respect to the main building or structure only on

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2051 the following basis: the same Coverage A or other building
2052 limits; the same percentage hurricane deductible that applies on
2053 an annual basis or that applies to each hurricane for commercial
2054 residential property; the same percentage of ordinance and law
2055 coverage, if the same limit is offered by both the corporation
2056 and the authorized insurer; the same mitigation credits, to the
2057 extent the same types of credits are offered both by the
2058 corporation and the authorized insurer; the same method for loss
2059 payment, such as replacement cost or actual cash value, if the
2060 same method is offered both by the corporation and the
2061 authorized insurer in accordance with underwriting rules; and
2062 any other form or coverage that is reasonably comparable as
2063 determined by the board. If an application is submitted to the
2064 corporation for wind-only coverage on a risk that is located in
2065 an area eligible for coverage by the Florida Windstorm
2066 Underwriting Association, as that area was defined on January 1,
2067 2002, the premium for the corporation's wind-only policy plus
2068 the premium for the ex-wind policy that is offered by an
2069 authorized insurer to the applicant must be compared to the
2070 premium for multiperil coverage offered by an authorized
2071 insurer, subject to the standards for comparison specified in
2072 this subparagraph. If the corporation or the applicant requests
2073 from the authorized insurer a breakdown of the premium of the
2074 offer by types of coverage so that a comparison may be made by
2075 the corporation or its agent and the authorized insurer refuses

2076 or is unable to provide such information, the corporation may
 2077 treat the offer as not being an offer of coverage from an
 2078 authorized insurer at the insurer's approved rate.

2079 ~~5.6.~~ Must include rules for classifications of risks and
 2080 rates.

2081 ~~6.7.~~ Must provide that if premium and investment income:

2082 a. For an account attributable to a particular calendar
 2083 year are in excess of projected losses and expenses for the
 2084 account attributable to that year, such excess shall be held in
 2085 surplus in the account. Such surplus must be available to defray
 2086 deficits in that account as to future years and used for that
 2087 purpose before assessing assessable insurers and assessable
 2088 insureds as to any calendar year; or

2089 b. For the Citizens account, if established by the
 2090 corporation, which are attributable to a particular calendar
 2091 year are in excess of projected losses and expenses for the
 2092 Citizens account attributable to that year, such excess shall be
 2093 held in surplus in the Citizens account. Such surplus must be
 2094 available to defray deficits in the Citizens account as to
 2095 future years and used for that purpose before assessing
 2096 assessable insurers and assessable insureds as to any calendar
 2097 year.

2098 ~~7.8.~~ Must provide objective criteria and procedures to be
 2099 uniformly applied to all applicants in determining whether an
 2100 individual risk is so hazardous as to be uninsurable. In making

2101 | this determination and in establishing the criteria and
 2102 | procedures, the following must be considered:

2103 | a. Whether the likelihood of a loss for the individual
 2104 | risk is substantially higher than for other risks of the same
 2105 | class; and

2106 | b. Whether the uncertainty associated with the individual
 2107 | risk is such that an appropriate premium cannot be determined.

2108 |
 2109 | The acceptance or rejection of a risk by the corporation shall
 2110 | be construed as the private placement of insurance, and the
 2111 | provisions of chapter 120 do not apply.

2112 | 8.9. Must provide that the corporation make its best
 2113 | efforts to procure catastrophe reinsurance at reasonable rates,
 2114 | to cover its projected 100-year probable maximum loss as
 2115 | determined by the board of governors. If catastrophe reinsurance
 2116 | is not available at reasonable rates, the corporation need not
 2117 | purchase it, but the corporation shall include the costs of
 2118 | reinsurance to cover its projected 100-year probable maximum
 2119 | loss in its rate calculations even if it does not purchase
 2120 | catastrophe reinsurance.

2121 | 9.10. Must provide in the policies issued by the
 2122 | corporation ~~must provide~~ that if the corporation or the market
 2123 | assistance plan obtains an offer from an authorized insurer to
 2124 | cover the risk at its approved rates, the risk is no longer
 2125 | eligible for renewal through the corporation, except for a

2126 hurricane or windstorm risk and except as otherwise provided in
2127 this subsection.

2128 10.11. Must include in the corporation policies and
2129 applications ~~must include~~ a notice that the corporation policy
2130 could, under this section, be replaced with a policy issued by
2131 an authorized insurer which does not provide coverage identical
2132 to the coverage provided by the corporation. The notice must
2133 also specify that acceptance of corporation coverage creates a
2134 conclusive presumption that the applicant or policyholder is
2135 aware of this potential. This subparagraph does not apply to a
2136 hurricane or windstorm coverage.

2137 11.12. May establish, subject to approval by the office,
2138 different eligibility requirements and operational procedures
2139 for any line or type of coverage for any specified county or
2140 area if the board determines that such changes are justified due
2141 to the voluntary market being sufficiently stable and
2142 competitive in such area or for such line or type of coverage
2143 and that consumers who, in good faith, are unable to obtain
2144 insurance through the voluntary market through ordinary methods
2145 continue to have access to coverage from the corporation. If
2146 coverage is sought in connection with a real property transfer,
2147 the requirements and procedures may not provide an effective
2148 date of coverage later than the date of the closing of the
2149 transfer as established by the transferor, the transferee, and,
2150 if applicable, the lender. This subparagraph does not apply to a

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2151 | hurricane or windstorm coverage.

2152 | ~~12.13.~~ Must provide that:

2153 | a. With respect to the coastal account, any assessable
2154 | insurer with a surplus as to policyholders of \$25 million or
2155 | less writing 25 percent or more of its total countrywide
2156 | property insurance premiums in this state may petition the
2157 | office, within the first 90 days of each calendar year, to
2158 | qualify as a limited apportionment company. A regular assessment
2159 | levied by the corporation on a limited apportionment company for
2160 | a deficit incurred by the corporation for the coastal account
2161 | may be paid to the corporation on a monthly basis as the
2162 | assessments are collected by the limited apportionment company
2163 | from its insureds, but a limited apportionment company must
2164 | begin collecting the regular assessments not later than 90 days
2165 | after the regular assessments are levied by the corporation, and
2166 | the regular assessments must be paid in full within 15 months
2167 | after being levied by the corporation. A limited apportionment
2168 | company shall collect from its policyholders any emergency
2169 | assessment imposed under sub-subparagraph (b)3.e. The plan must
2170 | provide that, if the office determines that any regular
2171 | assessment will result in an impairment of the surplus of a
2172 | limited apportionment company, the office may direct that all or
2173 | part of such assessment be deferred as provided in subparagraph
2174 | (q)4. However, an emergency assessment to be collected from
2175 | policyholders under sub-subparagraph (b)3.e. may not be limited

2176 | or deferred; or

2177 | b. With respect to the Citizens account, if established by
 2178 | the corporation pursuant to sub-subparagraph (b)2.b., any
 2179 | assessable insurer with a surplus as to policyholders of \$25
 2180 | million or less and writing 25 percent or more of its total
 2181 | countrywide property insurance premiums in this state may
 2182 | petition the office, within the first 90 days of each calendar
 2183 | year, to qualify as a limited apportionment company. A limited
 2184 | apportionment company shall collect from its policyholders any
 2185 | emergency assessment imposed under sub-subparagraph (b)5.c. An
 2186 | emergency assessment to be collected from policyholders under
 2187 | sub-subparagraph (b)5.c. may not be limited or deferred.

2188 | 13.14. Must provide that the corporation appoint as its
 2189 | licensed agents only those agents who throughout such
 2190 | appointments also hold an appointment as defined in s. 626.015
 2191 | by an insurer who is authorized to write and is actually writing
 2192 | or renewing personal lines residential property coverage,
 2193 | commercial residential property coverage, or commercial
 2194 | nonresidential property coverage within the state.

2195 | 14.15. Must provide a premium payment plan option to its
 2196 | policyholders which, at a minimum, allows for quarterly and
 2197 | semiannual payment of premiums. A monthly payment plan may, but
 2198 | is not required to, be offered.

2199 | 15.16. Must limit coverage on mobile homes or manufactured
 2200 | homes built before 1994 to actual cash value of the dwelling

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2201 rather than replacement costs of the dwelling.

2202 16.17. Must provide coverage for manufactured or mobile
 2203 home dwellings. Such coverage must also include the following
 2204 attached structures:

2205 a. Screened enclosures that are aluminum framed or
 2206 screened enclosures that are not covered by the same or
 2207 substantially the same materials as those of the primary
 2208 dwelling;

2209 b. Carports that are aluminum or carports that are not
 2210 covered by the same or substantially the same materials as those
 2211 of the primary dwelling; and

2212 c. Patios that have a roof covering that is constructed of
 2213 materials that are not the same or substantially the same
 2214 materials as those of the primary dwelling.

2215
 2216 The corporation shall make available a policy for mobile homes
 2217 or manufactured homes for a minimum insured value of at least
 2218 \$3,000.

2219 17.18. May provide such limits of coverage as the board
 2220 determines, consistent with the requirements of this subsection.

2221 18.19. May require commercial property to meet specified
 2222 hurricane mitigation construction features as a condition of
 2223 eligibility for coverage.

2224 19.20. Must provide that new or renewal policies issued by
 2225 the corporation on or after July 1, 2024 ~~January 1, 2012~~, which

2226 cover sinkhole loss do not include coverage for any loss to
 2227 appurtenant structures, driveways, sidewalks, decks, or patios
 2228 that are directly or indirectly caused by sinkhole activity. The
 2229 corporation shall exclude such coverage using a notice of
 2230 coverage change, which may be included with the policy renewal,
 2231 and not by issuance of a notice of nonrenewal of the excluded
 2232 coverage upon renewal of the current policy.

2233 20.a.21.a. ~~As of January 1, 2012,~~ Unless the Citizens
 2234 account has been established pursuant to sub-subparagraph
 2235 (b)2.b., must require that the agent obtain from an applicant
 2236 for coverage from the corporation an acknowledgment signed by
 2237 the applicant, which includes, at a minimum, the following
 2238 statement:

2239 ACKNOWLEDGMENT OF POTENTIAL SURCHARGE

2240 AND ASSESSMENT LIABILITY:

2241 1. AS A POLICYHOLDER OF CITIZENS PROPERTY INSURANCE
 2242 CORPORATION, I UNDERSTAND THAT IF THE CORPORATION SUSTAINS A
 2243 DEFICIT AS A RESULT OF HURRICANE LOSSES OR FOR ANY OTHER REASON,
 2244 MY POLICY COULD BE SUBJECT TO SURCHARGES, WHICH WILL BE DUE AND
 2245 PAYABLE UPON RENEWAL, CANCELLATION, OR TERMINATION OF THE
 2246 POLICY, AND THAT THE SURCHARGES COULD BE AS HIGH AS 45 PERCENT
 2247 OF MY PREMIUM, OR A DIFFERENT AMOUNT AS IMPOSED BY THE FLORIDA
 2248 LEGISLATURE.

2249 2. I UNDERSTAND THAT I CAN AVOID THE CITIZENS POLICYHOLDER
 2250 SURCHARGE, ~~WHICH COULD BE AS HIGH AS 45 PERCENT OF MY PREMIUM,~~

2251 BY OBTAINING NONWINDSTORM COVERAGE FROM A PRIVATE MARKET INSURER
 2252 AND THAT TO BE ELIGIBLE FOR COVERAGE BY CITIZENS, I MUST FIRST
 2253 TRY TO OBTAIN PRIVATE MARKET COVERAGE BEFORE APPLYING FOR OR
 2254 RENEWING COVERAGE WITH CITIZENS. I UNDERSTAND THAT PRIVATE
 2255 MARKET INSURANCE RATES ARE REGULATED AND APPROVED BY THE STATE.

2256 3. I UNDERSTAND THAT I MAY BE SUBJECT TO EMERGENCY
 2257 ASSESSMENTS TO THE SAME EXTENT AS POLICYHOLDERS OF OTHER
 2258 INSURANCE COMPANIES, OR A DIFFERENT AMOUNT AS IMPOSED BY THE
 2259 FLORIDA LEGISLATURE.

2260 4. I ALSO UNDERSTAND THAT CITIZENS PROPERTY INSURANCE
 2261 CORPORATION IS NOT SUPPORTED BY THE FULL FAITH AND CREDIT OF THE
 2262 STATE OF FLORIDA.

2263 b. The corporation must require, if it has established the
 2264 Citizens account pursuant to sub-subparagraph (b)2.b., that the
 2265 agent obtain from an applicant for coverage from the corporation
 2266 the following acknowledgment signed by the applicant, which
 2267 includes, at a minimum, the following statement:

ACKNOWLEDGMENT OF POTENTIAL SURCHARGE
 AND ASSESSMENT LIABILITY:

2270 1. AS A POLICYHOLDER OF CITIZENS PROPERTY INSURANCE
 2271 CORPORATION, I UNDERSTAND THAT IF THE CORPORATION SUSTAINS A
 2272 DEFICIT AS A RESULT OF HURRICANE LOSSES OR FOR ANY OTHER REASON,
 2273 MY POLICY COULD BE SUBJECT TO SURCHARGES AND ASSESSMENTS, WHICH
 2274 WILL BE DUE AND PAYABLE UPON RENEWAL, CANCELLATION, OR
 2275 TERMINATION OF THE POLICY, AND THAT THE SURCHARGES AND

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2276 ASSESSMENTS COULD BE AS HIGH AS 25 PERCENT OF MY PREMIUM, OR A
2277 DIFFERENT AMOUNT AS IMPOSED BY THE FLORIDA LEGISLATURE.

2278 2. I UNDERSTAND THAT I CAN AVOID THE CITIZENS POLICYHOLDER
2279 SURCHARGE, ~~WHICH COULD BE AS HIGH AS 15 PERCENT OF MY PREMIUM,~~
2280 BY OBTAINING COVERAGE FROM A PRIVATE MARKET INSURER AND THAT TO
2281 BE ELIGIBLE FOR COVERAGE BY CITIZENS, I MUST FIRST TRY TO OBTAIN
2282 PRIVATE MARKET NONWINDSTORM COVERAGE BEFORE APPLYING FOR OR
2283 RENEWING COVERAGE WITH CITIZENS. I UNDERSTAND THAT PRIVATE
2284 MARKET INSURANCE RATES ARE REGULATED AND APPROVED BY THE STATE.

2285 3. I UNDERSTAND THAT I MAY BE SUBJECT TO EMERGENCY
2286 ASSESSMENTS TO THE SAME EXTENT AS POLICYHOLDERS OF OTHER
2287 INSURANCE COMPANIES, OR A DIFFERENT AMOUNT AS IMPOSED BY THE
2288 FLORIDA LEGISLATURE.

2289 4. I ALSO UNDERSTAND THAT CITIZENS PROPERTY INSURANCE
2290 CORPORATION IS NOT SUPPORTED BY THE FULL FAITH AND CREDIT OF THE
2291 STATE OF FLORIDA.

2292 c. The corporation shall maintain, in electronic format or
2293 otherwise, a copy of the applicant's signed acknowledgment and
2294 provide a copy of the statement to the policyholder as part of
2295 the first renewal after the effective date of sub-subparagraph
2296 a. or sub-subparagraph b., as applicable.

2297 d. The signed acknowledgment form creates a conclusive
2298 presumption that the policyholder understood and accepted his or
2299 her potential surcharge and assessment liability as a
2300 policyholder of the corporation.

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2301 Section 2. Paragraph (e) of subsection (4) of section
 2302 215.555, Florida Statutes, is amended to read:

2303 215.555 Florida Hurricane Catastrophe Fund.—

2304 (4) REIMBURSEMENT CONTRACTS.—

2305 (e)1. Except as provided in subparagraphs 2. and 3., the
 2306 contract shall provide that if an insurer demonstrates to the
 2307 board that it is likely to qualify for reimbursement under the
 2308 contract, and demonstrates to the board that the immediate
 2309 receipt of moneys from the board is likely to prevent the
 2310 insurer from becoming insolvent, the board shall advance the
 2311 insurer, at market interest rates, the amounts necessary to
 2312 maintain the solvency of the insurer, up to 50 percent of the
 2313 board's estimate of the reimbursement due the insurer. The
 2314 insurer's reimbursement shall be reduced by an amount equal to
 2315 the amount of the advance and interest thereon.

2316 2. With respect only to an entity created under s.
 2317 627.351, the contract shall also provide that the board may,
 2318 upon application by such entity, advance to such entity, at
 2319 market interest rates, up to 90 percent of the lesser of:

2320 a. The board's estimate of the amount of reimbursement due
 2321 to such entity; or

2322 b. The entity's share of the actual reimbursement premium
 2323 paid for that contract year, multiplied by the currently
 2324 available liquid assets of the fund. In order for the entity to
 2325 qualify for an advance under this subparagraph, the entity must

2326 demonstrate to the board that the advance is essential to allow
 2327 the entity to pay claims for a covered event and the board must
 2328 determine that the fund's assets are sufficient and are
 2329 sufficiently liquid to allow the board to make an advance to the
 2330 entity and still fulfill the board's reimbursement obligations
 2331 to other insurers. The entity's final reimbursement for any
 2332 contract year in which an advance has been made under this
 2333 subparagraph must be reduced by an amount equal to the amount of
 2334 the advance and any interest on such advance. In order to
 2335 determine what amounts, if any, are due the entity, the board
 2336 may require the entity to report its exposure and its losses at
 2337 any time to determine retention levels and reimbursements
 2338 payable.

2339 3. The contract shall also provide specifically and solely
 2340 with respect to any limited apportionment company ~~under s.~~
 2341 ~~627.351(2)(b)3.~~ that the board may, upon application by such
 2342 company, advance to such company the amount of the estimated
 2343 reimbursement payable to such company as calculated pursuant to
 2344 paragraph (d), at market interest rates, if the board determines
 2345 that the fund's assets are sufficient and are sufficiently
 2346 liquid to permit the board to make an advance to such company
 2347 and at the same time fulfill its reimbursement obligations to
 2348 the insurers that are participants in the fund. Such company's
 2349 final reimbursement for any contract year in which an advance
 2350 pursuant to this subparagraph has been made shall be reduced by

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2351 an amount equal to the amount of the advance and interest
2352 thereon. In order to determine what amounts, if any, are due to
2353 such company, the board may require such company to report its
2354 exposure and its losses at such times as may be required to
2355 determine retention levels and loss reimbursements payable.

2356 Section 3. Paragraph (e) of subsection (1) and paragraph
2357 (d) of subsection (2) of section 215.5595, Florida Statutes, are
2358 amended to read:

2359 215.5595 Insurance Capital Build-Up Incentive Program.—

2360 (1) Upon entering the 2008 hurricane season, the
2361 Legislature finds that:

2362 (e) Appropriating state funds to be exchanged for surplus
2363 notes issued by residential property insurers, under conditions
2364 requiring the insurer to contribute additional private sector
2365 capital ~~and to write a minimum level of premiums for residential~~
2366 ~~hurricane coverage~~, is a valid and important public purpose.

2367 (2) The purpose of this section is to provide funds in
2368 exchange for surplus notes to be issued by new or existing
2369 authorized residential property insurers under the Insurance
2370 Capital Build-Up Incentive Program administered by the State
2371 Board of Administration, under the following conditions:

2372 (d) The insurer must commit to increase its writings of
2373 residential property insurance, ~~including the peril of wind~~, and
2374 to meet a minimum writing ratio of net written premium to
2375 surplus of at least 1:1 for the first calendar year after

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2376 receiving the state funds or renegotiation of the surplus note,
2377 1.5:1 for the second calendar year, and 2:1 for the remaining
2378 term of the surplus note. Alternatively, the insurer must meet a
2379 minimum writing ratio of gross written premium to surplus of at
2380 least 3:1 for the first calendar year after receiving the state
2381 funds or renegotiation of the surplus note, 4.5:1 for the second
2382 calendar year, and 6:1 for the remaining term of the surplus
2383 note. The writing ratios shall be determined by the Office of
2384 Insurance Regulation and certified quarterly to the board. For
2385 this purpose, the term "premium" means premium for residential
2386 property insurance in this state, ~~including the peril of wind,~~
2387 and "surplus" means the new capital and surplus note of the
2388 insurer. An insurer that makes an initial application after July
2389 1, 2008, must also commit to writing at least 15 percent of its
2390 net or gross written premium for new policies, not including
2391 renewal premiums, for policies taken out of Citizens Property
2392 Insurance Corporation, during each of the first 3 years after
2393 receiving the state funds in exchange for the surplus note,
2394 which shall be determined by the Office of Insurance Regulation
2395 and certified annually to the board. The insurer must also
2396 commit to maintaining a level of surplus and reinsurance
2397 sufficient to cover in excess of its 1-in-100 year probable
2398 maximum loss, as determined by a hurricane loss model accepted
2399 by the Florida Commission on Hurricane Loss Projection
2400 Methodology, which shall be determined by the Office of

2401 Insurance Regulation and certified annually to the board. If the
 2402 board determines that the insurer has failed to meet any of the
 2403 requirements of this paragraph during the term of the surplus
 2404 note, the board may increase the interest rate, accelerate the
 2405 repayment of interest and principal, or shorten the term of the
 2406 surplus note, subject to approval by the Commissioner of
 2407 Insurance of payments by the insurer of principal and interest
 2408 as provided in paragraph (f).

2409 Section 4. Paragraph (w) of subsection (1) of section
 2410 624.805, Florida Statutes, is amended to read:

2411 624.805 Hazardous insurer standards; office's evaluation
 2412 and enforcement authority; immediate final order.—

2413 (1) In determining whether the continued operation of any
 2414 authorized insurer transacting business in this state may be
 2415 deemed to be hazardous to its policyholders or creditors or to
 2416 the general public, the office may consider, in the totality of
 2417 the circumstances of such insurer, any of the following:

2418 (w) As to a residential property insurer, whether it has
 2419 sufficient capital, surplus, and reinsurance to withstand
 2420 significant weather events, ~~including, but not limited to,~~
 2421 hurricanes.

2422 Section 5. Paragraph (j) of subsection (2) of section
 2423 627.062, Florida Statutes, is amended to read:

2424 627.062 Rate standards.—

2425 (2) As to all such classes of insurance:

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2426 (j) With respect to residential property insurance rate
 2427 filings, the rate filing:

2428 1. Must account for mitigation measures undertaken by
 2429 policyholders to reduce hurricane losses and windstorm losses if
 2430 the insurer provides hurricane or windstorm coverage.

2431 2. May use a modeling indication that is the weighted or
 2432 straight average of two or more hurricane loss projection models
 2433 found by the Florida Commission on Hurricane Loss Projection
 2434 Methodology to be accurate or reliable pursuant to s. 627.0628
 2435 if the insurer provides hurricane or windstorm coverage.

2436
 2437 The provisions of this subsection do not apply to workers'
 2438 compensation, employer's liability insurance, and motor vehicle
 2439 insurance.

2440 Section 6. Paragraph (c) of subsection (1) and paragraph
 2441 (d) of subsection (3) of section 627.0628, Florida Statutes, are
 2442 amended to read:

2443 627.0628 Florida Commission on Hurricane Loss Projection
 2444 Methodology; public records exemption; public meetings
 2445 exemption.—

2446 (1) LEGISLATIVE FINDINGS AND INTENT.—

2447 (c) It is the intent of the Legislature to create the
 2448 Florida Commission on Hurricane Loss Projection Methodology as a
 2449 panel of experts to provide the most actuarially sophisticated
 2450 guidelines and standards for projection of hurricane losses

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2451 possible, given the current state of actuarial science. It is
2452 the further intent of the Legislature that such standards and
2453 guidelines must be used by the State Board of Administration in
2454 developing reimbursement premium rates for the Florida Hurricane
2455 Catastrophe Fund, and, subject to paragraph (3)(d), must be used
2456 by insurers that provide hurricane or windstorm coverage in rate
2457 filings under s. 627.062 unless the way in which such standards
2458 and guidelines were applied by the insurer was erroneous, as
2459 shown by a preponderance of the evidence.

2460 (3) ADOPTION AND EFFECT OF STANDARDS AND GUIDELINES.—

2461 (d) With respect to a rate filing under s. 627.062, an
2462 insurer that provides hurricane or windstorm coverage shall
2463 employ and may not modify or adjust actuarial methods,
2464 principles, standards, models, or output ranges found by the
2465 commission to be accurate or reliable in determining hurricane
2466 loss factors and probable maximum loss levels for use in a rate
2467 filing under s. 627.062. An insurer that provides hurricane or
2468 windstorm coverage may employ a model in a rate filing until 120
2469 days after the expiration of the commission's acceptance of that
2470 model and may not modify or adjust models found by the
2471 commission to be accurate or reliable in determining probable
2472 maximum loss levels. This paragraph does not prohibit an insurer
2473 from using a straight average of model results or output ranges
2474 for the purposes of a rate filing for personal lines residential
2475 flood insurance coverage under s. 627.062.

2476 Section 7. Subsection (1) and paragraph (a) of subsection
 2477 (3) of section 627.06281, Florida Statutes, are amended to read:
 2478 627.06281 Public hurricane loss projection model;
 2479 reporting of data by insurers.—

2480 (1) Within 30 days after a written request for loss data
 2481 and associated exposure data by the office or the Florida
 2482 International University center established to study mitigation,
 2483 residential property insurers that provide hurricane or
 2484 windstorm coverage and licensed rating and advisory
 2485 organizations that compile residential property insurance loss
 2486 data shall provide loss data and associated exposure data for
 2487 residential property insurance policies to the office or the
 2488 Florida International University center established to study
 2489 mitigation, as directed by the office, for the purposes of
 2490 developing, maintaining, and updating a public model for
 2491 hurricane loss projections. The loss data and associated
 2492 exposure data provided shall be in writing.

2493 (3)(a) A residential property insurer that provides
 2494 hurricane or windstorm coverage may have access to and use the
 2495 public hurricane loss projection model, including all
 2496 assumptions and factors and all detailed loss results, for the
 2497 purpose of calculating rate indications in a rate filing and for
 2498 analytical purposes, including any analysis or evaluation of the
 2499 model required under actuarial standards of practice.

2500 Section 8. Subsections (1), (2), (4) and (9) of section

2501 627.0629, Florida Statutes, are amended to read:
 2502 627.0629 Residential property insurance; rate filings.—
 2503 (1) It is the intent of the Legislature that insurers that
 2504 provide hurricane or windstorm coverage provide savings to
 2505 consumers who install or implement windstorm damage mitigation
 2506 techniques, alterations, or solutions to their properties to
 2507 prevent windstorm losses. A rate filing for residential property
 2508 insurance that provides hurricane or windstorm coverage must
 2509 include actuarially reasonable discounts, credits, or other rate
 2510 differentials, or appropriate reductions in deductibles, for
 2511 properties on which fixtures or construction techniques
 2512 demonstrated to reduce the amount of loss in a windstorm have
 2513 been installed or implemented. The fixtures or construction
 2514 techniques must include, but are not limited to, fixtures or
 2515 construction techniques that enhance wind uplift prevention,
 2516 roof strength, roof covering performance, roof-to-wall strength,
 2517 wall-to-floor-to-foundation strength, opening protection, and
 2518 window, door, and skylight strength. Credits, discounts, or
 2519 other rate differentials, or appropriate reductions in
 2520 deductibles, for fixtures and construction techniques that meet
 2521 the minimum requirements of the Florida Building Code must be
 2522 included in the rate filing. The office shall determine the
 2523 discounts, credits, other rate differentials, and appropriate
 2524 reductions in deductibles that reflect the full actuarial value
 2525 of such revaluation, which may be used by insurers in rate

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2526 filings. Effective July 1, 2024 ~~October 1, 2023~~, each insurer
2527 subject to the requirements of this section which covers
2528 hurricane or windstorm losses must provide information on the
2529 insurer's website describing the hurricane mitigation discounts
2530 available to policyholders. Such information must be accessible
2531 on, or through a hyperlink located on, the home page of the
2532 insurer's website or the primary page of the insurer's website
2533 for property insurance policyholders or applicants for such
2534 coverage in this state. On or before January 1, 2025, and every
2535 5 years thereafter, the office shall reevaluate and update the
2536 fixtures or construction techniques demonstrated to reduce the
2537 amount of loss in a windstorm and the discounts, credits, other
2538 rate differentials, and appropriate reductions in deductibles
2539 that reflect the full actuarial value of such fixtures or
2540 construction techniques. The office shall adopt rules and forms
2541 necessitated by such reevaluation.

2542 (2)(a) A rate filing for residential property insurance
2543 made on or before the implementation of paragraph (b) may
2544 include rate factors that reflect the manner in which building
2545 code enforcement in a particular jurisdiction addresses the risk
2546 of wind damage if the insurer provides hurricane or windstorm
2547 coverage; however, such a rate filing must also provide for
2548 variations from such rate factors on an individual basis based
2549 on an inspection of a particular structure by a licensed home
2550 inspector, which inspection may be at the cost of the insured.

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2551 (b) A rate filing for residential property insurance made
2552 more than 150 days after approval by the office of a building
2553 code rating factor plan submitted by a statewide rating
2554 organization shall include positive and negative rate factors
2555 that reflect the manner in which building code enforcement in a
2556 particular jurisdiction addresses risk of wind damage if the
2557 insurer provides hurricane or windstorm coverage. The rate
2558 filing shall include variations from standard rate factors on an
2559 individual basis based on inspection of a particular structure
2560 by a licensed home inspector. If an inspection is requested by
2561 the insured, the insurer may require the insured to pay the
2562 reasonable cost of the inspection. This paragraph applies to
2563 structures constructed or renovated after the implementation of
2564 this paragraph.

2565 (c) The premium notice shall specify the amount by which
2566 the rate has been adjusted as a result of this subsection and
2567 shall also specify the maximum possible positive and negative
2568 adjustments that are approved for use by the insurer under this
2569 subsection.

2570 (4) The Legislature finds that separate consideration and
2571 notice of hurricane insurance premiums will assist consumers by
2572 providing greater assurance that hurricane premiums are lawful
2573 and by providing more complete information regarding the
2574 components of property insurance premiums. If a residential
2575 property insurance provides hurricane coverage, a rate filing

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2576 ~~for residential property insurance~~ shall be separated into two
2577 components, rates for hurricane coverage and rates for all other
2578 coverages. A premium notice reflecting a rate implemented on the
2579 basis of such a filing shall separately indicate the premium for
2580 hurricane coverage and the premium for all other coverages.

2581 (9) An insurer that provides hurricane or windstorm
2582 coverage may file with the office a personal lines residential
2583 property insurance rating plan that provides justified premium
2584 discounts, credits, or other rate differentials based on
2585 windstorm mitigation construction standards developed by an
2586 independent, nonprofit scientific research organization, if such
2587 standards meet the requirements of this section. Such plan must
2588 describe the manner in which the insurer will document the
2589 existence of the mitigation features and premium discounts,
2590 credits, or other rate differentials created under such plan.

2591 Section 9. Section 627.4025, Florida Statutes, is amended
2592 to read:

2593 627.4025 Residential coverage and hurricane coverage
2594 defined.—

2595 (1) Residential coverage includes both personal lines
2596 residential coverage, which consists of the type of coverage
2597 provided by homeowner, mobile home owner, dwelling, tenant,
2598 condominium unit owner, cooperative unit owner, and similar
2599 policies, and commercial lines residential coverage, which
2600 consists of the type of coverage provided by condominium

2601 association, cooperative association, apartment building, and
 2602 similar policies, including policies covering the common
 2603 elements of a homeowners association. Residential coverage for
 2604 personal lines and commercial lines as set forth in this section
 2605 may include ~~includes~~ policies that provide coverage for
 2606 particular perils such as windstorm and hurricane or coverage
 2607 for insurer insolvency or deductibles.

2608 (2) As used in residential property policies that provide
 2609 hurricane or windstorm ~~providing residential~~ coverage:

2610 (a) "Hurricane coverage" is coverage for loss or damage
 2611 caused by wind, wind gusts, hail, rain, tornadoes, or cyclones
 2612 caused by or resulting from the peril of windstorm during a
 2613 hurricane. The term includes ensuing damage to the interior of a
 2614 building, or to property inside a building, caused by rain,
 2615 snow, sleet, hail, sand, or dust if the direct force of the
 2616 windstorm first damages the building, causing an opening through
 2617 which rain, snow, sleet, hail, sand, or dust enters and causes
 2618 damage.

2619 (b) "Windstorm" ~~for purposes of paragraph (a)~~ means wind,
 2620 wind gusts, hail, rain, tornadoes, or cyclones caused by or
 2621 resulting from a named tropical storm, including a hurricane,
 2622 which create ~~results in~~ direct physical loss or damage to
 2623 property.

2624 (c) "Hurricane" for purpose ~~purposes~~ of paragraph
 2625 ~~paragraphs~~ (a) ~~and (b)~~ means a storm system that has been

2626 declared to be a hurricane by the National Hurricane Center of
 2627 the National Weather Service. The duration of the hurricane
 2628 includes the time period, in Florida:

2629 1. Beginning at the time a hurricane warning is issued for
 2630 any part of Florida by the National Hurricane Center of the
 2631 National Weather Service; and

2632 2. Ending 72 hours following the termination of the last
 2633 hurricane watch or hurricane warning issued for any part of
 2634 Florida by the National Hurricane Center of the National Weather
 2635 Service.

2636 (d) "Hurricane deductible" means the deductible applicable
 2637 to loss caused by a hurricane.

2638 Section 10. Subsection (3), paragraphs (c) and (d) of
 2639 subsection (4), and subsections (5) and (9) of section 627.701,
 2640 Florida Statutes, are amended to read:

2641 627.701 Liability of insureds; coinsurance; deductibles.—

2642 (3)(a) Except as otherwise provided in this subsection,
 2643 prior to issuing a personal lines residential property insurance
 2644 policy, an the insurer that offers hurricane or windstorm
 2645 coverage must offer alternative deductible amounts applicable to
 2646 hurricane losses equal to \$500, 2 percent, 5 percent, and 10
 2647 percent of the policy dwelling limits, unless the specific
 2648 percentage deductible is less than \$500. The written notice of
 2649 the offer shall specify the hurricane deductible to be applied
 2650 in the event that the applicant or policyholder fails to

2651 affirmatively choose a hurricane deductible. The insurer must
 2652 provide such policyholder with notice of the availability of the
 2653 deductible amounts specified in this subsection in a form
 2654 approved by the office in conjunction with each renewal of the
 2655 policy. The failure to provide such notice constitutes a
 2656 violation of this code but does not affect the coverage provided
 2657 under the policy.

2658 (b) This subsection does not apply with respect to a
 2659 deductible program lawfully in effect on July 1, 2024 ~~June 14,~~
 2660 ~~1995~~, or to any similar deductible program, if the deductible
 2661 program requires a minimum deductible amount of no less than 2
 2662 percent of the policy limits.

2663 (c) With respect to a policy covering a risk with dwelling
 2664 limits of at least \$100,000, but less than \$250,000, an ~~the~~
 2665 insurer that offers hurricane or windstorm coverage may, in lieu
 2666 of offering a policy with a \$500 hurricane deductible as
 2667 required by paragraph (a), offer a policy that the insurer
 2668 guarantees it will not nonrenew for reasons of reducing
 2669 hurricane loss for one renewal period and that contains up to a
 2670 2 percent hurricane deductible as required by paragraph (a).

2671 (d) For the following policies, the following alternative
 2672 deductible amounts are authorized:

2673 1. With respect to a policy covering a risk with dwelling
 2674 limits of \$250,000 or more, an ~~the~~ insurer that offers hurricane
 2675 or windstorm coverage need not offer the \$500 hurricane

2676 deductible as required by paragraph (a), but must, except as
 2677 otherwise provided in this subsection, offer the other hurricane
 2678 deductibles as required by paragraph (a).

2679 2. With respect to a policy covering a risk with dwelling
 2680 limits of \$1 million or more, but less than \$3 million, an ~~the~~
 2681 insurer that offers hurricane or windstorm coverage may, in lieu
 2682 of offering the 2 percent deductible as required by paragraph
 2683 (a), offer a deductible amount applicable to hurricane losses
 2684 equal to 3 percent of the policy dwelling limits.

2685 3. With respect to a policy covering a risk with dwelling
 2686 limits of \$3 million or more, an ~~the~~ insurer that offers
 2687 hurricane or windstorm coverage need not offer the 2 percent
 2688 deductible as required by paragraph (a), but must, except as
 2689 otherwise provided by this subsection, offer the other hurricane
 2690 deductibles as required by paragraph (a).

2691 (4)

2692 (c) For any personal lines residential property insurance
 2693 policy containing an inflation guard rider, an ~~the~~ insurer that
 2694 offers hurricane or windstorm coverage shall compute and
 2695 prominently display the actual dollar value of the hurricane
 2696 deductible on the declarations page of the policy at issuance
 2697 and, for renewal, on the renewal declarations page of the policy
 2698 or on the premium renewal notice. In addition, for any personal
 2699 lines residential property insurance policy containing an
 2700 inflation guard rider, an ~~the~~ insurer that offers hurricane or

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2701 windstorm coverage shall notify the policyholder of the
2702 possibility that the hurricane deductible may be higher than
2703 indicated when loss occurs due to application of the inflation
2704 guard rider. Such notification shall be made on the declarations
2705 page of the policy at issuance and, for renewal, on the renewal
2706 declarations page of the policy or on the premium renewal
2707 notice.

2708 (d)1. A personal lines residential property insurance
2709 policy covering a risk valued at less than \$500,000 and
2710 providing hurricane or windstorm coverage may not have a
2711 hurricane deductible in excess of 10 percent of the policy
2712 dwelling limits, unless the following conditions are met:

2713 a. The policyholder must personally write or type and
2714 provide to the insurer the following statement and sign his or
2715 her name, which must also be signed by every other named insured
2716 on the policy, and dated: "I do not want the insurance on my
2717 home to pay for the first (specify dollar value) of damage from
2718 hurricanes. I will pay those costs. My insurance will not."

2719 b. If the structure insured by the policy is subject to a
2720 mortgage or lien, the policyholder must provide the insurer with
2721 a written statement from the mortgageholder or lienholder
2722 indicating that the mortgageholder or lienholder approves the
2723 policyholder electing to have the specified deductible.

2724 2. A deductible subject to the requirements of this
2725 paragraph applies for the term of the policy and for each

2726 renewal thereafter. Changes to the deductible percentage may be
2727 implemented only as of the date of renewal.

2728 3. An insurer shall keep the original copy of the signed
2729 statement required by this paragraph, electronically or
2730 otherwise, and provide a copy to the policyholder providing the
2731 signed statement. A signed statement meeting the requirements of
2732 this paragraph creates a presumption that there was an informed,
2733 knowing election of coverage.

2734 4. The commission shall adopt rules providing appropriate
2735 alternative methods for providing the statements required by
2736 this section for policyholders who have a handicapping or
2737 disabling condition that prevents them from providing a
2738 handwritten statement.

2739 (5) (a) The hurricane deductible of any personal lines
2740 residential property insurance policy issued or renewed on or
2741 after July 1, 2024 ~~May 1, 2005~~, and providing hurricane or
2742 windstorm coverage shall be applied as follows:

2743 1. The hurricane deductible shall apply on an annual basis
2744 to all covered hurricane losses that occur during the calendar
2745 year for losses that are covered under one or more policies
2746 issued by the same insurer or an insurer in the same insurer
2747 group.

2748 2. If a hurricane deductible applies separately to each of
2749 one or more structures insured under a single policy, the
2750 requirements of this paragraph apply with respect to the

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2751 deductible for each structure.

2752 3. If there was a hurricane loss for a prior hurricane or
2753 hurricanes during the calendar year, the insurer may apply a
2754 deductible to a subsequent hurricane which is the greater of the
2755 remaining amount of the hurricane deductible or the amount of
2756 the deductible that applies to perils other than a hurricane.
2757 Insurers may require policyholders to report hurricane losses
2758 that are below the hurricane deductible or to maintain receipts
2759 or other records of such hurricane losses in order to apply such
2760 losses to subsequent hurricane claims.

2761 4. If there are hurricane losses in a calendar year on
2762 more than one policy issued by the same insurer or an insurer in
2763 the same insurer group, the hurricane deductible shall be the
2764 highest amount stated in any one of the policies. If a
2765 policyholder who had a hurricane loss under the prior policy is
2766 provided or offered a lower hurricane deductible under the new
2767 or renewal policy, the insurer must notify the policyholder, in
2768 writing, at the time the lower hurricane deductible is provided
2769 or offered, that the lower hurricane deductible will not apply
2770 until January 1 of the following calendar year.

2771 (b) For commercial residential property insurance policies
2772 issued or renewed on or after July 1, 2024 ~~January 1, 2006~~, and
2773 providing hurricane or windstorm coverage, the insurer must
2774 offer the policyholder the following alternative hurricane
2775 deductibles:

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2776 1. A hurricane deductible that applies on an annual basis
 2777 as provided in paragraph (a); and

2778 2. A hurricane deductible that applies to each hurricane.

2779 (9) With respect to hurricane coverage provided in a
 2780 policy of residential coverage, when the policyholder has taken
 2781 appropriate hurricane mitigation measures regarding the
 2782 residence covered under the policy, an the insurer that offers
 2783 hurricane or windstorm coverage shall provide the insured the
 2784 option of selecting an appropriate reduction in the policy's
 2785 hurricane deductible or selecting the appropriate discount
 2786 credit or other rate differential as provided in s. 627.0629. An
 2787 The insurer that offers hurricane or windstorm coverage must
 2788 provide the policyholder with notice of the options available
 2789 under this subsection on a form approved by the office.

2790 Section 11. Section 627.7018, Florida Statutes, is amended
 2791 to read:

2792 627.7018 Standards for determining risk of coverage.—In
 2793 determining the risk of providing property insurance coverage,
 2794 an insurer may not deny coverage solely on the basis of the age
 2795 of the structure ~~and shall consider the wind resistance of the~~
 2796 ~~structure and measures undertaken by the owner to protect the~~
 2797 ~~structure against hurricane loss.~~

2798 Section 12. Subsections (1), (2), and (3) of section
 2799 627.711, Florida Statutes, are amended to read:

2800 627.711 Notice of premium discounts for hurricane loss

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2801 mitigation; uniform mitigation verification inspection form.—
2802 (1) Using a form prescribed by the Office of Insurance
2803 Regulation, an ~~the~~ insurer that offers hurricane or windstorm
2804 coverage shall clearly notify the applicant or policyholder of
2805 any personal lines residential property insurance policy, at the
2806 time of the issuance of the policy and at each renewal, of the
2807 availability and the range of each premium discount, credit,
2808 other rate differential, or reduction in deductibles, and
2809 combinations of discounts, credits, rate differentials, or
2810 reductions in deductibles, for properties on which fixtures or
2811 construction techniques demonstrated to reduce the amount of
2812 loss in a windstorm can be or have been installed or
2813 implemented. The prescribed form shall describe generally what
2814 actions the policyholders may be able to take to reduce their
2815 windstorm premium. The prescribed form and a list of such ranges
2816 approved by the office for each insurer licensed in the state
2817 offering hurricane or windstorm coverage and providing such
2818 discounts, credits, other rate differentials, or reductions in
2819 deductibles for properties described in this subsection shall be
2820 available for electronic viewing and download from the
2821 Department of Financial Services' or the Office of Insurance
2822 Regulation's Internet website. The Financial Services Commission
2823 may adopt rules to implement this subsection.

2824 (2) (a) The Financial Services Commission shall develop by
2825 rule a uniform mitigation verification inspection form that

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2826 shall be used by all insurers that offer hurricane or windstorm
2827 coverage when submitted by policyholders for the purpose of
2828 factoring discounts for wind insurance. In developing the form,
2829 the commission shall seek input from the Citizens Property
2830 Insurance Corporation and the insurance, construction, and
2831 building code representatives. Further, the commission shall
2832 provide guidance as to the length of time the inspection results
2833 are valid. Insurers that offer hurricane or windstorm coverage
2834 ~~An insurer~~ shall accept as valid a uniform mitigation
2835 verification form signed by the following authorized mitigation
2836 inspectors:

- 2837 1. A home inspector licensed under s. 468.8314 who has
2838 completed at least 3 hours of hurricane mitigation training
2839 approved by the Construction Industry Licensing Board which
2840 includes hurricane mitigation techniques and compliance with the
2841 uniform mitigation verification form and completion of a
2842 proficiency exam;
- 2843 2. A building code inspector certified under s. 468.607;
- 2844 3. A general, building, or residential contractor licensed
2845 under s. 489.111;
- 2846 4. A professional engineer licensed under s. 471.015;
- 2847 5. A professional architect licensed under s. 481.213; or
- 2848 6. Any other individual or entity recognized by the
2849 insurer as possessing the necessary qualifications to properly
2850 complete a uniform mitigation verification form.

2851 (b) An insurer that offers hurricane or windstorm coverage
 2852 may, but is not required to, accept a form from any other person
 2853 possessing qualifications and experience acceptable to the
 2854 insurer.

2855 (3) A person who is authorized to sign a mitigation
 2856 verification form must inspect the structures referenced by the
 2857 form personally, not through employees or other persons, and
 2858 must certify or attest to personal inspection of the structures
 2859 referenced by the form. However, licensees under s. 471.015 or
 2860 s. 489.111 may authorize a direct employee, who is not an
 2861 independent contractor, and who possesses the requisite skill,
 2862 knowledge and experience, to conduct a mitigation verification
 2863 inspection. Insurers that offer hurricane or windstorm coverage
 2864 shall have the right to request and obtain information from the
 2865 authorized mitigation inspector under s. 471.015 or s. 489.111,
 2866 regarding any authorized employee's qualifications before ~~prior~~
 2867 ~~to~~ accepting a mitigation verification form performed by an
 2868 employee that is not licensed under s. 471.015 or s. 489.111.

2869 Section 13. Section 627.712, Florida Statutes is amended
 2870 to read:

2871 627.712 Residential property insurance exclusion ~~windstorm~~
 2872 ~~coverage required; availability of exclusions for windstorm or~~
 2873 ~~contents.—~~

2874 ~~(1) An insurer issuing a residential property insurance~~
 2875 ~~policy must provide windstorm coverage. Except as provided in~~

2876 ~~paragraph (2)(c), this section does not apply to risks that are~~
2877 ~~eligible for wind-only coverage from Citizens Property Insurance~~
2878 ~~Corporation under s. 627.351(6), and risks that are not eligible~~
2879 ~~for coverage from Citizens Property Insurance Corporation under~~
2880 ~~s. 627.351(6)(a)3. or 5. A risk ineligible for coverage by the~~
2881 ~~corporation under s. 627.351(6)(a)3. or 5. is exempt from this~~
2882 ~~section only if the risk is located within the boundaries of the~~
2883 ~~coastal account of the corporation.~~

2884 ~~(2) A property insurer must make available, at the option~~
2885 ~~of the policyholder, an exclusion of windstorm coverage.~~

2886 ~~(a) The coverage may be excluded only if:~~

2887 ~~1. When the policyholder is a natural person, the~~
2888 ~~policyholder personally writes or types and provides to the~~
2889 ~~insurer the following statement and signs his or her name, which~~
2890 ~~must also be signed by every other named insured on the policy,~~
2891 ~~and dated: "I do not want the insurance on my (home/mobile~~
2892 ~~home/condominium unit) to pay for damage from windstorms. I will~~
2893 ~~pay these costs. My insurance will not."~~

2894 ~~2. When the policyholder is other than a natural person,~~
2895 ~~the policyholder provides to the insurer on the policyholder's~~
2896 ~~letterhead the following statement that must be signed by the~~
2897 ~~policyholder's authorized representative and dated: "... (Name of~~
2898 ~~entity)... does not want the insurance on its ... (type of~~
2899 ~~structure)... to pay for damage from windstorms. ... (Name of~~
2900 ~~entity)... will be responsible for these costs. ... (Name of~~

2901 entity's)... insurance will not."

2902 ~~(b) If the structure insured by the policy is subject to a~~
 2903 ~~mortgage or lien, the policyholder must provide the insurer with~~
 2904 ~~a written statement from the mortgageholder or lienholder~~
 2905 ~~indicating that the mortgageholder or lienholder approves the~~
 2906 ~~policyholder electing to exclude windstorm coverage or hurricane~~
 2907 ~~coverage from his or her or its property insurance policy.~~

2908 ~~(c) An insurer nonrenewing a policy and issuing a~~
 2909 ~~replacement policy, or issuing a new policy, that does not~~
 2910 ~~provide wind coverage shall provide a notice to the~~
 2911 ~~mortgageholder or lienholder indicating the policyholder has~~
 2912 ~~elected coverage that does not cover wind.~~

2913 (1)~~(3)~~ An insurer issuing a residential property insurance
 2914 policy, except for a condominium unit owner policy or a tenant
 2915 policy, must make available, at the option of the policyholder,
 2916 an exclusion of coverage for the contents. The coverage may be
 2917 excluded only if the policyholder personally writes or types and
 2918 provides to the insurer the following statement and signs his or
 2919 her signature, which must also be signed by every other named
 2920 insured on the policy, and dated: "I do not want the insurance
 2921 on my (home/mobile home) to pay for the costs to repair or
 2922 replace any contents that are damaged. I will pay those costs.
 2923 My insurance will not."

2924 (2)~~(4)~~ An insurer shall keep the original copy of a signed
 2925 statement required by this section, electronically or otherwise,

2926 and provide a copy to the policyholder providing the signed
 2927 statement. A signed statement meeting the requirements of this
 2928 section creates a presumption that there was an informed,
 2929 knowing rejection of coverage.

2930 (3)-(5) The exclusion ~~exclusions~~ authorized by subsection
 2931 (1) ~~applies this section apply~~ for the term of the policy and
 2932 for each renewal thereafter. Changes to the exclusion ~~exclusions~~
 2933 authorized by this section may be implemented only as of the
 2934 date of renewal.

2935 (4)-(6) The commission shall adopt rules providing
 2936 appropriate alternative methods for providing the statements
 2937 required by this section for policyholders who have a
 2938 handicapping or disabling condition that prevents them from
 2939 providing a handwritten statement.

2940 Section 14. Section 627.713, Florida Statutes, is amended
 2941 to read:

2942 627.713 Report of hurricane loss data.—The office may
 2943 require property insurers that provide hurricane or windstorm
 2944 coverage to report data regarding hurricane claims and
 2945 underwriting costs, including, but not limited to:

- 2946 (1) Number of claims.
- 2947 (2) Amount of claim payments made.
- 2948 (3) Number and amount of total-loss claims.
- 2949 (4) Amount and percentage of losses covered by reinsurance
- 2950 or other loss-transfer agreements.

2951 (5) Amount of losses covered under specified deductibles.

2952 (6) Claims and payments for specified insured values.

2953 (7) Claims and payments for specified dollar values.

2954 (8) Claims and payments for specified types of
2955 construction or mitigation features.

2956 (9) Claims and payments for policies under specified
2957 underwriting criteria.

2958 (10) Claims and payments for contents, additional living
2959 expense, and other specified coverages.

2960 (11) Claims and payments by county for the information
2961 specified in this section.

2962 (12) Any other data that the office requires.

2963 Section 15. Subsection (7) of section 631.54, Florida
2964 Statutes, is amended to read:

2965 631.54 Definitions.—As used in this part:

2966 (7) "Homeowner's insurance" means personal lines
2967 residential property insurance coverage that consists of the
2968 type of coverage provided under homeowner's, dwelling, and
2969 similar policies for repair or replacement of the insured
2970 structure and contents, which policies are written directly to
2971 the individual homeowner. Residential coverage for personal
2972 lines as set forth in this section:

2973 (a) Includes policies that provide coverage for particular
2974 perils, except that such residential coverage policies may, but
2975 are not required to, provide ~~such as~~ windstorm and hurricane

2976 | coverage; and
 2977 | (b) ~~but~~ Excludes all coverage for mobile homes, renter's
 2978 | insurance, or tenant's coverage.
 2979 |
 2980 | The term "homeowner's insurance" excludes commercial residential
 2981 | policies covering condominium associations or homeowners'
 2982 | associations, which associations have a responsibility to
 2983 | provide insurance coverage on residential units within the
 2984 | association, and also excludes coverage for the common elements
 2985 | of a homeowners' association.
 2986 | Section 16. Paragraph (a) of subsection (11) of section
 2987 | 718.111, Florida Statutes, is amended to read:
 2988 | 718.111 The association.—
 2989 | (11) INSURANCE.—In order to protect the safety, health,
 2990 | and welfare of the people of the State of Florida and to ensure
 2991 | consistency in the provision of insurance coverage to
 2992 | condominiums and their unit owners, this subsection applies to
 2993 | every residential condominium in the state, regardless of the
 2994 | date of its declaration of condominium. It is the intent of the
 2995 | Legislature to encourage lower or stable insurance premiums for
 2996 | associations described in this subsection.
 2997 | (a) Adequate property insurance, regardless of any
 2998 | requirement in the declaration of condominium for coverage by
 2999 | the association for full insurable value, replacement cost, or
 3000 | similar coverage, must be based on the replacement cost of the

3001 property to be insured as determined by an independent insurance
 3002 appraisal or update of a prior appraisal. The replacement cost
 3003 must be determined at least once every 36 months.

3004 1. An association or group of associations may provide
 3005 adequate property insurance through a self-insurance fund that
 3006 complies with the requirements of ss. 624.460-624.488.

3007 2.a. The association may also provide adequate property
 3008 insurance coverage for a group of at least three communities
 3009 created and operating under this chapter, chapter 719, chapter
 3010 720, or chapter 721 by obtaining and maintaining for such
 3011 communities insurance coverage sufficient to cover an amount
 3012 equal to the probable maximum loss for the communities for a
 3013 250-year windstorm event. Such probable maximum loss must be
 3014 determined through the use of a competent model that has been
 3015 accepted by the Florida Commission on Hurricane Loss Projection
 3016 Methodology. A policy or program providing such coverage may not
 3017 be issued or renewed after July 1, 2008, unless it has been
 3018 reviewed and approved by the Office of Insurance Regulation. The
 3019 review and approval must include approval of the policy and
 3020 related forms pursuant to ss. 627.410 and 627.411, approval of
 3021 the rates pursuant to s. 627.062, a determination that the loss
 3022 model approved by the commission was accurately and
 3023 appropriately applied to the insured structures to determine the
 3024 250-year probable maximum loss, and a determination that
 3025 complete and accurate disclosure of all material provisions is

3026 | provided to condominium unit owners before execution of the
 3027 | agreement by a condominium association.

3028 | b. The association may also obtain windstorm coverage for
 3029 | the communities provided by Citizens Property Insurance
 3030 | Corporation under s. 627.351(5)(a)3.

3031 | 3. When determining the adequate amount of property
 3032 | insurance coverage, the association may consider deductibles as
 3033 | determined by this subsection.

3034 | Section 17. Paragraph (a) of subsection (3) of section
 3035 | 719.104, Florida Statutes, is amended to read:

3036 | 719.104 Cooperatives; access to units; records; financial
 3037 | reports; assessments; purchase of leases.—

3038 | (3) INSURANCE.—The association shall use its best efforts
 3039 | to obtain and maintain adequate insurance to protect the
 3040 | association property. The association may also obtain and
 3041 | maintain liability insurance for directors and officers,
 3042 | insurance for the benefit of association employees, and flood
 3043 | insurance. A copy of each policy of insurance in effect shall be
 3044 | made available for inspection by unit owners at reasonable
 3045 | times.

3046 | (a) Windstorm insurance coverage for a group of no fewer
 3047 | than three communities created and operating under chapter 718,
 3048 | this chapter, chapter 720, or chapter 721 may be obtained and
 3049 | maintained for the communities if the insurance coverage is:

3050 | 1. Sufficient to cover an amount equal to the probable

3051 maximum loss for the communities for a 250-year windstorm event.
 3052 Such probable maximum loss must be determined through the use of
 3053 a competent model that has been accepted by the Florida
 3054 Commission on Hurricane Loss Projection Methodology. Such
 3055 insurance coverage is deemed adequate windstorm insurance for
 3056 the purposes of this section; or

3057 2. Provided by Citizens Property Insurance Corporation
 3058 under s. 627.351(5)(a)3.

3059 Section 18. Subsection (11) of section 720.303, Florida
 3060 Statutes, is amended to read:

3061 720.303 Association powers and duties; meetings of board;
 3062 official records; budgets; financial reporting; association
 3063 funds; recalls.—

3064 (11) WINDSTORM INSURANCE.—Windstorm insurance coverage for
 3065 a group of no fewer than three communities created and operating
 3066 under chapter 718, chapter 719, this chapter, or chapter 721 may
 3067 be obtained and maintained for the communities if the insurance
 3068 coverage is:

3069 (a) Sufficient to cover an amount equal to the probable
 3070 maximum loss for the communities for a 250-year windstorm event.
 3071 Such probable maximum loss must be determined through the use of
 3072 a competent model that has been accepted by the Florida
 3073 Commission on Hurricane Loss Projection Methodology. Such
 3074 insurance coverage is deemed adequate windstorm coverage for
 3075 purposes of this chapter; or

3076 (b) Provided by Citizens Property Insurance Corporation
 3077 under s. 627.351(5)(a)3.

3078 Section 19. Paragraph (b) of subsection (2) of section
 3079 395.1061, Florida Statutes, is amended to read:

3080 395.1061 Professional liability coverage.—

3081 (2) Each hospital, unless exempted under paragraph (3)(b),
 3082 must demonstrate financial responsibility for maintaining
 3083 professional liability coverage to pay claims and costs
 3084 ancillary thereto arising out of the rendering of or failure to
 3085 render medical care or services and for bodily injury or
 3086 property damage to the person or property of any patient arising
 3087 out of the activities of the hospital or arising out of the
 3088 activities of covered individuals, to the satisfaction of the
 3089 Agency for Health Care Administration, by meeting one of the
 3090 following requirements:

3091 (b) Obtain professional liability coverage in an amount
 3092 equivalent to \$10,000 or more per claim for each bed in such
 3093 hospital from a private insurer, from the Joint Underwriting
 3094 Association established under s. 627.351(3) ~~s. 627.351(4)~~, or
 3095 through a plan of self-insurance as provided in s. 627.357.
 3096 However, a hospital may not be required to obtain such coverage
 3097 in an amount exceeding a \$2.5 million annual aggregate.

3098 Section 20. Paragraph (b) of subsection (1) and paragraph
 3099 (b) of subsection (2) of section 458.320, Florida Statutes, are
 3100 amended to read:

3101 458.320 Financial responsibility.—

3102 (1) As a condition of licensing and maintaining an active
 3103 license, and prior to the issuance or renewal of an active
 3104 license or reactivation of an inactive license for the practice
 3105 of medicine, an applicant must by one of the following methods
 3106 demonstrate to the satisfaction of the board and the department
 3107 financial responsibility to pay claims and costs ancillary
 3108 thereto arising out of the rendering of, or the failure to
 3109 render, medical care or services:

3110 (b) Obtaining and maintaining professional liability
 3111 coverage in an amount not less than \$100,000 per claim, with a
 3112 minimum annual aggregate of not less than \$300,000, from an
 3113 authorized insurer as defined under s. 624.09, from a surplus
 3114 lines insurer as defined under s. 626.914(2), from a risk
 3115 retention group as defined under s. 627.942, from the Joint
 3116 Underwriting Association established under s. 627.351(3) ~~s.~~
 3117 ~~627.351(4)~~, or through a plan of self-insurance as provided in
 3118 s. 627.357. The required coverage amount set forth in this
 3119 paragraph may not be used for litigation costs or attorney's
 3120 fees for the defense of any medical malpractice claim.

3121 (2) Physicians who perform surgery in an ambulatory
 3122 surgical center licensed under chapter 395 and, as a continuing
 3123 condition of hospital staff privileges, physicians who have
 3124 staff privileges must also establish financial responsibility by
 3125 one of the following methods:

3126 (b) Obtaining and maintaining professional liability
 3127 coverage in an amount not less than \$250,000 per claim, with a
 3128 minimum annual aggregate of not less than \$750,000 from an
 3129 authorized insurer as defined under s. 624.09, from a surplus
 3130 lines insurer as defined under s. 626.914(2), from a risk
 3131 retention group as defined under s. 627.942, from the Joint
 3132 Underwriting Association established under s. 627.351(3) ~~s.~~
 3133 ~~627.351(4)~~, through a plan of self-insurance as provided in s.
 3134 627.357, or through a plan of self-insurance which meets the
 3135 conditions specified for satisfying financial responsibility in
 3136 s. 766.110. The required coverage amount set forth in this
 3137 paragraph may not be used for litigation costs or attorney's
 3138 fees for the defense of any medical malpractice claim.

3139
 3140 This subsection shall be inclusive of the coverage in subsection
 3141 (1).

3142 Section 21. Paragraph (b) of subsection (1) and paragraph
 3143 (b) of subsection (2) of section 459.0085, Florida Statutes, are
 3144 amended to read:

3145 459.0085 Financial responsibility.—

3146 (1) As a condition of licensing and maintaining an active
 3147 license, and prior to the issuance or renewal of an active
 3148 license or reactivation of an inactive license for the practice
 3149 of osteopathic medicine, an applicant must by one of the
 3150 following methods demonstrate to the satisfaction of the board

3151 and the department financial responsibility to pay claims and
3152 costs ancillary thereto arising out of the rendering of, or the
3153 failure to render, medical care or services:

3154 (b) Obtaining and maintaining professional liability
3155 coverage in an amount not less than \$100,000 per claim, with a
3156 minimum annual aggregate of not less than \$300,000, from an
3157 authorized insurer as defined under s. 624.09, from a surplus
3158 lines insurer as defined under s. 626.914(2), from a risk
3159 retention group as defined under s. 627.942, from the Joint
3160 Underwriting Association established under s. 627.351(3) ~~s.~~
3161 ~~627.351(4)~~, or through a plan of self-insurance as provided in
3162 s. 627.357. The required coverage amount set forth in this
3163 paragraph may not be used for litigation costs or attorney's
3164 fees for the defense of any medical malpractice claim.

3165 (2) Osteopathic physicians who perform surgery in an
3166 ambulatory surgical center licensed under chapter 395 and, as a
3167 continuing condition of hospital staff privileges, osteopathic
3168 physicians who have staff privileges must also establish
3169 financial responsibility by one of the following methods:

3170 (b) Obtaining and maintaining professional liability
3171 coverage in an amount not less than \$250,000 per claim, with a
3172 minimum annual aggregate of not less than \$750,000 from an
3173 authorized insurer as defined under s. 624.09, from a surplus
3174 lines insurer as defined under s. 626.914(2), from a risk
3175 retention group as defined under s. 627.942, from the Joint

3176 Underwriting Association established under s. 627.351(3) ~~s.~~
 3177 ~~627.351(4)~~, through a plan of self-insurance as provided in s.
 3178 627.357, or through a plan of self-insurance that meets the
 3179 conditions specified for satisfying financial responsibility in
 3180 s. 766.110. The required coverage amount set forth in this
 3181 paragraph may not be used for litigation costs or attorney's
 3182 fees for the defense of any medical malpractice claim.

3183
 3184 This subsection shall be inclusive of the coverage in subsection
 3185 (1).

3186 Section 22. Paragraph (a) of subsection (2) of section
 3187 464.0123, Florida Statutes, is amended to read:

3188 464.0123 Autonomous practice by an advanced practice
 3189 registered nurse.—

3190 (2) FINANCIAL RESPONSIBILITY.—

3191 (a) An advanced practice registered nurse registered under
 3192 this section must, by one of the following methods, demonstrate
 3193 to the satisfaction of the board and the department financial
 3194 responsibility to pay claims and costs ancillary thereto arising
 3195 out of the rendering of, or the failure to render, nursing care,
 3196 treatment, or services:

3197 1. Obtaining and maintaining professional liability
 3198 coverage in an amount not less than \$100,000 per claim, with a
 3199 minimum annual aggregate of not less than \$300,000, from an
 3200 authorized insurer as defined in s. 624.09, from a surplus lines

3201 insurer as defined in s. 626.914(2), from a risk retention group
 3202 as defined in s. 627.942, from the Joint Underwriting
 3203 Association established under s. 627.351(3) ~~s. 627.351(4)~~, or
 3204 through a plan of self-insurance as provided in s. 627.357; or

3205 2. Obtaining and maintaining an unexpired, irrevocable
 3206 letter of credit, established pursuant to chapter 675, in an
 3207 amount of not less than \$100,000 per claim, with a minimum
 3208 aggregate availability of credit of not less than \$300,000. The
 3209 letter of credit must be payable to the advanced practice
 3210 registered nurse as beneficiary upon presentment of a final
 3211 judgment indicating liability and awarding damages to be paid by
 3212 the advanced practice registered nurse or upon presentment of a
 3213 settlement agreement signed by all parties to such agreement
 3214 when such final judgment or settlement is a result of a claim
 3215 arising out of the rendering of, or the failure to render,
 3216 nursing care and services.

3217 Section 23. Paragraph (a) of subsection (10) of section
 3218 624.424, Florida Statutes, is amended to read:

3219 624.424 Annual statement and other information.—

3220 (10) (a) Each insurer or insurer group doing business in
 3221 this state shall file on a quarterly basis in conjunction with
 3222 financial reports required by paragraph (1) (a) a supplemental
 3223 report on an individual and group basis on a form prescribed by
 3224 the commission with information on personal lines and commercial
 3225 lines residential property insurance policies in this state. The

3226 supplemental report shall include separate information for
 3227 personal lines property policies and for commercial lines
 3228 property policies and totals for each item specified, including
 3229 premiums written for each of the property lines of business as
 3230 described in ss. 215.555(2)(c) and 627.351(5)(a) ~~627.351(6)(a)~~.
 3231 The report shall include the following information for each
 3232 county on a monthly basis:

- 3233 1. Total number of policies in force at the end of each
 3234 month.
- 3235 2. Total number of policies canceled.
- 3236 3. Total number of policies nonrenewed.
- 3237 4. Number of policies canceled due to hurricane risk.
- 3238 5. Number of policies nonrenewed due to hurricane risk.
- 3239 6. Number of new policies written.
- 3240 7. Total dollar value of structure exposure under policies
 3241 that include wind coverage.
- 3242 8. Number of policies that exclude wind coverage.
- 3243 9. Number of claims open each month.
- 3244 10. Number of claims closed each month.
- 3245 11. Number of claims pending each month.
- 3246 12. Number of claims in which either the insurer or
 3247 insured invoked any form of alternative dispute resolution, and
 3248 specifying which form of alternative dispute resolution was
 3249 used.

3250 Section 24. Paragraph (a) of subsection (2) and subsection

3251 (5) of section 624.462, Florida Statutes, are amended to read:
 3252 624.462 Commercial self-insurance funds.—

3253 (2) As used in ss. 624.460-624.488, "commercial self-
 3254 insurance fund" or "fund" means a group of members, operating
 3255 individually and collectively through a trust or corporation,
 3256 that must be:

3257 (a) Established by:

3258 1. A not-for-profit trade association, industry
 3259 association, or professional association of employers or
 3260 professionals which has a constitution or bylaws, which is
 3261 incorporated under the laws of this state, and which has been
 3262 organized for purposes other than that of obtaining or providing
 3263 insurance and operated in good faith for a continuous period of
 3264 1 year;

3265 2. A self-insurance trust fund organized pursuant to s.
 3266 627.357 and maintained in good faith for a continuous period of
 3267 1 year for purposes other than that of obtaining or providing
 3268 insurance pursuant to this section. Each member of a commercial
 3269 self-insurance trust fund established pursuant to this
 3270 subsection must maintain membership in the self-insurance trust
 3271 fund organized pursuant to s. 627.357;

3272 3. A group of 10 or more health care providers, as defined
 3273 in s. 627.351(3)(h) ~~s. 627.351(4)(h)~~, for purposes of providing
 3274 medical malpractice coverage; or

3275 4. A not-for-profit group comprised of one or more

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3276 community associations responsible for operating at least 50
3277 residential parcels or units created and operating under chapter
3278 718, chapter 719, chapter 720, chapter 721, or chapter 723 which
3279 restricts its membership to community associations only and
3280 which has been organized and maintained in good faith for the
3281 purpose of pooling and spreading the liabilities of its group
3282 members relating to property or casualty risk or surety
3283 insurance which, in accordance with applicable provisions of
3284 part I of chapter 626, appoints resident general lines agents
3285 only, and which does not prevent, impede, or restrict any
3286 applicant or fund participant from maintaining or selecting an
3287 agent of choice. The fund may not refuse to appoint the agent of
3288 record for any fund applicant or fund member and may not favor
3289 one or more such appointed agents over other appointed agents.

3290 (5) A commercial self-insurance fund created under
3291 subparagraph (2)(a)4. shall be an insurer for the purpose of any
3292 assessments levied by the Florida Hurricane Catastrophe Fund as
3293 provided under s. 215.555 or by the Citizens Property Insurance
3294 Corporation as provided under s. 627.351(5)(b)3 ~~s.~~
3295 ~~627.351(6)(b)3~~. The office shall establish the method for
3296 determining the imputed premium that is subject to any such
3297 assessment.

3298 Section 25. Section 625.317, Florida Statutes, is amended
3299 to read:

3300 625.317 Corporate bonds and debentures.—An insurer may

3301 invest in bonds, notes, or other interest-bearing or interest-
 3302 accruing obligations of any solvent corporation organized under
 3303 the laws of the United States or Canada or under the laws of any
 3304 state, the District of Columbia, any territory or possession of
 3305 the United States, or any Province of Canada or in bonds or
 3306 notes issued by the Citizens Property Insurance Corporation as
 3307 authorized by s. 627.351(5) ~~s. 627.351(6)~~.

3308 Section 26. Subsection (2) of section 627.0655, Florida
 3309 Statutes, is amended to read:

3310 627.0655 Policyholder loss or expense-related premium
 3311 discounts.—An insurer or person authorized to engage in the
 3312 business of insurance in this state may include, in the premium
 3313 charged an insured for any policy, contract, or certificate of
 3314 insurance, a discount based on the fact that another policy,
 3315 contract, or certificate of any type has been purchased by the
 3316 insured from:

3317 (2) The Citizens Property Insurance Corporation created
 3318 under s. 627.351(5) ~~s. 627.351(6)~~, if the same insurance agent
 3319 is servicing both policies;

3320 Section 27. Paragraphs (a), (b), and (c) of subsection
 3321 (3), subsection (4), and paragraphs (b), (d), (e), and (f) of
 3322 subsection (6) of section 627.3511, Florida Statutes, are
 3323 amended to read:

3324 627.3511 Depopulation of Citizens Property Insurance
 3325 Corporation.—

3326 (3) EXEMPTION FROM DEFICIT ASSESSMENTS.—

3327 (a) The calculation of an insurer's assessment liability
 3328 under s. 627.351(5)(b)3.a. ~~s. 627.351(6)(b)3.a.~~ shall, for an
 3329 insurer that in any calendar year removes 50,000 or more risks
 3330 from the Citizens Property Insurance Corporation, either by
 3331 issuance of a policy upon expiration or cancellation of the
 3332 corporation policy or by assumption of the corporation's
 3333 obligations with respect to in-force policies, exclude such
 3334 removed policies for the succeeding 3 years, as follows:

3335 1. In the first year following removal of the risks, the
 3336 risks are excluded from the calculation to the extent of 100
 3337 percent.

3338 2. In the second year following removal of the risks, the
 3339 risks are excluded from the calculation to the extent of 75
 3340 percent.

3341 3. In the third year following removal of the risks, the
 3342 risks are excluded from the calculation to the extent of 50
 3343 percent.

3344
 3345 If the removal of risks is accomplished through assumption of
 3346 obligations with respect to in-force policies, the corporation
 3347 shall pay to the assuming insurer all unearned premium with
 3348 respect to such policies less any policy acquisition costs
 3349 agreed to by the corporation and assuming insurer. The term
 3350 "policy acquisition costs" is defined as costs of issuance of

3351 the policy by the corporation which includes agent commissions,
 3352 servicing company fees, and premium tax. This paragraph does not
 3353 apply to an insurer that, at any time within 5 years before
 3354 removing the risks, had a market share in excess of 0.1 percent
 3355 of the statewide aggregate gross direct written premium for any
 3356 line of property insurance, or to an affiliate of such an
 3357 insurer. This paragraph does not apply unless either at least 40
 3358 percent of the risks removed from the corporation are located in
 3359 Miami-Dade, Broward, and Palm Beach Counties, or at least 30
 3360 percent of the risks removed from the corporation are located in
 3361 such counties and an additional 50 percent of the risks removed
 3362 from the corporation are located in other coastal counties.

3363 (b) An insurer that first wrote personal lines residential
 3364 property coverage in this state on or after July 1, 1994, is
 3365 exempt from regular deficit assessments imposed pursuant to s.
 3366 627.351(5)(b)3.a. ~~s. 627.351(6)(b)3.a.~~, but not emergency
 3367 assessments collected from policyholders pursuant to s.
 3368 627.351(6)(b)3.e., of the Citizens Property Insurance
 3369 Corporation until the earlier of the following:

3370 1. The end of the calendar year in which it first wrote
 3371 0.5 percent or more of the statewide aggregate direct written
 3372 premium for any line of residential property coverage; or

3373 2. December 31, 1997, or December 31 of the third year in
 3374 which it wrote such coverage in this state, whichever is later.

3375 (c) Other than an insurer that is exempt under paragraph

3376 (b), an insurer that in any calendar year increases its total
 3377 structure exposure subject to wind coverage by 25 percent or
 3378 more over its exposure for the preceding calendar year is, with
 3379 respect to that year, exempt from deficit assessments imposed
 3380 pursuant to s. 627.351(5)(b)3.a. ~~s. 627.351(6)(b)3.a.~~, but not
 3381 emergency assessments collected from policyholders pursuant to
 3382 s. 627.351(5)(b)3.e. ~~s. 627.351(6)(b)3.e.~~, of the Citizens
 3383 Property Insurance Corporation attributable to such increase in
 3384 exposure.

3385 (4) AGENT BONUS.—When the corporation enters into a
 3386 contractual agreement for a take-out plan that provides a bonus
 3387 to the insurer, the producing agent of record of the corporation
 3388 policy is entitled to retain any unearned commission on such
 3389 policy, and the insurer shall either:

3390 (a) Pay to the producing agent of record of the
 3391 association policy, for the first year, an amount that is the
 3392 greater of the insurer's usual and customary commission for the
 3393 type of policy written or a fee equal to the usual and customary
 3394 commission of the corporation; or

3395 (b) Offer to allow the producing agent of record of the
 3396 corporation policy to continue servicing the policy for a period
 3397 of not less than 1 year and offer to pay the agent the greater
 3398 of the insurer's or the corporation's usual and customary
 3399 commission for the type of policy written.

3400

3401 If the producing agent is unwilling or unable to accept
 3402 appointment, the new insurer shall pay the agent in accordance
 3403 with paragraph (a). The requirement of this subsection that the
 3404 producing agent of record is entitled to retain the unearned
 3405 commission on an association policy does not apply to a policy
 3406 for which coverage has been provided in the association for 30
 3407 days or less or for which a cancellation notice has been issued
 3408 pursuant to s. 627.351(5)(c)9 ~~s. 627.351(6)(c)10~~. during the
 3409 first 30 days of coverage.

3410 (6) COMMERCIAL RESIDENTIAL TAKE-OUT PLANS.—

3411 (b) In order for a plan to qualify for approval:

3412 1. At least 40 percent of the policies removed from the
 3413 corporation under the plan must be located in Miami-Dade,
 3414 Broward, and Palm Beach Counties, or at least 30 percent of the
 3415 policies removed from the corporation under the plan must be
 3416 located in such counties and an additional 50 percent of the
 3417 policies removed from the corporation must be located in other
 3418 coastal counties.

3419 2. The insurer must renew the replacement policy at
 3420 approved rates on substantially similar terms for two additional
 3421 1-year terms, unless canceled or nonrenewed by the insurer for a
 3422 lawful reason ~~other than reduction of hurricane exposure~~. If an
 3423 insurer assumes the corporation's obligations for a policy, it
 3424 must issue a replacement policy for a 1-year term upon
 3425 expiration of the corporation policy and must renew the

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3426 replacement policy at approved rates on substantially similar
3427 terms for two additional 1-year terms, unless canceled by the
3428 insurer for a lawful reason ~~other than reduction of hurricane~~
3429 ~~exposure~~. For each replacement policy canceled or nonrenewed by
3430 the insurer for any reason during the 3-year coverage period
3431 required by this subparagraph, the insurer must remove from the
3432 corporation one additional policy covering a risk similar to the
3433 risk covered by the canceled or nonrenewed policy.

3434 (d) The calculation of an insurer's regular assessment
3435 liability under s. 627.351(5)(b)3.a. ~~s. 627.351(6)(b)3.a.~~, but
3436 not emergency assessments collected from policyholders pursuant
3437 to s. 627.351(5)(b)3.e. ~~s. 627.351(6)(b)3.e.~~, shall, with
3438 respect to commercial residential policies removed from the
3439 corporation under an approved take-out plan, exclude such
3440 removed policies for the succeeding 3 years, as follows:

3441 1. In the first year following removal of the policies,
3442 the policies are excluded from the calculation to the extent of
3443 100 percent.

3444 2. In the second year following removal of the policies,
3445 the policies are excluded from the calculation to the extent of
3446 75 percent.

3447 3. In the third year following removal of the policies,
3448 the policies are excluded from the calculation to the extent of
3449 50 percent.

3450 (e) An insurer that first wrote commercial residential

3451 property coverage in this state on or after June 1, 1996, is
 3452 exempt from regular assessments under s. 627.351(5)(b)3.a. ~~s.~~
 3453 ~~627.351(6)(b)3.a.~~, but not emergency assessments collected from
 3454 policyholders pursuant to s. 627.351(5)(b)3.e. ~~s.~~
 3455 ~~627.351(6)(b)3.e.~~, with respect to commercial residential
 3456 policies until the earlier of:

3457 1. The end of the calendar year in which such insurer
 3458 first wrote 0.5 percent or more of the statewide aggregate
 3459 direct written premium for commercial residential property
 3460 coverage; or

3461 2. December 31 of the third year in which such insurer
 3462 wrote commercial residential property coverage in this state.

3463 (f) An insurer that is not otherwise exempt from regular
 3464 assessments under s. 627.351(5)(b)3.a. ~~s. 627.351(6)(b)3.a.~~ with
 3465 respect to commercial residential policies is, for any calendar
 3466 year in which such insurer increased its total commercial
 3467 residential hurricane exposure by 25 percent or more over its
 3468 exposure for the preceding calendar year, exempt from regular
 3469 assessments under s. 627.351(5)(b)3.a. ~~s. 627.351(6)(b)3.a.~~, but
 3470 not emergency assessments collected from policyholders pursuant
 3471 to s. 627.351(5)(b)3.e. ~~s. 627.351(6)(b)3.e.~~, attributable to
 3472 such increased exposure.

3473 Section 28. Subsection (1) of section 627.3512, Florida
 3474 Statutes, is amended to read:

3475 627.3512 Recoupment of residual market deficit

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3476 assessments.—

3477 (1) The Legislature finds and declares that all
3478 assessments paid by an insurer or insurer group as a result of a
3479 levy by any residual market entity, including regular
3480 assessments levied on insurers by Citizens Property Insurance
3481 Corporation and any other assessments levied on insurers by an
3482 insurance risk apportionment plan or assigned risk plan under s.
3483 627.311 or s. 627.351 constitute advances of funds from the
3484 insurer to the residual market entity, and that the insurer is
3485 entitled to fully recoup such advances. An insurer or insurer
3486 group may recoup any assessments that have been paid during or
3487 after 1995 by the insurer or insurer group to defray deficits of
3488 an insurance risk apportionment plan or assigned risk plan under
3489 ss. 627.311 and 627.351, net of any earnings returned to the
3490 insurer or insurer group by the association or plan for any year
3491 after 1993. A limited apportionment company as defined in s.
3492 627.351(5)(c) ~~s. 627.351(6)(e)~~ may recoup any regular assessment
3493 that has been levied by, or paid to, Citizens Property Insurance
3494 Corporation.

3495 Section 29. Paragraph (a) of subsection (1) and subsection
3496 (5) of section 627.3513, Florida Statutes, are amended to read:
3497 627.3513 Standards for sale of bonds by Citizens Property
3498 Insurance Corporation.—

3499 (1)(a) The purpose of this section is to provide standards
3500 for the sale of bonds pursuant to s. 627.351(5) ~~s. 627.351(2)~~

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3501 and ~~(6)~~.

3502 (5) This section is not intended to restrict or prohibit
3503 the employment of professional services relating to bonds issued
3504 under s. 627.351(5) ~~s. 627.351(6)~~ or the issuance of bonds by
3505 the corporation.

3506 Section 30. Paragraph (a) of subsection (3) of section
3507 627.3515, Florida Statutes, is amended to read:

3508 627.3515 Market assistance plan; property and casualty
3509 risks.—

3510 (3)(a) The plan and the corporation shall develop a
3511 business plan and present it to the Financial Services
3512 Commission for approval by September 1, 2007, to provide for the
3513 implementation of an electronic database for the purpose of
3514 confirming eligibility pursuant to s. 627.351(5) ~~s. 627.351(6)~~.
3515 The business plan may provide that authorized insurers or agents
3516 of authorized insurers may submit to the plan or the corporation
3517 in electronic form, as determined by the plan or the
3518 corporation, information determined necessary by the plan or the
3519 corporation to deny coverage to risks ineligible for coverage by
3520 the corporation. Any authorized insurer submitting such
3521 information that results in a risk being denied coverage by the
3522 corporation is required to offer coverage to the risk at its
3523 approved rates, for the coverage and premium quoted, for at
3524 least 1 year.

3525 Section 31. Section 627.3517, Florida Statutes, is amended

3526 | to read:

3527 | 627.3517 Consumer choice.—No provision of s. 627.351, s.

3528 | 627.3511, or s. 627.3515 shall be construed to impair the right

3529 | of any insurance risk apportionment plan policyholder, upon

3530 | receipt of any keepout or take-out offer, to retain his or her

3531 | current agent, so long as that agent is duly licensed and

3532 | appointed by the insurance risk apportionment plan or otherwise

3533 | authorized to place business with the insurance risk

3534 | apportionment plan. This right shall not be canceled, suspended,

3535 | impeded, abridged, or otherwise compromised by any rule, plan of

3536 | operation, or depopulation plan, whether through keepout, take-

3537 | out, midterm assumption, or any other means, of any insurance

3538 | risk apportionment plan or depopulation plan, including, but not

3539 | limited to, those described in s. 627.351, s. 627.3511, or s.

3540 | 627.3515. The commission shall adopt any rules necessary to

3541 | cause any insurance risk apportionment plan or market assistance

3542 | plan under such sections to demonstrate that the operations of

3543 | the plan do not interfere with, promote, or allow interference

3544 | with the rights created under this section. If the

3545 | policyholder's current agent is unable or unwilling to be

3546 | appointed with the insurer making the take-out or keepout offer,

3547 | the policyholder shall not be disqualified from participation in

3548 | the appropriate insurance risk apportionment plan because of an

3549 | offer of coverage in the voluntary market. An offer of full

3550 | property insurance coverage by the insurer currently insuring

3551 either the ex-wind or wind-only coverage on the policy to which
3552 the offer applies shall not be considered a take-out or keepout
3553 offer. Any rule, plan of operation, or plan of depopulation,
3554 through keepout, take-out, midterm assumption, or any other
3555 means, of any property insurance risk apportionment plan under
3556 s. 627.351(5) ~~s. 627.351(2) or (6)~~ is subject to ss.
3557 627.351(5)(c) ~~ss. 627.351(2)(b) and (6)(c)~~ and 627.3511(4).

3558 Section 32. Subsection (5), paragraph (a) of subsection
3559 (6), and paragraph (a) of subsection (7) of section 627.3518,
3560 Florida Statutes, are amended to read:

3561 627.3518 Citizens Property Insurance Corporation
3562 policyholder eligibility clearinghouse program.—The purpose of
3563 this section is to provide a framework for the corporation to
3564 implement a clearinghouse program by January 1, 2014.

3565 (5) Notwithstanding s. 627.3517, any applicant for new
3566 coverage from the corporation is not eligible for coverage from
3567 the corporation if provided an offer of coverage from an
3568 authorized insurer through the program at a premium that is at
3569 or below the eligibility threshold for applicants for new
3570 coverage established in s. 627.351(5)(c)4.a. ~~s.~~
3571 ~~627.351(6)(c)5.a.~~ Whenever an offer of coverage for a personal
3572 lines risk is received for a policyholder of the corporation at
3573 renewal from an authorized insurer through the program which is
3574 at or below the eligibility threshold for policyholders of the
3575 corporation established in s. 627.351(5)(c)4.a. ~~s.~~

3576 ~~627.351(6)(c)5.a.~~, the risk is not eligible for coverage with
3577 the corporation. In the event an offer of coverage for a new
3578 applicant is received from an authorized insurer through the
3579 program, and the premium offered exceeds the eligibility
3580 threshold for applicants for new coverage established in s.
3581 627.351(5)(c)4.a. ~~s. 627.351(6)(c)5.a.~~, the applicant or insured
3582 may elect to accept such coverage, or may elect to accept or
3583 continue coverage with the corporation. In the event an offer of
3584 coverage for a personal lines risk is received from an
3585 authorized insurer at renewal through the program, and the
3586 premium offered exceeds the eligibility threshold for
3587 policyholders of the corporation established in s.
3588 627.351(5)(c)4.a. ~~s. 627.351(6)(c)5.a.~~, the insured may elect to
3589 accept such coverage, or may elect to accept or continue
3590 coverage with the corporation. Section 627.351(5)(c)4.a.(I)
3591 ~~627.351(6)(c)5.a.(I)~~ does not apply to an offer of coverage from
3592 an authorized insurer obtained through the program.

3593 (6) Independent insurance agents submitting new
3594 applications for coverage or that are the agent of record on a
3595 renewal policy submitted to the program:

3596 (a) Are granted and must maintain ownership and the
3597 exclusive use of expirations, records, or other written or
3598 electronic information directly related to such applications or
3599 renewals written through the corporation or through an insurer
3600 participating in the program, notwithstanding s.

3601 627.351(5)(c)4.a.(I)(B) ~~s. 627.351(6)(c)5.a.(I)(B)~~ and (II)(B).
 3602 Such ownership is granted for as long as the insured remains
 3603 with the agency or until sold or surrendered in writing by the
 3604 agent. Contracts with the corporation or required by the
 3605 corporation must not amend, modify, interfere with, or limit
 3606 such rights of ownership. Such expirations, records, or other
 3607 written or electronic information may be used to review an
 3608 application, issue a policy, or for any other purpose necessary
 3609 for placing such business through the program.

3610
 3611 Applicants ineligible for coverage in accordance with subsection
 3612 (5) remain ineligible if their independent agent is unwilling or
 3613 unable to enter into a standard or limited agency agreement with
 3614 an insurer participating in the program.

3615 (7) Exclusive agents submitting new applications for
 3616 coverage or that are the agent of record on a renewal policy
 3617 submitted to the program:

3618 (a) Must maintain ownership and the exclusive use of
 3619 expirations, records, or other written or electronic information
 3620 directly related to such applications or renewals written
 3621 through the corporation or through an insurer participating in
 3622 the program, notwithstanding s. 627.351(5)(c)4.a.(I)(B) ~~s.~~
 3623 ~~627.351(6)(c)5.a.(I)(B)~~ and (II)(B). Contracts with the
 3624 corporation or required by the corporation must not amend,
 3625 modify, interfere with, or limit such rights of ownership. Such

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3626 | expirations, records, or other written or electronic information
3627 | may be used to review an application, issue a policy, or for any
3628 | other purpose necessary for placing such business through the
3629 | program.

3630 |
3631 | Applicants ineligible for coverage in accordance with subsection
3632 | (5) remain ineligible if their exclusive agent is unwilling or
3633 | unable to enter into a standard or limited agency agreement with
3634 | an insurer making an offer of coverage to that applicant.

3635 | Section 33. Paragraphs (b) of subsection (2) of section
3636 | 627.4133, Florida Statutes, is amended to read:

3637 | 627.4133 Notice of cancellation, nonrenewal, or renewal
3638 | premium.—

3639 | (2) With respect to any personal lines or commercial
3640 | residential property insurance policy, including, but not
3641 | limited to, any homeowner, mobile home owner, farmowner,
3642 | condominium association, condominium unit owner, apartment
3643 | building, or other policy covering a residential structure or
3644 | its contents:

3645 | (b) The insurer shall give the first-named insured written
3646 | notice of nonrenewal, cancellation, or termination at least 120
3647 | days before the effective date of the nonrenewal, cancellation,
3648 | or termination. The notice must include the reason for the
3649 | nonrenewal, cancellation, or termination, except that:

3650 | 1. If cancellation is for nonpayment of premium, at least

3651 10 days' written notice of cancellation accompanied by the
3652 reason therefor must be given. As used in this subparagraph, the
3653 term "nonpayment of premium" means failure of the named insured
3654 to discharge when due her or his obligations for paying the
3655 premium on a policy or an installment of such premium, whether
3656 the premium is payable directly to the insurer or its agent or
3657 indirectly under a premium finance plan or extension of credit,
3658 or failure to maintain membership in an organization if such
3659 membership is a condition precedent to insurance coverage. The
3660 term also means the failure of a financial institution to honor
3661 an insurance applicant's check after delivery to a licensed
3662 agent for payment of a premium even if the agent has previously
3663 delivered or transferred the premium to the insurer. If a
3664 dishonored check represents the initial premium payment, the
3665 contract and all contractual obligations are void ab initio
3666 unless the nonpayment is cured within the earlier of 5 days
3667 after actual notice by certified mail is received by the
3668 applicant or 15 days after notice is sent to the applicant by
3669 certified mail or registered mail. If the contract is void, any
3670 premium received by the insurer from a third party must be
3671 refunded to that party in full.

3672 2. If cancellation or termination occurs during the first
3673 60 days the insurance is in force and the insurance is canceled
3674 or terminated for reasons other than nonpayment of premium, at
3675 least 20 days' written notice of cancellation or termination

3676 accompanied by the reason therefor must be given unless there
 3677 has been a material misstatement or misrepresentation or a
 3678 failure to comply with the underwriting requirements established
 3679 by the insurer.

3680 3. After the policy has been in effect for 60 days, the
 3681 policy may not be canceled by the insurer unless there has been
 3682 a material misstatement; a nonpayment of premium; a failure to
 3683 comply, within 60 days after the date of effectuation of
 3684 coverage, with underwriting requirements established by the
 3685 insurer before the date of effectuation of coverage; or a
 3686 substantial change in the risk covered by the policy or unless
 3687 the cancellation is for all insureds under such policies for a
 3688 given class of insureds. This subparagraph does not apply to
 3689 individually rated risks that have a policy term of less than 90
 3690 days.

3691 4. After a policy or contract has been in effect for more
 3692 than 60 days, the insurer may not cancel or terminate the policy
 3693 or contract based on credit information available in public
 3694 records.

3695 5. A policy that is nonrenewed by Citizens Property
 3696 Insurance Corporation, pursuant to s. 627.351(5) ~~s. 627.351(6)~~,
 3697 for a policy that has been assumed by an authorized insurer
 3698 offering replacement coverage to the policyholder is exempt from
 3699 the notice requirements of paragraph (a) and this paragraph. In
 3700 such cases, the corporation must give the named insured written

3701 notice of nonrenewal at least 45 days before the effective date
 3702 of the nonrenewal.

3703 6. Notwithstanding any other provision of law, an insurer
 3704 may cancel or nonrenew a property insurance policy after at
 3705 least 45 days' notice if the office finds that the early
 3706 cancellation of some or all of the insurer's policies is
 3707 necessary to protect the best interests of the public or
 3708 policyholders and the office approves the insurer's plan for
 3709 early cancellation or nonrenewal of some or all of its policies.
 3710 The office may base such finding upon the financial condition of
 3711 the insurer, lack of adequate reinsurance coverage ~~for hurricane~~
 3712 ~~risk~~, or other relevant factors. The office may condition its
 3713 finding on the consent of the insurer to be placed under
 3714 administrative supervision pursuant to s. 624.81 or to the
 3715 appointment of a receiver under chapter 631.

3716 7. A policy covering both a home and a motor vehicle may
 3717 be nonrenewed for any reason applicable to the property or motor
 3718 vehicle insurance after providing 90 days' notice.

3719 Section 34. Subsection (2) of section 627.945, Florida
 3720 Statutes, is amended to read:

3721 627.945 Compulsory association.—

3722 (2) A risk retention group shall participate in this
 3723 state's joint underwriting associations as established under ss.
 3724 627.311(3) and 627.351(1) through, ~~(3)~~, (4), ~~and (5)~~.

3725 Section 35. Subsection (4) of section 628.6017, Florida

3726 Statutes, is amended to read:

3727 628.6017 Converting assessable mutual insurer.—

3728 (4) An assessable mutual insurer becoming a stock insurer
 3729 or a nonassessable mutual insurer is not subject to s. 627.215
 3730 or s. 627.351(4) ~~s. 627.351(5)~~ for 5 years following
 3731 authorization of the conversion by the office. However, the
 3732 converted stock insurer or nonassessable mutual insurer must
 3733 file all necessary data required by s. 627.215. Such amounts
 3734 otherwise subject to s. 627.215(8) must be maintained as surplus
 3735 as to policyholders and are not available for dividends for 5
 3736 years.

3737 Section 36. Paragraphs (b) and (c) of subsection (2) and
 3738 paragraphs (d), (e), and (f) of subsection (3) of section
 3739 766.105, Florida Statutes, are amended to read:

3740 766.105 Florida Patient's Compensation Fund.—

3741 (2) COVERAGE.—

3742 (b) Whenever a claim covered under subsection (3) results
 3743 in a settlement or judgment against a health care provider, the
 3744 fund shall pay to the extent of its coverage if the health care
 3745 provider has paid the fees and any assessments required pursuant
 3746 to subsection (3) for the year in which the incident occurred
 3747 for which the claim is filed, provides an adequate defense for
 3748 the fund, and pays the initial amount of the claim up to the
 3749 applicable amount set forth in paragraph (f) or the maximum
 3750 limit of the underlying coverage maintained by the health care

3751 provider on the date when the incident occurred for which the
 3752 claim is filed, whichever is greater. Coverages for such claims
 3753 shall be provided on an occurrence basis by the fund
 3754 independently for each fiscal year, such fiscal year to run from
 3755 January 1 to December 31. The fund may also provide coverages
 3756 for portions of each fiscal year. The limits of such coverage
 3757 afforded by the fund for each health care provider other than a
 3758 hospital may not exceed the total limits for both entry level
 3759 and fund coverage of \$1 million per claim with a \$3 million
 3760 annual aggregate, or \$2 million per claim with a \$4 million
 3761 annual aggregate, as selected by the health care provider. In
 3762 the case of coverage for a hospital, the limit of coverage
 3763 afforded by the fund may not exceed the total limits for both
 3764 entry level and fund coverage of \$2.5 million per claim with no
 3765 annual aggregate. The health care provider is responsible for
 3766 the payment of any amount of a claim in excess of the elected
 3767 limit. The fund is not responsible for the payment of punitive
 3768 damages awarded for actual or direct negligence of the health
 3769 care provider member. The health care provider shall have the
 3770 same responsibility for punitive damages it would have if it
 3771 were not a member of the fund. A health care provider may have
 3772 the necessary funds available for payment when due or may
 3773 provide underlying financial responsibility by one of the
 3774 following methods:
 3775 1. A bond purchased from a licensed surety company, which

3776 | bond is in the applicable amount set forth in paragraph (f) per
 3777 | claim and 3 times the applicable per-claim limit in the
 3778 | aggregate per year, plus an additional amount which is
 3779 | sufficient to meet claims defense and expenses; however, a total
 3780 | bond amount for all years equal to reserved loss and expense
 3781 | amounts for known cases plus 3 times the applicable amount set
 3782 | forth in paragraph (f) plus \$45,000 shall be the maximum bond
 3783 | amount required;

3784 | 2. An adequate escrow account in the applicable amount set
 3785 | forth in paragraph (f) per claim and 3 times the per-claim limit
 3786 | in the aggregate per year, plus an additional amount which is
 3787 | sufficient to meet claims defense and expenses; however, a total
 3788 | escrow account for all years equal to reserved loss and expense
 3789 | amounts for known cases plus 3 times the applicable amount set
 3790 | forth in paragraph (f) plus \$45,000 shall be the maximum escrow
 3791 | amount required;

3792 | 3. Medical malpractice insurance in the applicable amount
 3793 | set forth in paragraph (f) or more per claim from a private
 3794 | insurer or the Joint Underwriting Association established under
 3795 | s. 627.351(3) ~~s. 627.351(4)~~; or

3796 | 4. Self-insurance as provided in s. 627.357, providing
 3797 | coverage in the applicable amount set forth in paragraph (f) or
 3798 | more per claim and 3 times the applicable per-claim limit in the
 3799 | aggregate per year.

3800 | (c) Any hospital that can meet one of the following

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3801 provisions for demonstrating financial responsibility to pay
3802 claims and costs ancillary thereto arising out of the rendering
3803 of or failure to render medical care or services and for bodily
3804 injury or property damage to the person or property of any
3805 patient arising out of the activities of the hospital in this
3806 state or arising out of the activities of covered individuals
3807 listed in paragraph (e) is not required to participate in the
3808 fund:

3809 1. Post bond in an amount equivalent to \$10,000 per claim
3810 for each hospital bed in such hospital, not to exceed a \$2.5
3811 million annual aggregate.

3812 2. Establish an escrow account in an amount equivalent to
3813 \$10,000 per claim for each hospital bed in such hospital, not to
3814 exceed a \$2.5 million annual aggregate, to the satisfaction of
3815 the Agency for Health Care Administration.

3816 3. Obtain professional liability coverage in an amount
3817 equivalent to \$10,000 or more per claim for each bed in such
3818 hospital from a private insurer, from the Joint Underwriting
3819 Association established under s. 627.351(3) ~~s. 627.351(4)~~, or
3820 through a plan of self-insurance as provided in s. 627.357.
3821 However, no hospital may be required to obtain such coverage in
3822 an amount exceeding a \$2.5 million annual aggregate.

3823 (3) THE FUND.—

3824 (d) Fees and assessments.—Each health care provider, as
3825 set forth in subsection (2), electing to comply with paragraph

3826 (2) (b) for a given fiscal year shall pay the fees and any
3827 assessments established under this section relative to such
3828 fiscal year, for deposit into the fund. Those entering the fund
3829 after the fiscal year has begun shall pay a prorated share of
3830 the yearly fees for a prorated membership. Actuarially sound
3831 membership fees payable annually, semiannually, or quarterly
3832 with appropriate service charges shall be established by the
3833 fund before January 1 of each fiscal year, based on the
3834 following considerations:

3835 1. Past and prospective loss and expense experience in
3836 different types of practice and in different geographical areas
3837 within the state;

3838 2. The prior claims experience of the members covered
3839 under the fund; and

3840 3. Risk factors for persons who are retired, semiretired,
3841 or part-time professionals.

3842
3843 Such fees shall be based on not more than three geographical
3844 areas, not necessarily contiguous, with five categories of
3845 practice and with categories which contemplate separate risk
3846 ratings for hospitals, for health maintenance organizations, for
3847 ambulatory surgical facilities, and for other medical
3848 facilities. The fund is authorized to adjust the fees of an
3849 individual member to reflect the claims experience of such
3850 member. Each fiscal year of the fund shall operate independently

3851 of preceding fiscal years. Participants shall only be liable for
 3852 assessments for claims from years during which they were members
 3853 of the fund; in cases in which a participant is a member of the
 3854 fund for less than the total fiscal year, a member shall be
 3855 subject to assessments for that year on a pro rata basis
 3856 determined by the percentage of participation for the year. The
 3857 fund shall submit to the Office of Insurance Regulation the
 3858 classifications and membership fees to be charged, and the
 3859 Office of Insurance Regulation shall review such fees and shall
 3860 approve them if they comply with all the requirements of this
 3861 section and fairly reflect the considerations provided for in
 3862 this section. If the classifications or membership fees do not
 3863 comply with this section, the Office of Insurance Regulation
 3864 shall set classifications or membership fees which do comply and
 3865 which give due recognition to all considerations provided for in
 3866 this section. Nothing contained herein shall be construed as
 3867 imposing liability for payment of any part of a fund deficit on
 3868 the Joint Underwriting Association authorized by s. 627.351(3)
 3869 ~~s. 627.351(4)~~ or its member insurers. If the fund determines
 3870 that the amount of money in an account for a given fiscal year
 3871 is in excess of or not sufficient to satisfy the claims made
 3872 against the account, the fund shall certify the amount of the
 3873 projected excess or insufficiency to the Office of Insurance
 3874 Regulation and request the office to levy an assessment against
 3875 or refund to all participants in the fund for that fiscal year,

3876 | prorated, based on the number of days of participation during
3877 | the year in question. The Office of Insurance Regulation shall
3878 | approve the request of the fund to refund to, or levy any
3879 | assessment against, the participants, provided the refund or
3880 | assessment fairly reflects the same considerations and
3881 | classifications upon which the membership fees were based. The
3882 | assessment shall be in an amount sufficient to satisfy reserve
3883 | requirements for known claims, including expenses to satisfy the
3884 | claims, made against the account for a given fiscal year. In any
3885 | proceeding to challenge the amount of the refund or assessment,
3886 | it is to be presumed that the amount of refund or assessment
3887 | requested by the fund is correct, if the fund demonstrates that
3888 | it has used reasonable claims-handling and reserving procedures.
3889 | Additional assessments may be certified and levied in accordance
3890 | with this paragraph as necessary for any fiscal year. If a fund
3891 | member objects to his or her assessment, he or she shall, as a
3892 | condition precedent to bringing legal action contesting the
3893 | assessment, pay the assessment, under protest, to the fund. The
3894 | fund may borrow money needed for current operations, if
3895 | necessary to pay claims and related expenses, fees, and costs
3896 | timely for a given fiscal year, from an account for another
3897 | fiscal year until such time as sufficient funds have been
3898 | obtained through the assessment process. Any such money,
3899 | together with interest at the mean interest rate earned on the
3900 | investment portfolio of the fund, shall be repaid from the next

3901 assessment for the given fiscal year. If any assessments are
 3902 levied in accordance with this subsection as a result of claims
 3903 in excess of \$500,000 per occurrence, and such assessments are a
 3904 result of the liability of certain individuals and entities
 3905 specified in paragraph (2)(e), only hospitals shall be subject
 3906 to such assessments. Before approving the request of the fund to
 3907 charge membership fees, issue refunds, or levy assessments, the
 3908 Office of Insurance Regulation shall publish notice of the
 3909 request in the Florida Administrative Register. Pursuant to
 3910 chapter 120, any party substantially affected may request an
 3911 appropriate proceeding. Any petition for such a proceeding shall
 3912 be filed with the Office of Insurance Regulation within 21 days
 3913 after the date of publication of the notice in the Florida
 3914 Administrative Register.

3915 (e) Fund accounting and audit.—

3916 1. Money shall be withdrawn from the fund only upon a
 3917 voucher as authorized by the Chief Financial Officer or his or
 3918 her designee.

3919 2. All books, records, and audits of the fund shall be
 3920 open for reasonable inspection to the general public, except
 3921 that a claim file in possession of the fund, fund members, and
 3922 their insurers is confidential and exempt from the provisions of
 3923 s. 119.07(1) and s. 24(a), Art. I of the State Constitution
 3924 until termination of litigation or settlement of the claim,
 3925 although medical records and other portions of the claim file

3926 | may remain confidential and exempt as otherwise provided by law.
 3927 | Any book, record, document, audit, or asset acquired by,
 3928 | prepared for, or paid for by the fund is subject to the
 3929 | authority of the Chief Financial Officer or his or her designee,
 3930 | who shall be responsible therefor.

3931 | 3. Persons authorized to receive deposits, issue vouchers,
 3932 | or withdraw or otherwise disburse any fund moneys shall post a
 3933 | blanket fidelity bond in an amount reasonably sufficient to
 3934 | protect fund assets. The cost of such bond shall be paid from
 3935 | the fund.

3936 | 4. Annually, the fund shall furnish, upon request, audited
 3937 | financial reports to any fund participant and to the Office of
 3938 | Insurance Regulation and the Joint Legislative Auditing
 3939 | Committee. The reports shall be prepared in accordance with
 3940 | accepted accounting procedures and shall include income and such
 3941 | other information as may be required by the Office of Insurance
 3942 | Regulation or the Joint Legislative Auditing Committee.

3943 | 5. Any money held in the fund shall be invested in
 3944 | interest-bearing investments. However, in no case may any such
 3945 | money be invested in the stock of any insurer participating in
 3946 | the Joint Underwriting Association authorized by s. 627.351(3)
 3947 | ~~s. 627.351(4)~~ or in the parent company of, or company owning a
 3948 | controlling interest in, such insurer. All income derived from
 3949 | such investments shall be credited to the fund.

3950 | 6. Any health care provider participating in the fund may

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3951 withdraw from such participation only at the end of a fiscal
3952 year; however, such health care provider shall remain subject to
3953 any assessment or any refund pertaining to any year in which
3954 such member participated in the fund.

3955 (f) Claims procedures.—

3956 1. Any person may file an action against a participating
3957 health care provider for damages covered under the fund, except
3958 that the person filing the claim may not recover against the
3959 fund unless the fund was named as a defendant in the suit. The
3960 fund is not required to actively defend a claim until the fund
3961 is named therein. If, after the facts upon which the claim is
3962 based are reviewed, it appears that the claim will exceed the
3963 applicable amount set forth in paragraph (2)(f) or, if greater,
3964 the amount of the health care provider's basic coverage, the
3965 fund shall appear and actively defend itself when named as a
3966 defendant in the suit. In so defending, the fund shall retain
3967 counsel and pay out of the account for the appropriate year
3968 attorneys' fees and expenses, including court costs incurred in
3969 defending the fund. In any claim, the attorney or law firm
3970 retained to defend the fund may not be retained to defend the
3971 Joint Underwriting Association authorized by s. 627.351(3) ~~s.~~
3972 ~~627.351(4)~~. The fund is authorized to negotiate with any
3973 claimant having a judgment exceeding the applicable amount set
3974 forth in paragraph (2)(f) to reach an agreement as to the manner
3975 in which that portion of the judgment exceeding such amount is

3976 to be paid. Any judgment affecting the fund may be appealed
 3977 under the Florida Rules of Appellate Procedure, as with any
 3978 defendant.

3979 2. It is the responsibility of the insurer or self-insurer
 3980 providing insurance or self-insurance for a health care provider
 3981 who is also covered by the fund to provide an adequate defense
 3982 on any claim filed which potentially affects the fund, with
 3983 respect to such insurance contract or self-insurance contract.
 3984 The insurer or self-insurer shall act in a fiduciary
 3985 relationship toward the fund with respect to any claim affecting
 3986 the fund. No settlement exceeding the applicable amount set
 3987 forth in paragraph (2) (f), or any other amount which could
 3988 require payment by the fund, may be agreed to unless approved by
 3989 the fund.

3990 3. A person who has recovered a final judgment against the
 3991 fund or against a health care provider who is covered by the
 3992 fund may file a claim with the fund to recover that portion of
 3993 such judgment which is in excess of the applicable amount set
 3994 forth in paragraph (2) (f) or the amount of the health care
 3995 provider's basic coverage, if greater, as set forth in paragraph
 3996 (2) (b). The amount of liability of the fund under a judgment,
 3997 including court costs, reasonable attorney's fees, and interest,
 3998 shall be paid in a lump sum, except that any claims for future
 3999 special damages, as set forth in s. 768.48(1) (a) and (b), shall
 4000 be paid periodically as they are incurred by the claimant. If a

4001 claimant dies while receiving periodic payments, payment for
 4002 future medical expenses shall cease, but payment for future wage
 4003 loss, if any, shall continue at a rate of not more than \$100,000
 4004 per year. The fund may pay a lump sum reflecting the present
 4005 value of future wage losses in lieu of continuing the periodic
 4006 payments.

4007 4. Payment of settlements or judgments involving the fund
 4008 shall be paid in the order received within 60 days after the
 4009 date of settlement or judgment, unless appealed by the fund. If
 4010 the account for a given year does not have enough money to pay
 4011 all of the settlements or judgments, those claims received after
 4012 the funds are exhausted shall be payable in the order in which
 4013 they are received. However, no claimant has the right to execute
 4014 against the fund to the extent that the judgment is for a claim
 4015 covered in a membership year for which the fund has insufficient
 4016 assets to pay the claim, as determined by membership fees for
 4017 such year, investment income generated by such fees, and
 4018 assessments collected from members for such year. When the fund
 4019 has insufficient assets to pay claims for a fund year, the fund
 4020 will not be required to post a supersedeas bond in order to stay
 4021 execution of a judgment pending appeal. The fund shall retain a
 4022 reasonable sum of money for payment of administrative and claims
 4023 expense, which money will not be subject to execution.

4024 5. Except to the extent of the appropriate fund entry
 4025 level amount selected, if a judgment is entered against the fund

4026 | for a year in which there are insufficient assets to satisfy the
4027 | claim, an automatic stay of execution and collection in favor of
4028 | the fund member shall exist for that portion of the judgment
4029 | which exceeds the selected entry level amount, and for which
4030 | fund coverage exists. Such stay shall only be granted to those
4031 | members who have fully complied with the requirements of fund
4032 | membership, and such stay shall remain in effect until adequate
4033 | assessments are collected by the fund to pay the claim. Upon
4034 | competent proof that the portion of any claim covered by the
4035 | fund is uncollectible from the fund, the member's stay of
4036 | execution may be vacated by the court, upon application by the
4037 | plaintiff and hearing thereon.

4038 | 6. If a health care provider participating in the fund has
4039 | coverage in excess of the applicable amount set forth in
4040 | paragraph (2)(f), such health care provider shall be liable for
4041 | losses up to the amount of his or her coverage, and such health
4042 | care provider shall receive an appropriate reduction of the fees
4043 | and assessments for participation in the fund. Such reduction
4044 | shall be granted only after such health care provider has proved
4045 | to the satisfaction of the fund that such health care provider
4046 | had such coverage during the period of membership of the fiscal
4047 | year.

4048 | 7. The manager of the fund or his or her assistant is the
4049 | agent for service of process for the plan.

4050 | Section 37. This act shall take effect July 1, 2024.